

# The Effectiveness of the Ombudsman in Efforts to Eradicate Corruption in Indonesia

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**Abstract.** Corruption has become one of the main challenges in governance in Indonesia. Efforts to eradicate corruption require the role of independent and transparent institutions that are able to effectively oversee and address corruption cases, given the high possibility of criminal offenders outside the judicial process. The Ombudsman of Indonesia is one of the institutions that play a role in this effort, the Ombudsman as a public policy oversight institution that stands at the forefront of tackling corruption. The presence of the Ombudsman of the Republic of Indonesia is expected to be able to oversee the implementation of public services in order to realize the implementation of state and government that is effective and efficient, honest, clean, open, and free from corruption, collusion and nepotism.

**Keywords:** Effectiveness, Ombudsman, Corruption Eradication

## 1 Introduction

Corruption has long been a troubling problem in governance in Indonesia. The negative impact of corruption on development, the economy and the welfare of society has become a major issue that requires serious handling. Along with that, supervisory and law enforcement institutions, including the Indonesian Ombudsman, have a crucial role in this corruption eradication effort.

The Indonesian Ombudsman, as an independent institution tasked with overseeing government performance, has the responsibility to prevent, detect, and take action against acts of corruption in various sectors of government administration. The Ombudsman has the authority to receive complaints from the public, conduct investigations, and provide recommendations and recommended actions against revealed corrupt practices.

The Ombudsman began with the establishment of the National Ombudsman Commission based on Presidential Decree Number 44 of 2000, then replaced by the Ombudsman of the Republic of Indonesia based on Law Number 37 of 2008 which focuses on overseeing public services and receiving public complaints related to public services so that it is hoped that the programs that have been made can prevent corruption and maladministration.

In order to organize and maintain good relations between the state and the people, a norm and law are needed. Laws or norms that regulate the substance of public and state relations are better known as state administrative law. State administrative law is the basis of work for state administration, which carries out public service tasks. The tendency of deviation by the government and expecting obedience and compliance from the people is the reason for the existence of norms or laws that regulate the relationship between the two. This means that as a state of law, Indonesia must be able to present legal instruments that regulate the relationship between citizens and the state.

Corruption is the reality of deviations from social and legal norms that are not desired by society and are threatened with sanctions by the state. Corruption is a form of abuse of position (position), power, opportunity to fulfill the interests of oneself and one's group against the common interest (society).

The definition of corruption according to *Transparency International* (TI) is the behavior of public officials, politicians, or civil servants. Who improperly and legally enrich themselves or enrich those close to power, by abusing the public power entrusted to them. According to Mochtar Kusumaatmadja, "law without power is just wishful thinking and power exercised without law is anarchy". [1] Therefore, law, power and corruption have a very close relationship like blood brothers.

The terms "thin ears" or "sectoral arrogance" are descriptions of rulers who have not yet matured to democracy. Hypocrisy in running the government often occurs under the guise of the interests of the people. The agenda in eradicating corruption that is now being promoted tends to be lip-service because there are many attitudes and actions of the authorities or discourses of law enforcement that contradict this agenda. [2] The criminal law system has strengthened an individualistic attitude in the sense that it has become a legal principle, crime is the responsibility of the perpetrator based on guilt must be placed on the person concerned. However, it is very ironic that this stigma does not foster a culture of shame in every criminal, but instead fosters a sense of *innocence* and is nourished by the principle of *presumption of innocence*.

Thus, innocence and greed energize the rulers to prey on the welfare of the people. The biggest problem in Indonesia is corruption. Corruption is a special criminal offense because it is regulated in a separate law. In handling and enforcing corruption is an *extra ordinary crime* that must take precedence over other crimes. [3]

Based on the background described above, the problems of this research can be formulated as follows: How does the ombudsman in Indonesia play a role in eradicating corruption? and How are the obstacles and barriers faced by the ombudsman in carrying out the function of preventing corruption?

## **2 Methodology**

The research used in writing is normative juridical. The sources of legal materials used in this research are primary legal materials and secondary legal materials. Primary materials used are legal science books. [4] The types of approaches used in this research are legislative approaches and legal concept analysis approaches. The data processing method used is the analysis method which is then outlined in descriptive analysis writing.

