

The Ombudsman and Access to Justice in the Financial Sector from an Islamic Perspective

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Abstract

Access to justice for consumers in the financial sector is crucial. Beyond simply resolving problems, access to justice emphasizes that the government and authorized institutions should not act arbitrarily. In Islamic civilization, a concept known as Wilayatul Mazhalim has similar meaning to the Ombudsman. Furthermore, history explains that the establishment of the first Ombudsman in Sweden was inspired by the rapidly developing Islamic civilization in Turkey at that time. This is normative juridical research with a qualitative approach, resulting in recommendations for changing the wording of regulations. Primary data were obtained from observation by the researchers during 2022 to 2024, and secondary data sources included laws, presidential decrees, and Financial Service Authority regulations. The data collection techniques were observation and documentation studies. The analysis was conducted narratively by providing definitions in advance. As a result, the Ombudsman that is unable to examine institutions entrusted with dispute resolution transfers on the grounds that such institutions do not receive funding from the State Budget (APBN) or Regional Budgets (APBD) creates an entry barrier and limits access to justice. Such situation differs from the Islamic perspective, which recognizes the rights of individuals to seek and obtain their right without obstruction.

Keyword: Access to Justice, Wilayatul Mazhalim, Islamic Civilization

Abstrak

Akses terhadap keadilan bagi konsumen di sektor keuangan merupakan hal yang penting. Lebih dari sekedar menyelesaikan masalah, akses pada keadilan mengedepankan agar pemerintah maupun Lembaga yang diberi kewenangan tidak berlaku semauanya. Dalam peradaban Islam, dikenal *wilayatul mazhalim* yang konsepnya serupa dengan Ombudsman. Selain itu, Sejarah menerangkan bahwa pendirian Ombudsman pertama di Swedia terinspirasi dari peradaban Islam di Turki yang berkembang sangat pesat pada masa itu. Penelitian ini bersifat yuridis normative dengan pendekatan kualitatif dengan hasil berupa

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rekomendasi perubahan frasa dalam peraturan. Data primer diperoleh dari observasi peneliti selama tahun 2022 s.d. 2024, dan sumber data sekunder adalah Undang-undang, Keputusan Presiden, dan Peraturan Otoritas jasa Keuangan. Teknik pengumpulan data adalah observasi dan studi dokumentasi Analisis dilakukan secara naratif dengan memberikan definisi terlebih dahulu. Berdasarkan penelitian ini, Ombudsman yang tidak bisa memeriksa Lembaga yang menerima pengalihan penyelesaian sengketa dengan alasan bahwa Lembaga tersebut tidak menerima dana dari APBN dan APBD menciptakan suatu *entry barrier* dan membatasi akses pada keadilan. Hal ini berbeda dengan pandangan Islam yang memberikan hak atau upaya untuk mengakses hak seseorang tanpa adanya halangan.

Kata Kunci: Akses Terhadap Keadilan, Wilayatul Mazhalim, Peradaban Islam

A. Introduction

Access to justice is critically important for consumers in the financial sector. This principle is reflected in Law No. 4 of 2023 on Financial Sector Development and Strengthening (“P2SK Law”), which guarantees consumers with the freedom to choose the forum and mechanism for resolving disputes in the financial services sector. In practice, consumers may pursue their claims through two primary dispute resolution bodies: the Financial Services Sector Alternative Dispute Resolution Institution (LAPS SJK) and the Consumer Dispute Settlement Agency (BPSK).¹

From the standpoint of their legal foundations, BPSK was established under Law No. 8 of 1999 on Consumer Protection (“Law 8/1999”), while LAPS SJK was formed pursuant to Financial Services Authority Regulation No. 61/POJK.07/2020 (“POJK 61/2020”). Under Article 49 of Law 8/1999 in conjunction with Presidential Decree No. 90 of 2001, BPSK’s operational costs are funded by the State Budget (APBN) and Regional Budgets (APBD).² In contrast, LAPS SJK is financed through membership fees, grants, non-binding donations or assistance, and other lawful sources consistent with its articles of association.³

¹ Damar Sugeng Utomo et al., “Freedom of Contract in Choosing a Financial Services Sector Consumer Dispute Resolution Forum,” *Kertha Patrika* 47, no. 2 (2025): hlm. 217, <https://doi.org/10.24843/KP.2025.v47.i02.p06>.

