

Realizing Good Governance in Governance Through Law Enforcement and Democracy

Romli Arsad

Institut Pemerintahan Dalam Negeri, Indonesia

ABSTRACT

Good governance is an important aspect in maintaining integrity, transparency, accountability and public participation in government decision-making. Legal policy, as an instrument that regulates government behavior and actions, has a crucial role in achieving this goal. This study aims to analyze the role of legal policy in realizing good governance. This research uses a qualitative approach with descriptive methods. The results of this study indicate that creating a good government can be done as long as it has implemented the rule of law, the pillars of democracy, and good governance. The rule of law ensures the existence of law as the basis for governance, while the pillars of democracy emphasize freedom, participation, equality and accountability. Good governance is a framework for implementing these principles effectively, including efficiency, transparency, participation and integrity. By applying these principles, it is hoped that government will be effective, accountable and responsive to the needs of the community.

Keywords: Governance, Rules of Law, Pillars of Democracy

1. Introduction

The paradigm in governance has changed in line with the changing dynamics and demands of society. This change is marked by a shift in the role of stakeholders and the environment that influences the interactions within them. Initially, the focus of the government paradigm was centered on the government (government-centric), but then shifted to a governance-centric paradigm which focused on changing focus and locus (Haboddin, 2015).

The implementation of governance as an effort to achieve good governance requires several principles as its main basis. Several institutions have formulated the principles outlined in the concept of good governance and become the underlying values. These principles include foresight, openness and transparency, public participation, accountability, rule of law, democracy, professionalism and competence, responsiveness, and efficiency and effectiveness (Siti Maryam, 2017).

The application of values in good governance is in line with the ongoing spirit of bureaucratic reform. Bureaucratic reform is a conscious and planned effort to change the bureaucracy so that it can adapt to changes in the strategic environment and improve governance. The application of good governance values is becoming an increasingly common phenomenon both at the central and regional levels (Astomo, 2014).

The presence of these values has had a positive impact on improving the culture and performance of the bureaucracy. Each government agency chooses and develops the concept of values according to its own conditions. Therefore, the results obtained from implementing these values may vary from one agency to another. Efforts to implement these values have been welcomed by various institutions which provide recognition for the achievements that have been achieved in implementing good governance (Santoso & Sadjijono, 2018).

Henk Addink (2019) said that to create good governance, it is connected with the three pillars which are the keys to the formation of a modern state, namely *rule of law*, *democracy*, and *good governance*. Talking about *the rule of law*, it can be interpreted by the existence of the principle of legality. In practice, this relates to the existence of a judiciary whose job is to oversee the legislative and executive branches in the event of discrepancies between the two. Then, the pillars of democracy mean freedom and equality in social life.

The pillars of democracy reflect freedom and equality in social life. Democracy means providing space for participation and active participation of citizens in making decisions that affect their lives. Democratic principles, such as freedom of expression, the right to vote, and the right to associate, form the basis for maintaining public involvement and encouraging inclusive participation in government decision-making (Kusniati, 2011).

If the two pillars, namely the rule of law and democracy, have been implemented effectively and consistently in a country, it can be said that good governance has been created in that country. The rule of law guarantees the rule of law that applies fairly and equally to all citizens. The existence of a judiciary that is independent and authorized to oversee and balance legislative and executive activities is an important indicator of a strong rule of law (Amer, 2020).

Good governance includes principles related to the way government is run. This includes transparency, accountability, responsiveness and efficiency in the management of public resources. Good governance also

involves community participation in the policy-making process, effective oversight of government institutions, and fairness in decision-making (Jati, 2012).

In the context of a modern state, good government which includes rule of law, democracy and clean governance is a crucial foundation. The combination of these three pillars forms a solid foundation for effective, just and accountable governance. It is important for modern countries to continue to strengthen and maintain these practices in an effort to achieve good governance and meet societal expectations.

This research aims to explore and analyze how legal policy can be an effective instrument in realizing good governance. In order to achieve this goal, this research will examine the role of rule of law, democracy, and clean governance as key elements in creating good governance. It is hoped that the results of this research can provide useful insights and recommendations for policy makers, legal practitioners, and the public in an effort to improve better governance.

2. Literature Review

1. Rules of Law

The rule of law according to Abdul Aziz Hakim (2011) is a state based on law and justice for its citizens. This means that all the powers and actions of the apparatus of the state or the authorities are solely based on law or in other words regulated by law so that they can reflect justice for the social life of its citizens. Another definition of a rule of law state in general is that state power is limited by law, which means that all attitudes, behaviors and actions either carried out by the authorities or state apparatus as well as carried out by citizens must be based on law.

