

ANALYSIS OF THE IMPLEMENTATION OF REGIONAL REGULATIONS CONCERNING BUILDING LICENSES

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Abstract

This research is an analysis study of the implementation of the rules regarding building permits in South Buru Regency, many events are more caused by disobedient behavior. In this study, the approach taken is the Juridical Empires approach, namely research that uses primary data and secondary data by extracting data directly from the source. This research is also supported by a normative approach by examining library materials by examining and examining theories, concepts and regulations related to the problem. The results show that there are still many things that happen by the community due to ignorance and indifference to the regulations that have been set. Examples shown by officers who carry out their duties often open up opportunities for violations to occur. This research refers to several incidents in the field so that the compilation of references to facts in the field shows that people's disobedience to building regulations (building permits) is more caused by a factor of awareness. the intended awareness refers to the implementer of the rules as well as the object of the rules.

Keywords: Building Licenses, Regulation, Local Government, Awareness

1. Introduction

The idea of community welfare has existed since the formation of the Unitary State of the Republic of Indonesia. This can be seen in the fourth paragraph of the Preamble of the 1945 Constitution of the Republic of Indonesia which emphasizes that one of the objectives of the establishment of the Republic of Indonesia is to promote public welfare. The conception of government administration services is often used together or used as a synonym for the conception of licensing services and public services, as well as public services. The four terms are used as a translation of public service. This can be seen in government documents used by the Ministry of Administrative Reform (Karabin).

Government administration is indeed equated, used interchangeably and used as a synonym for licensing service which is a translation of administrative service. Meanwhile, the public service, according to the author, is more

appropriate if used to translate the concept of public service. The term public service can be equated or matched with public service. The stipulation of Law Number 32 of 2004 concerning Regional Government and Law Number 33 of 2004 concerning Financial Balance between the Central Government and Regional Government, the second amendment to Law Number 32 of 2014 concerning Regional Government, has implications for opening up development opportunities with a more in line with the region. Development with this approach will provide opportunities for the acceleration of regional development, including regional development which is still relatively underdeveloped (Kim).

Empirically, the decentralization and regional autonomy that have been running so far have not encouraged and have not been followed by better public service improvements. In the implementation of a very strong power-oriented public service, this kind of situation causes the bureaucracy to be further away from its main mission to provide public services so that bureaucratic officials place themselves more as rulers than as servants or public servants. (server/Provider).

This condition has implications for the bad behavior and behavior of the bureaucracy in providing services to the public, and there is even a tendency to ignore the interests of the community and very strong aspirations. The development of a paternalistic culture in the bureaucracy as a dominant variable in carrying out public services for political, economic, bureaucratic elites and members of society who have close relationships with the bureaucracy, including access to public service delivery (Bellazzi et al.; Lionardo et al.). Service discrimination creates justice in a society that is improperly regulated by public bureaucracy. The opportunities and space that the public has to make decisions in public decision-making are very limited so that many government policies and programs are not responsive and experience failure because there is no support from the community. The complaints felt by the community members in processing applications for building permits, hereinafter referred to as IMB, were on the problem of faulty building drawings, so that the business took a long time and even had to repeatedly submit requirements.

Apart from that, granting building permits, hereinafter referred to as IMB, always requires a long mechanism process, a long time and a slow bureaucracy. Citizens who are looking for a building permit (IMB) must obtain information starting from RT, sub-district, sub-district and have just entered the Public Works Service (for industrial buildings) while for ordinary or non-industrial buildings in the Namrole District area, it is submitted to the City Planning Service (Sani).

This lengthy procedure certainly consumes a lot of energy that has to be expended by service users. When a picture error occurs, the process becomes even longer and longer. The authorities have been very slow to process this problem. Community demands are increasing, but the building permit (IMB) bureaucracy has never given a positive response.

