

STATE ADMINISTRATIVE LAW IN THE IMPLEMENTATION OF PUBLIC SERVICES RELATED TO HUMAN RIGHTS

Melky Suhery Simamora¹, Azmiati Zuliah²

¹Dosen tetap Prodi Magister Hukum Universitas Dharmawangsa

²Dosen tetap Prodi Magister Hukum Universitas Dharmawangsa

Surel: melky.simamora@dharmawangsa.ac.id¹, mizuliah@dharmawangsa.ac.id²

Abstrak

The object of administrative law is government power (bestuur; Verwaltung). State Administrative Law in the implementation of public services, the government often uses authority not by what is regulated in the law it violates human rights. Therefore, on the other hand, the function of state administrative law in creating good and authoritative governance is needed, including normative functions, instrumental functions, and legal guarantee functions, all three of which are part of the implementation to create a clean government, by the principles of state law. About the concept of good governance, state administrative law functions to protect human rights. The government carries out activities by applicable regulations or based on the principle of legality so that it will not lead to inappropriate service behavior which is an administrative mal act that is detrimental to people who want to obtain public services. This paper wants to analyze the correlation between state administrative law and human rights, aiming to see how the function of public services to implement good governance is good governance and forms of violations of public administration which are forms of human rights violations in the implementation of public services. The research method uses a normative juridical approach. This study concludes that efforts to implement good governance will be carried out if good governance can be implemented properly as well. Good governance will be born from a clean government, transparency, and accountability and it is undeniable that there are still various human rights violations in the implementation of public administration. It is hoped that this paper can provide input so that the guarantee of services by state administrators to citizens will be guaranteed properly.

Keywords: State Administrative Law, Public Service, Law, and Human Rights.

INTRODUCTION

State Administrative Law (HAN) is part of public law, namely the law that regulates the actions of the government and regulates the relationship between the government and citizens or the relationship between government organs. HAN contains all regulations relating to how government organs carry out their duties. HAN contains the rules of the game relating to the functions of government

organs. The understanding of state administration from the above view can be seen in the first two aspects of state administration as an organization, secondly, administrations that specifically pursue the achievement of state goals (public) meaning that the goals set by law are dual Recht (force law). Philipus Hadjon et al, (1994:26)

This makes it clear that state administration does not only discuss actors who carry out administrative functions but also includes all the means, procedures, and prerequisites that all seek to transform all available resources to achieve the country's goals. The definition of state administration is ultimately understood as a system that involves all the elements and characteristics of the system to achieve a goal.

The role of HAN in the current government greatly affects the activities carried out by all government officials of a country to achieve the goals of a country. Iskratinah, (2007) a Public service is a form of implementation of state administration in providing services to the community based on a policy issued by the government in the duties of state administrators including in the field of people's welfare for example in the fields of education, health and maintenance of the poor and so on. However, it is undeniable that there are violations of Human Rights (HAM) in the implementation of these public services. Human rights as moral principles or norms that must be protected by the state describe certain standards of human behavior. They are inherently entitled because they are human beings who are inherently human rights and do not distinguish between religion, ethnic origin, or another status.

The concept of good governance is related to the activity of implementing functions to carry out the public interest. Good governance relates to the implementation of three basic tasks of government, namely firstly ensuring the security of everyone and the community, secondly managing an effective structure for the public sector, private sector, and society, thirdly promoting economic, social, and other fields by the will of the people. C.H Add link, (2007:67)

From the description above, the author will examine:

1. How is the function of public services to implement good governance?
2. What are the forms of violations of public administration which are forms of human rights violations in the implementation of public services.

RESEARCH METHODS

The method used in this research is normative juridical which means studying various kinds of formal legal rules such as laws, literature containing theoretical concepts which are then linked to the problems that are the subject of discussion related to the legal content encountered to obtain an appropriate

conclusion. with scientific truth and can be justified scientifically and objectively. Peter Mahmud MARzuki, (2008).

