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## GOOD GOVERNANCE BASED PUBLIC SERVICES

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### Abstract

Public service as a reflection of service form to the public to complete the right and fundamental need and administrative service as it set in constitution of Republic Indonesia of 1945. State have an obligation to complete the right of every citizen through government system to increase quality and to guarantee public service in accordance with general principles of good governance. In fact, there are so many problems of public service, including inconditence of public service. Therefore, this research is formulated into the roles and functions of public services in realizing good governance, the reform of the national legal system currently have the ability to transform the values of public services into the system of good governance based on the Constitution of the Republic of Indonesia 1945 and efforts to optimize public services that can achieve good governance. The analysis is carried out based on the rechtsstaats theory, stufen theory and law enforcement theory that is adapted to the basis of ideology (rechtidee) and Indonesian constitution. The result is concluded that the role and function of public services is one reflection of Indonesia that guarantees legal certainty and protection of people's rights. The transformation of the values of public services is a product of the current national legal system reform which is intended as an effort to improve quality and ensure the provision of public services. Indeed, the realization of good governance must begin with the quality and validity of the implementation of public services.

**Keywords:** Good governance; Public service

### 1. INTRODUCTION

Based on the constitution of RI 1945 (then called as the constitution of Republic Indonesia State of 1945), state have obligation in servicing each citizen and resident to complete their fundamental need and civil right on public goods, public service and/or administrative service provided by public service organizer. Indeed, good and clean governance realization nowadays would be a significant instrument to carry out public services.

There are various forms of public service implementation have to be

organized/provided by public service organizer. One of the public services nowadays catches the public attention is about health service as it set on the article 28 H constitution of Republic Indonesia State of 1945, as follow:

Every person has the right to live in physical and spiritual prosperity, to have residence and to get a good and healthy environment and the right to receive health services.

Every person has the right to get an easiness and special treatment to receive the same opportunities and benefits in order to achieve equality and justice.

Based on the service quiddity which is a fundamental (philosophical) right for everyone, then this is where the importance of public services is stated as it set in Law No. 25 of 2009 about public service (*Undang Undang Dasar Republik Indonesia Nomor 25, 2009*). The public service itself according to *Pasal 1 Nomor 1 (Undang Undang Dasar Republik Indonesia Nomor 25, 2009)* is:

Public service is an activity or series of activities in completing service need in accordance with the legislation for every citizen and resident for the goods, services and/or administrative services provided by public service organizer.

In an epistemological understanding, the organizers of public services are every state organizer institution, corporations, independent institutions established based on the legislation for public service activities, and other legal entities formed solely for public service activities.

The process of organizing public services intended to build reliance in public services organized by public service organizer. Furthermore, it is also expected to actualize public welfare and to educate the life of the nation, including also as an effort to emphasize the right and obligation of every citizen and resident, and the realization of the state's responsibility and corporation in organizing public services (axiological aspects).

In fact nowadays, the implementation of public services is still a problem with the conditions that have not been in accordance with the need and change in various field of life in the community, nation and state. Among the problems are facilities and infrastructure of public service, human resources, quality and service system and so on, where it has to reflect the service quickly, easily and affordably and provide legal certainly. The real example is the availability of health care providers (Anna, 2011), which are expected to provide service in accordance with *Undang Undang Dasar Republik Indonesia Nomor. 40 Tahun 2004*

concerning the national social security system.

Those problems can be caused by unpreparedness to respond the occurrence of a broad dimension of value transformation and the impact of various complex development problems. Meanwhile, the new order of Indonesian society is based on the hopes and challenges of global triggered by advances in the fields of science, information, communication, transportation, investment and trade.

Therefore, it is necessary to have a conception of the public service system that contains of values, perceptions and behavioral references that are capable of realizing human rights as mandated by the *Undang Undang Dasar Republik Indonesia Tahun 1945*, so that people obtain services in accordance with the hopes and aspirations of national goals. Normatively, it means that a fundamental and comprehensive critical research is dicuss about the roles and functions of public services in realizing good governance, the reform of the national legal system currently have the ability to transform the values of public services into the system of good governance based on the Constitution of the Republic of Indonesia 1945 and efforts to optimize public services that can achieve good governance?