Sudargo Gautama (1973) argued, there are three characteristics or elements of a rule of law, namely a. There are restrictions on the power of the state against individuals, meaning that the state cannot act arbitrarily, state actions are limited by law, individuals have rights under the state or the people have rights against the authorities. b. Legality principle which means that every state action must be based on a law that has been promulgated beforehand which the government or its apparatus must also obey c. Separation of Powers. This opinion was based on the opinion put forward by FJ Stahl who argued that elements of a rule of law state include: 1) guarantees or basic human rights; 2) there is division of government powers based on legal regulations; 3) the existence of state administrative justice.

According to Dicey (2013), a British thinker who is also a book author, stated that there are three (3) main elements of the rule of law, namely;

- Supremacy of law is that which has the highest authority in a country, namely law (sovereignty of law).
- Equality before the law; equality for the position before the law for all citizens, both as individuals and as state officials
- Constitution based on individual rights; the constitution is not a source of human rights and if human rights are placed in the constitution it is only as an affirmation that human rights must be protected.

2. Democracy Pillars

Indonesia as a [democratic country](#) consists of the pillars [of Indonesian democracy](#). In a democracy there are the Pillars of Democracy or the trias politica which is divided into legislative, executive and judicial. The pillars of Indonesian democracy are also known as the principles of Pancasila democracy. According to Ahmad Sanusi (2006), entitled "*Empowering Communities in the Implementation of the 10 Pillars of Democracy*", puts forward the 10 Pillars of Indonesian Democracy according to Pancasila and the 1945 Constitution. The following are the 10 Pillars of Indonesian Democracy:

- 1) Democracy in the One and Only God, namely the ins and outs of the system of behavior in administering the Unitary State of the Republic of Indonesia must comply with the principles, consistency, or values and basic rules of Belief in the One and Only God.
- 2) Democracy with Intelligence, namely organizing and administering democracy in accordance with the 1945 Constitution which is not solely due to instinct, muscle power or mass strength alone. Democracy demands more spiritual, aqliyah, rational and emotional intelligence.
- 3) People's Sovereignty Democracy, namely the highest power is in the hands of the people with the principle that the people own and hold that power. Sovereignty of the people is entrusted to the representatives of the people.
- 4) Democracy with the Rule of Law, namely the power of the Republic of Indonesia must contain, protect, and develop legal truth, not reckless democracy, farce democracy, or manipulative democracy.
- 5) Democracy with the Division of State Power, that is, the division of state power must be handed over to state agencies which are responsible for separating powers with a system of checks and balances.
- 6) Democracy with Human Rights, aims to increase the dignity and status of the whole human being.
- 7) Democracy with an Independent Court, Democracy with an independent court wants the implementation of an independent court system, namely to provide the widest opportunity for all interested parties to seek and find the fairest law possible.

- 8) Democracy with regional autonomy, namely imposing restrictions on state power, especially the legislative and executive. In the 1945 Constitution, ordered the formation of autonomous regions in districts/cities and provinces.
- 9) Democracy with Prosperity is aimed at building a prosperous country for the people of Indonesia. This aims to build a prosperous country in all aspects ranging from rights and obligations, people's sovereignty, division of powers, regional autonomy or legal justice.
- 10) Democracy with social justice, namely outlining social justice from various groups, classes and layers of society.

3. Good governance

Mardiasmo (2006) Good Governance is defined as the procedures of a country used to manage economic and social resources that are oriented towards community development in order to realize good governance. According to Smith (2007) defines Good Governance as a way of government to regulate the relationship between committee assignments, the role of directors, stakeholders and other shareholders. A process that is carried out in a transparent manner to determine government goals, evaluate performance and achievements is also referred to as clean and good governance procedures.

According to Sedarmayanti (2014) indicators of Good Government Governance are: Participation, Transparency, Accountability, Effectiveness, Law Enforcement. Meanwhile, according to Mardiasmo (2006) cited by the United National Development Program (UNDP) there are indicators of good government governance, as follows: Participation, Rule of Law, Transparency, Responsiveness, Consensus Orientation, Equity, Efficiency and Effectiveness, Accountability, Strategic Vision.

