

Legal Analysis of the Authority of the Representative of the Ombudsman RI of North Kalimantan Province in Resolving Reports of Levies at Public Junior High Schools in Tarakan City (Case Study of Public Report Registration No. 0028/LM/VIII/2024/Trk)

Syahrudin¹⁾ & Bambang Tri Bawono²⁾

¹⁾Faculty of Law, Universitas Islam Sultan Agung (UNISSULA) Semarang, Indonesia, E-mail: Syahrudin.std@unissula.ac.id

²⁾Faculty of Law, Universitas Islam Sultan Agung (UNISSULA) Semarang, Indonesia, E-mail: Bambangtribawono@unissula.ac.id

Abstract. *This study aims to analyze the legal authority possessed by the Representative of the Ombudsman of the Republic of Indonesia for the Province of North Kalimantan in handling and resolving reports of alleged levies carried out by the State Junior High School in Tarakan City, with a focus on a case study of the Public Report Registration Number 0028/LM/VIII/2024/TRK. The report relates to the alleged practice of levies that are not in accordance with the provisions of laws and regulations in the basic education environment, which should prioritize the principle of free and non-discriminatory education as mandated in Law Number 20 of 2003 concerning the National Education System. This study uses a normative legal approach by reviewing relevant laws and regulations, report documents, and other secondary data. The analysis was conducted to assess whether the steps taken by the Representative of the Ombudsman of the Republic of Indonesia of North Kalimantan Province in following up on public reports were in accordance with the authority granted under Law Number 37 of 2008 concerning the Ombudsman of the Republic of Indonesia and other implementing regulations. The results of the study show that the Representative of the Ombudsman of the Republic of Indonesia for North Kalimantan Province has exercised its authority legally and proportionally in handling Report No. 0028/LM/VIII/2024/TRK. The examination process was carried out objectively and accountably, resulting in findings of maladministration of levies carried out by the school. The Ombudsman then issued corrective actions in the form of stopping levies and returning funds to parents/guardians of affected students. These corrective actions are a form of implementing the supervisory function of public services in the field of education. The conclusion of this study emphasizes the importance of the Ombudsman's role in maintaining the principles of good governance and protecting people's rights, especially in the education sector.*

Keywords: *Basic Education; Legal Authority; Maladministration; Public Services; School Levies; Ombudsman.*

1. Introduction

However, based on data released by the UNDP (United Nation Development Program) or the UN Agency that handles education issues, which issued data on the ranking of world countries based on the competitiveness of human resource quality in 2024 or the Human Development Index (HDI) 2024, out of 193 countries studied, Indonesia is ranked 112, which means that the quality of Indonesia's human resource competitiveness is still very low in the international market. Our position is far behind our neighboring country, Brunei Darussalam, which is ranked 55th, or Malaysia, which is ranked 63rd. The data released by the UNDP is certainly quite concerning for us, because this can be a portrait of the results of education in our country today. The government has actually been working on a national education system since 2003 to produce people who believe in and are devoted to God Almighty, knowledgeable and have noble morals in order to shape the nation's civilization. This is as stated in Law Number 20 of 2003 concerning the National Education System, Article 3 which reads: "National education functions to develop abilities and shape the character and civilization of a dignified nation in order to enlighten the life of the nation, aiming to develop the potential of students to become human beings who believe in and are devoted to God Almighty, have noble morals, are healthy, knowledgeable, capable, creative, independent, and become democratic and responsible citizens."¹

In order to realize the goals of national education, the government requires citizens who are 6 (six) years old to take 9 (nine) years of compulsory education. This is regulated in the 1945 Constitution of the Republic of Indonesia, Article 31 paragraph (1) and (2), namely:

1. Every citizen has the right to education.
2. Every citizen is required to attend basic education and the government is required to finance it.

This is also emphasized in Law Number 20 of 2003 concerning the National Education System, Article 34 paragraphs (1) and (2), namely:

1. Every citizen aged 6 (six) years can participate in the compulsory education program.
2. The Government and Regional Governments guarantee the implementation of compulsory education at least at the basic education level without charging fees.²

"The practice of extortion carried out by certain school principals and teachers is part of the criminal act of corruption. This is because every school, especially those with state status, has received school BOS funds for teaching and learning activities. So if there is a practice of extortion on the grounds that it is for school operational activities that are not covered by BOS funds, it is very likely that the person carrying out the extortion has misappropriated the BOS funds themselves. The principals and teachers who carry out the extortion are suspected of misappropriating BOS funds. Based on the provisions of Article 12 c of Law Number 31 of 1999 as amended by Law Number 20 of 2001 concerning the Eradication of Corruption, the act of extortion carried out by certain school principals and teachers can be categorized as gratification."

¹ www.simpel4.ombudsman.go.id/dashboard, accessed February 5, 2025

² Dedi Mulyadi, Construction of Illegal Levies in Basic Education Providers, PRESUMPTION of LAW, Vol 2 No 2, 2020, pp 112-113

