



ICOn-LBG 2016

**The Third International
Conference on Law,
Business and Governance**

PROCEEDINGS

Hosted by
Faculty of Law, Faculty of Economics and Faculty of Social Science
Bandar Lampung University (UBL)

Icon-LBG 2016

THE THIRD INTERNATIONAL CONFERENCE
ON LAW, BUSINESS AND GOVERNANCE 2016

20, 21 May 2016
Bandar Lampung University (UBL)
Lampung, Indonesia

PROCEEDINGS

Organized by:



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PREFACE

The Activities of the International Conference are in line and very appropriate with the vision and mission of Bandar Lampung University (UBL) to promote training and education as well as research in these areas.

On behalf of the Third International Conference on Law, Business and Governance (3th Icon-LBG 2016) organizing committee, we are very pleased with the very good response especially from the keynote speaker and from the participants. It is noteworthy to point out that about 46 technical papers were received for this conference.

The participants of the conference come from many well known universities, among others : International Islamic University Malaysia, Unika ATMA JAYA, Shinawatra University, Universitas Sebelas Maret, Universitas Timbul Nusantara, Universitas Pelita Harapan, Universitas Bandar Lampung, Universitas Lampung.

I would like to express my deepest gratitude to the International Advisory Board members, sponsor and also to all keynote speakers and all participants. I am also grateful to all organizing committee and all of the reviewers who contribute to the high standard of the conference. Also I would like to express my deepest gratitude to the Rector of Bandar Lampung University (UBL) who give us endless support to these activities, so that the conference can be administrated on time

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CONSULTATIVE BOARD ROLE OF COUNTRY (BPD) IN MONITORING IMPLEMENTATION OF GOVERNMENT IN THE COUNTRY BY ACT NUMBER 6 OF 2014 CONCERNING THE COUNTRY

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Abstract

The country is a unit of community that has boundaries. Authorized to regulate and manage the affairs of government, local community interests and customary rights recognized and respected in the governance system of the Republic of Indonesia. In exercising the authority to regulate and manage their own affairs and interests of local communities. Assigned both central and local government, there must be supervision. Supervising the implementation of the country administration is the most important reason why the Country Consultative Body (BPD) to be formed.

Keywords: Role, Monitoring, Country Consultative Body, Government

1. INTRODUCTION

Indonesia is an archipelagic state which very broad. Indonesia's territory extends from Sabang to Merauke. As set out in Article 25A, the Unitary Republic of Indonesia is an archipelagic country, characterized by the archipelago with the area boundaries and rights are defined by the Act, in conjunction with Article 1 (1) State of Indonesia is a unitary state with a Republican form, in conjunction with Article 37 paragraph (5) of the Act of 1945, which specifically states regarding the Unitary State of the Republic of Indonesia cannot be changed.

In terms of structure, the unitary state is a sovereign and independent state, in which all the country's ruling only one as the central government governing the whole area. So singular in nature, meaning that there is only one state, no state within a state. In a unitary state, regional division also held that in each region there is a state organization that is independent and has its own government, the local governments.¹

Unitary Republic of Indonesia includes many islands from a large to a small one, it is not possible if everything would be taken care of by the central government based in the State Capital. To take care of the implementation of the State Government, up to all corners of the region it is necessary to set up a local government. The local government is a corporation or organization that is more of a passive form, while the local government is its active form. In other words, local governments are activities carried out by local governments.² The local government organized a government that is directly related to the community, which is an extended arm of the central government is entitled to regulate and manage their own household. Such as granting the right to the regions to establish regional regulations and other regulations to implement autonomy and duty of assistance. One of them is an autonomous Country.