To answer the above problems, the South Buru Regency Government-issued Regional Regulation Number 13 of 2011 concerning Building Construction Permits. With the presence of this regional regulation, it is hoped that there will be a sense of justice from both the public and the government perspective. The administration of public services is based on the general principles of good governance and aims to fulfill the state's obligation to serve the public or society in meeting their basic needs (Avanesova) (Amin Rahawarin; M Chairul Basrun Umanailo). The problem that arises at this time is the reality of the implementation of government service functions that have been implemented in the regions, in particular the implementation of service functions in the field of Building Construction Permits (IMB) in South Buru Regency not running according to the wishes and needs of the community, especially IMB applicants, dissatisfaction with the Establishment Permit applicants. The building (IMB) usually complains about a convoluted process, is slow in handling, high costs and is inaccurate in handling so that it is often wrong to do image administration so that the applicant must follow additional procedures or repeat procedures that extend the time for issuing a Building Permit (IMB)(Asif et al.).

2. Method

In this research, the approach taken is the Juridis Empires approach, namely research using primary data and secondary data by extracting data directly from the source. This research is also supported by a normative approach by examining library materials by studying and examining theories, concepts and regulations related to the problem.

In this research, the object of research is the issuance of building permits (IMB) in South Buru Regency. Based on the consideration that the location of this research which aims to curb Regional Regulation no. 13 of 2011 concerning Building Construction Permits (IMB) in South Buru Regency (Kanto et al.; Nuraini et al.). Regarding this research based on secondary data, the first step in data collection is to conduct library materials and document studies (Romlah et al.; M. Chairul Basrun Umanailo). The library materials and documents studied are related to problems, both those related to government service function problems, especially in the field of building permits (IMB) or related to the performance of public services.

Besides, field studies were also carried out through a series of interviews with related agencies, interviews were carried out after conducting an inventory of problems in a more concrete manner, relating to the opinions of scholars regarding Administrative law, related to government service functions, especially in the field of Building Construction Permits (IMB) and relating to the factors that affect the performance of public services to obtain as much data as possible about sources and information relevant to the subject matter and research (Mu'adi et al.).

3. Results and Discussion

The essence of the influence of law on society is the behavior of the community following the applicable law or that has been decided. If the community behaves following what is expected or desired by law, it can be said that the law in question is effective". In other words, a law is said to be effective if the law has a positive impact or in other words, the law can achieve its goal in guiding or changing human behavior (so that it becomes legal behavior). However, in reality, it is not that simple. because there are various kinds of factors that can influence it. The data can be presented in the following table.

Table 1. Data of the IMB Licensing in South Buru

Districts	Year		
	2017	2018	2019
Namrole	15	17	21
Waesama	33	40	36
Ambalau	15	12	16
Kepala Madan	16	16	17
Leksula	21	29	28
Fena Fafan	10	9	11
Total	110	123	129

Table 1 shows the low level of public interest in obtaining building permits in South Buru Regency. This is supported by several factors found from the results of observations as presented below.

Table 2. Factors Effecting the IMB Licensing in South Buru

Domain	Existed	Unexisted
Regional regulation	√	-
Socialization	√	-
Sociological Aspect	√	-
Government Apparatus competence	-	√
Sanction	-	√

Symbols √ indicate the existed program and symbol - indicates unexisted program. It shows that the government apparatus who work in the IMB office has low competence in serving the licensing of IMB and also there was no sanction for the society. Factors that influence the effectiveness or not of an ineffective legal regulation can be found in the framework of its implementation process by the implementers, both the sanctioning institution and the community holding the role. The factors that have been mentioned above also affect the process of the implementation of the IMB granting to the applicant. Based on the working model of the legal regulation from Robert B. Siedmen, starting from what has been described above, in the discussion of the factors that cause the ineffectiveness of the IMB Giving Regulation for South Buru Regency can be caused by several factors.

3.1 Laws and Regulations Factors: Weak Sociological Aspects in Regional Regulations of South Buru Regency concerning IMB.

