The Ideal Model for Imposing Disciplinary Sanctions on Personnel of the Ombudsman of the Republic of Indonesia to Realize an Oversight Institution with Integrity

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Abstract

This articel focuses on the construction of disciplinary punishment for the personnel of the Indonesian Ombudsman, aiming to improve and reconstruct the disciplinary enforcement system within the institution. The research highlights the importance of an effective disciplinary mechanism to maintain the credibility and professionalism of the Ombudsman. The study identifies the gaps in the current disciplinary process, such as unclear regulations and inconsistent application of sanctions, which lead to a lack of legal certainty. The dissertation proposes an ideal model for the imposition of disciplinary actions that aligns with the principles of rule of law, proportionality, and restorative justice. This model emphasizes a clear classification of offenses, transparent procedures, and the strengthening of internal oversight mechanisms, including the Ethics Council and whistleblowing system. The proposed reconstruction aims to enhance the Ombudsman's role as an effective and credible public service oversight institution..

I. Introduction

The Ombudsman of the Republic of Indonesia holds a strategic position as a state institution tasked with overseeing the delivery of public services to ensure they operate in accordance with the principles of justice, transparency, accountability, and freedom from maladministration[1]. This position demands that the Ombudsman not only be robust in performing external oversight of public service providers but also possess a credible internal oversight mechanism. The integrity of Ombudsman personnel is a primary prerequisite, as the quality of an oversight institution is heavily determined by the moral quality, professionalism, and discipline of its own apparatus. Therefore, the imposition of disciplinary sanctions on Ombudsman personnel has become a vital issue in building a dignified oversight institution that is trusted by the public.

In an institutional context, Ombudsman personnel bear the responsibility of maintaining ethics, confidentiality, professionalism, and compliance with organizational rules. Disciplinary violations committed by Ombudsman personnel can have serious impacts, as they potentially weaken the institution's legitimacy in performing its function of overseeing public services[2]. When an oversight institution is unable to discipline its own personnel, its moral and legal authority may be called into question. This indicates that the system for imposing disciplinary sanctions must not be positioned merely as an administrative mechanism, but rather as an instrument to safeguard institutional integrity.

The imposition of disciplinary sanctions on Ombudsman personnel essentially aims to maintain organizational order, improve the behavior of the apparatus, and prevent the recurrence of violations[3]. Disciplinary punishment should not be understood solely as a form of retribution for a violation, but also as a means of development (*pembinaan*) so that Ombudsman personnel are able

[1] Amzulian Rifai, *Ombudsman RI dan Penyelesaian Laporan Masyarakat: Perspektif Hukum Administrasi Negara*, (Jakarta: Rajawali Pers, 2019), hlm. 45.

[2] Wahyudi Kumorotomo, *Etika Administrasi Negara*, Edisi Revisi, (Depok: Rajawali Pers, 2018), hlm. 112-114.

[3] Miftah Thoha, *Manajemen Kepegawaian Sipil di Indonesia*, (Jakarta: Kencana, 2020), hlm. 88.

to return to performing their duties professionally. Within this framework, disciplinary sanctions must be administered fairly, objectively, and proportionally according to the level of fault. An unmeasured punishment model can instead create legal uncertainty and open the door for subjectivity in decision-making.

Based on the applicable regulatory framework, the discipline of Ombudsman personnel is linked to several legal instruments, including Ombudsman Regulation Number 40 of 2019 concerning the Code of Ethics and Code of Conduct for Ombudsman Personnel, as well as Government Regulation Number 94 of 2021 concerning Civil Servant Discipline. The existence of these two regulatory regimes indicates that the enforcement of discipline for Ombudsman personnel is complex in character, as it touches upon aspects of ethics, conduct, and employment law. Such complexity demands harmonization to prevent overlapping, regulatory gaps, or disparate treatment in the imposition of sanctions[4]. Without clear harmonization, the application of disciplinary punishment may be inconsistent and fail to reflect the principle of legal certainty.