The country is the division of administrative regions in Indonesia, led by the head of the country, and is a unit of community self-government based on the origin, local customs and the lowest government. Unity of the people do not use the same name throughout Indonesia. A country is a collection of several small settlement units called countries or hamlets.³

¹ Lintje Anna Marpaung, *Azas Ilmu Negara*, Pustaka Magister, Semarang, 2006, pg. 111

² Hanif Nurcholis, *Teori Dan Praktik Pemerintahan Dan Otonomi Daerah*, PT. Gramedia Widiasarana Indonesia, Jakarta, 2005, pg. 19

³ Khairuddin Tahmid, *Demokrasi Dan Otonomi Penyelenggaraan Pemerintahan Desa*, Seksi Penerbitan Fakultas Syari'ah Iain Raden Intan Bandar Lampung, Bandar Lampung, 2004, pg. 19.

Article 1 (1) of Act No. 6 of 2014 on the Country, the country is a country and rural indigenous or called by other names, hereinafter called the country, is a legal community unit which has borders with the authority to regulate and manage government affairs, the interests of the local community based community initiatives, the right of origin, and / or customary rights recognized and respected in the governance system of the Republic of Indonesia. Based on Article explanation, it is clear that the country has the authority to regulate and manage the interests of society in accordance with the local social and cultural conditions. The country has the authority stipulated in Article 19 of Act No. 6 of 2014 concerning the Country.

The authority of the Country include:

- a. The authority of origin based rights
- b. Scale local authority country
- c. The authority commissioned by the Government, Provincial Government, or the Government of Regency / City; and
- d. The other powers assigned by the Government, Provincial Government, or the Government of Regency / City in accordance with the provisions of the legislation.

In exercising the authority to regulate and manage their own affairs and interests of local communities, based on the right of the origin and authority assigned both central and local government, there must be supervision. Because there is no right without obligation, no authority without responsibility and no freedom without limits. Therefore, in exercise of the right, authority and freedom in the implementation of autonomy, the Country must uphold the values of responsibility towards the Republic of Indonesia by emphasizing that the Country is an integral part of the nation and state of Indonesia.

In order to implement the authority is to regulate and manage the interests of society, formed the Country Consultative Body (BPD), which is the embodiment of democratic institutions in the implementation of the Country administration. Country Consultative Body Member - (BPD) is representative of the Country's. As legislatures and container which serves to accommodate the aspirations of society, this Institution is essentially a Country government partners.

Country Consultative Body (BPD) can create a draft Regulation of the Country which is jointly Country Government is set to Country regulations. In this case, BPD as supervisory institutions have a duty to exercise control over the implementation of Country regulations, Budget Country (APBDes) as well as the course of the Country administration. One source of Country income stipulated in the Act Country is the Country Fund Allocation (ADD), each Country will get funding from the state budget reached 1 billion / year.⁴

With the country allocation fund is large enough, the course presents new challenges for managing these funds to accelerate development in the Country as well as overseeing the funds are not misused. If the Country earn billions in a year, it is not impossible if later many Country heads who deal with the law because it has hurt state finances. Corrupt practices could be moved from the city to the Country.

That's necessary control mechanisms of society to supervise the use of this ADD. In order for these funds according to its purpose of improving rural development. Given the increasingly strong rural finance in the current era, the Country government organization are required to be more accountable and transparent, supported by a system of checks and balances between the Country authorities and Country Consultative Body (BPD). Supervision of the implementation of government is one of the most important reasons why the Country Consultative Body (BPD) to be formed. Country Consultative Body (BPD) serves as supervising the performance of the Country administration, this function is very important to ensure that the agreed program can be implemented in accordance with the goals and objectives that have been set.

Based on the description of the background of the above, the authors are interested to be able to conduct research / study entitled "Analysis of the Role of the Country Consultative Body (BPD) In Oversee the administration of government in the Country Under Act No. 6 of 2014 About the Country". Research / study was conducted in one of the Country's that are in Tanjung Bintang South Lampung regency. Based on the above, then that becomes a problem in this study are as follows; First, how the role of the Country Consultative Body (BPD) in overseeing governance at the Country of Sabah Balau?

⁴ Haw Widjaja, *Otonomi Desa Merupakan Otonomi Asli, Bulat Dan Utuh*, Raja Grafindo, Jakarta, 2003, pg. 48

Second, what are the factors inhibiting the Country Consultative Body (BPD) in conducting surveillance in the Country of Sabah Balau?

