

The Essence of Public Participation in Regional Finance Management: Good Governance Perspective

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Abstract

The concept of local autonomy is granted to the people as a whole legal community with authority to regulate and manage the government affairs. This writing discusses the problematic that arise from unclear arrangements regarding public participation in regional finances management and provide an ideal concept that can be a solution to the problematic. As discussed by the author, it can be concluded that; first, the essence of public participation in regional finance management is a process in which all parties can create and involve in all development initiatives. Participatory development through a process that involves the community actively in all substantive decisions regarding their lives so that they plays an active role, has control over its own life, takes a role and more involved in development. Second, an ideal concept in the implementation of public participation is participatory budgeting which contains two important aspects are substantial and procedural aspects. A substantial aspect is the involvement of the community in determining the allocation of resources for priority activities while the procedural aspect is the involvement of the community in identifying potential resources, collecting resources, allocating resources to priority activities, implementation, monitoring and evaluation.

Keywords: Public Participation, Good Financial Governance, Management, Regional Finance

1. Introduction

The 1945 Constitution of the Republic of Indonesia affirms that Indonesia is a law-based democracy. In democratic state' view, the people have the right to express their opinions and aspirations towards the implementation of good governance as part of the manifestation of peoples' sovereignty. Democratic state put forward the aspects of participation, transparency, accountability and equity in governance management includes in the regional finance management.

The principles of democracy and community participation are important aspects that should not be ignored. This is a requirement for a better-quality democracy. Community participation is an important pillar of democracy that must be implemented.¹ Any decision if concern the public affairs should involve the community in the form of public participation. Thus, a democratic government is a government that involves the people in decision-making.

There is no found legislation that clearly states the principle of participation in the law regarding state or regional finance management as described above, the questions laws and regulations are Act No. 17 of 2003 on State Finance, Act No. 1 of 2004 on State Treasury, Act No. 15 of 2004 on Audit, Management and State Financial Accountability, Government Regulation No. 58 of 2005 on Regional Financial Management and Domestic Affairs Regulation No. 52 of 2015 on Guidelines of Drafting the Regional Finance Management. All regulation as mentioned above does not contain the firmness and clarity of the implementation of community participation.

Opportunities for the emergence of problems and reality shows trends in the process of regional financial management, the principle of community participation has not been fully implemented, because there is no legal regulation that clearly provides arrangements. During this, the mechanisms used are proposal of Regional Revenue and Expenditure Budget by the local government to the local representative, after discussions between the Regional Government Budget Team (hereinafter referred to as TAPD) and Budget Board of local representative are followed up by a plenary session for the ratification of the Plan of Regional Revenue and Expenditure Budget into Regional Revenue and Expenditure Budget based on Regional Regulation on Regional Revenue and Expenditure Budget.

The absence of implementation of the principle of community participation in regional financial management has implications such not accommodate all community proposals for the improvement of public services. It provides a portrait of poor regional financial management. Hence, the authors are interested to examine the problem of how public participation in the regional finances management and how the solution of public participation in order to realize a regional financial management in favor of the peoples.

¹ Isra, S., Ferdi, F., & Tegnan, H. (2017). Rule of Law and Human Rights Challenges in South East Asia: A Case Study of Legal Pluralism in Indonesia. *Hasanuddin Law Review*, 3(2), 117-140. doi: <http://dx.doi.org/10.20956/halrev.v3i2.1081>

2. Method of the Research

The research is a normative-juridical research, a legal discovery (*in concreto*) which is appropriate to be applied in solving a particular legal problem. To answers various questions contained in the problem formulation, we used a statutory approach by not forgetting the disclosure of ratio logic and ontological the birth of legislation in particular legislation related to public participation and conceptual approach by depart from the views and doctrines that developed in law science. As the main focus of research is normative-juridical, the data to be collected are secondary data from positive law, which includes legal materials primary, secondary and tertiary legal materials. The primary legal materials are international conventions, statutory regulations, principles and research results related to this research and secondary legal materials in the form of documents and literature includes the relevant theoretical or doctrinal basis and tertiary legal material is obtained from the internet, seminar results, symposia and workshop related to public participation and dictionaries that help translate the various legal terms used in the discussion.

