

# Implementation of the legal functions of state administration in creating a good governance system in Indonesia

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## ABSTRACT

Indonesia is a state based on law, where as a state based on law, every administration of government must be based on applicable law, and in a state based on law law is also placed as a rule of the game in the administration of state, government and society. While the goal of a rule of law itself is the creation of state, government and social activities that are based on justice, peace and expediency. The existence of State Administrative Law is expected to know the limits and nature of power, purpose and nature of obligations, as well as the forms of sanctions in the event of a violation of state administration. The results of this study explain that the state as an organization of power has placed a central position in the collective life of modern humans. The state is no longer only seen as an absolute entity, where all supporting stakeholders of the state must be subject to the (ruler) in a mutual manner, but, on the contrary, the state must follow the total rhythm of all elements forming the state, especially the people or citizens of the country concerned. The presence of state administrative law in the midst of society basically contains all the regulations relating to the way in which government organs carry out all their functions and duties according to the applicable authority. So we can understand that the core of this state administrative law is that it contains the rules of the game relating to the functions of government organs which can be seen in two aspects, namely state administration as an organization and administration that specifically pursues the attainment of state (public) goals set. on the basis of coercive law. However, to find out how big the consequences are, it must be understood through the eyes of the government about why this arrangement needs to be carried out so that it causes minimal consequences in its implementation.

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## ABSTRAK

Indonesia adalah negara hukum, dimana sebagai negara hukum maka setiap penyelenggaraan pemerintahan harus berdasarkan hukum yang berlaku, dan dalam negara hukum hukum juga ditempatkan sebagai aturan main dalam penyelenggaraan negara, pemerintah dan masyarakat. Sedangkan tujuan negara hukum itu sendiri adalah terciptanya kegiatan negara, pemerintahan dan kemasyarakatan yang berlandaskan pada keadilan, perdamaian dan kemanfaatan. Keberadaan Hukum Administrasi Negara diharapkan dapat mengetahui batasan dan sifat kekuasaan, tujuan dan sifat kewajiban, serta bentuk sanksi jika terjadi pelanggaran administrasi negara. Hasil penelitian ini menjelaskan bahwa negara sebagai organisasi kekuasaan telah menempati posisi sentral dalam kehidupan kolektif manusia modern. Negara tidak lagi hanya dilihat sebagai entitas yang mutlak, di mana seluruh pemangku kepentingan negara harus tunduk kepada (penguasa) secara timbal balik, tetapi sebaliknya, negara harus mengikuti irama total seluruh elemen pembentuk negara. negara, khususnya rakyat atau warga negara dari negara yang bersangkutan. Keberadaan hukum tata negara di tengah masyarakat pada dasarnya memuat segala peraturan yang berkaitan dengan tata cara organ pemerintahan menjalankan segala fungsi dan tugasnya sesuai dengan kewenangan yang berlaku. Maka dapat kita pahami bahwa inti dari hukum tata usaha negara ini adalah di dalamnya terkandung aturan main yang berkaitan dengan fungsi-fungsi organ pemerintahan yang dapat dilihat dalam dua aspek yaitu ketatausahaan negara sebagai organisasi dan penyelenggaraan yang secara khusus mengejar tercapainya tujuan negara (publik) ditetapkan. atas dasar hukum paksaan. Namun untuk mengetahui seberapa besar konsekuensinya, harus dipahami melalui kacamata pemerintah mengapa pengaturan ini perlu dilakukan sehingga

menimbulkan konsekuensi yang minimal dalam pelaksanaannya.

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## I. INTRODUCTION

Administrative law is a law that is related to certain laws and regulations and has a dynamic relationship with government functions and the wider scope of society (Bhakti, 2022). In real terms, this administrative law can regulate the relationship between the government and society, which also functions as a control over government actions. The implementation of government and state tasks in a legal state is of course bound by written legal rules both on the constitutional side and on the state administration system (Syahrizal, 2013). According to Ersan & Erliyana, (2018) State administration is a discussion of social science that studies three important elements of state life which include legislative, judicial, executive and other matters relating to the public, including public policy, public management, development administration, goals of the state, and ethics governing the administration of the state.

In simple terms, this state administration is a science that studies how to manage a public organization, which is under the auspices of the government such as departments, offices, and local government agencies of the sub-district class up to the central level (Ibad, 2021). While the results of Kusdarini's research (2020) explain that, the function of state administrative law in creating good and authoritative governance is indeed very much needed, and this has been included in the national development agenda with the main objective being to create governance that is clean, open, authoritative and upholds existing rule of law. For this reason, policy steps are needed that are directed at institutional changes and management systems, as well as an effective monitoring and inspection system.

