

Ombudsman As An Institution Of Public Service Supervision In Makassar City

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Abstract

The present study probes into the conception of Ombudsman in terms of its fundamental roles of public-service supervision of Regional Apparatus Organizations (Organisasi Perangkat Daerah or OPD) in Makassar. Data analysis takes on a qualitative method. The study takes place in the office of Ombudsman and several regional governmental agencies in Makassar, from which a specific data set is taken, including the Population and Civil Registration Agency, the Agency of Urban Development and Spatial Planning, particularly the civilian state apparatuses for their roles in public services. The collection of the qualitative data fits into questionnaire and interview. Results point to a finding that the supervisory roles of Ombudsman of the public services in regional government agencies manifest in external supervisions. Ombudsman subjects an external supervision to a reported agency based on the initial report by citizens or initiative measure by Ombudsman itself. The process by which external supervision is carried out includes filing a report, report selection and report follow-ups.

Keywords: Ombudsman, supervision, public services

Background

Public service is a major problem, and the government has a responsibility to provide good services to the community across the whole spectrum of its jurisdiction (Akib & Ihsan, 2017; Niswaty et al., 2015). According to Article 1 Paragraph (1) of the Law Number 25 of 2019, public services encompass an array of activities in the context of fulfilling the needs for services within statutory regulations for every citizen or resident for goods, services and administrative services provided by public-service organizations (Rengifurwarin et al., 2018; Van Gobel et al., 2015).

Recent governmental systems for public-service sectors remain underdeveloped in Indonesia in the sense of achieving optimal standards, given the poor performance of state civil personnels by whom the real core of public services is addressed and a typical bureaucracy that is complex with multilayered administrative processes and long-term delays. This is where Ombudsman steps up and takes measures for supervisory efforts in public services (Akib & Ihsan, 2017; Padatu & Akib, 2018; Soebarini et al., n.d.).

Law No. 37 of 2008 regulates that Ombudsman of the Republic Indonesia is a state institution that assumes the authority in supervising public-service implementations administered by the state and the government, including those held by State-Owned Enterprises (BUMNs), Regional-Owned Enterprises (BUMDs) and State-Owned Legal Entities (BHMNs) which are assigned the tasks of administering particular public services which draw part or all of their funding supports from State Budget (APBN) and Regional Budgets (APBD). The core nature of Ombudsman as a state institution is independent and does not impose an organic relation with state institutions and other governmental agencies, thus exercising its duties and authorities without interference from other powerful entities (Akib, 2016). As previously mentioned, the key practices of good public services by the government remain a cause for concern. Poor implementation in public-sector services is likely to raise tremendous potentials of maladministration practices on corruption, collusion and nepotism practices, much less the emergent risk of violating the Law No. 25 of 2009 on public services (Syamsiar et al., 2018).

The establishment of Ombudsman poses major problems in its supervisory roles of public services in Makassar. For that reason, the study seeks to address such questions as: 1) How does Ombudsman serve its roles in the supervision of public services in Makassar?; and 2) What make up the inhibitory factors across the whole trajectories of the public-service supervision in Makassar?

Literature Review

The Roles and Functions of Ombudsman

The regulatory framework that governs Ombudsman of the Republic Indonesia is included in the Law No. 37 of 2008 Article 1 Number 1, stating that Ombudsman of the Republic Indonesia is a state institution that assumes the authority in supervising public-service implementations administered by the state and the government, including those held by State-Owned Enterprises (BUMNs), Regional-Owned Enterprises (BUMDs) and State-Owned Legal Entities (BHMNs) which are assigned the tasks of administering particular public services which draw part or all of their funding supports from State Budget (APBN) and Regional Budgets (APBD). Under the Law No. 37 of 2008, the embodiment of the authorities of Ombudsman as a supervisory agency is presented in detail (Akib, 2016).

According to the Law No. 25 of 2009, the functions of public services are classified into preventive and repressive supervisions that are external in nature. In order to promote the practice of clean and authoritative governance, the exercise of Ombudsman's authorities must be grounded on the foundation of democracy and the rule of law so that Ombudsman performs its functions in an effective and orderly manner. When it comes to performing report-checking duties, Ombudsman must comply with key principles that embody independence, non-discriminatory policies, fairness, and free-of-charge scheme, as well as embracing its capacity of ethical obligations such as actively listening to the reportee, taking opinions of all concerned parties into account and providing direct and convenient citizen access to report-filing procedures. Within this support-service framework, Ombudsman does not necessarily take on coercive authorities, e.g., an appearance notice or summons, upon checking a report, but rather it resorts to persuasive approaches in a way that the State Administrators and the Government foster their own awareness for being accountable for completing a report on a suspected maladministration derailing a public service delivery (Bugaric, 2014; Müller, 2015).