2. RESEARCH METHODS

The method used is, juridical normative and empirical approach. Data collection procedures consist of literature studies and field studies. While the data processing carried out by the method of editing, systematization and classification data. The analysis is qualitative.

3. DISCUSSION

A. The role of Country Consultative Body (BPD) Supervise Government Activity In Sabah In the Country of Balau

Country Consultative Body (BPD) is a manifestation of democratic institutions in governance as an element of the Country and Country administration. BPD has a very important function in the governance of the Country, which is regulated in Article 55 of Law No. 6 of 2014 concerning the Country. The functions are:

- a. discuss and agree on the Draft Regulations Country along the Country Head
- b. and share their aspirations and Rural Communities
- c. to supervise the performance of the chief.

Based on the contents of Article 55 (c) above, it is known that BPD has the function of monitoring the performance of the chief, the function is very important in order to avoid irregularities committed by the Country chief in charge of organizing the Country administration, implement rural development, and coaching Countries. Given the way the Country administration functions performed by the Country Head supervised by the Country government as BPD. Supervision is expected that the governance process in the Country can walk properly.

Roswildan AKIP Sabah, chairman of the Country BPD Balau explained that BPD in Country government serves as the legislative body and parallel to the Country government. Within the organization structure of the Country, BPD as a representative body is the vehicle for implementing democracy based on Pancasila, BPD is a partner of the Country government. In other words, the Country administration was organized jointly by the Country government and BPD. The BPD thus serves as one element of the Country administration. According Roswildan AKIP, the presence of BPD to build cheks and Balances as well as to the aspirations of the Countryrs. (Interview with Roswildan AKIP, 2015)

Furthermore Roswildan AKIP said that BPD in mengawasi legal basis governing of the Country has been regulated in Law No. 6 of 2014 on Country that is Article 61 which states, Country Consultative Body entitled:

- a. monitor and inquire about government administration Country to Country government
 - b. express an opinion on the governance of the Country, the implementation of rural development, rural community development, and community empowerment and
 - c. obtain operational cost of implementation tasks and functions of the Budget of the Country.
- (Interview with Roswildan AKIP, 2015)

Further Roswildan AKIP said Article 61 paragraph (a) above which confirms that the BPD has a role in overseeing the administration of the Country. As the legislative body of the Country, BPD serves as a representative of the Countryrs. (Interview with Roswildan AKIP, 2015) Thus, the BPD is in a position / positions in the community, not in the executive branch of the Country, which is not, as the executor of the Country administration as well as the position of Country Chief device. Based on that position, BPD basically have the core tasks for:

- a. Formulate Regulations (legislating function) needed by the Country, which will be approved by the Country Head
- b. Together Country chief made the Budget Revenue and Expenditure Country (budgetting function)
- c. Keep an eye on the Country executive (These devices and their Country chief) in the implementation of daily administration (controlling function).

In exercising oversight of the executive Country, Roswildan AKIP said, BPD is obliged to:

- 1) attention and reminded that all laws, programs, and the budget is actually implemented correctly and properly by the Government as the Country Head Country

- 2) The control namely, question, reprimand, and investigate matters relating to the implementation of the regulation, as well as the Country program Revenue and Expenditure Budget Country that allegedly deviate
- 3) evaluate namely, assess and decide on deviation / violation of the regulations, the Country program and budget by the Country Head and / or by the Country. (Interview with Roswildan AKIP, 2015)

Based on the above description, it can be analyzed that the supervision over the administration of the Country led by Chief of the Country is the duty BPD. Surveillance efforts are intended to reduce the deviation of authority and Country finances in the administration of the Country administration. BPD conduct monitoring on how a Country government programs, regulations and decisions have been established jointly implemented by the Government BPD Country / Country Head well. BPD entitled to express an opinion on the governance of the Country, the implementation of rural development, rural community development, and community empowerment.

