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The Implementation of The Supervisory Functions of The Regional House of Representatives Against The Implementation of The Budget of Regional Maros

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Abstract: A.S.Chaidir Syam, NIM: 0008.02.42.2015, Title Thesis for the Implementation of the Supervision Function of the Regional People's Legislative Assembly against the Implementation of Maros District Revenue Budget, guided by prof. Dr. H. La Ode Husen, SH., MH and Dr. Ir. Andi Abidin, SH., MH

The purpose of this study is to know and analyze the implementation of the supervisory function of the Regional People's Legislative Assembly against the implementation of Maros District Revenue and Expenditure Budget, and to analyze the effectiveness of the monitoring implementation of Maros Regency's budgets and expenditures. The research method used is empirical law research, namely research on the implementation of legal relation adah effect of law with respect to the implementation of the function of supervision of regional expenditure budget. The result of the research shows that the function of oversight of Maros Regency DPRD towards the implementation of Regional Revenue Budget has been implemented even though it has not been effective in this case DPRD members have not correctly interpret the function and purpose of supervision, so it can be an effective check & balance mechanism, can provide can have a positive effect in accordance with the expected on the management of local government,

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I. INTRODUCTION

The enactment of Law Number 23 Year 2014 on Regional Government and Law Number 33 Year 2004 regarding Financial Balance between Central and Regional Government, has resulted in fundamental changes in the implementation of local government. The amendment will change the overall governance map in Indonesia including changes to regional controls that will have implications for changes in oversight of local budgets. The granting of wide autonomy to the regions brings the consequences of institutional adjustment and the pattern of relationships between local supervisory and audit institutions. Supervision is the duty and authority of the Regional People's Legislative Assembly based on Law Number 23 Year 2014 on Regional Government: "The Regional People's Legislative Assembly has the duty and authority to exercise control over the Regional Regulations and other Legislation, the regulation of regional heads, regional expenditure, regional government policy in implementing regional development programs, and international cooperation in the region ". The supervision of Daaerah's People's Legislative Assembly against the local government is one way of limiting and controlling the administration of the government.

The limitation of the Government's power is also exercised by implementing the teachings of the democratic system. In a democratic system, people have the freedom to participate in the process of administering government either directly or through representation. The participation of the people is generally done by conducting supervision (control) on the government.

If a government takes an action that is not pleasing to the people, it will probably be abandoned by its people and they will tend to choose other people or groups that are expected to guarantee and protect their interests. Any government that wants to maintain power democratically, must try to limit itself so that its power still gets popular support in the general election.

Indirect oversight of the people is done through a representative body. Representative bodies at both the central and regional levels in addition to overseeing the course of government may also authorize to appoint or provide support to the government. For example, the DPR and DPRD perform the control functions (checks and balances). Given the principle of checks and balances it shows that state power can be regulated, restricted

DOI: 10.9790/0837-2305056571 www.iosrjournals.org 65 | Page

and even controlled as well as possible, so that abuse of power by the state apparatus can be prevented and overcome.

Other understandings related to the oversight of the power of the Government in a constitutional system is the state's understanding of the law based on both the rechtsstaat and the rule of law. The principles of a state of law, such as the principle of legality, the principle of power sharing, the principle of guarantees and protection of human rights, all aim to control power and oversee the Government from abuse of power.

In addition, a constitutional system was developed which was implemented in order to realize the constitutional principles that contained principles on the composition and organization of the state, the tools of state equipment, duties and authority, and the relationship between the government and the citizens or the people of the state in order not to be violated . In order to keep the government in carrying out its governmental functions so as not to deviate from the constitution and the laws and conduct arbitrary acts that cause harm to the state, there needs to be a body that serves as a watchdog against the government as the state organizer.

The Regional People's Legislative Assembly established in each province and regency / municipality is generally understood as an institution that carries out legislative powers, and is therefore commonly referred to as a regional legislative body. Based on Article 365 of Law No. 17 of 2014 concerning the People's Consultative Assembly, the People's Legislative Assembly, the Regional Representative Council and the Regional People's Legislative Assembly, that the Regency / City DPRD Legislation, Budget and Supervision. In relation to the supervisory function, the Municipal DPRD has the duty to exercise oversight on the implementation of regional regulations and the budget of district / city revenue and expenditure.