The Concept of Supervision

Etymologically defines supervision as a process that deals with observatory controls of the implementation across all spectrums of organizational activities for ensuring the implementation underway is carried out in compliance with pre-determined plans(Matthews et al., 2018; McKay et al., 2016). Refers supervision to an activity aimed at ensuring the exercise of state duties by state institutions with due regard to the applicable laws(Schoenmaker, 2011). In a similar sense contends that the core fundamentals of supervision lie in the aggregation of activities that compare and measure what is and what has been implemented in full accordance with a given set of criteria, norms, standards, and pre-determined plans(Cedillo & Carretero, 2016; Loader, 2018).

The general objective of supervision is to ensure that the functioning of local government is in full conformity with plans and the prevailing laws and regulations to establish state apparatus that are clean and free of corruption, collusion and nepotism(Chan & Owusu, 2017; Orkodashvili, 2011; Sudaryanto, 2014). In a narrower sense, associates the notion of supervision with key specific objectives; a) to assess regulatory compliances; b) to assess the conformity of an activity with the accounting guidelines; c) to assess whether an activity is carried out economically, efficiently and effectively; and d) to detect fraud. Supervision is carried out in a way that leads to the path where aims and objectives are achieved according to the concept of a system, which helps maintain output results that fulfill system requirements(Radinger-Peer & Kolm, 2020). Accordingly, supervision regulates the way the components within the system work and perform in order to achieve the desirable objectives. Accedes to this view and mentions that the utmost importance of supervision is to turn plans into realities. To that end, supervision in the first stage seeks to ensure that the implementation of an activity meets the instructional procedures and policies and to probe into the shortcomings and challenges facing the implementation(Nawir et al., 2018; Syamsiar et al., 2018). Once findings are identified, corrective measures can be implemented and verified both at the present and future time. Leonard White Classifies the objectives of a supervision into two specific notions: a) to ensure that the power being used is for purposes that are governed and deservedly earns support and approval, and b) to protect human rights guaranteed in the laws against abuse of power(Arunraj et al., 2013; Kant, 2020; Loader, 2018)

Repressive supervision is a supervisory process by which higher-ranking government apparatus monitor the decisions of lower-ranking or the subordinate governmental apparatus(Nilwana et al., 2015). Repressive supervision may be carried out either before a governmental stipulation or decision is issued or after a governmental measure has taken place. Actions that fit into repressive supervision may lead to repeal providing that the governmental stipulation is in opposition to a higher law and regulation(Ma & Christensen, 2020).

b). The Concept of Public Service

In essence, public service is inextricably linked to the functioning of society, which consists of an aggregate of individuals who have basic societal needs for services, as it is almost implausible to live in a society without social interactions and relations(Laurence, 2019; Price, 2015).The conception of public service is subject to a multitude of statutes, which governs the delivery of public services in Indonesia. As the Law Number 25 of 2009 puts, public services encompass a vast range of activities in the context of fulfilling the needs for services within statutory regulations for every citizen or resident for goods, services and administrative services provided by public-service organizations(Ishak et al., 2020; Marcellus, 2009).

Observes public services in a more general and universal nuance; public services are those provided to meet the basic needs of citizens. Defines public services in a more meticulous stance; public services involve the provision of services by the government, private sectors on behalf of the government, or those on behalf of the public, whether or not it is done with any payment due, to address the needs or interests of a community. Plato argues that the political and governmental processes embrace the elements of cultural-value transformations for fostering the societal, governmental, and state awareness that is well grounded on individual wisdom (Keeling, 2018).

Elaborates that the construct of public services refers to any activity that is carried out individually or collectively on the basis of material-related factors through a particular system, procedure and method for achieving the fulfillment of others' interests in accordance with their rights. The management of public services carried out by government apparatus addresses service-management activities in their entirety by government agencies or other government-owned legal entities for the public in accordance with their authorities, whether the service is provided directly or indirectly within particular policy frameworks (Finkler et al., 2018; Post & Preston, 2012). In line with the development of state administration and the efforts toward service implementations, the paradigm of public services develops with a focus on customer satisfaction-oriented service management (Haynes, 2015; Osborne et al., 2015).

