

A Socio-Legal Analysis of the Control Function of Parliament in the Regulation Implementation

M. Hatta Roma Tampubolon¹

Abstract

UU NRI 1945 as constitution of the Republic Indonesia should be the basic source of power in order to carry out national development focused on providing an interests, kindness, and general well-being, where there is a division of powers which consists of the legislative, executive, and judicial. The Constitution as the source of power, not only has the legal authority and the highest authority, but also should be the basis and foundation of statehood. The Constitution of the Republic of Indonesia contains basic norms in Article 1 Paragraph (2) NRI 1945 Constitution affirms the sovereignty vested in the people and implemented through legislation. To realize the goal of interest, kindness and prosperity for the citizens of Indonesia is the supreme sovereignty vested in the people. Parliament as a representative institution of the people in the region have an important role in governance, that capable of reflecting the values of democracy also can absorb and promote the aspirations of the people including the interests of the region in accordance with the demands of the life of the nation. The Monitoring is one of the main functions that attached to the Dewan Pemerintah Daerah (DPRD) in addition to the functions of legislation and the budget. Should, aspirations of the people in the areas of supervision, institutionally represented through their elected representatives in Parliament. This supervision function is expected to become effective in accordance societal expectations, regulations and legislation in demand. DPRD monitoring aims to ensure that the regional government run the program in accordance with the plans and the statutory provisions. Supervision should constitute one of the most intensive functions that can be performed by the Institute Council. Supervisory functions executed in the context of Parliament as a political institution is a form of political control more strategic rather than technical supervision administration. It shows that the supervisory function carried by DPRD at the level of policy control to create checks and balances. Provinces that previously had a weak and limited bargaining power, strengthened by the addition of functions and authority to the governor; Fourth, efficiency and effective are preferred by grinding large areas of autonomy, real and responsible. The principles of democracy, the participation of the community, equity and equality, as well as preserve the potential and diversity areas was neglected.

Keywords: Monitoring, Local Government, Political Institutions, Parliament, Local Regulation

1. BACKGROUND

Indonesia is a unitary state in republic² so that the logical consequence of the establishment a state is the formation of the state government which acts as the central government. Then, the central government formed the regions in accordance with legislation. Sovereignty is only in central government (absolusme). All of policies are made and implemented by the region is an integral part of national policy. The difference is in the use of wisdom, potential, innovation, competitiveness, and creativity areas that are expected to support the achievement of national development goals in overall. People sovereignty carried out on the basis of democracy guided by the inner wisdom in the unanimity arising out of deliberations amongst representatives, the representative body of the people, and legislative area that is able to reflect democratic values and can absorb and promote the aspirations of the people including the interests of the region in accordance with the demands of the life of the nation. This was confirmed that the local legislative body is the container in promoting the democratic aspirations of the people. Parliament (DPRD) as a representative institution of the people in the Region, have an important role in governance in the Region. The members of Parliament, through political parties, representing the public and should be instrumental in pursuing and realizing democracy good governance and efficient in the region. Such efforts can be done by optimizing the functions of Parliament are: Legislation, Budgeting and Control. The maximum performance in the implementation of these functions is necessary to strengthen the capacity of Parliament. One of the functions of Parliament needs to be strengthened is the oversight function. When compared with the functions of legislation and budgeting functions, the supervision function of Parliament is relatively the least developed, let alone supervision of regional regulations related to the public service. Strengthening of the oversight function of Parliament is believed to have a positive impact on improving the quality of service to the community, both from the aspect of implementation of services and

¹ Doctor and Lecturer of Law Faculty, Tadulako University, Research fields Sosio-legal.

² Article 1 of the Constitution of the Republic of Indonesia in 1945, stated that Indonesia is a unitary state. Means that Indonesia is a sovereign state which is organized as a single entity, in which the central government is supreme and subnational units only run the powers that chosen by the central government to delegate to them. Moreover, in article 1, paragraph 1 of the 1945 Constitution also states the Indonesian State Republican form of government, which means that the reins of government comes from the people, not on the principle of descent (nobility), so that Indonesia will be led or headed by a President.

service products.

Monitoring is one of the main functions attached to the House of Representatives (DPRD) in addition to the functions of legislation and the budget. Should, aspirations of the people in the areas of supervision, institutionally already represented through their elected representatives in Parliament. This oversight function is expected to become effective in accordance societal expectations, regulations and legislation in force. Oversight Council aims to ensure that the regional government run program in accordance with the plans and the statutory provisions. Supervision should constitute one of the most intensive functions that can be performed by the Institute Council. Supervisory functions executed in the context of Parliament as a political institution is a form of political control more strategic rather than technical supervision administration. This shows that the supervisory function carried DPRD at the level of policy control to create checks and balances.

There are at least three assumptions that often arise about the implementation of the functions of Parliament. First, Parliament considered less able to carry out its function as a balanced and effective partner to the Regional Head. This assumption is generally arise from political observers who tend to assess the role of Regional Head still quite dominant in local governance. Secondly, Parliament is considered too much interfering field assignment Regional Head, so it tends to deviate from its main function as a governing body that organizes local legislation and oversight functions. This assumption arises from the regional executive officer. Thirdly, Parliament considered the opportunity that is balanced with the Regional Head for formulating local government policy. This assumption is generally emerged from among members of Parliament (DPRD)¹.

Supervisory function is still considered trivial by a majority of members of parliament, but different things happen, if the budget-related supervision of the members tends to be more responsive to the loss budget. If exercising the supervisory function of budget, Parliament quite perceptive and often fight among fellow legislators to handle it. Instead, something different happens when linked to the monitoring of development, members tend to be less responsive and impressed reluctantly.

Position of Parliament as one of the elements of the regional administration, in carrying out its duties and functions DPRD shave fittings (permanent completeness, namely: Chairman of Parliament, Committee of the Council, Commissions, Honorary Board and the Budget Committee. Completeness Variable, namely fittings Other required, such as the Special Committee. as one element of implementing the functions of local government, the relationship of parliament and local Government is in the form of a partnership, they both partners-workers in regional policy making in accordance with their respective functions, so that between local Government and parliament establish a working relationship that are supportive and not an opponent or rival each other in carrying out their respective functions. parliament establish a working relationship that are supportive and not an opponent or rival each other in carrying out their respective functions.²

In Law No. 23 Year 2014 on Regional Government Article 1 number 4 states: “ Regional Representatives Council hereinafter abbreviated Parliament is a representative institution domiciled local people as part of administrators of Regions.” Provincial Parliament functions listed in Article 96 paragraph (1) of Law Number 23 Year 2014 regarding Regional Government as follows, Provincial has the following functions: (a) Establishment of Provincial Regulation; (b) Budget; and (c) Supervision. The monitoring function is realized in the form of supervision of the implementation of the Provincial Regulation. Supervision of Parliament is certainly political oversight supervision represents communities that exist within the community, because Parliament is representative of the community. In the oversight function, parliament can play a role as a “public services watch.”³

Monitoring carried out by Parliament is throughout the implementation of Regional Regulations as a joint product between Parliament and the Governor. Monitoring carried out by Parliament on Local Regulation necessarily influenced by internal factors of the monitoring itself such as human resources. Due to limited human resources in the monitoring will affect the results monitored. Parliament as an institution that oversees the Regional Regulation meant that Parliament to supervise the regional regulations. After the regional Regulation was made jointly between Parliament and the Governor of the Parliament still need to watch on Regional Regulation because supervision is one of the functions of Parliament in the continuity of local government, so that the Regional Regulation can run well.

2. RESEARCH METHODS

This study is one type of descriptive analytical research using qualitative approach, where the descriptive research can give an idea or disclosure of subject and object of research as the results of research conducted by

¹ Halilintar. 2010. Fungsi Pengawasan DPRD dalam Pembangunan Daerah. (<http://id-id.facebook.com/topic.php?uid=128377427186820&topic=127> diakses pada tanggal 03.09.2016).

² Parjiyono, Y. 2010. Fungsi Pengawasan Lemah, Pimpinan DPRD DKI Dikritik. (<http://www.suarakarya-online.com/news.html?id=260941> diakses pada tanggal 03.09.2016).

³ H. Hadari Nawawi. 1994. Pengawasan Melekat di Lingkungan Aparatur Pemerintah. Jakarta. Penerbit Erlangga. Hal.24.

the researchers.¹ In the sense that the methods used to understand the issues examined in this study, does not measure statistically, but rather the result of the exposure of the respondents were clear and detailed the problems examined so as to provide a deep understanding of the issues studied. This type of research used in this study is a socio-legal, is an approach that focuses on social or institutional behavior in relation to the law.²

Using the methods of socio-legal in this study on the level of normative research is needed to determine the rules of jurisdiction regarding the functioning of Parliament, followed by conducting empirical research directly into the field in this case carry out research into Parliament Central Sulawesi province to know the implementation of the arrangements normative monitoring function parliament related to the implementation of the oversight function of parliament on the implementation of local regulations.

Characteristics of sosio legal research methods³ can be identified through the following two things. First, the sosio legal study performing textual study, the articles of the legislation and policy can be analyzed critically and explained the meaning and implications of the legal subjects (including marginalized groups), In this case can be explained how the meaning contained in those chapters adverse or beneficial to society certain groups and in what manner. Therefore sosiolegal studies also deal with heart problems in the study of law, namely to discuss the constitution until legislation on the lowest level as village regulations. Second, the study sosiolegal develop new methods marriages between legal method to the social sciences, such as sosiolegal qualitative research⁴ and ethnography⁵ sosiolegal. Thomas Scheffer⁶ using actor network theory to describe the work of judges and lawyers, through legal discourse micro historical.

3. DISCUSSION AND RESULTS

3.1. The authority of Parliament to Tasks and Functions

The authority or authorities is often equated in Dutch term "bevoegdheid" (means the authority or power). The authority is a very important part in the Governance Law (Administrative Law), because the new government be able on the basis of the authority obtained. According H.D Stout, the authority is derived from the legal definition of governance, which can be explained as a whole the rules relating to acquisitions and use the authority of the government by the subject of public law in a public law relationship. Meanwhile, according to P. Nicholai mentioned that the authority is the ability to perform certain legal actions, the actions that are intended to give rise to legal consequences and covers of the rise and fall of certain legal consequences. Rights or do not contain the freedom to perform certain actions or by another party to perform certain actions, while liabilities include the necessity to perform or donot perform certain actions.

The authority of the government is also in Government Regulation No. 25 Year 2000 Article 1 Paragraph (3) that the authority is the right and power of the government to decide on a policy in relation to the implementation of the government.⁷ The authority is not the same as the power, because thr power is only depicts the right to do and not do, whereas the authority it contains rights and obligations. In the obligation of an authority horizontally and vertically authority, the authority horizontally means that power is useful to govern properly, whereas the authority of vertically means that power is to run the government in an orderly state of government bonds as a whole.⁸ Along with the main principles in the delivery of a state of law is the principle of legality, the authority of the government to carry out its duties in government comes from legislation that exists, therefore the government should not assume that it has its own authority of the government and should not do anything other than that has been established by the legislation acceptable.

Trias Politica that is being applied is the separation of powers to three institutions: Legislative,

¹ Mukti Fajar dan Yulianto Achmad. 2010. Dualisme Penelitian Hukum Normatif dan Empiris. Yogyakarta. Pustaka Pelajar. Cet. Pertama. Hal.27.

² Ibid., Hal. 51.

³ Socio-legal studies is different with the sociology that intellectual seed laws comes from primarily sociology, and aims to be able to construct a theoretical understanding of the legal system. It was done by sociologists law by placing the law within the framework of comprehensive social structure. Law, legal prescriptions and legal definitions are not assumed or taken for granted, but analyzed problematic and considered important to assess the appearance, articulation, and purpose. Law as a mechanism of social regulation and law as a profession and discipline, to the attention of sociology of law. Sociology of law focus so much attention to the legal discourse that is part of daily life experiences in the community. Mentioned legal or social norm is a rule that has been confirmed as a law in the form of legislation. The scope of study is whether or not the function of law in society by looking at the legal aspects of the structure and law enforcement officers. Some important concepts studied is about social control, socialization law, stratification, changes in laws and social change.

⁴ Ziegert, Klaus A. 2005. Systems Theory and Qualitative Socio-Legal Research. dalam Reza Banakar & Max Travers (ed). Theory and Method in Socio-Legal Research. Onati: Hart Publishing Oxford and Portland Oregon. Hal.49-68.

⁵ Flood. John. 2005. Socio-Legal Ethnography. dalam Reza Banakar & Max Travers (ed), Theory and Method in Socio-Legal Research. Onati: Hart Publishing Oxford and Portland Oregon. Hal.27-32.