In order to anticipate levies outside of educational interests, the Minister of Education issued Regulation of the Minister of Education and Culture Number 44 of 2012 concerning Levies and Contributions of Education Costs in Elementary Education Units. Article 5 of the Regulation explains that sources of education funding in elementary education units organized by the government and regional governments, in addition to the APBN and APBD, include donations from students or their parents/guardians. However, Article 9 paragraph (1) states that elementary education units organized by the government and/or regional governments are prohibited from collecting education unit fees. If it is necessary to raise funds from students or their parents/guardians, this is done by the School Committee as regulated in Regulation of the Minister of Education and Culture Number 75 of 2016 concerning the School Committee, in Article 3 paragraph (1) letter b which states that the School Committee's duties include raising funds and other educational resources from the community, both individuals/organizations/business world/industrial world and other stakeholders through creative and innovative efforts. However, in Article 10 paragraph (2), there are provisions that regulate the School Committee in raising funds and other educational resources in the form of assistance and/or donations, not levies. This means that the School Committee is not permitted to raise funds through a levy mechanism. Although there are quite a lot of regulations governing the prohibition of levies in the world of education, in practice this is still often found, including in North Kalimantan Province. This is difficult to prevent because it involves stakeholders and certainly involves the school committee to smooth the action by hiding behind the dominant reasons used, namely "to improve quality, to add school facilities and infrastructure, and so on"³. Even based on data collected from Intelligence Media Analytics (IMA) which has been calculated since the Covid-19 Pandemic (March 2020-March 2021), the substance of education is in second place in terms of the substance of public complaints with a percentage of 20.57%.⁴. In general, complaints about the substance of education include the implementation of PPDB, both related to the online system, regional zoning, illegal levies, misappropriation of BOS funds, withholding of diplomas, and embezzlement of PIP assistance in several regions.

³Yoyo Rohaya, Dede Sumiati, and Cicik Komalasari, Extortion from Elementary Education Providers in the Perspective of Legal Culture, *PRESUMPTION of LAW*, Vol 5 No 2, 2023, p. 175

⁴Andi Setyo Pambudi, Public Service Problems and the Role of the Ombudsman Representative in Assisting State Civil Apparatus, *Wahana Bhakti Praja Scientific Journal*, Vol 13 No 2, 2023, pp 132-133

2. Research Methods

The approach used in this study is the statutory approach. This statutory approach is carried out by examining all laws and regulations related to the legal issues studied, such as Law Number 37 of 2008 concerning the Ombudsman of the Republic of Indonesia, Law Number 25 of 2009 concerning Public Services, Ombudsman Regulation Number 58 of 2023 concerning Procedures for Examination and Settlement of Reports, Permendikbud concerning the prohibition of levies in schools, and other legal literature related to the supervisory authority of the Ombudsman RI and the prohibition of levies in State Junior High Schools. In addition, a case study was also conducted on the report that had been handled by the Representative of the Ombudsman RI for North Kalimantan Province regarding levies that occurred at State Junior High Schools in Tarakan City.⁵

3. Results and Discussion

3.1. Authority of the Representative of the Ombudsman of the Republic of Indonesia for North Kalimantan Province in Resolving Reports of Levies at Public Junior High Schools in Tarakan City

3.1.1. The Basis of Authority of the Ombudsman of the Republic of Indonesia and the Representative of the Ombudsman of the Republic of Indonesia for the Province of North Kalimantan

The Ombudsman of the Republic of Indonesia is a state institution that is on a par with other power institutions based on its duties and functions. The authority of the Ombudsman of the Republic of Indonesia in the Indonesian administrative law system has a strong and clear legal basis. This institution was established through Law Number 37 of 2008 concerning the Ombudsman of the Republic of Indonesia, which replaced Presidential Decree Number 44 of 2000 concerning the National Ombudsman Commission. The presence of the Ombudsman aims to improve the quality of public service delivery and ensure the fulfillment of the rights of the community to public services that are fair, professional, and free from administrative irregularities.

The most important function of a government institution is to provide public services to the community. Therefore, reforms in government institutions are considered to play an important role and are directly related to the community, especially in terms of providing public services, which have so far been considered less important issues. The community focuses more on issues that are more elite in nature such as corruption, national leadership, political issues, and other issues.

Reform in government institutions can basically be started by improving the procedures and mechanisms of supervision. In Indonesia, the establishment of the Ombudsman became a historical milestone that marked the beginning of reform in government institutions and efforts to improve public services more seriously and the Ombudsman has provided a new

⁵ Elvera and Yesita Astarina, 2021, Research Methodology, ANDI, Yogyakarta, p. 1

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model and supervision system that is more independent and community-based. The community also began to discuss more seriously the problems of good governance, public services and maladministration.

The effectiveness of the Ombudsman's supervision is determined by the government system adopted by the country. In a democratic system, the people are placed in the main domain because the highest sovereignty is in the hands of the people, which basically in running the government, the government must be based on the will of the people.⁶ Based on its function, the Ombudsman is a representation of supervision carried out by the community or social groups on public organizers, both those carried out by state and private organizers. The quality of the Ombudsman's supervision also depends greatly on how much understanding there is about the Ombudsman and awareness in voicing the deviant practices that occur and the courage to report such deviations to the Ombudsman.

With the guarantee of legal certainty for every citizen, every public official is obliged to provide a guarantee that in dealing with state administrators, every citizen must obtain a sense of justice, especially when dealing with state administrators. Therefore, within the framework of good governance, every public official is obliged to provide equal treatment for every citizen in carrying out their functions as public service providers as regulated in Article 4 of Law Number 25 of 2009 concerning Public Services, which states that the implementation of public services is based on:

- a. Public interest;
- b. Legal certainty;
- c. Equality of rights;
- d. Balance of rights and obligations;
- e. Professionalism;
- f. Participatory;
- g. Equal treatment/non-discrimination;
- h. Openness;
- i. Accountability;
- j. Special facilities and treatment for vulnerable groups;
- k. Punctuality; and
- l. Speed, convenience and affordability.

