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"Comparative Law System of Procurement of Goods and Services around Countries in Asia, Australia and Europe"



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RECONSTRUCTION OF EXECUTIVE AND LEGISLATIVE AUTHORITY IN MAKING GOOD GOVERNANCE (GOOD GOVERNANCE) VALUES BASED ON WELFARE

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ABSTRACT

The purpose of this study is to analyze the forms of executive and legislative authority in ensuring good governance in the perspective of Law No. 23 of 2014 on Regional Government, to find weaknesses authority of the executive and the legislature in ensuring good governance (good governance) at this time, and to analyze the reconstruction authority of the executive and the legislature in ensuring good governance (good governance) with a value-based welfare.

Results of research conducted by the reconstruction of the executive and legislative authority in the good governance values-based welfare by making efficiency and effectiveness of executive and legislative authority that can improve public services and welfare. The reconstruction of the law by making changes to Article 63 paragraph (1), Article 65 paragraph (1) letter (f), Article 66 paragraph (3) and addition of paragraph (4), Article 88 of Law No. 23, 2014. In order to avoid head area tends to ignore the public, taking care of their own interests than the public interest / people and local elections by the people was the most correct and Parliament are tasked to supervise the government as Parliament also elected. So that Article 101 paragraph (1) letter d and the addition of d1, and Article 154 paragraph (1) letter d and the addition of the letter d1 Law 23 of 2014.]

Keywords: Reconstruction, Executive and Legislative Authority, Good Governance, Values Welfare.

PRELIMINARY

The regional administration full of dynamics with the development from time to time which followed the demands of the implementation of government tasks effectively and efficiently. It can be seen in the development of legislation to regulate the system of regional government since the founding of the Republic of Indonesia, as well as the demands of the political changes in the region have prompted the central government to dilute the power centralism that have long been central government. Possible conflicts and antagonistic relationship between the executive and legislative branches in an administration area, so the tendency of regional legislative act beyond the rights and authority to intervene in the authority of the regional executive, executive vice versa regions tend to use the old paradigm that wants to stay in power as a whole and dominant.

The existence of regional autonomy should get a positive response is not solely due to the entry of globalization is sweeping the country, but how to raise and improve people's lives so as to create better life quality through the implementation of regional autonomy comprehensive, real, consistent and responsible response to popular demand. The role of Parliament in the area of influence in the process of changing the system of governance in which political constellation carrying the hopes and priorities of the program that represents a new paradigm in the implementation of regional autonomy as a consequence to see the region's readiness to build the structure of a new government through the application of the role and functions of Parliament as a political institution area, In connection with that required a study to assess the ability of the region, especially the readiness of Parliament in the implementation of regional autonomy, so that it can be seen how the application of the role and functions of Parliament on the social fabric of local communities.

At the fall of the authoritarian regime (Soeharto), raised hopes of a change in the character of the power relationship between the main political institutions, as well as between the central and local governments. Political transition process at least bring the possibility of political focus from the center of power previously in Jakarta to the regions, which is why you might change the character of power as stated by Thoha¹, that the legitimacy of power through the turn of the helm of the new state was very weak. This is evident transition of power from Suharto to Habibie where the new government should build popularity and support of the people in order to survive.

Syahriono² assume that, "the political constellation or regime changes lead to changes in expectations and priorities of the program to be implemented by the government. The change will bring changes in the role of political actors in the institutional bureaucracy ". The new structure built in central and local government relations in Indonesia through implementation. Autonomy is the changing conditions of political life which could result in changes in the role of politics and priorities of the program to be implemented by government agencies towards Good governance demands a role in balance or correspondence between the government and the people who are represented by Parliament, so that local autonomy is interpreted as authority

¹ Thoha Miftha, *Kelembagaan Pemerintahan dan Akuntabilitas Publik*, Materi Diklat "Manajemen Strategis bagi Bupati dan Wakilnya serta Pimpinan DPRD Kabupaten/Kota se-Indonesia", Badan Diklat Depdagri, Jakarta, 2001, hal. 16.