⁶ Scheffer. Thomas. 2005. Courses of Mobilization: Writing Systematic Micro- Histories of Legal Discourse. dalam Reza Banakar & Max Travers (ed), Theory and Method in Socio-Legal Research. Onati: Hart Publishing Oxford and Portland Oregon. Hal.75-90.

⁷ Lihat Pasal 1 Ayat 3 Peraturan Pemerintah Nomor 25 Tahun 2000 tentang Kewenangan Pemerintah dan Kewenangan Propinsi Sebagai Daerah Otonom.

⁸ Ridwan HR. 2002. Hukum Administrasi Negara. Jakarta. Raja Grafindo Persada. Hal.72.

Executive, and Judicial. Institution of the legislature is to make laws; The Executive is an institution that implements the law; and the Judiciary is an institution that oversees governance and the country as a whole, interpreting the law if there is a dispute, and impose sanctions for any institutions or individuals who violate the law. The third division of this power is independent of one another but not independent of the control system between these powers.¹ The division of authority consisting of legislative, executive and judicial aims to prevent acts deviation power of each field for each power-free (independent) to perform his duties in accordance with the provisions of the legislation in force. That's why although divided into three forms of power but the three powers do not divided keep each control system between agencies.

This leads to a division between those that made possible the cooperation between cross-agency. The third divisions of powers each have a duty and a basic function, wherein for the legislative duty as a regulator (the legislators) and carry out monitoring of executive performance. For the executive power, to carry out the stewardship of government affairs both at central and at provincial, regency/city. While the judiciary carry out the duties and functions as an institution of judicial power in order to examine, hear and decide cases-cases. According to Aristotle, that the law holds ultimate sovereignty, the law cannot be replaced because of sheer power.² In accordance as the theory of philosophy of triad politics.³ Montesquieu was born in Western Europe as a reaction to the king's absolute power in the hands of one person. The idea of this triad politics intended to guarantee the basic human rights. *Trias Politica* is a power-sharing concept that serves to prevent an absolute power that will eventually lead to abuse of power and arbitrariness of the authorities. According to Philip M. Hadjon,⁴ abuse of authority in the concept of administrative law is always parallel to the concept *detournement de pouvoir*. In this case, the Government committed abuse of authority to achieve other objectives, other than those specified in the applicable legislation.

Abuse of authority occurs because the user is not as should be. In this case the officer used his authority to other purposes that deviate from the objectives that have been granted to the holder of that authority. The concept in theory triad politics as opposition from the tyranny of the ruler of Montesquieu divides powers between the legislative power which has the power to make regulation, the executive has the power to implement the law and the judiciary to prosecute for violations of the Act.⁵ Furthermore Hadjon said, the abuse of authority is not because of an omission but a conscious and deliberate on the basis of personal interest to redirect the negative ones that have been granted to the holder of that authority. Franz Magnis Suseno, said, "The separation of powers is necessary to prevent it from someone, agency, or department becomes too strong and destroys the freedom of the people."⁶

The principle of government oversight aims to develop a democracy, guarantee the representation of people and regions in carrying out its duties and authorities as well as develop a mechanism of checks and balances between the legislative body regions (DPRD) and the regional executive (Government Local/Regional Head) in order to realize justice and welfare. Mirza Nasution said the checks and balances are closely related to the principle of triad politics meaningful power sharing horizontally.⁷ Montesquieu did not intend to put forward the doctrine of state power is absolute. The idea of power sharing Montesquieu taught is a description of how to be taken by the state to realize its goal of providing the highest good to its citizens based on the principle of popular sovereignty.⁸ Montesquieu also does not intend to separate the state power but only to divide it into three powers in anticipation abuse authority. Separation of powers implies that state power is separated in some parts of either the personnel or the function. Whereas in the context of power-sharing power only is divided into several sections which contain the consequences remain the possibility of cooperation between the three powers.⁹

NRI 1945 Constitution divides authority consisting of legislative, executive, and judiciary, should be the basic source in the exercise of power in order to focus on the fulfillment of the national development interests, kindness, and general welfare. The Constitution as the source of power, not only has the legal authority and the highest authority, but also should be the basis and foundation of statehood. In the constitution of the Republic of

¹ Sarman dan Muhammad Taufik Makara. 2012. Hukum Pemerintahan Daerah di Indonesia. Jakarta. Rineka Cipta. Hal. 12.

² J. H. Rapar. 2001. Filsafat Politik Plato. Aristoteles, Augustinus. Machiavelli. Jakarta. RajaGrafindo Persada. Hal. 182-183.

³ Moh. Kusnardi dan Hermaily Ibrahim. 1983. Pengantar Hukum Tata Negara Indonesia. Jakarta. Pusat Studi Hukum Tata Negara Fakultas Hukum Universitas Indonesia dan CV. Sinar Bakti. Hal. 140.

⁴ Philipus M. Hadjon, Tatiek Sri Djatmiati, GH Addink, dan JBIM Ten Berge. 2011. Hukum Administrasi dan Tindak Pidana Korupsi. Yogyakarta. Gajah Mada University Press. Hal. 21-22. Dalam buku ini disebutkan: het oneigenlijk gebruik maken van haar bevoegdheid door de overheid. Hiervan is sprake indien een overheidsorgaan zijn bevoegdheid kennelijk tot een ander doel heeft gebruikt dan tot doeleinden waartoe die bevoegdheid is gegeven. De overheid schendt aldus het specialiteitsbeginsel.

⁵ Tokoh-tokoh yang mengusung konsep trias politika diantaranya Montesquieu (Perancis) dan John Locke (Inggris).

⁶ Franz Magnis Suseno dalam Hotma P. Sibuea. 2010. Asas Negara Hukum, Peraturan Kebijakan, Asas-Asas Umum Pemerintahan yang Baik. Jakarta. Erlangga. Hal. 109.

⁷ Mirza Nasution. 2011. Pertanggungjawaban Gubernur Dalam Negara Kesatuan Indonesia. Jakarta. Sofmedia. Hal. 169.

⁸ Franz Magnis Suseno dalam Hotma P. Sibuea. *Op.Cit.* Hal. 16.

⁹ Moh. Kusnardi dan Hermaily Ibrahim. *Op.Cit.* Hal. 147.

Indonesia basic norms contained in Article 1 (2) of the 1945 Constitution affirms the sovereignty vested in the people and implemented through legislation. To realize the goal of sake, goodness and prosperity for the citizens of Indonesia is the supreme sovereignty vested in the people. The position of Parliament in the constitutional system in horizontal exercises legislative power as the concept of the theory of decentralization. This position is also related to the implementation of regional autonomy which the Local Government need to be supervised by the legislature as mandated by the Constitution of 1945. Monitoring of the Local Government Local Government in connection with the task to regulate and manage their own affairs in accordance with the principle of autonomy and duty of assistance to accelerate the realization of public welfare through the improvement, service, empowerment, and roles, as well as the community, as well as increased competitiveness of the region with regard to principles of democracy, equity, justice, privilege and specificity of a region within the Unitary State of the Republic of Indonesia.

Article 18 Paragraph (3) of the 1945 Constitution affirms the norms that govern provincial, district, and the city has a Parliament whose members are elected through a general election. This means that based on the principle of decentralization, each autonomous region has served as a representative of Parliament that the principle of sovereignty vested in the people. All forms of execution of the duties of government-controlled areas and supervised by the people through their representatives council, namely Parliament. In this context the Head of Regional and legislators together play an important role in the implementation of regional autonomy. Regional Head responsible for all that is done in the area of performance while Parliament is responsible for carrying out supervision over the performance of the Regional Head.¹ Parliament as an institution that has legislation should be capable of functioning effectively control (*effective representative system*).² Control theory according to Stoner and Freeman: "*Controlling is the process of assuring that actual activities conform to planed activities*". Accordingly, it can be said that the general supervision of the process to ensure an activity in accordance with the action plan.³ While Koontz, argues: "*Controlling is measurement and correction of performance in order to make sure that enterprisen objectivies and the plans devised to attain them are being accomplished*". According to this view, supervision is a way to measure and act on useful performance to convince the organization objectively and plan a way in achieving organizational goals.⁴ Then Philip M. Hadjon said preventive legal protection actually calls for the process to prevent disputes better than to resolve the dispute. He also acknowledged that the legal protection in administrative law in Indonesia have been inadequate in terms of preventive efforts.⁵

Based on the theory of supervision above, it is understood that the supervision of a member of Parliament has significance for Local Government, because it will give feedback for improving the management of development, so it does not come out the rail and procedures/stages and objectives of regional autonomy that has been set out in the legislation. As for implementing, monitoring the activity to contribute to the process of regional development so that local management activities to achieve goals and objectives effectively and efficiently. Performance unattended potentially making power is not controlled, the result would make the power to do corrupt practices. **Bismar** insists should be held administrative reform (reinventing government) in the political system. Updates intended to restructure the organization to change the goals that wrong in the distribution of power.⁶ Supervision of DPRD aims to develop a democracy, guarantee the representation of people and regions in carrying out its duties and authorities as well as develop a mechanism of checks and balances between the Region legislative (DPRD) and the regional executive (Government Local/Regional Head) in order to realize justice and welfare.⁷

One of the factors that affect the performance of DPRD is personal capacity legislators. Where personal capacity is associated with a number of experience acquired intentionally or unintentionally in life that influence the quality of a person before as members of Parliament. The experience can be acquired through formal and non-formal education, as well as a variety of activities before becoming a member of Parliament. Empirically, the level of education of parliament members are diverse. If it is associated with a task that must be executed by any member of Parliament with regard to the functions of Parliament, not the impossible takes quality people who really understand and be able to perform its role as a representative of the people in implementing the

¹ Akmal Boedianto. 2010. Hukum Pemerintahan Daerah. Pembentukan Perda APBD Partisipatif. Surabaya. Putra Media Nusantara. Hal. 94.

² Bismar Nasution. 2003. "Peranan Birokrasi Dalam Mengupayakan Good Governance: Suatu Kajian dari Pandangan Hukum dan Moral." Makalah yang disampaikan pada Diseminasi Policy Paper Komisi Hukum Nasional Republik Indonesia Reformasi Hukum di Indonesia Melalui Prinsip-prinsip Good Governance, diadakan oleh Komisi Hukum Nasional Republik Indonesia berkerjasama dengan Program Studi Magister Ilmu Hukum Pascasarjana Universitas Sumatera Utara. tanggal 1-2 Oktober 2003. Medan. Sumatera Utara. Hal.2-3.

³ Sadu Wasistono & Ondo Riyani. 2003. Etika Hubungan Legislatif Eksekutif Dalam Pelaksanaan Otonomi Daerah. Fokusmedia. Cet. ke-2, Bandung. Hal.143.

⁴ Philipus M. Hadjon, Tatiek Sri Djatmiati, GH Addink, dan JBJM Ten Berge, Op.cit., Hal. 8-9.

⁵ Ibid.

⁶ Bismar Nasution. 2007. "Penerapan Good Governance Dalam Menyambut Domestic Regulations WTO". Makalah yang disampaikan pada Acara Diskusi Mengenai Domestic Regulations-WTO. diadakan oleh Bank Indonesia di Jakarta pada tanggal 21 Juni 2007. Hal. 8-9.

⁷ Mirza Nasution. *Op.Cit.* Hal.169.

functions of the local legislative bodies.

A person's education level also determines the capacity and quality of a person in carrying out the task entrusted to it. As representatives of the people who have power in legislation, namely the Regional Regulation requires the ability to form and legal drafting skills. Not all levels of education Strata 1 gained knowledge in the field of legal drafting and formulation of public policies, especially with a high school education. With the composition of the type and level of education representatives in local legislative bodies are very diverse, obviously will affect the ability of the people's representatives in carrying out the role effectively in accordance with the functions of institutions brought by him. Empirical experience, with a variety of work-shop activities or training that is followed repeatedly by legislators, not quite able to boost the capacity of parliamentarians to carry out the functions of the local legislative bodies effectively.

With relatively limited experience for the members of Parliament are relatively difficult also in establishing communication with the executive that the average level of education and understanding in the field of their duties. Not possible doubt that the executive relative to dominate the field of public administration tasks compared to legislators. It thus natural because the executive is the people who are still working in the environment of government, while the legislators periodically 5 (five) years underwent a change. Practical legislators do not quite mastered in detail various issues in governance in the region, let alone a variety of data and information pertaining to governance more are in the executive.

Other factors that also affect the performance of Parliament is the motivation become a member of Parliament. Motivation deals with a genuine willingness of MPs to truly serve (put) the interests of the people. Recognized correctly that these factors are difficult to detect, but at least, motivation can viewpoint was through the expression of attitudes and actions of the representatives who can meet people's expectations. Type of motivation each member parliament will determine the quality of work and performance. For those who have a motivation to earn income (economic motive), is believed to maximum performance is not as dominant consider the economic advantages of its political roles in the local legislative bodies. Instead, a legislator whose motivation is associated with the ideal roles of the members of the legislature is certainly likely to give (show) a better work performance.