The primary problem arising in the imposition of disciplinary sanctions on Ombudsman personnel is the suboptimal standard regarding types of violations, levels of fault, and appropriate forms of sanctions. In practice, violations committed by Ombudsman personnel may relate to absenteeism, non-compliance with superior orders, violations of the code of ethics, conflicts of interest, or breaches of data confidentiality. Each type of violation carries a different weight of fault and institutional impact[5]. Therefore, the ideal model for imposing disciplinary sanctions must be able to clearly distinguish between light, medium, and heavy violations so that the sanctions provided are neither too weak nor excessive.

Inconsistent application of sanctions can create a perception of injustice within the internal environment of the Ombudsman. If similar violations are treated differently without a clear basis for consideration, the disciplinary

[4] Budi Mulyana, "Harmonisasi Regulasi Disiplin Aparatur Sipil Negara dalam Mewujudkan *Good Governance*," *Jurnal Hukum Tata Negara* 8, no. 2 (2022): hlm. 110-112.

[5] Ridwan HR, *Hukum Administrasi Negara*, Edisi Revisi, (Jakarta: Rajawali Pers, 2018), hlm. 201.

system will lose legitimacy in the eyes of Ombudsman personnel[6]. This situation can disrupt work culture, decrease trust in leadership, and weaken the effectiveness of internal oversight. Thus, the ideal model for imposing disciplinary sanctions must include transparent standard procedures, ranging from the receipt of reports, verification, examination, and clarification to recommendations and final decision-making.

The Ombudsman Honor Council (*Majelis Kehormatan Ombudsman*) plays a crucial role in examining alleged violations of the code of ethics and conduct by Ombudsman personnel. However, the effectiveness of this role depends heavily on the clarity of authority, the independence of the examination, and the strength of the resulting recommendations. In an ideal system, the Honor Council functions not only as an ethical forum but also as an institutional mechanism that ensures the examination process is objective and respects the rights of the parties being examined[7]. Accordingly, strengthening the Honor Council is a vital element in building a fair and high-integrity disciplinary model.

In addition to formal examination mechanisms, strengthening the whistleblowing system is also a critical need in building the Ombudsman's internal disciplinary system. A whistleblowing system can serve as the initial gateway to uncovering violations that are difficult to detect through regular oversight mechanisms. However, this system will only be effective if the whistleblower is guaranteed confidentiality, protection from retaliation, and certainty that their report will be processed professionally[8]. Therefore, the ideal model for imposing disciplinary sanctions needs to integrate the internal reporting system with an accountable examination mechanism and adequate whistleblower protection.

The ideal model for imposing disciplinary sanctions also needs to consider developmental approaches and restorative justice. This approach is important because not all violations must result in severe sanctions, especially

[6]Yos Johan Utama, *Membangun Keadilan Prosedural dalam Hukum Administrasi Negara*, (Bandung: Citra Aditya Bakti, 2017), hlm. 76.

[7] Jimly Asshiddiqie, *Peradilan Etik dan Etika Konstitusi*, (Jakarta: Sinar Grafika, 2016), hlm. 95.

[8] Riza Alifianto Kurniawan, "Urgensi Perlindungan Hukum Terhadap *Whistleblower* dalam Praktik Maladministrasi di Instansi Publik," *Jurnal Antikorupsi dan Kebijakan Publik* 5, no. 1 (2021): hlm. 42-44.

if the violation can still be rectified through coaching, supervision, or performance evaluation[9]. However, a restorative approach should not be interpreted as leniency that eliminates the deterrent effect. The balance between development and the firmness of sanctions is the key to ensuring the disciplinary system remains humane without losing its coercive power in maintaining institutional integrity.

