

# The Existence of the Government Internal Supervisory Inspectorate (APIP) as an Internal Supervisor of Local Government

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**ABSTRAK**

Peran pemerintah daerah dalam mewujudkan negara kesejahteraan sangat besar, hal ini dikarenakan negara Indonesia dengan konsep negara kesatuan memilih asas desentralisasi, sehingga pemerintah daerah diberikan urusan pemerintahan oleh pemerintah pusat yang dikenal dengan istilah otonomi daerah, namun otonomi daerah sangat sulit terhindar dari praktik korupsi yang dilakukan oleh pejabat daerah, bahkan korupsi ini menjadi musuh besar yang sering menghantui pemerintah daerah. Hal ini disebabkan karena peran pengawas internal pemerintah tidak kuat, bahkan yang ada adalah sebagai bawahan dari kepala daerah. Permasalahannya adalah bagaimana merekonstruksi sistem pengawasan pemerintahan di daerah. Penelitian ini bertujuan untuk menganalisis sistem pengawasan pemerintah daerah, jenis penelitian ini adalah deskriptif analisis, dengan menggunakan pendekatan perundang-undangan (statute approach) dan pendekatan konseptual (conceptual approach). Hasil dari penelitian ini dalam rangka mengurangi terjadinya korupsi di pemerintah daerah adalah dengan cara memperkuat sistem pengawasan pemerintah daerah, antara lain; Pertama, aparat pengawas internal pemerintah harus diperkuat dengan undang-undang. Kedua, Paron DPRD juga harus dikembalikan sebagaimana ajaran trias politica Montesque, yaitu perannya sebagai kontrol terhadap pemerintah daerah dalam rangka mewujudkan Checks and Balances. Ketiga, Partisipasi Masyarakat juga memiliki peran penting untuk mencegah terjadinya praktik korupsi di pemerintahan daerah, karena dalam negara demokrasi tanpa adanya partisipasi masyarakat maka akan sulit untuk mewujudkan tata kelola pemerintahan daerah yang baik.

**Kata kunci:** Sistem Pengawasan, APIP, Pemerintah Daerah.

**ABSTRACT**

The role of local governments in realizing a welfare state is very large, this is because the Indonesian state with the concept of a unitary state chooses the principle of decentralization, so that local governments are given government affairs by the central government known as regional autonomy, but regional autonomy is very difficult to avoid corrupt practices carried out by regional

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officials, even this corruption is a big enemy that often haunts local governments. This is due to the role of internal government supervisors is not strong, even existing as subordinate to regional heads. The problem is how to reconstruct the peerintahan surveillance system in the regions. This study aims to analyze the local government supervision system, this type of research is a discriptive analysis, using a statutory approach (statute approach) and a conceptual approach (conceptual approach). The results of this study in order to reduce the occurrence of corruption in local governments are by strengthening the local government supervision system, including; First, the government's internal supervisory apparatus must be strengthened by law. Second, Paran DPRD must also be restored as the teaching of Montesque's trias politica, namely its role as a control of local government in order to realize Checks and Balances. Third, Public Participation also has an important role to prevent corrupt practices in local governments, because in a democratic country without public participation it will be difficult to realize good local governance.

**Keywords:** Supervision System, APIP, Local Government.

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## INTRODUCTION

A unitary state with the principle of decentralization is a necessity in a territorially vast state, Indonesia is a large country with 38 provinces and 416 districts and 98 cities, with the principle of centralization it will be very difficult to realize the ideals of the nation as contained in the preamble of the 1945 Constitution, namely, independent, sovereign, just, and prosperous. In addition, the Indonesian state is a welfare state, this can be seen in article 33 of the 1945 Constitution, that the state guarantees the socio-economic justice of the nation and even the welfare of the nation is the responsibility of the state. To accelerate the ideals of the nation and the goals of the state, the Indonesian state chose to become, as compiled by the Founding Father, a unitary state of decentralization, in this principle the central government gives some of its authority to regions that are later known as regional autonomy. The purpose of regional autonomy is none other than to accelerate development in the regions, so that equitable development is not only centralized in a particular area.

