Chapter V Legal Measures for Better Protection of Human Rights and Improvement of Good Governance

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I. Introduction

Long before the start of the Reformation Movement, in fact starting from the 1960s, human rights form the basis and background of the Indonesian Reformation Movement. Indonesian academe and non-governmental organizations demanded for better protection of human rights, amongst others through their law and political courses in the universities, their writings and books about Human Rights and the Rule of Law, and through the establishment of the Legal Aid Institution (*Lembaga Bantuan Hukum*) established as a non-governmental organization as well as legal aid bureaus set up by the faculties of law of numerous universities throughout Indonesia.

In 1990 the United Nations Convention on the Rights of the Child was ratified by Presidential Decree No. 36/1999[1]. Before that, the UN Convention on the Elimination of All Kinds of Discrimination Against Women was ratified by Act No. 7 of 1984[2].

To be true, the Indonesian Struggle for Independence was none other but based on the conviction that human rights and freedom of a nation to develop through education are human and natural rights of the Indonesian people. Therefore, the 1945 Constitution's Preamble starts with the statement, that: "Freedom is the right of all people."

And although the 1945 Constitution did not use the word or notion of "human rights", but we can certainly find the principles and norms in it[3], such as in the Preamble, article 1 paragraph 1, art. 27, art. 28, art. 31, art. 33 and art. 34.

Politically, though, as a new state and a new nation, born in 1928 on the basis of the Youth Pledge of 1928 which were pledged by a number of local Youth Organizations, such as the Young Java, Young Sumatera, Young Celebes, etc. as a political statement at the closing of the Second Youth Conference, held in Jakarta (Batavia). The Youth Pledge of 1928 indeed is often regarded as the Indonesian

"social contract" (according to the English John Locke's political theory) reflecting the political will of the people (in accordance to the Professor Ernest Renan's theory about the way a new nation is born) which created he Indonesian nation (**bangsa Indonesia**).

According to Prof. Ernest Renan in his Dies Speech of 1898 in Sorborne University[4], entitled "Qu'est ce qu 'une nation?" (What is a Nation?), a number of different ethnic groups, eventhough they differ in race, culture or religion may create a new nation, on the basis of (1) **historical** similarity (in the Indonesian context: colonialism), which creates (2) the **coherence** between the people, which in turn builds up (3) the **political will** of the people to form (4) a new entity in which all groups will live together (***le desire de vivre ensemble***), now and for all times in the future.

The Young nationalists of the late 1920s applied Renan's (at that time modern) theory to the groups and people living in the Indonesian archipelago living under the pressure of colonialism, and thus sharing the same miserable lot with the same vision and ideals, i.e. to be free and become an independent nation, which from 1928 onwards became known as the Indonesian nation (**bangsa** Indonesia).

Therefore the Proclamation of Independence declared by Mr. Soekarno and Dr. Mohammad Hatta on the 17th of August, 1945 was politically not only necessary to free our people from he Dutch Government, which attempted to re-colonize the Indonesian Archipelago, after Japan lost World War II, but also to start the political legal process of forming the new Indonesian state, which was given its constitution one day later, on the 18th of August 1945.

Accusations, therefore, as if the 1945 Constitution does not protect human rights, are unfounded, as the very act of creating a new state by freeing the new Indonesian nation of the strings of colonialism itself cannot be but a struggle based on the conviction that liberty is a human right, and that all people have natural human rights, which are to be respected and protected.

Eventhough the human rights of women or what is now known as the gender issues have been fought for by many women in Java (R.A. Kartini, Dewi Sartika, Ibu Walanda) in Manado, and other regions of Indonesai since the 1800s.

Unfortunately, in the 50 years of Independence, both because of internal - as well as external (or international) political and economic pressure, exercised against a new state and a new government, the Indonesian leaders, and especially our presidents,

rightly or wrongly, became more a more autocratic, taking all the power in their own hands.