In Kusdarini's journal (2020), however, for the implementation of technical issues, this constitutional law cannot fully work alone and requires another legal instrument that is dynamic and capable of reaching other aspects within the scope of governance, and The law is called State Administrative Law (HAN). State administrative law requires how the government is managed and administered properly, because every good administration of government is not only based on the principles of government management, but there is the legality of government actions and actions that refer to the relevance of applicable law (Lismanto & Utama, 2020 ). As the content of the opening of the 1945 Constitution states that, the ideals of the Indonesian nation's struggle are aimed at forming a just, prosperous and prosperous society based on a state administration full of responsibility.

On the other hand, state administrative law also contains all the regulations relating to how government organs carry out all their functions and duties in accordance with the applicable authorities. So we can understand that the core of this state administrative law is that it contains the rules of the game relating to the functions of government organs which can be seen in two aspects, namely state administration as an organization and administration that specifically pursues the attainment of state (public) goals set. on the basis of coercive law. However, to find out

how big the consequences are, it must be understood through the eyes of the government about why this arrangement needs to be done so that it causes consequences in its implementation (Nasarudin, 2016).

With regard to the function of government administration, efforts to realize a democratic, clean and authoritative government system are a top priority for all Indonesian people and government, especially after going through the reform era. Bureaucratic reform in the form of public service as one of the demands for reform has become the beginning of the emergence of awareness of the mechanism of public service and has become a milestone in the government's awareness to rearrange its government system so that it runs optimally.

According to Ridwan (2006) the spirit of reform that characterizes the utilization of the state apparatus is directed at realizing state administration that is able to support the smooth and integrated implementation of the duties and functions of administering state government to face the challenges of globalization, and one of the efforts to make this happen is by practicing the principles of good governance (good governance), because we can understand that the scope of state administration does not only discuss actors who carry out administrative functions, but more than that it also includes all methods, procedures and prerequisites which all seek to transform all existing resources to achieve the country's goals.

The notion of state administration is ultimately better understood as a system that involves all elements and characteristics of government in order to achieve a goal (Ridwan & Sudrajat, 2020). Meanwhile, according to Sudrajat (2009) the role of state administrative law in the current government greatly influences the activities carried out by all government apparatus of a country in their efforts to achieve each goal. Considering that the state is an organization of power, in the end state administrative law will emerge as an instrument to oversee the use of government power and therefore, the existence of state administrative law arises because of the implementation of state and government power in a rule of law, which demands and requires the implementation of tasks. - state, government, and social duties based on law.

Basically, the scope of state administrative law is actually very broad in scope, it includes law on the basics and general principles of state administration, state administration organization law, juridical administration law, personnel administration law and state finance, regional and regional government law. as well as laws regarding state administrative justice (Tjandra, 2021). For this reason, it is necessary to put general principles in terms of state administration in order to create good and transparent governance (Good Governance). Then, the participation of the community is of course very much needed to oversee every existing government institution, both in the executive, judicial and legislative realms so that in the future there will be a public service that still adheres to the general principles of the government of the Republic of Indonesia. So, based on the description and explanation of the background that has been submitted, the researcher is interested in further reviewing how the Implementation of the Legal Functions of State Administration is carried out by the Indonesian state in Creating a Good Governance System.

## II. MEDHOT

The research method used is through a normative juridical approach, namely by inventorying, studying and analyzing and understanding law as a set of positive norms in the legal system that regulates employment issues with the specification of analytical descriptive research, namely research to describe the flow of scientific communication and analyze problems that will be presented descriptively (Zaini, 2011). The type of data used is secondary data which includes library materials related to research, secondary data which includes primary legal materials, secondary legal materials and tertiary legal materials. Then data collection was carried out through

literature study through a review of literature related to the problem under study, then the data were analyzed qualitatively-normative.

### III. RESULTD AND DISCUSSION

Law is the whole of the rules and norms that apply in a common life that regulates behavior which in its implementation can be enforced by the presence of a sanction. Law regulates legal relations which consist of bonds between individuals and society and between individuals themselves which are reflected in rights and obligations. In its efforts to regulate, the law adapts individual interests to the best interests of society. Given that society itself causes interaction, there will always be conflicts or tensions between individual interests and inter-group interests within a community. The law tries to accommodate tensions or conflicts as well as possible, because there is no other way to understand the legal system than to see legal behavior that is influenced by government decisions or laws issued by authorized officials.

