



## Executive and legislative authority in the administration of local government based on the principles of good governance

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### ABSTRACT

*The implementation of local government in the application of Good Governance principles is a demand from the community to the government. One of the forms of good governance is the image of democratic governance. The purpose of this study is to explain and analyze the authority of the Regional Government and the Regional Representative Council in realizing good governance. This study uses a normative juridical method with a statute approach and a conceptual approach in a qualitative descriptive analysis, the data used in this study is sourced from primary legal materials, secondary legal materials and library research results from various references. The results of the study show that in carrying out their duties and functions, even though the position is parallel between the Regional Government and the DPRD. Supervision continues to run as the DPRD's duty always supervises both the government in running the wheels of government and including supervision in public services and local governments must not act by abusing authority and exceeding authority, or without authority, so as to realize the state goals (local governments) of welfare in order to implement the principles of good governance.*

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### 1. Introduction

To Regional autonomy policies with the principle of decentralization have consequences for the implementation of government, namely politically, decentralization is a step towards democratization (Sari, 2020). In a country based on law, all state institutions are guided by the authority that originates from the law (Hasanah & Parasatya, 2019). Good Governance is essentially the foundation for modern and democratic legal rules (GH Addink, G. Anthony, 2010). Nowadays in Indonesia, the people expect the government to implement good governance, namely the implementation of effective, efficient, transparent, accountable and responsible governance (Maryam, 2016). In the government system, there are important institutions as part and elements of the government, including the executive and legislative.

These institutions are the face of the system and management run by the state (Viera Valencia & Garcia Giraldo, 2019).

In order to realize good, clean and authoritative governance, the government is faced with carrying out very broad and complex tasks in an effort to improve the welfare of the people and in the opening of the 1945 Constitution of the Republic of Indonesia, the objectives of establishing the Republic of Indonesia include advancing general welfare and improving the intelligence of the nation (Prawiranegara, 2021). With the enactment of Law Number 23 of 2014 concerning Regional Government, Regional Governments are given the authority to regulate and manage their own government affairs according to the principles of autonomy and assignment tasks. The granting of broad autonomy to regions is aimed at accelerating the realization of community welfare through improving services, empowerment and community participation. Basically, the implementation of government carries out three essential functions, namely service, empowerment, and development. So in addition to implementing development, the government also provides public services (Prawiranegara, 2021).

The concept of good governance emerged due to dissatisfaction with the performance of the government which had been trusted to organize public affairs (Dewi & Suparno, 2022) (Surur & Cholifah, 2018). One of the strategic options for implementing good governance in Indonesia is through the provision of public services (Dewi & Suparno, 2022). The elements of Good Governance are the state, the private sector, and society. When viewed from the three domains, the state is the most important domain in realizing Good Governance, because the regulatory function that facilitates the domains of the private business sector and society, as well as the administrative function of government administration is also inherent in this domain.

The Provider Good local governance or clean government is a demand from the community to the government for the implementation of clean local government (Lukow, 2013). One form of good local governance is the existence of a democratic government image (Mukhafi et al., 2023). Among them to assess government and state policies, by increasing the role and function of DPRD Supervision which is its authority so that the executive can carry out its duties properly. DPRD must be able to become a control tool for the running of government so that it is always in accordance with the aspirations of the community based on applicable laws and regulations (Khairil Anwar, 2020). Because the basic principle of authority includes administrative decision-making based on authority, and the implementation of authority must have a sense of responsibility and be tested by legal rules and legal principles (Jiwantara et al., 2021).

Public service is a benchmark for the success of carrying out tasks and measuring government performance through bureaucracy (Hidayat, 2019). Public service as the main driver is also considered important by all actors from the elements of good governance. Public officials, elements in civil society and the business world all have an interest in improving the performance of public services. There are three important reasons behind the fact that public service reform can encourage good governance practices in Indonesia. First, improving the performance of public services is considered important by stakeholders, namely the government, citizens, and the business sector. Second. Public service is the realm of the three elements of governance that interact very intensively. Third, the values that have characterized the practice of good governance are translated more easily and tangibly through public services.

The phenomenon of public service by government bureaucracy is full of problems, such as long-winded service procedures, uncertainty of time and price that make services difficult to reach reasonably by the community. This causes distrust of service providers in this case the bureaucracy so that the community seeks alternative ways to get services through certain methods, namely by paying additional costs.