In order to answer these problems requires critical analysis including using state law theory, stuffen theory (Stuffentheorie) and law enforcement theory that is adapted to the basis of ideology (rechtidee) and Indonesian constitution, then conducts a critical review of national policy and legislative products that shape the system of public services during the current administration.

## 2. METHOD

The method analysis of this research is carried out in critical analysis, it based on the rechtsstaats theory, stuffen theory and law enforcement theory that is adapted to the basis of ideology (rechtidee) and

Indonesian constitution.

### 3. RESULT AND DISCUSSION

#### ***The role and function of public services in realization of good governance***

Public services as stipulated in ([Undang Undang Dasar Republik Indonesia Nomor 25, 2009](#)) shows the existence of a relationship that intends to provide legal certainty in the relationship between the community and the organizers of public services, so that this relationship is expected to be an important instrument in realizing an idealized system of government. This is in line with the existence of reform euphoria which rolled out various dynamics of change in which the discourse of democratization and transparency continued to grow and develop rapidly.

This can be seen, that the role and function of public services contain important aspects in realizing good governance. Normatively the role of public services, on the one hand, provides space for the public to obtain the rights and basic needs of service for public goods, public services and/or administrative services provided by public service organizers. Whereas on the other hand, the role of public services as a series of activities carried out by public service organizers carry out their functions in order to complete the basic needs of the community based on the applicable laws and regulations.

Relating the role and function of public services, it cannot be separated from the scope of public services (*Pasal 5 of Undang Undang Dasar Republik Indonesia Nomor 25, 2009*) which includes the service of public goods, public services and administrative services that are regulated according to certain characteristics, criteria and mechanisms in constitution. The forms of service for public goods, public services and administrative services that intended include education, teaching, work and business, housing, communication and

information, environment, health, social security, energy, banking, transportation, natural resources, tourism and the other related sector.

Thus, the important role of public services in the context of implementing the fulfillment of service needs for citizens and residents according to ([Undang Undang Dasar Republik Indonesia Nomor 25, 2009](#)) in principle covers the following matters:

Public services provide evidence of the legitimacy of the public service process for meeting basic needs that have been determined based on the constitution (*Pasal 1 Nomor 1 Undang Undang Dasar Republik Indonesia Nomor 25, 2009*)

Public services determine the mechanism of responsibility of the state in carrying out public services;

Public services can be a benchmark for the use of service information systems from organizers to the public or vice versa from the public to public service providers;

Public services determine service standards that are used as guidelines for the implementation of services and references for evaluating service quality as obligations and promises of organizers to the public;

Public services provide normative limits in the context of quality, fast, easy, affordable and measurable services.

Public services determine service announcements in the form of a written statement containing all details of the obligations and promises contained in the service standard;

Furthermore, regarding the function of public services according to ([Undang Undang Dasar Republik Indonesia Nomor 25, 2009](#)) covers the following matters:

Build public confidence toward public services carried out by public service providers.

An effort to reinforce the rights and obligations of every citizen and resident and the realization of state and corporate responsibility in the implementation of

public services.

An effort to improve quality and ensure the provision of public services based on the general principles of good governance and corporations and provide protection for every citizen and community from abuse of authority in the administration of public services.

Based on the role and function of the public service, if connected with efforts to realize good governance, there is a significant relationship where public service is one component in implementing good governance. The more consistent and commitment in implementing public services, then easier to realize good governance. In this case all sides related to the process of organizing public services must understand and carry out public service obligations according to their duties and responsibilities. Otherwise, if the implementation of public services diverge then can harm the community and the state.

Furthermore, if the Sharp Analysis used in terms of legal state theory related to the role and function of public services, it can be seen that the role and function of public services contain philosophical aspects, juridical aspects and the sociological aspects that underlie public service according to the theory of upholding state the existence of a legal system that guarantees legal certainty and protection of people's rights, as stipulated in Article 1 paragraph (3) of the 1945 Constitution of the Republic of Indonesia.