In terms of sociological requirements, the Buru Selatan Regency Regional Regulation relating to the IMB has not been implemented properly by the implementing apparatus and the people of South Buru Regency itself. The main reason is that the IMB regional regulation has not been disseminated clearly and firmly to the public, this has caused doubts about the community who submitted the IMB whether it is necessary or not and related to costs and procedures. The law enforcement agency (Legal Structure) is an important element in the implementation of law enforcement efforts. Law enforcement agencies are not only in the form of judicial institutions (police, prosecutors, and courts) but also non-judicial institutions, not only repressive but also preventive law enforcement agencies, and not only institutions for implementing sanctions but also monitoring institutions.

The Civil Service Police Unit (PP) as the apparatus for implementing sanctions which is less professional has become an obstacle to the functioning of the sanctions application agency in supporting the realization of the implementation of the IMB granting. Some of the actions that do not reflect the lack of professionalism of the sanctioned officers include:

Inaction in imposing sanctions causes the effectiveness of sanctions to be weak, besides that it can also result in the community becoming distrustful so that the authority of the IMB regional regulations and the South Buru Regency Government as the enforcer has decreased, several indicators show the slowness of the sanctions implementing agency in imposing disciplinary penalties on Regulatory Offenders regions can be seen from the number of cases of violations that are not prosecuted. As it is known, every form of violation will be subject to sanctions by the South Buru Regency Government as the official with the authority to punish to become a deterrent. In this case, if necessary, the absolute punishment theory is used, namely deterring the perpetrators (Kotlewski and Dudzińska-Jarmolińska; Sa'adah et al.). To enforce the IMB regional regulation, the provision itself must be carried out in earnest by the South Buru Regency Government as the authorized official. Failure to carry out these provisions is the same as not doing anything about violations that have occurred, the same means having allowed the violation to take place. Allowing violations to take place is also undisciplined. This is a factor in decreasing community discipline in applying for an IMB permit.

Supervisory institutions, supervisory apparatus who are less professional have become obstacles to the functioning of local law enforcement agencies in supporting the realization of the implementation of the IMB for the welfare of the community. All parties today are determined to perfect and make more use of the government apparatus and development apparatus to create an apparatus that is clean, authoritative, and capable of "good governance". All parties are also determined to further enhance in a more integrated manner the supervision and enforcement measures.

This implies that there are still officers who are less authoritative and less capable and have not yet integrated supervision and the steps to take action are not in fact. Each leader of all government organizational units is a state apparatus, a state servant who acts as a supervisory functional apparatus, while on the other hand (the rest) there are Civil Servants, state apparatus, state servants as a group of supervised apparatus. Nevertheless, essentially all Civil Servants are supervisors, at least to themselves, who must be able to control themselves, supervise themselves towards the implementation of laws in general and regional regulations on IMB in particular. As a supervisory functional apparatus, as a superior who each has subordinates, he must first understand the regional regulations to be enforced. As a direct supervisor, he must know what things are prohibited by law and what things must be done.

To carry out supervision, the superior apparatus must be guided by the applicable legal provisions, namely Presidential Instruction Number 15 of 1983 concerning Guidelines for the Implementation of Supervision (Dawud, Joni, Rodliyal Ramdhan Tackbir Abubakar). So far, efforts to supervise the level of discipline of civil servants are still weak. The contributing factors, among others, are the lack of laws and regulations concerning the supervision of the discipline of Civil Servants. Besides, it is also caused by a lack of understanding of the content of regional regulations that are enforced. As mentioned earlier, only one form of supervision is functional supervision. Weak supervision is also caused because so far the inherent supervisory function has not been used optimally by superiors to determine the level of performance of their subordinates. Unprofessionalism of the IMB regional regulation enforcement apparatus as described above cannot be separated from the various factors that influence it. As stated by Soerjono Soekanto that "in carrying out its role, law enforcement officers are involved in a discretionary process because they must harmonize the consistent application of the law with human factors" which

includes (three), namely: raw input, namely the background family and education; instrumental input, which is the influence of the institution where he works; and environmental input, namely the influence of the wider community. The incompatible influence of these three factors will result in frustration, conflict, and concerns in playing roles (role performance or role-playing).