With the enactment of Law No. 23 of 2014, it will change the pattern of the use of regional funds, given the widespread discretion given by the central to the regions in the utilization of local budgets even if the funds come from the center. The regions will use the budget in accordance with the needs and priorities of the regions. The needs and priorities of the region will be closely related to the vision and mission developed by the region concerned. Therefore, the objective of budget control is the extent to which the relationship between budget allocation with the achievement of the vision and mission of the region. Supervision has a very important role to ensure the realization of the effectiveness and efficiency of work and the achievement of work (performance) in an organization with the aim to prevent leakage and waste in the use of time, budget, and facilities so that all activities of the organization can be implemented effectively and efficiently. The performance of government institutions in the regions is generally determined by members of the organization, as well as the regional environment performance of employees is very decisive and has a very strategic role in the achievement of organizational goals so it needs to be monitored and maintained and grown continuously and sustainably developed. In carrying out the duties and functions of the DPRD must be through obstacles barriers that slightly disturb the process of supervision. These barriers may arise internally and externally, for example internally, the low quality of existing human resources, while externally the limited time available in the budget deliberation process. In performing its functions based on Law 23 of 2014, the DPRD conducts supervision on the implementation of local regulations and other legislation, regional head regulations, regional budgets, local government policies in implementing regional development programs, and international cooperation in the regions. To find answers to the obstacles that occur in the implementation of the oversight function by the local parliament whether the oversight of the execution of the APBD as well as the supervision of the implementation of local regulations and other local government policies, it is important to know the cause of not maximizing the implementation of such supervision.

About this supervisory function has been strengthened in article 366. Law No. 17 of 2014 states that the duties and authorities of DPRD members are, among others, to exercise oversight of the implementation of regional regulations and district / municipal budget revenues and expenditures. The function of oversight by the DPRD, the most prominent thing in the regions is the supervision of APBD implementation / implementation. This is related to the budget which became one of the development instruments in the regions conducted every budget year. Constraints that occur in the implementation of the function of supervision of APBD implementation can be grouped into two, namely internal constraints in the form of the number of duties and obligations for each member of the DPRD, and external constraints in the form of delays in the delivery of realized APBD by Local Government. At least parliamentary oversight will aim to ascertain whether the regional development priorities contained in the RPJMD and KUA work well, whether the budget is implemented effectively and efficiently and there is no budget leak, and the budget is managed transparently, participatively and accountably.

In this context, DPRD oversight should cover the entire budgeting process from musrenbang to budget accountability (assessment of BPK audit results and LKPJ Bupati assessment). Similarly, out put of public service budgeting to the public, DPRD is also obliged to conduct supervision because the implementation of public services could be successful in terms of budget allocation but weak in terms of service delivery and benefits received by the community.

II. FORMULATION OF THE PROBLEM

- 1. What is the implementation of the supervisory function of the Regional People's Legislative Assembly against the Implementation of APBD in Maros Regency?
- 2. Is the implementation of the DPRD oversight function on APBD implementation in Maros Regency effective?

III. THEORETICAL FRAMEWORK

1. The concept of the State of Law

"Man, in his social life tends to always live with other humans, Zoon Politicon" mentions and goes on and every man expresses himself in a society, can form a state or not. Based on the fact that 'every non-state society is always a part of the state' (Sjahran Basah, 1997: 82). The term State at the time of ancient Greece was still a policy polis or The Greek State, which was in its first place a place on the top of a hill, over time the people who lived in that place, established a common residence and then the place surrounded by a wall fortress to keep the enemy from attacking outside (Sjahran Wet, 1997: 80).

So is Socrates (470-399 BC) "The state is not an organization made for man for his own sake, but the state as an objective order, contained justice for the public and not only serving the needs of the ruler of the alternating state. (Sjahran Wet, 1997: 85). Hans Kelsen in his view that the State is a legal ordening (behoren ordening) that is the order, which gives guidelines what human behavior should be run and not executed so that the country is synonymous with law, staatslehre identical with rechtslehre, then the object from the staatlehre is equal to the object of the rechtslehre (Sjahran Wet, 1997-160). With regard to the concept of legal state in Indonesian libraries, it is translated rechtsstaat or the rule of law as the state of law, Muh. Yamin (1982: 72) states that the Republic of Indonesia is a State of law (rechsstaat, government of law). Besides the use of the word rechtsstaat, it is also used by the rule of law as which Mauro Cappeletti puts it in La Ode Husen (2004: 35) states "... The concept of a legal state put forward by Friedrich Julius Stahl in Marbun and Mahfud (1987: 44) has the following characteristics:

- a. The existence of the protection of human rights;
- b. Separation or distribution of power to promote human rights;
- c. Governance under the rules;
- d. The judiciary of state administration in dispute.