² Pasal 3 “KEPPRES No. 90 Tahun 2001,” Database Peraturan | JDIH BPK, accessed January 27, 2026, <http://peraturan.bpk.go.id/Details/57322/keppres-no-90-tahun-2001>.

³ Pasal 20 “Pojk 61 - 07 - 2020”, n.d., accessed January 27, 2026, <https://www.ojk.go.id/id/regulasi/Documents/Pages/Lembaga-Alternatif-Penyelesaian-Sengketa-Sektor-Jasa-Keuangan/pojk%2061%20-%2007%20-%202020.pdf>.

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This difference in funding sources has significant implications. Because BPSK receives public funds, it falls within the jurisdiction of the Ombudsman. LAPS SJK, however, does not, and therefore cannot be reviewed by the Ombudsman. This situation creates what may be described as an entry barrier. Although both institutions serve members of the public as consumers, only decisions or procedural issues arising from BPSK may be reported to the Ombudsman. Consumers who pursue dispute resolution through LAPS SJK do not have the same avenue of external oversight if problems arise.

The Ombudsman has an important role in strengthening access to justice, particularly in the context of public complaint resolution.⁴ Comparative legal studies reveal that financial ombudsman institutions function as alternative dispute resolution mechanisms for consumers in many jurisdictions. Their purpose is to enhance access to justice and build public trust in financial systems, whether administered by the government or private entities that directly affect citizens.⁵

The term “entry barrier,” or “barrier to entry,” is commonly used in economics to describe obstacles that prevent a legal entity or company from entering a particular industry.⁶ However, the concept may also be understood more broadly. Franklin M. Fisher defines an entry barrier as anything that blocks access to an activity that generates social benefit.⁷ In this context, the notion of an entry barrier can be applied to limitations on access to justice.⁸

This study focuses specifically on entry barriers affecting consumers' access to justice. It forms part of a broader research series examining access to justice for the public and for consumers in the financial services sector. The present study builds upon the author's prior research on forum selection as an element of consumer access to justice in financial services disputes, as well as on arbitration costs from an access-to-justice perspective.

⁴ Susi Dwi Harijanti, “Complaint Handling Systems In The Public Sector: A Comparative Analysis Between Indonesia and Australia,” *Indonesian Comparative Law Review* 3, no. 1 (2020): hlm. 15, <https://doi.org/10.18196/iclr.v3i1.11454>.

⁵ Julinda Beqiraj et al., *Ombudsman Schemes and Effective Access to Justice: A Study of International Practices and Trends* (Bingham Centre for Rule of Law, 2018). hlm. 63.

⁶ Entry Barrier, <https://dictionary.cambridge.org/dictionary/english/entry-barrier>, diakses pada 12 November 2025 Pk. 10.27 WIB.

⁷ Babu Nahata and Dennis O. Olson, “On the Definition of Barriers to Entry,” *Southern Economic Journal* 56, no. 1 (1989): hlm. 236, <https://doi.org/10.2307/1059070>.

⁸ R. Preston McAfee et al., “What Is a Barrier to Entry?,” *The American Economic Review* 94, no. 2 (2004): hlm. 461.

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Based on this background, the study raises two primary research questions: (1) Would expanding the Ombudsman's authority to review institutions that receive delegated dispute resolution authority from state bodies constitute a meaningful enhancement of access to justice? And (2) What scope of expanded Ombudsman authority would be necessary to effectively improve access to justice in the financial services sector?