In addition to the above problems, it is also about the way the service is received by the community whose dignity as citizens is often violated. The community is placed as a client

who needs help from bureaucratic officials, so they must submit to the provisions of the bureaucracy and the wishes of its officials. This happens because the culture that has developed in the bureaucracy so far is not a culture of service, but rather a culture of power.

To overcome this condition, efforts need to be made to continuously improve the quality of public service delivery in order to realize excellent public service because public service is the main function of government which is provided as well as possible by public officials as a manifestation. regional autonomy which in principle explains that the obligations, tasks and authority for implementation already exist and are able to grow and develop in accordance with the potential and characteristics of each region (Maramis et al., 2023).

One of the government's efforts is to implement the principles of good governance, which is expected to fulfill excellent service to the community. The realization of quality public service is one of the characteristics of good governance. For that, state apparatus must carry out their duties and responsibilities effectively and efficiently, because it is expected that the implementation of good governance can restore and rebuild public trust in the government.

This research makes an important contribution to the study of the relationship between local governments and DPRD's within the framework of good governance. In particular, it highlights the importance of a deeper understanding of the division of authority, oversight and collaboration between the two institutions. It also expands the literature on the implementation of good governance principles by focusing on local government practices, which have rarely been described in detail in the Indonesian context. The implication is that this research can serve as a reference for policymakers to improve the effectiveness of local governance through optimizing the role and function of the DPRD.

## **2. Method**

The research method used is normative legal research (Dr. Muhaimin, SH, 2020). Legal research by examining library materials or secondary data alone can be called normative legal research or library legal research. Using a statute approach and a conceptual approach (Dr. H. Ishaq, 2017). As for the analysis, it uses qualitative descriptive analysis, with legal materials originating from primary, secondary and tertiary legal materials.

## **3. Analysis and Results**

### **3.1. The authority of the Regional Government and DPRD in the Government System**

In a state of law, every government action must be based on law, because in the state there is a principle of *wetmatigheid van bestuur* or the principle of legality. This principle determines that without a basis of authority granted by applicable laws and regulations, all kinds of government officials will not have the authority to influence or change the state or legal position of its citizens. The principle of legality according to Sjachran Basah means an effort to realize a harmonious integral duet between the understanding of legal sovereignty and the understanding of people's sovereignty, which is essentially constitutive (Sjachran Basah, 1985).

Along with the main pillar of the rule of law, namely the principle of legality (*legaliteitsbeginsel* or *het beginsel van wetmatigheid van bestuur*), then based on this principle it is implied that government authority comes from laws and regulations, meaning that the source of authority for the government is laws and regulations. Theoretically, the authority held by the government comes from three things, attribution, delegation, and mandate (Indroharto, 1992). Attribution is the granting of authority by the law maker himself to a governmental organ, either existing or completely new. An attribution refers to the original authority based on the provisions of constitutional law. An attribution is the authority to make a decision (*besluit*) that is directly based on the law in the material sense. Another opinion says that attribution is The authority forming body is an organ that has authority based on statutory regulations.

According to Law Number 23 of 2014 concerning Regional Government, the definition of Regional Government is the implementation of government affairs by the regional government and the Regional People's Representative Council according to the principles of autonomy and assistance tasks with the principle of the broadest possible autonomy in the system and principles of the Unitary State of the Republic of Indonesia as referred to in the 1945 Constitution of the Republic of Indonesia. Regional Government is the head of the region as an element of the Regional Government organizer who leads the implementation of government affairs that are the authority of the autonomous region.

The enactment of Law Number 23 of 2014 concerning Regional Government, explains the position and function of regional government as referred to in Article 1 paragraph (2) Regional Government and DPRD together implement Regional Autonomy. This is an order of Article 1 of the 1945 Constitution (UUD) of the Republic of Indonesia which states that the Republic of Indonesia is a unitary state in the form of a Republic. Then Article 18 paragraph (2) and paragraph (5) of the 1945 Constitution of the Republic of Indonesia states that the Regional Government has the authority to regulate and manage its own Government Affairs according to the Principles of Autonomy and Assistance Tasks and is given the broadest possible autonomy (Bambang Sugianto, nd).