² Syahriono Oman, *Manajemen Kekuatan Sosial Politik di Daerah*, Materi Diklat "Manajemen Strategis bagi Bupati dan Wakilnya serta Pimpinan DPRD Kabupaten/Kota se-Indonesia", Badan Diklat Depdagri, Jakarta, 2001, hal. 65.

autonomous regions to set up and manage the interests of the community at its own initiative in accordance with the laws and regulations consistently.

Affirmation of the separation of functions between local government and Legislative districts and cities carry the obvious consequence of the role and function of the Regional Legislative Body. In the new paradigm of local autonomy allows the implementation of the control of local governments to be effective. Here Parliament is expected to play a role and function optimally in the process of local governance that is efficient, effective, clean, dignified and free of corruption so that people can enjoy a decent living reality. Under the Local Autonomy Law, Gaffar stated that the council has been equipped with a number of rights, if executed properly will result in the institution is able to play its role and function is very strong to create checks and balances to the executive.³

This argument implies that representative institutions should be able to optimize its political function independently so that it can position itself neutral in assessing governance and society. In essence, local autonomy is the right to govern themselves based on the aspirations and needs of the community without interference from upper levels of government. This means regional autonomy allowing the public, including officials and representatives of the people to participate in planning and implementing policies independently without the need to receive consideration from the center along the corridor is still in regulation.

But in practice that autonomy is expected to become the driving of democracy in the region tends to act freely without regard to the values of democracy, tolerance, dissent and act human. In addition, local autonomy should be placed on the interests of the people but exploited by local political elites. Therefore the implementation of real autonomy is necessary to have a strong legislative and able to control the operation of local government.

Legislature as an institution duty bearers oversight functions play a role in realizing good governance characterized by government transparency, accountability, participatory, effective, efficient, responsive, however the functional roles wide enough to cause conflict between the executive and legislative bodies (local government), in particular the regional head, Weak performance of the legislature in the central and particularly in the area due to the dominance of the executive power, especially the President termed heavy executive. The legislative body deliberately made infertile by the executive through a variety of laws that regulate themselves so that the space for board members is very limited. As a result, all the functions of the

³ Afan Gaffar, *Kebijaksanaan Otonomi Daeran dan Implikasinya Terhadap Penyelenggaraan Pemerintahan Dimasa Yang Akan Datang*. Materi Pelatihan Eksekutif Pertamina “Manajemen Perubahan Menuju Perusahaan Kelas Dunia”, Jakarta, 1999, hal. 54.

legislative body can not function properly. This has led to oversight and legislative functions that should be able to run by objectively Parliament in accordance with the aspirations of the people forced to suit the wishes of the executive.

Great executive powers it was granted by the Constitution of the Republic of Indonesia Year 1945 were not clearly and details the authority of the executive, legislative and judicial. The result is often the practice of making laws and regulations which should be the task of the legislature actually taken over by the executive. This condition has become one of the basic demands for reform, which is to amend the Constitution NRI 1945 in order to limit the executive authority and other agencies became clear. Law Number 32 Year 2004 on Regional Government is not in accordance with the development of the state, public administration, and the demands of the regional administration that need to be replaced, the government has set the Law of the Republic of Indonesia or Law Number 23 Year 2014 on Regional Government.

In essence, the main function of the legislature (DPR / DPRD) is a function of supervision and legislation. Additional functions are closely related to both functions are functions of a budget (budget). In a second implementation of the main functions of supervision and legislation in the field of the legislative position is very strong. The instrument can be used by parliament for exercises oversight of the running of the government effectively is (a) the right budget, (b) the right of interpellation, (c) the inquiry, (d) the right suggestion resolutions, (e) the right to confirm or right to select the candidate certain officials. In addition to the institutional rights of each individual member of the legislature also guaranteed the right to ask questions and propose opinions as well as other rights such as the right of immunity and the right protocol. All rights are important as an instrument that could be used in carrying out the function of political oversight of the running of the government.

Unfortunately, from this experience during all these rights and "facilities" legislators are still not used optimally due to limited HR (Human Resources) were present. For that they are required to empower themselves in the role of control in order to realize good governance and authoritative. Obviously in this case still must comply with various provisions set out in the legislation. One thing the keywords in the supervision of local officials, namely the optimization of the functions and performance of the apparatus of Parliament. Based on the description of researchers taking research for her dissertation entitled "Reconstruction of the Executive and Legislative Authority in Creating Good Governance (good governance) Value-Based Welfare".

