

MALADMINISTRATION IN A PUBLIC ADMINISTRATIVE ENVIRONMENT

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Abstract

Public services are the basic social rights of the community (social rights). Social rights are the rights to receive, rights to receive from the government, therefore government administrators are obliged to provide the best service to the community. However, in its implementation, public services have not been obtained by the community properly. The 2002 Governance And Decentralization Survey (GDS) found three important problems that often occur in the field in the delivery of public services, namely first, the magnitude of service discrimination, second, the lack of certainty about the cost and time of service, third, the low level of public satisfaction with public services. This situation opens opportunities for government administrators to carry out maladministration actions in public services. The number of acts of maladministration in public services can be proven by data that has been reported by the Ombudsman of the Republic of Indonesia every year, the graph always goes up. Therefore, the construction of legal responsibility for acts of maladministration carried out by government administrators in public services must be reformulated immediately. Therefore, this paper will examine the dimensions of legal responsibility for maladministration in public services

Keyword: Forest Police, Crime, Illegal Logging

INTRODUCTION

Maladministration is behavior or acts against the law and ethics in the administration of public services. There are various kinds of maladministration, such as procedural deviation, abuse of authority, including negligence or neglect of legal obligations, discriminatory acts, requests for compensation, and others. Not only by the Government, acts of maladministration can also be carried out by BUMN, BUMD, BHMN or private bodies or even individuals.

Maladministration is an illegal act. There are several types of maladministration actions that often occur. First, protracted delays, that is, in the process of providing public services to the community, a public official repeatedly delays or delays time so that the administration process is not on time as specified, resulting in uncertain public services. Second, abuse of authority, namely the act of a public official who uses his authority (right and power to act) beyond what should be done so that the action is contrary to applicable regulations, and makes public services unacceptable to the public. Third, procedural deviations, that is, in the process of public service there are stages of activity that must be passed to get good public service, but in the process of public service it often happens that public officials do not comply with the predetermined stages and properly so that people do not get good public service. Then is there a special institution that deals with maladministration?

Based on Law Number 37 of 2008 concerning the Ombudsman of the Republic of Indonesia and Law Number 25 of 2009 concerning Public Services, the Ombudsman of the Republic of Indonesia is a state institution that deals with maladministration in public services. The Ombudsman's duty is to receive reports on alleged maladministration in the administration of public services; conduct an investigation on its own initiative against allegations of maladministration in the delivery of public services (Article 7)¹. As long as the agency concerned is assigned to administer public services in which all or part of the funds are sourced from the APBN and/or APBD, then the agency's services become the oversight authority of the Ombudsman.

Therefore, the presence of the Ombudsman as an external supervisory agency is expected to improve service quality. Good governance and state administration can be achieved if the principles of good public administration are upheld. So, if in the future we become victims of maladministration, never be afraid to report this to the Ombudsman.

Judging from the basic description of the problem raised by the author, the fundamental problem in this study is how the administrative system in our country often occurs maladministration, so that these actions violate the applicable regulations. The thing that arises from this action is the lack of comfort for the community in getting good treatment from the officers and officials.

RESEARCH METHODE

The research conducted by the author is a memorable test to regulate halal travel. With extraordinary provisions regarding the investigation of documentation where the information and materials that the author needs or uses in this examination depend on the investigation of records as writings or books that the author presses through library searches. It states that legal exploratory arrangements include: research on legal standards, legal systematics, legal synchronization rates, legal history, and legal correlations, the information of which is obtained from information records. Meanwhile, according to its temperament, this study is classified as a clear exploration in which the author hopes to describe it methodically. A definite study is proposed, especially exploratory which provides as precise information as possible about different people, conditions and side effects. The motivation is basically to build speculation, to help strengthen old hypotheses, or in the system of developing new speculation. If the

¹ Pemerintah Republik Indonesia, *Undang-Undang Nomor 37 Tahun 2008 Tentang Ombudsman Republik Indonesia* (Indonesia: Lembaran Negara Republik Indonesia, 2008).

information on a matter is sufficient, it is wise to conduct an illustrative examination which is supposedly essentially to test certain speculations.

