



## The Application of The Principle of Openness in Realizing Good Governance

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### ABSTRACT

The essence of good governance is a government that includes all levels of society in the design of development in a transparent and responsible, effective and fair, and ensure the implementation of the rule of law. The purpose of this research is to find out how to apply the principle of openness in realizing good governance, using normative juridical research methods, namely discussing theories and laws and regulations related to the principle of openness in the implementation of governance systems. The results showed that the application of the principle of openness in the governance system can be realized by involving the participation of the community starting from the process of policy formulation, monitoring to the evaluation of government activities or activities. The community as a mandate to the government has the right to exercise supervision or control over the administration of government. However, effective control can only be implemented if governance takes place transparently based on the principle of openness.

**Keywords:** Good Governance; Openness; Society; Government

## 1. Introduction

Governance is a concept derived from the early dem theory formation. The concept of *good governance* discusses the relationship between rulers and people, but only the last decade the concept has again been noticed by international policy makers. (Akhmadi, 2004) While in Indonesia the development of the concept of *governance* was rolled out since the 1990s, and increasingly developed in 1996, along with the Indonesian government's interaction with foreign countries as aid countries that highlighted the objective conditions of Indonesia's economic and political development. (P, 2002)

Along with the arrival of the reform era, the demands for changes in governance also strengthened. Corrupt governmental organizations, whether executive, legislative, or judicial, must be changed and returned to their founding identity, namely to protect and fulfill the rights and interests of the people and to achieve national goals. The principles of the state of law and democratic government became the mainstream of reform. This is to prevent conflict (Imron Rizki, Safrin Salam, 2019) The implementation of government then gave birth to a new paradigm known as *good governance* or good governance.

The desire to bring *good and clean governance* into legal norms began after Indonesia experienced a crisis in 1997 followed by the fall of the New Order regime in May 1998. This effort can be seen by the Decree of MPR No. XI / MPR / 1998 on the Implementation of a Clean and Corruption-Free State, Collusion and Nepotism (KKN). Then followed by the enactment of Law No. 28 of 1999 on the Implementation of a Clean and Free State KKN. This law is then further elaborated in four government regulations as implementing regulations, namely PP No. 65 of 1999 on Procedures for Checking the Wealth of State Organizers No. 66 of 1999 on The Requirements and Procedures for the Appointment and Dismissal of Members of the Examining Commission No. 67 of 1999 on Procedures for Monitoring and Evaluation of the Implementation of Duties and Authorities of the Examiner Commission., and PP No. 68 of 1999 on Procedures for the Implementation of Community Participation in State Governance.

State organizers have a very important role in realizing the ideals of the nation's struggle. State organizers are the spearhead in realizing good and clean state governance. This is as the essence of the purpose of the law is to humanize man. (Salam, 2020) But the reality shows that there are so many abuses that occur in relation to the implementation of the country. The practice of corruption is so rife and even by some is considered a chronic disease. State Organizers cannot carry out their duties and functions optimally, so governance does not work as it should. One of the factors that cause this is because the government has not been run transparently. In addition, the community has not been fully able to participate, playing a role in carrying out its function as an effective social control over the implementation of the state.

Based on the description in at as, then the problem that paling stands out in this case is how to apply the principle of openness in an effort to realize good and clean governance. In this case, the public should have the opportunity to access every information needed properly and easily, especially related to the performance of government and public services. The openness of information in governance will encourage public participation to play an active role in controlling the running of government. The existence of social control of the community is expected to encourage the realization of good and clean *government* both at the pus at and regional levels.

## **2. Methodology**

This research examines the application of the principle of openness in realizing good governance. The discussion in this study is based on theories and laws and regulations related to the principle of openness in the governance system. The results of the research will be clearly and systematically presented. Based on the above, this research includes research in the field of constitutional law. This research is a type of normative research whose studies include the provisions of legislation (in *abstracto*). The type of legal research is descriptive, which is to explain in full, detailed, and systematic in accordance with the problems being discussed.