Rousseau stated that in public affairs it will be possible to cause danger if the flow of private interests is more dominant in the constitutional context known as abuse of power, therefore in the government system there needs to be a division / separation of powers so that it will avoid abuse of powers. The division of powers is known in two forms, namely separation of powers and division of powers. The spirit of control and implementation of government is very much needed, because as the early history of the formation of the state has confirmed that

rulers who are not controlled and moreover there is no supervisory control will cause misappropriation.

The important thing in the management of the Government or local government is the effectiveness in supervising state/regional financial management both internal and external supervisors, the weak supervisory function results in leakage of the state/regional budget. The current government problem is, first, the ineffectiveness of the supervisory function of state/regional financial management, both executive and legislative. Second, even there are government officials themselves who open the faucet of the flow of state cash, making it difficult to supervise (Karianga, 2013), which then makes the state treasury leak or misappropriation occurs.

The government bureaucracy is internally supervised by the government's internal oversight apparatus (APIP). Based on PP No. 60 of 2008 concerning the government's internal management system (SPIP) places the Financial and Development Supervisory Agency (BPKP) as APIP which is directly responsible to the president, while the inspectorate general / inspectorate is directly responsible to the head of the meter / institution. Local governments have APIP, namely provincial, district and city inspectorates. In terms of power relations, APIP under provincial or district / city officials will be difficult to be objective and very easy to get intervention by regional officials. The position of APIP which is equivalent to the head of the service and under the regional secretary is very difficult to carry out supervisory functions.

## **RESEARCH METHOD**

This type of research is normative legal research, Normative legal research (legal research) is usually "only" a document study, which uses sources of legal materials in the form of laws and regulations, court decisions / decrees, contracts / agreements / contracts, legal theories, and opinions of scholars. Another name for normative legal research is doctrinal legal research, also referred to as literature research or document study (Wiratraman & Putro, 2019). While the approach in this study uses a statutory approach and a conceptual approach.

The legislative approach is carried out by examining all laws and regulations related to the legal issue being discussed (researched), while the conceptual approach is derived from Latin, namely *con* which means together and *capere* which means to arrest / tame. Understanding the relevant concept in this case is an abstract element in a field of study and is universal, its function is to bring up something interesting to be reviewed (Marzuki, 2019)

## RESULTS & DISCUSSION

### A. SUPERVISION IN THE THEORY OF TRIAS POLITICA

Thomas Hobbes, the originator of the Leviathan State Concept, was unable to realize the will of the people, so it was later criticized by John Locke. According to Thomas Hobbes the state had a purpose in its formation, which was to create order so he established the leviathan state. John Locke's critique of the leviathan state is that power is concentrated in one organ of state, so there needs to be a separation of powers (Saparation of Powers). Van Vollen Hoven divided the functions of the state into four, first, Government (bestuur), second, Supervision (regeling), third, Regulation (politie), and fourth, Dispute resolution (rechtspraak) (Indra Rahmatullah & Dewan, 2013).

The concept of separation of powers was first highlighted by John Locke (Haliim, 2016). The classification of state power is divided into three functions, namely legislative, executive, and federative, further the teaching of separation of powers was refined by Montesquieu, Montesquieu's concept of separation of powers is known as the theory of trias politika. Montesquieu's triad politica teaching divides power into three branches: legislative, executive and judicial. But the teachings Separation of power is relatively difficult to implement because state institutions are difficult to keep in touch with, impossible not to touch each other, and many countries are more resistant to the teaching of distribution of power so that the theory of checks and balances was born