RESULT AND DISCUSSION

In the new order, the practice of KKN and the interests of the rulers became a fundamental behavior for bureaucrats, even those within the bureaucracy seemed to have been built to strengthen the rulers and were likened to a kingdom of officials . Perhaps what is more precise is that the rich will get richer, the poor will suffer more. Reform changes continue to be made to complete the elements involved. Reform of the bureaucracy which includes reforms in the field of public services has been carried out in stages but the results have not been maximized as expected. 2 Reform itself is one of the main targets in improving the quality of public services from maladministration problems. The problems that occur in Indonesia are increasing day by day with the habits of bureaucrats in carrying out their duties. So that in government it is often called maladministration that occurs in this world of government, as well as the role and involvement of all elements starting. from the ranks of government institutions as well as the entire community to help eradicate the practice of maladministration in Indonesia² .

The concept of bureaucratic maladministration was born at the end of the 19th century as a term indicating the failure of the bureaucracy in managing people's affairs, lack of initiative and lack of responsibility on the part of government officials. Research on the phenomenon of bureaucratic maladministration began in 1917 by a scientist from England named Hayward. He has conducted research on the phenomenon of maladministration in England and the results of this study were written in the book *Professionalism and Originality*. Hayward (1917) explained that since work as a government employee is included in the category of professional work, government employees working in bureaucratic institutions are required to work professionally and responsibly. Government employees are the executors of state political policies and they are paid salaries by the state. Hayward calls the bad habits of government employees maladministration. Bureaucratic maladministration is described as an attitude of violating the law, corruption, excesses, crime, rudeness towards society, injustice, inability to work and corruption. The concept of bureaucratic maladministration grew after the establishment of the ombudsman institution in Scandinavia in 1950. The ombudsman is a government institution whose function is to receive reports of complaints from the public regarding their alleged dissatisfaction with receiving public services. After 1960, the British government also established an ombudsman institution. One of the reasons for the drafting of the draft Ombudsman law is the problem of bureaucratic maladministration that must be resolved immediately in England. Among the types of bureaucratic maladministration that were widespread at that time were unfairness in providing services, neglect of tasks, neglect of responsibilities, delays in completing documents, crime and other bad behavior in the office³.

a. Definition of Maladministration

In Law no. 37 of 2008 concerning the Ombudsman of the Republic of Indonesia Maladministration is behavior or actions against law and ethics in a maladministration process that is the only public service, which includes abuse of authority/position, negligence in actions and decision making, neglect of legal obligations, protracted delays, discriminatory actions, requests for compensation and other things that can be judged to be of the same quality as these

² Mohammad Thahir Haning, 'Reformasi Birokrasi Di Indonesia', *Jurnal Unhas*, 4.1 (2018), 26 <jurnal.unhas.ac.id>.

³ 'Faktor Penyebab Maladministrasi', *Media.Neliti.Com* <<https://media.neliti.com/media/publications/244743-faktor-penyebab-perilaku-maladministrasi-55e94f4f.pdf>>.

mistakes, in the current state of the bureaucracy it is still not said to be running optimally, there are several elements that become maladministration. The forms of maladministration that often occur are procedural deviations, abuse of authority, neglect of obligations law, arbitrary action, protracted delays, unprofessional not even providing service. Theoretically, maladministration can occur due to the emergence of government or state administration legal actions contained in the law, every government action is always based on the principle of legality or applicable legislation⁴.