### 3 Results and Discussion

The essence of the welfare state to provide welfare services for the public does not necessarily run in the corridor of true ideality. In a situation where the state has not maximally carried out its mandate for the welfare of the people, it must be understood that one of the ugly faces of the conception of the welfare state is the emergence of corrupt and authoritarian regimes that appear with the face of a savior. In this case, the government displays various kinds of data and formal accountability for efforts to improve welfare. But on the other hand, in reality, many government actions are actually deviant and managed in an authoritarian and corrupt manner.

A welfare state that seeks the best public servants still leaves the potential for corrupt and deviant governments. The potential for deviations committed by the government is very large, considering that all development controls and matters related to policy management are controlled by the government.

Of the various models of corruption that have developed, they always involve the authorities because corruption is usually carried out by abusing authority. In this case, the policy is the "object of the game" in corruption. Ideally, policies can be formulated and determined with measurable methods, so that no deviations occur. Policy problems actually concern unmet values, needs or opportunities that can be identified and then improved through public policies and actions. In connection with this, it is also a bone of contention for many people who have an interest in winning the competition that the policies taken must be favorable to them. Problems that require solutions (policies and public actions) require information about the conditions that precede these problems and information about the values whose achievement can encourage the resolution of these problems.

The creation of these laws also coincides with the fact that the public distrusts the institutions that are supposed to safeguard them: the police, the courts and the internal control institutions. These institutions are believed to have contributed to weakening people's legitimacy in government and to the deterioration of governance, due to their inability to resolve issues fairly.

The existence of this institution began with the existence of the National Ombudsman Commission established based on Presidential Decree No. 44 of 2000 which provides an opportunity for community participation to conduct supervision as an implementation of democracy that needs to be developed and applied so that abuse of power, authority or position by the apparatus can be minimized so that it will better ensure the administration of a state that is honest, clean, transparent, free of corruption, collusion and nepotism.

In the view of the Ombudsman of the Republic of Indonesia, the essence of *good governance* is the provision of quality public services to the community. The state or state administrators have an obligation to provide services to its citizens, while citizens or the public have the right to obtain services. Based on the provisions of Law Number 37 of 2008, the Ombudsman of the Republic of Indonesia has the authority to oversee the provision of public services by state administrators and government to the public.

The purpose of the establishment of the Ombudsman is contained in Article 4 letter d of Law Number 37 of 2008 concerning the Ombudsman of the Republic of Indonesia contains: [5]

"Help create and improve efforts to eradicate and prevent maladministration, discrimination, collusion, corruption, and nepotism."

The Ombudsman and its decree products can be used as a benchmark for an institution and its drivers to carry out functions by prioritizing the precautionary principle or not. In the world of administration, maladministration is known as the starting point for allegations of corruption. The definition of Maladministration is contained in article 1 number 3 of Law No. 37 of 2008 concerning the Ombudsman of the Republic of Indonesia contains:

"Maladministration is a behavior or action against the law, exceeding authority, using authority for other purposes than those for which the authority is intended, including negligence or neglect of legal obligations in the implementation of public services carried out by state and government administrators which cause material and / or immaterial losses to the public and individuals."

Every potential for corruption contained in maladministration should be a concern and also a careful attitude of state administrators in carrying out their duties and authorities, to avoid irregularities and create excellent public services and efforts towards corruption-free state administration. [6]

One of the cases handled by the Ombudsman is the case of corrupt practices that have occurred in BUMN and the ombudsman also took part in the case of KPK employees, namely Firli CS in the Alleged Maladministration of the deactivation of 75 employees. BUMN and KPK as one of the actors in organizing public services are fertile ground for corrupt practices. This is due to the less than optimal implementation of Good Corporate Governance Principles and an unhealthy bureaucratic system.