## **3. Result and Discussion**

The concept of *clean government* and *good governance* not only requires the implementation of clean government, but also includes efficient, effective, open, and accountable. (Hadjon, 2002) The concept of *governance* is supported by three pillars, namely politics, economics and administration. The first pillar is that governance in the field of politics is intended as decision-making processes for the formulation of public policy, both carried out by the bureaucracy itself and by the bureaucracy with politicians. The second pillar, namely governance in the field of economics includes the decision-making process to facilitate economic activity in the country and interaction among economic organizers. While the third pillar is the governance system in the field of administration that contains the implementation of policy processes that have been decided by political institutions. (BPKP, 2002)

Building *good governance* is changing the way the *state* works, making government *accountable*, and building capable overseas actors, to play a role in creating a new system that can be useful in general. Development goals will be well achieved, when they can improve the characteristics and workings of state and government institutions. The essence of the concept of *good governance* as outlined above lies in the activeness of the state sector, society and market to interact. Therefore, the implementation of *good governance*, must look at the condition of sectors abroad, so that there is an interconnection between sectors that string together *governance*. (P, 2002)

Based on the above description, it can be understood that the essence of *good governance*, is a government that includes all levels of society in the design of development in a transparent and responsible, effective and fair, and ensure the implementation of the rule of law. The rule of law is carried out on the basis of good legal principles. (Safrin Salam, 2020) *Good Governance* must also be able to guarantee that priorities in the political, social, economic, and defense and security fields are based on community consensus; pay attention to the people's interests; support the strategic vision of leaders; and a society capable of looking far ahead from a good and development-oriented government for all levels of society.

The implementation of *Good Governance* is not a simple process, but requires commitment and a number of provisions that can be used as guidelines or foundations for all parties involved (*stakeholders*), especially the government. (Salam, 2020) In terms of law, there must be a clear rule of *law*, meaning that the state must build a fair and impartial legal framework, especially regarding human rights, security and public safety laws.

### **3.1 Clean Government**

Government is defined as *bestuurs voering* (the implementation of government duties), while the organ that carries out the task is called the government. Thus the term government has two dimensions, first government in the sense of function, namely government activities, secondly government in the sense of organization (structure) that is the whole of the organs of government. The implementation of the function of government is manifested in various acts of government, such as decisions, written determinations of a general nature, and concrete actions in maintaining order and efforts to prosper society. Various instruments of government, both physical and non-physical, are used in the implementation of government functions. (HR, 2006)

Ganie-Rochman as quoted by Joko Widodo revealed that the concept of "governance" is more inclusive than "government". The concept of "government" refers to a management organization based on the highest authority (state and government). The concept of *governance* involves not only the government and the state but also the role of various actors outside the government and the state, so that the parties involved are also very broad. *Governance* is an economic and social resource management mechanism that involves the influence of the state sector and the non-governmental sector in a collective activity. (Widodo, 2001) *Governance* translates into governance i.e. the use of economic, political and administrative authority to manage state affairs at all levels. Governance encompasses all mechanisms, processes and institutions by which citizens and community groups express their interests, exercise legal rights, fulfill obligations and bridge differences between them. (Widodo, 2001)

Good governance reflects the synergy between government, private sector, and society. One of the components is clean government, which is a government based on the validity of acting according to the law. Therefore, the discussion of clean government cannot be separated from the discussion of good governance. Synergy between *good governance* and the general principles of good governance creates authoritative government. The concept of *good governance* has become political will in various laws and regulations in the Unitary State of the Republic of Indonesia. (Fahmal, 2008)

Benchmarks for assessing the actions of the State / Government whether in line with the objectives of the state, namely by using the General Principles of Good Governance / AAUPB (*Algemene Beginselen Van Behoorlijk Bestuur*) ya Ngin principle identical to the basic values of good *governance*. In accordance with the provisions of Article 10 paragraph (1) of Law No.30 of 2014 on Government Administration, it is stated that the General Principles of Good Governance (AAUPB) include: principles of legal certainty, expediency, impartiality, adjudication, not abusing authority, openness, public interest and good service.