Based on the above background, the purpose of this study were: 1) Want to analyze the form of executive and legislative authority in ensuring good governance in the perspective of

Law No. 23 of 2014 on Regional Government, has not gone well., 2) Want to analyze the weaknesses of the authority of the executive and the legislature in ensuring good governance (good governance) today, 3) Want to analyze the reconstruction authority of the executive and the legislature in ensuring good governance (good governance) with values-based welfare.

RESEARCH METHODS

This research was conducted using normative juridical approach, because of library materials are used as the main ingredient, which is the primary legal materials consisting of basic norms or rules, conditions and ground rules, and regulations. In addition it is also used secondary law as secondary data which includes primary legal materials, secondary, and tertiary.⁴ The method used in this research is normative juridical a study that deductive began an analysis of the provisions in the legislation that governs to the problems. Juridically legal research means research refers to the study of existing literature or of secondary data is used. While the meaning of normative legal research aims to acquire knowledge about the relationship between a normative regulations with other regulations and application in practice.

This study is a descriptive analysis as it aims to give an overview of the facts with an accurate analysis of the executive and legislative authority in local government refers to the laws and regulations / legislation and implementation. Data was analyzed using descriptive and explanatory way. It means that researchers will describe the facts and the data obtained from the research. Then followed up by explaining the data and facts that have been illustrated.

RESULTS AND DISCUSSION

1. The authority of the executive and legislature in ensuring good governance in the perspective of Law No. 23 of 2014 on Regional Government has not been doing well because they put the interests of politics, corruption, work outside the authority, lack of integrity and transparency and quality of public services are deteriorating. This is some of the problems that make a good government still can not be reached.

Today the problems faced by the Indonesian nation increasingly complex and increasingly loaded. Elements governmental organizations should be role models many people who stumble legal problems. The existence of good governance is often called good governance which has been hailed the fact that today is still a dream and was limited

⁴ Soerjono Soekanto, *Pengantar Penelitian Hukum*, Penerbit Universitas Indonesia Press, Jakarta, 1986, hal. 132.

to a mere jargon. Revolution in every field should be done for every product produced only accommodate the interests of political parties, factions and groups of people. When it should be good governance should be a serious concern. Transparency can indeed be one solution, but is it enough just to attain good governance.

Good governance is a practical application of the management authority affairs. Implementation of the country politically, economically and administratively at all levels. In the concept of the above, there are three important pillars of good governance, namely: a. The people's welfare (economic governance), b. The decision making process (political governance), c. The management of policy implementation (administrative governance).

The spirit of the Act No. 23 of 2014 is to maximize the role of local government that is able to exercise its powers oriented basic services not rule alone. Under these conditions, inevitably, the role of the society in terms of supervision of the implementation of government based on public services. A manifestation of the spirit of judicial reforms contained in Chapter XIII of the Public Service. In this chapter, about the efforts of local governments in meeting the needs of society as a form of public service.

Thus, the public is able to give feedback on public services provided by local governments. Therefore, the Act also provides for public participation in Chapter XIV. The existence of Law No. 23 of 2014 on Regional Government is able to fix Sstem hopes the regional administration. In addition, changes in the orientation of sheer power into the public service should be able to encourage the improvement of public welfare in the area.

2. Weaknesses of executive and legislative authority in ensuring good governance today is the excessive practice of partnership relations, particularly in terms of budgeting that impressed promote personal or group interest should be avoided. Hope by Act No. 32 of 2004 developed a partnership attitude escorted by law enforcement against corruption practices in the area can not be achieved with good.

Some indications that becomes successful implementation and lack of passage of Act No. 32 of 2004 are:

- a. A kind of a bone of contention between the position of the politicians from political parties and among officials who have a career bureaucrat with education and with hours of flying experience long enough to occupy executive positions. Even here there occurred "money politics" by shouts and squeals when the original reforms, corruption must be annihilated, in particular the "bribery" in the nomination of the Regional Head and Deputy. Until now there are still cases of money politics, which is not yet complete pemerosesannya legally.

