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Legal Reconstruction of Local Government Supervision Toward Good Local Governance

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ABSTRACT

The Role of Local Government for realizing prosperous state is very important, it's because Indonesia has the concept of a unitary state chose the principle of decentralization, so that local governments be given government affairs by the central government, known as autonomy of regions, but the autonomy of regions is very difficult to spared from corrupt practices carried out by local officials, even this corruption is a big enemy that often haunts the local government. It is happening because a watchdog role in the internal government is weak, even the existence as subordinate to the head region. The problem is how to reconstruct the governance supervision system in the regions. This study aims to analyse the local government supervision system. This type of research is a normative law, using a statute approach and a conceptual approach. As for the Outcome of this study to reduce corruption in local government with premises strengthen the government surveillance systems, among others; First, officials Internal Supervision Government has to strengthen by the Act. Second, the role of Parliament should be returned as triad Political theory Montesque namely its role as the regional government controlling to create Check and Balance. Third, public participation also has an important role to prevent corrupt practices in local governance, because in a democratic state without public participation will be difficult to realize the government area was good.

Keywords: supervision law, local government, good local governance

1. INTRODUCTION

The ideals of the state as stipulated in the Constitution to ensure the realization of good governance that is oriented to justice and the welfare of the nation does not go well, this is due to the abuses of aristocratic power given full authority by the people to manage the country, this is one of the reasons which caused by the syndrome of power, absolute power tends to lead to corrupt and authoritative entrepreneurs. Rousseau states that in public affairs will pose a danger if the mainstreaming of personal interests is more dominant in the context of state administration known as abuse of power, therefore in the government system there needs to be a division/separation of powers so that it will avoid the abuse of powers. The division of power is known in two forms, namely separation of powers and division of powers. The spirit of control and the implementation of government is very necessary because as the early history of the formation of the state has justified that rulers who are not ruled and moreover, there is no control of supervision will cause fraud.

However, in the course of this regional autonomy, found many obstacles, including corruption that occurred in the area, became a serious disease, there was even a statement with the existence of regional autonomy corruption not only occurred at the center but has been decentralized to the regions. This can be seen from the records of the Indonesia Corruption Watch (ICW), while the cause of the increasing prevalence of corruption cases and poor local governance is

caused by the supervision of local governments that are less effective. "Corruption is still prevalent in the regions, autonomy becomes auto money, the monitoring system is not optimal enough to encourage massive public officials to practice corrupt practices" [1]. There is an increase in corruption cases handled by KPK, in 2005-2015 KPK handled 77 corruption cases, 59 of them are cases that ensnared regional heads, while in 2018 it continues to rise to 98 cases of regional heads who are caught in corruption cases [2].

These conditions indicate that the role of the Government Internal Supervisory Apparatus (APIP) seems to be optimal so there are still highlights and criticisms related to the low accountability of regional financial management [3]. So, the strengthen the role of APIP to play a role in preventing corruption in the regions is needed. To realize a good government system can reach by establishing a control agency, namely in Presidential Instruction No. 4 of 2011 concerning the acceleration of improving the quality of state financial accountability. In these rules do BPK authorities including assistance in the agency are the local government to enhance the understanding of official's area, especially in the area of financial management, but it also BPK has an authorize in enhancing the quality of financial reports and development.

Besides, there is a void in realizing holistic supervision, namely the absence of regulations regarding internal oversight systems that cover APIP work relationship patterns, coordination mechanisms and synergies between APIP including external auditor relationship patterns. The internal control system regulation is needed to enhance each APIP as a government internal auditor. Today's APIP is still sporadic, running partially, as a result, the synergy between APIP is not optimal, especially those related to cross-

sectoral programs will make it difficult when monitoring is done because of the many conflicts of interest, such as food security programs, poverty alleviation, Raskin assistance, etc. Escorts are often less coordinated so that they are less than optimal.

2. METHOD

This type of research is a normative law, using a statute approach and a conceptual approach. statute approach namely the rule of law that is the focus of research. while understanding the relevant concepts in this case is an element of abstraction in a field of study and is universal, its function is to bring up an interesting subject to be reviewed [4].