3. The Essence of Public Participation in Realizes Legal Order of Local Governance

Etymologically, participation comes from the Latin '*pars*' means part and '*capere*', means taking, so that it means to "*take part*". In English, *participate* or *participation* means taking part or taking a role. So, participation means taking part or taking part in the activities or political of a country.¹

The World Bank gives the boundaries of public participation as *first*, the involvement of people affected by decision-making on what to do and how to do it. *Second*, the involvement is a contribution from the community in the implementation of activities that have been decided. *Third*, together utilize the results of the program so that people benefit from the program.²

Participation (Indonesian Dictionary) means involvement (supervising, controlling and influencing) the community in an activity from planning to evaluation. There are several concepts of participation;³ *first*, participation as policy, a concept that views participation as a consultation procedure of policy makers to the community as subject of regional financial management; *Second*, participation as a strategy, a concept sees participation as one strategies to gain public support for the credibility of government policies; *Third*, participation as a means of communication, a concept sees participation as a means of communication for the government (as a servant of the people) to know people' wishes; *Fourth*, participation as a means of dispute resolution, a concept that sees participation as a means of dispute resolution and tolerance for unbelief and confusion in the community.

In associated to the four points, it is seen that the concept of "participation" is mainly discussed in the context of the political world. Pretty⁴ argues that in political science, "participation" is an umbrella term which then has a lot of sense. However, the point is how public involvement in political decisions. The next important thing to look at in terms of public participation is termination in terms of participation. Rahnema means participation as the action of fact of part-taking, having or forming a part of. In this sense, there are 4 (four) forms of participation:⁵ *first*, participation can be transitive or intransitive; *second*, moral or immoral participation; *third*, coercive and free participation; and *fourth*, manipulative or spontaneous participation.

Transitive participation is oriented towards a particular purpose and otherwise intransitive participation when certain subjects participate without a clear purpose. Participation meets the moral aspect if the goal to be achieved is in accordance with the ethics. In this sense, participation has positive connotations. Conversely, if the activities of participation are aimed at things that are not in accordance with ethics then the activity is considered immoral. In another perspective, participation also connotes positively if participation is perceived as free acts committed by the subject rather than forced on behalf of participation.⁶ Participation can also be differentiated into spontaneous and manipulative participation. Manipulative participation implies that participants do not feel compelled to do anything but in fact participants are directed to participate by forces beyond their control.⁷

In the process of participation, we know the term of Arnstein's participation ladder, which able to provide the parameters to what extent a participation in public decision-making has actually taken place. In general, in this model, there are 3 (three) degrees of community participation:⁸ (1) non-participation, (2) degrees of

¹ Huntington and Nelson as cited in Sastroatmodjo. (1995), *Partisipasi Politik*, Persada Buana: Jakarta. page. 43

² Rifkin. SB; F. Muller; W. Bichma. (1988). *Primary Health Care: on Measuring Participation. Social Science and Medicine*: page. 931

³ Kamus Besar bahasa Indonesia. 2001. page. 831.

⁴ Jules Pretty. (1995). *Regenerative Agriculture: Policies and Practice for Sustainability and Self-reliance*. Earthscan: London. page. 34

⁵ Majid Rahnema. (1992). *Participation in Wolfgang Sachs (ed). The Development Dictionary: a guide to knowledge as power*. Zed Books: New Jersey. page.116.

⁶ *Ibid*

⁷ James Midgley. (1986). *Social Development*. Metue: New York. page. 45

⁸ Achmad Ruslan. (2005). *Pembentukan Peraturan Perundang-undangan dan Kualitas Produk Hukumnya (Kajian atas*

tokenism and (3) degrees of citizen power. Each degree is emphasized not on how far the public is involved in the process of forming policies or programs implemented by the state, but how far the community (in this case the poor and vulnerable groups) can determine the final outcome or impact of the policy or program.

The lowest degree (not participative) consists of two types of participation are manipulation and therapy. At this stage, participation aims to train community and treat injuries arising from the failure of government systems. There is no intention at all to involve the community in formulating government policies or programs.

The medium degree consists of 3 (three) types of participation are informing, consultation, and placation. At this stage, there is already an expansion of levels of participation. The community can already hear (informed) and be heard (consultation). However, this stage has not provided clear guarantees to the public that their votes are taken into account in determining the outcome of a public policy. In the stage of placation, already enabling the community (especially the vulnerable group) to provide more significant input in determining the outcome of public policy, but the decision-making process is still held by the holders of power.