The framework of 5-service quality dimension helps place the construct of public services into context. These five dimensions include tangibility, reliability, responsiveness, assurance and empathy. Responsiveness refers to one's willingness to help customers and provide them with prompt and appropriate services within a clear-information delivery (Karami-Tanha et al., 2014). Reliability represents the ability of an organization to perform the actual service as promised, accurately and dependably. Assurance reflects the knowledge, politeness and ability of an organization to nurture a sense of customer trust in the organization. Empathy manifests in genuine attention through personal customer interactions by understanding the underlying needs and feelings of a customer. Tangibility relates to physical evidence, i.e., the ability of an organization to demonstrate its existence to external parties. Physical appearances, infrastructure, and the states of the surrounding environment constitute the real evidence of a service rendered by an organization (Haynes, 2015).

Research Method

This study takes on a qualitative approach with a descriptive method to describe data set within the population of the regional government agencies in Makassar. This qualitative data set describes the nature of the situation as it exists in the area of interest, which includes written and oral data of the participants. That qualitative study is one of research procedures through which descriptive data is obtained including both oral utterances and behaviors of the participants. The qualitative method makes up a study that seeks to understand a phenomenon concerning the life experiences of the research subjects, including behaviors, perceptions, motivation, acts, etc., in a holistic and descriptive manner in words within a natural context or setting using a myriad of scientific methods (Klingsieck et al., 2013; Smythe, 2012).

Technique of Data Analysis

Miles and Huberman emphasize a plethora of data collection techniques in a qualitative study, including interviews, observations, etc. This technique yields data in the form of quotes or excerpts from interviews, documents and other notes relevant to the area of interest (i.e.,

Regional Apparatus Organization (OPD) and governmental agencies in Makassar), which are generally obtained in the form of words or texts rather than a numerical form. This data is processed and analyzed to present the data into useful and meaningful information (Fabijan et al., 2015).

Result and Discussion

Ombudsman in Its Supervisory Conduct of Public Services in Makassar

Public service, in its basic sense, involves wide-ranging aspects of providing and fulfilling the needs of a community which make up the core duties and responsibilities of public-service organizations. In this sense, each citizen of a community is entitled to submit a response that reveals public dissatisfaction due to misconducts of public service standards. This is regulated in the Law Number 25 of 2009 that defines public services as an aggregate of activities in the context of fulfilling the needs for services within statutory regulations for every citizen or resident for goods, services and administrative services that concern with public interests provided by public-service organizations. The standard hallmark of public services in Makassar is subject to a number of aspects, including the supervision of public-service implementation by Ombudsman in Makassar.

Ombudsman represents a state institution that assumes the authority in supervising public-service implementations administered by the state and the government, including those held by State-Owned Enterprises (BUMNs), Regional-Owned Enterprises (BUMDs) and State-Owned Legal Entities (BHMNs) which are assigned the tasks of administering particular public services. The key tenet of Ombudsman as a state institution is independent and does not impose an organic relation with state institutions and other governmental agencies, thus exercising its duties and authorities without interference from other powerful entities. In terms of its proceedings, the initial stage of supervisory conduct by Ombudsman is receiving a report from citizens or the reportees. The reportees must meet compliance requirements for immediate follow-ups. Once a reportee submits a report, Ombudsman takes into account key points that align with selecting a report. In a report-selection stage, Ombudsman refers to the Article 24 in the Law Number 37 of 2008 that regulates report-filing requirements. Once the report is eligible for registration after selection process, it will be registered no later than three days for initial report verification which indicates that the report is under review for acceptance (whether or not it is accepted). The steps that provide guidelines of examining and completing a report include; a) Ombudsman conducts report examinations based on the Law Number 37 Article 25 of 2008 that states in the event of incomplete submission, Ombudsman will notify the reportee in writing to complete the report no later than 30 days. The report is repealed when the reportee fails to follow up within 30 days. Oftentimes, the reportee experiences delays in completing the qualifications within a given time frame; b) In terms of the completeness of a report, the Law Number 37 Article 26 of 2008 explains that once a report is complete and accurate, Ombudsman immediately takes on a substantive report examination. c) In the event that Ombudsman is not authorized to proceed with a report examination as stipulated in the Article 27 in the Law Number 37 of 2008, Ombudsman will notify the reportee in writing no later than 7 (seven) days since the effective date upon which the result of examination is signed by the Chief Representative of Ombudsman.

