



THE 3rd INTERNATIONAL CONFERENCE AND CALL FOR PAPER

"Legal Development in Various Countries"



IMAM AS SYAFEI BUILDING
 Faculty of Law, Sultan Agung Islamic University
 Jalan Raya Kaligawe, KM. 4 Semarang, Indonesia

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INFORMATION OF THE CONFERENCE AND CALL PAPER

WORLD CLASS ISLAMIC UNIVERSITY
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Welcome to Participants on International Conference

"LEGAL DEVELOPMENT IN VARIOUS COUNTRIES"

This conference tries to reviews different theories of legal development in order to highlight their similarities and differences. And focusing on the development of law in both developed and developing countries and its role in shaping a good future.

KEYNOTE SPEAKER:
Prof. Henning Glaser
Thammasat University, Thailand

IMAM AS SYAFEI BUILDING
Faculty of Law, Sultan Agung Islamic University
Jalan Raya Kaligawe, KM. 4 Semarang, Indonesia

Organized by : Faculty of Law Sultan Agung Islamic University (UNISSULA) Semarang-Indonesia

SPEAKERS :

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Nagoya University, Japan
2. Prof. Dr. Ruzian Markom
Universitas Kebangsaan Malaysia, Malaysia
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Indonesia, September 05th 2017

WORLD CLASS ISLAMIC UNIVERSITY
UNISSULA
SULTAN AGUNG ISLAMIC UNIVERSITY

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FACULTY OF LAW
Sultan Agung Islamic University

5
September
2017

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This Conference And Call Paper was held by the Faculty of Law, Sultan Agung Islamic University (UNISSULA) Semarang, on:

Day: Tuesday

Date : September 5th 2017

Time : 08:00 - 15:00 pm

Place : Imam AsSyafei Building 3rd Floor

Faculty of Law, Sultan Agung Islamic University, Semarang, Indonesia

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AND CALL FOR PAPER
“LEGAL DEVELOPMENT IN VARIOUS COUNTRIES”**

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PREFACE

Assalamu'alaikum, Wr. Wb

First of all, let's say Thanks to Allah, who has been giving us guidance, happiness, healthy, and mercy, so we can finish this conference proceeding without any obstacles. Praise and salutation upon our prophet Muhammad saw the last messenger, the best figure of this universe; the person who was able to save us from Jahiliyah era.

We would like to extend our thanks to the invited speakers: **Prof. Henning Glaser from Thammasat University, Prof. Shimada Yuzuru from Nagoya University, Hilaire Tegan, Ph.D from Sorbone University, Prof. Dr. I Gusti Ayu Ketut Rachmi Handayani, MM from SebelasMaret University, Dr. Zaharudin from Universiti Utara Malaysia, and Dr. Anis Mashdurohatun, S.H., M.Hum from Sultan Agung Islamic University.**

This is our third International conference and call for paper held by Faculty of Law, Sultan Agung Islamic University. This annual conference tries to gain any information and studies done by academician and practitioner to be discussed as guidelines to exchange and discuss views on the most important recent on Legal Development happens in both developed and developing countries and its role in shaping a good future, and to discuss the challenges and practical aspects in integrating competition law enforcement and guidelines to develop legal state in accordance with the diversity of all countries around the world. We hope this conference brings benefit for both participants and our faculty.

We are pleased to have your critique, suggestion and correction in order to make us better. Finally, we do thanks to all who helped this conference. May Allah guide us to always develop useful knowledge for human being.

See you in our fourth International and call for paper next year.

Wassalamualaikum, Wr. Wb

Semarang, September 5th 2017

Chairman of the Committee,



Dr. Anis Mashdurohatun, S.H., M.Hum
NIDN : 06-02105-7002

GREETING FROM THE DEAN OF FACULTY OF LAW

As-salamu'alaikum Wr. Wb.

Thank to Allah SWT is an absolute act that we must say after conducting the International Conference and Call for Paper by theme: “**Legal Development in Various Countries**” which is held by Faculty of Law, Sultan Agung Islamic University (UNISSULA) Semarang, on September 5th 2017.

This conference tries to reviews different theories of legal development in order to highlight their similarities and differences. In the end, as in contract theories, no monist view of legal development possesses the explanatory power needed to understand how law has come to be and where it may take us in the future. What we do have is a foundation built on at least two millennia of legal history. The intellectual starting point for this project is Nathan Isaacs' unfinished work on a cycle theory of legal development. His view of legal development takes issue with Henry Sumner Maine's thesis that development in advanced legal systems is progressive in nature. And, more importantly for the current undertaking, that this progression is linear in nature. Instead, Isaacs' review of thousands of years of Jewish legal development indicated that legal development perpetually progressed in cycles.


Therefore, to discuss more about legal development or law reform, Faculty of Law, Sultan Agung Islamic University is confidence to conduct a conference by the theme “**Legal Development in Various Countries**” focusing on the development of law in both developed and developing countries and its role in shaping a good future.

Finally, we thank to the presenters, article senders, and comittee who have contributed in this event, so that this international seminar ran well.

Wassalamu'alaikum Wr. Wb.