AAUPB is a prerequisite for the realization of good state administration decisions, while the principles of *good governance* are prerequisites for the creation of synergistic and constructive state management. (Nugraha, 2007) However, the challenge is how to have the existence of the principles of *good governance* recognized juridically, so that the legal force is formally in its enactment General principles of good governance as detailed by Wiarda is (Hadjon, 2002):

- a) Asas fairplay (*het beginsel van fairplay*);
- b) Asas kecermatan (*zorgvuldigheid*);
- c) Asas sasaran yang tepat (*zuiverhed van oogmerk*);
- d) Asas keseimbangan (*evenwichtigheid*);
- e) Asas kepastian hukum (*rechtszekerheid*)

As a comparison material, di Belgia According to Sabient Lust, the general principles of good governance are divided into: There are two kinds, namely the formal principle and the material principle (Ust, 2007). The formal principle is related to the problem of decision-making procedures while the material principle concerns the substance of the decision.

Sadu Wasistiono argued that the demand for *good governance* arises because of irregularities in the implementation of the country from democratic values, thus encouraging awareness of citizens to create a new system or paradigm to oversee the course of government so as not to deviate from its original purpose. (Wasistiono, 2003) A paradigm based on the principle of openness or transparency that allows all parties, including the public can participate in controlling the course of government. The paradigm to be developed is a good and clean state government that is also supported by good and clean government organizers as well.

Based on the provisions of Article 1 paragraph (1) of Law No. 28 of 1999, on the Maintenance of a Clean and Free State KKN, the understanding of state organizers is a State Official who carries out executive, legislative, or judicial functions, and other officials who are function and its main duties related to the implementation of the state in accordance with the provisions of applicable laws and regulations. A clean State Organizer is a State Organizer who adheres to the general principles of state administration and is free from the practice of KKN, as well as other reprehensible acts. Thus *government* pays more attention to the system, while *governance* pays more attention to human resources working in the system. Without maintaining a balance of these two things there will be inequality in the practice of government governance, which will eventually cause problems in the state system. (Widodo, 2001)

### **3.2 The Role of Society Based on The Principle of Openness in Realizing Good and Clean Government**

Based on the provisions of Article 8 paragraph (1) of Law No.28 of 1999 concerning Clean and Free State Organizers from KKN, it is stated that the participation of the community in the implementation of the state is the right and responsibility of the community to participate in realizing a clean State Administration. Furthermore, in the provisions of Article 9 paragraph (1) of Law No.28 of 1999, it is regulated that the participation of the community is realized in the form of:

- a) The right to seek, obtain, and provide information about the stewardship of the state;
- b) the right to express advice and opinions responsibly to the policies of the State Organizer;
- c) The right to legal protection.

The essence of *good governance* is the implementation of a clean and free state government from KKN by involving the participation of the community in it. In this case there are 5 (five) main conditions for creating "good governance", namely: *First*, creating efficiency in public sector management by introducing models of corporate management in the government administration environment, performing contracts with private parties or NGOs, and decentralizing government administration; *Second*, creating public accountability, in the sense that what is being acted on by the government must be accountable to the public; *Third*, the availability of adequate legal infrastructure and in line with the aspirations of the community in order to ensure the certainty of the government management system; *Fourth*, the existence of information systems that ensure public access to legal instruments and various government policies; *Fifth*, there is transparency from various policies ranging from the planning process to evaluation Asia implementation of rights from the community (*rights to information*). (Ida, 2002)

The five conditions as stated above are not separated from the participation of society. Government administration, must build cooperation with the community, both private parties and with *non-governmental organizations* (NGOs), and the most important related to the role of society is the need for an information system that is able to guarantee public access to legal instruments and various government policies. This is very important in realizing good and clean governance. However, effective supervision and control of the community can only be carried out if governance takes place in a transparent or open manner, making it possible for all parties to access the information-information they need. This is what then underlies the birth of the law on Public Information Disclosure.