B. Research Methods

This study employed a normative legal research methodology. Normative legal research systematically examines specific legal categories within statutory frameworks, analyzes the relationships among regulations, identifies problematic areas, as well as projects potential future developments in the law. The research relied on a review of secondary data derived from primary, secondary, and tertiary legal sources.⁹ Normative legal research generally approaches law as a system of norms, focusing on legal rules as they are written and structured. Accordingly, this study analyzed relevant legal norms in order to address a concrete legal issue by examining the statutory and regulatory provisions governing the matter at hand.¹⁰

Specifically, this research provides a detailed analysis of the Ombudsman's authority to oversee dispute resolution in the financial services sector. This was closely correlated to access to justice and the protection of consumer rights. The study also offers recommendations aimed at improving the consumer dispute resolution framework in Indonesia's financial services sector.

In addition, the research adopts a statutory (or statute-based) approach, examining laws and regulations relevant to the legal issues under consideration. Legal materials are collected through document-based research, involving a systematic review and analysis of relevant legal texts. In terms of data analysis, the study applies deductive reasoning, started with general legal principles and concepts before drawing more specific conclusions related to the issue being examined.¹¹

⁹ P. M. Marzuki, *Penelitian Hukum* (Jakarta: Kencana Prenada Media Group, 2005), hlm. 32.

¹⁰ Sonata, D. L., (2014). "Penelitian hukum normatif memiliki kecenderungan untuk mencitrakan atau menggambarkan hukum sebagai persepektif di mana hanya akan membahas dan melihat hukum sebagai norma-norma". *Fiat Justitia Jurnal Ilmu Hukum*, 8 (1), hlm. 35

¹¹ S. Soekanto dan S. Mamudji, *Penelitian Hukum Normatif* (Jakarta: PT Raja Grafindo Persada, 2004), hlm. 14

C. Discussion and Research Results

The Concept of Access to Justice in the Islamic Perspective

Ribot and Peluso define access as the ability of individuals to obtain, control, and manage resources. Access is also understood as a bundle of rights that translates into forms of power within social and political structures. Their theory distinguishes between those who already possess and manage resources and those who seek to gain access to them. This dynamic significantly influences public policy, markets, technology, knowledge systems, as well as broader political and economic processes.¹²

In general, access to justice within a legal system has two primary dimensions. First, it concerns the mechanisms available for individuals to assert and defend their rights. Second, it relates to dispute resolution processes, which are typically administered through state-affiliated institutions. Barriers to justice often arise from procedural complexity and high costs. In the civil law context, Cappelletti and Garth's seminal research demonstrates that access to justice has evolved over the past several decades—from a system centered primarily on court-based adjudication to one that increasingly incorporates alternative dispute resolution mechanisms outside the formal judiciary.¹³

In Islamic thought, justice ('adl) is understood as placing things in their proper position and giving each person what is rightfully theirs, grounded in the principle that all individuals are equal.¹⁴ Justice entails equal treatment without discrimination and ensures that everyone has equal access to their rights.¹⁵

The concept of justice reflects one of the attributes of Allah in the *Asmaul Husna*, namely *Al-'adl* (العدل). Linguistically, *Al-'adl* derives from the Arabic roots (*isim mashdar*) (*fi'il Madhi* dan *fi'il mudhari'*) meaning to act justly, to be impartial, or to judge fairly – the opposite of injustice or (عَدْلٌ - يَعْدِلُ - عَدَلٌ). In Islam, justice seeks to promote social welfare and prevent oppression.¹⁶ It embodies equality,

¹² Jesse C. Ribot and Nancy Lee Peluso, "A Theory of Access*," *Rural Sociology* 68, no. 2 (2003): hlm. 153, <https://doi.org/10.1111/j.1549-0831.2003.tb00133.x>.