3. RESULTS AND DISCUSSION

3.1. Supervision in the Theory of Trias Politica

Leviathan State Thomas Hobbes was not able to realize the will of the people, then later criticized by John Locke, according to Thomas Hobbes the state has a goal in its formation, namely to create order so that he established the Leviathan state. John Locke's criticism of the Leviathan state is the concentration of power in one state organ so that there needs to be a separation of powers (Sapara notion of Powers). The Van Vollen Hoven divides state functions into four, government (*bestuur*), oversight (*regeling*), regulation (*politie*), and dispute settlement (*rechtspraak*) [5].

Definition of supervision is the action to compare between *das sein* and *das sollen*, between reality and the desired result. The supervision task is scraping the top of irregularities [6]. According to Alfred, as quoted by Suseno, the purpose of supervision is to guarantee work to follow plans; improve efficiency; prevent mistakes; exploring and correcting mistakes more easily and convincingly; realize order at work, improve overall management quality. recognize and display maximum achievements [7].

The trials political theory with the principle of check and balance can be concluded that between one organ and another state organ has guarding functions. This oversight function to keep integrity an institution, in other words, oversight do avoid abuse of authority, corruption, misappropriation, wastage [6]. The supervisory function can be divided into four, first, Explanation, an oversight to obtain an explanation related to policies that differ between those planned and their implementation. Secondly, Accounting is a safeguard to get information related to financial management. Third, Examination, which helps determine whether the service has reached the people, third, Compliance, which is to see whether the government apparatus has performed its performance by applicable standards and procedures [6].

3.2. Government Internal Supervision

Internal supervision is supervision carried out by the agency for the organizational unit concerned, the supervisor is attached (built-in control) while the external monitoring carried out by units of institutions that are outside the organization who watched as the Audit Board of the Republic of Indonesia [6]. The internal control is a political will of the regional government in the area of financial administration, which is structured in the form of documents that contain financial management procedures regions [8]. Audit Board of the Republic of Indonesia representatives in each province do not have a large role in preventing corruption, this is due to the examination of regional financial management stopping at the auditor's opinion [9].

The function of the Government's Internal Oversight Apparatus is to collecting input and aspirations of the citizen about the activities of local government [8]. As for the aspects being monitored are human resources, infrastructure, facilities, finance and duties, and functions. The government internal oversight apparatus function can be seen by Government Number 60 of 2008 concerning Government Internal Control System article 11, namely:

- a. Provides adequate confidence in the observance, efficiency, efficiency, and effectiveness in achieving the objectives of carrying out the tasks and functions of government agencies;
- b. Provides early-warning and increases the effectiveness of risk management in carrying out the duties and functions of government agencies; and
- c. Maintaining and improving the quality of governance in carrying out the duties and functions of government agencies.

As for Article 48 paragraph (2) PP No.60 Year 2008 states, government internal oversight apparatus carries out internal supervision through auditing, reviewing, evaluating, monitoring, and other supervisory activities.

The steps that can be taken to reduce corruption are by providing incentives for those who can prevent them in the area of local officials [8]. Besides that, coordination between government internal oversight apparatus there is no precise formulation, often overlapping. This is evident in cross-agency programs that require clear coordination so that the prevention of abuse of power can be avoided. Besides, the weakness of government internal oversight apparatus is independence which is hierarchically under the executive [8]. As for the Constraints in supervising as revealed by Hidayat, et al in Suseno [7], among others, First, the functionary lacks in the understanding of supervisory tasks. Second, supervision is perceived only to find fault. Third, the attitude of apathy towards the supervisory function. Fourth, there is an *ewuh pakewuh* feeling in carrying out supervision. Fifth, do not understand the substance of the problem that must be monitored. Sixth, collusion. Seventh, there is a fear of superiors.

At the central level, external monitoring is Money Control Institute. CPCs examination results given to Populaze Agency Council, Region Agency Council, and Region Populaze Agency Council. While the types of audits conducted by Audit Board of the Republic of Indonesia

include audits of government financial reports, performance audits, audits with specific objectives, and others [7].