Parlement members may also to employ someone or some expert to assist in carrying out their duties. If not possible, it helps the members of Parliament that a close relationship with academia, nongovernmental organizations, community leaders in their respective regions, and even from various groups such as businessmen, intellectuals, religious leaders, leaders humanists and artists, and etc. The multi-stakeholders, not just moral support which can be obtained, but also information and understanding of the realities of life in the communities we represent as a member of parliament. On the basis of all that, then every member of parliament can independently voice the interests of the people they represent, so that the voters can really feel the benefits of providing support to the deputies to sit a member of Parliament.

Provincial Regional of Representatives (DPRD) is the representative zof the people that the area serves as a component of the provincial government. Provincial member consisting of members of political parties participating in elections are elected through general elections. Membership of the Provincial Assembly Members amounted to at least 35 (thirty five) and at most 100 (one hundred) people with a term of 5 (five) years and ended when the new provincial parliament members took the oath/pledge. Membership of the provincial parliament was inaugurated by the Minister of the Interior. Parliament has three functions, namely, (1) Legislation, Regulations relating to the establishment of the Region; (2) Budget, Authority in terms of the regional budget (APBD); and (3) Monitoring, authority to control the implementation of the Regional Regulations and other regulations and policies of the regional government. The function of the provincial parliament has the authority and duty, (1) establish Provincial Regulation together with the Governor; (2) discuss and approve the *Perda* draft on budget revenue and expenditure of the province proposed by the Governor; (3) carry out supervision on the implementation of the Regional Regulations and the budget revenue and expenditure of the province; (4) propose the appointment and dismissal of the Governor and/or deputy governor to the President through the Minister of the Interior for approval the appointment and/or dismissal; (5) selecting the Deputy Governor in the event of a vacancy of Deputy Governor; (6) give opinion and consideration to the Regional Government of the province of international agreements in the area; (7) approving the plan of international cooperation undertaken by the Provincial Government; (8) require the reporting of information accountability in local governance governor of the province; (9) approving the plan of cooperation with other regions or with third parties that burdens communities and regions; (10) pursue the implementation of regional obligations in accordance with the provisions of the legislation; and (11) carry out other powers and duties stipulated in the legislation.¹

In that Parliament has done its monitoring function and find their deviation from the provisions of legislation mentioned above, then the rights of Parliament would be used appropriately, ie, Right to interpellation,

¹ Sumber (https://id.wikipedia.org/wiki/Dewan_Perwakilan_Rakyat_Daerah_Provinsi/- diakses pada tanggal 03.09.2016)

the right to request information from the Governor regarding Government policy is strategically important and have broad impact on the lives of communities, regions, and countries. In the exercise of this right of Parliament can also provide suggestions and/or opinion and/or judgment to the Regional Government in overcoming their deviations from the policy direction, abuse of authority, ineffectiveness or inefficiency in the implementation of tasks and obligations of Local Government based on the results of their supervision. In the exercise of the right of interpellation over the course can be followed up with the proposed use of the right of inquiry, where the implementation of the right of inquiry conducted by Standing Orders of Parliament.

The inquiry, which is the right of the Provincial Parliament to conduct an investigation into the Governor's policy strategically important and far-reaching impact on people's lives, regions and countries allegedly opposed to the legislation. If in the implementation of the right of inquiry can legitimately prove the alleged violation of law and / or other legislation undertaken by the Regional Head, then Parliament handed over to the subsequent enforcement of law enforcement officials; and based on the results of the us. The right to express opinions, namely the right of Provincial Parliament as an institution to express an opinion on the policy of the Governor or of the extraordinary events that occurred in the settlement with recommendations or follow up the implementation of interpellation rights and the right of inquiry. Rights to deliver an opinion this means that Parliament can carry out an evaluation of the Regional Head who rated pursue policies that conflict with the policy previously agreed upon by the Regional Head and DPRD or are considered no longer eligible, violated the oath/pledge of office, no obligations, and/or violates the prohibition and / or experiencing a crisis of public confidence is widespread. Law No. 22 of 2003 also mandates that subsequent supervision function shall further make it operational in the Rules of Procedure of Parliament.

The three of Rights Parliament, is the elaboration form of oversight function of Parliament on the implementation of regional regulations. Parliament is very strategic function in conducting the defense of the people, because the aspirations of the Council received complaints and facilitate settlement. But not infrequently happens that the functions and powers of Parliament cannot be realized which eventually led to the decline of the image of the Parliament. Parliament is not a technical institute which is to follow the rules, but to supervise the Regional Regulation that, while it is in an attempt to run the Regional Regulation that any conflict of interest between the people and the government or the authorities.

Parliament in performing its monitoring function, sometimes creating a less harmonious relationship with local government. This lack of harmony between the Parliament and the Regional Government as a result of a surveillance, can be sourced from monitoring due to the behavior itself that seems to act as the parties find fault, resulting in disharmony. The other side supervised parties should not be reactive negative, if the work was supervised, because if the supervised (Local Government) no element of intent to make a deviation for example against infrastructure development facilities, certainly do not need worries despite being watched.

3.2. The function of Monitoring According to the Council Regulation Legislation

The presence of representatives of the people in a democratic country is not to diminish the authority of the Regional Government but should be seen as an attempt to further guarantee of the people's interests in all government policies, including the Local Government. In the process, the function of the Regional Representatives Council of Indonesia has experienced ups and downs in line with the dynamics of the state administration. According to Law No. 5 of 1974, the council is part of the Regional Government as stipulated in Article 13. "This in itself gives meaning to be subordinate to the Regional Head of Parliament."¹ The strengthening of reform resulted in major changes to the Law on Government the area, in this case, including the strengthening of the role and functions of parliament. Since the reform until now, have had several changes of the Law on Local Government. Law on Local Government for the first time after the reform is Law 22 of 1999 in lieu of Law No. 5 of 1974, later changed to Act No. 32 of 2004 and the last by Act No. 23 of 2014 and amendments.

After the passing of the legal reforms, the Law No. 5 of 1974 is considered no longer appropriate to the circumstances of the moment, which is characterized by global demand, which is pushing for the creation of transparency, accountability and public participation, as a form of respect for the rights human rights, especially concerning the rights of civil and political rights of citizens.² So that drastic changes to the powers and functions of Parliament. Supposedly Parliament in exercising control over the implementation of the regional regulations.

In State regulation number 23 Year 2014 on Regional Government, the supervisory function Provincial Parliament explicitly stated in Article 100 paragraph (1) that the monitoring function of Parliament is manifested in the form of oversight of, (1) the implementation of the Provincial Regulation and the Governor Regulation; (2) the implementation of legislation related to the regional administration of the province; and (3) the implementation of the follow-up results of the financial statements by the Audit Board. According to Law No. 23

¹ Moh. Mahfud MD. 1999. *Pergulatan Politik dan Hukum Di Indonesia*. Yogyakarta. Penerbit Gama Media. Hal. 204.

² H. Siswanto Sunarso. 2005. *Hubungan Kemitraan Badan Legislatif & Eksekutif Di Daerah*. CV. Mandar Maju. Bandung. Hal. 35.

Year 2014, Regional Head and DPRD as administrators of the region make regional Regulation as the legal basis for organizing the Regional Autonomy in accordance with the conditions and aspirations of the community and the uniqueness of the Regions.

Region regulations made by the Regional applies only within the limits of the jurisdiction of the relevant region. Nevertheless, regional regulations stipulated by the Regions must not conflict with the provisions of law of a higher order in accordance with the hierarchy of legislation. Besides, the Regional Regulation as part of a system of laws and regulations must not conflict with the public interest as stipulated in the rules of the preparation of regional regulation. As its consequence logical that implements the Regional Autonomous region derived from the authority of the President of the power of government. Given the responsibility of the end of government administration is in the hands of the President, then the logical corollary of the authority to cancel the Regional Regulation is in the hands of the President, so it is not efficient if the President who immediately canceled the Local Regulation, the President may delegate the authority cancellation Provincial Regulation to the Minister as assistant to the President responsible for Autonomy Area. As for the cancellation of Regulation District/City, the President delegated his authority to the Governor as the Vice President of the Central Government in the Region. To avoid arbitrariness in the cancellation of local regulation, then the provincial Local Government may appeal the cancellation of the Provincial Regulation made by the Minister to the President.

In order to create the orderly administration of the Regional Regulatory reporting, any regional regulations will be promulgated shall obtain a registration number in advance. Provincial Regulation must obtain a registration number from the Ministry, while the regulatory District/Municipal obtains a registration number from the Governor as the representative of the Central Government. Given the registry number will accumulate information about all regional regulations established by the Regional and Local Regulation of information as well as nationally. Award Number Register, results of evaluation of the regulation-regulation is evaluated and Clarification is a form of supervision of the Central Government on the implementation of the Government in the Region. The enactment of Law No. 23 Year 2014 on Regional Government (Law on Local Government, 2014) which replaced state regulation No. 32 of 2004 brought important changes to the functions of the Regional Representatives Council (DPRD), both the Provincial DPRD and Regency/City. Parliament previously carrying out its legislative function, budgetary, and oversight has now changed function formation of Regional Regulation (Perda), budgetary, and oversight. Changes in legislation function becomes the function of the establishment of regional regulations, the level of practice changes it may not matter and does not imply anything because before it was converted into a function of the establishment of the Regional Regulation was indeed the function of Parliament is to form a Regional Regulation in conjunction with the Regional Head. When it was seen from the theoretical point of view, changing the function of Parliament from the legislative function into the function of the establishment of the Regional Regulation interesting to be analyzed. In terms of theoretical, Local Government Act 2014 has made a very appropriate step. Legislation according to *the Gale Encyclopedia of American Law means Legislation: lawmaking; the preparation and enactment of laws by a legislative body. Legislature itself is defined as "a body that passes laws of legislation"*. Characteristics can legislation is that the legislation should be made by the legislature.¹

A unitary state has its own distinct characteristics to form a federal state and vice versa. First, the unitary state all powers (executive, legislative, and judicial) is concentrated in the center. Explanations of Law of Local Government Number 23 of 2014 had been admitted "Contrary to governance at the center consisting of executive, legislative, and judicial branches of government, the implementation of the Regional Government carried out by Parliament and Regional Head, Parliament and Regional Head serves as the organizing element of government areas by the people's mandate to carry out government affairs delegated to the regions ". From here it is clear that the Parliament was not the legislature but the regional administration jointly with the Regional Head. Second, the unitary state to apply horizontal separation of powers, in this case the separation of the executive, legislative and judicial in the state unit. Third, the unitary state does not apply the vertical separation of powers between state units and sub units of a country or region. Fourth, in a unitary state power can be delegated to a lower unit but not in the form of transfer of power. It should be underlined that the unitary state powers can be delegated to a lower unit of government or executive power only and does not cover legislative and judicial powers, so make clear that Parliament is not the legislature.

Fifth, based on the unitary state system of governmental power that has been given to the lower unit can be withdrawn by the central government. It is as a consequence that the unitary state is never going transition of power but only the delegation of power. The conclusion that can be generated from the description above characteristics of a unitary state is that in unity there is only one state legislature that in Indonesia is the House of Representatives (DPR). Parliament is not a legislative body that cannot be given a legislative function. Therefore

¹ A'an Efendi. 2015. Fungsi DPRD Pasca UU Pemda 2014. (<http://harianbhirawa.co.id/2015/01/fungsi-dprd-pasca-uu-pemda-2014/>)- diakses pada tanggal 03.09.2016) Dona Batten. 2010. Hal. 136. W.J. Stewart dan Robert Burgess. 2001. Hal. 235.

it is appropriate that the Local Government Act of Parliament in 2014 calling function is the function of the establishment of regional regulations. Law Number 17 Year 2014 concerning deliberation People's Assembly, the House of Representatives, Regional Representatives Council, and Regional House of Representatives still call the function of Parliament is a legislative function. Lucky Act MD3 soon realized by the constituent Act of Government of 2014 that came out Article 409 letter d revoke and declare void the substance of the Act MD3 which specifically regulates the Parliament, both the provincial DPRD and Regency / City which serve to withdraw anyway Article 316 paragraph (1) and subsection 365 (1) which is still called the function of parliament is a legislative function. Post Local Government Act 2014 the function of Parliament actually functions establishment of Regional Regulation no longer a legislative function.

