

Challenge Implementation of General Principles of Good Government in Indonesian Government

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Challenge Implementation of General Principles of Good Government in Indonesian Government

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Abstract In the social field, there are development and change condition public will impact on existence angles to the order existing laws in the country. The more its height demands society so that the Government can organize with method transparent, accountable, more responsive to the needs and expectations that exist in society, create development theory principles general good government. This writing focuses on the challenges faced moment implementation principle the. With use normative juridical approach, author will study in a way regulation legislation. Based on results analysis writer, then can concluded that there is a number of a must challenge resolved, first balance strength in a democratic political system, second, systemic and independent supervision by existing state and social institutions with good, third, institution the law is not yet completely independent and impartial in carry out Justice law, fourth, quality source Power still human not enough in carry the trust given.

Keywords: Challenges, General Principles of Good Government

INTRODUCTION

Indonesia adopted draft *rechtsstaat* as the basis of the rule of law, which confirms that every action government must based on applicable law. Draft This originate from tradition law Europe continental and emphasizes protection right basic human, restrictions power, and certainty law. In the 1945 Constitution of the Republic of Indonesia, Indonesia as a whole explicit state self as a law - based state on *rechtsstaat*, not on power simply (*machstaat*). This reflects Indonesia's commitment to operate fair, transparent and accountable government answer.

In concept *rechtsstaat*, benchmark measuring from its implementation among them actualize it principle legality, existence distribution power, there is protection rights base for community, and available supervision to government through court. Fourth element the is concept developed by Stahl as form critics to the concept of a liberal legal state initiated by Kant. Criticism of Kant expand draft principles general good governance in a modern state. Principles general good government is means protection law in Justice effort administration and is a legal norm No written for action government. For governance government can made guidelines in do interpretation and application to provision regulation legislation. Apart from that, the principles general Good governance can too used by legislative bodies in designing something Constitution. That means, principle This positioning himself as barrier to government can organize more service Good to society and avoid use arbitrariness in organize government.

In perspective law state administration, emergence AAUPB 's principles as organizer government (executive) which owns concentration increasing power big (*freiss ermessen*) as well direct touch with public . Every form abuse power or method Act will felt as deed arbitrary that would be harm many people. State law with principles law good governance (AAUPB) is closely related connection Because both of them is principle guaranteed basis maintenance fair, transparent and accountable government. State law emphasize its importance operating government in framework clear and defined laws , while the AAUPB ensures that in practice , action government done with ethical and efficient way .

According to Jazim Hamidi, quoted by Ichsan Syuhudi, principles general good government can seen into 4 (four) ways ie *First* , it is mark ethics that live and develop in the environment law administration . *Second* , principles general good government works as handle for department official internal state administration operate its function . Apart from that , it could also be test tool for administrative judges in evaluate action state administration and can become base submission lawsuit for public . *Third* , principles general good government is the principle is not written , still abstract , and can dug in practice life public . *Fourth* , although become the principle that becomes abstract and not written , however principles general good government Already become rule law written and scattered in various regulation legislation . Strengthen it demands public to good government with application principles transparency , accountability , quality service public , responsive to needs and hopes public . Uncertainty to change environment political , economic , social and cultural will result trust to performance government decrease

Based on already a phenomenon shown , there is focus main discussion in the article this is on, *first* , How arrangement principles general good governance on products law in Indonesia? *Second* , how challenges and problems from implementation principles general good governance at times This ?

RESEARCH METHODS

This paper , method study juridical normative or can also be called with study law doctrinal . Study law doctrinal is a process for find rules , principles , and doctrine For answer problem the law will studied . About method approach used in research this , we use approach regulation statutory and conceptual . Due use method study juridical normative , then method collection used is studies References . For obtain the data used , researchers use studies References For study implementation from principles general good governance in various ways regulation legislation in Indonesia.