In the current era of democracy, public participation in supervision is very important because democratization will be achieved when people consciously want to participate actively. In the Ombudsman oversight system, participation is an important prerequisite and has become mainstream. To achieve its goal (realizing *good governance*) the Ombudsman in Indonesia is tasked with, among other things, seeking public participation by creating conditions conducive to the realization of a simple clean bureaucracy, good public services, efficient and professional administration of justice including an *independent* and *fair* judicial process (trial) so as to guarantee that there will be no partiality. [7]

Based on the results of public complaints to the Ombudsman in 2018 in Sweden, Australia and Indonesia, the number of public complaints in Australia is higher than Indonesia. The Australian Ombudsman received 46,494 complaints, while the Indonesian Ombudsman received only 9,376 complaints. A slight difference with the Swedish Ombudsman who received 8,826 complaints from a total population of 10.05 million, compared to Indonesia's 269 million population. This shows that despite increasing community participation and perceptions of the Ombudsman, it is still far behind these developed countries. As the rationale for the establishment of the Ombudsman in order to increase community participation has not yet reached the highest point. [8]

Good government administration, especially with regard to public services, must be carried out accountably, responsively and efficiently. A public service can be said to have high accountability if the activity is considered correct and in accordance with the values and norms that develop in society, meaning that good service must be based on satisfaction or at least based on what the community wants. Supervision in government administration is absolutely necessary because without supervision or supervision there can be arbitrary, half-hearted, careless or heartless actions in the process of governance. [9]

### 3.1 The Ombudsman's Role in Corruption Eradication

The effectiveness of the Ombudsman in carrying out its duties must see whether the government (even academics) can learn from the Ombudsman. [10] The Ombudsman, with a more proactive role through systemic inquiry mechanisms, support, improvement advice and training, can influence government agencies to reform their bureaucracies and as a means to "promote government learning".

The Ombudsman in Indonesia is supported by two laws at the same time in carrying out its main duties and authorities, namely Law Number 37 of 2008 concerning the Ombudsman of the Republic of Indonesia and Law Number 25 of 2009 concerning Public Services. As a State institution tasked with overseeing public services and is independent, the Ombudsman is an external oversight institution, in addition to the DPR, whose field of supervision is government administration policy in general, and the PTUN, which specializes in State administrative decrees and decisions with certain criteria.

The Ombudsman can conduct investigations into complaints and acts of suspected corruption in public administration. It has access to collect evidence, investigate such matters, and propose remedial action or further investigation if indications of corruption are found. The Ombudsman encourages the government to improve transparency and accountability in public financial management and policies. The ombudsman can recommend policy changes and stricter procedures in public financial management. The Ombudsman can play a role in sensitizing the public about the dangers of corruption and the importance of reporting corrupt practices. It can organize educational campaigns and provide information to the public on how to report suspected corruption.

The Ombudsman works with other law enforcement agencies, such as the police and prosecutors, to identify, investigate and prosecute corruption cases involving government officials. After conducting an inquiry or investigating a corruption case, the Ombudsman may provide recommendations to the government or agency concerned. It can also monitor the implementation of these recommendations to ensure that necessary corrective actions are taken. The Ombudsman can protect the identity and rights of complainants and witnesses in corruption cases. This is important to prevent retaliation against those who dare to report corrupt practices.

Ombudsmen play an important role in the fight against corruption as they are independent institutions that can oversee and investigate corrupt acts in public administration without political involvement. The existence of an Ombudsman helps ensure that corrupt practices are identified and dealt with in a fair, transparent and accountable manner.

To carry out the duties and obligations in Article 6 and Article 7, the Ombudsman has the authority, namely:

- a. Asking for information in writing and / or orally from the reporter, the Complainant or other relevant parties about the report reported to the Ombudsman
- b. Review of decisions, correspondence or other documents available to the reporter or reported party to determine the veracity of the report.
- c. Collect information and/or copies or photocopies of documents needed from a party to assess the report of the reporter's authority.
- d. Establish the reporter, the complainant and other parties related to the report

- e. Completing arbitration and mediation reports at the request of the parties.
- f. Making recommendations for the resolution of the report, including recommendations for the payment of compensation and/or rehabilitation to parties who have been harmed.
- g. Disseminate results, conclusions or recommendations for public benefit.