3.3. Central Sulawesi Provincial Parliament In History Trails

The existence of an institution that has legislative functions in Central Sulawesi, namely since the Dutch East Indies government established the People's Council (Volksraad) in 1918 in part of the colony in the archipelago, until now the Republic of Indonesia's independence on August 17, 1945, Central Sulawesi yet have a legislative body like the other regions. During the period 1952-1964, Central Sulawesi do not have the Regional Representatives Council (DPRD) Provincial level. That belongs only district legislature alone. On April 13, 1964, occurred handover from the Central North Sulawesi Governor J. F. Tumbelaka to the official Central Sulawesi Governor Anwar degree Madjo Datuk Basa Yellow Nan. This date was then set as the birthday of Central Sulawesi. In fact, Law No. 13 of 1964 declared January 1, 1964. So also with the results of the trial in the DPR-GR Republic of Indonesia that certifies the date of January 1, 1964 as the beginning of the separation of Central Sulawesi region of North Sulawesi Tengah.

After the governor was sworn in, then it takes the Regional Representatives Council (DPRD) in charge of representing the people supervise the construction work. In November 1964, is based on the Minister of Interior of the Republic of Indonesia Number: Da.2 / 21 / 6-182 On 18 November 1964, Parliament set-GR Central Sulawesi, which consists of 21 members with a composition of 11 members of Golkar and 10 the representatives of the political parties. The existence of the DPRD-GR lasted until 1972. During that period occurred several times a change of chairman of the DPRD-GR, which is as follows: Datuk Anwar degree Madjo Nan Yellow Bases (1964-1966), Zaenuddin Abdul Rauf (1966-1968), B.C. Tobondo (1970) and, Soejono R. (1971). Things should be noted that since the DPRD-GR formed in 1964, the position is not so dominant political party in the parliament. Lack of role of political parties lead Golkar become the motor of the political system during the period until later periods.

Since the 1971 elections, the term DPRD-GR changed to Parliament. The number of legislators Central Sulawesi province this period reached 38 people, including a chairman and deputy chairman. In 1971-1972, the position of chairman is held by Abdul Rachman Marzukie and shunts Marunduh served as vice chairman. Besides fractions, other equipment necessary elements are the Commission and the Parliament Consultative Committee. The Commission is divided into five, namely the Commission on Governance and Security, Production and Distribution Committee, the Committee on Economy and Finance, Development Commission, and the Commission for Social Welfare. In the period 1972-1977, the position of chairman of the parliament re-chaired by R. Soejono formed five commissions, the Commission on Governance and Security, Production and Distribution Committee, the Committee on Economy and Finance, Development Commission, and the Commission for Social Welfare. Then there is also the committee deliberations. The number of members of parliament who is appointed as the committee deliberation 12 people. There was also the Budget Committee which consists of 17 members. In the period 1977-1982 legislators Central Sulawesi province numbered 40 people. PPP represented by six people. Then Golkar as the winner of Election 1977 has 27 representatives. ABRI also take seat as many as six people. Whereas PDI has only one representative.

The election in 1982 in Central Sulawesi deliver 40 new members of the Central Sulawesi Provincial Parliament. From the results of these elections, the PPP won 6 seats, Golkar won 26 seats, and PDI won 1 seat, and added the ABRI faction won 7 seats. Forty of these members then choose General A. R. Hartono of the ABRI faction as Chairman, Hi. Hasan Tawil, BBA Faction Development work as Vice Chairman, and Hi. D. M. Gagaramusu of the United Development Party as Deputy Chairman. In the 1987 elections, the votes of the Golkar reach 654 742 787 678 votes or approximately 83.1 percent of the vote. PPP is declining into 94 150 or 11.95 percent of the vote, while the PDI slowly rose and gained 39 139 votes or 4.96 percent. In this period the position of chairman is held by General A. R. Hartono. Election results in 1992 also did not bring much change to the composition of the Central Sulawesi Provincial Parliament. PPP and PDI represented by four votes represented three people. Golkar represented 29 people, down one from the previous election results. Meanwhile, the Armed Forces represented by nine people. The 1992 elections drove Gen. H. Samikoen as Chairman of the Parliament of Central Sulawesi Province period 1992-1997.

Five years later, the situation had also changed. The vote Golkar again increased compared to 1992. Golkar managed to put 30 members as representatives of a constituency. While the PPP and PDI represented

four people had only two representatives only. Based on the composition, the Armed Forces have nine seats in the parliament. Chairman of the Parliament of Central Sulawesi period 1997-2002 chaired by Prof. (Em) Drs. H. Aminuddin Ponulele, MS. Not even one year after the last election was held, the atmosphere of the country has been erratic. The reform movement, not only in Jakarta, but perhaps earlier occurred in Palu. On May 4, 1997 incident occurred Land fall down. The security forces (police) with Tadulako University students involved in the clashes in front of the District Police East Palu. The results of the 1997 elections was rejected by many, we conducted the re-election. In 1999, elections were held back by a multiparty system. In the Reformation era, has held three general elections, the 1999 election, the 2004 election, and Election 2009. In the period 2004-2009 the number of councilors is 45 (forty five) people. The chairmanship of the Central Sulawesi Provincial Parliament from 2004-2009 chaired by Drs. H. Murad U. Nasir, M.Si and vice chairman by H. Helmy D. Yambas, S.E. and H. Haelani Umar.

Murad U. Nasir previously served as Chairman of the Parliament of Central Sulawesi province since 2001, replacing Aminuddin Ponulele who was appointed Governor of Central Sulawesi period 2001- 2006. Election of 2009 presenting 45 (forty five) members of the Central Sulawesi Provincial Parliament is ready to carry duty as elected representatives next five years. Results of the General Election this time many changes in composition of the parliament 2009-2014. Now, the period 2004-2009, Central Sulawesi provincial assembly was led by Prof. (Em) H. Aminuddin Ponulele. M: S (Golkar)¹

Election period 2014-2019, Central Sulawesi Provincial Parliament has 45 members representing 6 (six) electoral district in Central Sulawesi. Domiciled at Jalan Sam Ratulangi No. 102 Palu, Central Sulawesi. Pursuant to Article 110 paragraph (1) of Law Number 23 Year 2014 on Regional Government, Fittings Parliament consists of (a) leadership; (B) deliberative body; (C) the commission; (D) a body formation Provincial Regulation; (E) the agency budget; (F) the agency of honor; and (g) other necessary fittings and molded by the plenary session. Based on the Rules of Procedure of Parliament of Central Sulawesi province, that fraction Central Sulawesi Provincial Parliament consisting of: (a) the Indonesian Democratic Party of Struggle; (B) Mandate Faction Sejahtera; (C) the National Awakening Party; (D) Gerindra Party; and (e) the Golkar Party faction. Central Sulawesi Provincial Parliament based on the Rules of Procedure of Parliament, Central Sulawesi Province consists of four (4) The Commission, namely: (1) Commission I // Government; (2) Commission II//Economy and Finance; (3) Commission III/Development; and (4) of Commission IV / Welfare.

3.4. Provincial Regulation of Construction Central Sulawesi

Local regulations have a strategic position in governance for an autonomous region based on the principle of autonomy and duty of assistance. Basic constitutionality Regional Regulation as local regulations is the attribution of authority based on Article 18 paragraph (6) of the Constitution of the Republic of Indonesia Year 1945 (hereinafter referred to as 1945) which states that: "The regional government has the right to stipulate Regulation of the Regional and regulations others to implement autonomy and duty of assistance." According to Law No. 12 of 2011 Concerning the Establishment Regulation legislation and Regulation of the President of the Republic of Indonesia Number 87 Year 2014 about the implementing Regulations of Law No. 12 of 2011 Concerning the Establishment of legislation. Understanding Local Regulation is legislation established by the Board of Representatives Provincial Governors by mutual agreement.

The substance of the Regional Regulation regulatory material contained in a Regional Regulation prepared in accordance with legal drafting or engineering techniques drafting legislation. Under article 14 of Law Number 12 Year 2011 on the Establishment of Legislation stated that the substance of the Provincial Regulation and Regulation District / City containing the substance in the framework of regional autonomy and duty of assistance and to accommodate the particular conditions of the area and or elaboration up of legislation are higher. In general, the substance of the Regional Regulation grouped into: general provisions; subject matter regulated; criminal provisions (if necessary); transitional provisions (if necessary); and closing provisions. Regional Regulation of the substance can organize their criminal provisions. However, according to Article 15 of Law Number 12 Year 2011 on the Establishment of legislation, the criminal provisions that become the substance of Local Regulation is limited, which can only regulate the criminal provisions in the form of penalty of a maximum of six months imprisonment and a maximum fine of fifty million rupiahs.

The draft of Provincial Regulation can be derived from the governor and can be derived from the DPRD (initiative). This means that both Parliament and the Regional Head has the same power in the case filed a Draft Regional Regulation. Draft Local Regulation which has been prepared by the Provincial Parliament delivered a letter to the Governor-led Provincial Parliament. The draft regulation has been prepared by the Regional Governor submitted with a cover letter to the leadership of the provincial legislature. Draft Provincial Regulation derived from Provincial Parliament and it is derived from the Governor to do harmony, rounding, and

¹ H.B. Toripalu. 2013. Sejarah Singkat DPRD Sulteng. (<https://huismantbranttoripalu.wordpress.com/2013/03/10/sejarah-singkat-dprd-sulteng/> /- diakses pada tanggal 03.09.2016).

stabilization of conception coordinated by fittings of Provincial Parliament who specializes in the field of legislation, and also coordinated by the law firm and can include vertical agencies of the ministry that organizes government affairs in the field of law.¹ If in one session of the Provincial Parliament and the Governor expressed Draft Provincial Regulation on the same material, which is discussed is the draft regulation submitted by the Provincial Council and the Provincial draft regulation submitted by the Governor used as material in court.

Local Regulation is a further elaboration of the legislation which is higher by taking into account the typical characteristics of each region. Not to be contrary to the public interest, ethics and/or legislation are higher. In Article 5 of Law No. 12 of 2011 stipulates that in the form of legislation should be based on the principle of the Establishment of legislation that is good, including: (A) clarity of purpose, that every Formation Legislation should aim which obviously are trying to achieve. (B) Institutions or officials forming the right, that any kind of legislation should be made by state agencies or officials formers legislation authorized. Legislation can be canceled or null and void if it is made by a state agency or official is not authorized. (C) conformity between the types, hierarchy, and material content, that the Establishment of Legislation should really pay attention to the substance of the right according to the type and hierarchy of legislation. (D) Can be carried out, that every Formation Legislation must take into account the effectiveness of the legislation in the public, whether philosophical, sociological, and juridical. (E) Usefulness and benefitness, that any laws and regulations be made because it is really needed and useful in regulating the life of society, nation and state. (F) the clarity of the formulation, that any legislation must meet the technical requirements of the preparation of legislation, systematic choice of words or terms, as well as the legal language is clear and easy to understand so as not to cause a variety of interpretations in its implementation. (G) the disclosure, that the Establishment of Legislation from the planning, preparation, discussion, approval or stipulation and promulgation is transparent and open. Thus, the whole society has the widest possible opportunity to provide input into the Establishment of Legislation. Substance of the legislation should reflect the principle of: (a) aegis; (B) of humanity; (C) nationality; (D) family; (E) archipelago ; (F) *bhinneka tunggal ika*; (G) equity; (H) equality in law and governance; (I) order and legal certainty; and / or (j) of balance, harmony, and harmony.

In the period 2014 to 2016, the Provincial Government of Central Sulawesi has established Regional Regulations respectively as follows: In 2014, 19 Regional Regulations, 2015 Regulations set 10 Regions and 2016 have been established 10 regional² Local Regulation mentioned above is basic of laws govern the Provincial Government in addition to the legislation that is higher than the supervision conducted by the Regional Parliament is against regulations. Supervisory of functions the Legislative Council of Local Government is monitoring the policy and not the technical supervision.³ Local regulations have binding legal force after its promulgation in the Regional Institute, with the aim that everyone knows that it has been assigned a regional regulation. From the data that has been stated above, the one form of oversight functions Provincial Parliament on Local Regulation is the Regional Regulation No. 07 Year 2015 concerning the Second Amendment to the Regional Regulation No. 7 of 2012 on Capital Investment Regional Government of Central Sulawesi Province Against Regional Owned Enterprises/private Years 2013-2016. From the results of the Supervisory Council of Parliament exercised Legislative Review of the Regional Regulation No. 7 of 2012, resulting in several changes.

The parliament functions as the establishment of Provincial Regulation is an implementation of the functions of Parliament as public policy makers. Because of these functions indicates that the assembly is representative of the people, because the norm of Parliament in making the area should accommodate the aspirations of the people they represent. So the resulting regional regulations should favor of the public interest or for the public interest and not for factional interests alone. Supervision of Parliament may also be designed through the establishment of local regulation, so that the control can be carried out. "In qualification as representatives of the people real control by representative bodies first of all with regard to decisions that have been issued in the form of legislation."⁴ If we discuss the elements of the government administration in the area, then covered not only limited to the Parliament, but also the Regional Head. To that end, the author will explain a little about the effectiveness of the Executive Review related to regional regulations.

