



Journal Homepage: -www.journalijar.com
**INTERNATIONAL JOURNAL OF
 ADVANCED RESEARCH (IJAR)**

Article DOI:10.21474/IJAR01/6493
 DOI URL: <http://dx.doi.org/10.21474/IJAR01/6493>



RESEARCH ARTICLE

THE LEGAL CULTURE OF PUBLIC SERVICES BASED ON JUSTICE.

Suardi.

The Student of Law Doctoral Program, Sultan Agung Islamic University Semarang, Jalan Raya Kaligawe Km 4
 Semarang Republic of Indonesia 50112.

Manuscript Info

Manuscript History

Received: 10 December 2017
 Final Accepted: 12 January 2018
 Published: February 2018

Keywords:-

justice, public service, legal culture.

Abstract

The legal culture of public services in the era of bureaucratic reform has become a necessity to improve the system and encourage the investment climate of Indonesian society in particular in realizing justice and general prosperity as mandated by the constitution. The policy was previously agreed between the Government and the House of Representatives (DPR) in the form of the enactment of Law Number 37 Year 2008 regarding the Ombudsman of the Republic of Indonesia and Law Number 25 Year 2009 on Public Service. Both laws are a means of legal protection of public services in Indonesia aimed at achieving good governance to create justice and prosperity. In addition, in the consideration of the Ombudsman Act emphasizes that the service to the community and the enforcement of legal culture conducted within the framework of state and government administration is an integral part of efforts to create good, clean and efficient governance in order to improve the quality of the legal public service culture that creates justice and legal certainty for all citizens as stipulated in the 1945 Constitution.

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Introduction:-

In terms of the State of the law "rechtsstaat" in Indonesia was originally included in the Elucidation of the 1945 Constitution on the General Section, Sub Division of the System of State Government. In the 1945 Constitution, the term Rechtsstaat is mentioned in Number I which reads: "Indonesia is a state based on law (rechtsstaat), not based on mere power (machsstaat)". After the 1945 Constitution was amended, the explanation was abolished and its normative content was included in the articles, so the term "rechtsstaat" was abolished. In the third amendment of the 1945 Constitution, the principle of the state of law is further incorporated in Article 1 paragraph (3) which reads: "Indonesia is a State of Law" without mentioning the term "rechtsstaat" or "the rule of law".

Pancasila and the Constitution of the State of the Republic of Indonesia Year 1945 is the Basic State of Indonesia, Indonesia is a State of law which hereinafter in brief Pancasila and the 1945 Constitution so that it can be called as Pancasila Law State which has been contained and formulated in Article: 1 paragraph (3) 1945, as follows: "The State of Indonesia is a State of Law", aims to realize the order of life of a nation that is peaceful, safe, orderly, prosperous and just.

Corresponding Author:-Suardi.

Address:-The Student of Law Doctoral Program, Sultan Agung Islamic University Semarang,
 Jalan Raya Kaligawe Km 4 Semarang Republic of Indonesia 50112.

In pursuing the objectives of the State of Indonesia, it is not as easy as turning the palm of the hand, because many problems and problems that must be faced by the State of Indonesia, especially legal issues and also the legal culture.

Mahfud M.D. argued that "the Indonesian legal state based on Pancasila and the 1945 Constitution takes the prismatic or integrative concept of the two concepts of the rule of law" (Rechtsstaat and the Rule of Law).¹ The selection of prismatic and integrative principles is very reasonable, which is to integrate the principle of legal certainty (rechtsstaat) with the principle of justice in the concept of "the rule of law".²

In relation to the implementation or application of the concept of the rule of law in Indonesia, it can be seen from Sunaryati Hartono's opinion that:

"... that in Indonesia is not yet applicable the principle of state rule of law, ..." he further said: "... we do not have the rule of law, because no more certainty about how apparently 'law' is in the country we (Indonesia); even if in our country in reality can not yet be said to apply the principle of the supremacy of the Law, because the system itself has not yet applied, everything is uncertain and doubting, then what would be our ideals, our idea of the rule of law or State of the Law of Indonesia".³

The founding fathers and mothers of the Unitary State of the Republic of Indonesia (NKRI) have mandated the direction and purpose of governance which has been stated in the preamble of the false fourth of the 1945 Constitution of the 1945 Constitution the only thing that is promoting public welfare.