RESEARCH RESULTS AND DISCUSSION

The function of public services is to implement good governance

The substance of public services is always associated with an activity carried out by a person or group of people or certain agencies to provide assistance and convenience to the community to achieve certain goals. This public service is becoming increasingly important because it is always in touch with the general public who have a variety of interests and goals. Therefore, public service institutions can be carried out by the government or non-government. If the government is a bureaucratic organization in public services, then the government bureaucratic organization is the foremost organization related to public services. In terms of government institutions providing services, the most important thing is how to provide assistance and convenience to the community to meet their needs and interests. A quality service provided to the community requires the efforts of all employees and not just the officers in the "Front Office". So, this effort is not only required from those who deal directly with the community in producing services that reflect the quality of the employee's attitude, but also from employees in the "Back Office" who produce services behind the scenes that are not visible to the public. Why in the concept of community services carried out by Government Agencies must be carried out by all employees. The tasks carried out by each employee contain elements of service which in turn will affect the quality of service products from the agency where the employee works which are accepted by the community.

Public services or public services in question are all forms of services, both in the form of public goods and public services which in principle are the responsibility and are carried out by Government Agencies at the Center, in the Regions and within the State-Owned Enterprises or Regional-Owned Enterprises. , in the context of efforts to meet the needs of the community as well as in the context of implementing the provisions of laws and regulations. Rahardjo Adisasmita, (2009)

In Indonesia, efforts to improve public services have been carried out by the government, to further encourage the commitment of the government apparatus to improving service quality, the government issued guidelines on improving and improving the quality of government apparatus services to the community. However, until now people still think that the quality of public services is still very low, especially in the regions. Various problems still arise from bureaucratic problems to human resources who are still lacking in mastering these fields.

Good governance is a determining standard to achieve sustainable and equitable development. The concept of governance is not new. Although this concept is complex and even controversial, there is one relatively common understanding of its meaning. Governance can simply be understood as “the process of making decisions and the process of how decisions are implemented or not implemented.” With this understanding, governance applies and takes place at all national and regional levels, and even in non-governmental organizations. Observing governance means looking at the actors, both formal and informal, in the policy-making process and the implementation of the policies that have been made, and the formal and informal structures that have been established and influence the process of making and implementing policies. Tommy A. Legowo, (2005:4)

The State Administration Agency (LAN), (2000:1) defines governance as the process of administering state power in implementing the provision of public good and service. Furthermore, LAN emphasized that from the functional aspect, governance can be viewed from whether the government has functioned effectively and efficiently to achieve the goals that have been outlined or vice versa.

Moving on from the notion of governance as a "way" or "us" or "implementation" above, good governance implies a way and implementation of good government, in the sense that the actions or behavior of stakeholders in running the government (government) are based on ethics or morals. . Sadjijono, (2008:141-142)

The concept of good governance, in the sense of government, will bind the government in realizing a clean government. The concept of clean government is not a normative concept of a clean government. In legal language (normative), the concept of a clean government is parallel to the concept of government actions that are by the law (*rechtmatigheid van bestuur*). Sadjijono, (2008:141-142)

A good government (good governance) will be born from a clean government (clean government), good government can only be realized when it is held by a good government, and the government will be good if it is based on the principles of transparency and accountability. Therefore, how to realize the conditions of good governance. This should return to the institutions or officials who accept the duties and responsibilities as government administrators, including the community and non-governmental organizations. Sadjijono, (2008:150)

Good governance according to LAN contains two meanings. First, values that uphold the wishes/will of the people, and values that can increase the ability of the people to achieve the (national) goal of self-reliance, sustainable development, and social justice. Second, the functional aspects of an effective and efficient government in carrying out its duties to achieve these goals. Based on this understanding, good governance is oriented to two things, namely, firstly the

ideal orientation of the state which is directed at achieving national goals, and secondly the functional aspects of an effective and efficient government in carrying out its duties to achieve these goals. Based on the description above, it can be concluded that good governance is the implementation of a solid response, and efficient state government by maintaining a "synergistic" constructive interaction between the domains of the state, the private sector, and society.