The rule of law adopted by Indonesia is not in the formal sense, but in terms of material which is also termed the welfare state or prosperity state (Utrecht, 1960). The goal to be achieved by the Indonesian state is the realization of a just and prosperous society both spiritually and materially based on Pancasila, so that it is called a law state that has its own characteristics, namely the legal state (*rechtsstaat*) based on Pancasila (Wahyono, 1983).

In line with that, the purpose of the law

is justice where every right has a high meaning for justice, that is when people claim to have the right that is like in public service. This is one of the legal arguments in a theory of justice proposed by (Rawls, 2006) which states one of the important principles in justice, that everyone has equal rights to the broadest basic freedoms.

In order to realize a just and prosperous society in relation to public services, the government in carrying out the implementation of public services must be consistent and appropriate with the role and function of public services as stipulated in (Undang Undang Dasar Republik Indonesia Nomor 25, 2009). Here, roles and functions of public services can be said as one form of implementation of the process of administering government in Indonesia where according to Sri Soemantri Mertosoewignjo there are four elements of the rule of law, namely (Martosoewignjo, 1992):

That the government in carrying out its duties and obligations must be based on laws or regulations;

There is a guarantee of human rights (citizens);

There is a division of power within the state;

There is supervision from judicial bodies

Relating to the people rights namely about public services, so that it is a duty of the law to comply with applicable laws and regulations.

The ultimate goal of a legal state is to live the people and the nation become prosperous, but according to Satjipto the right law is progressive law, which is able to respond to the changing times and the ability to serve the community based aspects of morality and human rights enforcement itself (Rahardjo, 2006).

The backrest of morality in the implementation of public services is very important especially related to the role and function of public services, so that it can be said that the ultimate goal of public

services in terms of its benefits is expected to realize good governance, which takes into account the interests of the community. In the end, with good public service, it can create a prosperous society based on Pancasila. Therefore, the better of implementation of public services, the faster of realization of good governance in line with the noble ideals of the Indonesian nation as a welfare state and in accordance with the objectives of the country as in the fourth paragraph of the 1945 Constitution of the Republic of Indonesia.

***Transformation of the values of public services into the system of good governance based on the 1945 Constitution of the Republic of Indonesia***

If guided by the mandate of the 1945 Constitution of the Republic of Indonesia, namely achieving prosperity and justice, then the values of public services in the management of public services must be a soul and high motivation in realizing good governance through the implementation of public services. Therefore the interaction of society and government in the context of a country's life is a dynamic process that will give a lot of color and even determine the development and progress of good governance in a country. This is where it can be seen, that related to public service requires positive or harmonious interaction, marked by the existence of communicative relationships, constructive in accordance with what are their respective rights and obligations, which will bring the government towards democratic life as an indicator of progress or the development of a country's civilization.

According to (Hamidi & Lutfi, 2009) the interaction of society and government can be seen and understood through various activities, including the most obvious in the field of public services.

In the implementation of public services, it will be seen how the two interact with each other, occupying one

another and treating others. In public services, the existence of a government or often called a bureaucracy is as a side that is obliged to provide services in order to fulfill public needs. In this connection all tendencies and characteristics that are characteristic of each sides, both the government and the community, will together provide an overview of how the public service performs.

Both sides (the public and the government) by interacting will be able to find out the relationship for mutual realization of good governance based on the principles of the implementation of public services as stipulated in Pasal 4 of (Undang Undang Dasar Republik Indonesia Nomor 25, 2009) the following:

Organizing public services based on:

- a) Public interest;
- b) Legal certainty;
- c) Equality of rights;
- d) Balance of rights and obligations;
- e) Professionalism;
- f) Participatory;
- g) Equal treatment / non-discrimination;
- h) Openness;
- i) Accountability;
- j) Facilities and special treatment for vulnerable groups;
- k) Punctuality;
- l) Speed, ease and affordability.