The highest degree (the power of community) consists of 3 (three) types of participation are partnership, delegated power, and the uppermost is citizen control. At this stage, group participation is included in the process of determining the process and the impact of the policy.¹ Simply put, “participation” can be interpreted as “the act of taking part or sharing in something”.

From the perspectives of poor people worldwide, there is a crisis in governance. While the range of institutions that play important roles in poor people’s lives is vast, poor people are excluded from participation in governance. State institutions, whether represented by central ministries or local government are often neither responsive nor accountable to the poor; rather the reports details the arrogance and disdain with which poor people are treated. Poor people see little recourse to injustice, criminality, abuse and corruption by institutions.² Not surprisingly, poor men and women lack confidence in the state institutions even though they still express their willingness to partner with them under fairer rules.

Based on definitions, it can be said that participation is a process whereby all parties can shape and involve in all development initiatives. Participatory development is a process that involves the community actively in all substantive decisions regarding their lives. In the political and social sphere, participation is an attempt to opposite of marginality. Thus, in participation, anyone can play an active role, have control over their life, take on a role in society, and become more involved in development. The development of participation is an integral part in the framework of community empowerment as one of the manifestations of the constitutional state and democracy. Without participation, a country is not worthy to be called a constitutional and democratic state.

4. Ideal Concept of Public Participation in Regional Financial Management

Public participation in the practice of democratic governance is necessary, so that the purpose of making and applying public policy is not deviated and in accordance with the people’ expectations. The policy taken by the holders of governmental authority without considering the role of community participation in the process of drafting and its implementation is indeed contrary to the essence of democracy.

Legal guarantee on the implementation of public participation in the regional finance management is the first step that needs to be done, because as a constitutional state, the whole process of life of the nation and state must provide legal certainty to the whole society. This legal certainty will lead to the enforcement of the rights of the people in the state of Indonesia which is a peoples’ sovereign state. With this, deliberative democracy as a democracy based on deliberation to reach consensus can be achieved. In the context of the rule of law and democracy should overall the process of regional financial management should include community/public participation.

Various theories, methods or concepts applied were not able to answer the problems in an effort to increase public participation. It takes a long and comprehensive thought to find an appropriate concept. So far, there has been a package of financial laws that offend public participation, but still not to regulate the rights and obligations of citizens. At the operational level, a performance-based budgeting system has been pursued. The system is expected to provide participation space for the community to participate in the preparation of KUA, priorities and budget plafond, and simultaneously tries to integrate overall planning and budgeting activities with community involvement in the whole set of processes. However, all such regulations, if observed, still do not reflect the balance of rights and obligations of all stakeholders involved, especially from the civil society.

The most regulated is the right and authority of the government (executive). Even in researchers’ view, public participation is still in the basic level, has not become a legal norm, causing the absence of a rule that

Peraturan Daerah tentang Pajak Daerah dan Retribusi Daerah di Sulawesi Selatan). Dissertation. Hasanuddin University: Makassar. page. 125

¹ Andrea Cornwall and John Gaventa. (2001). “*From Users and Choosers to makers and shapers: repositioning participation in social policy*”. IDS Working Paper. Page 127.

² Danil, E., & Kurniawan, I. (2017). Optimizing Confiscation of Assets in Accelerating the Eradication of Corruption. *Hasanuddin Law Review*, 3(1), 67-76. doi: <http://dx.doi.org/10.20956/halrev.v3i1.717>

binds all parties to implement public participation in development, especially in regional financial management.

The principle of public participation is still limited to legal principle, not yet used as legal norm. The legal principle occupies a very important position, because the legal principle is the source of the creation of legal norms. The legal principle is something that gives rise to rules. In addition, the legal principle is the ratio legis of the rule of law. The form and position of legal principles in a legal system becomes very important when we discuss the sources of law used in the making of a legal norm.

So far, the basic weakness of institutionalization of participation in Indonesia is the lack of a legal framework that regulates public participation in governance management, especially in the regional finance management. Concretely, there are no clear rules governing the roles and functions of all stakeholders involved in the regional planning and budgeting process equally between rights and obligations, as well as sanctions if there are parties who do not implement or violate. Without a clear set of participatory mechanisms for participation, participation will only be pseudo-participation, symbolic, full of manipulations because they cannot guarantee the process of regional financial management, based on people needs assessment. The dominant thing is the government need assessment. That is, the community is not involved and not fully involved until decision-making.