It is therefore that after ex-President Soekarno's Decree of 1959, leading to the so-called Guided Democracy, that many of his followers together with the younger generation started their movements towards better respect and protection of human rights against the first President and his followers.

When ex-President Soeharto took office in 1965, they hoped for a better protection of human rights and the supremacy of law, but were soon disillusioned because of the autocratic acts and brutal accusations without due process of law, detentions and killings which happened since the first years of his government, leading to the corrupt bureaucracy and moral degradation of society he created, which has its practices and consequences up till the present (almost four years after his downfall)[5].

II. Laws in Support of Better Protection of Human Rights

When looking for laws protecting human rights, we can find them scattered in the Constitution and in other laws, such as the Criminal Code protecting the right for life and liberty, or in the National Educational System Act (Law No. 2 of 1989), the right to land as regulated in the Basic Agrarian law, Act No. 5 of 1960, the right to property, regulated in the Civil Code, as well as numerous articles in our Criminal Code and our Criminal Procedure Code[6].

Nevertheless, human rights activists demanded some sort of Indonesian Declaration of Human Rights and the express mentioning and regulation of the protection of human rights in the Constitution[7].

But in 1997 and 1998 it was still very difficult to amend the 1945 Constitution, which was still regarded as a sacred document. Therefore the present writer suggested to the then Minister of Law, who at the same time was also the Secretary of State, Prof. Muladi, that a special law on Human Rights be drafted, which was approved on the same day, after the President's approval was obtained. Immediately a Committee was established, chaired by Prof. Dr. Sunaryati Hartono, SH and co-chaired by the then Director General of Law and Legislation, Prof. Dr. Romli Andasasminta, SH. Other members of the Committee consisted of the Chairman of the National

Commission of Human Rights, Mr. Djoko Soegiarto, S.H., Prof. Sri Sumantri, Dr. Adnan Buyung Nasution, activist Mr. Munir from KONTRAS, and many other prominent figures.

In the course of a few months, the first draft of the Bill on Human Rights was drafted, and consisted not only of the rights mentioned in the Declaration of Human Rights, but also included important articles from the Rights of the Child UN Convention and the Convention on the Elimination of All Kinds of Discrimination Against Women. Moreover the National Commission of Human Rights insisted that their organization should also become part of the Law on Human Rights, so that in Act No. 39 of 1999 one can find not only the regulations on the recognition and protection of human rights properly so called, but also the regulation on the organization specially in charge of the protection of human rights, i.e. the National Commission of Human Rights.

Later, a great part of the human rights mentioned in Act No. 39 of 1999 were transferred as the Second Amendment to the 1945 Constitution in Chapter X A as article 28 a to 28 j.

This completes the hierarchy of laws regulating human rights in Indonesia, starting with Chapter X A of the Constitution concerning Human Rights:

- MPR Resolution No. XVII/MPR/1998 on Human Rights
- Act No. 39/1999 on Human Rights, and
- Act No. 26/1999 on the Human Rights Court.

III. Ombudsmanship in Indonesia

In the history towards good governance and Supremacy of Law in Indonesia, 20 March 2000 is one more important date. That day many newspapers as well as electronic media in Jakarta covered and broadcasted the inauguration of the eight ombudsmen of Indonesia in the Palace of the President of the Republic. Undoubtedly, for most Indonesian people's ears until then, even up to now, the word "ombudsman" which was first established in Sweden some 200 years ago, is still an undeciphered word, despite the fact that the ombudsman is one of the symbols of democracy respecting and promoting the rule of law.

Nevertheless, unlike the Finland Ombudsman which received its first complaint only one year after its establishment, the first grievance to the Indonesian National Ombudsman Commission (hereinafter referred to as "Indonesian Ombudsman Office") was lodged on the very first day of its operation by retired Colonel (Ret.) dr Rudy Hendrawijaya, MPH. It was about a case involving the judiciary. He reported that there were two judgments of the Supreme Court of Indonesia for his case. In the first one, the Court rejected the *cassation* lodged by the opponent party, indicating that the complainant dr. Rudy won the case. In the second one, however, the Court agreed to review the case and gave its own judgment by which the complainant lost the case. The complainant was of the opinion that the second judgment (No.1082 K/Pid/1988 of 16 November 1999) was a forgery[8].