This situation will result in the use of defence mechanism which can have negative consequences. The use of the defense mechanism in the discretionary process is likely to result in obstacles to functional law enforcement.

As an element that determines the efforts to enforce the law of regional regulations, every apparatus of the South Buru Regency Government, especially the civil service police unit, is required to be able to carry out their duties professionally, so that their duties to enforce the IMB regional regulations can run smoothly and law enforcement efforts become more effective. As it is known, institutions in Indonesia are currently littered with various behaviors that are contrary to universal legal values adhered to by society, such as corruption, collusion, nepotism, abuse of authority and so on. And among these institutions that are alleged to be their hotbed are the authorities. This condition has taken root, even as if it became a systematic culture. Thus it is natural that most of the regional government apparatus of the South Buru Regency, including those authorized to grant IMB permits, will also be affected. The influence of institutions that hurt the attitudes of local government officials in South Buru Regency can also result from:

Lack of service to the demands of Civil Servants' rights, especially regarding decent wages. With salaries and benefits that are not balanced with the workload of Civil Servants because they also have other duties as generally carried out by Civil Servants. This will encourage them to carry out undisciplined practices such as extorting illegal fees in the IMB application. Administrative management within the institution concerned also greatly affects the performance of each officer.

There is still reluctance from the wider community who are reluctant or daring to provide reports or information about indications of irregularities (for example extortion) of an individual or several civil servants will result in the implementation of IMB granting to be hampered. Likewise, in the Civil Servant environment, there is still a tendency not to report to the competent authorities any procedural irregularities committed by colleagues because the civil servants who are going to be reported are of higher rank or have threatened or terrorized them.

Apart from the factors of mentality or professionalism of the apparatus above which are more qualitative, the factor of availability of human resources, especially those who understand and understand the nature and procedures for granting IMB permits is also very limited (quantitative factors of law enforcement officers) so that many IMB applications cannot be handled quickly and precisely.

3.2 Ineffective Sanctions for Communities Who Violate Regional IMB Regulations

Certain groups argue that one of the important efforts to make the law effective (so that it has a positive legal impact), is to determine sanctions. The sanction is an incentive to do or not to act. Sometimes sanctions are defined as an approval or rejection of certain patterns of behavior in society.

Thus, there are negative sanctions and positive sanctions. Narrowly, negative sanctions mean a punishment, while positive sanctions are rewards (as a result of compliance with certain laws). In reality, it is not too easy to determine that particular law will be effective if it is accompanied by sanctions (both positive and negative).

However, the main factor that needs to be considered in determining whether these sanctions play a role in making the law effective is the problem of the characteristics of the sanctions themselves (Meirini et al.; Romlah et al.; Umanailo et al.). How is the sanction: whether the sanction is in the form of a heavy sanction or just light. It is closely related to this is the perception of the community members in taking risks, especially if they violate a regulation which is accompanied by a negative sanction. If a member of the community dares to take risks, even though they are speculative, it can be assumed that the negative sanctions have very limited consequences. This problem is closely related to the period of application of the negative sanctions. If the sanctions are imposed immediately there is a possibility that the consequences will be much more effective than if the implementation is postponed. Inaction in applying negative sanctions to certain behaviors is one of the factors that cause sanctions to be ineffective. This means that it seems as if the citizens do not believe it anymore so that the authority of the law and its enforcement will decline.

The effectiveness of sanctions also depends on the characteristics of the people affected by the sanctions. This includes, among other things, the number of people affected, where the fewer people have affected the higher the

effectiveness. Apart from that, it also depends on each person's personality. There are certain people solely for the satisfaction of feelings. It seems that it is very difficult to influence his behavior with sanctions, which in general will limit the behavior of those who use their minds more.