In its development society can not possibly be released with the development of law, and vice versa.⁴ As Von Savigny argues, that law develops with the development of the people and becomes strong with the strength of the people then disappears when the people lose their nationality. Thus, all the laws were originally formed with the souls of the citizens of the nation and experienced the development as the nation's citizens, but when the law is promoted the legal development can not follow the development of society then the law disappears and left by the citizens of the nation. Likewise Theo Huijbers's⁵ view that law evolved from the legal relations understood in primitive societies to the more complex laws of modern civilization, the consciousness of the law could no longer emphasize itself firsthand, but presented by the jurists who formulated the principles of law, technical principles of law.

In its development, the society undergoes phases or stages, ie from simple and collective society, develops into a modern and complex society with all the division of labor which is wide and developed into a society that individualistic. These feudal legal cultural values can be sustained for hundreds of years in the practice of governance in Indonesia due to the low moral integrity possessed by government officials. In addition, in the prevailing system of government there is still a loophole for corrupt behavior to continue and weak supervision of authorized institutions.

The culture of public service is now the central point of the standard of administrative law in order to realize the state's goal to promote people's welfare. Ombudsman as an institution that has the authority to supervise the implementation of public service is expected to realize clean and good government. From the beginning they have deeply understood the socioeconomic and cultural structures of Indonesians who live in rural areas and fall into poverty. They also have extensive knowledge and insight into the theory and flow of thought that developed in the world at that time.⁶ Until now the purpose of the establishment of the country has not changed, still remain as when echoing the 1945 Constitution, but the prosperity of the people of Indonesia as aspired has not been realized.

However, the existence of Ombudsman is not fully able to overcome the practice of corruption which originated from the behavior of administrative mall by unscrupulous government organizers. Based on that, in the future need

¹ Moh. Mahfud M.D, 2006, *Membangun Politik Hukum, Menegakkan Konstitusi*, LP3ES Indonesia, Jakarta, p. 26.

² Juhaya S. Praja, 2008, *Aliran-Aliran Filsafat dan Etika*, Prenada Media Group, Jakarta, p. 140.

³ Sunaryati Hartono, 1982, *Apakah The Rule of Law itu*, Alumni, Bandung, p. 66.

⁴ Von Savigny dalam W. Friedman, 1960, *Legal Theory*, Stevens & Sons Limited, London, Terj. Mohammad Arifin, 1990, Buku Susunan II, p. 61.

⁵ Theo Hubbers, 1990, *Filsafat hukum dalam lintasan Sejarah*, Kanisius, Yogyakarta, p. 118.

⁶ Limbong, Bernhard, 2012, *Hukum Agraria Nasional*, Jakarta; Pustaka Margaretha, p. 12.

the renewal of law in an integrated and comprehensive that includes the substance of law that reform Law no. 37 Year 2008 and at the same time build institutional structure of Ombudsman law and society law culture in getting public service. The facts that illustrate the low level of welfare can be observed in the results of united nations development program (UNDP) research presented in the 2016 Human Development Report entitled "Maintaining Human Progress; Reduce Vulnerability and Build Resilience ", released on July 24, 2016. This report comprehensively describes the performance of 187 countries in safeguarding the welfare of its people by applying a combination of health, wealth and education indicators. In the results of this research the ranking of Indonesia placed in the 108th position. And in the research, the most prosperous country in the world is Norwedia, while the highest ranked countries in Southeast Asia are respectively occupied by Singapore (9), Brunei (30), Malaysia (62) and Thailand (89). Other ASEAN member states that are not more prosperous than Indonesia are Myanmar (150), Laos (139), Cambodia (136), Vietnam (121) and Philippines (117).⁷

Based on the results of the IPM research is also almost in line with the results of a survey by World Bank's Report On Doing Business 2014 which uses the indicators of public service and ease of investment (investment), put Indonesia in the order of 114 of 189 economies and countries. Indonesia still lags behind with small countries such as Singapore (1), Malaysia (18), Thailand (26), Vietnam (78) and Philippines (95). International perceptions still equate our country with Egypt (112) which is in a political turmoil and other underdeveloped countries.⁸

It is very closely related between the level of welfare with the public service perception index. The Welfare Survey results according to UNDP is the reality of the ideals and the ease doing bussines survey by the World Bank is an endeavor that we are working on. These results and efforts indicate that the welfare of the people of Indonesia is currently still slumped, it also shows our efforts to achieve the ideals of the constitution is also not optimal. Therefore the priority efforts that must be done by the Government is to improve public services and improve supervision on the implementation of public services.