Semarang, September 5th 2017

Dean,



Prof. Dr. Gunarto, SH, SE, Akt, M.Hum
NIDN.062004670

TABLE OF CONTENTS

Front Page	i
Information of the International Seminar	ii
Committee Composition	iii
Preface	iv
Greeting From The Dean Faculty of Law	vi
THE IMPACT OF ARTICLE 3(1) OF MALAYSIAN CONSTITUTION TOWARDS JUDGMENT MADE IN CIVIL COURT	
Ahmad Zaharuddin Sani Sabri	1
INTANGIBLES INTELLECTUAL PROPERTY DEVELOPMENT CONCEPTS AS BANKING PRINCIPLES IN INDONESIA	
Anis Mashdurohatun	11
THE HISTORICAL DEVELOPMENT OF THE FRENCH LEGAL SYSTEM	
Hilaire Tegnau	23
JAPANESE CONSTITUTION AND STATE SYSTEM	
Shimada Yuzuru	29
POWER AND PROCESSES UNDER THE THAI CONSTITUTION 2017”	
Henning Glaser	38
JURIDICAL NORMATIVE REVIEW OF DIFFERENT RELIGIOUS MARRIAGE	
Doni Adi Supriyo	38
THE IMPLEMENTATION OF ROLES AND FUNCTIONS OF REGIONAL HOUSE OF REPRESENTATIVES (DPRD) BASED ON LAW STATE FRAMEWORK TO ACHIEVE GOOD GOVERNANCE	
Agus Sukadi	65
OPTIMALIZATION OF THE ROLE OF THE DPRD (Regional House of Representative) IN THE PREPARATION OF REGIONAL REGULATIONS	
Budi Alimudin	81
THE PROGRESSIVE LEGAL THEORY IN THE IMPLEMENTATION OF LAW ENFORCEMENT BY THE LAW ENFORCER (POLICE, PROSECUTOR, JUDGE)	
Teguh Santoso	99

CRIMINAL POLICIES IN LEGAL ACCOUNTABILITY AGAINST FACILITATION OF HEALTH SERVICES AND HEALTH PERSONNEL IN DISTRIBUTION AND SALES OF HARD DRUGS FOR SALE WITHOUT PRESCRIPTION DOCTORS Teguh Santoso	99
CRIMINAL POLICIES IN LEGAL ACCOUNTABILITY AGAINST FACILITATION OF HEALTH SERVICES AND HEALTH PERSONNEL IN DISTRIBUTION AND SALES OF HARD DRUGS FOR SALE WITHOUT PRESCRIPTION DOCTORS Yadi Supriyadi.....	111
RECONSTRUCTION OF PATIENT LEGAL PROTECTION HOSPITAL IN USE OF X-RAY IN THE HEALTH BASED FIELD OF JUSTICE Andhika Yuli Rimbawan.....	127
CORRUPTION ASSET RECOVERY THROUGH STATE CIVIL LAWSUIT Sujono.....	139
THE EFFECTIVENESS OF GUIDANCE OF CHILD PRISONERS IN ADULT PRISON Wilsa	147
URGENCY OF VOTERS PARTICIPATION ON THE REGIONAL HEAD ELECTION IN THE STATE OF DEMOCRACY (Study: Voters Participation On Governor and Vice Governor Election in Indonesia in2015) Dewi Haryanti	152
COMPARATIVE RULES ON DETENTION IN SOME COUNTRIES Dewi Haryanti	158
THE DEVELOPMENT OF LAW OF BUYING AND SELLING LAND IN INDONESIA Lilik Warsito	169
INDONESIAN LEGAL DEVELOPMENT PROGRESSIVE LAW APPROACH TO BUILD THE LAW IN INDONESIAN SENSE Wendra Yunaldi	179
REMOTE SENSING TO THE INDONESIAN SURFACE OF THE FOREIGN SATELLITE AND THE SOVEREIGNTY OF INDONESIA Ruman Sudradjat.....	186
THE CONSTRUCTION OF THE RAHN SYARIAH LAW IN THE LEGAL SYSTEM OF WARRANTIES OF INDONESIA Suryati	194
THE DEVELOPMENT OF ISLAMIC LAW IN THE LEGAL SYSTEM IN INDONESIA Sumarwoto	194