¹³ Bryant G Garth and Mauro Cappelletti, "Access to Justice: The Newest Wave in the Worldwide Movement to Make Rights Effective," *BUFFALO LAW REVIEW*, n.d.

¹⁴ Dian Wirna Ningsih and Mawardi Mawardi, "Filosofis Pemikiran Konsep Keadilan Dalam Ekonomi Syariah: Filosofis Pemikiran Konsep Keadilan Dalam Ekonomi Syariah," *Jurnal Ekonomi Sakti (JES)* 14, no. 2 (2025): hlm. 141, <https://doi.org/10.36272/jes.v14i2.413>.

¹⁵ Ningsih And Mawardi, "Filosofis Pemikiran Konsep Keadilan Dalam Ekonomi Syariah."

¹⁶ Abdul Rahman et al., "Konsep Al-'Adl Dalam Perspektif Al-Qur'an," *Jurnal Pendidikan Tambusai* 9, no. 2 (2025): hlm. 212, <https://doi.org/10.31004/jptam.v9i2.29881>.

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balance, and the fulfillment of rights in the most direct and accessible manner possible.¹⁷

During the time of the Prophet Muhammad, justice was primarily substantive in nature, emphasizing the restoration of social harmony, deliberation (shura), and the protection of all members of society. In later Islamic governance, particularly during the Abbasid period, an institution known as Nizam al-Mazalim was established to address grievances and oversee abuses of power. The Mazalim court provided a forum for resolving disputes between citizens and state authorities, thereby safeguarding public rights and ensuring accountability.¹⁸

The integration of justice reflected in these institutions aligns with the principle of distributive justice in Islamic economics. In this framework, justice is not limited to the operation of market mechanisms; rather, the state bears responsibility for facilitating equitable distribution. When inequalities arise, the state must intervene to address them. This principle is consistent with Qur'an Surah Al-Hashr (59:7):

“كَيْ لَا يَكُونَ دُولَةً لِّلْأَغْنِيَاءِ مِنْكُمْ”

”Means: “(So that) wealth does not merely circulate among the rich among you only”

This verse underscores the commitment to preventing concentration of wealth and promoting fairness in economic life. The idea of delivering justice through the most accessible and practical means parallels the modern concept of access to justice. Access to justice ensures that individuals, without discrimination of any kind, are able to seek and obtain justice through reasonable, efficient, and affordable mechanisms within whatever legal frameworks are available.¹⁹

The Position and Function of the Ombudsman in the Indonesian Legal System

The establishment of the Ombudsman reflects a broader commitment to the protection of human rights, encompassing both civil and political rights (as recognized in the ICCPR) and economic, social, and cultural rights (as articulated

¹⁷ Aden Rosadi et al., “The Concept Of Justice In Qur’an And Hadith,” *Asy-Syari’ah* 23 (August 2021), <https://doi.org/10.15575/as.v23i1.9520>.

¹⁸ Alfarisi, Mochammad Hilmi. 2020. “Urgensi Peran Peradilan Al – Mazalim Dalam Menyelesaikan Sengketa Administrasi”. *Minhaj: Jurnal Ilmu Syariah* 1 (2): hlm. 103. <https://doi.org/10.52431/minhaj.v1i2.306>.

¹⁹ Büsra Gülsah Akbaba, “Access to Justice and Human Rights: A Comparative Study of Islamic Jurisprudence and Secular Legal Systems,” *Journal of Humanity and Society (Insan & Toplum)* 15, no. 2 (2025): hlm. 171, <https://doi.org/10.12658/M0766>.

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in the ICESCR).²⁰ Several historical studies suggest that the development of the Ombudsman institution was influenced by the *Turkish Office of Chief Justice*, which was responsible for ensuring that Islamic law was properly implemented and observed by state officials, including the Sultan.