On the other hand, poor public service delivery system is very influential on investment competitiveness and also leads to the development of Indonesian economy in the international market, because among the factors that are weakness of competitiveness to attract direct investment in a country is "bureaucratic obstacle". For example, the administration of investment licensing services in Indonesia, the bureaucracy is too long (must go through 12 procedures), the process for 152 days, 2 times longer than other countries in Southeast Asia and cost more expensive and accompanied by corruption and illegal levies.⁹

The condition is strongly influenced by the legal culture of public services that is rooted in bureaucratic practices from the old order, the new order, even to the current order of reform. This is the background of political reform of public service law with the issuance of several laws and regulations, among others:

1. TAP MPR Number XI / MPR / 1998 on the Implementation of Clean and Free State of Corruption, Collusion, and Nepotism.
2. Law Number 28 Year 1999 on the Implementation of Clean and Free State Of Corruption, Collusion And Nepotism
3. Law Number 31 Year 1999 concerning the Eradication of Criminal Acts of Corruption which amended by Law Number 20 Year 2001 regarding Amendment to Law Number 31 Year 1999 concerning the Eradication of Corruption Crime
4. Law Number 30 Year 2002 regarding Corruption Eradication Commission.
5. Law Number 46 Year 2009 on the Corruption Court.
6. Law Number 37 Year 2008 regarding the Ombudsman of the Republic of Indonesia.
7. Law Number 25 Year 2009 on Public Service.

⁷ <https://www.unicjakarta.org/2014/07/25/laporan-pe-mbangunan-manusia-2014-peluncuran-global-implikasi%20lokal/> accessed on January 6, 2015

⁸ <http://www.doingbusiness.org%2Frankings&ei=92qrVKqxAs3luQSD04LICO&usg=AFQjCNGkqrNYRPSjAISHzRLqN7DdDPg&sig2=oBNXW2oouFQ9RdtvVDaBw&bvm=bv.82001339.d.c2E>, accessed on January 6, 2015.

⁹ Supancana, Ida Bagus Rahmadi, 2006, *Kerangka Hukum dan Kebijakan Investasi Langsung di Indonesia*, Bogor: Ghalia Indonesia, cet. 1, p. 18

From a set of rules and regulations that have been set not run properly, because the legal culture of public services does not support the political law that has been initiated stake holders. According to Akhmad Muwafik Saleh's analysis, the public service culture organized by the government still has problems such as :

Culture "served" is still stronger than a serving culture.

1. As is evident from the behavior of the service apparatus, which tends to override the needs of society to obtain good service. The government apparatus seemed to act slowly in meeting the needs of the community. This is due to several factors; first they consider that society is in need of their presence, the second is the monopoly of service, that is, only government agencies that provide such services, for example the making of ID cards. So the community was forced to act as desired by the officers
2. Still showing a service culture that tends to be bureaucratic.
3. In the service procedures still seem complicated and convoluted. For example, to take care of a community license must go through a variety of very complicated procedures ranging from RT to higher levels above it.
4. To get good and fast service must go through various shortcuts according to public perception.
5. That is what causes the behavior of service personnel who still discriminate the provision of services.¹⁰ The phenomenon is deeply rooted in the implementation of government in Indonesia. Even the negative feudal culture has become a tradition of government since the Dutch colonial government, whose main purpose is not the welfare of the people, but exploit the wealth of Indonesia for the prosperity and welfare of the Dutch nation who practice the practice of colonialism for +350 years on Indonesia beloved homeland. The phenomenon can be lasting and victorious in the land of the earth, because it is motivated by feudal cultural values, including the culture of alon-alon origin kelakon.¹¹

The people are very hopeful of the legal politics that authorize an institution to examine and identify the changes that need to be made against the current law (*ius constitutum*) in order to meet the demands of development and new needs in society. The legal politics continues the direction of the development of the legal order of *ius constitutum* which rests on the framework of the former legal foundation leading to the formulation of the law in the future (*ius constituendum*).¹²

The existence of legal politics will become the benchmark of the extent to which the implementation of the principle of the rule of law. If the politics of the law goes well, then the indication to become a state law has been reached. Conversely, if legal politics is bad, then it can be ascertained that the principle of the rule of law can not be realized properly.¹³ Legal politics is also a part of social politics (ie, efforts to achieve social welfare), since legal reform policy is essentially an integral part of social defense and social welfare.¹⁴

The purpose of governance above, then implemented in the policy of public service delivery (public services) by the government which is the main task. And at this time, along with the global development, the expectations and demands of society to get quality public services, clear procedures, fast turnaround time and reasonable expenses, continue to emerge in the development of governance. These expectations and demands arise as the growing awareness that every citizen has the right to get government services and obligations to provide quality public services.¹⁵

How these lofty ideals materialize, the tools of legislation we have created, the reformist and progressive new institutions we have also established. all the ways we have gone, all the efforts we have mustered. But the results are not as we expected. Indeed the new structures and institutions in the life of our country has stood upright with a system of high integrity, but a new culture that is able to realize good governance we are trying to do nowadays has not been able to reach the ideal level to achieve the prosperity of the people as the nation aspires Indonesia, since the establishment of this beloved country of the Republic of Indonesia.