CONTRACT ABOLITION DUE TO UNDUE INFLUENCE (LAW RECONSTRUCTION OF OBLIGATION THE CIVIL CODE IN INDONESIA) Bahmid	210
FIDUCIARY GUARANTEE PROBLEMATIC WITH OBJECTS INVENTORY IN CREDIT AGREEMENT LathifahHanim and MS.Noorman	214
LEGAL POLICY OF INVESTIGATOR IN CASE SETTLEMENT CRIMINAL VIOLENCE IN THE HOUSEHOLD Anwar Sanusi Simanjuntak.....	222
INDUSTRIAL RELATIONS COURT'S VERDICT IN THE CASE OF CERTAIN TIME WORKING AGREEMENT (PKWT) BECOME UNCERTAIN TIME WORKING AGREEMENT (PKWTT) (Analysis of Industrial Relations Court's Verdict Number : 37/G/2011/PHI.Mdn) MangarajaManurung	222
DOMESTIC COMPANY LAW "PMDN" AFTER SHARE PURCHASED (ACQUIRED) BY FOREIGN CITIZENS OR FOREIGN LEGAL AGENCIES M. IrfanIslamiRambe	245
GUARANTEE OF RICE FARMS HAVE NOT YET BEEN HARVESTED IN SIMALUNGUN REGENCY RiduanManik.....	245
LEGAL PROTECTION OF CONSUMERS IN CONSUMER FINANCING AGREEMENTS Imelda Mardayanti	267
THE AUTHORITY OF PERFORMING A DEATH PENALTY ACCORDING TO THE DOCTRINE OF LOVE OF JESUS CHRIST IN THE BIBLE Dame Pandiangan.....	278
CRIMINAL ACCIDENT OF NARCOTICS, APPLICATION OF LAW NUMBER 35 YEAR 2009 AND JUDICIAL DECISIONS IN THE COURT COUNTRY KISARAN Muhammad SalimFauziLubis	283
ISLAMIC LAW STUDY ABOUT DAM TAMATU' HAJJ FOR INDONESIAN JAMAAH HAJJ FOR PEOPLE'S CONSULTATION Muthoam	290
IS RICH AND POOR UNIFORM IN PATENT LAW AbdThalib.....	299

PREVENT VIOLENT ONLINE VIDEO GAMES THROUGH LEGAL CONSTRUCTION Yenny AS, Charlyna S. Purba, Hendrik	309
COMMUNITY PARTICIPATION IN THE FORMATION OF LOCAL REGULATION BASED ON JUSTICE (Analysis of Political Interaction and Law) NursidWarsonoSetiawan	314
THE ROLE OF POLITICAL PARTIES IN RECRUITMENT OF CANDIDATES FOR REGIONAL HEAD AND DEPUTY REGIONAL HEADS BASED ON LAW NO. 32 YEAR 2004 (CASE STUDY IN PURBALINGGA AND CILACAP) Anton Budiarto	324
THE BASICS AND THE FUNCTIONS OF FINGERPRINTS OF MURDER PERPETRATORS AchmadSulchan, Annisa	343
RECONSTRUCTION OF DIFFERENT TYPES OF MENS REA TO PROVE CORRUPTIONBASED ON JUSTICE VALUES ArifAwaludin	349
PRINCIPLES OF FAIR LAND REGISTRATION (STUDY OF PUBLIC SERVICE OF LAND REGISTRATION IN INDONESIA) Shalman	355
INDEPENDENCY AND IMPARTIALITY OF AD HOC JUDGE INDUSTRIAL RELATIONS COURT (PHI) IN RESOLVING DISPUTES ResyDesifaNasution	378
CONSTRUCTION WORK CONTRACT IN GOVERNMENT BASED VALUE OF BENEFIT MokhamadHilman.....	387
SHARIA ECONOMICS DISPUTE RESOLUTION IN RELIGIOUS COURT INSTITUTIONS Amanah	400
WOMEN PROTECTION POLICY FROM PHYSICAL VIOLENCE BASED ON JUSTICE VALUES HadjarHandokojati	417
LEGAL ANALYSIS ON THE IMPLEMENTATION OF DIRECT APPOINTMENT OF PROCUREMENT SERVICESOF GOVERNMENT’S PROJECT HumalaSitinjak.....	424
RECONSTRUCTION ON CORRUPTION ACT AND SHIFTING BURDEN OF PROOF ON THE SETTLEMENT OF CORRUPTION IN INDONESIA IbnuHadjar.....	434

COMPARATIVE RELIGIOUS APPROACH IN THE DEVELOPMENT OF NATIONAL CRIMINAL LAW SYSTEM Sri EndahWahyuningsih.....	443
LEGAL STUDY OF DECISIONSSUPREME COURTS NUMBER: 85 K / Pid.Sus / 2012Contract Abolition Due to Undue Influence (Law Reconstruction of Obligation the Civil Code in Indonesia) Ismail.....	449
THE EXISTENCE AND RECONSTRUCTION OF SALE AND PURCHASE FIQH MADHAB SYAFI'I IN GLOBALIZATION ERA (Sale and Purchase Practice Study in PondokPesantrenTahfidzul Qur'an Al-Asy'ariyahWonosobo Central Java and PondokPesantren Al-Munawir Krapyak Jogjakarta) Machfudz.....	457
RECONSTRUCTION OF LEGAL SANCTIONS ON BUILDING FAILURE IN LAW NO.2 YEAR 2017 ON CONSTRUCTION SERVICES BASED ON THE VALUE OF BENEFIT SubhanSyarief	466
THE CONSTRUCTION OF RESIDENTIAL SERVICES AND CIVIL REGISTRATION BY THE GOVERNMENT OF PEMATANGSIANTAR CITY IN PERSPECTIVE OF PUBLIC SERVICES LAW NO: 25 2009 PandapotanDamanik.....	485
CRIMINAL RESPONSIBILITY AND CIVIL RESPONSIBILITY ACCORDING TO COMMON LAW FOR A MAN WHO HAS SEXUAL INTERCOURSE BEFORE LEGAL MARRIAGE MangembangPandiangan	485
INTERNATIONAL SEMINAR PHOTOS	512