This means that it is concluded that maladministration is an unlawful act carried out by bureaucrats, one of which is in public services where most of the bureaucrats now do not provide services that are fully carried out. Service providers can be said to have fulfilled good service if they have complied with the provisions in law number 25 of 2009 concerning public services which include actions that are in accordance with competence and standard operating procedures (SOP) relating to the legal power of state administration in providing public services when committing service violations⁵. Service violations are often associated with criminal acts regulated in state administrative law, one of which is given to those who commit violations. For example, an administrator is suspected of committing a service violation, namely asking for a sum of money to facilitate the passage of correspondence that is in the processing stage. With the reason for the requirements in the administrative process even though government agencies implement zero rupiah in service activities. From the beginning of submitting files and handling letters no one used money. This means that maladministration practices occur in public services. In the context of public services carried out by the administrator, it does not necessarily focus on criminal law, but also requires an assessment from the aspects of the administrative law approach. This study was studied through an administrative law approach which was carried out to ascertain whether maladministration occurred in the services provided by administrators or not?⁶

b. Maladministration Factors

There are two factors that influence the emergence of maladministration, namely internal factors and external factors. Internal factors in the form of personality that comes from within a person. This personality factor is in the form of an intention, willingness, encouragement that grows within a person in carrying out the practice of maladministration itself, a person's mental weakness will affect the actions that will be taken, lack of increase in faith, piety to the religion that everyone adheres to is different. Social conditions, even though they actually know about the actions they are doing. when these opportunities arise they often take advantage of them in the wrong way by committing maladministration. Not infrequently economic demands, current family demands are the driving force for maladministration. Meanwhile, external factors are factors that come from outside a person who commits mal-administration actions, which can be in the form of weak regulations, weak control institutions, work environment etc. laws and regulations where they work, is a value system that is made to be followed and obeyed by employees in carrying out the duties and obligations assigned to them.⁷

c. How to Overcome Maladministration

⁴ Ombudsman.go.id, 'Potensi Maladministrasi Pengelolaan Dana Desa', *Ombudsman.Go.Id*
<<https://www.google.com/ombudsman.go.id/artikel-potensi-maladministrasi-pengelolaan-dana-desa>>.

⁵ Sonia Ferdika, *Maladministrasi Dalam Pelayanan Publi Di Indonesia*.

⁶ 'Ombudsman Temukan Maladministrasi Dalam TWK KPK Apa Artinya?', *Tempo*
<<https://nasional.tempo.co/read/1489030/ombudsman-temukan-maladministrasi-dalam-twk-kpk-apa-artinya>>.

⁷ Ranty Isra Putri, .'.Mal-Administrasi Dalam Penyelenggaraan Pengelolaan Perpajakan Dikota Bukit Tinggi', *Jurnal Jom FISIP*, 5.2 (2018), 12.

As for how to prevent and overcome maladministration, namely the presence of an Ombudsman institution, namely an institution that oversees the authority to administer public services both those held by state and government administrators, including those held by BUMN, BUMD and private bodies whose funds come from the APBN and APBD. As well as the next, namely upholding legal authority strictly if committing a violation that violates the general principles of government, community involvement is also necessary in overcoming and preventing these maladministration practices. The community is smart enough to criticize the maladministration so that if there is maladministration, they can immediately submit a complaint to the authorized institution to be dealt with strictly⁸.

In addition, the strategy for preventing maladministration in the licensing sector can be reviewed from:

- 1) The systemic-structural method can be carried out by structuring the legal substance, legal structure and legal culture
- 2) The abolitionistic method is by improving the system and can reduce the interaction between service providers and service recipients
- 3) The moralistic way is by developing exemplary attitudes and behavior and applying the values of consistency and responsibility⁹.

CONCLUSION

Unlawful acts committed by government administrators in public services in making government decisions must pay attention to the material requirements and formal requirements so that decisions are valid, and every decision taken must be accountable. Positional responsibility is related to legality, government action is related to the approach to government power. Personal responsibility relates to the functional or behavioral approach in administrative law. Personal responsibility relates to maladministration in authority and public service. The role of state administrative law is in controlling the operations of every state agency or government official who carries out their duties and commits violations, be it corruption or abuse of authority that harms all parties, both government and individuals, and legal protection in HAN.

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