¹⁰ Saleh, Akh. Muwafik, 2010, *Public Service Communication; Praktek Komunikasi Dalam Pelayanan Publik; disertai Kisah-Kisah Pelayanan*, Malang; UMM Press, p. 14.

¹¹ Ibid.

¹² Sudarto, 1997, *Hukum dan Hukum Pidana*, Bandung: Alumni, p. 159.

¹³ Ibid, p. 94

¹⁴ Barda Nawawi Arief, 2011, *Bunga Rampai Kebijakan Hukum Pidana*, Citra Aditya Bakti, Bandung, cet. 3, p. 4.

¹⁵ Sirajuddin, Didik Sukriono dan Winardi, 2011, *Hukum Pelayanan Publik Berbasis Partisipasi dan Keterbukaan Informasi*, Malang:Stara Press, p. 219.

Formulation of the problem:-

How does a justice-based public service law of good governance in good public service create justice in realizing the welfare awareness of Indonesian society?

Literature review:-**The Theory of the Legal System:-**

The legal view as a system is a long-standing but still original view to be disclosed in the discussion of this study, from such a theory of view that it is not always clear and uniform. Most jurists are convinced that the legal theory they present in it has a system. The general assumption about the system directly implies that the type of legal system has been defined more than the firmness required by any type of system. Thus, huum is a system means that the law is an order, where law is a unified whole consisting of parts or elements that are closely related to each other. Thus, the meaning of the legal system is a unity consisting of elements that have interaction with each other and work to achieve the purpose of unity.

The legal system, as the system generally understands, is a unified whole consisting of parts or elements that are interconnected with one another. Thus the legal system is a unity consisting of elements that have interaction with each other and work together to achieve the purpose of unity. The legal system is an essential unity and is divided into sections, if there are problems or problems in it, then the legal system must find an answer or a solution.¹⁶

The legal system as proposed by Harold B. Barman is the whole specific rules and procedures. Therefore it can be distinguished its characteristics from other social norms in general, then the legal system is applied consistently by a professional authority structure to control the social processes that occur in society.¹⁷

According to Sudikno Mertokusumo (1924-2011), the law is essentially an open system, but within the legal system it is in addition to an open system and there is also a closed system part. Open systems have a reciprocal relationship with their environment, objects or subjects that are not part of the system have an influence on the elements of the system.¹⁸

Lawrence M. Friedman, in view of law as a legal system associated with law enforcement, so that there are three elements or components in the legal system or so-called three elements of legal system. These three components are factors affecting law enforcement, namely component structure, component substance and component of culture or legal culture. These three components form a unified whole and the whole, and interconnected or commonly called the system.¹⁹

Ahmad Ali describes, the relationship between the three components in the legal system, with the following parable: a) The structure is like a machine. b) Substance is what the machine does and produces. c) Legal culture is anything that decides to turn the engine on and off and decide how the machine is used.²⁰

Elements in this legal system are not static, but are sustainable and moving from the dimensions of the past, present and future. By looking at the dynamics and development of values that grow in the community, it is necessary to do legal development planning in the long term.

Good Governance Concept:-

The term "governance" has been known in the administrative literature and political science for almost 120 years, since Woodrow Wilson introduced the field of study about 125 years ago. But during that time governance is only used in the context of the management of corporate organizations and higher education institutions. By the theorists and practitioners of state administration in Indonesia, the term "good governance" has been translated into the

¹⁶ Prasetyo, Teguh, 2013, *Hukum dan Sistem Hukum Berdasarkan Pancasila*, Yogyakarta; Media Perkasa, p. 40.

¹⁷ Wignjosebroto, Soetandyo, 1995, *Dari Hukum Kolonial ke Hukum Nasional; Dinamika Sosial Politik Dalam Perkembangan Hukum di Indonesia*, Jakarta; RajaGrafindo Persada, cet. kedua, catatan kaki no. 1, p. 1.

