

ACCOUNTABILITY OF THE REGIONAL HOUSE OF REPRESENTATIVES (DPRK) IN DEVELOPMENT OF LOCAL LEGISLATION PROGRAM

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ABSTRACT

This study aims to analyse and final the ideal legal design of the accountability concept to legislative organ in particular Regional House of Representatives (DPRK). One of The authority of DPRK is stated in Article 24 paragraph (1) of Law Number 11 of 2006 on the Government of Aceh states that: "DPRK has the duty and authority to form district/city qanuns which are discussed with the regents/mayors for mutual approval". In that law, that has not been formulated specific forms of accountability of the legislative organ. In genuine, when the DPRK has not carried out its duties and functions effectively in the field of legislation, there has no legal consequences can be given. This research uses normative legal research with statutory and conceptual approach. The outcomes of this study indicate that, the concept of legislative accountability relates to two aspects, that is political and managerial accountability. This accountability should have electoral implications on the performance of the DPRK in carrying out its functions in the field of legislation. The implementation of legislative accountability on the performance of DPRK in the field of legislation has legal and political consequences.

Keywords : Accountability, Legislation, Regional House of Representatives

INTRODUCTION

In the context of state administration, legal responsibility are not only addressed to the people as the subject of legal arrangements in realizing order. This responsibility also applies to state administrators in relation to the implementation of their duties and functions. The state administrators in question are the divisions of power within the state, namely the executive, legislative and

judiciary along with other institutions, including bodies in the regions (Asshiddiqie, 2006).

One of these institution is the legislative organ that exercises legislative power to legislate the laws. At the regional level, it is called DPRD and DPRK. In performing their duties and functions, their has three functions which are budgeting, legislation, and controlling. Each of these functions must be carried out continuously and become a benchmark for the implementation of the performance of the legislative organ.

In addition, each DPRK member also has various rights such as the rights of interpellation; questionnaire; express opinion; submitting proposals for qanun drafting; asking question; opinions; protocol generator; financial and administrative; choose and to be chosen; self-defense; immunity, and participate in task orientation and deepening.

The rights that to part from provided by law so that each member can carry out their duties and functions effectively without any obstacles. The implementation of legal responsibility is related to the giving of sanctions, because when an obligation is not carried out, there is a sanction that must be given. In the context of implementing DPRK legislative function, there are various legal obligations have been regulated by the DPRK, including the field of legislation and sanctions if these obligations are not implemented.

Each duty has been regulated in the provisions of the norm is a necessity that must be implemented. One of the responsibility DPRK members is given to responsibility for their duties and performance as a form of moral and political responsibility towards the region and voters. The responsibility for its duties and performance is related to the implementation of three main functions, namely the legislative function, the budget function and the supervisory function. So each member of the DPRK must be responsible for the implementation of these three functions to the region and also the community, one of which is in the implementation of the legislative function.

Whether, legislative function that DPRD is legally authorized to drafting regional regulations teamwise with the regents/mayors (Manan, 2001). Formulation of the local regulation implemented through the preparation of local legislative program (*Prolek*). The program is a connecting process that include a legal design that always consistent with the objectives, the underlying legal ideals, and accordance with the direction of regional development. (Effendi & Sofyan, 2020).

Article 24 paragraph (1) of Law Number 11 of 2006 on the Government of Aceh states that: "DPRK has the duty and authority to form district/city qanuns which are discussed with the regents/mayors for mutual approval". The process of drafting the law through the legislative function of the DPRD reflects the political configuration and interests of the local community, as well as the implementation of legal policies in order to realize the interest of the community.

The legislative function must be always in democratic approach as a representation of the society it represents (Fajriyah, 2016). The formulation of local regulations is a manifestation of the authority to local government on rights and duty implementation (Sihombing, 2016). In Aceh province, local regulations have different terms from other regions. For the Provincial regulations are known as *Qanun Provinsi* and at the city level the regulations are known as *Qanun Kabupaten/Kota*.