Sri Soemantri (1992: 29-30) describes that the most important elements of the rule of law are:

- 1. That the government in carrying out its duties of obligations must be based on law or legislation:
- 2. The existence of guarantee on human rights (citizens);
- 3. The sharing of power;
- 4. The supervision of judicial bodies (rechterlijke controle).

The idea of a state of law has actually existed since the seventeenth century according to Laica, but the concept of a state of law has grown by the 20th century marked by the birth of the concept of a modern state of law (Walfare State). The amended 1945 Constitution also states that "Indonesia is a State of Law (Article 1 paragraph (3).

Understanding the legal state according to Aristotle is a state that stands above the law that ensures justice to its citizens, then according to him who governs in the country is not a human but a fair mind as stipulated in the rule of law while the rulers only hold the law and kesimbagan only/ (La Ode Husen, 2009:10)

2. Democratic Theory

Democracy as the principle used in the constitutional system comes from the Greek language which consists of two syllables namely demos meaning people and cratein yanq means government. Thus seen from the meaning of his words democracy is a people's government, which then defined the government of the people, by the people and for the people. In its development, the definition of democracy in principle does not change that is a system of government where it is held by the people or at least the people are included in the discussion of governance issues (Joeniarto 1984: 22).

Pragmatically democracy was put forward by Abrahan Lincon as "us government of the people, by the people, for the people" which implies that the government is owned and run by the people themselves (the people are self-governing). This is in contrast to the concept of communist democracy: "the communist concept of democracy aims at neither government of the people not at government by the people, but a government in the interest of the people"; (Bagir Manan, 1999: 12). In this connection, Sri Soemantri (1971: 26) states that we already know that Pancasila democracy has two kinds of understanding, both formal and material. As the realization of Pancasila democracy in the formal sense, the 1945 Constitution of the Republic of Indonesia adopts what is called indirec democracy. What is meant by indirect democracy is a democracy where the implementation of people's sovereignty is not implemented by the people directly but through the institutions of

people's representation such as the People's Legislative Assembly, and democracy in the sense of life or democracy as the democratic philosophy.

Democracy developed in Indonesia is a democracy that refers to the normative value of the constitution, as Miriam Budiarjo (2000: 52) notes, that the characteristic of constitutional democracy is the idea that a democratic government is a government restricted to its power and is not allowed to act arbitrarily its citizens. This is in accordance with Article 1 Paragraph (2) of the 1945 Constitution of the State of the Republic of Indonesia (third Amendment) which reads sovereignty in the hands of the people and is implemented according to the Constitution.

In a democratic country, accountability is an absolute indicator which means that every holder of office elected by the people must be able to account for the wisdom they intend to and have taken. In the state system that the principle of democracy is a means that plays a vital role, so it can be said that democracy is a people's government, which then defined the government of the people and for the people. Therefore democracy has significance for the people who use it because with democracy, the right of the people to decide for themselves the way regional and state organizations can be guaranteed, and democracy as the basis of the life of the country gives the understanding that in the end the people give provision in the main issues concerning their life, including in choosing state policy, because it determines the life and future of the people. So a democratic country is a country organized based on the will and will of the people. Thus, it can be understood that the sovereignty of the people has an important role in the administration of the state because it is the people themselves who know how the state fittings act toward the common welfare objectives.

IV. DISCUSSION

1. Implementation of the Supervision Function of the Regional House of Representatives on the Implementation of Regional Budget

Implementation of Regional Government in the framework of regional autonomy requires new innovation in the field of Government as a whole. And it's time to think for future governmental interests a pattern of interaction between the executive and the legislature in the region by creating a mechanism of "Cheeks and Balances" at the local level. With the enactment of Law Number 23 Year 2014 on Regional Government and Law Number 33 Year 2004 regarding Financial Balance between Central and Regional Government, has resulted in fundamental changes in the implementation of local government. The amendment will change the overall governance map in Indonesia including changes to regional controls that will have implications for changes in oversight of local budgets. The granting of wide autonomy to the regions brings the consequences of institutional adjustment and the pattern of relationships between local supervisory and audit institutions. Supervision is the duty and authority of the Regional People's Legislative Assembly in accordance with Article 42 Paragraph (1) point c, Law Number 23 Year 2014 on Regional Government: "The Regional People's Legislative Assembly has the duty and authority to exercise control over Regional Regulations and Legislation other legislation, regional head regulations, regional expenditure budgets, local government policies in implementing development programs.