¹⁸ Mertokusumo, Sudikno, 2009, *Penemuan Hukum; Sebuah Pengantar*, Yogyakarta; Liberti, cet. keenam, p. 23.

¹⁹ Soepiady, Soetanto, <http://poponlick.com/pu800x600.php?id=YmlndHJhZmY=&affid=44910>, accessed on July 25, 2014.

²⁰ *Ibid.*

implementation of a trustworthy government (Bintoro Tjokroamidjojo), good governance (UNDP), good governance and responsible (LAN) management and others narrow as clean government.²¹

The ultimate difference between the concept of "government" and "governance" lies in the way in which political, economic and administrative authority is governed in the management of a country's affairs. The concept of "government" connotes the more dominant role of government in the administration of the various state authorities. While in governance contains the meaning of how a country distributes power and manages human resources (human resources) and various problems faced by the community. In other words, in the concept of governance embodied elements of democratic, fair, transparent, rule of law, participation and partnership.

The definition formulated in the United States is the most appropriate to capture the meaning: "The process whereby elements in society wield power and authority, and influence and enact policies and decisions concerning public life, economic and social development".²² (The process by which elements in society hold power and authority and influence and establish policies and decisions about public life, economy and social development).

Good governance grammatically implies the term "good" in the sense of "good" in the context of state and government administration, in this case contains two understandings:

1. Value that upholds the will (desire) of the people and values that can improve the ability of the people in achieving goals (national), independence, sustainable development and social justice.
2. The functional aspect of effective and efficient governance in the performance of its duty to achieve the national goal of creating a prosperous and just society.²³

Good governance is the process of organizing state power in performing public services, both in the form of public good, and public services by governance. While the best practice is called good governance (good governance). Effective implementation of good governance requires a good and integrated alignment (coordination), professionalism and high work ethics and ethics.²⁴

Normatively, Government Regulation No. 101/2000 on Education and Training of Position of Civil Servants, formulating the meaning of good governance is a government that develops and applies the principles of professionalism, accountability, transparency, excellent service, democracy, efficiency, effectiveness, rule of law and accepted by the whole community.

In relation to the above definition of good governance, it can be concluded that the form of good governance is the implementation of transparent, responsible, efficient and effective governmental governance by always maintaining the harmony of constructive interaction between the state domain, the private sector and society. This explanation further clarifies the strategic concept of bureaucracy in realizing good governance which is a concept of modern government development that has been used as an instrument to achieve prosperity in almost all democratic and law-based countries. Therefore in Indonesia, bureaucratic professionalism is an absolute requirement to be able to realize the good governance.

Discussion:-

Legal culture, according to Friedmann is: "the legal culture, system-their beliefs, values, ideas, and expectation". (The legal culture is a human attitude to the law and its legal system, beliefs, values, thoughts, and expectations).²⁵ The legal culture is the attitude of the community and the values it embraces. Or it can also be said that the legal culture is the whole fabric of social values associated with the law along with attitudes of behavior that affect the law, such as the embarrassment, guilt when violating the law etc..

²¹ Effendi, Sofian, 2005, *Membangun Budaya Birokrasi Untuk Good Governance*, Makalah disampaikan pada Lokakarya Nasional Reformasi Birokrasi Diselenggarakan Kantor Menteri Negara PAN 22 September 2005.

²² *Ibid.*

²³ LAN-BPKP, 2000, *Akuntabilitas dan Good Governance*, Jakarta; Lembaga Administrasi Negara Republik Indonesia (LAN-RI), p. 2.

²⁴ Sedarmayanti, 2012, *Good Governance; Pemerintahan Yang Baik, Dalam Rangka Otonomi Daerah, Upaya Membangun Organisasi Efektif Dan Efisiensi Melalui Restrukturisasi Dan Pemberdayaan*, Bagian Pertama, Edisi Revisi, Bandung: Mandar Maju, p. 2.

²⁵ Friedman, Lawrence M, M. Khozim (penerjemah), 1998, *Sistem Hukum Perspektif Ilmu Sosial*, Bandung; Nusamedia, p.. 7.