In order to realize good state and government administration, external supervision is needed, because experience has proven that the existence of internal supervision in the government in its implementation has not met the expectations of the community, both in terms of objectivity and accountability. So that an external supervisory institution is needed, one of which is the Ombudsman of the Republic of Indonesia so that the supervision mechanism is stronger and more effective in order to realize a clean, transparent, and responsive bureaucracy to public needs. In practice, supervision will assess the implementation of an

⁶Eddy Purnama, 2007, *The State of People's Sovereignty: Analysis of the Indonesian Government System and Comparison with Other Countries*, Nusamedia, Bandung, p. 9

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activity from the suitability between planning (*das sollen*) and the reality of the implementation itself (*das sein*)⁷. With the existence of inherent supervision, efforts are made to avoid deviations in implementation, abuse of authority, leaks and waste.⁸ For this reason, the presence of the Republic of Indonesia Ombudsman as an external supervisor is very much expected to be able to answer demands of the community that require the implementation of clean public service management and good governance. The Ombudsman can intervene in strategic areas:

1. Law enforcement
2. Quality of state apparatus and government
3. Public service management system both in statutory regulations and their implementation.
4. Participation and awareness of public rights and obligations.
5. Effective and efficient supervision.

The Ombudsman in a persuasive approach, can provide influence to state administrators in the form of recommendations or suggestions, where the nature of the recommendations is an improvement so that public services can be better even though not all recommendations contain administrative sanctions. The purpose of establishing the Ombudsman is to help create and/or develop conducive conditions in implementing the eradication of corruption, collusion, and nepotism through community participation. The purpose of establishing the Ombudsman is also to improve the protection of community rights to obtain better public services, justice, and welfare. To realize these goals, the Ombudsman is given the main task of, among others, taking steps to follow up on reports or information regarding irregularities by state administrators in carrying out their duties or in providing public services.⁹

The regulation regarding the Ombudsman as a state institution that oversees the implementation of public services is a state institution that is not regulated in the 1945 Constitution. Its birth was carried out by law in order to supervise the performance of state apparatus and government and accommodate public complaints. In Law of the Republic of Indonesia Number 37 of 2008 concerning the Ombudsman of the Republic of Indonesia in Article 2 states, "That the Ombudsman is a state institution that is independent and does not have organic relations with other state institutions and government agencies and in carrying out its duties and authorities is free from interference from other powers".

The general authority exercised by the Ombudsman of the Republic of Indonesia (ORI) is authority obtained through attribution which is mandated and regulated by law.¹⁰ namely Law Number 37 of 2008 concerning the Ombudsman of the Republic of Indonesia. Normatively,

⁷Amelia Cahyadi, Zainal Muttaqin, and Anindya Saraswati Ardiwinata, 2023, *Supervisory Law*, PT. Remaja Rosdakarya, Bandung, p. 16

⁸Victor M. Situmorang and Jusuf Juhir, 1994, *Legal Aspects of Inherent Supervision*, PT Rineka Cipta, Jakarta, p. 74

⁹A Rizki Imron, "Analysis of the Implementation of Ombudsman Recommendations as an Instrument for Monitoring Public Policy", *AI – Adalah Journal*, Vol. 3 No. 1, 2018, p. 48.

¹⁰Juniarso Ridwan and Achmad Sodik Sudrajat, 2009, *State Administrative Law and Public Service Policy*, Nuansa Cendekia, Bandung, p. 138

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the basis of the Ombudsman's authority is contained in Article 1 number 1 of Law Number 37 of 2008, which states:

"The Ombudsman of the Republic of Indonesia 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, Regional-Owned Enterprises, and State-Owned Legal Entities, and private bodies or individuals who are tasked with organizing certain public services."

Furthermore, in Article 6 letters a and b, it is stated that the main duties of the Ombudsman are:

"a. receive reports of alleged maladministration in the provision of public services; b. conduct a substantive examination of the reports as referred to in letter a;"

Based on these provisions, it is clear that the Ombudsman's authority includes supervision of public services carried out by government institutions, both central and regional, including legal entities authorized by the state to carry out public service functions. In this context, state schools are included in the category of public service providers in the field of education, so they are within the scope of the Ombudsman's supervision.

In detail, the authority of the Indonesian Ombudsman is stated in Article 8 of Law Number 37 of 2008:

(1) In carrying out the functions and duties as referred to in Article 6 and Article 7, the Ombudsman has the authority to:

- 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. Examine 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 Party's 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 resolution of reports, including recommendations to pay compensation and/or rehabilitation to the injured party;
- g. In the public interest, we announce the findings, conclusions and recommendations.

(2) In addition to the authority as referred to in paragraph (1), the Ombudsman has the authority to:

- a. Submitting suggestions to the President, regional heads or other heads of State Administrators for the purpose of improving and perfecting the organization and/or procedures of public services;

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- b. Submitting suggestions to the People's Representative Council and/or the President, the Regional People's Representative Council and/or regional heads so that changes are made to laws and other statutory regulations in order to prevent maladministration.

The Ombudsman of the Republic of Indonesia has an institutional structure consisting of the Central Ombudsman and representatives at the provincial level. The establishment of Ombudsman Representatives in the regions is regulated in Law Number 37 of 2008 Article 9, which states:

"In carrying out its duties and authorities, the Ombudsman can form representatives in the regions."

And in Article 43:

- (1) If deemed necessary, the Ombudsman can establish Ombudsman representatives in provincial or district/city areas.
- (2) The Ombudsman Representative as referred to in paragraph (1) has a hierarchical relationship with the Ombudsman and is led by a Head of Representative.
- (3) The Head of Representative as referred to in paragraph (2) is assisted by an Ombudsman assistant.
- (4) Provisions regarding the functions, duties and authorities of the Ombudsman apply mutatis mutandis to representatives of the Ombudsman.