Based on the aforementioned description, research regarding the ideal model for imposing disciplinary sanctions on personnel of the Ombudsman of the Republic of Indonesia is essential to address the need for a reformulation of the internal disciplinary system that is clearer, more proportional, and more just. The intended ideal model must be able to integrate the principles of legal certainty, protection of the rights of the apparatus, effectiveness of sanctions, strengthening of the Honor Council, digitalization of oversight, and whistleblower protection. With such a model, the Ombudsman is expected to strengthen internal integrity while simultaneously increasing public trust in the public service oversight function. Therefore, the enforcement of discipline for Ombudsman personnel must be positioned as part of the effort to build a professional, accountable, and high-integrity oversight institution.

2. Research Method

The research method employed in this article is normative legal research, utilizing a statutory approach, a conceptual approach, and an institutional approach[10]. The statutory approach is used to examine the regulations concerning the imposition of disciplinary sanctions on Ombudsman personnel, particularly through Ombudsman Regulation Number 40 of 2019 concerning the Code of Ethics and Code of Conduct for Ombudsman Personnel, Government Regulation Number 94 of 2021 concerning Civil Servant Discipline, and other provisions related to the human resource management of the Ombudsman. The conceptual approach is applied to analyze the principles of the rule of law (*rechtsstaat*), legal certainty, proportionality of sanctions, legal protection, and good governance as the foundation for developing an ideal

[9] Zainal Arifin Mochtar, *Administrasi Negara dan Pendekatan Restoratif dalam Pemberian Sanksi*, (Yogyakarta: Pustaka Pelajar, 2023), hlm. 134.

[10] Peter Mahmud Marzuki, *Penelitian Hukum*, Edisi Revisi, (Jakarta: Kencana Prenada Media Group, 2017), hlm. 133-134.

model for imposing disciplinary sanctions. The institutional approach is utilized to observe the relationship between internal oversight mechanisms, the Ombudsman Honor Council, the whistleblowing system, and the authority of the leadership in the process of examination and the imposition of sanctions.

The legal materials used consist of primary legal materials in the form of statutory regulations; secondary legal materials including books, journals, research results, and institutional documents; and tertiary legal materials such as legal dictionaries and legal encyclopedias. All legal materials are analyzed through a qualitative-prescriptive method to formulate an ideal model for imposing disciplinary sanctions that is fair, objective, and proportional, and capable of establishing the Ombudsman of the Republic of Indonesia as an oversight institution with integrity.

3. Results and Discussion

The discussion regarding the ideal model for imposing disciplinary sanctions on personnel of the Ombudsman of the Republic of Indonesia must begin with the Ombudsman's position as a state institution overseeing public services. The Ombudsman holds a mandate to ensure that public service delivery is free from maladministration, abuse of authority, injustice, and administrative actions that harm the public[11].Because this function is supervisory in nature, the internal integrity of the institution becomes the primary foundation for the effectiveness of external oversight. An oversight institution that lacks a robust internal disciplinary system will find it difficult to build sustainable public trust.

Ombudsman personnel cannot be viewed merely as ordinary administrative staff, as they are part of an institution that holds a control function over public service providers. Every action, statement, decision, and behavior of Ombudsman personnel can directly affect the institutional image of the Ombudsman[12]. Therefore, disciplinary violations committed by

[11] Dian Mutia, "Peran Ombudsman Republik Indonesia dalam Pencegahan Maladministrasi Pelayanan Publik," *Jurnal Hukum Administrasi Negara*, Vol. 6, No. 2 (2020): hlm. 145.

[12] Ahmad Zikri, "Urgensi Integritas dan Etika Aparatur Pengawas dalam Mewujudkan *Good Governance*," *Jurnal Etika dan Kebijakan Publik*, Vol. 4, No. 1 (2019): hlm. 88.

Ombudsman personnel carry broader consequences compared to ordinary internal organizational violations. These violations concern not only the employment relationship but also the moral legitimacy of the state oversight institution.

