

EFFECTIVENESS OF THE OMBUDSMAN OF THE REPUBLIC OF INDONESIA REPRESENTATIVE OF WEST NUSA TENGGARA PROVINCE IN SUPERVISING TOURISM VILLAGES

Rachman Maulana Kafrawi

Faculty of Law, Social Sciences and Political Sciences, Mataram University, West Nusa Tenggara, Indonesia

Email: rachmanmaulana@unram.ac.id

Khairul Umam

Faculty of Law, Social Sciences and Political Sciences, Mataram University, West Nusa Tenggara, Indonesia

Email: khairulumam@unram.ac.id

Rahmadani

Faculty of Law, Social Sciences and Political Sciences, Mataram University, West Nusa Tenggara, Indonesia

Email: rahmadanishmh@unram.ac.id

Muh. Alfian Fallahiyan

Faculty of Law, Social Sciences and Political Sciences, Mataram University, West Nusa Tenggara, Indonesia

Email: alfianfallahiyan@unram.ac.id

Abstract

The Ombudsman of the Republic of Indonesia or later called the Ombudsman is an independent state institution which has the authority to supervise the process of providing public services carried out by State and Government administrators including State-Owned Enterprises (BUMN), Regional-Owned Enterprises (BUMD), State-Owned and Private Legal Entities which have been given the task of providing certain public services. The research discusses the effectiveness of the Indonesian Ombudsman Representative of West Nusa Tenggara Province in Supervising Tourism Villages. This research is based on the large number of public reports submitted to the Ombudsman regarding alleged violations that occurred in the administration of the Tourism Village. For this reason, supervision by the Ombudsman is needed to manage public complaints and prevent repeated maladministration in the administration of Tourism Villages. This research is socio-legal research with a statutory approach, a conceptual approach and a sociological approach. Research results In supervising public services, apart from receiving reports from the public, the Ombudsman can also carry out on his own initiative through a systemic review, the results of which can be in the form of recommendations/suggestions. The Ombudsman's supervision in supervising the implementation of tourist villages can be said to be effective and running well in accordance with the indicators.

Keywords: *Supervising; Public Service; Tourism Villages*

A. INTRODUCTION

Montesquieu's Trias Politica theory, which only differentiates 3 (three) state powers, namely legislative, executive and judicial powers, originated in the 18th century, and is no longer adequate for this century. Saldi Isra views that the need for state practice to continue to move

following the dynamics of the complexity of problems requires the presence of new institutions¹ Therefore, in reality, we have long seen the need for the role of supervisory institutions. In line with this, developed countries have thought about how to increase the protection of people's rights in order to obtain good and fair public services from state/government administrators, so the Ombudsman has emerged who is considered to be a representative to carry out the task of supervising the implementation of these public services.²

The Ombudsman is an institution formed to deal with abuse of power by government officials and to help officials carry out government efficiently and fairly, as well as to encourage power holders to carry out their responsibilities and provide services well.³ The Ombudsman of the Republic of Indonesia is an external supervisory institution whose existence is expected to be able to control their duties. state and government administrators in providing public services and law enforcement. The Ombudsman of the Republic of Indonesia handles complaints about public services while carrying out its duties and authority free from interference from other powers. Law Number 37 of 2008 concerning the Ombudsman of the Republic of Indonesia became the basis for the formation of the Ombudsman of the Republic of Indonesia, although during the reign of President Abdurahman Wahid, based on Presidential Decree Number 44 of 2000, the National Ombudsman Commission was formed.

The Ombudsman Institution is a new institution outside the legislative, executive and judicial institutions which universally has characteristics; Independent, carrying out supervisory duties on acts of maladministration that are complained about by the public, for example actions by state administration officials that are deviant, strange and odd (inappropriate), arbitrary (abus de droit/ willekeur), abuse of authority (detournement de pouvoir /abuse of power), violating propriety (equity), violating provisions (irregular/ illegal), unnecessary delay (undue delay), etc.⁴

According to Mediya Lukman, institutions providing public services can be classified into 3 (three) forms, namely ordinary bureaucratic institutions with limited or no degree of autonomy and independence, BLU/D as semiautonomous institutions, and BUMN/D as public institutions. /a state that is truly autonomous in managing every resource and making decisions. In subsequent developments after the issuance of Law Number 24 of 2011 concerning Social Security Administering Bodies, and Law Number 12 of 2012 concerning Higher Education, 1 was added (one) another form of institution providing public services which has much greater autonomy and discretion than public institutions/organizations in the form of BLU, namely BPJS and PTN legal entities.⁵