The true law is not identical with the law, if the law is identified with the legislation, then one of the consequences that can be felt is if there are areas of life that have not been regulated in the legislation, then it is said that the law is left behind by the development of society. Likewise, legal certainty is not synonymous with legal certainty, if legal certainty is identified with legal certainty, then the law enforcement process is carried out without regard to the reality of the applicable law. Law enforcers who only start from the substance of the formal legal norms contained in the law will tend to offend the community's sense of justice. The emphasis here should also be based on living law. Furthermore, law enforcers must pay attention to legal culture, to understand attitudes, beliefs, values and expectations as well as people's thoughts about law in the applicable legal system.

The meaning of state administrative law here is a legal regulation regarding administration in a country, where the relationship between citizens and their government can run well and safely. State Administrative Law explains the regulations regarding all matters relating to state administration carried out by state apparatus in order to achieve state goals. The State Administrative Law also explains a set of regulations that enable the State administration to carry out its functions, which at the same time protects citizens against the attitudes of State administration, and protects the State administration itself (Utama, 2014).

Furthermore, state administrative law itself can be divided into four main areas, namely government law, judicial law, police law and statutory law. Meanwhile, the scope of state administrative law includes the authority of state institutions both at the central and regional levels, the relationship of power between state institutions, and between state institutions and their citizens. In the systematics of Legal Studies, State Administrative Law is included in public law and is part of Constitutional law, this can be seen from its history where before the 19th century State administrative law merged with State administrative law and only after the 19th century state administrative law could stand independently.

However, in practice the study of state administrative law itself is able to cover two main aspects, namely aspects in a broad perspective and narrow perspectives, where the two aspects view state administrative law from the focus of attention, namely the object of research being studied. In a broad perspective, State Administrative Law also acts as an object oriented to the meaning of law which is synonymous with governmental tasks while narrow objects play the opposite role.

State administrative law is the most classic legal instrument for the implementation of good governance, because here it will be seen concretely the relationship between the government and its people directly and this process will also provide an actual assessment of how the size of the government is in carrying out each of its duties in a fair and prosperous manner. . On the one hand

state administrative law can be used as a juridical instrument by the government in the framework of regulating, serving and protecting the community, and contains normative rules regarding how government is run according to its functions. It should be remembered that state administrators are not only obligated to be good and clean, but more than that the state apparatus is also obliged to fulfill every real need of the community. That means good and clean government will not be of any value if the aim of improving the welfare of the people is unable to be realized.

State administrative law is a set of regulations that enable every state apparatus to be able to carry out its functions properly, which at the same time protects citizens against acts of state administration, and protects the state administration itself. So based on this description, we can see that this state administrative law can regulate the composition or structure and functions of administration in a unitary state, because the nature of state administrative law itself concerns the implementation of tasks for state administration officials in order to deal with all the needs and desires of society. wide (Voll, 2022).

As one of the instruments in the practice of administering the state and in various development efforts within it, the bureaucracy has an important role in people's lives, especially as in Indonesia where all of the people are trying to continuously make various changes through various constructive positive activities. In a good bureaucratic effort, the judiciary is an important element that must be addressed in relation to society. In a country in general, the basis of a judiciary is laid down in the constitution and the constitution of the judiciary. If in its journey away from the norms and rules of the law that apply, in essence this action is a violation because it has violated existing provisions.

As for the existence of the State Administrative Court, it was first regulated in Law Number 5 of 1986 concerning State Administrative Court which then underwent two changes, namely, first, Law Number 9 of 2004 concerning Amendments to Law Number 5 of 1986 regarding the State Administrative Court. Second, Law Number 51 of 2009 concerning the Second Amendment to Law Number 5 of 1986 concerning State Administrative Court. The definition of State Administrative Court, is often described as a trial for pure state administration cases and civil cases concerning state administration. In Article 4 of Law Number 5 of 1986 concerning the State Administrative Court it is said that the State Administrative Court is one of the executors of judicial power for people seeking justice for State Administrative disputes.

The purpose of the establishment of the State Administrative Court is to provide a sense of justice in society, and the role of the Administrative Court can be increased as part of the government's public service to its citizens so that the balance between individual interests and public interests can be properly guaranteed. Meanwhile, the purpose of establishing and positioning a state administrative court (PTUN) in a country is related to the philosophy adopted by that country. In the context of the Unitary State of the Republic of Indonesia (NKRI), which is a legal state, the process is often based on Pancasila and the 1945 Constitution, therefore individual rights and interests can be upheld along with the rights of the people.

It can be interpreted in simple terms "The role of the State Administrative Court" is a control tool in the implementation of State administration or State administration in maintaining welfare and justice, where to maintain welfare and justice, the tool must be given and made in the form of a definite and comprehensive institution, that can be used in the maintenance of justice. Once the scope of work and functions of state administration or state administration is carried out by many people, it is undeniable and not impossible that negative actions will occur, which can harm many parties, for example in the abuse of authority, position, power so that then to overcome this -This requires the existence of State Administrative Law and also the State Administrative Court.