Banda Aceh and Nagan Raya are two regions that form a local legislation program annually. The implementation of the legislative function through *Prolek* of Banda Aceh and Nagan Raya has not implement properly. This could happened due to the lack performance of DPRK members in the field of legislation. Regional executive role in the legislative process is mainly dominant than the legislative which conceptually has a legislative function (Purnama, 2008).

It is known that some of the qanun draft (known as *raqan*) contained in the *Prolek* were submitted from the executive. Based on these problems, the focus of this study is to analyze the concept of legislative accountability in the field of legislation.

RESEARCH METHOD

This study uses normative legal research which examine law as a norm or rule as the standard of truth for every person to obey the rules in accordance with the value of the truth. (Effendi & Ibrahim, 2018). In normative legal reseach, this approach is used statute approach and conceptual approach. In the reseach, primer data conclude from legal materials. Primary data collected through interviews from he respondent and informant who are associates with this research. Data analysis was carried out thoroughly and holistically. The legal material was collected and analyzed with descriptive, comparative and evaluative method. The descriptive analysis is carried out by describing the legal situation in an organized, systematic, logical, non-overlapping and effective sentence as to facilitate discussion, understanding and interpretation.

RESEARCH OUTCOME AND DISCUSSION

1) The Accountability Concept of State Organizers

In state organizers, accountability is a term that commonly used as a form of responsibility in the implementation of the duties and functions of state organizers. Webster Dictionary defines accountability as “the quality or state of being accountable; an obligation or willingness to accept responsibility for an actions” (Hamid, 2010). So the responsibility of the state organizers controlled by the public in the organizer of good governance which called the principle of accountability. Public supervision in government organizers through the principle of accountability is an inevitability to realize the rule of law. Husghes stated that "government organizations are created by the public, for the public and need to be accountable to it" (Prastyaningsih, 2011).

Besides that, Miriam Budiarjo said accountability as the responsibility of the party given the mandate to govern to the people who offered the mandate, so it created supervision through the distribution of power at various government

agencies that reduce the absolutism of power and create a mechanism of mutual observing (Budiarjo, 1998).

According to Keohane, the term accountability is divided into two, namely internal accountability and external accountability. Internal accountability has given to two parties, namely those who give authority to the government and those who provide financial support. The external accountability is accountability to those who in routine are the target or victims of policies stated by the government (Keohane, 2002).

In the distribution of power at the level of executive, legislative, and judicative, the division affects the concept of accountability of these three powers that have their own characteristics. The accountability of executive institutions relates to the responsibility of state operatives who carry out executive functions to carry out their duties and functions as stipulated in the laws and regulations. The responsibility is legal consequences of a welfare state that gives a considerable role to the state in organizing welfare.

In relation to the judicial accountability, Garreth Giffith believes that there are three things that characterize the accountability of the judiciary, which are responsibility for exercise the power of authority, restrictions in the exercise of authority, sanctions against abuse of power (Prasetyaningsih, 2011). The accountability of the judicial is also related to the establishment of an independent and free justice system from the influence of any power. An indicator of achieving judicial accountability is when the justice system works by transparant mechanisms and upholds the values of justice.

Moreover, legislative accountability has a more political aspect. This is in accordance with the Democracy Index, which makes the role of the DPR as one of the indicators for evaluating the democracy index (Junaenah, 2013). In the legal drafting accountability of state administrators explained that legislative accountability is related to two aspects, known as political and managerial accountability.

The accountability of the performance representative institutions in the aspect of political accountability which can be recognized by disclosing the implementation of responsibilities and performance achievements. Performance accountability includes accountability for the implementation of the duties and functions of the institution as well as work performance that has been achieved within a certain period.

The accountability of the performance of representative institutions must be carried out by the institution to the public and other institutions periodically. The imposition of sanctions for non-fulfillment of the performance accountability mechanism is regulated by statutory regulations and other applicable laws and principles within the people's representative institutions.