In order to carry out decentralized supervision, on January 31 2012 the Ombudsman of the Republic of Indonesia issued a Decree of the Chairman of the Ombudsman of the Republic Indonesia Number 22/ORI-SK/I/2012 concerning the Establishment of Representative Offices for the Ombudsman of the Republic of Indonesia in several Provinces. The provinces consist of the provinces of Aceh, Riau, South Sumatra, West Kalimantan, West Nusa Tenggara, Central Sulawesi, Southeast Sulawesi, Central Java and West Sumatra Province.

The Representative Ombudsman of West Nusa Tenggara Province has a role in supervising public services in its work area, namely all districts or cities in West Nusa Tenggara Province. In following up on each report submitted by the reporter, the Ombudsman will ensure whether

¹Saldi Isra dalam Kata Pengantar Zainal Arifin Mochtar, 2017, *Lembaga Negara Independen: Dinamika Perkembangan dan Urgensi Penataannya Kembali Pasca Amandemen Konstitusi*, Rajawali Press: Jakarta, p. 8.

²Ratna Sari Dewi Asisten Ombudsman RI Pusat "19 Tahun Ombudsman, Menuju Pelayanan Publik Prima", <https://news.detik.com/kolom/d-4463476/19-tahun-ombudsman-menuju-pelayanan-publik-prima>, diakses, 1 Maret 2023.

³Bagir Manan dalam Kata Pengantar buku Taufiqukohman, 2015, *Optimalisasi Peningkatan Investigasi Ombudsman Republik Indonesia Guna Meningkatkan Kualitas Pelayanan Publik*, Penerbit Fakultas Ilmu Sosial dan Ilmu Politik Universitas Prof. Dr. Moestopo Beragama; Jakarta, p. 1.

⁴Suharto, R.B. (2020). Strengthening the law in order to keep existence the unitary state of the republic of Indonesia. *International Journal of Law Reconstruction*, 4(1).

⁵Mediya Lukman, 2013, *Badan Layanan Umum dari Birokrasi Menuju Korporasi*, Bumi Aksara: Jakarta, p. 5

the report is authoritative Ombudsman or not. Looking at the public reports regarding public services in the village.

The natural potential of Lombok Island in West Nusa Tenggara also carries the theme of rural tourism which has become one of the destinations that is much sought after and visited by both domestic and foreign tourists by offering a more natural lifestyle for the community by showing the authenticity of regional culture. Various districts in West Nusa Tenggara are starting to develop tourist villages as alternative tourist destinations offered to tourists.⁶

In order for government programs to run effectively, it is necessary to have leadership from village officials in managing or directing the community with the aim of participating in development and community empowerment.⁷ The village head in carrying out his duties and obligations as the main person responsible for development can be assisted by community institutions in the village, while in carrying out their duties and functions, the village secretary, section head and hamlet head are under and responsible to the village secretary. In connection with tourism development, the BPD together with the Village Head discussed the management of assets owned by each village, in this case village assets in the form of natural beauty which is used as a tourist destination⁸

Based on the phenomena that have been described, researchers try to see the role of the Indonesian Ombudsman Representative of West Nusa Tenggara Province in Supervising Tourism Villages in districts spread across West Nusa Tenggara province, therefore the author felt interested in carrying out research with the theme "Effectiveness of the Indonesian Ombudsman Representative of West Nusa Tenggara Province in Supervising Tourism Villages".

B. RESEARCH METHOD

This research is directed to answer the problem formulation through socio-legal research. Socio-legal research represents an interface with a context where law exists. That is why when a socio-legal studies researcher uses social theory for analytical purposes, they are not aiming to pay attention to sociology or other social sciences, but law and legal studies.⁹ With this socio-legal research, it is hoped that the researcher will be able to describe the issues raised in a more in-depth and holistic manner. Because Socio-Legal research does not only focus on empirical research but combines both normative and empirical aspects.