As the Regional Regulation is one source of law in Indonesia, the Parliament together with the Governor through the local legislation is very strategic in making regulations related to the public service that is

¹ Law Number 12 Year 2011 about the Establishment of Regulation rules Article 58 Paragraph (1) The harmonization, rounding, and stabilization of conception Draft Provincial Regulation which came from the Provincial Parliament fittings coordinated by the Provincial Parliament who specializes in the field of legislation. and Paragraph (2) The harmonization, rounding, and stabilization of conception Draft Provincial Regulation which came from the governor coordinated by a law firm and can include vertical agencies of the ministry who held government affairs in the field of law.

² Data Biro Hukum Bagian Produk Hukum Daerah Provinsi Sekretariat Daerah Provinsi Sulawesi Tengah dari T.A. 2014 s.d. 2016

³ Lihat Penjelasan Peraturan Pemerintah Nomor 79 tahun 2005 tentang Pedoman Pembinaan dan Pengawasan Penyelenggaraan Pemerintahan Daerah.

⁴ Paimin Napitupulu. 2007. Menuju Pemerintahan Perwakilan. P.T. Alumni. Bandung. Hal. 56.

adapted to local conditions. The scope of the Regulation of the area is based on the authority of the governor, so that regional regulations made by Parliament together with the Governor should reflect the area in question, although it cannot be denied that too many of their regional regulations are considered contrary to higher laws, because the position of Regional Regulations in the hierarchy of law are in the down position, so that the Regional Regulation cannot contradict higher laws.

As noted the Interior Ministry until June 2016 there were about 3,143 Regional Regulations in question, which impeded economic growth in the region, extending through the red tape, hamper the process of licensing and investment, to pursue ease of doing and contrary to the laws and regulations of higher, The number of Regional Regulation problematic not only revealed under President Jokowi today. In the 2004-2009 period, the government has canceled the 1691 regional regulation. Data from the research report conducted by Center for Indonesian Law and Policy Studies (PSHK) in 2011 showed the highest number of canceled Regional Regulation is retribution namely the Regional Regulation 1066 regional regulation. Furthermore, some 224 tax Local Regulation Local Regulation and Local Regulations permit as many as 179 regional regulations. Other data from the PSHK research reports in the 2004-2009 period the cancellation of most regional Regulation conducted in 2009. There are 830 regional regulations was canceled during the year.

In this condition, as if it were an absolute Local Government Regional Regulation cause of many problematic. The regional governments that Parliament together with the Regional Head has legislative authority in the area. However, when looking at the normative design of regional autonomy, there is a central government authority in preventing and dealing with the problematic Regional Regulation. Law on Local Government whether Act No. 32 of 2004 and the successor of Act No. 23 of 2014 (Local Government Act) authorizes the government to monitor the regional Regulation either when they form the Draft Local Regulation or after approval. In a simple tiered supervision procedures set terraced Regional Regulation supervised by the central government and the provincial government as the representative of the central government. Governor has the authority to oversee the regulation of Regency/City. The Minister of the Interior authorized to oversee the Provincial Regulation. 3061/5000

Tiered supervision is regulated in Law Number 23 Year 2014 on Regional Government. Tiered procedure is also stipulated in the previous Law, namely Law No. 32 of 2004.

Local Government Act gives the supervisory authority of the Minister and the Governor to the authority of the cancellation through instruments such as ministerial and Governor's decision. Minister has the authority to cancel the Provincial Regulation while the Governor is authorized to cancel the regulation District/City. If the Governor does not annual the Regional Regulation of the Minister who will cancel the regional regulation.¹ The cancellation decision must be followed up with the dismissal of the implementation of the Regional Regulations and repeal regional regulations canceled. If the Local Government did not follow the cancellation, Law on Local Government has prepared sanctions. The provisions of the Local Government sanction for a new regulatory material that is not contained in the previous law. Local Government Act specifically regulates monitoring procedures for eight (8) types of draft Regulation (Article 245). In the 8 (eight) types of the draft regulates the Regional Long Term Development Plan (RPJPD), Medium Term Development Plan (RPJMD), budget, budget changes, accountability of the budget, local taxes, levies, and the spatial area. Before stipulated by the Regional Head, Regional Design Regulations must obtain an evaluation conducted in phases.

Governor evaluates draft regulation District/Town, while the Interior Minister to evaluate the Draft Provincial Regulation. Evaluation Draft Provincial Regulation on taxes and levies Province is conducted in coordination with the Minister of the Interior Minister of Finance, and to draft Regional Regulation spatial coordination with the Minister that responsible governance of space. Meanwhile, a draft evaluation of both types of the regional regulation for the district / city level made by the Governor in consultation with the Minister of the Interior. Furthermore, the Minister of the Interior will coordinate with the Ministry of Finance for tax and levies and the minister that responsible for the spatial planning draft Regional Spatial Regulation. In addition, the Local Government Act regulate the mechanism of the registers Regulation (Article 242). This register is done after the draft Local Regulation approved jointly by Parliament and the Regional Head. Governors have not been able to establish Regional Regulations and enacted in sheet area prior to obtaining a registration number (Article 243 paragraph (1), the Minister of the Interior is authorized to give a registration number for the Provincial Regulation. In the case of the Minister of the Interior declared the results of the evaluation of the Draft Local Regulation in accordance with the provisions of legislation that is higher and / or public interest, followed by the registry number.²

¹ Lihat Pasal 251 dan Pasal 251 A ayat (3) Undang-Undang Nomor 23 Tahun 2014 tentang Pemerintahan Daerah.

² See Article 98 Paragraph (1) Regulation No. 80 Year 2015 on the Establishment of Regional Legal Products (Official Gazette of the Republic of Indonesia Year 2015 No. 2036). Evaluation is the review and assessment of the draft regulations are set according to the Act in the field of local governance and other laws and regulations to determine contrary to the public interest, and/or legislation are higher. Register number, abbreviated *noreg* is numbering in the framework of supervision and administration order to determine the number of draft regulations issued by the local government prior to the establishment and promulgation. Cancellation is an action that states are not

Register process is intended to support the orderly administration of the Regional Regulatory reporting and establish national information Regional. Cancellation procedures Local Regulation expressly provided in the Regulation of the Minister of Home Affairs Number 80 Year 2015 on the Establishment of district regulations¹ as follows: (1) The Director General of Regional Autonomy on behalf of the Minister of the Interior formed a team of cancellation Provincial Regulation and Regulation Governors whose members consist of components the scope of the Ministry of the Interior and relevant as needed. (2) Tim cancellation Provincial Regulation and the Governor Regulation stipulated by the Ministry of Home Affairs. (3) Tim cancellation Provincial Regulation and Regulation Governors have the task to study the Provincial Regulation and the Governor Regulation as outlined in the minutes. (4) Tim cancellation Provincial Regulation and Regulation Governors have the task to study the Provincial Regulation and the Governor Regulation as outlined in the minutes. (5) Where the results of the study declared no conflict with legislation of higher, general interest, and/or morals, published letter of the Director General of Regional Autonomy on behalf of the Minister of the Interior to the Governor regarding the appropriate statement. (6) In the event that the study results be declared contrary to the legislation of higher, general interest, and/or morals, Decree of the Minister of the Interior of the Cancellation Rules and Regulations Provincial Governor to the Governor. (7) Tim cancellation Provincial Regulation and Regulation governor in the review can involve experts/specialists and/or Ministries/Institutions/agencies as needed. Expert/expert and/or ministry/agency/agencies have the duty, (a) provide advice and input a maximum of 15 (fifteen) days from the province and regulations of Governors accepted; (B) with the team responsible for the cancellation of the objections raised by the Governor; and (c) other duties as needed. (8) Cancellation Rules and Regulations Provincial Governor made based on proposals from any person, group of people, local government, legal entities, and/or other agencies; and /or cancellation of the findings of a team of Provincial Regulation and the Governor Regulation. (9) The proposed cancellation followed by a team with a review in accordance benchmark legislation a higher, common interests and/ or morality. (10) Study, as do more than 30 (thirty) days from the receipt by the team. In the case of cancellation of the team find opposition to benchmarks, Minister of the Interior Minister of Home Affairs set about Cancellation Rules and Regulations Provincial Governor to the Governor. (11) In the event of cancellation of the team did not find opposition to benchmarks, Director General of Regional Autonomy on behalf of the Minister of the Interior issued a statement regarding appropriate to the proposer. (12) Ministry of Home Affairs on Cancellation Rules and Regulations Provincial Governor harmonized and printed on paper specially marked by the Legal Bureau of the Ministry of Interior. (13) Request harmonization cancellation by submitting a written request harmonization, Regional Regulation accompanied softcopy in PDF form and the draft decree on cancellation Interior Minister accompanied softcopy. (14) In order to set up a team to harmonization of the cancellation of the Rules and Regulations Provincial Governors at the General Secretariat of the Ministry of the Interior. In the event that canceled the entire substance of the Provincial Regulation, then at least seven (7) days after the cancellation decision is received, the governor must stop the implementation of Provincial Regulation canceled by issuing a letter to the area and subsequently Parliament together with the Governor to revoke Provincial Regulation in question. (15) In the case of the canceled most of the substance of Provincial Regulation, then at least seven (7) days after the cancellation decision is received, the governor must stop the implementation of Provincial Regulation canceled by issuing a letter to the area and subsequently Parliament together with the Governor to change the Local Regulation provincial question.

Cancellation of the regional regulation is a form of supervision tiered authorizes the Minister of the Interior and involve the Provincial Government. It is actually less effective considering the issues that arise primarily associated with the implementation of the provincial government's authority to conduct surveillance. Load supervision Regional Regulation is a burden that is not easy either related to the number of Regional Regulations and the substance to be studied. Capacity and a clear assignment for the executive oversight is one of the factors to consider in regulating this tiered supervision. The mechanism prescribed in the supervision is to form a team that temporary good to oversight by the Ministry of Interior and the provincial government. Whereas this surveillance is a routine task with a large load.

This mechanism is different from that stipulated in Law No. 32 of 2004, in which the decision to revoke a Local Regulation determined by Presidential Decree of 60 (sixty) days of receipt of regional regulations. But in Act 23 of 2014, Recalling the final responsibility of governance is in the hands of the President, then the logical corollary of the authority to cancel the Regional Regulation is in the hands of the President. Very inefficient if the President were immediately cancel the regional regulation. President delegate authority to the cancellation of the Provincial Regulation of the Minister as assistant to the President responsible for Autonomy. As for the

coming into effect of the whole or part of a book, chapter, section, paragraph, chapter, verse, and/or the attachment material content regulations, perkara, PB KDH and regulations of Parliament as opposed to legislation that higher interest general and/or morality, affecting the extraction or changing.

¹ Lihat Pasal 129, Pasal 130, Pasal 132, Pasal 133, dan Pasal 134 Peraturan Menteri Dalam Negeri Nomor 80 Tahun 2015 tentang Pembentukan Produk Hukum Daerah.

cancellation of Regulation District / City, the President delegated his authority to the Governor as the Vice President of the Central Government in the Region. To avoid arbitrariness in the cancellation of local regulation, the Provincial Government may appeal the cancellation of the Provincial Regulation made by the Minister to the President. While the District Government / City may appeal the cancellation of Regulation District/City conducted as deputy governor of the Central Government to the Minister. In terms of the regional administration, the decision taken by the President and the Minister shall be final.

Another criticism related to the supervision of the Regional Government regulation is the absence of a mechanism for reporting or complaints from the public to denounce the legislation problematic. It also deals with the supervision of the Regional Regulation are only considered to be effective for the regulation of taxes and levies or regulation is evaluated. Local Regulation is rarely heard outside these areas was canceled by the government. Though a variety of reports highlight the existence of many problematic regional regulations, outside the Regional Regulation of taxes and levies. Law on Local Government has set up a tiered model of supervision of the Regional Regulations to include the provisions of administrative sanctions for the local governments that do not run the provisions in the legislation.