Normatively, the principles of organizing public services in Pasal 4 of (Undang Undang Dasar Republik Indonesia Nomor 25, 2009) can be said to be the values of public services that must be used in the implementation of good governance. To be able to examine in relation to the government, whether the reformation of the national legal system currently has the ability to transform the values of public services into the good governance system based on the 1945 Constitution of NRI, it is necessary to examine how the principles of good governance are contained in Pasal

58 of (Undang Undang Dasar Republik Indonesia Nomor 23, 2014 concerning Regional Government, namely:

in administering regional government based on the principle of the administration of the state government which consists of:

- a) Legal certainty;
- b) Orderly state administrators;
- c) Public interest;
- d) Openness;
- e) Proportiaonality;
- f) Professionalism;
- g) Accountability;
- h) Efficiency;
- i) Effectiveness, and
- j) Justice.

Based on the objectives of administering the government to realize good governance, the two groups of principles, namely the principles of the implementation of public services and the principles of good governance, are principally an important element in realizing the ideals of the Indonesian and state goals such as those stated in the 4th aline opening of the 1945 Constitution of the Republic of Indonesia.

Some of the principles in public service and good governance above are products of national legal system reform that have been adapted to the conditions and situations needed to realize the rights and basic needs of society, so that the principles are legal principles in the implementation of public services.

According to Satjipto Rahardjo, a legal principle is an essential essence in a regulation where the legal principle is the "heart" of legal regulations, as he said the following:

"A legal regulation has a heart of regulation in the form of a legal principle, therefore the legal principle is (a) the broadest foundation for the birth of a legal regulation or a legal ratio of legal regulations; (b) the means by which the

law lives, grows and develops and shows that the law is not merely a collection of rules, because the legal principle contains ethical values and demands; (c) bridges between legal regulations and social ideals and the ethical views / demands of the community" (Rahardjo, 2006).

When viewed from the aspect of the objectives of the reform the national legal system at this time more legal and legislative arrangements are needed that are able to meet various kinds of demands of the community. For this reason, the existence of a national legal system reform in relation to public services has demonstrated the ability to transform the values of public services into a good governance system based on the 1945 Constitution of the Republic of Indonesia, as evidenced by the establishment and implementation of public service principles in fulfilling rights and needs the basis of society which is the mandate of the 1945 Constitution of the Republic of Indonesia.

In addition, the establishment of (Undang Undang Dasar Republik Indonesia Nomor 25, 2009) is also a product of a national legal system reform that intends to transform the values of public services into a legal regulation that regulates the mechanism and responsibility of the state in carrying out public services, including determining service standards that are used as guidelines for service delivery and reference assessment of service quality.

If viewed from the Stenten theory (Stuffentheorie) of Hans Kelsen (Undang Undang Dasar Republik Indonesia Nomor 25, 2009) was formed based on the basic norms contained in the constitution (1945 Constitution of the Republic of Indonesia). While the values of public services are material content of legislation which then by the state is formed as a positive law. According to the school of positivism (Kusumohamidjojo, 1982), The state is the only legal source and consequently the logical statement is that there is no law outside the country. This is where the importance of positive legal products in the form of Law No. 25 of 2009 to

organize public services and realize good governance.

As an indicator of realizing good governance, the values of public services in (Undang Undang Dasar Republik Indonesia Nomor 25, 2009) shows the realization of the responsibility and obligations of the state in accordance with the mandate of the 1945 Constitution of the Republic of Indonesia to treat the people. This is in line with the principles of the Indonesian state welfare state, which places the government as the party responsible for the welfare of its people. The main goals of the welfare state include (Tjandra, 2008):

- a) Control and utilize socio-economic resources for public interest;
- b) Ensure fair and equitable distribution of wealth;
- c) Reducing poverty;
- d) Providing social insurance (education, health) for the poor;
- e) Providing basic social service subsidies for disadvantage people;
- f) Give social protection for every citizen.