The Ombudsman is authorized to actually investigate public complaints about public services and state administration and can also investigate and register these complaints on its own initiative. And the task of the ombudsman is also to fix and perfect the administration of the state at the central and regional levels, make the administration of the state at the central and regional levels, make the administration of government more transparent, and make the government and its bureaucracy accountable to the wider community. [11]

The ombudsman's obligations and powers in combating and eradicating crime in Indonesia require the support of sectoral coordination with the central and local governments as well as all levels of society in order to function effectively. The implementation of the Ombudsman's powers and duties is part of the policing process aimed at helping citizens obtain good public services within the framework of the state and state administration. [12]

The strengthening of the position and function of the Ombudsman of the Republic of Indonesia should encourage the optimization of the supervisory function of the government. The function of the Ombudsman of the Republic of Indonesia is because the supervision of the Ombudsman of the Republic of Indonesia has a special character in accordance with the character of the Ombudsman who upholds universal values. [13]

### **3.2 Constraints and Obstacles of Ombudsman in Corruption Prevention**

The quality and quantity of public participation can essentially be an indicator of the extent to which the government has succeeded in carrying out the democratic process at all levels. The greater the participation, the more community members are involved in decision-making and monitoring of public policies planned and implemented by the government. Lower levels of participation can also be seen as a sign that people do not have access, do not have a voice, and do not have authority.

The Ombudsman of the Republic of Indonesia, both at the central and regional levels, in carrying out its duties as a supervisory body, certainly still finds obstacles and obstacles. In the community, it turns out that there are still people who do not recognize the Ombudsman and do not know how to report if corruption and maladministration are found in public services. This is certainly caused by several factors.

Ombudsman both at the center and in the regions in terms of encouraging community participation is still constrained in its socialization. The programs that have been carried out by each central and regional ombudsman are in fact still not enough to embrace the entire community. Constraints and obstacles such as those described by the author will certainly hinder the smooth running of the duties and functions of the central and regional ombudsman.

Although it is believed that socialization using social media is an effective effort, some people apparently consider that socialization through social media is not so effective because there are still many citizens who are not accustomed to using social media, especially for the elderly and those with low education. It needs to be improved in balancing online socialization, offline and counseling to the community in accordance with the existing situation, with this

being related to the dynamics of interaction that exists between the ombudsman and the community.

In an effort to advance the quality and quality of public services both in the central and regional sectors, the public service supervisory body, namely the central and regional ombudsman, must also improve the quality of service quality starting from providing responses to people who comment on social media, so that people will be facilitated in submitting information through social media.

The lack of Ombudsman Human Resources both at the center and regions makes it difficult for the ombudsman to encourage community participation and the lack of personnel and budget makes the Ombudsman of the Republic of Indonesia an obstacle in carrying out its duties and functions. Judging from the program made, it seems that it is still less than optimal due to the lack of interaction and socialization dynamics between the Ombudsman and the community. This limitation can limit the ability of the ombudsman both at the center and in the regions to conduct in-depth investigations or investigate many cases of corruption.

Although Ombudsmen face a number of constraints and barriers to corruption prevention, they still play an important role in promoting accountability, transparency, and corruption prevention in public administration. Efforts to address these constraints, such as strengthening the Ombudsman's authority, providing sufficient resources, and protecting its independence, are critical to increasing the effectiveness of their role in corruption prevention.

## **4 Conclusions and Suggestions**

### **4.1 Conclusion**

The Ombudsman has a strategic role in the fight against corruption in Indonesia. They play a role in the oversight of public administration, investigating allegations of corruption, and providing recommendations for corrective action. The importance of community engagement, the ombudsman can play a significant role in raising public awareness about corruption and how to report it. Community engagement is an important factor in corruption eradication efforts.

Several obstacles are faced by the Ombudsman, such as limited authority, limited resources, and political intervention. These constraints can reduce the effectiveness of the Ombudsman in fighting corruption. The importance of Institutional Strengthening To increase the effectiveness of the Ombudsman in combating corruption, it is necessary to strengthen the institution, including granting stronger authority, allocating adequate resources, and protecting its independence.

### **4.2 Advice**

The Government of Indonesia should consider strengthening the Ombudsman's powers in terms of investigating corruption cases. This could include granting greater authority to prosecute specific cases or involving the Ombudsman in broader law enforcement mechanisms. The government should allocate adequate resources to the Ombudsman to enable them to carry out their duties effectively. This includes sufficient budget and trained personnel.

Efforts should be made to raise public awareness about corruption and the Ombudsman's role in fighting it. Education and information campaigns can be an important instrument in this regard. It is important to ensure the independence of the Ombudsman from political intervention or external pressure. Independence oversight mechanisms should be strengthened. With appropriate measures and continuous improvement, the Ombudsman can become a more effective tool in Indonesia's corruption eradication efforts, which in turn will help strengthen good governance and integrity in public administration.

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