3. Methods

This research is a descriptive type with a qualitative approach. Kirk and Miller (1986) define qualitative research as a special tradition within the social sciences that is fundamentally dependent on observing humans both in its field and in its terminology. This research is also supported by library research, namely data sources in the form of books or literature related to discussions or through data sources on the internet. Qualitative research is research that produces analytical procedures that do not use statistical analysis procedures or other quantification methods.

4. Results And Discussion

Today the paradigm of government management in order to form a good and right statehood has entered the stage of good governance or what we are familiar with as good government. Along with this, it turns out that Indonesia's national development paradigm as part of a global citizen has also experienced a change, namely sustainable development (SDGs) .

One of the triggers for the formation of good government in Indonesia is the increasing public demand for the quality of democracy, the threat of human rights, and the ineffectiveness of government, so that people with full awareness ask the government to be more responsible and transparent for public officials. Good governance has several principles embodied in Law Number 28 of 1999 concerning State Administrators who are Clean and Free from Corruption, Collusion and Nepotism in article (3) including: the principle of legal certainty, the principle of orderly administration of the State, the principle of public interest, the principle of transparency, the principle of proportionality, the principle of professionalism, and the principle of accountability.

In realizing good governance, the role of the rule of law, democracy and clean governance are key elements in creating good governance. Here's an explanation.

a) The Role of the Rules of Law

The rule of law has a very important role in realizing good governance. The rule of law principle emphasizes that law must be the main foundation in regulating people's lives and administering government. In this context, the rule of law acts as a binding and equal guideline for all citizens, including the government itself.

First, the rule of law guarantees justice. This principle places the law as an objective tool to resolve disputes and uphold justice. With the rule of law that is clear and applied consistently, every individual has guaranteed protection against abuse of power and discrimination. Good governance must ensure that every citizen is treated fairly and equally before the law.

Second, the rule of law helps regulate power and prevent abuse of power. In good governance, government must operate within a clear and limited legal framework. This principle involves an equal distribution of powers between the legislature, executive and judiciary. An independent judiciary plays an important role in ensuring that the government does not go beyond its powers and is held accountable for its actions and policies.

Third, the rule of law promotes transparency and accountability. Good governance must operate openly and provide fair access to public information. Within a strong legal framework, government agencies must be held accountable for their decisions and actions. This principle ensures that the government can be held accountable by the community and the decision-making process is carried out transparently, without any arbitrary policies.

Finally, the rule of law provides the legal certainty necessary to facilitate investment, trade and economic development. When laws are applied clearly and fairly, it creates a stable and predictable environment for businesses and investors. Good government must provide strong legal protection of property, contract and business rights, thus promoting sustainable economic growth.

b) The role of the pillars of democracy

The role of the pillars of democracy in realizing good governance cannot be ignored. Democracy is a fundamental principle in carrying out a just and equal social life. The pillars of democracy place freedom, participation and equality as the main values that must be upheld in a good government.

First, democracy ensures individual freedom in voicing opinions and expression. In good governance, people have the freedom to express their views, criticisms and aspirations for public policies. This freedom of expression is one of the important indicators in assessing the extent to which a government involves and respects citizen participation.

Second, the pillars of democracy encourage the active participation of the community in the decision-making process. Broad and inclusive participation provides opportunities for citizens to participate in determining policies that affect their lives. Through free and fair elections, people have the right to elect their leaders and cast their voice in determining their representation in the legislature. This active participation is a reflection of a healthy democracy.

Third, democracy guarantees equality in social life. Every citizen has equal rights and fair treatment without discrimination. Good governance must ensure that every individual has basic rights that are guaranteed and respected, including the right to freedom of expression, voting rights, property rights and other human rights. This equality ensures that every citizen is treated fairly and has equal opportunity to access government resources and benefits.

Lastly, democracy promotes accountability of leaders and governments. In a democratic system, the government is accountable to its people and must be accountable for the actions and policies taken. The periodic election mechanism provides an opportunity for citizens to evaluate the performance of their leaders and choose the best to represent their interests. Accountability is an important principle in maintaining transparency and integrity in government administration.

c) The role of good governance

The role of good governance in realizing good governance is very important. Good governance refers to the principles of governance that are effective, transparent, responsible, fair and public interest oriented. In this context, good governance acts as a framework to ensure that governance is efficient, reliable and capable of producing maximum benefits for society.

First, good governance helps ensure efficiency and effectiveness in governance. This principle emphasizes the importance of using limited resources wisely, eliminating excessive bureaucracy, and improving the quality of public services. By implementing good governance, the government can optimize the results achieved by using existing resources efficiently, so as to be able to provide quality services for the community.