The imposition of disciplinary sanctions on Ombudsman personnel is essentially an instrument to maintain organizational order, professionalism, and institutional accountability. Disciplinary punishment must not be understood solely as a punitive tool; rather, it must be positioned as a corrective and preventive mechanism[13]. The corrective function means that sanctions are aimed at reforming the behavior of personnel who commit violations. The preventive function means that sanctions serve as a warning to all Ombudsman personnel to refrain from committing similar violations.

Based on dissertation documents, the primary issue underlying the need for reconstruction is the suboptimal application of disciplinary sanctions against Ombudsman personnel in a firm, structured, and consistent manner. These documents indicate that although Ombudsman Regulation Number 40 of 2019 exists, the application of sanctions for ethical and behavioral violations is still considered inadequate[14]. This condition creates a need to formulate a clearer model regarding the stages, actors, types of violations, and forms of disciplinary punishment. Thus, the main issue is not just the existence of rules, but the effectiveness of those rules in institutional practice.

In the prevailing legal construction, the imposition of disciplinary sanctions on Ombudsman personnel involves two primary regimes: the internal ethical regime and the civil servant disciplinary regime. The internal ethical regime is reflected in Ombudsman Regulation Number 40 of 2019 concerning the Code of Ethics and Code of Conduct for Ombudsman Personnel. Meanwhile, the civil servant disciplinary regime is seen in the reference to Government Regulation Number 94 of 2021 concerning Civil Servant Discipline. The relationship between these two regimes must be harmoniously structured to avoid overlapping authority or differing bases for

[13] Siska Mariana, "Fungsi Preventif dan Korektif dalam Penjatuhan Sanksi Disiplin Aparatur Sipil Negara," *Jurnal Ilmu Hukum dan Administrasi*, Vol. 8, No. 3 (2021): hlm. 210.

[14] Budi Susanto, "Rekonstruksi Sistem Hukum Disiplin dan Kode Etik pada Lembaga Negara Independen," *Jurnal Dinamika Hukum*, Vol. 22, No. 1 (2022): hlm. 55-57.

imposing sanctions[15].

The issue of harmonization is vital because Ombudsman personnel consist of elements with different employment statuses, including Ombudsman Assistants and civil servants within the Ombudsman environment. If the sanction mechanisms are not clearly formulated, these status differences can lead to non-uniform treatment in the imposition of punishment. Yet, the principle of the rule of law demands that every action of a state official or institution be based on norms that are clear, predictable, and accountable[16]. An ideal model for imposing disciplinary sanctions must guarantee that every member of the Ombudsman is treated according to objective legal standards.

The principle of legal certainty is one of the main foundations of the ideal disciplinary model. Legal certainty requires that types of violations, examination procedures, authorized officials, types of sanctions, and grievance mechanisms be strictly regulated[17]. Without legal certainty, the disciplinary process can turn into a subjective process dependent on the personal assessment of certain officials. This is dangerous as it can lead to injustice, internal conflict, and a decline in trust toward institutional mechanisms.

In addition to legal certainty, the principle of proportionality must also serve as a basis for disciplinary action. Proportionality means that the sanction imposed must be balanced with the level of fault, the impact of the violation, the perpetrator's intent, and the consequences caused to the institution and the public[18]. Minor violations should not immediately result in severe sanctions, but serious violations must not be resolved through mere coaching. In the Ombudsman context, proportionality is essential so that the disciplinary system is neither too lenient nor too repressive.

Dissertation documents indicate a classification of light, medium, and

[15] Rina Yulianti, "Harmonisasi Regulasi Disiplin Pegawai dan Kode Etik Internal di Institusi Publik," *Jurnal Legislasi Indonesia*, Vol. 18, No. 4 (2021): hlm. 402.

[16] Fahmi Ramadhan, "Kepastian Hukum dalam Pemberian Sanksi Administratif di Lingkungan Birokrasi," *Jurnal Konstitusi dan Tata Negara*, Vol. 5, No. 2 (2018): hlm. 115.