Related to the lack of participation arrangements in legislation in the field of regional financial management, the researchers cite the opinion of Jurgen Habermas who states that legitimacy does not lie in the outcome of political communication, but in the process. However, systematic and aesthetic of a public policy or norm but if it is not preceded by a discursive examination in the public or simply applied by the authorities then it will not get legitimacy.¹ If associated with this opinion, the process of regional financial management without accompanied by public participation is a neglect of the meaning of democracy and however optimal a process of regional financial management if implemented without the public participation it can be said that the process is not a democratic process.

The process of democratization in the regional finances management through public participation is not a simple process that can be done without any rules being controlled or controlled by the community so that participation is kept within the law-based framework. Here is the urgency of drafting legislation that clearly includes the mechanisms of community participation and from legislation arrangement, we can found an identification of participation that applied by a state/regional.

In the state and regional governance including the executive and legislative there are two types of public participation that have a direct influence on the making and implementation of public policy. *First*, the public participation has direct correlation with the change of authority of the state governance. *Second*, it has an influence on public policy.² Public participation can be undertaken before and after the policy is implemented. Before policy implemented it can be done through suggestions, public consultation and various proposals and promotions of development projects. After the policy is implemented, it can be done through evaluation and supervision in connection with the implementation of the policy.³ For creative region try to seek various models of participation associated with various fields and sectors of government, such as participation in the delivery of public services, participation in public policy formulation, participation in policy monitoring and evaluation, participation in environmental management, and participation in planning arrangements and regional budgeting that is now beginning to attract public attention in the homeland.

Participatory governance represents a construction of new thinking about governance that placing community as one of the main actors (stakeholders). John Mary Kauzya⁴ reveals that the ideas offered by participatory governance which are more prominent in terms of good governance with various principles such as transparency, accountability, participation, information, efficiency, effectiveness, independence, justice and security are basically as implementation of democratic government, autonomous government and region government that more touch the people's interests at the grassroots level, including the poor and marginalized by involving them directly in the process of policy formulation and determination, implementation, monitoring and evaluation.

The spirit of participatory governance is reflected in various legislation as a product of public policy that was born in the reform era, starting from constitutional amendment (the 1945 Constitutional), Acts, Government Regulation, Presidential Regulation, until Minister Regulation, Ministers' Circular and Regents Regulation. However, when observed at practical level, the policy can be said to fail to be implemented. The cause of failure due to the uncertainty of the role of society and the field of government involving the community, the weakness of regulation and the low commitment of bureaucracy officials to implement it consistently, because of the

¹ Yunus, A., Reumi, F., & Irwansyah, I. (2015). Recognition of the Customary Court: A Review of Decentralization in Papua as Special Autonomy. *Journal of Research in Humanities and Social Science*, 3(7), 57-69.

² Abdul Halim. (2004). *Akuntansi Sektor Publik: Akuntansi Keuangan Daerah*. Salemba Empat: Jakarta. Page.212.

³ Indra Bastian. (2006). *Sistem Perencanaan dan Penganggaran Pemerintah Daerah di Indonesia*. Salemba Empat: Jakarta. Page. 432

⁴ John Mary Kauzya. *Ibid.* page. 43

strong culture of the past and the perception that people are not ready to be the government dialogue partner.

Participation is not just to invite people to work on government development programs, or to ask people to express their opinions on a pre-prepared program or to ask the community to set aside some of their opinions to contribute to development. These are pseudo-forms of participation that have no meaning in the development of democratization at the local level. In a democratic system of government, the concept of community participation is one of structurally functional and functional dimension, because it is directly related to the essence of democracy as a government-focused system of government as the holder of sovereignty. Community participation has many forms, from the direct participation of the community in government programs or indirectly, such as donations of funds, energy, thoughts, and opinions in government policy-making. As a comparison of the forms of participation, researchers will discuss participatory budgeting as an applicative model developed to encourage community participation in the field of planning in budgeting. The model is considered to be successfully implemented in Brazilian city of Porto Alegre, spreading other regions of the country, even adopted by other countries, such as Canada, India, Kenya, Malawi Mexico, South Africa, Tanzania, Uganda and Bangladesh.