The concept of accountability of powers in the country has different aspects according to its characteristics and functions. Executive accountability has achieved when government agendas can be realized by not ignoring legal principles and norms as the ideal basis for achieving impartial development. The Judicial accountability has ability to prevent the unlawful use of political power. Judges also contribute to government accountability by demanding holders of power to demonstrate and justify their actions and through political sanctions, when they exceed their authority as referred to in the constitution (Prasetyaningsih, 2011).

2) The Implementation of DPRK Accountability of Legislation Function

The responsibility according to Hans Kelsen was originally a specific moral concept relating to the individual with regard to orders and prohibitions (Asshiddiqie &Safa'at, 2006). The function of law in comprehending order, with the characteristics of norms as a necessity that contains about orders and prohibitions, the law has a close correlation with obligations, and arsing the term legal obligation. The concept of legal responsibility is an important part of the legal norm. Hans Kelsen stated that the legal norm as a legal obligation since every norm contains legal norms (Asshiddiqie &Safa'at, 2006).

If it associated with a legal responsibility to act, then that necessity is part of the epifenomena of the necessity of sanctions. This led to the legal norm being divided into two separate norms. The first is a necessity that results in a particular individual adjusting their actions. Another one is the necessity that results in other individuals having to impose sanctions if there are a violation of legal norm (Hartanto, 2015).

The application of the duties and functions of state institutions, especially the DPRK, there is a benchmark that should govern the success of its performance both in the field of legislation, budgeting and supervision. In the field of legislation, that performance is part of the legal obligation for each member of the DPRK personally and institutionally .

The legal obligations of DPRK members in the field of legislation also strongly related to legal awareness. Legal awareness becomes a basic aspect of the politics of legislation. Legal awareness is an awareness of the values contained societies, about existing laws or about the law that is expected to exist (Hartanto, 2015). The formation of the law has interactions with legal awareness that becomes the exclusive source of the law. Legal awareness is always associated with the process of applying the law with the community as an object that is required to have awareness to behave in accordance with the will of the legal norms. Whereas, the most important legal awareness is in the state, in this case the legislator who performs the function as a legislator.

Legislative awareness in the formation of law relates to the achievement of legal legitimacy in the public view. A legal norm will not gain strong legitimacy sociologically in society when the legislator who forms the legal norm does not show his awareness of moral and ethical values in the process of establishing the law. The existence of the interaction between legal awareness and the process of law formation, the law will have a responsive characteristic and has a strong legitimacy when enacted.

Legal awareness to DPRK members in the field of legislation as part of the implementation of their obligations are seriously depends on the existence of legal

norms that govern concretely and binding on such legal obligations. The implementation of the legal obligations of local legislators is not enough on a moral and ethical level, because the electoral process conducted through elections once in every 5 (five) years is not adequate to produce regional legislators who have good integrities and ethical values (Handoyo, 2008).

This is a fact that members of regional legislatures do not have concern for their responsibilities as people's trust holders and their functions are so central in ensuring the achievement of the people's interests in every policy taken by the executive, including the legal drafting (Handoyo, 2008).

This reality occurs because the election process is carried out pragmatically. Political parties that are instruments for nominating regional legislators do not conduct a strict selection of legislative candidates who run for office. The considerations of political parties in carrying out regional legislative candidates are more pragmatic considerations such as political capital (money), family background and loyalty to party interests. (Haris, 2016). This condition results in the elected DPRD members not having a preference for performance and targets to be achieved while serving as members.

The high political cost of gaining legislative seats in the region led most of those legislators to focus on efforts to return the capital they spent to win the electoral contestation (CNN Indonesia, 2021).

This condition generally occurs in the regions, so it is surprising that many DPRD members were arrested by the Corruption Eradication Commission (KPK) for committing criminal acts of corruption with the motive of returning political costs during the election. (Kompas, 2021).