During the Great Northern War, the Swedish king Charles XII sought refuge in the Ottoman Empire after suffering military defeat. It was during this period of exile that he encountered administrative oversight mechanisms that later inspired him to establish a similar institution upon returning to Sweden. He created the Office of the King's Highest Ombudsman to address administrative disorder and ensure government accountability. After Charles XII's death, and as Sweden gradually transitioned from monarchy to a more democratic system, the institution evolved into what became known as the Chancellor of Justice.²¹

Scholarly research has identified a fundamental conceptual connection between the Islamic institution of Mazhalim and the modern Ombudsman within the framework of contemporary governance. Although their formal authorities differ, both institutions share a common objective: protecting citizens from arbitrary or abusive actions by government officials and holding public authorities accountable for misconduct or maladministration.²²

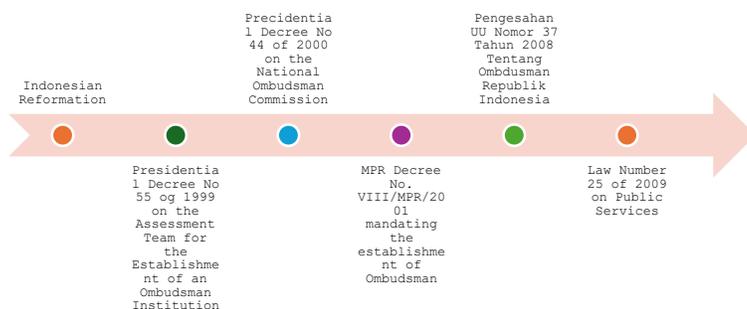


Figure 1. Timeline of Indonesian Ombudsman Establishment

Historically, the Indonesian Ombudsman (Ombudsman Republik Indonesia, or ORI) emerged during a period of multidimensional crisis, including a significant public trust deficit toward the government. The establishment of the

²⁰ Anand Satyanand, "The Ombudsman Concept and Human Rights Protection," *Victoria University of Wellington Law Review* 29, no. 1 (1999): hlm. 21, <https://doi.org/10.26686/vuwlr.v29i1.6044>.

²¹ Eko Riyadi, "Hukum Hak Asasi Manusia Persepektif Internasional, Regional, dan Nasional," in *Hukum Hak Asasi Manusia Persepektif Internasional, Regional, dan Nasional*, First Edition (Rajawali Press, n.d.).hlm. 42.

²² Assiddiq, M., Halimang, S., & Asni. (2025). Mahkamah Mazalim dan Relevansinya terhadap Lembaga Ombudsman Modern: Tinjauan Historis Komparatif. *Jurnal Keilmuan Dan Keislaman*, 4(3), hlm. 386. <https://doi.org/10.23917/jkk.v4i3.706>

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National Ombudsman Commission was driven by the aspiration to promote a clean and accountable state, aligned with the principles of good governance. In its early development, the Commission received strong support from Supreme Court justices and leading constitutional law scholars.²³

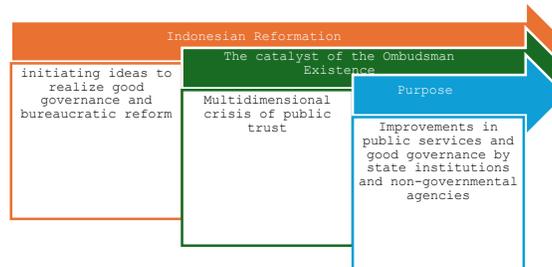


Figure 2. Catalyst and Objective of the Ombudsman in Republic of Indonesia

The Indonesian Ombudsman is formally regulated under Law No. 37 of 2008 concerning the Ombudsman of the Republic of Indonesia (“Ombudsman Law”). This statute defines the Ombudsman as an institution tasked with overseeing the provision of public services. To reinforce and complement this framework, Law No. 25 of 2009 on Public Services was subsequently enacted. Under Law 25/2009, administrative public services are required to protect individuals, property, and families in the course of services delivered by state-mandated government institutions. The explanatory section of the law clarifies that this scope includes sectors such as banking and insurance.²⁴