The establishment of Ombudsman Representatives in the regions is none other than in the framework of implementing the duties and authorities of the Ombudsman and aims to provide convenience for the public to access services from the Ombudsman in order to increase the efficiency and effectiveness of supervision to realize the improvement of the quality of good public services. Ombudsman Representatives are hierarchical with the Ombudsman and are responsible to the Chairman of the Ombudsman, as regulated in Article 4, Government Regulation Number 21 of 2011 concerning the Establishment, Composition, and Work Procedures of the Ombudsman Representatives of the Republic of Indonesia in the Regions.

Ombudsman Representatives in the provinces, including the North Kalimantan Provincial Representative, are an integral part of the Indonesian Ombudsman institution which functions to carry out supervisory duties in the administrative areas of each province. In practice, these representatives receive public reports, conduct verification and field inspections, and provide advice or recommendations in accordance with the results of the inspection.

The authority of the Ombudsman Representative is not a full delegation that stands alone, but rather a form of delegation within the framework of the mandate of the central Ombudsman. In the theory of state administrative law, a mandate is the delegation of

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authority from a superior to a subordinate where legal responsibility remains with the mandate giver. As explained by Philipus M. Hadjon¹¹:

"A mandate is a delegation of authority where legal responsibility for the implementation of that authority remains with the mandate giver. The mandate recipient only carries out the mandate on behalf of the mandate giver."

Thus, the authority exercised by the North Kalimantan Provincial Ombudsman Representative in handling public reports, including those related to alleged levies at Tarakan City State Middle Schools, is carried out within the framework of the central institution's mandate. This means that the actions and decisions taken by the representative remain part of the institutional authority of the Republic of Indonesia Ombudsman as a whole. In the event that the Ombudsman receives a report of alleged maladministration, the handling process is carried out based on the principles as regulated in Article 2 of Law Number 37 of 2008, namely:

"a. independence; b. impartiality; c. free from interference by other powers; d. accountability; e. balance; f. openness; and g. justice."

In order to carry out the duties and functions in the representative office, the Ombudsman Representative is also given the authority as regulated in Government Regulation Number 21 of 2011 concerning the Establishment, Composition, and Work Procedures of the Ombudsman Representative Office of the Republic of Indonesia in the Regions, Article 7, namely:

(1) In carrying out the functions and duties as referred to in Article 5 and Article 6, the Ombudsman Representative has the authority to:

- a. Requesting information verbally and/or in writing from the Reporter, Reported Party, or other related parties regarding the report submitted to the Ombudsman Representative;
- b. Examine 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 Party's 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. Submitting recommendations to the Ombudsman regarding the resolution of reports, including recommendations to pay compensation and/or rehabilitation to the injured party; and
- g. In the public interest, we announce the findings, conclusions and recommendations.

(2) Provisions regarding the procedures for implementing the authority as referred to in paragraph (1) are regulated by the Ombudsman Regulations.

¹¹ Philipus M. Hadjon, 2007, Introduction to Indonesian Administrative Law, Gadjah Mada University Press, Yogyakarta, p. 108

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Based on the provisions above, the North Kalimantan Provincial Ombudsman Representative has the legal authority to handle public reports, including in the case of alleged levies in public schools. However, this authority remains limited to administrative aspects and does not include judicial or criminal aspects, and is carried out while maintaining the principles of neutrality and independence.

3.2. Implementation of the Authority of the Representative of the Ombudsman of the Republic of Indonesia for the Province of North Kalimantan in Resolving Public Reports with Registration Number 0028/LM/VIII/2024/TRK Regarding Levies at Public Junior High Schools in Tarakan City

3.2.1. Procedures for Handling Public Reports

a. Procedures for Organizing Consultations, Receiving and Verifying Reports

In carrying out its supervisory function on the implementation of public services, the Indonesian Ombudsman is tasked with receiving, examining and following up on reports of alleged maladministration in public services. The initial report acceptance process is a very crucial initial stage to ensure the effectiveness of report handling by the Indonesian Ombudsman. This process not only functions as a formal entry point for public complaints, but also as a filter to assess whether the report meets the elements of completeness, authority, and substance that are worthy of being followed up.

Based on Law Number 37 of 2008 concerning the Ombudsman of the Republic of Indonesia and its implementing regulations, namely the Regulation of the Ombudsman of the Republic of Indonesia Number 58 of 2023 concerning Procedures for Examination and Settlement of Reports and its derivative regulations, namely the Regulation of the Chairman of the Ombudsman of the Republic of Indonesia Number 3 of 2024 concerning Technical Instructions for the Implementation of Consultation, Receipt, and Verification of Reports, that every report received must go through a verification process, both formal and material, before being determined as a report that can be examined further. Based on the Regulation of the Ombudsman of the Republic of Indonesia Number 58 of 2023 concerning Procedures for Examination and Settlement of Reports, for reporting to the Ombudsman, the submission of reports can be submitted directly by the Reporter or through the Reporter's attorney as evidenced by a power of attorney by coming directly to the Ombudsman office or submitted by telephone, letter, Ombudsman website, national general complaint application, or social media.

Furthermore, the rights and obligations of the Reporter are stated in Article 2 paragraphs (4) and (5), namely:

The reporter or the reporter's attorney as referred to in paragraph (2) has the right to:

- a. Keeping his identity confidential under certain circumstances;
- b. Obtain follow-up and/or resolution of reports;
- c. Obtain information regarding the progress of the report; and/or
- d. Withdraw the report.