Reconstruction efforts are needed in various elements in order to improve the personality of legislators in the regions in order to support their successful performance in various fields, especially in the field of legislation. These efforts can of course be carried out through fostering binding norms for each member so that in carrying out their duties and functions in the field of legislation, they are not only limited to participating in discussions but also participating in

formulating and proposing useful legislation in accordance with their aspirations. community in the area

Responsibility in carrying out the duties and functions of state institutions related to the achievement of good governance. In realizing this, every member of the legislature who is part of a state organ must be responsible for the proper implementation of all duties and functions. Morally, the legitimacy of the institution of power will depend on its ability to accommodate the hopes and desires of the people (people will). In this context, delegitimization will occur if legislative actions are not in accordance with the will of the people or contrary to the sense of justice of the community.

According to Menzel as quoted by Denny Hernawan, a concept of ethical legislation is needed by trying to identify a number of actions that are classified as ethical and unethical in public perception, sanctions for violations against him and regulate procedures for channeling complaints (ethical complaints procedures) that are decent from the public. individuals, communities and institutions (Hernawan, 2004).

Basically every legal obligation and responsibility must be carried out, because of the determination of the legal norms that generate these responsibilities and obligations. In carrying out the responsibilities and obligations as well as the authority given to government organs, it requires them to carry out these responsibilities and obligations.

This is related to the achievement of good governance and clean governance as outlined in the general principles of good governance (AUPB). According to Utrecht, the development of the duties and responsibilities of government in a modern state gave rise to the idea of general principles of good governance that must be considered by state administrators, especially to those who are also authorized based on discretion (Kusdarini, 2017).

The implementation of the DPRK's obligations and responsibilities in the field of legislation, this concerns the administration of government as regulated in Law Number 30 of 2014 on Government Administration. Article 4 paragraph (1)

letter c of Law Number 30 of 2014 states that the scope of government administration in this Law includes all activities, one of which is the Agency and/or Government Officials who carry out Government Functions within the scope of the legislature. institution.

The regulation of government administration covers various matters including the rights and obligations of government administrators, as well as government authorities. Article 7 paragraph (1) of Law Number 30 of 2014 states that the obligation of government administrators to carry out government in accordance with the provisions of laws and regulations, government policies, and AUPB.

Article 9 paragraph (1) of Law Number 30 of 2014 states that every decision and/or action is based on the provisions of laws and regulations and AUPB. Furthermore, Article 33 paragraph (1) of Law Number 30 of 2014 states that "Decisions and/or Actions determined and/or carried out by authorized Government Agencies and/or Officials are binding in the administration of government".

The implementation of the duties and functions of the Banda Aceh City DPRK and the DPRK Nagan Raya Regency as one of the elements of regional government administration in the field of legislation shows that performance has not been maximized. Each member of the legislature is expected to play an active role in the field of legislation by proposing *raqan* initiatives related to the interests of the community in the context of improving welfare and alleviating poverty as the main indicator of achieving regional autonomy goals. In fact, DPRK members are not actively involved in proposing *raqan* initiatives. For the 2020 Nagan Raya DPRD, the DPRD only proposes *raqan* initiatives related to the importance of carrying out their duties and functions. (Bidang Legislasi DPRK Nagan Raya, 2021).

The Banda Aceh DPRK is better than the DPRK Nagan Raya Regency in terms of the proposed *raqan* initiative. In the 2020 regional legislation program, the DPRK Banda Aceh has DPR proposed 5 (five) *Raqan*, namely:

1. *Raqan* Keuchik Elections Via E-Voting;
2. *Raqan* Preservation of Sites and History and Heritage and Culture;
3. *Raqan* Public Roadside Parking Service Fees and Special Parking Areas;
4. *Raqan* Implementation of Family Resilience Development, and
5. *Raqan* Tourism Master Development Plan.

The council's initiative to propose a *raqan* demonstrates the implementation of its obligations and responsibilities in the field of legislation. The proposed *Raqan* is part of the needs of the community and government. Each member of the legislature at a predetermined time conducts recess activities to the electoral district in order to absorb the aspirations of the community and find out the concrete problems faced by the community. Recess activities carried out regularly will produce concrete policies in the form of legal norms. as a solution to solve various problems.