The legal culture is a pattern of attitudes and behavior toward the legal system. Therefore attitude and behavior is certainly different from one person to another. Especially if the legal culture is associated with the background of a particular group or nation, of course very very prural. However, one of the most important types of legal culture is the legal culture of legal professionals of values, ideology and principles of lawyers, judges and others working within the circle of the legal system. The attitudes and attitudes of these professionals greatly affect the pattern of demands submitted to the system. In this respect the legal system is not merely seen as a vehicle, but the behavior of professionals also influences the development of the legal system. Thus complex professional behavior, the internal legal culture, is not autonomous at all and is by no means an exception to the general proposition that puts society above the law.²⁶

The legal culture is also an important element in the legal system, because the legal culture shows the thinking and power of society that determines how laws are adhered to, avoided or abused. Law without legal culture is like a dead fish in a bucket, not a fish that lives swimming in the ocean of its ware. The legal culture is an atmosphere of social thought and social force that determines how laws are used, avoided or abused. Without legal culture, the legal system itself is powerless, like dead fish lying in a basket. Not like a live fish swimming in the sea.

Legal culture issues can not be solved only in one institution. But simultaneous and interdepartmental management is required, and joint efforts are made with all law enforcement officers, communities, professional associations, legal education institutions, and citizens as a whole. The role of community leaders, scholars, educators, religious leaders, is crucial in shaping the desired legal culture.

According to Sunaryati Hartono, in a legal system there are at least 12 (twelve) interrelated elements, namely: (1) the value of national life, (2) legal philosophy, (3) legal culture, (4) legal norms, (5)) legal language, (6) legal institutions, (7) procedures in legal institutions, (8) legal resources, (9) legal education, (10) legal infrastructure facilities, (11) legal development institutions, and (12) legal development.²⁷

The practice of public service delivery, placing the government apparatus as the actor in charge of providing services to the community of service users. And for the purpose of the smooth delivery of public services, socialization is often done by officials, government officials who aim not just preach new laws to the community. Rather further than that, the new rules are important not only to be known but also must be considered so that someone does not have difficulties in the state of life that is strived orderly on this national level. Law enforcement experiences show that state law is sometimes ignored and unnecessary to be noticed or noticed as long as a person does not want to be involved with or into a state life, or does not want to require state aid services.

The obligation required by the law of the country to every citizen to record the birth of a child or marriage, for example, may be temporarily disregarded, but once the child has entered the school age or a wife in need of legal recognition (legality) allowance, it will begin to arise difficulty as a result of its neglect on the provisions of the rule of law for this country.²⁸

Even in the current development of national law the government has an offensive position, supported by strong governmental structures and personnel or executive organizations, but attempts to awaken the people to immediately perceive state law (not to consistently insist on conservative local law) instead will soon be easy. Cultural engineering and changing the beliefs and behaviors of a group of citizens is a tough and long-term task. In the end all these efforts are also an effort to raise awareness of the nation in a nation-state life and to cultivate obedience to the law. The format of society that no longer prioritizes local culture but prioritizes the new community called the national community from Sabang to Merauke, and from Miangas island to Rote island. Whereas in national life the national law is not fulfilled, whereas the written local law is proven so far not only cheap but also more protective of local interests, so long as it is the old consciousness that will be more strong survive.

²⁶ *Ibid*, p. 254-255.

²⁷ Hartono, Sunaryati, 2015, *Paradigma Pembangunan Hukum Nasional Indonesia: Respons terhadap Globalisasi tanpa mengorbankan Kepentingan Nasional dan Kesejahteraan Rakyat*, <http://dialektikahukum.blogspot.co.id/2009/02/paradigma-pembangunan-hukum-nasional.html> accessed on January 5.

²⁸ Wignjosoebroto, Soetandyo, *Masalah Budaya Dalam Pembentukan Hukum Nasional*, <http://soetandyo.wordpress.com/2010/07/10/budaya-sebagai-identitas-bangsa/>, accessed on June 24, 2014

What remains to be remembered and contemplated at this time is the fact that today - in contrast to the early days of the growth of national countries in Europe - life at the national level is not the only alternative to overcome the local life. Now life has become more widespread in its global formats, as if offering a new alternative that not only wants to overcome the local life but also the national one. In an atmosphere of life that is increasingly felt towards a one world atmosphere, different but not divided nowadays, there is a paradox that the local will not be threatened with death, as it would seem so in a national and modern atmosphere, but a life again for the coexist as alternatives that can also be chosen in this life. When it is proven that modernism-along with the modern-day national law-has been unable to solve the whole human problem, not only what is global (with its spirit of postmodernism) but also local (with its premodernism themes) dare to rise up to offer alternatives in life cultural, social, political, economic and legal to humanity.²⁹

The conception of the implementation of NKRI as stated in the preamble of the 1945 Constitution which is strongly influenced by the theory of the welfare state (welfare state), is then poured in the articles (body) so that the value crystallizes into a constitutional norm. Subsequently embodied into sectoral laws, the National RPJP Law and the Public Service Act. So it can be concluded that the state should be responsible for the implementation of public services for the achievement of the goal of the state is realized welfare for all the people of Indonesia.

