

## **RECONSTRUCTION OF PUBLIC HEALTH SERVICE**

### **SUPERVISION BASED ON JUSTICE VALUES**

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#### **Abstract**

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Public health services in Indonesia still face complex problems, mainly health services implemented by public hospitals and community health centers in district and city governments, it is the responsibility of the state / government that the fulfillment of the basic needs of health is in accordance with the mandate of the 1945 Constitution. The emergence of various public complaints against public services in the field of health proves that justice has not been felt and accepted proportionately. It is contracted with the ideal legal purpose which in turn gives rise to the erosion of public confidence in the state. The purpose of this dissertation research was (1) to find and analyze the implementation of supervision of public services in the field of health. (2) to analyze the problematic of supervision of public service according to Law No: 25/2009 about public service. (3) To reconstruct the supervision of public services based on the value of justice. This research used constructivism paradigm with sociological juridical approach method. The data used were in the form of primary, secondary and tertiary data. The results of the study found that (1) the implementation of supervision of public services in the field of health was based on various formal / regulatory legislation, namely the Law of the Republic of Indonesia Number 25 of 2009 concerning on public service, Law

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#### **Keywords:**

Justice Value;

Health Supervision;

Public Services;

Reconstruction;

Number 36 of 2009 concerning on Health and Government Regulation Number 96 of 2012 concerning on the implementation of Law No. 25 of 2009.(2) the weaknesses found in philosophical studies and the underlying legal system are not only out of date, fatamorganis and biased values but also result in sub-standard performance both in terms of substance, structure and culture(3) the reconstruction of international wisdom based on the values and the character of Pancasila include (a) establishing a system of public service supervision based on community participation through an independent public oversight body synergized with external oversight of the DPRD and ORI.(B) the sincerity / commitment of the government to carry out health services to citizens who are comfortable, inexpensive, efficient, informative, responsive, accurate, accountable, fast, confident and based on information technology.(C) The provision of facilities and infrastructures that meet minimum provision standards. Reconstruction of the legal substantion of Article 4 concerning ontthe principle, Article 39 concerning on the supervision in the Law of RI No.25 / 2009 Article 54 concerning on the supervision of the public in Law No. 36/2009 and Article 43, Government Regulation No. 96/2012.Suggestion of this research was (1) The Government and Parliament were required to improve Article 4, Article 39 of Law Number 25 of 2009 concerning on public supervision, article 54 Law Number 36 of 2009 concerning on Health and Article 43 Government Regulation Number 96 of 2012. (2) Structurally the government was asked to review the model of management of public service supervision conducted by RSUD and community health center integrated with community supervision system.(3) encourage the regional government to establish an independent public oversight body reinforced by the district / city regulation.

## 1. INTRODUCTION

### A. The Background of the Study

In the literature there are several theories about the purpose of law, one of which is the ethical theory which presents the thesis that the law is solely aimed at finding justice. The content of the law is determined by an ethical belief about what is just and unjust, In other words the law aims to realize justice. Proponents of this theory, Geny stated that the fundamental personality of this ethical theory focuses on two questions about justice, namely (1) concerning on the nature of justice and (2) concerning on the content or norms to act concretely in certain circumstances.<sup>1</sup>

The 1945 Constitution of the State of the Republic of Indonesia also mandates the State's obligation to fulfill citizens' basic rights and needs such as health, education and other basic rights within the framework of the provision of public services in article 28 H which reads "Every person shall have the right to live in peace and mind, Reside, and get a good living environment and healthy and entitled to health care."<sup>2</sup>

The publication of Law number 25 of 2009 concerning on Public Service, which is expected to be the guidance and improvement of various government or state services in the effort to fulfill the rights and obligations as well as efforts to build public confidence in public services conducted by public service providers, along with the guidance and improvement of good governance.

In another section also regulates the supervision of public services and public participation in the implementation of public services. Likewise, Law no. 36 of 2009 concerning on Health has regulated the role of the community in the supervision of health services. The facts in the field states that there is still a gap between realizing the expectations with the reality of public services, especially the field of health as evidenced by complaints of public services received by the Ombudsman of the Republic of Indonesia (ORI) and Public Service Quality Improvement Unit in Batang District.