**THE IMPLEMENTATION OF ROLES AND FUNCTIONS OF REGIONAL
HOUSE OF REPRESENTATIVES (DPRD)BASED ON LAW STATE
FRAMEWORK TO ACHIEVE GOOD GOVERNANCE**

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ABSTRACT

In general, there are at least three assumptions that always arise about the implementation of the function of the DPRD, namely the DPRD is considered less able to perform its function as a balanced and effective partner of the regional head. This assumption is generally adopted by political observers who tend to assess the role of regional head is still quite dominant in the implementation of local government. Secondly, the DPRD is considered too far interfere in the field of duties of the regional head, thus tending to deviate from its main function as a regional government agency that organizes legislation functions. This assumption is embraced by regional executive officers. Finally, DPRD's are considered not to have equal opportunities with regional heads to formulate local government policies. This assumption is generally circulated among members of parliament. The above assumption actually provides a connoting understanding that the legislator has not fully understood the supervisory function that leads to a region-building policy of politics in line with the idea or executive program. Starting from this concept, sometimes the supervisory function is used as a weapon to perform refresive action to destroy the policy of regional head.

Background

The enactment of Law Number 23 of 2014 on Regional Government has implications for the change of fundamental institutional structure of tasks and functions. These changes include: (1) the authority of the central, the provincial/regional, and the district/city government; (2) the executive relationships with the legislature in the

provinces, and districts / municipalities; (3) institutional arrangements in local government, both provincial and district / city; (4) the financial balance between the central government and the provincial and district / municipal governments; and (5) the transfer of personnel of the government apparatus from the central government to the provincial government, as well as from the central and provincial governments to the district / city government.

Basically, the position of local Government (executive) and parliament (legislative) is the same. The things which distinguish it are the function, duties, authority, rights and obligations. Therefore, the relationship that must be established between the regional government and parliament should be the partnership in order to realize good local governance.

Essentially, the main function of legislative (DPR/DPRD) is the function of supervision, legislation and budget. In its implementation, the presence of functions in the field of supervision and legislation makes the legislative position very strong juridically. Instruments that can be used by parliament to manifest the function of supervision on government performance are (a) budgetary rights, (b) interpellation rights, (c) inquiry rights, (d) resolution rights, (e) Confirmation rights or voting rights on selecting certain officials. In addition to institutional rights, each individual legislative member is also guaranteed the right to ask questions and propose opinions and other rights such as the right of Immunity and protocol (Presidential Regulation No. 27 of 2005). All those rights are important instruments that can be used by DPRD (regional house representatives) in carrying out the supervision function on the government.

To avoid political corporation between the head of Regional and the head of house Representatives or otherwise, the principle of "Check and Balances" needs to be carried out to create a balance on the supervision and the authority they have. Therefore, DPRD members can be said to have accountability, when they have a professional "sense of responsibility" and "ability" in carrying out their roles and functions.

Check-and-balance mechanisms provide an opportunity for both institutions, the executive and legislature, for each control, monitor and compensate. Indeed, it must be acknowledged that there is a complaint in the community that the DPRD has a very

strong political position and often lacks political accountability because it is closely related to the electoral system being run.¹

According to Mardiasmo, there are three main aspects to the success of local autonomy, namely monitoring, controlling and inspection.² These three things are essentially different in both conception and application. Supervision refers to the level or activities undertaken outside the executive, namely the community and DPRD, to oversee the performance of government. Control is a mechanism that is done by the executive (the local authorities) to ensure that management policies and systems are well-executed so that organizational goals can be achieved. Auditing is an activity by a party having independence and professional competence to check whether the results of local government performance are in accordance with existing standards or criteria or not.

Based on the ICW record up to one semester of 2010, there were at least 1,800 corruption cases revealed and already in court. From this data, during 2004-2009 there were at least 1,243 DPRD members involved in corruption. The facts and data of corruption by ICW is almost the same as the data of Anti-Corruption Study Center of GadjahMada University (PukatUGM). Pukat UGM reported to KPK (the commission eradication corruption) that there were 1,891 corruption cases in Pemekaran(new) Region. The most corruption occurred in Banten Province were 593 cases, Riau Islands were 463 cases, North Maluku were 184 cases, Bangka Belitung Islands were 173 cases, West Sulawesi were 168 cases, Gorontalo were 155 cases, and West Papua were 147 cases and the rest was in other areas. According to Pukat, the skyrocketing of corruption cases in the regional level is triggered by high state budget allocated to the region. This causes the failure of the development process in newly created regions. 80% of new areas resulting from pemekaran failed to improve the welfare of the community.³

In the period of 2004-2010, ICW noted there were 1,243 DPRD members involved in corruption cases. However, when sentenced, almost half of them were

¹H.M. Thalbah, *Menggugat Fungsi DPRD dalam mewujudkan Good Governance dan Clean Government*, Total Media Yogyakarta, 2007. pp. 8-9

²Syaukani, Afan Gaffar, Ryaas Rasyid, *Otonomi Daerah dalam Negara kesatuan*, Pustakapelajar, 2005. p. 257

³Mardiasmo, *Otonomi dan Manajemen Keuangan Daerah*, Yogyakarta, 2002 p. 219

released by the court. The Attorney General's Office has been working hard to bring many corruption cases, involving local legislators, but most of them were released easily in court.⁴

Complaints also often arise about the less effective legislative function of DPRD. This is due to ignorance of the legislators to describe the legislation in force, there are many board members who must be upgraded their ability of legal drafting. In addition, the parliament has low initiative to create a regional regulation in favor of the interests of the people and lack of regulations which are transparent and gives people the opportunity to be involved in the decision-making process. Initiatives to make Regional Regulations come more from the local government rather than the DPRD.