The reporter or the reporter's attorney as referred to in paragraph (2) must:

- a. Convey actual facts and information;
- b. Meet the requirements and comply with report handling procedures;

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- c. Cooperative, actively participate, and be open; and
- d. Maintaining the confidentiality of data, information and/or documents that are categorized as confidential.

At the stage of receiving and verifying reports, there are two services provided, namely receiving consultations and receiving public reports. The results of consultation services will be compiled in writing in a summary of the consultation results, while the service for receiving public reports will be continued by verifying the report. Verification of the reports received will be carried out to see the completeness of the formal requirements and material requirements as regulated in Article 9. The formal requirements that must be met to become a public report are regulated in Article 10 paragraph (1), namely:¹²

The formal requirements as referred to in Article 9 paragraph (2) letter a consist of:

- a. Full name, place and date of birth, marital status, occupation and complete address of the Reporter;
- b. Power of attorney or document that shows the existence of a kinship relationship in the event that the report is submitted to another party;
- c. Contains a detailed description of the reported event, action, or decision;
- d. Has submitted a report directly to the Reported Party or his/her superior but the report has not been resolved properly unless the Reporter wishes that the complaint resolution not be carried out by the organizer because it can cause danger, disruption to safety, security and objectivity for the Reporter.
- e. The same report is not being and/or has not been followed up by the Ombudsman; and
- f. The reported event, action or decision has not been more than 2 (two) years since the event, action or decision in question occurred.

If the report has fulfilled the formal requirements, it will be continued by verifying the material requirements. The material requirements of the report are further regulated in Article 11 paragraph (1), namely:

The material requirements as referred to in Article 9 paragraph (2) letter b consist of:

- a. The substance of the report is not currently or has been the object of court examination, except for reports related to maladministration in the examination process in court;
- b. The report is not in the process of being resolved by the reported agency or is not being handled by the agency authorized to supervise the Reported Party and according to the Ombudsman the resolution process is still within the appropriate time frame;
- c. The reporter has not received a resolution from the reported agency; and
- d. The substance reported is in accordance with the scope of the Ombudsman's authority.

In the case where the report has been verified for formal and material requirements, the report will then be submitted and discussed in a meeting of the assistant in charge of the function of receiving and verifying reports or a representative meeting to obtain approval for follow-up action. The approval for follow-up action is in the form of the Ombudsman being

¹² Aulia Sholichah Iman Nurchotimah, 2021, Public Service Supervision, Jejak Pustaka, Yogyakarta.

authorized to continue the examination if the report meets the material requirements and its handling is carried out by the Ombudsman or a representative and another follow-up is that the Ombudsman is not authorized to continue the examination if the report does not meet the material requirements, as regulated in Article 15 paragraph (2). If the representative meeting decides that the Ombudsman is authorized to continue the examination, then the assignment or submission of the report will be carried out from the assistant in charge of the function of receiving and verifying reports to the assistant in charge of the function of examining, from the representative to the Indonesian Ombudsman or from the representative to another representative according to the reported party's area. Meanwhile, if the decision of the representative meeting decides that the Ombudsman is not authorized to continue the examination, the assistant in charge of the function of receiving and verifying reports will notify the Reporter or the Reporter's attorney in writing. In Article 18 paragraph (1), verification at the stage of receiving and verifying reports is declared complete in the following cases:

- a. The report has been assigned or submitted to the assistant in charge of the report audit function or representative;
- b. Reports are not within the authority of the Ombudsman;
- c. Report withdrawn;
- d. The reporter has received an explanation and/or follow-up resolution from the reported party; or
- e. Does not meet formal and/or material requirements.

3.2.2. Document and Substantive Examination Procedures

The procedures for document and substantive examination are regulated in the Regulation of the Indonesian Ombudsman Number 58 of 2023 concerning Procedures for Examination and Settlement of Reports in conjunction with the Regulation of the Chairman of the Indonesian Ombudsman Number 4 of 2024 concerning Technical Instructions for Examination of Documents and Substantive. For reports submitted to the assistant in charge of the examination function, a notification of the commencement of the examination will be made which will be submitted to the Reporter or the Reporter's attorney by letter or other documented media. In this case, the Reporter or the Reporter's attorney has the right to receive notification of the progress of the report at least 2 (two) times, namely at the start of the examination and at the time of the examination submitted by letter or other documented media, this is regulated in Article 20.

Next, the report is examined by the assistant in charge of the examination function. Before the document examination report is determined, the assistant in charge of the examination function can conduct a report analysis which will later be compiled into a document examination report. Based on the document examination report, a follow-up plan will be determined which can be in the form of:¹³

- a. Additional data request;

¹³ Eddy Purnama, 2007, *The State of People's Sovereignty: Analysis of the Indonesian Government System and Comparison with Other Countries*, Nusamedia, Bandung.

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- b. Request for clarification;
- c. Summons;
- d. Field inspection;
- e. Mediation and/or conciliation; and/or
- f. Stop checking.