When legislators are unable to produce initiatives in the program even though they have carried out various activities to receive the aspirations of the community through recess, then this indicates that the legislators do not carry out their legal responsibilities and obligations in the field of legislation. When the legislature does not carry out its legal responsibilities and obligations, it is Contrary to the achievement of good governance and the general principles of good governance.

One of the general principles of good governance is the principle of accountability. This principle requires that every task implementation and the final results of government activities and in development must be able and must be properly accounted for to the community and related parties in accordance with the applicable laws and regulations. When the legislative function is not carried out by DPRK members, it is not in accordance with the principle of accountability in the administration of government which requires responsibility in carrying out the duties and functions of government organs.

According to Jimly Asshiddiqie, there are two accountability concepts, namely personal accountability and institutional accountability. If a member of

the legislature carries out his duties and functions in accordance with applicable legal norms or provisions, his actions can be institutionally accountable. However, if a member of the legislature in carrying out his duties and authorities commits a violation of the law, then the implementation of the action can be personally accounted for. (Ashiddiqie, 2012).

The performance relations between regional legislators and the publics as their constituents must also be based on the concept of responsibility. According to Cooper, the concept of responsibility is based on the idea that state institutions based on the provisions and procedures established by law must provide responsiveness to the community and citizens for everything they have done. (Hernawan, 2004).

Basically, there are two forms of responsibility, namely accountability and obligation. Accountability is related to responsiveness within a person or collective body, while obligation is responsibility for certain tasks in achieving goals. Accountability can be seen as a means or means to ensure the fulfillment of obligations in a certain hierarchical structure. Accountability basically means that there is a vertical relationship and the implementation of top-down authority to maintain the work system towards achieving goals (Hernawan, 2004).

Dennis F Thomson in the Politics of Ethics and Public Positions states that there are 3 (three) approaches to deliberate and constructing the ethics of legislators as public officials, namely minimalist ethics, functional ethics, and rationalist ethics (Thomson, 2000). Minimalist ethics is related to the prohibition for lawmakers to carry out actions that violate legal and social norms. The application of this ethics in the legislature is regulated internally in the Code of Conduct and is enforced by the honorary organs.

The DPRK organ also lack of concrete measures and standards regarding the performance of each member in the legislative, budgetary and supervisory functions. In the absence of standards and measures for the performance of DPRK members, there is no willingness and preference to achieve certain goals. This is also because the community as a constituent does not set a standard of

performance success for each of their representatives as members of parliament. This situation certainly does not burden every member of the legislature to continue to improve their work standards for the benefit of the people.

Functionalist ethics according to Thomson will offer a functional foundation for legislators in carrying out their duties and functions (Yunus, 2014). Ethics will construct the nature of the duties and functions of legislative members as representatives of the people, so that the attitude of action will raise individual awareness of each member and collectively their institutional responsibilities. In the end, this awareness will lead to the achievement of good governance and clean governance for institutions.

Rationalist ethics is a rational basis for realizing legislators that they must serve fundamental political principles, such as justice, freedom, or the common good (*bonum commune*). Based on the rationalist ethical approach, legislators are prohibited from enriching themselves by law, either in the name of personal interests, factions, or parties. When members of the council have sat in parliament, their superiors are no longer party, or party officials, but the people and constituents (Yunus, 2014).

If it is associated with the concept of legislative accountability, both political and managerial, the DPRK in carrying out its legislative functions must prioritize the same functions as other functions. The DPRK should prioritize this function by being actively involved in proposing the Raqan initiative. When the DPRK does not carry out its duties and functions properly in the field of legislation, then this should affect its electoral electability.

CONCLUSION

The concept of legislative accountability relates to two aspects, namely political accountability and managerial accountability. This accountability should have electoral implications for the performance of the DPRK in carrying out its functions in the field of legislation. The implementation of legislative accountability for DPRK's performance in the field of legislation has legal and

political consequences. When the DPRK does not carry out its duties and functions properly in the field of legislation, it does not have any impact on them. This is because the concept of legislative accountability has not been concretely regulated in the legislation.

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