In general, there are at least three assumptions that always arise about the implementation of the function of the DPRD. First, the DPRD is considered less able to perform its function as a balanced and effective partner of the regional head. This assumption is generally adopted by political observers who tend to assess the role of regional head which is still quite dominant in the implementation of local government. Second, the DPRD is considered too far interfere in the field of duties of the regional head. As a result, they tend to deviate from its main function as a local government agency that organizes the legislation function. This assumption is embraced by regional executive officers. Third, the DPRD is considered not to have equal opportunities with regional heads to formulate local government policies. This assumption is generally circulated among members of parliament.

The above assumption actually provides the connotation of the notion that legislators have not fully understood the supervisory function that leads to unified regional political policies with executive ideas or programs. Starting from this concept, sometimes the supervisory function is used as a weapon to perform repressive action to destroy the policy of regional head.

The existence of this considerable function of the DPRD makes it possible to be misused by the DPRD members for their political interest while the interests of development are sometimes neglected. This reality is a political practice that often occurs in the institution of the DPRD as a respectable institution because it carries the main task directly from the people as the object of development. This condition can be

⁴<http://old.nabble.com/-sastra-pembebasan--Jumlah-Kasus-Korupsi-Meningkat-50-Persen-td29473991.htm> 1 (LiraNews, Jakarta, 30 Oktober 2010). Retrieved on April, 15, 2011

observed at the time of drafting RAPBD (Regional Budget Planning) and submission of accountability reports of regional heads to DPRD. At this time, it becomes a very critical moment because it can lead to the practices of political conspiracy so that it needs to get serious attention from all community members as a supervisor who although not institutionalized but given the opportunity by the constitution.⁵

To fulfill the function of representation in carrying out the legislative power of the region as in the center of the State, in the region is also formed the People's Legislative Assembly, and this institution is commonly known or called as the Regional House of Representatives. The Regional house of Representative is a representative institution of the regional people as an element of local governance. In general, this role is manifested in the three functions as follow: ⁶

1. Regulator. Arranging all regional interests, including local affairs (autonomy) as well as central government affairs submitted to the regions (assistance tasks);
2. Policy Making. Formulating development policies and planning of development programs in their regions;
3. Budgeting. Regional budget planning (APBD)

In its role as a representative, the DPRD places itself as a balanced power that balances and carries out effective control over the Regional Head and all levels of local government. This role is manifested in the following functions:⁷

1. Representation. Articulating concerns, demands, expectations and protecting the interests of the people when the policy is made, so the DPRD always speaks "on behalf of the people";
2. Advocacy. Comprehensive aspirations aggregation obtained through complex and often tough negotiations, as well as very strong political bargaining. This is reasonable, given the aspirations of the community contains many interests or demands that sometimes collide with each other. Bargaining politics is meant to reach the common goal of these interests.
3. Administrative oversight. Assessing or testing and if necessary, attempting to change the actions of the executive.

⁵ibid

⁶<http://cetak.bangapos.com/opini/read/187/Fungsi+Pengawasan+DPRD.html> Retrieved on April, 15, 2011

⁷Asep Katiwa, Implementasi Peranan Fungsi DPRD dalam rangka mewujudkan Good Governance, workshop material for improving role of DPRD members, held by KPK, Jakarta, 7-8 June 2006, p. 5

Essentially, the concept of governance illustrates the change in the meaning of governance which refers to: a) a new process of governing; b) a changed condition of ordered rule; and c) the new method by which society is governed.⁸

A. Theory of the Law state

The existence of the conception of the Law state has existed since the development of the idea of the law state itself. It was Plato and Aristotle, the initiator of the idea of law state.⁹ Plato is known for his productivity and radical thinking.¹⁰ From a number of scientific works, at least three pieces of his work are highly relevant to the affairs of state, the first, *Politeia* (the Republic), second, *politicos* (the statements) and third, *Nomoi* (the Law).¹¹

Plato's dream in this *nomoi* was followed by his disciple named Aristotle who was born in Macedonia in 384 BC. His scientific work relevant to the country's problem is *Politica*. According to Aristotle, a good state is a state governed by the constitution and has legal rights. He declared as George Sabine disentangled.¹²

"Constitutional rules in the state are closely related also to the question of whether it is better regulated by human or best law, as long as a rule according to law, therefore the supremacy of law should be accepted as a sign of a good State and not merely the necessity of a sufferer".

For Aristotle, those ruling in a state is not a human being but a just mind, and it is decency that determines how good or bad the law is. Humans need to be educated into good citizens, who are well-behaved, who will eventually manifest a just human being. If such conditions are realized, then the creation of a "law state" will be manifested, because the purpose of the state is the perfection of its citizens based on justice. So, it is justice that governs the life of the state. To create a just man, it can be incarnated in the life of the state and humans should be educated into good citizens and well-behaved.