DISCUSSION

1. Arrangement of General Principles of Good Governance in Legal Products

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Essence from birth a country is creation peace in life social . The essence of the rule of law is a sense of justice , peace and order is created in atmosphere environment a country. In a country, existence principle law can understood as foundation , foundation , principles and soul or ambition . Principle of law become base for formation something regulations which are *legal ratio* from regulation law . Government must executed with law , then government No can do deviant action or even contradictory with law . Maintenance based government base provision regulation legislation become base legality and legitimacy action government , as well give guarantee to rights basis and position law citizens against government .

Speak about principles general good governance in Indonesia, no Can separated with history laws that developed in the Netherlands. As a country that is used Dutch colony , then so Lots applicable laws in Indonesia principle concordance from Dutch law . One that is “ grafted ” from Dutch law is principles general good government . If reviewed in a way historical , basic the start introduced in 1953 by GA van Poelje . But at the moment that , not yet get attention from circles expert law state administration in Indonesia. Only in 1978 when Crince Le Roy delivers studying in Indonesia at the time Upgrading Continued State Administrative Law/ Governmental Law start get attention from circles expert Indonesian law .

AAUPB in Indonesia at first is principles that do not written , but principle the bind and use as guidelines for organizer government in do action administrative , as well used as test tool for judges to evaluate validity from action administrative the . When enactment of Law no. 5 of 18 1986 concerning State Administrative Court , Article 53 paragraph (2) no in a way explicit mention AAUPB principles as reason submission lawsuit against State Administrative Decree (KTUN). However , AUPB has acknowledged secretly and already Lots adopted by the TUN Judges in disconnect case , application based on provisions of Article 14 jo. Article 27 Law no. 14 of 1970 concerning Terms Tree Power justice and guidance implementation supreme court (juklak) dated March 24 1992 Number 052/ Td.TUN /II/1992 at point V-1, which states " in things the judge considers exists principles general maintenance decent government as reason cancellation determination , then matter the No need entered in his ruling dictum , but rather Enough in consideration decision consideration decision with mention which principle of principles general clean state administration is violated . AAUPB functions in maintenance government is as guidelines or guide for government or official internal state administration frame good government or *good governance* .

Implementation from principles general good government This Actually No only can applied to institutions executive role operate task as waiter public . That matter because in a way conceptual service public is Suite purposeful activities For fulfil need appropriate service degan regulation legislation for every citizens and residents on goods , services , and/ or service administration provided by the organizer service public . Temporary For organizer service public Alone can shaped institution state officials , corporations , institutions formed independent based on regulation legislation as effort government For fulfil need public .

If you look at the concept service public that , then implementation from principles general good government No only contained in the regulations that are binding on the institution executive just . However , it is also stated in the legislative body , in fact This also applies to institutions judiciary . That matter caused principles good government has 3 (three) benefits , namely *first* , divide state administration , as guidelines in interpret and determine A regulations that don't clear . *Second* , If referring to Article 53 paragraph (2) of the Law State Administrative Court , existence principles good government can used by society For look for justice and being base lawsuit on dissatisfaction public on decisions issued by officials . *Third* , the judge can use principles general good government as internal test equipment decide cases in the State Administrative Court .

AAUPB's own enforcement Actually No just on level national , but also must implemented at the level area . That matter because the AAUPB as stated in the State Administration Law is embodied in the principles it adheres to , such as certainty law , expediency , impartiality , thoroughness , no abuse authority , openness , interest general , and good service . Then strengthened in provisions principles maintenance state government as stipulated in the Regional Government Law, namely certainty law , order state administrators , interests generality , openness , proportionality , professionalism , accountability , efficiency , effectiveness and fairness .