The main characteristics of the welfare state require the state and government to be actively involved in the economic and social life of the community as a step to realize general welfare, in addition to maintaining order and security (rust en orde) (Ridwan, 2010).

Normatively, the values of public services become an important basis for the government in carrying out its obligations to realize public welfare for its citizens. Therefore, the foul of public service will cause legal problems. In line with the opinion of the Mujahideen, that legal matters in Indonesia are faced with the challenge of returning the law as the highest norm, both for citizens and the state (Mujahidin, 2010). Restoring an equitable law is interpreted as the basic attitude of the Indonesian people to recognize, to respect and place a law that has the essence of justice above politic

interests in the state and social order. Restoring the law in the reform era that upholds democratic values is defined, that in forming the law it must be carried out through an aspirational, accommodative, participatory and collaborative process while still prioritizing the interests of the people.

If based on the benefits of public services, the legal values in public services must be optimized in accordance with (Undang Undang Dasar Republik Indonesia Nomor 25, 2009) in order to achieve and realize good governance.

### ***Optimizing public services in realizing good governance***

When looking at the roles and functions of public services above and the ability of national legal reforms in transforming the values of public services in realizing good governance, all of them are needed in optimizing public services to realize good governance. Therefore, to answer this matter, it is necessary to look at the objectives of implementing public services as stipulated in Pasal 3 of (Undang Undang Dasar Republik Indonesia Nomor 25, 2009) which confirms the following:

The purpose of the Law on public services is:

Realization of boundaries and clear relationships regarding rights, responsibilities, obligations and authorities of all parties related to the implementation of public services.

The realization of a decent public service delivery system in accordance with the general principles of good governance and corporation.

The fulfillment of the implementation of public services in accordance with the laws and regulations; and

The realization of legal protection and certainty for the community in the implementation of public services.

Based on the objectives of the implementation of public services, the state has a great responsibility to be able

to organize and provide public services to the community that have been determined in the legislation, in order to achieve people's welfare. So that the interests of the community must be prioritized, because the community has rights and obligations in public services as stipulated in Pasal 18 and 19 of ([Undang Undang Dasar Republik Indonesia Nomor 25, 2009](#)).

Concerning the community's right to public services regulated in Pasal 18 of ([Undang Undang Dasar Republik Indonesia Nomor 25, 2009](#)), namely:

Know the truth of the contents of service standards;

Supervise the implementation of service standards;

Get responses to complaints submitted;

Obtain advocacy, protection, and / or fulfillment of services;

Notify the organizing leader to improve the service if what is given is not in accordance with service standards;

Notify executors to improve service if the services provided are not in accordance with service standards;

Complaining with implementers who make service standard deviations and / or do not improve services to organizers and ombudsmen;

Complaining with the organizers who have committed a service stigma deviation and/or not improving the service to the organizer and ombudsman coaches; and

Get quality services in accordance with the principles and objectives of service

How important the public service, so that it needs seriousness and commitment in the implementation of public services that involve the government and the public so that public services can be held based on the principles of public service. This thing needs to be done, because in the implementation of public services often encounters a number of obstacles and frequently makes the public services being unsympathetic and can lead to conflicts

and misunderstandings, and even hamper the realization of good governance.

Therefore, to support the realization of good governance in implementing public services, then it needs an efforts to optimize public services by focusing on law enforcement (law of reinforcement) in public services. Why does law enforcement need and what are the benefits of law enforcement in the implementation of public services. This is where the law enforcement component is needed in accompanying the implementation of public services so that public service providers do not occur, delay in public services and other problematic laws that occur in public services.

The important thing in the law enforcement process is the element of behavior and legal awareness, which becomes a benchmark for the implementation of functions and roles of law enforcement that are able to create a balance of the realization of legal goals in order to create justice that has been reported by the Indonesian people and state.

Something impossible, orderliness in the state and society will be realized without being accompanied by good law enforcement. Likewise, public services to realize good governance without enforcement are not possible to achieve good governance. In every society, besides longing for the existence of the law, it also wants the law to be able to bring order to life, because of good enforcement.