This thinking continues to develop along with the dialectics of philosophers' thinking. Along with this, there were so many opinions that raised around the thinking of

⁸Ibid, p.6

⁹Rhodes, RAW, 1996, *The New Governance : Governing without Government*, Political Studies, XLIV, 652-667.

¹⁰J.J. Von Schmid, *Pemikiran tentang Negaradan hukum, pembangunan*, Jakarta, 1954.

¹¹H.M.Thalhah, *Menggugat Fungsi DPRD dalam mewujudkan good governance dan clean governance*, Jogjakarta, total media jogjakarta, 2007, p. 47

¹²George Sabine, *A History of Political Theory*, London: George G. Harrap & Co. 1959, p. 20.

the rule of law. Immanuel Kant and Friedrich Julius Stahl have expressed their thoughts. Kant understood a law state as *Nachwachterstaat* (night-watchman state) whose task is to ensure public order and security in which all welfare affairs is based on free competition (free fight), *laissez faire*, *laissez aller*, the strongest will win. The notion of liberalism was inspired by the liberal economic flow of Adam Smith which strongly rejected state intervention in the life of the economic state.

The Immanuel Kant thought, in turn, inspired FJ Stahl to further consolidate the principles of liberalism along with the birth of the social contract of Jean Jacques Rousseau, who gave a state function into two parts, i.e., the making and the executing of law.

The conception of Immanuel Kant's law state developed into a formal state of law. This can be derived from FJ Stahl's opinion on the state of law which is characterized by four main elements: (1) recognition and protection of human rights. (2) the state is based on the theory of *trias politica*. (3) government is organized under the law (*wetmatig bestuur*). and (4) there is a justice in charge of the state administration in handling cases of unlawful acts by the government (*onrechtmatige overheidsdaad*).

The conception of a law state in a theoretical study can be distinguished in two senses. First, the state of the law in the formal (narrow / classical) sense, it is a state whose only work is to prevent violations of tranquility and the public interest, as determined by written law (law), that is to protect only the soul or the rights of its citizens passively, non-interference in the economy or the implementation of social welfare because in the field of economics the principle is *laissez faire* *laissez aller*. Secondly, the state of law in material sense (broad modern), it is a country which is well known by the term welfare state (*walvaarstaat*), (*wehlfarstaat*), which is in charge of maintaining security in the sense of the broadest, namely social security (social security) and organize public welfare, based on the principles of the law that are true and just so that the basic rights of its citizens are fully guaranteed and protected.

In the countries of European continental, the concept of the law state was further developed by Immanuel Kant, Friederich Julius Stahl, Fichte, Laband, Buys and others, which then known by the term *rechtsstaat*. Whereas in the countries of Anglo Saxon, the similar concept was well-known as "rule of law".

In UK, the idea of a law state is already visible in the thinking of John Locke who share power in the state into three powers, i.e., legislative, executive and federative, and closely linked with the concept of the rule of law developed in England at that time.¹³ In UK, it was associated with the duties of a judge in order to enforce the rule of law.

Paul Scholten, one of the greatest jurists in the twentieth century in Netherlands, wrote about the law state (over den rechtsstaat). Scholten mentioned two features of the rule of law, which are then described broadly and critically as follows:

1. The state servant that has the right to state (er is rechttegenoverden staat), individuals that have the right to the community. This principle actually includes two aspects: a) the human being has its own atmosphere, which in its principle, it lies outside the authority of the state; b) restrictions on human moods can only be made under the provisions of laws with general rules.
2. There is a separation of powers in legal law (er is Scheiding van machten).

In the opinion of the jurists, this concept of law should serve as an identifiable concept, where the emphasis is on procedures and regulation of the formation and enforcement of the law. In the concept of the rule of law itself, it is known discretionary authority which is essentially inconsistent with the idea of the rule of law. Therefore, discretion authority should be tested and guided by general legal principles.

The basic difference between rechtssiaaland the rule of law is found in the element of the administration of justice. In the elements of the rule of law, it has been found the elements of the administration of justice, because in Anglo-Saxon countries, the emphasis on the principle of equality before the law (equality here the law) is more highlighted, so it is deemed not necessary to provide a special court for state administration officials. The principle of equality before the law requires that the principle of equality between the people and officials of the state administration must also be reflected in the judicial field. The administration or government official or the people shall be equally subject to the law and at the same time before the law.

The concept of "rechtsstaat" and "the rule of law" nowadays has not been a problem anymore because basically the two concepts are directed to one main goal that

¹³H.M.Thalhah, Menggugat Fungsi DPRD dalam mewujudkan good governance dan clean governance, Jogjakarta, total media jogjakarta, 2007, p. 57

is the recognition and protection of human rights. Although they have the same goals, they continue to run with their own legal system.

The concept of "rechtsstaat" was born out of a struggle against absolutism, so that it is revolutionary. While the concept of "the rule of law" is evolutionarily evolved. This is apparent from the contents or criteria of rechtsstaat and the rule of law. Rechtsstaat concept was based on the continental legal system called "civil law" or "Modern Roman Law", while the concept of the rule of law rests on the legal system called "common law". The characteristics of "civil law" is "administrative" while the characteristics of "common law" is "judicial".