However, implementation of the norms of the Local Government Act requires seriousness of the Interior Ministry as the main implementer monitoring the Regulation. Priority needs to be done is to prepare a clear technical rules to implement the provisions of the Local Government Act and the preparation of capacity included in the structure of the Interior Ministry and government organizations in each and every province to carry out this oversight function. Other proposals related to the delivery of information to the public, at least include information legislation-legislation that was canceled and the imposition of sanctions for Local Government. This information to establish as a follow-up community control over local governments to stop the implementation of regional regulations as well as the revocation canceled. In the government sector (central) also need to do a follow-up supervision of local government against the decision to cancel the regional regulation. The action also urged by the government and the DPR is to synchronize the setting cancellation regional regulations.¹ The government should also actively respond to the news or public statements about their troubled Regional Regulation both regional regulations related to taxes and levies as well as other material Regional Regulation cause new problems in society. To streamline this role, the government must also open up for people to report their legislation that is considered problematic.

3.5. Monitoring Function of DPRD in Regional Regulation Implementation in Central Sulawesi

In accordance with its duties and powers, Parliament has the authority to carry out the function of monitoring the implementation of regional regulations. Not only is that, as part of the regional administration, in fact Parliament also responsible to supervise the public service. The extent to which Parliament can ensure that the quality of service of each institution appropriate service standards are already in force, both established by Regional Regulations, decrees, Regional Head, Regional Head legislation or other legislation. However, the supervisory authority limits during this Parliament invites many internal debates, including in Parliament itself. Some argue that the power of parliaments in only limited supervision and macro strategic policy as set out in Regulation 79 of 2005 on Guidelines for Supervision of Regional Government.

Regulation No. 22 of 2003 concerning the composition and MPR, DPR, DPD and DPRD and Law No. 23 of 2014 on Regional Government which has been the reference does not explicitly set these restrictions, but only mentioned Council would oversee the implementation of the legislation, the regional Regulation, the implementation of Decree of the Head of regional, regional budget implementation, Government policy and the implementation of the cooperation relations between the region and internationally. Therefore, what and how monitoring should be conducted, each parliament in the area set explicitly by order of Parliament. In simple terms, meaningful oversight of performance measurement process and taking action to ensure that the results (outputs and outcomes) as desired and ensure everything runs as it should be in accordance with the standards established (on the right track).²

Parliament as a representative institution of the people in the area has an important role in governance in the region. The members of Parliament, through political parties, representing the public and should be instrumental in pursuing and realizing democracy good governance and efficient. Such efforts can be done by optimizing the functions of Parliament are: Legislation, Budgeting and Control. To achieve maximum performance in the implementation of these functions is necessary to strengthen the capacity of Parliament. One of the functions of Parliament needs to be strengthened is the oversight function. Compared with the legislative function and the function of budgeting, oversight functions of Parliament are relatively the least developed, let alone supervise the public service. Strengthening of the oversight function of Parliament is believed to have a

¹ Nur Solikin. Efektifitas Evecutive Review Perda. (<http://www.hukumonline.com/berita/baca/lt57550e5c2ad04/efektivitas-executive-review-perda-broleh--nur-sholikin--diakses-pada-tanggal-01.09.2016>)

² Wawan E. Kuswandro. 2009. Pelayanan Publik Berbasis Kebutuhan Masyarakat : Menata Pelayanan Publik Berbasis Kebutuhan Masyarakat. (http://wkwk.lecture.ub.ac.id/tag/kebijakan-publik/#_ftn2 - diakses pada tanggal 02.09.2016)

positive impact on improving the quality of public services, both from the aspect of implementation of services and products.

In the delivery of public services, maximum role of Parliament as the main pillars of democracy into something important and very strategic. Parliament should be encouraged to be more responsive to improving the quality of public services, in particular through its monitoring function. In accordance with its duties and authorities, the Provincial Parliament has the authority to supervise the implementation of the Local Rules and regulations Regional Head. Not only is that, as part of the regional administration, in fact Parliament also responsible to supervise the public service. The extent to which Parliament can ensure that the quality of service of each institution appropriate service standards are already in force, both established by Regional Regulations, the decision of Regional Head, Regional Head legislation or other legislation. Thus the scope of supervision of Parliament to the public service consists of preventive and repressive supervision, namely (1) Preventive Monitoring, which is monitoring conducted during the preparation and planning of an action against a public service institution. Supervision is aimed at the prevention aspect and repair, including the repair or establishment proposing new regulations to make up the quality standards of the public service. (2) Supervision Repressive, namely oversight of the activities of the processes of a public service institution. Supervision aims to stop the violations and restore the original state, either with or without sanctions. In a simple oversight of Parliament are divided into six types, (a) oversight by the Parliament Chairman supervision carried out directly on behalf of the leadership of Parliament. (B) oversight by legislators, namely the supervision inherent in the position of any member of Parliament. (C) Monitoring by the Commission, which is monitoring the scope (the object) is the field task of the Commission and implemented by the Commission. (D) Monitoring by the Joint Commission, which is monitoring the scope (the object) is a field that is the duty of the Commission and implemented by cross two or more Committee. (E) Monitoring by the Working Group (WG) and supervision by the Special Committee (Committee), namely control by parliament fittings established specifically to conduct surveillance. (F) Oversight by the faction. Fraction is not actually fittings parliament but an extension of the political parties to communicate the agenda or political party interests concerned in the institution of Parliament. However, the fraction has oversight of the policies and performance of public services and the results are delivered instantly through fittings or parent councils and their respective parties as a political gesture.

Monitoring carried out in Central Sulawesi Provincial Parliament implemented gradually regulated by an annual work program. Where supervision performed over the implementation of the Regional Regulation basically Parliament can run well enough supervision. Where supervision is carried out by the indication of a Regional Regulation is not effectively implemented,¹ so Parliament to call on the local governments who usually invites relevant agencies, which then conducted a review of the field if necessary, in this case to look directly upon the implementation of a regional regulation. Improving supervision is one of the programs, which is the basis and foundation are no different from other development activities. So supervision is an integral portion of development activities, where supervision should be carried out with efficiency and effectiveness. Law No. 22 Year 2003 on Susduk, expressly requires that every member of Parliament did accountability for performance. Accountability mechanisms are not explicitly regulated in Law No. 22 of 2003 was included in Act No. 32 of 2004 and Act No. 23 of 2014, but arranged in order of each Parliament.

Accountability mechanisms can be done in the form, (1) The control of individual planned more translated into recess activities with budgeting pattern that is standard, so that accountability already in place. Every member of Parliament charged to make the reporting of the results of supervision (during recess) and forwarded to the Head of Parliament, either through official correspondence were forwarded to each member, fractions, commissions, including the secretariat of the board and the mass media, as well as members of Parliament in the plenary session. Even legislators can do the official meeting fractions to make the results of their surveillance as a political agenda through a fraction of where they were joined over the years. The substance is how to ensure the supervision results become part of the agenda of the institution actionable. (2) Accountability Commission supervision results usually implemented through internal weekly regular meeting commission members are commonly called the weekly commission meeting. Nevertheless institutionally by order of Parliament scheduled plenary meeting of Parliament's three-month trial period (a portion of the existing six-month trial period). In this forum, each plenary session of Parliament through plenary will deliver performance results for three months during the trial. (3) The same with the results of monitoring conducted joint commissions or special committees can be done in an internal meeting of joint commission members and / or members of the committee and the results are addressed to the leadership of Parliament. (4) The results of monitoring, whether individual, joint committees and commissions as well as the special committee can also be accounted for through an expanded leadership meeting. (5) The results of the supervision of Parliament could be accounted for by the plenary session or by involving the wider community through forums evaluation one year of parliament sessions.

¹ Johnny Ibrahim. 2006. *Teori & Metodologi Penelitian Hukum Normatif*. Bayumedia Publishing. Malang. Hal. 296.

Follow-up surveillance requires the involvement of Parliament is directly related to the follow-up remedial measures. The corrective actions include the improvement of regulation and the proposed draft. Law number 22 of 2003 provides for Parliament's right of initiative to propose the establishment of the regulation in its working area. Regulation could be earmarked for improvements to social problems or maintain sustainability in the community. Parliament can propose Regional regulation on the environment, spatial planning, disaster control, etc. Prerequisites to propose legislation in accordance with the applicable order, the five members of parliament from different factions. In the context of the political institutions, the monitoring function is executed DPRD is a form of political control more strategic rather than administrative. This distinguishes the supervisory function of Parliament with oversight functions carried out by government and other public institutions. The oversight function of Parliament is more political strategic objectives concerning the achievement of governance and local development in general.

The oversight function of Parliament is more political strategic objectives concerning the achievement of governance and local development in general. Supervision on the context here is not technical supervision administrator relating to the implementation of public administration and regional development. Oversight Council may also take place at various levels of policies, programs, projects and cases that exist in the area. Thus in carrying out oversight functions of Parliament is based on a plan that comes with a standard or clear benchmarks to determine a body's activities or public policy "success", "fail" or "deviant" in the implementation. So we can say that the oversight function of Parliament is not merely observational nature, but also corrective to ensure the achievement of the objectives.

3.6. Implementation Monitoring Mechanism Regulation By Central Sulawesi Provincial Parliament

Implementation of the regional administration is the process of activities aimed at ensuring that local government goes according to plan and the statutory provisions in force. As legal basis for the supervision of Parliament. The supervisory function of Parliament refers to the legal rules applicable. In Act No. 27 of 2009 concerning the composition and MPR, DPR, DPD and DPRD, Article 334 of Regency / City, which is in line with Law No. 32 of 2004 on local government, stated clearly that Parliament has the task and authority to carry out supervision of, (1) the implementation of local regulations and other legislation. (2) The decision of the Governor, Regents and Mayors. (3) The implementation of the budget and the revenue area. (4) Local government policies, and (5) implementation of international cooperation in the area.

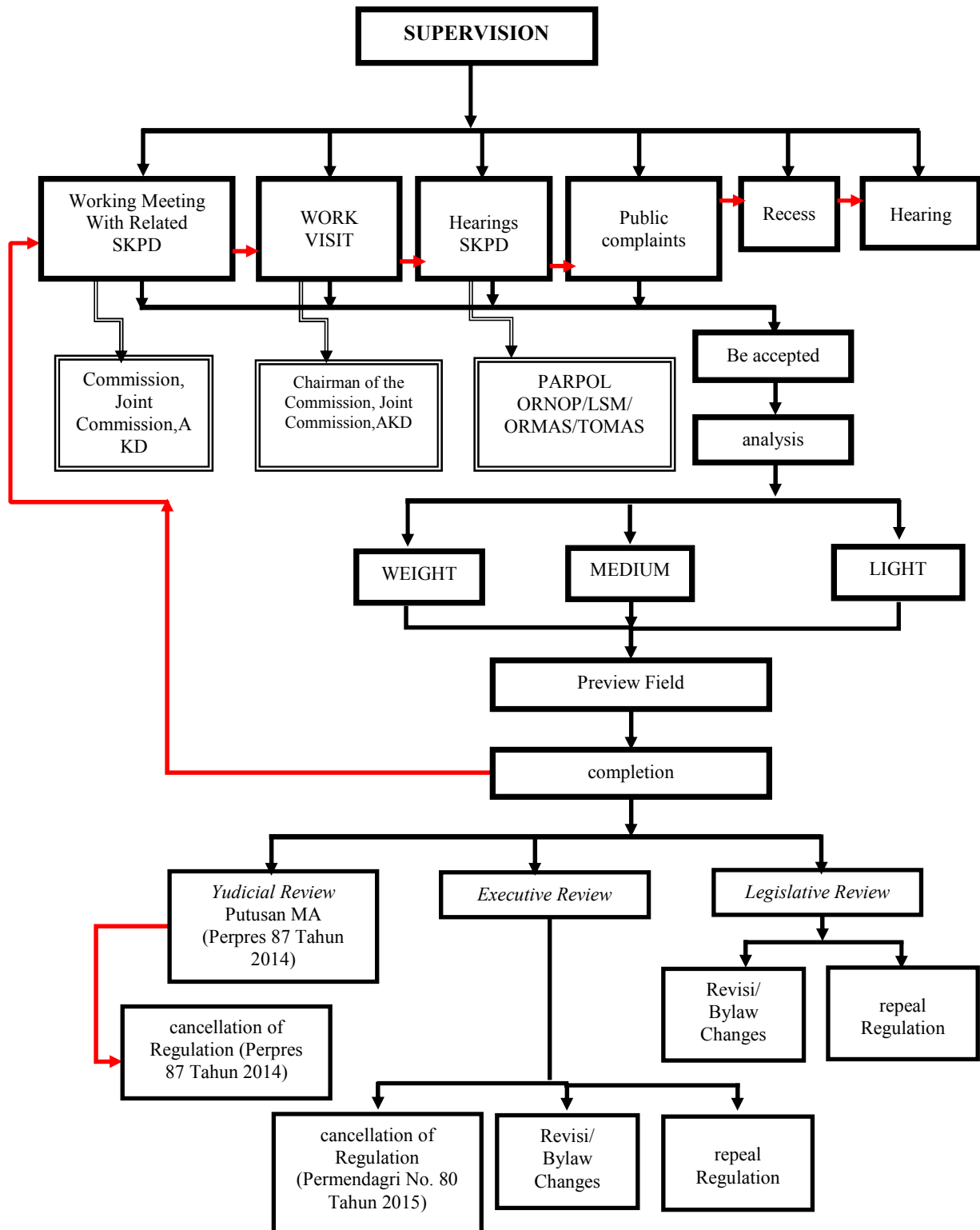
Supervision by Parliament relating to the implementation of government affairs, especially in terms of supervising the implementation of regional regulations. So supervision by legislators to institute executive can be interpreted as, a process or a series of monitoring, inspection and evaluation of the implementation of public policies implemented to ensure that all policies, programs or activities undertaken by public institutions run according to the rules predefined. Supervising the implementation of the regulations made by the committees of Parliament in accordance with the related fields and their expertise as part of fittings parliament.