Roswildan AKIP role of BPD in overseeing the administration of the Country consists of:

1) Monitoring the implementation of Country regulations.

In the implementation of Country regulations, BPD also exercise control or supervision of the regulations of the Country. Implementation of the regulatory oversight of the Country in question here is the implementation of the supervision of the Budget of the Country (APBDes) that serve as the Country regulation and supervision of the decision of the chief. Implementation of supervision by BPD is as follows:

a. Supervising the implementation of Country regulations.

BPD in carrying out its functions oversee Country regulations in this regard is to monitor every action taken by the Country government. According Roswildan AKIP as Chairman of the Sabah Country BPD Balau. All forms of Country government, are closely monitored and supervised by us as BPD this is done to see if there are deviations rules or not. Some ways of supervision conducted by the BPD to the implementation of Country rules, among others:

1. Supervise all actions performed by the Country government.
2. If there are deviations, BPD give a warning for the first time in a family.
3. If there is a very hard act to be resolved, then the BPD will give warning and appropriate warnings that have been stipulated in the regulations such as reporting to the Head and heads for further action.

b. Supervision of the Budget of the Country (APBDes). Supervision of the APBDes can be seen in the accountability report every end of the fiscal year. Each year the Country Head provide accountability reports to BPD, about things that have been done by the Country Head and devices in the capacity of Country government, in its report menyapaikan Country chief achievement of acceptance and realization of Revenue and Expenditure Budget Country. The form of supervision by BPD, namely:

1. Keep track of all income and expenditure of the Country treasury.
2. Monitor regularly about the funds used for the construction of the Country, to avoid deviations.

2) Monitoring the performance of the Country Head

BPD has the authority to oversee the performance of the performance while the Country chief Country chief who supervised by BPD is the duty of the Country Head stated in Article 26 paragraph (1) of Act No. 6 of 2014 concerning the Country. Which states that the Country Head in charge of organizing the Country administration, carrying out rural development, rural community development, and community empowerment.

3) Monitoring of the rural development

Supervision of rural development can be done in three (3) stages of rural development, namely: Planning phase, implementation phase, and phase Reporting and Accountability. (Interview with Roswildan AKIP, 2015)

According Sukadi as Vice Chairman of the Sabah Rural BPD Balau, people also have the authority to oversee the implementation of rural development, he said the public needs to follow up on the findings of the supervision and monitoring of rural development so that no improvement by the Country government. The public can report monitoring results and various complaints against the implementation of rural

development to the BPD. Various findings can be input during the discussion of the implementation of rural development in Country meetings. (Interview with Sukadi, 2015)

Further Sukadi said BPD's role in overseeing the government organization that covers all activities of the Country administration. The basis for the BPD oversee the governance contained in Article 61 (a) of Act No. 6 of 2014 concerning the Country. BPD is entitled to supervise and inquire about the implementation of the Government Country to Country Government. And the BPD also entitled to supervise the performance of the Country Head as listed in Article 55 (c) of Act No. 6 of 2014 concerning the Country. According to the Country chief's performance includes the execution of duties as the Country Head of Country Administration is running Country governance. (Interview with Sukadi, 2015)

Based on the above description, it can be analyzed that the role of BPD in overseeing the administration of the Country is based on the content of Article 55 (c) which states, Country Consultative Body has the function of monitoring the performance of the chief, in conjunction with Article 61 (a) of Law No. 6 Year 2014 concerning the Country, the Country Consultative Body reserves the right to monitor and inquire about the administration of the Country to the Country government.

The Country government referred to above is the Country head. It is based on the contents of Article 23 of Law No. 6 of 2014 on Country that reads, Country governance organized by the Country government, in conjunction with Article 25, which states the Country government as referred to in Article 23 is the Country chief or called by another name and is assisted by the Country or called by another name.