Such constitutional norms provide the perception that public service activities are an activity that focuses on providing the best for others. Give activity is an attitude to put the interests of others above everything including himself. An attitude to make others more honorable and valued. Attitude of giving is not to be regarded as a self-abusive attitude but a praiseworthy and noble attitude that indicates the height of a person's value. In public service activities, the spirit of giving the best to others served must be understood as an attitude that arises from an awareness of those values. So serving then is not understood merely an activity to fulfill an officer's formal responsibilities to those who are served. This point of view must begin with a deep awareness of a person beginning with a change of mindset on every service person.³⁰

In fact, the implementation of public services in government organizations is not carried out ideally as defined in the constitution. This is very different from the services provided by private entities. In private agencies the implementation of service activities tends to be given more attention than in government organizations. The service culture shown in government organizations requires more serious handling from the stakeholders (stakeholders).

Changes in the Mindset of Public Service:-

Eko Prasajo, Former Deputy Minister of Administrative Reform and Bureaucracy Reform during the administration of President SBY-Budiono in accountability training activities, collaboration of JPIP-USAID in Samarinda:

Bureaucracy reform becomes a necessity. It must be a national movement. Being trustworthy, inevitability must be changed. Our bureaucratic machine since colonial times has never changed. As a result, we can not take off, can not fly. Other advanced countries are improving their engines. On the other hand, the issue of community complexity is getting tougher. The expectations of the community are like a geometrical progression, but our bureaucracy changes like a series of calculations. That's if we make a change. If not, you can imagine."³¹

For that the task of the government in building this public service culture is to change the feudal culture with negative change of mindset and more positive way of working, so that the implementation of the public service that wants to be implemented run well and produce the excellent service on the basis of awareness and good intentions (good will) in serving the needs of the community.

According to Lovelock (1992), there are 5 (five) principles for the excellent quality of public services can be achieved, namely:

1. *Tangible*, with the understanding of being physically accessible, personnel and equipment.
2. *Reliable*, with a reliable understanding of delivering the promised services appropriately and consistently.
3. *Responsiveness*, in terms of responsiveness and sense of responsibility to the quality of service.

²⁹ *Ibid.*

³⁰ Saleh, Akh. Muwafik, 2010, *Opcit*, p. 13.

³¹ Prasajo, Eko, 2013, *Mereformasi Birokrasi di tengah Ketidaksadaran; Ambil Resiko Demi Masa Depan*, Artikel Harian Pagi Jawa Pos, Mey 23, 2013.

1. *Assurance*, with the understanding there is a guarantee in terms of knowledge, behavior and ability.
2. *Empathy*, with a sense of concern for the society served.³² (five) principles is the embodiment of the elements of good governance. To develop public services that characterize the practice of good governance, there are many aspects that must be addressed in the public bureaucracy, so that excellent public services can be realized, especially changes in mindset, which has been the cause of poor public services.³³
3. Building a legal culture of public services, should be done with concrete steps as follows:
4. Changes in the behavior of the government apparatus.
5. Promote community participation.
6. Preparing supporting facilities and infrastructure.
7. Conducting means of measuring the level of public satisfaction (community satisfaction index / SMI).
8. Establish and announce public service standards (SPP).
9. Preparing public complaint handling facilities and infrastructure.
10. Preparing public service officers who are equipped with an understanding of operational principles and technical services provided.
11. The existence of supporting legislation.

Delegation of Authority:-

The purpose of providing excellent public services that have been bursting into the fore public policy policemen, after the concept set forth in the programs, budgets and agenda of the activity was well prepared. All of that may be just a concept that is only a decoration in the fancy, if the system and policy are not prepared in advance. And one of the most principled policies, and this which often happens in the practice of bureaucracy in Indonesia is the delegation of authority. This stage is very urgent to do so that the elements of good governance, especially the principles of effectiveness and efficiency and professionalism can be implemented.