To efforts to create an effective implementation of the IMB granting in South Buru Regency, the Buru Selatan Regency IMB regional regulations have regulated several levels and types of sanctions. When viewed from the nature of the sanctions regulated in the IMB regional regulations are negative sanctions in the form of "fines" . However, in terms of their effectiveness, it turns out that these sanctions have not deterred the perpetrators of disciplinary violations or in other words sanctions in the form of fines have not been effective. This is caused by various factors, namely:

The imposition of sanctions in the form of fines against perpetrators of violations of the IMB regional regulations tends to be slow and less firm. Inaction in the imposition of fines, the effectiveness of sanctions is weak. Besides, it can also result in the community becoming distrustful so that the authority of the law and its enforcers will suffer a decline which can lead to the tendency of the community to commit various forms of violations of the IMB regional regulations to try whether the fine is actually imposed or even released. Several indicators that do not indicate the existence of fines imposed on violators of the IMB regional regulation can be seen from the rampant cases of building violations without building permits by the community. And the violation is not immediately subject to a fine, but people who apply for a permit but are late are immediately fined.

The imposition of fines that are not commensurate As it is known that every form of violation will be subject to disciplinary sanctions by the government. To enforce public discipline, the provisions themselves must be carried out in earnest by the competent government. Failure to implement this provision is tantamount to not doing anything about the violations that have occurred, it also allows violations to the IMB regional regulation.

Allowing violations to occur is also undisciplined. This is one of the factors in decreasing community discipline in applying for an IMB. Enforcement of regulations is thus the obligation of the South Buru Regency Government through the Civil Service Police Unit. It is not violence that is prioritized, but rather firmness and attitude, first and foremost, as an actor in upholding local regulations. Sometimes local governments feel "sorry" for taking action against the community. There are even those who fear that society will be considered disliked for fear of having a political impact.

The imposition of fines must be correct or following the form of the violation so that it is felt fair and it felt like a form of guidance and education. Understandably, every human being has weaknesses, flaws, mistakes as a negative part of himself. With the existence of an equivalent sentence statement, it will eliminate the impression of arbitrarily, arbitrarily and following the purpose of imposing fines on people who violate the Perda IMB will feel "educational" if it is appropriate and quickly enforced and the punishment. Well Giving disproportionate sanctions can also make violators of the IMB regional regulations not feel afraid. This condition will also encourage the emergence of new actors because the sanctions imposed are considered insufficient, for example, the value of benefits obtained. Besides, with a fine that is not worth it will cause dissatisfaction for those who feel disadvantaged.

4. CONCLUSION

The Regional Government of South Buru Regency is in charge of organizing the Government by carrying out government affairs based on the applicable law. Including among them is the authority to grant IMB permits whose implementation must comply with various applicable laws and regulations including Regional Regulation Number 13 of 2011 concerning Building Construction Permits in Buru Selatan Regency. Factors Affecting the Implementation of Regional Regulation Number 13 the Year 2011 Regarding Building Construction Permits in South Buru Regency, among others: Laws and Regulations Factors: Weak Sociological Aspects in Regional Regulation Number 13 the Year 2011 concerning IMB due to lack of socialization. Apparatus factors: IMB service officers and civil service police units as law enforcement agencies IMB regional regulations have not functioned optimally. Public Legal Awareness Factors: Lack of Legal Awareness and Compliance with the Community of South Buru Regency regarding the Awareness of applying for an IMB.

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Biography

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HADJRAH born in Kupang, East Nusa Tenggara on April 25, 1971, is the third of six children of Arifin Samauna (deceased) and Aminah J.A. Talib. After graduating from the Animal Production Department. Faculty of Animal Husbandry. Nusa Cendana University. Kupang. 1996. In 2011 this little woman was appointed as a lecturer at the University of Muhammadiyah Kupang in the Biology Study Program. In 2015 this lecturer was transferred to the Fisheries Agribusiness Study program in accordance with the Agribusiness Masters. Masters in Agribusiness in 2012 at the University of Muhammadiyah Malang.

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