One of the forms of good governance is the image of democratic government. The most important principle of democracy is to put power in the hands of the people, who at the last stage of the people provide provisions on key issues concerning their lives, including in assessing the policies of the government and the state, because they determine the lives of the people. In the system of state administration, the Regional People's Legislative Assembly (DPRD) is designated as one of the elements of government organizers. As mentioned in Article 1 paragraph (2) of Law Number 23 Year 2014 is the organizer of the affairs of the Regional People's Legislative Assembly in the system and principles of the Unitary State of the Republic of Indonesia as intended in the Undang- of the 1945 Constitution of the State of the Republic of Indonesia. The position of the Regional People's Legislative Assembly as mandated by Law No. 23 of 2004 implies that between the regional head and the DPRD actually have equality and equality and there is no dominance of either.

The DPRD is placed into the regional government structure with the regional head, the pattern of relations between the regional head and the DPRD is implemented subordinate in the sense that there is no bargaining position of DPRD to all policies issued by the regional head, so that the existence of DPRD in the new order period is no more than a stamp for legalize every program and activity proposed by the head of the region, let alone have to control the way the local government. After the collapse of the new order regime, the DPRD is established as a regional legislative body with the strengthening of the role and function of the Regional People's Legislative Assembly especially its control function against the local government. Seeing the existence of the parliamentary institutions in the era of regional autonomy, it is appropriate that the DPRD can carry out its functions in a more optimal manner. One of the functions that is owned by the DPRD is a supervisory function. The function of DPRD oversight of local government is very important to be optimized. This is based on the function of DPRD oversight of local government has a very important role in realizing Good Governance in Indonesia especially in the region, because after all the DPRD is a representative body of

people who are in the region to convey the aspirations and it is appropriate that the people also participate in overseeing the way local government as reflected by the implementation of DPRD oversight function to local government (executive as policy implementer). With the supervision done by the local parliament to the local government is certainly a reflection of the implementation of checks and balances mechanism in the management of good governance (good governance) in the region.

The Regional People's Legislative Assembly has the following functions:

- a. Legislation, is a function of the DPRD to establish regional regulations with regional heads.
- b. The budget, which is a function of the DPRD, together with the regional government, develops and sets out the Regional Revenue and Expenditure Budget, which includes the budget for the implementation of DPRD functions, duties and authorities.
- c. Supervision, is a function of the Regional House of Representatives (DPRD) to carry out supervision on the implementation of laws, regional regulations, and decisions of regional heads as well as policies set by the regional government.

In addition, the duties and authorities of the Regional People's Legislative Assembly include:

- a. Establish local regulations that are discussed with the head areas for joint approval;
- b. Discuss and approve the draft of the local regulation on the regional income and expenditure budget proposed by the regional head;
- c. Carry out supervision on the implementation of regional regulations and other legislation, regional head regulations, regional budgets, local government policies in implementing regional development programs, and international cooperation in the regions;
- d. To propose the appointment and dismissal of regional head / deputy head of region to the President through the Minister of Home Affairs for the Provincial DPRD and to the Minister of Home Affairs through the Governor for the district / city DPRD;
- e. Choosing the deputy head of the region in the event of vacancy of the deputy head of the region;
- f. Providing opinions and considerations to local governments on international agreement plans in the regions;
- g. Approval of international cooperation plans undertaken by local governments;
- h. Requesting a report on the accountability of regional heads in local government administration;
- i. Establish a regional election supervisory committee;
- j. Conducting supervision and requesting KPUD report in organizing regional head election;
- k. approving inter-regional cooperation plans and with third parties which burden communities and the regions. Based on Law Number 27 Year 2009 About Mpr, Dpr, Dpd And Dprd, Sebafaimana Has Been Replaced With Law of the Republic of Indonesia Number 17 Year 2014 About Majelis Permusyawaratan Rakyat, Dewan Perwakilan Rakyat, Dewan Perwakilan Daerah, his duties and authority to the DPRD are granted some rights and obligations.
- 2. The Effectiveness of DPRD Oversight Function Against the Implementation of Maros Regency ABD Members of Parliament Kabipaten Maros General Pemlihan Year 2014 amounted to 35 people with the details in table 1 as follows:

Partai Politik Jumlah Kursi Keterangan No **PAN** 10 2 **GOLKAR** 4 3 **GRINDRA** 4 4 NASDEM 3 5 HANURA 3 DEMOKRAT 3 6 7 PKS 2 2 8 PPP 9 2 **PBB** 10 **PDIP** 1 11 PKB 1 Jumlah 35

TABLE 1: DISTRICT NUMBER OF MEMBERS Parliament MAROS

Secondary data is processed, 2018

In order to execute the function of oversight of the DPRD of Maros Regency, basically attached to the function of DPRD, it can be taken from the duty and authority of DPRD Kebpaten Kota as laid out in Article 366 of Law Nomot 14 Year 2017 that Regency / Municipal DPRD has the authority and duty: formulate district

/ municipal regulation with regent / mayor, discuss and give approval of draft local regulation concerning regency / municipality revenue and expenditure budget submitted by bupati / walikota, conduct supervision on implementation of regional regulation and revenue and expenditure budget of regency / municipality, propose the appointment and dismissal of the regent / mayor and / or vice regent / deputy mayor to the Minister of Home Affairs through the governor to obtain the approval of appointment and / or dismissal, electing the deputy regent / deputy mayor in the event of vacancy of vice regent / deputy mayor. : to provide opinions and considerations to district / municipal governments on international agreement plans in regions, to approve international cooperation plans undertaken by district / municipal governments, to request reports on accountability of bupati / mayors in local government administration, approval of a plan of cooperation with other regions or with third parties which burden the community and the region, strive for the implementation of regional obligations in accordance with the provisions of legislation; and exercising other powers and duties stipulated in the provisions of legislation.

In order to streamline the function of DPRD oversight of the implementation of the Regional Revenue and Expenditure Budget, the City Regency DPRD is granted the following rights:

Regency / Municipal DPRD has the right:

- a. interpellation;
- b. questionnaire; and
- c. expressed an opinion.

The right of interpellation as referred to in paragraph (1) letter a is the right of the Regency / Municipal DPRD to request information to the regent / mayor regarding the policies of the district / city government that are important and strategic and have broad impact on the life of the society and the state.

The right to inquiry as referred to in paragraph (1) letter b shall be the right of the Regency / Municipal DPRD to investigate the policies of the important and strategic district / municipal governments and have a wide impact on the life of the people, regions and countries allegedly contrary to the provisions of the law.

The right to express the opinion referred to in paragraph (1) letter c is the right of the Regency / Municipal DPRD to express an opinion on the regent / mayor's policy or on the extraordinary events occurring in the region accompanied by its completion recommendation or as a follow-up to the implementation of interpellation rights and the right of inquiry.

Of the overall variable Implementation of the oversight function of the DPRD of Maros district, formally has been running according to existing regulations But it needs analysis related to the factual condition and autput on the performance of Maros District People's Representative Council

In that context, in order to measure the effectiveness of the implementation of the oversight function of the DPRD of Maros Regency can be seen from the opinions of respondents as follows:

Based on the results of interviews with informants in this case with one of the DPRD members who stated that: "the function of DPRD oversight implemented so far is considered effective, because the DPRD and local government have established a partnership to carry out good governance, especially in the preparation of the Budget Pendapatab and Maros District Expenditure The implementation of the DPRD's oversight function in its implementation has been very effective in accordance with the Planning, Preparation and evaluation results in its implementation. Reflection function of DPRD buildin with the functions of the DPRD Budget, where its application is in line with existing legislation relating to the preparation and implementation of APBD.

The results of the study show that the Supervision of the Maros Regency DPRD has been effective as in the above table the response of the 60% assessment has been effective, and 30% rate is less effective, 10% is ineffective. Thus the performance of DPRD members in the implementation of the Legislation function with 60% of respondents who answered effectively can be compared with the substance of the implementation of the supervisory function is an important function in terms of measuring the effectiveness of Maros Regency DPRD.

V. CONCLUSION

- 1. The implementation of the oversight function of the Regional People's Legislative Assembly of the Maros Regency has not yet undertaken the preparation of the DPRD's oversight agenda, including the formulation of standards, systems and standard procedures for DPRD oversight, and involving public participation in the oversight process.
- 2. The function of oversight of Maros Regency DPRD towards the implementation of the Regional Revenue Budget has been implemented even though it has not been effective in this case the DPRD members have not correctly interpreted the function and objectives of the supervision, so it can be an effective check & balance mechanism, can have a positive effect as expected on the management of local government,

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