Second, good governance plays a role in ensuring transparency and accountability in decision making and management of public resources. This principle emphasizes the importance of making decisions that are open and accountable to the government. With transparency, the public can monitor and oversee the government's decision-making process, thereby minimizing the risks of corruption, nepotism and abuse of power.

Third, good governance encourages community participation in the decision-making process. This principle emphasizes the importance of involving the community in formulating policies and programs that affect their lives. In good governance, the community is considered as an active partner in the decision-making process, either through direct participation mechanisms or through their representatives in the legislature. Community participation gives legitimacy to government policies and encourages continuity and conformity between public policies and community needs.

Overall, good governance plays an important role in realizing good governance. Efficiency, transparency, participation and integrity are principles that must be applied consistently to achieve effective and accountable governance. By implementing good governance, the government can build public trust, improve the quality of public services, and achieve sustainable and inclusive development.

5. Conclusion

From this research it can be concluded that the rule of law, the pillars of democracy, and good governance have an important role in realizing good governance. The rule of law ensures the existence of law as the basis for governance, while the pillars of democracy emphasize freedom, participation, equality and accountability. Good governance is a framework for implementing these principles effectively, including efficiency, transparency, participation and integrity. By applying these principles, it is hoped that government will be effective, accountable and responsive to the needs of the community. In an era that is constantly changing, the rule of law, the pillars of democracy and good governance are increasingly important. Applying these principles provides benefits such as efficient use of public resources, equitable public services, community participation in decision-making, and

improved quality of life. By realizing good governance, it is hoped that it will be able to meet people's expectations, face future challenges, and achieve common prosperity.

References

1. Haboddin, M. (2015). *Pengantar Ilmu Pemerintahan*. Universitas Brawijaya Press.
2. Siti Maryam, N. (2017). Mewujudkan good governance melalui pelayanan publik. *JIPSI-Jurnal Ilmu Politik Dan Komunikasi UNIKOM*, 6.
3. Astomo, P. (2014). Penerapan Prinsip-Prinsip Pemerintahan yang baik dalam penyelenggaraan pemerintahan. *Kanun Jurnal Ilmu Hukum*, 16(3), 401-420.
4. Santoso, B. T., & Sadjijono, S. (2018). Keputusan fiktif positif sebagai bentuk reformasi birokrasi berdasarkan prinsip good governance/fictive positive decision as a form of bureaucratic reform based on the good governance principles. *Jurnal Hukum Peratun*, 1(1), 119-114.
5. Addink, H. (2019). *Good governance: Concept and context*. Oxford University Press.
6. Kusniati, R. (2011). Sejarah Perlindungan Hak Hak Asasi Manusia dalam Kaitannya dengan Konsepsi Negara Hukum. *INOVATIF | Jurnal Ilmu Hukum*, 4(5).
7. Amer, N. (2020). Analisis Pembubaran Organisasi Kemasyarakatan Dalam Perspektif Negara Hukum. *Jurnal Legalitas*, 13(01), 1-15.
8. Jati, R. (2012). Partisipasi Masyarakat Dalam Proses Pembentukan Undang-Undang Yang Responsif. *Jurnal Rechts Vinding: Media Pembinaan Hukum Nasional*, 1(3), 329-342.
9. Hakim, A. A. (2011). *Negara Hukum dan demokrasi di Indonesia*. Pustaka Pelajar.
10. Gautama, S. (1973). Pengertian tentang negara hukum. *(No Title)*.
11. Stahl, F. J. (2009). *The Doctrine of State and the Principles of State Law*. WordBridge Publishing.
12. Dicey, A. V. (2013). *The law of the constitution* (Vol. 1). Oxford University Press.
13. Sanusi, A. (2006). Memberdayakan Masyarakat dalam Pelaksanaan 10 Pilar Demokrasi” dalam. *Pendidikan Nilai Moral dalam Dimensi Pendidikan Kewarganegaraan*.
14. Mardiasmo, M. (2006). Realization of transparency and public accountability through public sector accounting: A means of good governance. *Journal of Government Accounting*, 2(1), 1-17.
15. Smith, B. (2007). *Good governance and development*. Bloomsbury Publishing.
16. Sedarmayanti. (2012), *Good Governance: Pemerintahan yang Baik & Good Corporate Governance: Tata Kelola Perusahaan yang Baik*. Published by Mandar Maju, Bandung.
17. Kirk, J., & Miller, M. L. (1986). *Reliability and validity in qualitative research* (Vol. 1). Thousand Oaks California: Sage