IV. The National Ombudsman Commission of Indonesia

Most National Ombudsmen Offices in the world were established by an Act. On the other hand, the Indonesian "Komisi Ombudsman Nasional", or the "National Ombudsman Commission" (hereinafter referred to as "Ombudsman Commission") was established by Presidential Decree Number 44 of the Year 2000, which however mandated the Commission to draft a Bill on the Ombudsman within six months, indicating that the Presidential Decree was a temporary measure.

V. The Objective and the Mandates

The establishment of the Ombudsman Commission was one of the commitments of the President Abdurrahman Wahid Administration (and continued by the present Administration under the leadership of President Megawati Soekarnoputri) to reform the laws and institutions in pursuing a better and clean administration and to enhance the realization of good governance. In other words, the establishment of the Commission is to prevent authorities in public sector from abusing their authority and discretion; to assist them in performing their jobs effectively and efficiently; and to compel them for the accountability and fairness.

For those purposes the Ombudsman Commission was given the mandate: [9]

(1) to accommodate the social participation in conditioning the realization of clean and effective officials, good public service, professional and efficient justice, eradication of mal- administration as well as to ensure impartial and fair trial by an independent judiciary;
(2) to promote the protection of individuals in getting public service, justice and welfare and in defending their rights against illegal actions and irregular practices resulting from abuse of power, corruption, collusion, discrimination, undue delay, deviation and improper discretion.
(3) to enhance the supervision of government institutions and agencies, including the judiciary by sending clarifications, queries, and recommendations to those reported institutions and agencies, followed by uninterrupted monitoring of their compliance with the recommendations.
(4) to prepare the transform of the Ombudsman Commission into a more effective, autonomous, and completely independent Parliamentary Ombudsman of Indonesia by drafting the Bill on the national Ombudsman to be submitted to the Legislature within six months.

In short, the immediate objective of the Indonesian Ombudsman Commission is *inter alia* to pursue the realization of a clean and effective bureaucracy in providing good services to the public, based on the supremacy of (just) law as well as the realization of professional and credible law enforcement agencies, including the accountability of independent judiciary that respects human rights and fundamental freedoms and maintain equal opportunity and justice for all[10].

After two years, the public institutions and agencies have proved to be willing to accept and recognize the existence of the Ombudsman Commission. Further, those institutions and agencies will soon realize that a new legal institution of accountability and integrity i.e. the Ombudsman Commission now controls their works.

The long range objective of the Ombudsman Commission is *inter alia* to pursue the realization of good governance in the context of civil democracy based on the rule of law and supported by a strong judiciary that respect the principle of equality before the law, the presumption of innocence, and the right to a fair public hearing by an independent and impartial tribunal[11].

The influx of complainants to see the Chief Ombudsman for reporting their grievances coming from afar and from all corners of Indonesia reflect the great expectations of the people, that the Ombudsman Commission is completely independent and vested with broad authorities. They believe they have found the real protector for their rights and interests. They also trust that the Ombudsman Commission may provide them the last opportunity to get redress and remedies for

their rights which have been damaged, dishonored, abrogated, or even abolished by the unfair authorities and impartial judges[12].

VI. The Principle of Independence

Pursuant to article 17 of the Presidential Decree all expenditures for carrying out the duties of the Ombudsman Commission will be borne by the budget of the State Secretariat.

Many are of the opinion, that this article may distort the independent status of the Ombudsman Commission. However, the Ombudsman Commission has so far been successful in maintaining its independence from the Executive. It is recorded that the Commission occasionally send a critical recommendation to the President. For example, President Abdurrahman Wahid apparently was not ready to appoint one of the two candidates for the Chief Justice selected by the Parliament. The Ombudsman Commission sent the recommendation to the President reminding him that according to the law the President was obliged to appoint one of the candidates. Eventually the President appointed Prof. Dr. Bagir Manan, S.H. the second candidate as the Chief Justice, as the President refused to appoint Prof. Dr. Muladi, S.H. who was an active Golkar party member and a former Minister of Justice under the New Order Government.