When Ombudsman does have the authority to proceed with the report examination, the first follow-up measure is taken in 14 days at the very latest since the report registration is

completed. The follow-up measure may be in the forms of a letter of clarification to the reportee or a letter of notification as a confirmation for an impending investigation; d) Follow-ups in this sense occur only when Ombudsman has the authority to proceed with an examination or inspection. Follow-up attempts involve an examination of the reported agency and complaint-handling efforts, e.g., clarification, investigation, mediation and monitoring. The common final stage that marks the completion of case-handling efforts is clarification and mediation. However, that is not necessarily true. As the Assistant Head of Ombudsman puts, "There are other times when reports pass the selection process and are appropriately qualified for clarification phase that involves the reported agency, the case needs a further step as part of a larger action of a supervision task, i.e., providing recommendations or suggestions regarding the report for corrective measures in services." Monitoring is used to assess whether or not a given recommendation is appropriately carried out. If the recommendation is underestimated or blatantly disregarded by the reported agency, as stipulated in the Article 4 in the Law Number 37 of 2008, Ombudsman may release another recommendation to the superordinate department in charge of the reported agency or resort to the exposure to media publication regarding maladministration and proceed the report to the House of Representatives and the President. According to the Article 39 and 44 in the Law Number 37 of 2008, if there is evidence that the premise is being misconducted, both the reported agency and the concerned superordinate department may be subject to administrative sanctions in accordance with the prevailing regulatory framework. If there is a party or individual resisting, hindering or willfully obstructing in the performance of Ombudsman over the course of its supervisory duties, the maximum penalty is two-year imprisonment or a maximum fine of Rp.1000.000.000,00 (one billion rupiahs). Based on the laws governing Ombudsman of the Republic of Indonesia and in full compliance with the regulatory frameworks, Ombudsman of Makassar applies a number of approaches to performing its duties. In a case-handling situation particularly concerning the supervision of the reported agency, Ombudsman heavily leverages on a persuasive approach, though it has constitutional authorities. Persuasiveness plays a vital role in successful case resolution. As the Head Assistant of Ombudsman in Makassar claims, Ombudsman represents a state institution that provides optimal public services while constantly seeking to foster national morality in a way that it avoids legal forces against the reported party or agency. This points to the finding that the stipulation of recommendation remains trivial and unheard by the targeted agency. In the absence of legal forces, such recommendation is likely to result in slow progress and even to the extent that it is substantially overlooked by the targeted agency. Misconduct of public services and maladministration consequently remain prevalent. As stipulated in the Article 38 Paragraph 4 in the Law Number 37 of 2008, the consequence imposed for disregarding the recommendation proposed by Ombudsman leads to the decision of proceeding the report to the House of Representatives and the President. Such circumstance results in weak effects on the function and outcome of supervision. If progress does occur, the pace is critically slow. Ombudsman has consistently embraced a comprehensive approach to preventive measures and management schemes for the practice of better public services, e.g., an integrated coordination between Ombudsman of Makassar and the reported agency as well as the Directorate General in charge of the reported agency, even though it runs in an informal setting. Coordination is carried out in the context of exercising efforts to prevent poor services of poor administrative management. This leads to a conclusion that there are two underlying preventive measures on which Ombudsman of Makassar takes for better supervision outcomes, i.e., providing society with insights into the key tenets of Ombudsman to the extent that each member of the society has partnership capacity in

supervising administrative-service providers, and administering a compliance survey to the agencies under Ombudsman's supervisory authorities. The practice of prevention of public-service misconducts makes up one of the core fundamentals of Ombudsman's duties in the Republic of Indonesia. According to the activity reports of Ombudsman of Makassar in 2019, Ombudsman frequently engaged in an array of activities in the context of community empowerment which contributes to promoting understanding of what constitutes Ombudsman in terms of its core duties and responsibilities, and raising awareness of any form of potential public-service misconducts at hand. In terms of public perceptions of the notion of Ombudsman, Makassarese public is moderately in favor of Ombudsman's supervisory roles in public sectors.

The public characterizes Ombudsman as one of the institutions controlling public-service operations. As such, they place high expectation on Ombudsman to serve the impetus and driving force for the desirable achievement of societal goals. The large majority of Makassar citizens give favorable perceptions of Ombudsman, indicating moderate public support of Ombudsman in terms of its supervisory and controlling duties, and its capacity to provide guidance to the wider community to fulfill their expectations for a better public sector. They express moderate satisfaction with Ombudsman personnels who are viewed to have gone great lengths to provide the community who are experiencing difficulties with optimal instructions and guidances to the extent that they completely understand the difficult circumstances. The community tends to view Ombudsman as performing important functions in the landscape of governmental agencies given its organizational mechanisms which are greatly helpful to achieve what is expected to run effectively in public-service sectors. The overall citizen experience with Ombudsman's policies is similarly favorable, indicating that their satisfaction and need are sufficiently fulfilled in a manner that reflects positively on Ombudsman. Ombudsman has paved a path that provides a great deal of convenience for the accomplishment of community goals and expectations within a policy framework to cope with their goals and expectations.