Prinsip checks and balances merupakan embrio dari separation of powers (Indra Rahmatullah & Dewan, 2013). Meanwhile, according to Moh. Kusnardi and Harmaily Ibrahim as quoted by Sri Nur, said separation of powers can be classified in a material and formal sense, in a material sense it can be referred to as separation of powers. While the separation of powers in the formal sense is called the division of powers. In line with this as Jimly Assiddiqie argued; The separation of powers is horizontal and vertical. The separation of powers is horizontal, that is, the powers that are separated by authority are state institutions and these institutions have equal authority, do not become subordinate between institutions and balance each other (checks and balances) (Nur & Susanto, 2014). While the vertical power is divided between the center to the regions, this principle is then known as the implementation of the decentralization system. According to Ivor Jennings in Moh. Kusnardi and Harmaily Ibrahim, Separation of powers in the material sense has a definite consequence on the division of duties or authority of state institutions, on the other hand if the division of powers is not strictly divided then it includes separation of powers in the formal sense.

The form of Pengawasan can be divided into two, first, negative repressive, which is supervision carried out after the program is implemented. Second, preventive negative, is supervision carried out before the program is implemented. Preventive supervision is associated with the authority to authorize. While repressive supervision means containing the authority of cancellation or suspension (Sukriono, 2013a). Preventive supervision is earlier than repressive supervision, repressive supervision is carried out in the form of suspending regional regulations, programs or decisions of regional heads, and can even cancel regulations or decisions of regional heads. Preventive checks are carried out for the management and responsibility of state finances before state financial losses occur. Meanwhile, repressive examinations are carried out by the Audit Board after obtaining information on state financial losses (Saidi, 2014).

## **B. THE ROLE OF GOVERNMENT EXTERNAL OVERSIGHT**

### **1. Optimization Of District People's Representative Hall Supervisory Function**

Jimly Asshiddiqie stated that the legislative branch of power is the branch of power that reflects the sovereignty of the people. As the purpose of statehood is to regulate common life. So that the DPR is given the authority to make regulations which then become signposts for running state life (Hadi, 2014). In addition, the House of Representatives of the Republic of Indonesia also has an oversight function over executive institutions (Haliim, 2016). Supervision of the legislature includes hearings, working visits, and the formation of a special committee (Pansus) or working committee. In addition, the legislature also has the Right of Interplation and the Right of Questionnaire (Jayantara, 2015). The principle of DPR supervision can also be done not only out, but also the need for an inward supervision system, meaning that the legislature can provide supervision of fellow DPR members (Hadi, 2018). This means that the DPR as an institution that has an oversight function is not always clean from acts of misappropriation of function, even often with its power used to commit abuse of power.

Regional Budget corruption begins with the abuse of authority of financial management officials assisted by the legislature (Karianga, 2013). Regional financial breaches are now increasingly structured and massive, even involving the DPRD. The planning stage is a stage that is prone to corruption, many programs launched by the local government and DPRD are not for the people. Corruption in practice is impossible to do alone, it must be planned to involve others. Here there is a need for a reconstruction of the function and existence of the DPRD as an entity of the teachings of the trias politica that carries out supervisory functions instead of collaborating in the misappropriation of power.

## 2. The Role Of Public Scrutiny

Public involvement in the democratic process was developed by Habermas with deliberative theory. Deliberative democracy provides a new paradigm in government management, this paradigm is based on the direct involvement of citizens in government management. Deliberative democracy as proposed by Jürgen Habermas provides a pressure point on the procedure of law formation. For the deliberative paradigm, the law formed is a process of dialogue and originates from the dynamics that develop in society both formally and informally (Haliim, 2016). This means that the deliberative dimension is a policy that must pass public examination first, thus opening up a wide space for participation for the community. According to Hardiman as quoted by M. Fatchuriza The word "deliberation" comes from the Latin word *deliberatio* which means "consultation", "weighing" or "deliberation". From this can be drawn a common thread that deliberative democracy is public policy tested first through public consultation or "public discourse" (Nurmandi & Muhammad, 2015).

The deliberative democracy paradigm is a critique of Rousseau's opinion which states that the source of legitimacy is the general will not paying attention to the process, meaning that legal products can be legitimate if a legal product is a general will. This view is criticized by Habermas (Haliim, 2016). Deliberative democracy is the networks of public communication in civil society. Seeing society as an emancipatory value to carry out legislative activities through public spaces. Habermas further revealed that public space must be free and critical.