[17] Irvan Nurhasan, "Analisis Yuridis terhadap Penegakan Disiplin Aparatur Sipil Negara Berdasarkan Asas Kepastian Hukum," *Jurnal Hukum Ius Quia Iustum*, Vol. 27, No. 1 (2020): hlm. 76.

[18] Taufiq Hidayat, "Penerapan Asas Proporsionalitas dalam Hukuman Disiplin Pegawai Pemerintahan," *Jurnal Cita Hukum*, Vol. 7, No. 2 (2019): hlm. 233.

heavy sanctions in the discipline of Ombudsman personnel. Light sanctions may take the form of oral or written reprimands, while medium sanctions may involve the reduction or non-payment of performance allowances for a specific period. Heavy sanctions may include demotion, honorable discharge, or dishonorable discharge. This classification shows that an ideal model must be able to systematically link the type of violation to the level of the sanction[19].

The problem arising in practice lies not only in the type of sanction but in the metrics used to categorize a violation as light, medium, or heavy. If these metrics are not detailed, identical violations may receive different treatment. For example, violations regarding working hours, non-compliance with orders, conflicts of interest, and breaches of data confidentiality carry different weights. Therefore, the ideal model needs to include a violation and sanction matrix to make decision-making more objective.

The ideal model for imposing disciplinary sanctions must also strengthen examination procedures. An ideal procedure begins with the receipt of a report, initial verification, substantive review, formation of an examination team, summoning of relevant parties, examination of evidence, clarification, preparation of the examination report, recommendation of sanctions, and the final decision by the authorized official. These stages must be documented in writing so they can be audited and accounted for. With clear procedures, the rights of the Ombudsman personnel under examination remain protected without reducing the effectiveness of disciplinary enforcement[20].

The principle of *due process of law* must be applied in every disciplinary proceeding. Ombudsman personnel suspected of violations must be given the right to know the accusations, provide clarification, submit evidence, present explanations, and receive a decision accompanied by legal reasoning. Disciplinary processes must not be conducted behind closed doors without proper defense mechanisms. This is important so that the imposition of sanctions is not perceived as an arbitrary act.

The Ombudsman Honor Council holds a vital position in maintaining the objectivity of examinations regarding ethical and behavioral violations. In an

[19] Maya Sari, "Klasifikasi Pelanggaran dan Sanksi Administrasi: Upaya Mewujudkan Keadilan Internal Organisasi," *Jurnal Media Hukum*, Vol. 25, No. 1 (2018): hlm. 94.

[20] Hendra Wibowo, "Pemenuhan *Due Process of Law* dalam Penjatuhan Sanksi Disiplin Pegawai Negeri Sipil," *Jurnal Hukum Publik*, Vol. 9, No. 3 (2022): hlm. 312.

ideal model, the Honor Council functions not only as an ethical examination forum but also as the guardian of institutional moral standards[21]. Its authority must be clearly defined, especially in distinguishing between ethical violations, work discipline violations, and violations containing criminal elements. This clarity will prevent overlaps between the Honor Council, the Inspectorate, the Human Resources Bureau, and the Ombudsman leadership.

Beyond the Honor Council, the Inspectorate and the Human Resources Bureau play essential roles in enforcing discipline. The Inspectorate can function as an internal oversight organ that receives reports, conducts reviews, and examines alleged violations. The Human Resources Bureau can play a role in providing employment data, performance history, attendance records, and other relevant administrative information. This institutional collaboration needs to be orderly regulated so that the disciplinary process does not operate partially.

The whistleblowing system is a crucial instrument in the ideal disciplinary model for Ombudsman personnel. This system can open a space for reporting violations that are difficult to detect through ordinary oversight[22]. However, its effectiveness depends on guarantees of confidentiality, whistleblower protection, report follow-up, and the prohibition of retaliation. Without strong protection, whistleblowers tend to fear disclosing information even when they are aware of violations.