Good governance should include:

- a) Participation Every citizen has the right and obligation to take part in the process of the state, government, and society, either directly or through the intermediation of legitimate institutions that represent their interests. This citizen participation is carried out not only at the implementation stage, but as a whole starting from the stages of policy formulation, implementation, evaluation, and utilization of the results.
- b) Law Enforcement (Rule of Law) Good Governance is implemented in the context of democratizing the life of the nation and state. One of the conditions for democratic life is the existence of fair law enforcement and implemented indiscriminately. Therefore, the first step in creating good governance is to build a sound legal system, both software (software), hardware (hardware), and human resources that run the system (human ware).
- c) Transparency Openness is one of the characteristics of good governance, especially the spirit of the era of openness and the result of the information revolution. Transparency covers all aspects of activities that concern all public interests. According to Mardiasmo, Mardiasmo, (2002:30) transparency means the government's openness in providing information related to public resource management activities to parties who need information. The government is obliged to provide financial information and other information that will be used for decision-making by interested parties.
- d) Responsiveness. Responsiveness is a logical consequence of openness, every component involved in the process of developing good governance needs to be responsive to the wishes and complaints of each stakeholder.
- e) Consensus Orientation Good Governance mediates different interests to obtain the best choice for the wider interest, both in terms of policies and procedures.
- f) Justice (Equity) All citizens have the same opportunity to obtain welfare.
- g) Effectiveness and Efficiency Processes and institutions produce by what has been outlined by using the best available resources.
- h) Accountability Decision-makers in government, private sector, and civil society are accountable to the public and stakeholder institutions. This accountability depends on the organization for the internal or external interests of the organization. Sedarmayanti, (2003:7-8)

Leaders and the public must have a broad and far-sighted perspective of good governance and human development in line with what is needed for

development to carry out the fulfillment of people's human rights in gaining access to good public services, where the community can participate in decision making to protect the interests of the community.

Forms of violations of public administration which is a form of human rights violations in the implementation of public services.

The issue of ethics in public services in Indonesia is not discussed as widely and thoroughly as in developed countries, although it has been realized that one of the basic weaknesses in public services in Indonesia is a matter of morality. Ethics is often seen as an element that is less related to the world of public service. In fact, in the literature on public services and public administration, ethics is one of the elements that will determine the satisfaction of the public served as well as the success of the public service organization itself.

This element must be considered in every phase of public service, starting from the preparation of service policies, the design of the service organization structure, to service management to achieve the ultimate goal of the service. In this context, the focus is on the actors involved in each phase, including the interests of these actors, whether the actors have prioritized the public interest above other interests. For example, by using generally accepted moral values (six great ideas) such as the value of truth (truth), goodness (goodness), freedom (liberty), equality (equality), and justice (justice). <https://fia-ub.blogspot.com/2015/10/etika-pelayan-publik-dalam-pengurusan.html> accessed on January 5, 2022.

In fact in the field, various problems often arise in government services to the community that reflects public dissatisfaction with government public services, including expensive, rigid, and convoluted services, the attitudes and actions of the officers, services that like to demand compensation, less friendly, arrogant, slow and service facilities. The forms of public services which constitute a violation of community rights include Illegal levies (extortion) for making Identity Cards (KTP), birth certificates, business permits, or driving licenses, and other public services.

The rise of illegal levies (extortion) against the example above, for example in making ID cards, which makes people reluctant to take care of Population and Family Planning Administration with implementing officials at the sub-district/village level has not been smooth because it is constrained by the availability of fast communication facilities on line internet access that is not yet available in sub-district so that information/instructions that must be conveyed by the sub-district to the village/kelurahan which then to the community takes a long time, and vice versa.

This also resulted in many people who did not know about the procedures, requirements, time, and cost of making an ID card, so in the implementation in the

field, there were deviations. Costs that are higher than reasonable costs. Public service itself is essentially the provision of excellent service to the community which is the embodiment of the obligations of government officials as public servants. However, the conditions that occur in the community indicate that public services in the form of population administration services, especially in terms of making Identity Cards (KTP) has not yet been fully implemented and obstacles are still encountered.