The granting of the broadest possible autonomy to regions is aimed at accelerating the realization of community welfare through improving services, empowerment, and community participation. In addition, through broad autonomy is a requirement for the Government to realize the aspirations of the people in order to achieve the goals and ideals of the nation and state (Law et al., nd). Regions are expected to be able to increase competitiveness by considering the principles of democracy, equality, justice, privileges and specialties as well as the potential and diversity of the Regions in the Unitary State of the Republic of Indonesia. The granting of the widest possible autonomy to the regions is implemented based on the principle of a unitary state. And in a country based on law, all state institutions are guided by the authority that originates from the law (Hasanah & Parasatya, 2019).

In principle, the regional autonomy policy is carried out by decentralizing the authorities that have been centralized in the hands of the central government. In the decentralization process, the power of the central government is transferred from the central level to the regional government as it should be so that a shift of power is realized from the center to the district and city areas throughout Indonesia (Abdullah, 2016).

In a unitary state, sovereignty lies only with the state government or national government and there is no sovereignty in the Regions. Therefore, no matter how broad the autonomy given to the Regions, the final responsibility for the implementation of Regional Government will remain in the hands of the Central Government. For this reason, Regional Government in a unitary state is a unity with the National Government. In line with that, policies made and implemented by the Regions are an integral part of national policy.

According to Moh. Mahfud MD in his book *Political Law*, Regional Government consists of the DPRD and the Regional Government Council chaired by the Regional Head. So the government in the region is carried out collegially and the regional head is not a separate operator unit because he is included in the Regional Government even though the appointment of the regional head is carried out by the central government (Moh. Mahfud MD, 2014). According to Firzhal Arzhi Ziwantara, *The Unitary State of the Republic of Indonesia adheres to a democratic system, namely a form or system of government in which all people can participate in government through representatives or interpreted as people's government* (Firzhal Arzhi Ziwantara, 2022).

Regions as a legal community unit that has autonomy have the authority to regulate and manage their regions according to the aspirations and interests of their communities as long as they do not conflict with the national legal order and public interest. To regulate and manage the lives of

its citizens, the Central Government in forming policies must pay attention to local wisdom and vice versa, the Regional Government with the DPRD when forming regional policies both in the form of Regional Regulations (Perda) and other policies (Regulations and Governor's Decrees) should also pay attention to national interests. Regional Regulations and Regional Policies will create a balance between national interests that are synergistic with regional interests and still pay attention to conditions, characteristics, and local wisdom in the implementation of government as a whole.

The implementation of regional government is different from the implementation of central government which consists of executive, legislative, and judicial institutions, the implementation of Regional Government is carried out by the DPRD and the regional head. The DPRD and the regional head are positioned as elements of the regional government organizer who are given a mandate from the people to carry out government affairs that are delegated to the region. Thus, the DPRD and the regional head are positioned as equal partners who have different functions. The DPRD has the function of forming Regional Regulations, budgeting and supervision, while the regional head carries out the function of implementing Regional Regulations and Regional policies.

In regulating and managing Government Affairs that are the authority of the Region, the DPRD and the regional head are assisted by the Regional Apparatus. As a consequence of the position of the DPRD as an element of the Regional Government organizer, the composition, position, role, rights, obligations, duties, authorities, and functions of the DPRD are not regulated in several laws but are sufficiently regulated in this Law as a whole to facilitate its integrated regulation.

### **3.2. Realizing Good Governance**

*Good governance* realized in the implementation and enforcement of well-organized systems and structures. The implementation and enforcement are based on five universal principles, namely: responsibility, namely the conformity in the management of the company to the principles of a healthy corporation and applicable laws and regulations; accountability, meaning clarity of function, structure, system and procedure of accountability of the company's organization so that the management of the company is carried out effectively; fairness, namely fair and equal treatment in fulfilling stakeholder rights arising from agreements and applicable laws and regulations; independence, namely professional management, avoiding conflicts of interest and pressure from any party in accordance with applicable laws and regulations; and transparency, namely openness of information in the decision-making process and in disclosing material and relevant information about the company (Ridwan HR, 2022).