The huge role of state administration creates new branch of law called "droit administrative" in the new continental system, i.e. the relationship between the state administration and the people.

The Role of Parliament in realizing good governance

A condition for the implementation of good governance is the clean government. To realize the clean government, it needs a commitment from all components of the nation in efforts to eradicate corruption, collusion and nepotism. However, efforts to eradicate corruption is not enough to be done merely with commitment, there is also a real good effort in prevention and eradication. Commitment must be realized in the form of a comprehensive strategy covering preventive aspects (preventing corruption by eliminating / minimizing factors of cause or opportunity of corruption), detective (identifying the occurrence of corruption), and repressive (dealing or processing corruption in accordance with applicable laws and regulations) implemented intensively and continuously.

In order to achieve good governance, it is expected that regional house of representatives perform their role and functions in accordance with the principles of Good Governance According to UNDP (United Nation Development Program) in Sadu Wasistiono (2002: 33-35) as follows:

1. Participation

The principle of participation encourages every citizen to use the right to express opinions in the decision-making process related the public interest, either directly or indirectly.

Participation intends to ensure that every policy taken reflects the aspirations of the community. In order to anticipate various issues, the local government provides a channel of communication so that people can express their opinions. These communication channels include general meetings, speeches, consultations and written submissions. Another form to stimulate community involvement is through participatory planning to prepare a development, monitoring, evaluation and monitoring agenda and consultation mechanisms to address sectoral issues.

The basic instrument of participation is a regulation that guarantees the right to express opinions in the decision-making process, while supporting instruments are participatory governance guidelines that accommodate the right of opinion submission in all processes of policy and regulation formulation, development strategies, space management, budgeting, procurement and monitoring.

The active role of civil society and the private sector is necessary to realize healthy competition between government, private sector in governance, so that development programs become more responsive to the needs and interests of the community. The targets to be achieved with the involvement of civil society and the private sector are the relationship of partnerships between private governments in policy formulation activities.

2. Law Enforcement

Law enforcement is the implementation of all provisions of the law consistently regardless of the subject of the law (Satrio, 1996: 92). The principle of law enforcement creates a just law enforcement for all parties without exception, uphold human rights and pay attention to the values that live in society.

Based on its authority, local governments must support the establishment of the rule of law by conducting various counseling laws and reviving the values and norms prevailing in the community. In addition, local governments need to pursue wise and effective local regulations, which is supported by justice and appropriate law enforcement. Local governments, DRPD and the community need to eliminate customs that can lead to corruption, collusion and nepotism.

Basic instrument of law enforcement is the legislation that exists with the political commitment to the integration of law enforcement and judicial system (police,

courts and prosecutor's office), while other supporting instruments are counseling and the ombudsman facilities.

3. Transparency

Transparency is openness to all actions and policies taken by the government (Notodisoerjo, 2002: 129). The principle of transparency creates a mutual trust between the government and the community through the provision of information and ensures ease in obtaining accurate and adequate information.

Information is an important need of the community to participate in the regional management. In this regard, the local government needs to be proactive in providing complete information on the policies and services provided to the community. Local governments need to utilize various channels of communication such as through brochures, leaflets, announcements through newspapers, radio and local television. Local governments need to prepare clear policies on how to obtain information. This policy will clarify the form of information that can be accessed by the public or the form of confidential information, how to obtain information, the length of time to obtain information and complaints procedures if the information does not reach the public.

Basic instrument of transparency is the regulation that guarantee the right to obtain information, while supporting instruments are database facilities and means of information and communication and dissemination of guidance products and information in government organizers, as well as complaints procedures.

The DPRD has been running transparency principles where the DPRD has made information disclosure by making brochures, leaflets, announcements through newspapers, radio and local television.

From the results of observation, it turns out that data / information owned by DPRD is quite widely available, either through information submitted by the community who directly come to the parliament building or in the form of letters or delivery of delegations. In addition, Council members are also active in finding and exploring data / information through visits to the regions.

4. Responsiveness

Responsiveness is the ability to react quickly and appropriately in specific situations (Harsono, 1999: 90). This principle increases the sensitivity of government officials toward the aspirations of society, without exception. Local governments need

to build a communication channel to accommodate people's aspirations in policy making. This can be community forums, talk shows, the service hotline, complaint procedure. As a function of public servants, the DPRD will optimize the community approach and periodically collect community opinions.

The responsiveness here will be measured by the ability of the DPRD to be more responsive and understand the growing conditions and what are the priorities to be addressed in accordance with the aspirations of the developing community. Responsiveness is included as an indicator because it is directly the ability of DPRD members to carry out their missions and goals, especially the local legislative institutions that function as conflict regulators, i.e., facilitators who are able to bridge the differences of interests between fellow groups or between groups and the Regional Government.

5. Consensus Orientation

Political activity contains two main issues: conflict and consensus. In decision-making, it is more focused on consensus. Deliberation is a process, whereas *mufakat*(agreement) is the result. The formulation of development policies both at the central and regional levels is done through a democratic mechanism, and not determined by the executive himself. Decisions taken between the executive and the legislature must be based on a consensus that every public policy taken is really a joint decision.