C. DISCUSSION

1. The Existence of Tourist Villages in Indonesia

Based on data collected by the Ministry of Tourism and Creative Economy (Kemenparekraf), by 2022 the development of tourist villages in Indonesia has reached 3,524 villages spread from Sumatra Island to Papua Island. Most tourist villages There are 1,057 villages on the island of Java, with Central Java Province having the highest number of tourist villages compared to other provinces, namely 310 villages spread across almost all districts/cities. In second place is Sumatra Island, which has 919 villages, with West Sumatra Province as the largest contributor

⁶Larasati, dkk, 'Partisipasi Masyarakat Lokal Dalam Pengembangan Usaha Pondok Wisata di Desa Wisata Tetebatu Kabupaten Lombok Timur' Universitas Udayana, Denpasar, Bali, Jurnal Destinasi Pariwisata, 2021.

⁷Firma Firman, 'Peranan Badan Permusyawaratan Desa Dalam Penyelenggaraan Pemerintahan Di Desa', Jurnal Hukum Institut Lamadukkeleng Sengkang, Kabupaten Wajo, Sulawesi Selatan, (2020), p. 39-52.

⁸Dian Novita Putri Pradhana, Strategi Pengembangan Desa Wisata (Studi Kasus: Desa Ponggok, Kecamatan Polanharjo, Kabupaten Klaten), Skripsi, Universitas Muhammadiyah Surakarta, (2019), p. 1-9.

⁹Sulistiyowati Irianto, Meretas Jalan Keadilan Bagi Kaum Terpinggirkan dan Perempuan (Suatu Tinjauan *Sosio-Legal*). Pidato Pengukuhan Guru Besar Tetap dalam Ilmu Antropologi Hukum pada Fakultas Hukum Universitas Indonesia, 22 April 2019, p. 33.

of tourist villages, namely 298 villages. Next is Sulawesi Island with a total of 672 villages, the majority of which are in South Sulawesi with a total of 419 villages.¹⁰

Important aspects in developing a tourist village towards a superior or independent tourist village can be seen from 3 development structures, namely, infrastructure; hygiene, cleanliness and health; as well as information technology readiness with the 3A approach scheme including attractions, accessibility and amenities.¹¹ Apart from that, there are several criteria that make a village a tourist village, namely tourist attractions; mileage; village size; system trust and community; and availability of infrastructure.¹² These criteria will later be developed in the context of sustainable development of tourist villages. The development of tourist villages can be carried out by the community and government elements based on village resources with several tourism alternatives such as adventure tourism, agro tourism, marine tourism, culinary tourism, cultural and historical tourism, and creative tourism.¹³

At an ideal level, a tourist village must be able to commit to the vision of tourism as a tool for positive transformation, inclusive and sustainable development.¹⁴ Apart from that, a village must be able to promote and protect its nature and culture and respect its gastronomy, crafts and people. At another level, a village must be able to foster innovation and entrepreneurship, empower the community, and work for the welfare of residents and the comfort of visitors. Characteristics of tourist villages has the concept of integration between attractions, accommodation and the fulfillment of supporting facilities in a community structure that is integrated with procedures and traditions.¹⁵

2. Legal Protection for the Tourism Sector in Indonesia

Legal protection for the tourism sector is regulated in Law no. 10 of 2009 concerning Tourism. The principles of tourism management include providing benefits for the welfare of the people, justice, equality and proportionality; maintain nature and environmental sustainability; and empowering local communities. Apart from that, tourism development must pay attention to the cultural, social and religious aspects of the local community. Tourism village development can be carried out by developing strategies to increase local resource capacity.

In accordance with PP no. 50 of 2011, an improvement strategy can be carried out by increasing the development of local resource potential as a locally based tourist attraction within the framework of community empowerment through tourism; developing local resource potential through tourist villages; improving the quality of small and medium industrial products as supporting components of tourism products in tourism destinations; and increasing the business capabilities of micro, small and medium scale tourism business actors developed by local communities. Accelerating integrated village development to encourage social, cultural and economic transformation of villages supported by the government, one of which is the development program for tourist villages, digital villages and superior products for villages and rural areas, development of joint BUMDesa/BUMDes in accordance with Presidential Decree No. 18 of 2020.

¹⁰Kemenparekraf, "Jaringan Desa Wisata," Kemenparekraf. <https://jadesta.kemenparekraf.go.id/home>.

¹¹Agnes Wirdayanti et al., *Pedoman Desa Wisata*, II, Juni 2 (Jakarta: Kementerian Koordinator Bidang Kemaritiman dan Investasi Republik Indonesia, 2021).