The Problem of Access to Justice in the Financial Sector

Within the civil law tradition, authority is generally understood as a legal capacity derived from law. It is specific in nature, granted to legal subjects, and exercised in accordance with legal provisions.²⁵ More precisely, authority may be defined differently under administrative law and public administration law.²⁶ It must be distinguished from power, which can be exercised coercively even without proper legal basis. Authority also differs from legitimacy: legitimacy

²³ Sujata, A. (Ed.). (2002). *Ombudsman Indonesia: masa lalu, sekarang, dan masa mendatang*. Jakarta: Komisi Ombudsman Nasional. Hlm. 7.

²⁴ Pasal 4 ayat (7) Database Peratur. JDIH BPK, “UU No. 25 Tahun 2009.”

²⁵ Dyah Ayu Vijaya Laksmi, “Study of Authority from a Civil Law Perspective,” *International Journal of Social Science, Education, Communication and Economics* 4, no. 2 (2025): hlm. 250, <https://doi.org/10.54443/sj.v4i2.497>.

²⁶ Mohammad Zamroni, “Konsep Kewenangan Dalam Perspektif Hukum Perdata,” *Mimbar Hukum* 36 (December 2024), hlm. 61. <https://doi.org/10.22146/mh.v36i2.13000>.

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stems from recognized procedures that may or may not be followed in practice, whereas authority creates binding normative obligations under the law.²⁷

Indonesia recognizes a single central bank under the 1945 Constitution. Article 23D has broad implications, particularly for monetary regulation, supervision, and macro-level fiscal policy. Unlike the Constitutional Court, which is institutionally independent, or the State Audit Board,²⁸ which operates autonomously, the regulatory structure surrounding monetary authority reflects a distinct constitutional design. The government delegated authority to Bank Indonesia (BI) through Law No. 23 of 1999 on Bank Indonesia, as amended by Law No. 3 of 2004.²⁹

The elucidation of Law No. 3 of 2004 paved the way for the establishment of the Financial Services Authority (OJK) as an independent institution operating outside the executive branch, while remaining accountable to the State Audit Board and the House of Representatives.³⁰ This framework led to the enactment of Law No. 21 of 2011 on the Financial Services Authority, which clearly sets out OJK's duties, functions, organizational structure, code of ethics, funding sources, and reporting obligations.



Figure 3. Basis for the LAPS SJK Formation

Subsequent legislation—including OJK regulations and Law No. 30 of 1999 on Arbitration and Alternative Dispute Resolution—provided the legal basis for establishing the Financial Services Sector Alternative Dispute Resolution Institution (LAPS SJK) under OJK Regulation No. 61 of 2020, with the stated goal of strengthening consumer protection in the financial services sector.

²⁷ Shiner, R. A. (1989). Law and authority. *Canadian Journal of Law & Jurisprudence*, 2(1), hlm. 40. <https://doi.org/10.1017/S0841820900000842>

²⁸ Badan Pengkajian MPR RI, Kajian Akademik Terhadap Undang-Undang Dasar Negara Republik Indonesia Tahun 1945 dan Pelaksananya, Badan Pengkajian MPR RI, 2022

²⁹ Jaringan Informasi dan Dokumentasi Hukum Badan Pemeriksa Keuangan, <https://peraturan.bpk.go.id/Details/40458/uu-no-3-tahun-2004>, diakses pada 19 September 2025, Pk. 14.04 WIB

³⁰ Penjelasan Pasal 34 Undang-Undang Nomor 3 Tahun 2004 Tentang Perubahan atas Undang-Undang Republik Indonesia Nomor 23 Tahun 1999 tentang Bank Indonesia

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| Funding Resources of LAPS SJK | Funding Resource of BPSK |
|---|--|
| <ul style="list-style-type: none">• Membership Fees• Grants• Other Income | <ul style="list-style-type: none">• State Budget (APBN) Funding• Regional Budget (APBD) Funding |