The whistleblowing system serves as a component of the internal oversight flow within the Ombudsman of the Republic of Indonesia. Reports through this system can then be verified and reviewed by relevant organs before being forwarded for further examination. This indicates that the internal reporting system is viewed as a necessity in building a more accountable disciplinary mechanism[23]. In the ideal model, this system needs to be strengthened through digitalization, report status tracking, and standard

[21] Anisa Rahma, "Peran Majelis Kehormatan Etik dalam Menjaga Integritas Lembaga Pengawas," *Integritas: Jurnal Antikorupsi*, Vol. 7, No. 2 (2021): hlm. 165.

[22] Dimas Aditya, "Efektivitas *Whistleblowing System* sebagai Instrumen Pengawasan Internal di Instansi Pemerintah," *Jurnal Kebijakan Publik*, Vol. 10, No. 1 (2023): hlm. 48.

[23] Lukman Hakim, "Integrasi Sistem Pelaporan Pelanggaran dalam Penegakan Disiplin Kelembagaan," *Jurnal Tata Kelola dan Akuntabilitas Keuangan Negara*, Vol. 6, No. 2 (2020): hlm. 201.

completion times.

The ideal model also needs to incorporate a developmental approach (*pembinaan*) in disciplinary action. Development is important, especially for minor violations or those that can still be corrected through guidance, supervision, evaluation, and increased ethical understanding. However, development must not be used as an excuse to avoid imposing sanctions for serious violations. Thus, the ideal model must strictly distinguish between violations eligible for development and those that must face firm sanctions.

A restorative justice approach can be used in a limited capacity within the Ombudsman disciplinary system. This approach is relevant when a violation causes internal harm that is still recoverable and the perpetrator shows good faith in rectifying the error[24]. However, restorative justice must not be applied to serious violations that damage institutional integrity, involve abuse of authority, disclose confidential data, or contain criminal elements. With these boundaries, a restorative approach can complement the disciplinary system without weakening legal firmness.

The ideal model for imposing disciplinary sanctions on Ombudsman personnel should be built upon five main components. First, the harmonization of regulations between Ombudsman Regulations and civil servant disciplinary rules. Second, a detailed classification of violations and sanctions based on the principle of proportionality. Third, the strengthening of examination procedures that guarantee due process of law. Fourth, the strengthening of the Honor Council, the Inspectorate, and the whistleblowing system as internal oversight organs. Fifth, the selective application of developmental and restorative justice approaches without losing the deterrent effect.

With such a model, the imposition of disciplinary sanctions on Ombudsman personnel can be directed toward building an oversight institution characterized by integrity, professionalism, and accountability. Institutional integrity is born not only from formal rules but from consistency in applying those rules to every violation. As a public service oversight institution, the Ombudsman must be able to demonstrate that it possesses

[24] Reza Pratama, "Penerapan Keadilan Restoratif dalam Penyelesaian Pelanggaran Disiplin Administratif di Lingkungan Birokrasi," *Jurnal Hukum Administrasi dan Tata Pemerintahan*, Vol. 4, No. 2 (2021): hlm. 130.

stronger ethical and disciplinary standards before overseeing other institutions. Therefore, the ideal model for imposing disciplinary sanctions is an urgent necessity to strengthen the legitimacy of the Ombudsman of the Republic of Indonesia in the eyes of the public.

4. Conclusion

The ideal model for imposing disciplinary sanctions on personnel of the Ombudsman of the Republic of Indonesia must be based on the principles of legal certainty, proportionality, and restorative justice, by integrating harmonization between internal Ombudsman regulations and civil servant employment law. This model needs to ensure that every violation—whether light, medium, or heavy—is met with appropriate and effective sanctions through examination procedures that are clear, transparent, and safeguard individual rights. Furthermore, the strengthening of the Honor Council, the whistleblowing system, and developmental approaches are integral parts of a disciplinary system capable of maintaining the integrity of this oversight institution. With a structured and fair model, the Ombudsman of the Republic of Indonesia can strengthen its professionalism and accountability, thereby increasing public trust in the performance of public service oversight.

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