¹²M. Antara and I.N.S. Arida, *Panduan Pengelolaan Desa Wisata Berbasis Potensi Lokal* (Bali: Universitas Udayana, 2015); Selamat Joko Utomo and Bondan Satriawan, "Strategi Pengembangan Desa Wisata Di Kecamatan Karangploso Kabupaten Malang," *Jurnal Neo-Bis*, 11(2), (2017).

¹³Firman Syah, "Strategi Mengembangkan Desa Wisata," (Makalah dalam Prosiding Seminar Nasional Multi Disiplin Ilmu & Call For Papers Unisbank Ke-3(SENDI_U3), 2017).

¹⁴UNWTO, "Best Tourism Villages," (2021).

¹⁵M. F. Ma'ruf, B. Kurniawan, and R.P.A.G. Pangestu, "Desa Wisata: Sebuah Upaya Mengembangkan Potensi Desa dan Meningkatkan Pendapatan Asli Desa (Studi Pada Desa Wisata Bejiharjo Kecamatan Karangmojo Kabupaten Gunungkidul)," *Dinamika Governance: Jurnal Ilmu Administrasi Negara*, Vol. 7, No. 2, 2017.

Apart from that, the Central Government will encourage village governments to optimize utilization of village funds for the transformation of the village economy through the development of tourist villages, digital villages, superior village products, development of rural areas, and increasing the role of Village-Owned Enterprises (BUMDes)/BUMDes Bersama. Furthermore, the Ministry of Tourism and Creative Economy in accordance with Minister of Tourism and Creative Economy Regulation Number 12 of 2020 has launched the development of rural-based tourism (village tourism) which will drive tourism economic activities in rural areas which will prevent the urbanization of rural communities into cities and the development of rural tourism will encourage nature conservation (including landscapes). nature, rice fields, rivers, lakes) which in turn will have an impact on reducing global warming.

3. Supervision of Tourism Villages by the Ombudsman

After the collapse of the New Order regime, specifically the Reform era, under the leadership of President Abdurrahman Wahid, in 2000 President Abdurrahman Wahid issued Presidential Decree Number 44 of 2000 concerning the National Ombudsman Commission. This Presidential Decree also revokes the previous Presidential Decree, Presidential Decree Number 155 of 1999 concerning the Study of the Establishment of an Ombudsman Institution.

Based on Article 2 of the Presidential Decree of the Republic of Indonesia Number 44 of 2000 concerning the National Ombudsman Commission, it is stated that the National Ombudsman is a public oversight institution that is based on Pancasila and is independent, and has the authority to clarify, monitor or examine public reports regarding state administration, especially implementation by government officials, including judicial institutions, especially in providing services to the community.

Furthermore, according to Sunaryati Hartono the Indonesian Ombudsman was formed with the aim of:¹⁶

- a. encouraging clean governance; both at the center and in the regions in accordance with the principles of good governance, within the framework of a democratic, transparent and accountable legal state.
- b. improve the quality of state services in all fields so that every citizen and resident of Indonesia obtains justice, a sense of security and increased welfare.
- c. help create and increase efforts to eradicate the practices of maladministration, discrimination, collusion, corruption and nepotism.
- d. improving national legal culture and building public legal awareness, so that the supremacy of law can be upheld to achieve truth and justice.
- e. This goal will certainly be achieved if the Indonesian Ombudsman is able to carry out its supervisory function well. At the same time, whether the implementation of the supervisory function carried out by the Indonesian Ombudsman is good or not depends greatly on the supra structure in the form of statutory regulations and the infrastructure in the form of facilities and infrastructure that support the activities and implementation of the Ombudsman's work.

Supervision of public service delivery has two classifications, namely supervision of public service delivery carried out by internal supervisors and external supervisors. In this case, the Ombudsman of the Republic of Indonesia is one of the external supervisory institutions for the implementation of public services, as stated in Article 35 of Law Number 25 of 2009 concerning Public Services, namely:

- (1) Supervision of the implementation of public services is carried out by internal supervisors and external supervisors.
- (2) Internal supervision of the implementation of public services is carried out through:
 - a. supervision by direct superiors in accordance with statutory regulations; and

¹⁶Sunaryati Hartono et.al., *Panduan Investigasi untuk Indonesia*, (Jakarta: The Asia Foundation Indonesia, 2003), p. 5.