This document examination stage is regulated in Article 21. After the document examination report is determined, it will enter the process of proving the alleged maladministration which is carried out to find evidence that supports the fulfillment of the elements of maladministration. This evidence, as regulated in Article 24 paragraph (2) can be in the form of:

- a. Letters/documents;
- b. Information:
 - 1) The reporter or the reporter's attorney;
 - 2) The reported party and/or the reported party's superior;
 - 3) Witness;
 - 4) Other related parties;
 - 5) Expert; and/or
 - 6) Translator.
- c. Electronic information/data; and/or
- d. Goods

In the process of proving Maladministration, a series of examinations are carried out including requests for clarification both in writing and orally according to the needs of the examination carried out to the Reporter or the Reporter's attorney, the Reported Party and/or the Reported Party's superior, and other related parties. If a quick clarification is needed, then a verbal clarification can be carried out by coming directly to the Reported Party and/or the Reported Party's superior and other related parties. Meanwhile, if the request for clarification is made in writing, then it is submitted to the Reported Party and/or the Reported Party's superior. The Reported Party and/or the Reported Party's superior are required to respond to the request for clarification in writing within a maximum period of 14 (fourteen) working days from the date of receipt of the request for clarification letter. If within 14 (fourteen) working days, the Reported Party and/or the Reported Party's superior does not provide an explanation, then the assistant in charge of the examination function submits a second written request for clarification. If the Reported Party and/or the Reported Party's superior does not provide an answer to the second request for clarification within the specified time period, then the Reported Party and/or the Reported Party's superior is deemed not to have used the right of reply. In the event that the Reported Party and/or the Reported Party's superior do not exercise the right of reply, the assistant in charge of the examination function can carry out a summons and/or examination directly.¹⁴

¹⁴ Rudi Gunawan, Yogi Suprayogi S, and Dina Lesmana, Implementation of the Policy of the Minister of Education and Culture Regulation No. 60 of 2011 concerning the Prohibition of School Fee Collection at State Junior High School 5, Bandung City, Scientific Journal of Educational Sciences, Vol 6 No 8, 2023.

In the event that the Ombudsman issues a summons, the summons shall be made in writing to the Reported Party and/or the Reported Party's superior, witnesses, experts, and/or translators to be requested for information. The written summons must be received no later than 3 (three) working days before the examination is carried out and shall be carried out at most 3 (three) times in a row with a period of 5 (five) working days each from the date of receipt of the summons letter. In the event that the Reported Party and witnesses who have been summoned 3 (three) times in a row do not comply with the Ombudsman's summons for valid reasons, the Ombudsman may request assistance from the Indonesian National Police to bring the person concerned by force as regulated in Article 31 of the Regulation of the Indonesian Ombudsman Number 58 of 2023 concerning Procedures for Examination and Settlement of Reports.¹⁵

3.3. Case Study of Public Report Registration Number 0028/LM/VIII/2024/TRK Regarding Levies at Public Junior High Schools in Tarakan City

3.3.1. Chronology and Identity of the Parties

The report with Registration Number 0028/LM/VIII/2024/TRK is a public report submitted to the Representative Office of the Ombudsman of the Republic of Indonesia for North Kalimantan Province on August 5, 2024 and was submitted by the Reporter contacting the Representative Office of the Ombudsman of the Republic of Indonesia for North Kalimantan Province via the service contact number. The Reporter, whose identity is kept confidential in this case, is the parent of one of the students attending SMPN 5 Tarakan. The problem reported is related to alleged levies made by SMPN 5 Tarakan to parents of class VII students for the construction of class connecting canopies. This problem started on August 3, 2024, when a committee meeting was held with parents of class VII students at SMPN 5 Tarakan. One of the results of the meeting was related to the request for donations for the construction of class connecting canopies with a required budget of IDR 17,115,000. There is also a request for donations to parents of students of at least IDR 70,000 per student and there is no limit to the maximum value of the donation. The collection of donations will be coordinated by each homeroom teacher of class VII.¹⁶

3.3.2. Report Handling Stage by Representative of the Ombudsman RI of North Kalimantan Province

After the report was received on August 5, 2024, the assistant in charge of the report reception and verification function immediately checked the legality of the Reporter, the completeness of the report data and studied the problems complained about or reported. The initial stage carried out by the assistant in charge of the report reception and verification function was to verify the formal requirements. After ensuring that the formal requirements of the report were met in terms of the Reporter's legality as the parent of a grade VII student at SMPN 5 Tarakan, although the Reporter's identity was kept confidential, the chronology of the report was quite clear accompanied by the attached supporting data, the problem was

¹⁵ Nurul Irfan, 2022, Gratification & Sexual Crime (In Islamic Criminal Law), Amzah, Jakarta.

¹⁶ Ridwan HR, 2008, State Administrative Law, Raja Grafindo Persada, Jakarta,

Tanjung Nugroho and Akur Nurasa, 2014, Problems of Permits to Use State Land as the Basis for Land Registration in Tarakan City, STPN Press, Yogyakarta.

not being or had been followed up by the Ombudsman, the reported problem had not passed 2 years, but the submission of objections or reports in advance to the Reported Party or the Reported Party's superior was not carried out due to security considerations, and disturbances to the safety of the Reporter's child so that this was not allowed to be done. The process was continued with material verification to ensure that the problem fell within the authority of the Ombudsman and the problem was not being or had become the object of the court. After formal and material verification of the report was carried out, the assistant in charge of the function of receiving and verifying the report submitted it to a representative meeting on August 8, 2024 to obtain approval for follow-up examination of the report. The report was declared to have met the formal and material requirements and was officially registered to then submit the report from the assistant in charge of the function of receiving and verifying the report to the assistant in charge of the function of examining the report on August 9, 2024.¹⁷

After the report was submitted to the assistant in charge of the report examination function by the assistant in charge of the report receipt and verification function, the substantive examination of the report was continued, starting with sending a notification letter of the start of the examination to the Reporter on August 12, 2024. The report was continued with an examination of the documents stipulated in the Document Examination Results Report (LHPD) on August 13, 2024 with a follow-up plan to make a request for clarification to the Reported Party, in this case SMPN 5 Tarakan, as well as related parties, namely the SMPN 5 Tarakan Committee and the Tarakan City Education Office.¹⁸