As noted earlier, it is one of the universal principles of ombudsmanship that no one or no other institution may intervene, instruct, and dictate the ombudsman[13]. Dean M Gottehrer points out that the Ombudsman Office is established as an independent and impartial institution. In many Constitutions the principle of independence of the Ombudsmen is guaranteed. This means that "[t]he Ombudsman in the exercise of the office's functions, duties and responsibilities under the Constitution shall not be subject to the direction or control of any other person or authority"[14]. Any individual thus must have easy access to the office. There is even no charge whatsoever, even not for administrative or investigative costs for any grievance lodged to the Ombudsman. In addition, he comments that "[i]ndependence and impartiality of the Ombudsman are critical to the office's success because otherwise people will tend not to use it if it appears to be another bureaucratic government office"[15].

Prof. Gottehrer is an American expert on ombudsmanship and at present is an International Ombudsman Consultant for twenty-five countries. He is also one of the Indonesian Ombudsman Commission's Consultants without formal appointment. In his research report he concludes that Constitutions of 54 countries accommodate the basic provisions on the Ombudsman. Moreover, he has read not less than 100 Ombudsman Acts of many countries. His findings show us that there are 59 universal principles of ombudsmanship. Practically, the Commission has dubbed them as "Gottehrer principles", or "G-principles".

G-principle 1 (G-1), or the principal of independence is the most essential. This principle links with the purpose of its establishment, its sustainability, appointment of Ombudsman, the tenure of office, functions, and procedure of removal.

The purpose of the establishment of Ombudsman Office is to oversee the public administration; to promote the standard of competence and efficiency, to protect the individual from being the victim of injustice, maladministration, and abuse of discretion committed by the public authority as well as to promote and protect human rights. The establishment of the Ombudsman Office should be based on an Act. To repeal and to amend an act needs a larger (2/3) majority vote in Parliament. Hence, the act is not easily changed. The Ombudsman must have high qualification of personal and moral integrity; and must be capable to analyze problems of law, administration, public policy, and human rights (G-2 to G-6) as well as consider the case from the standpoint of fairness, good behavior, as well as other aspects expected from " a wise man". The normal term of office may be between four and six years with or without the possibility of reappointment for the second term (G-8).[16] The Ombudsman must be vested with the power to investigate (G-21) and to give recommendations (G-44). The causes for the removal of the Ombudsman must be specified in the Act *inter alia* because of permanent mental or physical inability to carry out his functions or because of misbehavior, which can consists of actions and omissions (G-12).

As Mr. Marten Oosting, the past President of the International Ombudsman Institute (IOI) and former Dutch Ombudsman points out, the independence of ombudsman encompasses three elements namely institutional, functional, and personal independence[17].

First, *institutional independence* means that the Ombudsman is not part of any public agency. Besides, he holds a high level position in the government system. He may not therefore be controlled by any power of authority (G-1).

Next, *functional independence* means the Ombudsman may not be dictated or pressured by any authority or influence. To prevent any intimidation or instruction restricting his performance, he must be empowered with wide powers and flexible procedure by an Act (G-21 and G-26). In addition, he must be sustained by adequate budget to promote professionalism and quality standard in executing his/her duties and authorities (G-59).

Thirdly, *personal independence* means he must be a person of high integrity. The selection for his position in the office must be based on the best qualification. His/her tenure of office must be limited and explicitly prescribed in the Act (G-2 to G-6). Likewise, salaries and facilities must be guaranteed and equal with those of government officials of very high echelon (G-9 and G-10).