In Indonesia, the development of deliberative democracy began to be discussed after the New Order. This is in line with the spirit of reform. Indonesia is no stranger to deliberative democracy, even Indonesia already has this character, namely the idea of deliberative democracy, but according to Fakhru Muzaqqi both cannot be equated theoretically between the idea of deliberative democracy and the idea of deliberative democracy, both are different concepts (Muzaqqi, 2013). Hardiman underlined the difference between the two, deliberative democracy emphasizes the public decision-making process rather than its results. Unlike the case with deliberation, the point of emphasis is on consensus (results) (Muzaqqi, 2013).

According to Didik Sukriono, public participation is participating and playing a role in an activity, from planning to evaluation. Furthermore, Huntington and Nelson, as quoted by Sukriono, said political participation is a citizen activity that aims to influence decision making (Sukriono, 2013b). The form of participation is more specifically proposed by Coralie Bryant and Louise G. White (Solekhan, 2014), First, horizontal participation that involves the

community collectively to influence policy. Second, vertical participation, this participation has a direct relationship between the community and the official elite so that the aspirations of the community can be controlled directly because of the factor of closeness or direct access to officials. This is a symbiotic mutualism because it is beneficial for both.

Sanoff in adiyoso quoted by Solekhan stated that the purpose of participation is to involve the community in the policy-making process (Solekhan, 2014). Meanwhile, according to Wilcok in Purwanto quoted by Didik, it classifies participation in five types (Sukriono, 2013a), First, Provision of information, second, Joint decision making, third, Consultation, fourth, Conducting joint actions, fifth, Conducting community self-initiative activities. Similarly, Sherly R Arntein argues that participation has a purpose, which is to influence public policy (Palupi et al., 2016).

Furthermore, Sherly R Arntein made about the level of decision participation. The first participation is manipulative or utopian, at this level there is no participation. The second participation, namely providing information, consultation, and taking heart. Third or top participation, namely partnership, delegation of power and control by the community. In this position, citizens already have a high ganing, have access to and take part in policy makers. So that the government prioritizes the participation of the community in making decisions on various policies and programs (Palupi et al., 2016). This is in line with Mas Achmad Santoso's opinion among the principles of good governance are community participation, accountability and transparency (Monteiro, 2016).

According to Irfan Islamy there are eight benefits if participation can be presented in government management (Sukriono, 2013a), first, the community will be ready to carry out development which becomes a government program. Second, the relationship between the government and the community will improve and the government will get public support. Third, the community has a commitment to government institutions. Fourth, the decision taken will be very good and in accordance with the aspirations of the community. Fifth, the community will have high trust in the government, so it will be easy to cooperate. Sixth, Can facilitate cooperation, especially related to complex problems. Seventh, Will facilitate communication between elements. Eighth, the community feels ownership and contributes to development.

### **C. INTERNAL GOVERNMENT OVERSIGHT**

The institutions authorized to carry out the functions of the internal control system in Indonesia are called the Government Internal Supervision Apparatus (APIP), including: first,

the Financial and Development Supervisory Agency; secondly, the Inspectorate General or any other name functionally carrying out internal supervision; armpit, Provincial Inspectorate; fourth, the District/City Inspectorate . Supervisors carried out by agencies, agencies, work units that carry out examinations, testing, investigations, assessments, for example, Financial and Development Supervisory Agency (BPKP) and Regional Supervisory Agency (Bawasda) (Andrianto & Johansyah, 2010). The Financial and Development Supervisory Agency (BPKP) is given great authority to conduct supervision in Indonesia (Suseno, 2016). After the new order BPKP its authority was weakened, besides that then many internal and external government supervisory institutions appeared, government external supervisors in this case one of them was the Corruption Eradication Commission (KPK), while the internal government Inspectorate General and Regional Inspectorate made the functions that had been carried out by BPKP less than optimal.