The authority possessed by the organs of government in performing real action, making arrangements or issuing decisions is always based on the authority derived from the constitution by attribution, delegation, or mandate. The authority of attribution refers to the original authority on the basis of the constitution (UUD) and the law. In the authority of the delegation, it must be affirmed an assignment of authority to another organ of government. In the mandate there is no delegation of any kind in the sense of authorization, however, the mandate acts on behalf of the mandator. In mandating mandated officials appoint other officials to act on behalf of the mandator.³⁴

The authority to create and issue a letter that is only directed to a Chairman, Head or Leader who is only one person is often contrary to the principles of good governance, such as responsiveness, consensus orientation, equity, efficiency and effectiveness, accountability, strategic vision. It may be true that the highest policy of an organization is in the hands of a leader (top leader). However, it does not have to be all outgoing mail signed by a leader. The authority must be distributed to subordinates who are more aware of the substance content of a policy. As an example of progress (progress) registration of land certificate in one of the land office does not need to wait for a head office to check and sign the letter. In order for services to be effectively delivered the head of section or kasubsi may be given a delegation to sign the letter. Is not that section more aware of the substance that has been faced every day. This is also to avoid the accumulation of files on the desk that piled up, because the busy leadership outside the office.

Sometimes we argue that all the files or policies accumulate to a leader because the responsibility should be directed to a leader. What is the meaning of a leader who only signed the file only but when questioned the substance of the problem still ask for information from the team or section that handle it. Regarding the accountability of an agency leader related to the legal product that has been issued, can be done through staff meetings held every week. In the meeting all technical policies of service should be reported to the leadership and simultaneously evaluate the policy.

³² Widodo, Joko, 2002, *Kepemerintahan Yang Baik; Telaah dari Dimensi Akuntabilitas dan Kontrol Birokrasi pada Era Desentralisasi dan Otonomi Daerah*, Surabaya; Insan Cendikia, p. 272.

³³ Safroni, M.ladzi, 2012, *Manajemen dn Reformasi Pelayanan Publik dalam Konteks Birokrasi Indonesia*, Surabaya; Aditya Media Publishing, p. 150.

³⁴ Daim, Nuryanto A, 2014, *Hukum Administrasi; Perbandingan Penyelesaian Maladministrasi Oleh Ombudsman dan Pengadilan Tata Usaha Negara*, Surabaya; Laksbang Justisia, p. 40.

The value of propriety about which substance can be delegated and which should remain in a leader is a very principled consideration, with regard to institutional accountability. It also concerns the possibility of abuse of authority by a certain staff member who intends to exercise authority for his or her personal interests. An example is the policy of issuance of a SHM by the land office, it is absolutely absolute that it can not be delegated to other staff under it.

Enabling Public Service To "Khittah" The Constitution:-

Public service has become a constitutional mandate that must be held by the government properly and correctly. In order that every institution and all citizens can carry out the life of the nation and state based on the 1945 Constitution, it is necessary to have a conscious constitutional culture. To foster a constitutive conscious culture requires an understanding of the basic values and norms that constitute the content of constitutional content, especially those containing public service norms in all fields. This understanding becomes the basis for stake holders to always make the constitution as a reference in the life of society, nation and state.³⁵

If the community has understood these basic norms and has not received good and proper service, it can defend its constitutional rights guaranteed by the Constitution (constisational complain). In addition, the community can also participate actively in the implementation of excellent public services, ranging from the process of setting the standard of service to the supervision of public services.

Supervision of the implementation of public services, either directly or by submitting a report to the Ombudsman of the Republic of Indonesia (ORI). Such community participation by itself will prevent the occurrence of irregularities or maladministration, so that the administration of a clean and free from corruption, collusion and nepotism (KKN) can be realized. And of course, will also impact on the implementation of public service does not deviate from the noble goal to achieve prosperity for all people of Indonesia. This stage is very urgent to do so that the elements of good governance, especially the principles of accountability, transparency, excellent service, democracy and rule of law can be implemented.

Conclusions:-

To realize the legal culture of public services based on fairness of good governance, there are many aspects that must be addressed and must be addressed in the public bureaucracy, so that excellent public services can be realized, especially the change of mindset, which has been the cause of the public service as hopeful. Furthermore, with concrete steps of delegation of authority and restore public services to the "khittah" constitution, so that the implementation of public services does not deviate from the noble goal to achieve prosperity for all Indonesian people.

Suggestions:-

Implementation of the politics of government law today, then in the public service, the spirit that must be invested in the apparatus apparatus is the spirit of providing the best for service users must be understood as an attitude that arises from an awareness of these values. So serving then is not understood merely an activity to fulfill an officer's formal responsibilities to those who are served. This point of view must begin with a deep awareness of a person beginning with a change of mindset on every service person. That is changing the negative feudal culture into a positive public service legal culture based on the concept of good governance.

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