State administrative law originally came from the word administration, in this case the state administrative law functioned as one of the laws capable of regulating administrative workers who

were assigned directly by the state, of which some were also governed by constitutional law, private law and civil law. other laws. Based on this, it appears that this state administrative law has two important aspects in its efforts to form a good government for the wider community, which consists of legal rules governing the procedures for how the state apparatus performs its duties. Second, the rule of law. which regulates the relationship between the state administrative apparatus and its citizens.

On the other hand, the function of state administrative law in creating good and authoritative governance is indeed very much needed, where one of the goals of the national development agenda is pursued in order to create clean, authoritative governance. The agenda is an effort to realize good governance, through several important indicators including openness, accountability, effectiveness, efficiency, upholding the rule of law, and opening up public participation which can ensure smooth, harmonious and integrated tasks and functions of governance and development. For this reason, policy steps are needed that are directed at institutional changes and management systems, the quality of human resources, apparatus, and an effective monitoring and inspection system.

In state administrative law, the government has two main positions, namely, first, the position of the government in public law, the state can be considered as a position organization that has the authority to regulate the cooperation system and regulate several government activities in running its government, but in this process the government must also be based to the applicable laws and regulations. Second, the position of the government in private law, that is to say that legal subjects are everything that can obtain rights and obligations from law. The legal entity acts as a unit in legal traffic like a person. The law creates legal entities because humans as legal subjects are very necessary because it is beneficial for legal traffic and freely according to the opinion of some legal experts, it can be said that this legal entity is a civil scope (Zamzami, 2020).

Referring to the theory of the welfare state, it turns out that the government's task is not only limited to implementing laws that have been made by the legislature, according to the perspective of the welfare state, the government is burdened with the obligation to carry out public interests or seek social welfare, in which the government is given the authority to intervene. in public life, including within the limits permitted by law. Along with this intervention, the government is also given the authority to make and use laws and regulations in accordance with existing authorities.

As a science, state administrative law must have clear boundaries or be a clear distinguishing mark from other legal sciences. For this reason, clarification is urgently needed on the scope of the scientific field of state administrative law. The boundaries of the scope at the same time become a marker of objects that are the main business that should be discussed in the science of state administration law, because state administrative law is a juridical instrument used by the government to be actively involved in social life, and on the other hand state administrative law is also a law that can be used by members of the public to influence and obtain protection from the government, so state administrative law contains regulations regarding the activities of the government and society in general. When the state administration system which is the pillar of public service faces fundamental problems, reconceptualization, repositioning and revitalization of the legal position of state administration is a must in the framework of administering government and applying the principles of good governance. The State Administration System of the Republic of Indonesia simultaneously interacts with physical, geographical, demographic, natural wealth, ideology, political, economic, socio-cultural and defense factors based on the position of the 1945 Constitution and Pancasila as the nation's ideology. The existence of State Administrative Law in a country is very important, both for state administration and the wider community. With the existence of State Administrative Law, the state administration is expected to be able to know the boundaries, essence, powers, objectives and what forms of sanctions should they take when they

violate the law. Meanwhile, in another section, namely for the community, State Administrative Law is a set of norms that can be used to protect their interests and rights.

Thus, state administrative law is part of public law because it contains regulations relating to public issues. The public interest in question is the national interest, the public and state funds. The public interest must take precedence over the interests of individuals, groups and regional interests with the understanding that individual interests must be protected in a balanced way, so that in the end the goals of the state and government will be achieved as clearly stated in the preamble of the 1945 Constitution which reads to protect the entire nation of Indonesia and all of Indonesia's bloodshed. Indonesia and to advance public welfare, educate the nation's life, and participate in carrying out world order based on freedom, eternal peace and social justice.

#### IV. CONCLUSION

State Administrative Law is a legal regulation regarding administration in a country, where the relationship between citizens and their government can run well and safely. State Administrative Law explains the regulations regarding all matters relating to state administration carried out by state apparatus in order to achieve state goals. The State Administrative Law also explains a set of regulations that enable the State administration to carry out its functions, which at the same time protects citizens against the attitudes of State administration acts, and protects the State administration itself. On the other hand, the function of state administrative law in creating good and authoritative governance is indeed very much needed. One of the national development agendas is to create clean, authoritative governance. The agenda is an effort to realize good governance, including: openness, accountability, effectiveness and efficiency, upholding the rule of law, and opening up public participation that can ensure smooth, harmonious and integrated tasks and functions of governance and development. For this reason, policy steps are needed that are directed at institutional changes and management systems, the quality of human resources, apparatus, and an effective monitoring and inspection system.

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