Based on the contents of the article above, it can be seen that the head of the Country as the Country government to organize the administration in the Country of BPD supervised by the representatives of the communities. This oversight is necessary to avoid deviations by the Country government in organizing the Country administration. Supervision by the BPD covers the performance of the Country Head in carrying out their duties set forth in Article 26 paragraph (1) of Law No. 6 of 2014 on the Country, which is to govern the Country, carrying out rural development, rural community development and empowerment of rural communities.

According to the Country chief Sabah Misyanto as Balau, supervision in the Country not only involve BPD alone, but also involves the participation of the community itself. He said the supervision of the administration of the Country is also the responsibility of society not only BPD. Society can provide advice, criticism and suggestions to the Country Head and BPD in case of violation of rules and regulations. According to BPD in overseeing the implementation of regulations and APBDes based on stages in the regulatory process, namely:

1. The standards implementation (planning);
2. Monitoring the implementation of activities;
3. Evaluate. (Interview with Misyanto, 2015)

Based on the above description can be analyzed that the BPD Supervision of the implementation of Country regulations also involve the participation of the Country residents. In the process of drafting regulations also involve Country residents Country. It is stipulated in Law No. 6 of 2014 concerning the Country. Namely in Article 69 paragraph (9) states, the draft regulations required Country, consulted and (10) of Country communities the right to provide input on the draft regulation of the Country. Regulation of the Country in its implementation monitored by the BPD and Country residents, since the rules set for the benefit of rural communities.

APBDes is one Country regulation overseen by the BPD. The legal basis for supervision are set out in Act No. 6 of 2014 on Country jo Government Regulation No. 43 Year 2014 concerning the Implementation Regulations of Law No. 6 of 2014 concerning the Country.

1. Article 73 paragraph (3) of Law No. 6 of 2014 concerning the Country: Country Head set Budget Country every year with Country regulations.
2. Article 48 (c) of Government Regulation No. 43 Year 2014 concerning the Implementation Regulations of Law No. 6 of 2014 concerning the Country. in carrying out their duties, authorities, rights and obligations, the Country Head mandatory, Delivering information governance report in writing to the Country Consultative Body end of each fiscal year.
3. Article 51 of Government Regulation No. 43 Year 2014 concerning the Implementation Regulations of Law No. 6 of 2014 concerning the Country:

- 1) Head of Country submit reports Country governance statement as referred to in Article 48 c of each end of the fiscal year to the Country Consultative Body in writing at least three (3) months after the end of the fiscal year.
- 2) Reports Country governance statement referred to in paragraph (1) shall at least contain the implementation of Country regulations.
- 3) Reports Country governance statement referred to in paragraph (1) is used by the Country Consultative Body in carrying out the function of supervising the performance of the chief.

Based on the aforementioned regulation, can be analyzed that the BPD Sabah Balau, are not yet fully up to the task to oversee the governance in rural Sabah Balau. This is because there are several factors that constrain BPD in their duties. which among others is the low participation of rural communities to participate in responding to the implementing rules of the Country, as well as delays in the provision of operational funds BPD in their duties and lack of socialization about the duties and functions of BPD in accordance with the legislation. BPD have a role in overseeing the implementation of regulations and APBDes which is one of the Country regulations. It is to avoid irregularities in the administration of the Country administration. Mengawasi BPD role in the organization of Country governance is important, because BPD as an element of an institution that is closest to the Country as well as the voice of rural communities. Therefore, it is expected to be the realization of a democratic process that is either starting from the smallest Country administration system.

B. Inhibiting Factors Being Country Consultative Body (BPD) In Doing Supervision In the Country of Sabah Balau

According Roswildan AKIP as Chairman of the Sabah Country BPD Balau. Factors inhibiting the BPD in monitoring the public does not fully understand the functions performed by the BPD. This will result in differences in understanding between people with BPD members in the realization of its functions. If people do not participate actively in overseeing the administration of the Country can certainly hinder the BPD in their duties. Society's active in conveying aspirations, criticism and suggestions are indispensable BPD as an evaluation to be submitted to the Country government. Hereinafter inhibiting factor is the infrastructure that is absolutely necessary in the performance of the functions of the BPD. Without adequate infrastructure, it is not possible BPD can perform its function optimally. As well as delays in the provision of operational funds sourced from APBDes BPD can also impede the process of monitoring the BPD. (Interview with Roswildan AKIP, 2015)