Based on the provisions of Article 3 of Law No.14 of 2008, it is stated that the purpose of the Public Information Disclosure Act is to: a) guarantee the right of citizens to know the plan of public policy making, public policy programs, and public decision-making processes, as well as the reasons for public decision-making. b) encourage public participation in the public policy-making process; c) increase the active role of the community in public policy making and good management of public bodies, d) realize the implementation of a good state, which is transparent, effective and efficient, accountable and accountable.

The government is the recipient of a mandate or mandate holder sourced from the community to organize and manage the country as well as possible. On that basis, the community as a trustee must be involved in terms of governance. This community involvement can be done starting from the process of policy formulation, monitoring to evaluation of government activities or activities. Good governance can be realized when there is synergy and good cooperation between the government, the private sector and civil society in general. Therefore, there is a need for transparency, accountability, and community participation. Public policies issued by the government must be transparent, effective and efficient, and able to answer the demands of the public interest fairly.

#### 4. Conclusion

The role of society in realizing good and clean governance can be applied starting from the process of policy formulation, monitoring to the evaluation of government activities or activities. The community as a mandate to the government has the right to exercise supervision or control over the administration of government. However, effective controls can only be implemented if governance is transparent or open, making it possible for all parties to access the information they need. On this basis, the principle of openness or transparency has a very important role in realizing good and clean governance.

#### References

- Akhmadi, N. (2004). *Tata Kelola Pemerintah dan Penanggulangan kemiskinan : Bukti-Bukti Awal Desentralisasi di Indonesia*.
- BPKP, L. dan. (2002). *Akuntabilitas dan Good Governance*. Jakarta.
- Fahmal, M. (2008). *Asas-Asas Umum Pemerintahan Yang Layaka Dalam Mewujudkan Pemerintahan yang Bersih*. Yogyakarta: Kreasi Total Media.
- Hadjon, P. M. (2002). *Good Governance Dalam Penyelenggaraan Daerah. Meritokrasi, 1*.
- HR, R. (2006). *Hukum Administrasi Negara*. Jakarta: PT. Raja Grafindo.
- Ida, L. O. (2002). *Otonomi Daerah, Demokrasi Lokal dan Clean Government*. Jakarta: PSPK.
- Imron Rizki, Safrin Salam, A. M. (2019). Menguji Eksistensi Pengadilan Agama Dalam Menyelesaikan Sengketa Ekonomi Syariah. *Indonesia Journal of Criminal Law, 1*(1), 65–76.
- Nugraha, S. (2007). *Laporan Akhir Tim Kompendium Bidang Hukum Pemerintahan Yang Baik*. Jakarta.
- P, L. Ialolo K. (2002). *Indikator dan Alat Ukur Prinsip Akuntabilitas, Transparansi dan Partisipasi*. Jakarta: PT Citra Aditya Bakti.
- Safrin Salam, D. (2020). *Perkembangan Filsafat Hukum Kontemporer*. Zifatama Jawara. Retrieved from [https://books.google.co.id/books?id=Rf7\\_DwAAQBAJ&dq=+safrin+salam+filsafat+hukum&lr=&hl=id&source=gbs\\_navlinks\\_s](https://books.google.co.id/books?id=Rf7_DwAAQBAJ&dq=+safrin+salam+filsafat+hukum&lr=&hl=id&source=gbs_navlinks_s)
- Salam, S. (2020). Rekonstruksi Paradigma Filsafat Ilmu : Studi Kritis Terhadap Ilmu Hukum Sebagai Ilmu. *Ekspose: Jurnal Penelitian Hukum Dan Pendidikan, 18*(2), 885–896. <https://doi.org/10.30863/ekspose.v18i2.511>
- Ust, S. (2007). *Administrative Law in Belgium Dalam Rene J.G.H. United State*: Oxford University Press.
- Wasistiono, S. (2003). *Kapita Selekta Penyelenggaraan Pemerintahan Daerah*. Bandung: Fokus Media.
- Widodo, J. (2001). *Good Governance (Telaah dan Dimensi Akuntabilitas dan Kontrol Birokrasi Pada Era Desentralisasi dan Otonomi Daerah)*. Surabaya: Insan Cendekia.