Health services are also still a lot of violations where there are residents who died just because they were unable to pay hospital fees. Likewise, in education services, it is still found that children are forced to discontinue school because their parents are unable to pay school fees, even though it is quite clear that the mandate in the laws and regulations is that the government is obliged to pay for 9 years of basic education (SD and SMP). The processing of Birth Certificates, Family Cards, and Identity Cards are still considered expensive and the process takes a long time.

The example above is a case of human rights violations committed by public servants to the community in providing public services. From this classic phenomenon, it can be said that the behavior of administrative malls carried out by public services in the presence of illegal levies is a form of corruption that can be influenced by at least three things;

1. The officer who gives the signal, if you want it fast, there must be an additional fee. Officers are in a position to accept bribes and provide opportunities for the public to do so. The officer seemed to deliberately give the news that the manufacturing process took a long time, but it didn't take long. Or in other forms until facilitation money appears.
2. Society itself. People who want the ID card to be made, are willing to pay additional fees. He knew the real cost of retribution. But it seems helpless, to give additional costs. This position is a bribe or bribe.
3. Weak supervision. This is related to the existing regulations that still allow loopholes for bribery (additional costs) in the process of making ID cards. It is almost certain that the facilitation money above went into the pocket of that person. It is impossible to enter into the ID card retribution because the size has been determined by the Regional Regulation (Perda). Little by little, over time it also becomes a hill. Mushrooms are small, but they are everywhere. that's a fitting saying for the phenomenon of retribution for making ID cards. Cheating behavior, in this case, may not harm the state. But it is still a corrupt behavior that violates the regulations, actually harming the people as a party that should be served well. Dadang Juliantar, (2005:3)

CONCLUSION

Through the previous discussion, the author tries to conclude from the descriptions that have been stated above. The problems faced in achieving the objectives of monitoring public services and forms of human rights violations in public services are:

1. Public services or public services are all forms of services, both in the form of public goods and public services which in principle are the responsibility and are carried out by Government Agencies at the Center, in the Regions and within the State-Owned Enterprises or Regional-Owned Enterprises, in the context of efforts to meet the needs of the community as well as in the context of implementing the provisions of laws and regulations. The function of public services to implement good governance will be carried out if good governance can be implemented properly as well. Good governance will be born from a clean government, transparency, and accountability. The function of public services to implement good governance will be realized if participation, law enforcement, transparency, responsiveness, Consensus Orientation of Good Governance, justice, Effectiveness and Efficiency, Accountability can be implemented properly.
2. Various administrative services, such as KTP services, birth certificates, land certification, licensing, education, health are services organized to guarantee the rights and basic needs of citizens. A community that reflects public dissatisfaction with public services. The form of public service which is a form of violation of the rights of the community includes illegal levies (extortion) which is a form of corruption that is not justified by law, especially since the perpetrators are public servants. The behavior of administrative malls that are carried out by public services in the presence of illegal levies is a form of human rights violation.

SUGGESTION

Based on the description above, the authors try to convey suggestions for achieving the objectives of supervision of the implementation of public services and how public services do not violate human rights as follows:

1. For public services to administer government to run well, public service providers must develop and determine service standards, publish service announcements, place competent implementers, provide facilities, infrastructure, and/or public service facilities that support the creation of an adequate service climate. , provide quality services by the principles of public service delivery, carry out services by service standards, actively participate and comply with laws and regulations related to the implementation of public services, provide accountability for services provided, assist the community in understanding their rights and

responsibilities and responsible for managing the organization of public service providers.

2. The mental and moral development of the staff administering and supervising public services who commit corruption and extortion must be strengthened with an understanding of ethics and morals so that they can work responsibly and serve the community voluntarily. The quality of the implementation process and the results of public services must be strived to provide security, comfort, smoothness, and legal certainty that can be accounted for so that all forms of administrative mal violations and illegal levies do not occur again.

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