According ([Rahardjo, 2006](#)) law is only part of an effort to organize order in society. Order includes law, but law is not only one way to create order. On the other hand, the law is not a guarantee to make the community orderly, but it also requires public awareness and public trust in law enforcement.

In relation to efforts to optimize public services to realize good governance, law enforcement can be viewed from a legal perspective that carries instrumental



functions, namely the means to create and maintain order, stability and predictability, a means to preserve cultural values and realize justice, education facilities and community service and means of community renewal (encouraging, canalizing and directing community change) (Sidharta, 1999).

Based on that understanding, it can be seen that the thing that all components need to understand in the law enforcement process is the existence of a legal order which in its performance always refers to the law as an authoritative decision (positivity), law as an order (coherence), right (justice), law as a translation of fundamental and noble values into various instruments of the rules of behavior (human dignity) (Kusumaatmadja, 1996).

Thus law enforcement in accompanying the optimization of public services in order to realize good governance is in line with the objectives of public services and still pay attention to the basic values of the law, namely justice, usability (zweckmaszigkeit) and legal certainty (Rahardjo, 2006).

Optimization effort is one form of public service policy that contains aspects of legal development that are identical with Jeremy Bentham of view, that the law can be constructed rationally, so that it can play a role in reforming society. Even if connected with the function of law as a means of renewal, Mochtar Kusumaatmadja said (Dimiyati, 2010), in formulating the theoretical basis for fostering national law is to accommodate the views of law from Eugen Ehrlich and Roscoe Pound's legal theory with Northrop's cultural philosophy and Laswell-Mc. Dougal's policy oriented approach which then processes it into a legal conception that views law as a means renewal, also to ensure order and legal certainty.

From some thoughts above, if guided by the purpose of organizing public services in realizing good governance with

some problems above, then seen from the basis of ideology (rechtidee) and the Indonesian state constitution, it can be seen that public service is a reflection of paragraph 4 opening of the Constitution NKRI of 1945 specifically related to the meaning of the sentence "popularism which is led by the wisdom of policy in compounding / representation, and by realizing a social justice for all the people of Indonesia".

Intended here relating to the public services to realize good governance is very likely to be realized if begins with the intention and sincerity of public service providers to carry out the obligation to serve the community to fulfill their basic rights and needs and build trust in public services, which the community will obey legislation that has been determined in accordance with (Undang Undang Dasar Republik Indonesia Nomor 25, 2009). Normally public services are the basis for the formation of good governance by prioritizing the nation's commitment as a legal state, adhering to and implementing a legal formation system based on the basic norms contained in the constitution (1945 Constitution of the Republic of Indonesia) and increasing law enforcement related to public services to realize people's welfare.

#### **4. CONCLUSION.**

This research concluded That the role and function of public services in (Undang Undang Dasar Republik Indonesia Nomor 25, 2009) in order to realize good governance is one reflection of Indonesia as a legal state that upholds the existence of a legal system that guarantees legal certainty and protection of people's rights where public services reinforce the rights and obligations of every citizen and population and the realization of state responsibility and corporations in organizing public services to achieve public welfare.

The transformation of the values of public services into the good governance system based on the 1945 Constitution of

the Republic of Indonesia became legal principles in the implementation of public services to implement and protect the fulfillment of community rights and basic needs, which later became the material for the formation of (Undang Undang Dasar Republik Indonesia Nomor 25, 2009). The transformation of the values of public services is a product of the current national legal system reform which is intended as an effort to improve quality and ensure the provision of public services in accordance with the general principles of good governance and corporations.

That efforts to optimize public services in realizing good governance are one of the options for implementing good public services and by focusing on aspects of law enforcement in order to minimize irregularities, violations and fraud in the implementation of public services. The realization of good governance must begin with the quality and validity of the implementation of public services by implementing and enforcing the law as a basis for compliance in the process of public service in accordance with its legal parameters.

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