- b. Not all of the legislative and executive areas and Urban District was rated "ready" in the sense of mastering an understanding to implement the law, with the same perception.
 - c. There is uncertainty about whether the preparation of Local Development Program (Propeda) District, organized in a way to adjust to Propeda Province (including the Strategic Plan), and vice versa if the provincial government still has the authority to give a kind of strategic direction to the County and City. If he did not recognize the need for subordination, does not need more coordination, as one of the functions of management.
 - d. Extreme occur in such manner, so that areas of Districts and Municipalities assumes no administrative and functional relationship at all with the province, and some KDH has been directly related to the central government without "just notice or give any news" to the Provincial Governor Head.
 - e. District tendency arises to exploit as much as possible sources of revenue as if the interests of public welfare under-emphasized, and not necessarily assured that the levies it will reverse (feed back, melting process) as a cost reduction of people's welfare interests (public service).
 - f. Visible tendency among territories pengkavlingan The districts with the spirit of autonomy overflowing and considers it to be any longer intervene on the case even though the Center admitted that the country is (still) a unitary state
3. Reconstruction of the executive and legislative authority in the good governance values-based welfare by making efficiency and effectiveness of executive and legislative authority that can improve public services and welfare. The reconstruction of the law by making changes to Article 63 paragraph (1), Article 65 paragraph (1) letter (f), Article 66 paragraph (3) and addition of paragraph (4), Article 88 of Law No. 23 of 2014.

Organizers of the provincial Local Government and district / municipality comprised of heads of regions and assisted by the regional parliament. On the basis of the new functions of the Council, Parliament functioning regulations, and oversight of the regional administration in the execution of its duties and responsibilities. By choosing the head area by Parliament allows the head of the region tends to ignore the public. During the New Order until the reform of the Indonesian people assume regional head (regents, mayors, governors) do not take care of the interests of society.

The head of the region was only taking care of the interests of Parliament who chose them. Parliament Could Be Authoritarian. In each year, there is accountability of

regional heads to Parliament. If the board members refused, the regional head immediately dismissed. During the New Order, the council became the most powerful party. To avoid head area tend to ignore the public, taking care of their own interests than the public interest / people and local elections by the people was the most correct and Parliament are tasked to supervise the government as Parliament also elected. So that Article 101 paragraph (1) letter d and the addition of d1, and Article 154 paragraph (1) letter d and the addition of the letter d1 Act No. 23 of 2014.

STUDY IMPLICATIONS

Theoretical Implications.

A shift in the executive and legislative authority of a partnership that went too far into a partnership between the executive and legislative powers are effective and efficient in order to improve public services and welfare.

1. Practical implications.

Executive and legislative authority in the future will create:

- a. And deputy regent or mayor and his deputy in making performenbond to complete his post together until the end of the 5-year term.
- b. Legislature will establish partnerships with executives efficiently and effectively to improving public services and welfare.

CONCLUSION

Executive and legislative authority in ensuring good governance in the perspective of Law No. 23 of 2014 on Regional Government has not been doing well because they put the interests of politics, corruption, work outside the authority, lack of integrity and transparency and quality of public services are deteriorating. This is some of the problems that make a good government still can not be reached.

The inadequacies of executive and legislative authority in ensuring good governance today is the excessive practice of partnership relations, particularly in terms of budgeting that impressed promote personal or group interest should be avoided. Hope by Act No. 32 of 2004 developed a partnership attitude escorted by law enforcement against corruption practices in the area can not be achieved with good.

Reconstruction of the executive and legislative authority in the good governance values-based welfare by making efficiency and effectiveness of executive and legislative authority that can improve public services and welfare. The reconstruction of the law by making changes

to Article 63 paragraph (1), Article 65 paragraph (1) letter (f), Article 66 paragraph (3) and addition of paragraph (4), Article 88 of Law No. 23, 2014. During the New Order, the council became the most powerful party. To avoid head area tend to ignore the public, taking care of their own interests than the public interest / people and local elections by the people was the most correct and Parliament are tasked to supervise the government as Parliament also elected. So that Article 101 paragraph (1) letter d and the addition of d1, and Article 154 paragraph (1) letter d and the addition of the letter d1 Act No. 23 of 2014.

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