Participatory budgeting received more attention from government practitioners, academics/scientists, non-governmental organizations (NGOs) and international institutions. It is a relatively simple model of public participation, because the principles are consensus, mutual cooperation, and togetherness and equality that can be found in community culture anywhere in the world, including Indonesia which can be called as culture of a culture which is born and developed inheritance in multi-lingual and multi-cultural Indonesian society. The only difference lies in a strong commitment and consistency to transform noble values in a participatory governance system.

Participatory budgeting is based on the principle that citizens with a diversity of cultural values form a forum or assembly called a plenary assembly. In the forum/ assembly of citizens is actively formulate the theme and agenda based on the real needs that exist in society both based on region and sector themes for the next to be implemented. In comparison, the following shows the participatory budgeting method stage successfully implemented in other countries namely Brazil. The participatory budgeting method in Brazil illustrates the agenda, dynamics and interactions of each stage of the participatory budgeting process, namely the timeline from the preparation stage to the evaluation and supervisory, institutions or forums involved in the process, both civilian and governmental, and responsibilities of each stakeholder party, who does what, who is responsible to whom, the activities or agendas are formulated, defined, implemented and supervised, the intensity of interaction among stakeholders in the participatory budgeting process.

The more important of the concept of participatory budgeting is the realization of civil society by empowering and optimally utilizing social capital, human capital, natural capital in a governance order. For decision-making in participatory budgeting, another perspective is needed such as the perspective of local knowledge of the communities involved in the affairs to be decided because procedurally, planning and budgeting are strongly influenced by social, political, and governance systems. Therefore, in order to implement participatory budgeting, it is necessary to set up a social, political, and governance system that allows the concept to be implemented from planning to supervisory.

Implementation of participatory budgeting can be implemented by including a complete mechanism in a formulation of legislation both at the national and local levels towards the realization of good financial governance.¹ The concept of good financial governance places participation as one of the important elements. Participation will also increase public awareness and desire to realize good financial governance (to create awareness and willingness on the part of the society to establish the condition of good financial governance). Thus, the absence of public participation will affect the realization of good financial governance.

Besides as an effort to realize good financial governance, the implementation of public participation in regional financial management process is also one of the manifestations of the principle of democracy to realize democratic state life, it is a manifestation of the implementation of people's sovereignty. Management of regional finance is basically the authority of local government. This authority is the authority obtained by means of attribution that is directly from the legislation. This authority gives local governments the power to manage local finances. However, such power does not permit the arbitrariness of the people because in a modern government, the people have sovereignty. Thus, related to public participation when viewed from the urgency of community participation in addition to a part of regional financial management and is an element to realize a good financial governance, public participation is also essentially an implementation of the sovereignty of the people that lead to the achievement of goals state in accordance with the Preamble of the 1945 Constitution of the Republic of Indonesia.

As a constitutional state, participation will only be optimal if it is set forth in a legal framework that will be

¹ Karianga, H. (2016). New Paradigm for Local Financial Management: A Review of Local Budgeting System. *Hasanuddin Law Review*, 2(3), 398-408. doi:<http://dx.doi.org/10.20956/halrev.v2i3.700>

binding on all parties related to local financial management. This legal framework is expected to be a guideline for the implementation of community/public participation in the regional finances management because so far, the word participation is only a mere formality, set forth in legislation but not accompanied by a clear mechanism.

5. Conclusion

The essence of public participation in region finance management is a process where all parties can create and involve in all development initiatives. Participatory development is a process that involves the community actively in all substantive decisions regarding their lives. In the field of political and social, participation is an attempt to oppose the marginality. Thus, in participation, anyone can play an active role, have control over their life, take on a role in society, and become more involved in development. The development of participation is an integral part in the framework of community empowerment as one of the manifestations of the constitutional state and democracy. Without participation, a country is not worthy to be called a constitutional and democratic state. The concept of ideal public participation in region finance management is the concept of participation that uses the principle of participatory budgeting which contains two important aspects namely the substantial and procedural aspects. A substantial aspect is the participation of the community in determining the allocation of resources for priority activities while the procedural aspect is the participation of the community in identifying potential resources, collecting resources, allocating resources to priority activities, implementing, monitoring and evaluating. This is applied by first explicitly stipulating the principles of public participation in the provisions of legislation in the field of state/regional finance management and community participation by clearly regulating procedures and mechanisms for the implementation so that it can become a reference for the implementation of governance in the regions in the region finance management.

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