The Inhibiting Factors of Public-Service Supervisions by Ombudsman in Makassar

Given its independent nature, Ombudsman has encountered critical factors that slow down its performance over the course of its supervisory duties and responsibilities. These factors create difficulties for Ombudsman's work, resulting in delays or obstructions in the supervisory performance. Major findings indicate these delays or obstructions are attributed to the limitations in human resources, budgets and infrastructure given by the state, and the lack of public awareness of a reputation and management in which Ombudsman as a state institution exists. By its nature, these inhibiting factors refer to the elements within the internal environment of Ombudsman, which substantially affect how Ombudsman meets its objectives.

A major finding reveals that budgeting allocation for Ombudsman of the Republic of Indonesia is relatively lower than that of other supervisory institutions. This greatly affects the organizational progression of the regional representatives of Ombudsman throughout Indonesia. Budgetary allocations are integral to the proper management of financial systems and resources of Ombudsman. Limitations in these allocations will result in organizational shortcomings that severely affect how Ombudsman operates activities and exercises its authorities. Fieldwork requires a large number of expenditures including accommodation costs and transportation fares, particularly in Makassar City given its relatively vast area. Large budget allocations are particularly a major requisite for the implementation of socializations and seminars for the community and concerned agencies.

Limited allocations in funding inextricably lead to the lack of workforce in Ombudsman of Makassar. Poor numbers of human capital at Ombudsman are directly attributable to the lack of funding to invest in the institution. Currently, Ombudsman has employed 13 personnels, causing excessive workloads in which extra tasks of completing reports are assigned to the same resource. This concurrent task management compels the personnels into multiple tasks in overlapping time periods, which consequently hinders their performance at an optimal level. Understaffing is a common issue in independent state institutions like Ombudsman as a direct result of underfunding. However, despite the chronic lack of capacity to expand workforce, the community places high expectations on Ombudsman to maintain and improve consistent work performance in terms of report submissions and supervisory conducts of public services.

Infrastructure plays a key role within an organization to support its daily operation to meet its desirable ends. Organizational infrastructure sets the major foundation upon which organizational duties and functions are performed and enhanced with respect to its goals and missions. A lack of capacity at Ombudsman in Makassar for infrastructure investment is visible in the shortage of basic useful tools such as computers and printers. In fact, some personnels use personal assets to meet the organizational equipment needs. Poor infrastructure development in Ombudsman also directly attributes to insufficient workspace.

Conclusion:1) The supervisory roles of Ombudsman of public service providers in Makassar manifest in an external supervision. The organizational performance in the context of supervising and handling citizen reports on allegations of service misconducts in public sectors is deemed optimal with case-handling schemes including clarification, investigation, recommendation, and monitoring. 2) The exercise of supervisory duties and responsibilities by Ombudsman in Makassar encounters a number of critical inhibiting factors, i.e., underfunding issue which severely hinders operational needs and activities, understaffing that directly leads to heavy workloads, and infrastructure shortage as well as the lack of public awareness of the notion of public-service supervision institutions in which the duties and functions of Ombudsman exists.

Suggestion:Suggestions are based on the results of the current study and indicate measures or directions for sustaining and improving the performance of Ombudsman in Makassar, i.e., 1) workplace inspection activities at the reported agency should become an integral part of work routines of Ombudsman for a more effective conduct of public-service supervisions; 2) Ombudsman should strengthen interinstitutional cooperation and coordination with the agencies under its authorities in Makassar; 3) Generating additional funding by proposing a range of grants from governments is essential to overcome underfunding issue at Ombudsman, which becomes the core problem that causes understaffing and shortage of infrastructure to run its duties and functions in public-service supervisions; 4) With respect to dealing with understaffed team, Ombudsman may hire new employees in accordance with the existing regulatory framework or offer internship vacancies each month for college students to help boost work productivity; 5) Ombudsman should place the emphasis and priority on organizational socializations and campaigns in which public awareness can be promoted for creating and shaping a distinguishable existence of Ombudsman in the context of its core duties and functions in public-service supervisions in a manner that provides the community with the importance and understanding of mandatory reporting on maladministration conducts.

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