The request for clarification to SMPN 5 Tarakan and the SMPN 5 Tarakan Committee was made on August 21, 2024. From the examination, information was obtained that why the collection of donations was only carried out from parents of class VII students was because the school had previously made a request for donations to parents of classes VIII and IX but did not receive a positive response from the parents. In addition, it was stated that the donation was not mandatory, although in the appeal conveyed in the WhatsApp group of parents of students there was no statement that the donation was not mandatory. In the meeting attended by the school, the committee and parents of class VII students, it was agreed that the minimum nominal for the donation was IDR 70,000, - which would be coordinated by each homeroom teacher of class VII. In addition, the meeting also decided that parents of students who were not present at the meeting were considered to agree, support and approve the results of the meeting. In addition to making a request for clarification to SMPN 5 Tarakan and the SMPN 5 Tarakan Committee, the assistant in charge of the report examination function also examined a number of documents including the Minutes of the Committee Meeting dated August 3, 2024, the Annual Work Plan of SMPN 5 Tarakan, the Work Program of the Principal of SMPN 5 Tarakan, and the Rules of Procedure of SMPN 5 Tarakan. The assistant in charge of the report inspection function also made a request for clarification to the Tarakan City Education Office regarding the report on

¹⁷ Edisman, Fitriati, and Bisma Putra Pratama, Efforts to Overcome Extortion in Madrasah Environments with a Cross-Supervision System, *Sakato Ekasakti Law Review Journal*, Vol 3 Issue 1, 2024.

¹⁸ Triantono and Yuni Kurniasih, 2022, *Dynamics of Public Service Supervision by the Ombudsman of the Republic of Indonesia (ORI)*, Rumah C1nta Library, Magelang.

September 3, 2024. From the inspection, it was obtained that the Tarakan City Education Office had emphasized to the school that if there was an objection from just one of the students' parents, then no fundraising should be carried out even through donations. In addition, if referring to the applicable regulations, with the determination of the nominal amount and also the binding nature, it fulfills the elements of a levy, therefore the Tarakan City Education Office ordered SMPN 5 Tarakan to return funds to the students' parents. From the request for clarification to a number of parties, continued with a review of the applicable regulations related to levies in schools.

Based on a series of substantive examinations that have been conducted, the Ombudsman finally concluded that there had been maladministration of levies carried out by SMPN 5 Tarakan for the construction of class connecting canopies which were compiled and stipulated in the Examination Result Report (LHP). This conclusion was based on the existence of a binding nominal of Rp. 70,000, - and the existence of records from the homeroom teacher to record who had made the payment. Although SMPN 5 Tarakan stated that this was not mandatory, in the delivery to parents of students via the WhatsApp group, this information was not conveyed. This has fulfilled the elements of a levy, namely that the levy is a withdrawal of money by the school from students, their parents/guardians which is mandatory, binding, and the amount and period of the levy are determined as regulated in the Regulation of the Minister of Education and Culture Number 75 of 2016 concerning the School Committee, Article 1 number 4. In addition, the involvement of the school in this case, the collection of funds is coordinated by each homeroom teacher for class VII, this is not in accordance with the regulations where the school should not be involved in fundraising and fundraising is carried out by the school committee as regulated in the Regulation of the Minister of Education and Culture Number 75 of 2016 concerning the Committee, Article 10 paragraph (1) and paragraph (2), namely:¹⁹

- (1) The school committee raises funds and other educational resources to carry out its functions in providing support for personnel, facilities and infrastructure, and educational supervision.
- (2) Fundraising and other educational resources as referred to in paragraph (1) are in the form of assistance and/or donations, not levies.

Based on this conclusion, the assistant in charge of the function of examining the report of the Representative of the Ombudsman RI of North Kalimantan Province provided corrective action to SMPN 5 Tarakan City and also the Tarakan City Education Office as the superior of SMPN 5 Tarakan City, namely the termination of levies and the return of funds that have been collected and conducting socialization regarding the mechanism of donations to schools and school committees.

The Audit Result Report was submitted to SMPN 5 Tarakan and the Tarakan City Education Office on November 4, 2024. Furthermore, monitoring will be carried out for the next 30 days for the implementation of corrective actions to each party that received the corrective action.

¹⁹ Law Number 20 of 2003 concerning the National Education System;

Follow-up to the corrective actions given to SMPN 5 Tarakan was received on November 21, 2024, which stated that a meeting had been held again between the school, the school committee and parents of class VII students on November 13, 2024. In the meeting, the funds that had been collected were returned to the parents of class VII students who had made previous payments and the collection of funds was stopped or not continued. Meanwhile, the follow-up to the implementation of corrective actions given to the Tarakan City Education Office was only received on January 17, 2025, which stated that SMPN 5 Tarakan had stopped collecting funds from parents of students and the funds that had been given by parents of students had been returned. In addition, the Education Office continues to conduct socialization in various meetings with school principals in Tarakan City to prevent other levies from occurring in different schools. Following the follow-up from SMPN 5 Tarakan and the Tarakan City Education Office, the assistant in charge of the report examination function proposed closing the report with Registration Number 0028/LM/VIII/2024/TRK in a representative meeting on February 4, 2025.²⁰

The implementation of the authority of the Ombudsman Representative of the Republic of Indonesia for the Province of North Kalimantan in resolving the Public Report Registration Number 0028/LM/VIII/2024/TRK regarding alleged levies at State Junior High Schools in Tarakan City shows the significant role of this institution in carrying out its supervisory function regarding the provision of public services, especially in the education sector.