3.3. Optimization of Regional Parliamentary Oversight

External control over regional development is carried out by the Regional People's Representative Assembly by making regulations and oversight functions owned by the Regional People's Representative Assembly [8]. The more rigid regulation made by the Government of the region, the better. Because this can prevent loopholes in fraud by local officials [8]. In developed countries, the House has public accountability committee (PAP), which served to ensure the executive doing principles of transparency and accountability, PAP eldred by opposition DPRD Parliament, it is to create checks and balances. Strong In a democratic rule of law the existence of a legislative body is a legislator and has a controlling function, if it is weak then it will give birth to a chaotic government and the governance of the government will be damaged [9].

The optimization of DPRD's supervision of regional governments needs to be strengthened, including in the form of authority to reject local government reports. So that the DPRD has a strong position. It is expected to strengthen the oversight role of the DPRD. Also, there needs to be internal oversight, the completeness of the board associated with oversight authority is only the board of honor of the board and even then, only highlights the ethics of the board. There should be a good mechanism in supervising board members, for example, returned to the public, so that the public has a role in overseeing the performance of the DPRD. This public supervision system can reduce irregularities committed by board members. Do not stop there, political parties must also be accountable to the community if there are party cadres who carry out acts of abuse of power, with this oversight will run optimally, but without political will all parties including political parties will be difficult to realize good supervision of local governments and the Regional People's Representative Assembly.

3.4. Role of Public Supervision

The community has a role as a pressure group to ensure the running of government per the aspirations of the community [8]. In a democracy, the role of the community is very important, community involvement in the development of a country is mutually done, including in terms of oversight of government programs and policies. This public oversight includes Oversight carried out by individuals, organizations, mass media. The principle of check and balance in the teaching of *trias politica* must be supported by law enforcement and civil society control. This principle is maintained thanks to a clear and institutionalized opposition tradition [5].

There is a paradigm shift in governance, from rule government to good governance, this perspective provides a new discourse that in the administration of government is

not only about the government alone, but there is a public role. Good governance emerges and is very relevant to a common concern because first, there are still many irregularities committed by the state apparatus in governance, even corruption is still a real enemy that is always there and endless. Second, there is a sense of pessimism towards the implementation of regional autonomy, the principle that is *gangkang-gandang* to be a way out of accelerating development in the blood instead becomes counterproductive. Third, the weakness of bureaucratic services to meet public interests [10].

Good governance has eight main indicators, namely; participatory, accountable, oriented, responsive, transparent, efficient, effective, inclusive, following the rule of law. Of the eight elements, participatory is the main foundation of good governance, both directly and indirectly [11]. Meanwhile, according to Hendra Karianga, the opinion is that good regional governance must prioritize four things, first, the amount of participation in financial management. Second, there is transparency. Third, there is accountability. Fourth, Budget fairness in management [9]. The principles of good governance are as follows [10].

- a. Focus on achieving organizational goals and providing excellent service to the community
- b. Promote good values that can improve organizational behavior
- c. Enhancing the role of government effectively
- d. Involve all existing stakeholders
- e. Develop the capacity of government agencies
- f. Transparent decision.

Public participation in overseeing the administration of government can be used as an act of defending the country, as the basic principles of national development, this important community participation can be explicitly seen in the opening of the fourth paragraph of the 1945 Constitution. In a democratic system, the fundamental sovereignty exists in the people, so the people must be active in carrying out its role as a supervisor of government officials because it is a manifestation of national defense.

4. CONCLUSION

Supervision in the region has not given a large impact in the prevention of criminal corruption. This is because the Government Internal Supervisory Apparatus' existence is still in a subordinate by head region so that its position is very weak and not providing preventive function against corruption. It could even be that APIP is helpless because there are non-linear power relations. Thus, the need to establish the model of local government's internal controls, this can be done by making laws that control the regional government supervision system.

It also needs to be strengthened position of the Regional Representatives Council, the function of Parliament should be strengthened further in terms of controlling /monitoring, it is important as the embodiment of the teachings of the triad of *Politica* so on as local government occurs check and balance. the latter is the role of the community, this role in the form of community participation in regional development. Public participation will be a little even be

able to prevent abuses of power committed by a functionary of the regional government.

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