Good governance requires mediation from different interests in society to reach broad consensus for the benefit of the whole society and how this can be achieved. It also requires a broad and long-term perspective of what is needed for sustainable human development and how to achieve its development goals. This is only derived from the understanding of the historical, cultural and social context of a particular society.

Consensus development is not a new thing, because it is a national culture of Indonesia as reflected in the fourth precept of Pancasila. However, this consensus culture is just beginning to be abandoned and replaced by a voting model for any decision making that leads to the emergence of pro and contra camps.

6. Justice (Equity)

Every citizen has equal opportunity to gain prosperity, although individual abilities are different but the public sector must play a role for prosperity and justice as they go along. The concrete realities of this principle include efforts to solve cases of

corruption and human rights violations, human rights awareness raising, legal awareness raising, and the development of legal culture. These efforts are conducted by using clear and open rules and procedures, and are not subject to political manipulation.

The development of equality in politics has begun, but equality in the economy is still hesitant because the bureaucracy still seems to favor the stronger than the weaker. This is evident from public policy making and budget allocations.

7. Effectiveness & Efficiency

Governments both central and regional from time to time should always assess the support of existing structures, make structural improvements in accordance with changing demands such as reorganizing the overall institutional structure, preparing positions and functions more precisely, and always striving to achieve optimal results by utilizing funds and other resources available efficiently and effectively.

Good governance requires that everything which has been and will be generated for the maximum benefit of the people must be ensured to be channeled appropriately (according to the purpose) and appropriate (effective) and in accordance with the budget and a predetermined time (efficiency).

8. Accountability

Accountability is the ability to account for all actions and policies that have been taken (Mardiasmo, 2001: 251). This principle implies enhancing the accountability of decision-makers in all areas of interest to the public at large. All policymakers at all levels should understand the policies taken to be accountable to the public. To measure performance objectively, there needs to be a clear indicator. The supervisory system needs to be strengthened and the results of the audit should be published, and if there is an error it should be sanctioned.

The basic instrument of accountability is the existing legislation, with a political commitment to accountability as well as accountability mechanisms, while its supporting instruments are behavioral guidelines and performance monitoring systems of government officials and monitoring systems with clear and firm sanctions.

Accountability principles have been gradually implemented in the implementation of regional autonomy in various places in Indonesia, although the level of progress is relatively limited. Killgaard reminds that Corruption = Discretion +

Monopoly - Accountability. Without accountability, especially in the use of public funds, there will be corruption.

Factors Affecting Regional House of Representatives (DPRD) in achieving good governance.

There are many factors influencing the role of the parliament as described above. However, this paper will only be limited to 3 main factors that affect the performance of DPRD, namely:

1. Education

In accordance with Act No. 2 of 1989, education is a conscious effort to prepare students through guidance, instruction, or training for their role in the future (Article 1). The goals of Education (national) are the intellectual life of the nation and develop Indonesian citizens entirely (Article 4). To achieve this goal, the national education is implemented through two lines, school and outside the school. Education implemented in schools is further known as formal education. Education conducted outside of school, such as courses, study groups, etc., is better known as non-formal education. According to its type, school education has distinguished several types, namely general education, vocational education, special education, academic education and professional education. The main characteristic of school education (formal) are, the implementation is done gradually and continuously, whereas in non-school education should not be tiered and sustainable.

One of the goals of education is to answer the challenges of social, economic and justice. In this perspective, education is directed to prepare people to be able to recognize and explain the problems that produce answers based on ethics. In essence, education is political involvement. In this context, the students are directed to develop into citizens who share commitment to democratic values, which is capable of and participate in the process of social, political and economic. Therefore, the acquisition of knowledge and skills is not for the benefit of himself and not for the sake of science itself, but for the service and welfare of the community.

2. Data / Information

Data / Information is everything in the form of numbers, writing, images and any other form submitted by the person or by institutions / agencies / organizations that can provide benefits to making a decision. Misinformation can be misleading, we could be

wrong in taking a stance and analysis so that in making decisions. Indeed, information, directly or indirectly, affect our lives, vary our perspective, how to think and how we act. The most notable thing in this topic is the lateness of legislators in obtaining the data / information required in comparison with the executive. This is somewhat understandable because the executive is that who deal with the daily affairs of state. In addition, make decision on collective organization action or policy, it is far more difficult than the executive, considering the number of existing interests in the legislature so that it needs for bargaining to members/groups. Speaking of information, there will be never a neutral information. An information always created with regard to the context of a particular mindset to serve the needs, both nationally, organization, and the need for personal/private. Therefore, the formulation of information for the purpose of analysis and dissemination cannot be separated from the creation of an understanding or context information. Information cannot be said to be good or bad. Such a judgment is just made by the user of information that a lot depended on the knowledge and self-viewing patterns respectively.

3. Experience

Experience is an appreciation of the meaning of each problem found in work, which led us to become an innovator who is willing to change self because of continuous learning from its environment (Fanggidae; 1975.14). Experience is not just a stop in the mind, but manifested in the emotions, attitudes, actions, views and skills. Every experience should contribute something to prepare a person for the next experience that is deeper and wider. And that is precisely the meaning of growth, continuity and reconstruction experience. The experience can guide one's thinking process so that the person can act properly and wisely.

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