Based on the provisions of Article 1 number 1 of Law Number 37 of 2008 concerning the Ombudsman of the Republic of Indonesia, the Ombudsman is a state institution that has the authority to supervise the implementation of public services by state and government administrators, including state educational institutions. Thus, State Junior High Schools in Tarakan City as institutions that provide public services are within the scope of the Ombudsman's supervision.

In exercising its authority, the Ombudsman Representative of North Kalimantan Province received reports from the public who felt disadvantaged by the fundraising whose mechanism was unclear, its legal basis unclear and which was considered burdensome for the parents of students. The Ombudsman then conducted an initial verification and examination of the substance of the report in accordance with Article 7 letters a and b of Law Number 37 of 2008 and was guided by Ombudsman Regulation Number 58 of 2023 concerning Procedures for Examination and Settlement of Reports, Regulation of the Chairman of the Ombudsman of the Republic of Indonesia Number 3 of 2024 concerning Technical Instructions for Organizing Consultations, Receiving, and Verifying Reports and Regulation of the Chairman of the Ombudsman of the Republic of Indonesia Number 4 of 2024 concerning Technical Instructions for Examination of Documents and Substantive. This action shows that the Ombudsman Representative carries out its duties in accordance with applicable legal principles.²¹

²⁰ Law Number 25 of 2009 concerning Public Services;

²¹ Government Regulation Number 17 of 2010 concerning Management and Implementation of Education;

The process of completing the report was carried out by upholding the principles as stated in Article 3 of Law Number 37 of 2008, namely propriety, justice, non-discrimination, impartiality, accountability, balance, openness and confidentiality. Through a series of examinations, requests for clarification to the school and education office, and analysis of supporting documents, it was found that there were elements of maladministration in the form of levies carried out by the school.

As a follow-up, the North Kalimantan Provincial Ombudsman Representative provided corrective action in the form of a request to stop levies and refund funds to parents of students as well as socialization by the Tarakan City Education Office to SMPN and school committees in Tarakan City regarding the donation mechanism. This is in line with the provisions of Article 8 of Law Number 37 of 2008, which emphasizes the authority of the Ombudsman to provide advice, corrective actions, and recommendations in order to improve public services.²²

However, it should be emphasized that the authority of the Ombudsman, including at the provincial representative level, remains within administrative boundaries. The Ombudsman does not have the authority to impose criminal sanctions or enforce the law judicially. In the event that there is an alleged deviation containing criminal elements, the Ombudsman can forward the report to the authorized law enforcement officers, as per the inter-agency working mechanism. In addition, the authority of the North Kalimantan Provincial Ombudsman Representative is a form of implementing a mandate, not an autonomous delegation. This means that the representative's actions remain within the framework of the institutional responsibility of the central Indonesian Ombudsman.²³

Thus, the implementation of the authority of the Representative of the Ombudsman of the Republic of Indonesia for North Kalimantan Province in the case of the levy report at Tarakan City State Middle School with Registration Number 0028/LM/VIII/2024/TRK, has been carried out in accordance with applicable legal corridors, meets the principles of good administration, and reflects the role of the Ombudsman as an effective, responsive, and accountable public service supervisor. These efforts provide guarantees for the protection of the rights of the community as users of public services, while at the same time encouraging the realization of clean and integrated education governance.

4. Conclusion

The Ombudsman of the Republic of Indonesia as an independent state institution has the main function of supervising the implementation of public services by state and government administrators, including state educational institutions. Based on the results of research on the implementation of the authority of the Ombudsman Representative of the Republic of Indonesia for North Kalimantan Province in handling Public Report Registration Number

²² A Rizki Imron, "Analysis of the Implementation of Ombudsman Recommendations as an Instrument for Monitoring Public Policy", *Jurnal AI – Adalah*, Vol. 3 No. 1, 2018.

²³ Andi Setyo Pambudi, *Public Service Problems and the Role of the Ombudsman Representative in Assisting State Civil Apparatus*, *Wahana Bhakti Praja Scientific Journal*, Vol 13 No 2, 2023.

0028/LM/VIII/2024/TRK regarding levies at Public Junior High Schools in Tarakan City, it can be concluded that the Ombudsman has a strong legal basis to carry out its supervisory function over public services in the education sector. As regulated in Law Number 37 of 2008 concerning the Ombudsman of the Republic of Indonesia, this institution is given the authority to receive, examine, and follow up on public reports containing elements of maladministration. In this case study, the Representative of the Ombudsman of North Kalimantan Province found that there was a fundraising that met the elements of a levy because it was binding in nominal terms and obligations and there was a recording by the homeroom teacher, where levies are not permitted by regulations to be carried out in fundraising at the elementary education level. This meets the elements of maladministration as regulated in Article 1 number 3 of Law Number 37 of 2008, which includes actions exceeding authority and neglect of legal obligations by public service providers. Based on the results of the examination, the Ombudsman issued corrective actions in the form of stopping the levy and returning funds to the parents/guardians of students. Structurally, the authority of provincial representatives is to carry out the mandate of the central Ombudsman, not an autonomous delegation. This shows that all authority exercised by representatives remains within the corridor of central institutional accountability. Representatives do not have the authority to impose legal sanctions or criminal action, but can forward cases to law enforcement officers if criminal indications are found, in accordance with the principle of inter-institutional synergy. The implementation of this authority shows that the Ombudsman, although not a judicial institution, has an effective role in improving the governance of public services, especially in ensuring affordability and fairness in the provision of basic education. However, the Ombudsman's authority is also limited by the recommendatory nature of its actions, so that its effectiveness depends largely on the compliance of the reported agency and the political or administrative support of the executive institution.

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