According Misyanto Balau Sabah as the Country Head. Factors that can act BPD in monitoring include:

1. Attitude;
2. Socialization About Duties and Functions Country Consultative Body;
3. Rural Community Participation. (Interview with Misyanto, 2015)

According Sukadi as Vice Chairman of the Sabah Country Balau BPD, BPD inhibiting factor in monitoring include income / incentives. Financial factors into one of the problems that must be met to support the operations of an institution. Funding problems perceived by BPD Country Balau Sabah. Because the allocation for operational and welfare of BPD is felt to be insufficient. It is felt when the BPD required to optimally perform its functions and role. A further factor is the lack of participation of rural communities in responding to the implementing rules of the Country, and also the implementation of rural development. Lack of cooperation between BPD with Country in overseeing governance hamper the Country can certainly BPD in their duties. (Interview with Sukadi, 2015)

Based on the above description, it can be analyzed that the factors inhibiting the BPD in monitoring basically include:

1. Lack of participation of rural communities
2. Delayed administration of BPD operational funds sourced from APBDes
3. Socialization of the duties and functions of BPD are still low.
4. Income / incentive is low.

Community participation is indispensable BPD in conducting surveillance. Country can be a supporter and BPD obstacle in conducting surveillance, Low active role in community governance process can be a barrier BPD Country in conducting surveillance. Based on the content of Article 68 paragraph (2) of Law No. 6 of 2014 on the Country states that the public shall:

- a. Establish themselves and maintain the rural environment;
- b. Encourage the creation of Country governance activities, the implementation of rural development, rural community development, and community empowerment nice Country;
- c. Encourage the creation of a situation that is safe, comfortable, and at ease in the Country
- d. Maintaining and developing the value of deliberation, consensus, kinship, and mutual cooperation in the Country and;
- e. Participate in various activities in the Country.

Based on the contents of the article, it can be analyzed that the society has a major role in the governance of the Country. Countrys also have the right to participate and to supervise the implementation of the Country administration. The cooperation is not well within communities and can hamper BPD BPD course in conducting surveillance. A further factor is delay in providing operational funds BPD. This will prevent BPD in performing their duties that would require operating costs. Giving operational costs are also contained in Article 61 (c) of Act No. 6 of 2014 concerning the Country. Country Consultative Body which declared eligible for operational cost of implementation tasks and functions of the Budget of the Country. A further factor is Socialization of the duties and functions of BPD is still low is also an obstacle BPD in their duties.

4. CONCLUSION

Based on the description and discussion that has been described in previous Chapters, it can be concluded some of the following:

1. Role of the Country Consultative Body (BPD) in overseeing governance in rural Sabah Balau, are in accordance with Act No. 6 of 2014 concerning the Country. But have not fully maximized, low participation of rural communities in helping BPD supervision as well as delays in the provision of operational funds BPD in their duties. BPD become an obstacle in monitoring the fullest. BPD role in conducting such surveillance has been regulated in Act No. 6 of 2014 concerning the Country. Namely Article 61, which states Country Consultative Body reserves the right to monitor and inquire about the implementation of the Government Country to Country Government. BPD role in overseeing the administration of the Country consists of Supervision in the implementation of Country regulations; Supervision of the Budget of the Country (APBDes) Supervision of the performance of the Country Head; and Monitoring of the development of the Country.

Factors hindering the Country Consultative Body (BPD) In Doing Supervision which includes, low participation of rural communities to participate in governance overseeing the Country, delays in the provision of operational funds sourced from APBDes BPD, lack of socialization about the duties and functions of BPD from the Central Government and Regional , Because there are still some members of the BPD are not really understand what their tasks and functions in accordance with the provisions of the Act are applicable. As well as income / incentives for BPD is still low. BPD is the limiting factor in conducting surveillance.

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