VII. The Principles of Impartiality and Immunity

Other pillars of ombudsmanship are the principles of impartiality and immunity. In conducting the investigations and in giving the recommendations, the Ombudsman must be impartial. Therefore, there are some positions that are incompatible for him. For example, he is not eligible to be a member of a political party, a Member of Parliament, and a judge (G-7). Whenever there is the possibility of conflict of interest, he must refrain from any case if he has any interest on it (G-14). Therefore the Ombudsman may appoint one or two other Deputy Ombudsmen who will handle such matters.

Equally important, G-48 states, “The Ombudsman and persons acting under the Ombudsman’s direction or authority are immune from civil and criminal proceedings for any act performed in good faith under this Act. Ombudsman reports and proceedings are privileged. To this Gottehrer gives his comment as follows: “These immunities protect the Ombudsman, staff and anyone else acting under the Ombudsman’s direction or authority from harassment when dealing with controversial issues or making a finding seen as favorable to an unpopular position and from any consequences in a libel or slander suit.”

Not less important as one of the shields for an Ombudsman, his deputy and staff is G-47 stating that the conclusions, findings, recommendations and reports of the Ombudsman, his deputy and staff may not be reviewed by any court.

VIII. The Future of the National Ombudsman of Indonesia

Measured by those international standards, or universal principles of ombudsmanship, the present Indonesian Ombudsman Commission is still embryonic or prototypic in nature. Even though the Commission has proved to be an independent and impartial institution so far, it still lacks the essential power for exercising full investigation, such as power of subpoena, power of ingress, and other protections or shields for his actions. This weakness was surely seen and felt by the Team drafting the Bill on the Ombudsman. As a result, most of the Gottehrer-principles or International standards and practices of ombudsmanship were incorporated into the Draft of the Bill, namely:

- The reasons of the establishment and the purpose of the National Ombudsman of Indonesia. This is *G-principle 1*. (See Chapter Two of the Draft of the Bill, Art. 2.)
- The qualifications for an Ombudsman, or *G-principle 6.* (See Chapter Seven, Arts. 31 and 34.)
- To be independent and impartial, the Ombudsman may not hold any incompatible positions, such as a member of political party, a Member of Parliament, a judicial officer or a particular public official. This is *G-principle 7.* (See Chapters Five, Seven and Eight, Art. 35 jo. Art 1 point 1; Art. 37 jo. Art. 3 and Art. 13 section (4); and Art 38. jo. Art. 2.)
- Term of office and the eligibility to be re-elected as seen under *G-principle 8.* (See Chapters Seven, Art. 31.)
- The removal of the Ombudsman based on the incapability, such as permanent physic as well as permanent mental illness and misconduct, or *G-principle 12.* (See Chapter Seven, Art. 36 jo. Art. 45.)
- The Ombudsman shall refrain from investigation or examination of cases in which he has an interest in it. The purpose of this *G-principle* 14 is to avoid the conflict of interest. (See Chapter Eight, Art. 38.)
- The authorities of the Ombudsman, or *G-principle 20* must be detailed in the Acts. (See Chapter Three, Arts 5 to 8.)
- *Ex-officio,* or *sua sponte* investigation, or the authority to initiate the investigation without complaints. This is *G-principle 20*. (See Chapters Three and Five, Arts. 6f, 6b, 6g, 8 and 13 section (2).)
- Who may lodge grievances or reports is *G-principle 22.* (See Chapter Four, Art. 4.)