Based on the functions held by Parliament which include oversight function, the Council has planned a work plan to facilitate its members in performing their duties and obligations, the purpose of the monitoring function itself that is intended to exercise control over the execution of the duties of executive accordance with laws applicable, with the expected target which can be being gathered accurate data on the implementation of local regulations. Of the activities which are, a review of research and investigation of cases that occur in the field, visit the commission's work, the working visit by the respected, working visits AKD, working meetings and hearings and meetings elements of leadership, commissions, joint commissions, as well as fittings DPRD other, in ways that parliament can, (1) Inviting local environment officials to ask for information, opinions and suggestions (right to ask); (2) Receiving, ask and seek to obtain information from officials/related (interpellation); (3) Urge certain parties to conduct an investigation or examination (right of inquiry); (4) Giving advice on preventive measures and repressive to the authorities.

In accordance with the above chart form such activities carried out in the form of working meetings and hearings, working meetings are meetings held between members of Parliament who are members of the commission, a joint commission, AKD others with related SKPD accordance with its duty. Hearing meeting is a meeting between members of Parliament who are members of the commission, a joint commission, more AKD with community institutions. Working meetings and hearings are forms of activities carried out by Parliament in exercising oversight, volume of activity is done by adapted to the situation and the existing problems, working meetings and hearings between parliament with the local government unit (SKPD) as the executive element of regional autonomy is a form of control to local governments whether in practice there are deviations or not. Next is a working visit, work visit is a field survey to obtain accurate information in every issue. Working visit can be done by, the leadership of Parliament, commissions, joint commissions, other Council fittings, specially committee or delegation. And the volume of activities adapted to the situation and needs of each. While the activities of the working visit to the constituents of the board is to determine whether the policy that has been agreed with the local governments have achieved the target or irregularities in its implementation, (Central

Sulawesi Provincial Parliament secretariat).

Chart 3.1.
 Implementation Monitoring Mechanism Regulation By Central Sulawesi Provincial Parliament



To carry out the monitoring function of Parliament can also do a hearing general view of the factions in the Parliament plenary session on a local policy whether to take action or not. After pass several stages in monitoring, then Parliament can determine whether regulation of Regional has been executed in accordance with the rules or not, if appropriate, the regulations shall be raised and if there are problems then the parliament can call a local government in this regard SKPD related to local regulations Hearing to be held in a plenary meeting

with its decision, among others, in the form of advice, warning, advice on SKPD related regulations in order to run properly in accordance with the rules that have been defined.

Regarding a regulation if it is run according to the rules or not, in addition to Parliament a working meeting and a working visit, the council may also know of people's participation, either to disseminate to the public directly to the implementation of the regulation is already in line is not, as well as public complaints are directly on the implementation of regulations that, if there are complaints from the public related to regulations that have not been executed yet in accordance with the regulations then from that parliament can exercise oversight over these regulations, while the steps are the same as the chart above, so the control mechanisms that apart from the initiative of parliament itself is also based on reports/complaints directly from the public. As for public complaints and channeling the aspirations of the community, its acceptance has been stipulated in the Rules of Procedure of Parliament, Central Sulawesi Province in Article 135, namely: (1) The head of parliament, fittings parliament, legislators, or factions in Parliament receiving, accommodating, absorb and follow up on complaints and aspirations of the people who delivered directly and in writing about an issue, according to the tasks. (2) Complaints or aspiration as referred to in paragraph 1 shall be the administrative process by the secretariat of Parliament and forwarded to the Chairman of Parliament, Parliament related fittings. (3) The head of Parliament or Parliament related fittings can follow up a complaint pursuant to its authority. (4) In the event of a complaint or aspirations of the people can be followed up with, (a) Meeting of public hearings; (B) Meeting hearing opinion; (C) working visits; (D) The meeting of Parliament fittings with related parties. (4) Procedures and follow-up of public complaints is regulated by the secretary of Parliament with the approval of the leadership of Parliament.

3.7. The Weakness Causes factor in Parliament Monitoring

In the Act No. 22 of 2003 concerning the composition and MPR, DPR, DPD and DPRD, in article 62 paragraph 1 (c) states that the Duties and Powers of Provincial Councils namely: "to supervise the implementation of the Regional Regulations and laws other, the Governor's decision, the budget, Government policy in implementing the regional development programs, and international cooperation in the area." The problem lies in not fair the attention to this oversight function compared to both other functions, so that parliament cannot be run effectively implementing the monitoring function such, it can even be said very weak oversight by parliament. Not to mention the drawback is supported by the capacity of members of parliament as well as the moral hazard¹ that often occur to rise to the term "impossible to clean with a dirty broom." Members of Parliament elected in fact not optimal monitoring. The cause of this is mainly due to the centralized party system makes legislators become more aligned to the party as a source of legitimacy rather than in favor of the voters and the public, it is no wonder that many regional regulations born without thinking about the interests of the people but seemed merely an agreement between the executive and the legislature.

Other factors that led to weak oversight function of Parliament, among others, (1) The low quality of human resources; (2) Weak managerial or leadership; (3) Lack of support factor (control) communities; (4) Lack of funds; (5) Low commitment or motivation of legislators. Indeed, supervision by the regional council of the Local Government relating to Regional Regulation for Local Regulation is the product of the law relating to service to the community, then such surveillance is monitoring the policy and not the technical supervision tasks and authority of internal Local Government and Apparatus other Government oversight. Parliament has three main functions, namely budgeting, legislation and supervision. For the implementation of these functions, the Parliament as representatives of the people in the area need to be sensitive and responsive to the management processes of governance in the region, in particular the documents of regional development planning. This is important, because when it will implement the functions of Parliament, then the board members must understand, know and understand to be any management process governance run. Implementation of the oversight function of Parliament will be made on the implementation of regional development programs and based on the synergy developed between Parliament and local government; it will generate a wide range of policy recommendations to regional development. This will have an impact on regional development planning document creation in the year or the next period, and it will be a positive cycle in development planning.

As mandated by the Act, of course organizers supervision function is Parliament and in this case the head of Parliament in general is responsible for the activities with supervision. Implementation of supervisory duties performed by implementing supervisory duties, namely: (a) Commissions of Parliament; or (b) the Joint Commission; or (c) Special Committee. In this case, based on the legislation, Parliament can recruit expert staff or by other named the consultant/expert/experts to help increase the capacity of Parliament. Recruitment was

¹ Etymologically 'moral hazard' means 'moral trap'. English dictionary 'moral hazard' is described as 'the hazard Arising form the uncertainty or honesty of the insured', so 'moral hazard' is used as dishonesty or crime in the insurance field. In other terms described as "the lack of any incentive to guard againts a risk when you are protected againts it (as by insurance), insurance companies are exposed to a moral hazard if the insured party is not honest." (Selengkapnya di, http://www.kompasiana.com/wahyu-triono2010/moral-hazard-bangsa_550178a0813311eb18fa845a-diaksepada tanggal 02.09.2016)

established by the Decree of the Secretary of the Council with the aim to support the implementation of the oversight function by arranging the basic thoughts or grain based materials or material problems of supervision as a reference for the implementation of supervisory duties.¹ Even if deemed necessary, the council can ask the other parties to support the implementation of the aforementioned supervisory function.

3.8. The Barriers Parliament in Undertaking Supervision

In carrying out the oversight function of Parliament on the implementation of regional regulations, certainly encountered many obstacles. Barriers experienced by the Provincial Parliament in monitoring inseparable rather than change existing legislation such as changes to Law No. 22 Year 1999 on Regional Government became Act No. 23 of 2014 on Regional Government. Quality issues legislators also an obstacle to oversight, "That in terms of quality there are still some legislators who do not meet the standards of both education and experience to be expected, this is due to the recruitment of Board members who are not selective. As a result, the majority of the legislators there are not correctly understand the duties, powers, functions and its duty. It can be seen and assessed at the time of the general view of Parliament members and discussions with the special committee and the committee deliberation."²

First of all that must be understood as a political institution is its nature as a political institution is reflected in its function to oversee the running of the government. Perspective as a political institution, a fundamental prerequisite for the parliament that is trust of the people, not the prerequisite skills more technical than political. Although someone holds the highest degree in their education if those concerned are not trusted by the people, he could not become a member of parliament. Conversely, though someone had just graduated from high school (SMP), but he won the trust of the people, it is concerned "legitimate" to become a member of parliament.³ Similarly, observations conducted by the authors of the Central Sulawesi Provincial Parliament that as mentioned above is also true. However, it should be understood that the presence of Parliament as a supervisor is that Parliament represents its community, so it is certain that the assembly came from a variety of backgrounds. Membership of Central Sulawesi Provincial Parliament coming from different backgrounds and experience, so it has its own issues and problems that affect performance, such as the presence of parliamentarian's factor in carrying out the activities. Due to the presence of Chairman/member of Parliament who is not timely, resulting this activity implementation supervision. Monitoring carried out by Parliament is generally recognized as a political instrument by the respective political parties conveyed through fractions.

In general it can be said that supervision by Parliament carried out by the commission for reviewing, studying and evaluating continuously several aspects as follows:⁴ Firstly, the supervision of Parliament assessing the implementation and effectiveness of the legislation. Supervisory review whether they are carried out in accordance with the intent of the legislature. This scope does not get the attention and the allocation of sufficient resources from Parliament. Almost no program or supervisory activities carried out by the Parliament to assess the effectiveness of the implementation of the regional regulations. Parliament recognizes this happens because the government area is considered to have sufficient capacity to implement regional regulations. Internal supervision is also necessary when Parliament carry out its functions. For example, when formulating legislation, Parliament should conduct internal supervision order drafts are being discussed opposition to the legislation or regulations there on another area that can be avoided.⁵ In the event of Parliament at the first assessment by the Commission meeting can also be followed by a meeting with the leaders to assess the effectiveness of these local regulations relating to the Commission respectively. Then the results of the assessment were decided in the meeting, it was determined whether the existing regional regulations effectively implemented, or implementation in accordance with the wishes of the Regional Regulation itself.

Second, monitoring is also conducted on the administration and implementation of the programs created by the regulation, such as the Decree of the Head of the Region. With this oversight, Parliament can formulate policy recommendations if the government's program can be resumed, repaired or need to be stopped. Supervising the implementation of such a policy is quite often done because generally associated with the implementation of projects. Supervision of the administration and implementation of the programs created by the

¹ Law No. 22 of 2003 Article 99 Paragraph (4) To support the implementation of the tasks the Provincial Parliament established the secretariat of the council stipulated by provincial regulations and personal made up of civil servants, and (5) Secretariat of Provincial Parliament referred to in paragraph (4) headed by a secretary who is appointed and dismissed by the governor's decision on the consideration of Provincial parliament Leader.

² Juanda. 2004. Hukum Pemerintahan Daerah Pasang Surut Hubungan Kewenangan Antara DPRD dan Kepala Daerah. Bandung. Alumni. Hal.10.

³ Priyono, W. 2011. Optimalisasi Fungsi Dprd Dalam Pengawasan Pemerintah Daerah. (<https://pekikdaerah.wordpress.com/artikel-makalah/optimalisasi-fungsi-dprd-dalam-pengawasan-pemerintah-daerah/>- diakses pada tanggal 03.09.2016)

⁴ Agung. Djojosoekato. 2004. Dinamika dan Kapasitas DPRD Dalam Tata Pemerintahan Demokratis. Jakarta. Konrad Adenauer Stiftung. Hal.223-224.

⁵ Maria S. Sumardjono. 2000. Catatan Berkenaan dengan Masalah Pertanggungjawaban Kepala Daerah dan Pengawasan Terhadap Peraturan Daerah. Kertas Diskusi 22. Hal. 5.

regulation, in the event of Parliament to supervise the administration of the program. Where the first to know about the decree, and then to follow up supervision of the activities related to the regulation of Regional Head, then Parliament needs to be that if the regulation of Regional Head is considered, then the Parliament to make recommendations, but if it is considered contrary to the public interest, the Council can provide suggestions for repair or stopped such activities.