Basically, the supervisory function is the control of government officials in order to avoid abuse of power, Effective supervision function is the key to avoiding abuse of power, Schermerhorn (2000) as quoted by Elieser John suggests that effective supervision must meet the following requirements: first, Oriented to strategic matters; second, Information-based; third, Not complex; fourth, Fast; fifth, Understandable; sixth, Flexible; seventh, Consistent with the organizational structure; eighth, Designed to accommodate self-surveillance; ninth, Positive leads to development, change and improvement; tenth, Honest and objective (Yohanes et al., 2016).

The steps to reduce the occurrence of APBD leakage can be taken as follows (Andrianto & Johansyah, 2010); 1. Create dynamic price standards for goods by an independent team with the decree of the regent/mayor/governor 2. The OE (owner estimate) placement system is carried out by an independent and credible team 3. Openness of the auction system for the procurement of goods and services and regional principles to the entire community 4. Utilization of information technology to realize e-government 5. Build a regional financial management system with one door with the principle of efficiency and productivity 6. Assistance by APIP and recruitment of professionals to realize good regional financial management 7. Good and performance-based budgeting system 8. Good civil servant remuneration system.

Article 49 PP No.60 of 2008 Government Internal Supervision Apparatus (APIP) is a Government Agency that has the main duties and functions of supervising, and consists of: first, the Financial and Development Supervisory Agency (BPKP) which is responsible to the



President; second, the Inspectorate General (Itjen)/Main Inspectorate (Ittama)/Inspectorate responsible to the Minister/Head of Non-Departmental Government Institutions (LPND); third, the Provincial Government Inspectorate responsible to the Governor, and; fourth, the Inspectorate of Regency / City Government which is responsible to the Regent / Mayor.

The Provincial Inspectorate supervises all activities in the context of carrying out the duties and functions of the provincial apparatus work unit funded by the provincial Regional Budget. Meanwhile, the District/City Inspectorate supervises all activities in the context of carrying out the duties and functions of the district/city regional apparatus work unit funded by the district/city Regional Revenue and Expenditure Budget.

The main duties of APIP are as stipulated in Article 16 paragraph (2) of PP No.12 of 2017 concerning Development and Supervision of Local Government Implementation affirmed, APIP carries out supervision of local government implementation based on professional, independent, objective principles, and oriented towards improvement and early warning.

The existence of APIP is very important in running the lever as a supervisory institution, but the problem is that when APIP's position is under the Regional Head, this is considered to have the potential to reduce APIP's independence. And in terms of power relations, APIP is weaker than regional heads. In other words, the position and role of APIP is equivalent to the head of the service, the position of APIP under the Regional Secretary makes APIP's role only as a complement. Currently, APIP is only responsible to regional heads. This certainly makes APIP's independence not optimal.

APIP in the regions should be directly responsible to the central APIP, so that any potential irregularities can be immediately detected and immediately reported to the center, in addition, APIP submits reports not only to the regional head, but also to the central APIP Thus, corrective steps can be taken as soon as possible. That way the supervisory function of APIP can run optimally and can anticipate the misappropriation of power from regional officials.

## **CONCLUSION**

The Government Internal Supervisory Apparatus is still not running optimally, this is because APIP's position is under the Regional Officials (Governor, Regent / Mayor). The existence of this power relationship makes APIP a Sub-ordinate of regional officials so that it will interfere with the independence of APIP's performance. As stipulated in Article 49 PP No.60 of 2008, the Government Internal Supervision Apparatus (APIP) is a Government

Agency that has the main task and function of conducting supervision. Then there is a need for a repositioning of the position. Currently, APIP is only responsible to regional heads. This certainly makes APIP's independence not optimal. APIP in the regions should be directly responsible to the central APIP, and submit reports to the central APIP. Thus, corrective steps can be taken as soon as possible. That way the supervisory function of APIP can run optimally and can anticipate the misappropriation of power from regional officials.

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