- The jurisdictions of the Ombudsman and the categories of public agencies and institutions should be described, or *G-principle 23.* (See Chapter Three, Art. 8.)
- The categories of grievance and reports. This is *G-principle 24*. (See Chapter Three, Arts. 6 point a, 7 point a, and 11.) Note also the statute of limitation, or *kadaluwarsa* in Indonesian legal term. (See Chapter Four, Art. 39 section (3) point e.)
- *The G-principle 25* dealing with the obligation of the Ombudsman to keep the grievance and report confidential. (See Chapter Five, Art. 14 section (3).)
- The procedure rules starting from the grievances or reports received through the investigation processed up to the cases disposed in the form of discoveries, conclusions, and recommendations. This is *G-principle 26.* (See Chapter Five, Art. 13 to Art. 26.)
- The access to any public or confidential records is *G-principle 34.* (See Chapters Five, Art. 19 (1).)
- The power to enter public premises, or *G-principle 37.* (See Chapter Five, Art. 24.)
- The power "to summon, to subpoena, to compel someone to produce any records and the presence of any person to give testimony under oath" in the process of investigation. This is *G-principle 38*. (See Chapter Five, Art. 20.)
- The authority to give recommendation on the amendment of law to any government institutions or legislature, described under *G-principle 45.* (See Chapter Three, Arts. 9 and 10.)
- *The G-principle 48* dealing with the immunity. Since the Commission currently won the case when it was sued in the District Court of South Jakarta, it is worth being quoted completely here: "The Ombudsman and persons acting under the Ombudsman's direction or authority are immune from civil and criminal proceedings for any act performed in good faith under this act. Ombudsman reports and proceeding are privileged." (See Chapter Eight, Art. 38 section (3).)

IX. Conclusions

Meanwhile, the Draft of the Bill on the National Ombudsman of Indonesia, which has been prepared by a small Team consisting of Prof. Dr. Sunaryati Hartono (Deputy Chief Ombudsman), Mr. RM Surachman, *APU Research Professor eqv* (Deputy Ombudsman), Mr. Benemay (Assistant Ombudsman), and Mr. Winarso (Assistant Ombudsman), after having been being discussed in numerous seminars in Jakarta and several provinces, was submitted to the Department of Justice and Human Rights on the 8th of May 2001 while some copies were submitted to the Indonesian *DPR* (Parliament) and to the President of the Republic.

The Parliamentary Commission, later, invited the Ombudsman Commission for a hearing about the Draft on 13 July 2001. On that day the Ombudsman Commission gave the clarifications on the background, general principles, objective, structure, functions and jurisdictions of the future National Ombudsman based on the

Draft. In that hearing the Chairman of the Parliamentary Legislative Commission informed the Ombudsman Commission that the Parliamentary Legislative Commission is considering to transform the Draft into a Bill and then to submit it to the Plenary Meeting of the Parliament as a bill on the initiative of the DPR (not proposed by the Government/Department of Justice). However, before reaching that stage, the Draft will be reviewed for some more corrections especially also to include some regulations on the establishment of Regional Ombudsman and their relationship with the National Ombudsman.

One should notice, that the existence of the Ombudsman Commission is to create an independent institution, to which nobody may intervene or influence. Nevertheless, the Ombudsman Commission must submit its incidental reports as well as annual reports to the President of the Republic, since it was established by a Presidential Decree and its Ombudsmen (Commissioners) were appointed and inaugurated by the President too. This does not mean, however, that the Ombudsman Commission may be intervened or instructed by the Executive, since its main function is exactly to oversee the Government Bureaucracies, Public Institutions, and Public Administration.

As soon as the Bill is enacted, the National Ombudsman will not be a Commission anymore. Moreover, the Chief Ombudsman will be elected by the Parliament and inaugurated by the Head of State. From that time, Annual Reports will be submitted to the Parliament, not to the President. Hence, the Ombudsman Commission will become a Parliamentary Ombudsman. Still, it will hold an independent and impartial status, with nobody (not even the Parliament) intervening or influencing it. In addition, the National Ombudsman will have wider jurisdictions and authorities.

Realizing the significant meaning of the Role of the Ombudsman Commission in the present situation of Indonesia, all Commissioners (Ombudsmen) will continue to execute their mandate with sincerity and to the best of their efforts. They are even ready to work *pro bono publico* for the interest of those who feel that they have been the victims of *maladministration* and the victim of injustice as well.