2. Challenges and Problems Implementation of General Principles of Good Government

AAUPB concept itself , actually own correlation with *good governance* . Because at the beginning emergence , demands will *good governance* arise Because exists deviation in state administration of mark democratic so that push awareness citizen for create system or paradigm new For supervise the way government so that it doesn't deviated from objective beginning . In its implementation , *governance* covers three one institution with the others related , namely country (*state*) , sector private sector and institutions self-subsistent society

(*civil society*). These three domains is at in life nation , state and society . Draft *good governance* related with activity implementation function For organize interest general . Apart from that , *good governance* is related with maintenance three function task government , that is First , run security every person and society ; second , manage something effective structure For sector public , sector private and public . Third , advance target economic , social and field other in accordance with the will of the people.

It is good *good governance* nor the AAUPB actually No refer only at institutions just . Because in a way concept , said *governance* show a process, okay it is by society , institutions self-supporting , as well as government . The word *governance* refers to the meaning of " we ", which means government , politicians , and recipient service melt So One unity . In line with matter Wibawa wrote that the state must involve all the pillars of society , right only in maintenance public services , but also in the policy process start formulation , implementation , and evaluation policy , up to to maintenance public service . So that there is involvement UNDP translated it to some principle *good governance* , that is participation , *rule of law*, transparency , *responsiveness* , consensus orientation , equality , effectiveness and efficiency , accountability and strategic vision . Temporary that , Ganie developed four principle , that is accountability , *rule of law* , information , and transparency .

According to Maridjo as quoted by Husnul Hakim, there are 4 (four) conditions as effort implementation from *good governance* , that is *First* , exists balance strength in a democratic political system . Balance strength No only will give quality supervision of institutions government , but also provide capable become shelter opinion public if happen deficiencies in service public . If happen imbalance power to the ruling institutions , then will vulnerable happen abuse power , manipulation , oppression , and worse public service . For example only , in the process of completion dispute conflict Rempang Eco City is a requirement will Lots interest piled up . According to Wafi and Mas'odi , the implementation of AAUPB in cases the No only only based on Article 10 of the Regional Government Law , because AAUPB functions as guide for related parties with conflict Rempang . When it doesn't exists balance power in the political system , then accountability and service to the community will not enough Good . So AAUPB is the one equality from draft *good governance* own crucial advantage in formulate policy across countries and institutions .

Second , there is functioning state and social institutions as supervisor in a way systematic and independent. By institutionally , the Indonesian state has own some functioning institution as supervisors , such as BPK, BPKP, Ombudsman, OJK, and institutions other . Apart from institutions state , there are also non-profit institutions involved in the supervision process

performance Central and Regional Government . Although Already There is supervising agency , no seldom happen misappropriation powers exercised by officials Government , fine it's at the institution executive , legislative and judiciary . It means supervision carried out by state and social institutions has not yet been implemented fully walk with Good . *Third* , exists institution independent and impartial law in carry out Justice . As a legal norm , *good governance* has influence on various sectors. On the field justice, interpretation and application provisions regulation legislation be one of those affected. When institutions law that is not independent and impartial will produce decision the law is not reflect desire public mostly and only profitable a handful group elite just . *Fourth*, source Power quality human being as bearer trustworthy in carry out task government . The HR factor is the most important in realize *good governance*. As already displayed part beginning , that *good governance* No only speaking to the institutional sector only , but also from side ethics . Then No only speak about separation function from waiter and recipient service , however exists harmony between society , government , and institutions self-subsistent society that has the same purpose. The society that is user from services provided by the State, must own sufficient knowledge about rights and obligations as citizen . Knowledge and awareness law this will too give impact on assessment and monitoring to Government , as well advocacy himself Alone if get treatment that is not should .

CLOSING

20 By regulations , AAUPB has poured on some product law in Indonesia, starting from the State Administration Law , the State Administrative Court Law , the Regional Government Law, the Establishment Law Legislation , and other regulations that exist in each institution . However there is four condition in implementation *good governance* , that is balance strength politics in government , functioning state and social institutions supervise the way government , indeed institution independent and impartial law , and quality source Power good human . These four instruments own vital role in implementation draft *good governance* , because fourth condition the will push exists change become more Good for government .

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