The principles of good governance in the practice of state administration are outlined in 7 (seven) general principles of state administration as referred to in Law Number 28 of 1999 concerning the Administration of a State that is Competitive and Free from Corruption, Collusion and Nepotism. The general principles or principles in state administration include (Ridwan HR, 2022): a) The principle of legal certainty is a principle in a state of law that prioritizes the basis of statutory regulations, propriety and justice in every policy of state administration; b) The Principle of Orderly State Administration is a principle that is the basis for order, harmony and balance in controlling state administration; c) The Principle of Public Interest is a principle that prioritizes general welfare in an aspirational, accommodative and selective manner; d) The principle of openness is a principle that opens itself to the public's right to obtain correct, honest and non-discriminatory information about the administration of the state while still paying attention to the protection of personal, group and state secret human rights; e) The principle of proportionality is a principle that prioritizes the balance between the rights and obligations of state administration; f) The principle of professionalism is a principle that prioritizes expertise based on the code of ethics and provisions of applicable laws and regulations; g) *Principle of Accountability* is a principle that determines that every activity and final result of state administration activities must be accountable to the community or people as

the holders of the highest sovereignty of the state in accordance with the provisions of applicable laws and regulations.

The public sector perspective on good governance places the process of achieving common goals in a country that involves the government, business world, and society through the state administration system. In order to achieve these goals, of course each state institution/agency must simultaneously implement and enforce good governance. And Good governance in the public sector in Indonesia is mandated to three parts, namely: Executive; and Legislative (Mandey, 2016).

Optimizing the role of the DPRD to realize good governance by carrying out three main functions, namely: Legislative function which is a process to accommodate the various interests of the parties (stakeholders), to determine how development in the region will be implemented; and The budgeting function is the preparation and determination of the regional revenue and expenditure budget together with the regional government. And this third function is important, both for the regional government and the supervisory implementer. For the regional government, the supervisory function is an early warning system mechanism, to oversee the implementation of activities to achieve goals and targets. While for the supervisory implementer, this supervisory function is a noble task to provide reviews and suggestions, in the form of corrective actions. These three functions must be carried out properly/correctly/appropriately and the implementation is based on the principle of trust (from the people) that every member who is appointed will carry out their functions and roles. Regional governments, in order to implement good governance, must be effective, efficient, transparent, accountable and responsible in carrying out government (Maryam, 2016). Effective means that the implementation is right on target in accordance with the strategic planning that has been set, efficient means that the implementation is carried out economically, effectively and efficiently, transparent means that all policies implemented by the state administrators are open. Accountable means that government administrators are responsible for the policies they set and are accountable for their performance to all citizens at the end of each year of government administration.

Implementing good governance practices can be done gradually according to the government's capacity. One strategic option for implementing good governance in Indonesia is through the provision of public services which are also a benchmark for the success of implementing tasks and measuring government performance through bureaucracy. The reasons behind this are: First, improving the performance of public services is considered important by stakeholders, namely the government, citizens, and the business sector. Second. Public services are the realm of the three elements of governance that interact very intensively. Third, the values that have characterized good governance practices are translated more easily and tangibly through public services.

The realization of quality public services is one of the characteristics of good governance. Therefore, State Civil Apparatus who have the authority as public servants must carry out their duties and responsibilities effectively and efficiently, and must comply with certain ethics such as: professional, fair, not abusing authority, proactive in fulfilling the interests of the community, not deviating from procedures and carried out according to ethics (Hasanah & Parasatya, 2019). It is hoped that the implementation of good governance can restore and rebuild public trust in the government.

#### **4. Conclusion**

From the description and discussion above, it can be concluded that in carrying out its duties and functions, even though the position is equal between the Regional Government and the DPRD. Supervision continues to run as the DPRD's task is to always carry out supervision both of the government in running the wheels of government, including supervision in public services and in implementation of regional government must be in accordance with the principle

of legality where the regional government acts according to the applicable authority and the DPRD as an equal partner with the regional government will carry out supervision. The regional government may not act by abusing authority and exceeding authority, or without authority, so as to realize the goal of the state (regional government) of welfare in order to implement the principle of good governance.

This study strengthens the theoretical foundation of the importance of accountability and transparency principles in local governance. In addition, this study provides empirical insights that can help develop a model of collaboration between local councils and local governments in achieving sustainable development goals. Practically, this study provides guidance for local governments to improve their oversight mechanisms and exercise of law-based authority.

This study uses a normative juridical approach, so the results are more conceptual in nature and less inclusive of empirical perspectives from local government actors and communities. Future research could use an empirical approach involving interviews or surveys of DPRD members, local government officials and communities to gain richer insights.

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