In the meantime, several new names will be submitted soon to the President of the Republic, Ms. Megawati Soekarnoputri, to be appointed Commissioners (Ombudsmen). Pursuant to the Presidential Decree Number 44 Year 2000 the

Ombudsman Commission should consist of nine persons. To date, there are only five Commissioners after the resignation of three Commissioners as mentioned earlier.

With its wider authorities and jurisdiction, the Ombudsman Commission may improve executing its functions by preserving its independence and impartiality in motivating the target groups to comply with the recommendations for the interest of pursuing good governance and guarantee a fair and just judiciary in Indonesia.

NOTES

[1]See Team of Tata Nusa editors: *Penunjuk Peraturan Perundang-undangan Republik Indonesia 1945 - 2000*, PT Tata Nusa, Jakarta, 2001, p. 19 and 434.

[2]*Op. cit. p. 434*

[3]*See Poliyama Widyapustaka (publisher): Perubahan-perubahan Undang Undang Dasar Negara Republik Indonesia Tahun 1945,* 2nd edition printing, 2001.

[4] See the Indonesian translation of Ernest Renan's speech by Prof. Mr. Sunario entitled : *Ernest Renan: "Apakah bangsa itu?".* According to the late Prof. Sunario, who obtained his lawyer's degree in Leiden, the Netherlands in 1925 and who was a freedom fighter and one of the founding fathers of Indonesia, apart from serving as the Secretary of the Second Youth Congress in 1928, Ernest Renan's theory about the birth of a nation very much inspired the Indonesian youth studying in Europe at the time, who brought their ideas to the freedom fighters in Indonesia and spread it through their youth journal and political meetings. This was why the Second Youth Congress was held, in order that the young people of all ethnic groups (Java, Sumatera, Celebes, Ambon, etc.) be united into one nation: the Indonesian nation. Hence the 28th of October 1928 is from then regarded as the date of the birth of the Indonesian nation, whereas the 17th of August 1945 was the date of birth of the Indonesian state.

[5] See Baharuddin Lopa in Chapter IV of his book entitled: "*Kejahatan Korupsi dam Penegakan Hukum,* Penerbit Buku Kompas, Jakarta, 2001, p. 111 - 22.

[6] See Prof. R. Subekti: *Perlindungan Hak Asasi Manusia dalam KUHAP"*, PT Pradnya Paramita, 1994, 2nd edition.

[7] See also Todung Mulya Lubis, op.cit.

[8] Komisi Ombudsman Nasional, *Laporan Tahunan 2000/2000 Annual Report,* p. 10 and p.11.

[9] Cf. Surachman, "*Institusi Ombudsman: Perkembangannya"*, paper submitted to an Interactive Discussion on "The prospect of Establishing a Local Ombudsman in East Kalimantan, 22nd September, 2001.

[10] *Op. cit*

[11] See *Laporan Tahunan 2000/2000 Annual Report* (N.p. : Komisi Ombudsman Nasional. 2001), p. 6 and p. 7 and see also Arts 3-4 of Presidential Decree Number 44 of the Year 2000.

[12] Laporan Tahunan 2000/2000 Annual Report, p.6 and p.7

[13] Ibid., p.8 and p.9.

[14] Ibid.

[15] See Daniel Jacoby: *The Future of the Ombudsman"*, paper submitted at the International Ombudsman Conference, Taipeh, Taiwan, 19 - 24 September 1994.

[16] Dean M. Gottehrer, "Ombudsman Legislative Resource Document", Occasional Paper # 65, (Edmonton, Alberta: International Ombudsman Institute, 1998)

[17] Marten Oosting, *Protecting the Integrity and Independence of the Ombudsman Institution: The Global Perspective,"* in Conference Papers, 7th International Ombudsman Institute Conference, Durban, South Africa, 30 October 2000-2 November 2000, p 21-22.

17 Cf. Antonius Sujata and R. Surachman, *"Preparing the Establishment of a Parliamentary Ombudsman: The Indonesian Experience"*, paper submitted to the 6th Asian Ombudsman Association Conference, Tokyo, Japan, 18-21 June 2001.