Figure 4. Table of Funding Sources for LAPS SJK and BPSK

Consumers who believe that OJK has not handled their complaints effectively may submit reports to the Ombudsman. However, POJK 61/2020 effectively creates an entry barrier that prevents the Ombudsman from overseeing dispute resolution proceedings conducted by LAPS SJK as a delegated dispute resolution body. This limitation arises because LAPS SJK does not receive funding from the State or Regional Budgets (APBN or APBD), and the statutory definition of the Ombudsman's jurisdiction is confined to public service institutions financed by those public funds.

The Islamic Perspectives on the Ombudsman's Role in the Financial Sector

Under the Ombudsman Law (Law No. 37 of 2008) in conjunction with Law No. 25 of 2009 on Public Services, public service providers include state institutions, corporations, independent bodies established by statute to deliver public services, and other legal entities created specifically for that purpose.³¹ One study concludes that the recommendations issued by the Indonesian Ombudsman are legally binding, meaning that institutions such as the Financial Services Authority (OJK) are obligated to comply, including in matters involving oversight of compensation or dispute resolution processes.³²

Comparatively, the Danish Parliamentary Ombudsman (Folketingets Ombudsman) exercises broader jurisdiction, with authority to review associations, private entities, and institutions appointed or authorized by public bodies.³³ This comparative structure is relevant to Indonesia, as LAPS SJK is established, licensed, authorized, and periodically supervised by OJK under Regulation No. 61 of 2020.

³¹ Pasal 1 ayat (2) Database Peratur. JDIIH BPK, "UU No. 25 Tahun 2009."

³² Yasin, Muhammad R. "Telaah Tentang Rekomendasi Ombudsman Terhadap Fraud Perbankan." *Katalogis*, vol. 4, no. 11, 2016.

³³ sultoni Fikri And Syofyan Hadi, "Ombudsman: Studi Perbandingan Hukum Antara Indonesia Dengan Denmark," *DiH: Jurnal Ilmu Hukum*, January 24, 2020, hlm. 4, <https://doi.org/10.30996/dih.v16i1.2728>.

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From an Islamic legal perspective, one of the core objectives of *maqashid syariah* is *hifdz al-mal* (حفظ المال). This objective aligns with Qur'an Surah Al-Maidah verse 2 "Cooperate in righteousness and piety, and do not cooperate in sin and transgression".³⁴ Protecting wealth in Islamic law includes safeguarding individuals from financial harm and loss.³⁵ The principle of *hifdz al-mal* also requires prudence in economic transactions.³⁶ In practice, however, the Ombudsman's jurisdiction currently extends only to financial institutions funded by the State or Regional Budgets—such as state-owned or regional banks. In this limited scope, the Ombudsman contributes to protecting property rights by addressing complaints against publicly funded financial service providers.

The Urgency and Potential Expansion of the Ombudsman's Role in the Financial Sector

John Dewey conceptualized "the public" as emerging from dynamic social and political processes. A public is formed when the indirect consequences of private actions affect others and require collective regulation. In democratic systems, the public facilitates communication, participation, and oversight over resource allocation.³⁷

Jürgen Habermas further describes individuals as forming a "public" when they assemble socially, generating discourse that shapes public opinion and influences political and social institutions. This interaction produces what he terms the "public sphere," a space in which governments are inevitably subject to public scrutiny. The public sphere is therefore an essential component of democracy.³⁸

³⁴ Arrizal Arrizal, "Tinjauan Yuridis dan Dinamika Pengaturan Koperasi Jasa Keuangan Syariah: Kajian Isu Terkini Perkembangan Syariah Indonesia," *Jurnal El-Thawalib* 6, no. 3 (2025): hlm. 267, <https://doi.org/10.24952/el-thawalib.v6i3.14977>.