Third, surveillance in Parliament also made to institutions and the implementation of various other activities at the regional level, especially if they are related to the implementation of other legislation, including the utilization of financial resources of the State. That fall into this category is the supervision of the implementation of the Decree of the Head of Regional/District and the implementation of the budget. Decree of the Head of Regional getting much smaller emphasis in oversight compared with budget oversight.¹ Supervision of Parliament to other institutions associated with other legislation, as well as including the utilization of financial resources of the State in which the activities of Parliament in this regard, shall directly to find out whether these institutions in implementing their duties in accordance with the laws still an applicable laws, such as the supervision of the Institute of Regional Election and Election supervisory Committee.

Fourth, Parliament surveillance in the field of investment, supposed to be the first Parliament to make the Regional Regulation to foster the spirit of investing, but as long as Parliament does not have a sufficient understanding of "the economic theory of legislation,"² would not be able to give birth to the Regional Regulation that strengthen the business in the area, *Fifth*, monitoring is also done with the establishment of clean governance (clean government). Parliament it shall conduct supervision in order to create a clean government, as well as supervisory function As happens in some advanced, refined political practices such as these may also be developed in Indonesia in the future, when legislators have a higher capability in the field of legislation.

One important function of Parliament in local governance is a function of supervision. The oversight function of Parliament is more political oversight and policies, rather than a functional technical supervision. Parliament is essentially a local level government organ that bears the expectations of the people to act as the representation of the interests and agenda of the people through the process of policy formulation and supervision of the Local Government. Right of inquiry is one form of oversight function of Parliament to conduct an investigation into the policy of the Regional Head strategically important and far-reaching impact on the lives of communities, regions and countries that allegedly contrary to the legislation.³ Oversight function actually is that local governments can realize good governance. In this case if all the oversight functions of Parliament are carried out properly and optimally, then by this oversight will be able to create a clean government and avoid corruption.

However on the other hand if the supervision of Parliament just a formality, then there will not be a clean government, although there are supervisors from other institutions such as the Supreme Audit Agency (BPK), the Inspectorate especially internal supervision will not be able to expect much of the internal control, in creating a clean government, Institutions participating in corrupt practices would not be able to do good surveillance, surveillance should be done in earnest by the existing rules. Corruption is most often done through the budget process and abuse of PAD.⁴ According to the experience and observations of the author that the corruption in budgeting, as mentioned above opinion there is no such practice in budgeting in Central Sulawesi province, because, as the process of ratification of the budget, that after being passed by the Regional Government and the Parliament then subsequently evaluated by the Ministry of the Interior.

4. CONCLUSION AND RECOMANDATION

4.1. CONCLUSION

4.1.1. Implementation of the norm in the Local Government Act requires seriousness of the Interior Ministry as the main implementer monitoring the Regulation. Priority needs to be done is to prepare a clear technical rules to implement the provisions of the Local Government Act and the preparation of capacity included in the structure of the Interior Ministry and government organizations in each and every province to carry out this oversight function. Other proposals related to the delivery of information to the public, at least include information legislation that was canceled and the imposition of sanctions for Local Government. This information special as a follow-up community control over local governments to stop the implementation of regional regulations as well as the revocation canceled. In the government sector (central) also need to do a follow-up supervision of local government against the decision to cancel the regional regulation. The action also urged by the government and the DPR is to synchronize the setting cancellation regional regulations. The government should also actively

¹ Op.Cit., Hal. 225.

² Ibid., lihat pula Richard A. Posner. 1998. Economic Analysis of Law. New York: ASPEN Publishers. Inc. Hal.572.

³ Wasistiono S. dan Wiyoso Y. 2009. Meningkatkan Kinerja Dewan Perwakilan Rakyat Daerah (DPRD). Fokusmedia. Bandung.

⁴ Chusnul Mar'iyah. 2001. Hubungan Eksekutif dan Legislatif: Politik, Demokrasi dan Kekuasaan di Dalam Teori dan Prakteknya. Jurnal Civility. Nomor 1, Juli-September 2001. Hal.41.

- respond to the news or public statements about their troubled Regional Regulation both regional regulations related to taxes and levies as well as other material Regional Regulation cause new problems in society. To streamline this role, the government must also open up for people to reporting their legislation that is considered problematic.
- 4.1.2. Regional Regulation by government oversight is the lack of mechanisms for reporting or complaints from the public to denounce the legislation problematic. It also deals with the supervision of the Regional Regulation are only considered to be effective for the regulation of taxes and levies or regulation-regulation are evaluated. Local Regulation is rarely heard outside these areas was canceled by the government. Though a variety of reports highlight the existence of many problematic regional regulations, outside the Regional Regulation of taxes and levies. Law on Local Government has set up a tiered model of supervision of the Regional Regulations to include the provisions of administrative sanctions for the local governments that do not run the provisions in the legislation. Implementation of the norm in the Local Government Act requires seriousness from the Interior Ministry as the main implementer monitoring the Regulation. Priority needs to be done is to prepare a clear technical rules to implement the provisions of the Local Government Act and the preparation of capacity included in the structure of the Interior Ministry and government organizations in each and every province to carry out this oversight function. Other proposals related to the delivery of information to the public, at least include information legislation-legislation that was canceled and the imposition of sanctions for Local Government. This information special as a follow-up community control over local governments to stop the implementation of regional regulations as well as the revocation canceled. In the government sector (central) also need to do a follow-up supervision of local government against the decision to cancel the regional regulation. The action also urged by the government and the DPR is to synchronize the setting cancellation regional regulations. The government should also actively respond to the news or public statements about their troubled Regional Regulation both regional regulations related to taxes and levies as well as other material Regional Regulation cause new problems in society. To streamline this role, the government must also open up for people to report their legislation-legislation that is considered problematic.
- 4.1.3. Other factors that led to weak oversight function of Parliament, among others, (1) The low quality of human resources; (2) Weak managerial or leadership; (3) Lack of support factor (control) communities; (4) Lack of funds; (5) Low commitment or motivation of legislators. Indeed, supervision by the regional council of the Local Government relating to Regional Regulation for Local Regulation is the product of the law relating to service to the community, then such surveillance is monitoring the policy and not the technical supervision tasks and authority of internal Local Government and Apparatus other Government oversight. Parliament has three main function s, namely budgeting, legislation and supervision. For the implementation of these functions, the Parliament as representatives of the people in the area need to be sensitive and responsive to the management processes of governance in the region, in particular the documents of regional development planning. This is important, because when it will implement the functions of Parliament, then the board members must understand, know and understand to be any management process governance run. Implementation of the oversight function of Parliament will be made on the implementation of regional development programs and based on the synergy developed between Parliament and local government, it will generate a wide range of policy recommendations to regional development. This will have an impact on regional development planning document creation in the year or the next period, and it will be a positive cycle in development planning.
- 4.1.4. One important function of Parliament in local governance is a function supervision that is more political oversight and policies, rather than a functional technical supervision. Parliament is essentially a local level government organ that bears the expectations of the people to act as the representation of the interests and agenda of the people through the process of policy formulation and supervision of the Local Government. Right of inquiry is one form of oversight function of Parliament to conduct an investigation into the policy of the Regional Head strategically important and far-reaching impact on the lives of communities, regions and countries that allegedly contrary to the legislation. Oversight function actually is that local governments can realize good governance, in this case if all the oversight functions of Parliament are carried out properly and optimally, then by this oversight will be able to create a clean government and avoid corruption. However contrary if the supervision of Parliament just a formality, then there will not be a clean government, although there are supervisors from other institutions such as the Supreme Audit Agency (BPK), the Inspectorate especially internal supervision will not be able to expect much of the internal control, in creating a clean government, Institutions participating in corrupt practices would not be able to do good surveillance, surveillance should be done in earnest by the existing rules. Corruption is most often done through the budget process and abuse of PAD. According to the experience and observations of the author that the corruption in budgeting, as mentioned above

opinion there is no such practice in budgeting in Central Sulawesi province, because, as the process of ratification of the budget, that after being passed by the Regional Government and the Parliament then subsequently evaluated by the Ministry of the Interior.

4.2. REKOMANDATION

Some important things suggested as part of the study and analysis of the socio-legal oversight function of Parliament on the implementation of local regulations, as follows:

- 4.2.1. Central Sulawesi Provincial Assembly Members need to be more creative harnessing existing communication media in order to capture information and aspirations of the community, especially related to the implementation of supervisory functions;
- 4.2.2. Improving the quality of the resource legislators Central Sulawesi province needs to be done either through increased academic education and education-education through non-formal training and others;
- 4.2.3. Community support already granted should be maintained and nurtured so that communication with the public legislators can help the oversight function of Parliament;
- 4.2.4. The commitment and motivation of legislators Central Sulawesi province should continue to be made upload to work and devotion to the nation and country and folk;
- 4.2.5. Necessary to formulate a standard form of scrutiny both by the Council and the Central Sulawesi Provincial Government also need to set a standard of service to the community so that the service can be more secure and can be used as a reference by the Parliament to create a surveillance instrument.

REFERENCES

- Akmal Boedianto. 2010. *Hukum Pemerintahan Daerah, Pembentukan Perda APBD Partisipatif*. Surabaya. Putra Media Nusantara.
- Djojosoekato Agung. 2004. *Dinamika dan Kapasitas DPRD Dalam Tata Pemerintahan Demokratis*. Jakarta. Konrad Adeneur Stiftung.
- Hadari Nawawi. 1994. *Pengawasan Melekat di Lingkungan Aparatur Pemerintah*. Jakarta. Penerbit Erlangga. Hal.24.
- Hotma P. Sibuea. 2010. *Asas Negara Hukum, Peraturan Kebijakan, Asas-Asas Umum Pemerintahan yang Baik*. Jakarta. Erlangga.
- J. H. Rapar. 2001. *Filsafat Politik Plato, Aristoteles, Augustinus, Machiavelli*, Jakarta. RajaGrafindo Persada.
- Johnny Ibrahim. 2006. *Teori & Metodologi Penelitian Hukum Normatif*. Bayumedia Publishing. Malang.
- Juanda. 2004. *Hukum Pemerintahan Daerah Pasang Surut Hubungan Kewenangan Antara DPRD dan Kepala Daerah*. Bandung. Alumni.
- Maria S. Sumardjono. 2000. *Catatan Berkenaan Dengan Masalah Pertanggungjawaban Kepala Daerah Dan Pengawasan Terhadap Peraturan Daerah*.
- Mirza Nasution. 2011. *Pertanggungjawaban Gubernur Dalam Negara Kesatuan Indonesia*. Jakarta. Sofmedia.
- Moh. Kusnardi dan Hermaily Ibrahim. 1983. *Pengantar Hukum Tata Negara Indonesia*. Jakarta. Pusat Studi Hukum Tata Negara Fakultas Hukum Universitas Indonesia dan CV. Sinar Bakti.
- Moh. Mahfud MD. 1999. *Pergulatan Politik dan Hukum Di Indonesia*. Yogyakarta. Penerbit Gama Media.
- Mukti Fajar dan Yulianto Achmad. 2010. *Dualisme Penelitian Hukum Normatif Dan Empiris*. Yogyakarta. Pustaka Pelajar. Cet.Pertama.
- Philipus M. Hadjon, Tatiek Sri Djatmiati, GH Addink, dan JBJM Ten Berge. 2011. *Hukum Administrasi Dan Tindak Pidana Korupsi*. Yogyakarta. Gajah Mada University Press.
- Reza Banakar & Max Travers (ed). *Theory and Method in Socio-Legal Research*. Onati: Hart Publishing Oxford and Portland Oregon.
- Richard A. Posner. 1998. *Economic Analysis of Law*. New York: ASPEN Publishers, Inc.
- Ridwan HR. 2002. *Hukum Administrasi Negara*. Jakarta. Raja Grafindo Persada.
- Sadu Wasistono & Ondo Riyani. 2003. *Etika Hubungan Legislatif Eksekutif Dalam Pelaksanaan Otonomi Daerah*. Fokusmedia. Cet.ke-2. Bandung.
- Sarman dan Muhammad Taufik Makarao. 2012. *Hukum Pemerintahan Daerah di Indonesia*. Jakarta. Rineka Cipta.
- Siswanto Sunarso. 2005. *Hubungan Kemitraan Badan Legislatif & Eksekutif Di Daerah*. CV. Mandar Maju. Bandung.
- Wasistiono S. dan Wiyoso Y. 2009. *Meningkatkan Kinerja Dewan Perwakilan Rakyat Daerah (DPRD)*. Fokusmedia. Bandung.