- b. supervision by functional supervisors in accordance with statutory regulations invitation
- (3) External supervision of the implementation of public services is carried out through
- a. supervision by the public in the form of reports or complaints from the public in the implementation of public services;
 - b. supervision by the ombudsman in accordance with statutory regulations; and
 - c. supervision by the People's Representative Council, Provincial Regional People's Representative Council, Regency/City Regional People's Representative Council.
 - d. Based on Article 1 of Law Number 37 of 2008, it is emphasized that The Ombudsman of the Republic of Indonesia is: state institutions that have the authority to supervise the implementation of public services organized by state and government administrators, including those organized by State-Owned Enterprises, Regional-Owned Enterprises and State-Owned Legal Entities as well as private entities and individuals who are given the task of providing certain public services in part or All funds come from the state revenue and expenditure budget and/or regional revenue and expenditure budget.

According to SF Marbun, supervision can be viewed from various aspects, including economic or management and legal aspects. From a management perspective, supervision is needed to ensure that an organization's activities run according to plan so that organizational goals are achieved. Apart from that, supervision is also to ensure that government functions run well and ensure the implementation of good governance. In this way, supervision can minimize obstacles that occur and immediately make improvements. From an administrative law perspective, supervision is necessary to ensure that the implementation of government administration is carried out in accordance with legal norms or provisions of laws and regulations and that legal protection for the people regarding the actions of state administrative bodies/officials can be pursued.¹⁷

The main objective of supervision (control) is to prevent errors from occurring, whether intentional or unintentional, as a preventive effort, or also to correct them if errors have occurred, as a repressive effort.¹⁸

Furthermore, he stated that there are several types of control which can be distinguished from several aspects, namely:¹⁹

- 1) In terms of the position of the body/organ that exercises control over the body/organ being controlled, which is differentiated as internal control and external control. Internal control means that supervision is carried out by an agency that is organizationally/structurally within the government itself. This supervision is also called technical-administrative control or commonly referred to as a form of "built-in control". On the other hand, external control is supervision carried out by organs or institutions that are organizationally/structurally outside the government in the executive sense.
- 2) In terms of when a control or supervision is carried out, it is divided into two types, namely A-Priori Control and A-Posteriori Control. A-Priori control is when supervision is carried out before the issuance of a government decision or decree or other regulation whose issuance is within the authority of the government. In this case, the preventive element of the purpose of control is clearly visible, because the main aim is to prevent or avoid errors. On the other hand, A-Posteriori Control is when the supervision only occurs after the decision is issued. In other words, the meaning of supervision here is that it is focused on corrective objectives and recovering from wrong actions.

¹⁷S.F. Marbun, *Hukum Administrasi Negara II*, (Yogyakarta: FH UII Press, tahun 2013), halaman 1-2.

¹⁸Lotulung, Paulus Effendie, *Seri ke-I Perbandingan Hukum Administrasi – Beberapa Sistem tentang Kontrol Segi Hukum terhadap Pemerintah*, (Jakarta: PT. Bhuana Pancakarsa, 2006).

¹⁹*Loc Cit*

- 3) In terms of the nature of control over the object being supervised, it is divided into two, namely legal control (*rechmatigheidstoetsing*) and benefit control (*doelmatigheidstoetsing*). Legal control is intended to assess legal aspects or considerations only (legality aspect), namely the “*rechmatigheid*” aspect of government actions. Meanwhile, control in terms of usefulness assesses whether the government’s actions are correct or not in terms of perspective aspect/ consideration of benefit (opportunity), namely the aspect of “*doelmatigheid*”.

D. CONCLUSION

Many regulations regarding the development of tourist villages have been issued, ranging from Laws, Government Regulations, Presidential Regulations, Ministerial Regulations, to Regulations Area. The Ombudsman as a supervisory body for public service providers, in carrying out its role to support good governance, carries out its duties by receiving reports/ complaints from every Indonesian citizen or resident regarding alleged maladministration committed by state officials. In supervising public services, apart from receiving reports from the public, the Ombudsman can also carry out on his own initiative through a systemic review, the results of which can be in the form of recommendations/suggestions. To ensure compliance with the Ombudsman’s resolution efforts by the Reported Party or the Reported Party’s superiors, the Ombudsman carries out monitoring directly or through media/publications and submits periodic and annual reports to the President of the Republic of Indonesia and the House of Representatives.

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