³⁵ Aryo Jasmiko et al., "Perbandingan Perlindungan Harta (Hifdz Al-Mal) Antara Perbankan Syariah Dan Konvensional," *Journal of Economics and Business* 2, no. 1 (2024): hlm. 91, <https://doi.org/10.61994/econis.v2i1.468>.

³⁶ Dikha Anugrah and Enggun Nugraha, "Prinsip Hifz Al-Mal Dalam Tanggung Jawab Atas Keterlambatan Penerbangan: The Principle of Hifz Al-Mal in Responsibility for Flight Delays," *Perspektif Hukum*, November 16, 2025, hlm. 42, <https://doi.org/10.30649/ph.v25i2.372>.

³⁷ Midtgarden, Torjus. "Dewey's Conceptualization of the Public as Polity Contextualized: The Struggle for Democratic Control over Natural Resources and Technology," *Contemporary Pragmatism* 16, 1 (2019): hlm. 104, doi: <https://doi.org/10.1163/18758185-0161122>

³⁸ Hans-Jörg Trenz, "The Theory of the Public Sphere as a Cognitive Theory of Modern Society," *Philosophy & Social Criticism* 50, no. 1 (2024): hlm. 125, <https://doi.org/10.1177/01914537231203905>.

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Today, the public sphere serves as a monitoring mechanism over political elites and policymakers, ensuring accountability. Some scholars also regard it as a social pillar and an early warning system for emerging societal problems. Despite this democratic function, the Ombudsman's authority in Indonesia remains formally limited to institutions funded wholly or partially by the State or Regional Budgets.³⁹ Ideally, the Ombudsman should function as an instrument of state protection against maladministration affecting the public. Expanding its jurisdiction—particularly in the financial services sector—would strengthen its role as a mediator between the state, regulatory bodies, and citizens, thereby enhancing access to justice and public accountability.⁴⁰

D. Conclusion

Considering the historical development and original purpose of the Ombudsman's establishment, it is appropriate to pursue legal reform that would enable the Ombudsman to review institutions that derive their authority directly from state bodies, including independent institutions created by statute. As discussed in this study, the current statutory phrase—“...*partially or wholly funded by the State Budget and/or Regional Budgets*”—does not adequately accommodate the principle of access to justice. At present, the Ombudsman's jurisdiction over complaints is effectively limited to the Financial Services Authority (OJK), while LAPS SJK, which handles complaints delegated by or related to OJK, falls outside the Ombudsman's supervisory reach. This structural limitation creates a gap in oversight.

Accordingly, the funding-based restriction within the statutory definition could be revised, particularly by removing the requirement that an institution's authority be tied to state or regional budget funding. Such reform would eliminate the entry barrier that currently prevents the Ombudsman from examining institutions performing public service functions, even when those institutions exercise delegated state authority and directly affect citizens' rights. The ultimate objective of this reform would be to expand meaningful access to justice for the public.

³⁹ Mark Eisenegger and Mike S Schäfer, “Editorial: Reconceptualizing Public Sphere(s) in the Digital Age? On the Role and Future of Public Sphere Theory,” *Communication Theory* 33, nos. 2–3 (2023): hlm. 69, <https://doi.org/10.1093/ct/qtad011>.

⁴⁰ Intan Meitasari et al., “Urgensi Ajudikasi Khusus Ombudsman Republik Indonesia Dalam Penyelesaian Sengketa Pelayanan Publik,” *Jurnal Bina Mulia Hukum* 5, no. 1 (2020): hlm. 103.

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Through this adjustment, the legal framework governing the Ombudsman would more closely align with the broader concept of access to justice embedded in modern legal systems, while also reflecting the objectives of Islamic law—particularly *hifz al-mal*, the protection of property. In this way, strengthening the Ombudsman’s authority would not only enhance institutional accountability but also promote substantive justice consistent with both constitutional principles and Islamic legal values.

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