<sup>1</sup>Esmi Warrasih, Pranata Hukum A Sociological Study, Reader Magister, Semarang, 2015, p. 4

<sup>2</sup>The 1945 Constitution, the 2nd Amendment was passed 18-8-2000

The gap indicates that between the expectations and reality are not yet consistent between the regulation and the enforceability of the Public Service, the health sector is one of the efforts to realize the welfare of society.

### **B.The Problem of the Study**

The formulation of the problem in this research as follows:

1. How was the implementation of the supervision of public services in the health sector today?
2. What were the problems of supervision of public service in health sector according to Law number 25 of 2009 concerning on Public Service?
3. How was the reconstruction of the implementation of public health supervision based on justice value?

## **2. RESULT AND DISCUSSION**

### **A. IMPLEMENTATION OF PUBLIC HEALTH SERVICES SUPERVISION AT THIS TIME, THROUGH:**

1. Provide a suggestion box placed in strategic places, such as: waiting room service, polyclinics and other open spaces.
2. Open patient complaint service via SMS center, telephone and complaint directly to the complaint service center.
3. The head of the Public Health Center also establishes direct communication with the sub-district head, village head, village apparatus and other agencies including community elements through village / sub-district forums.
4. RSUD also uses a card system for service satisfaction with green, yellow and red color symbols in each health service poly.

Conclusion of interview result with officer of Local General Hospital, Community Health Center, DPRD member, Head of UPKP2 and Batang Regent, as follows:.

- a. Lack of facilities provided for complaints
- b. Lack of public's care to participate in improving the performance of public services in the field of health.

c. The existence of perception of people who thought that criticism and suggestions would not be responded or acted upon.

d. Mindset and Culture set Human resource were less serious in serving the community.

Due to lack of communication and active participation of the community with the management of public services the health field affects:

1) The emergence of public demonstrations which highlighted the performance of their public services.

2) Service standards were less transparent

3) Lack of information about service standards that should be consumed by the community.

4) Public dissatisfaction, because the complaints were not followed up proportionally.

The role and function of supervision by the DPR / DPRD and Ombudsman of the Republic of Indonesia (ORI) has very limited operational range, constrained on too large scope and few numbers of personnel,imbalanced with the increasing demands of public service performance quality by the community.

In fact, to encourage the performance of public services, community participation is needed in providing supervision constructively and professionally,In accordance with the essence of public service that must uphold justice for the community being served.

## **B. PROBLEMATICS OF PUBLIC SERVICE SUPERVISION OVER THE HEALTH IN THE PERSPECTIVE OF THE LAW NUMBER 25 OF 2009**

The paradigm shift of government organizers from centralized to decentralized, Various concepts such as the concept of reinventing government is the basis for the model of government (bureaucracy) that apply the entrepreneurship in achieving the purpose of efficiency to a form of government system, and shifted to the concept of good governance.

Reports or public complaints encourage the function and role of the Supervisory System in the delivery of public services by the public,besides supervision by ORI and DPR / DPRD in accordance with prevailing laws and regulations

The fundamental problematic of public service supervision in the field of health in the perspective of the Law on Public Service in the region were:

1. Too Extent of the coverage of DPRD supervision function to the public service sector and almost all sectors of government affairs both mandatory and optional affairs implemented in the regions became the task and responsibility of DPRD supervision as partners of local government. Although there was a commission field to divide the sectors / affairs to be watched, for example public health sector will usually be supervised by commission in charge of people's prosperity, but with the limitations of personnel, the commission should also oversee other public sectors such as education, poverty, population, and even health itself, the scope of its aspects is wide and comprehensive in the realities of people's lives. So that the function of supervision on the performance of public services in the health sector is mostly done through regulatory supervision and public hearing (hearing) with Regional General Hospital (RSUD), public health center or health department when a complaint report is received and its follow-up will revert to how the response and seriousness of the health service institution will address / improve its public service performance.

2. The lack of human resources that have adequate competence in the field of health in the ranks of legislative bodies that have the function of supervision of the public service sector in the field of health both preventive and repressive. On the other hand supervision of the health sector was actually implemented by the human resources who mastered the various health problems and required a high level of integrity of work and sincerity of devotion because health problems in the region were closely related to the socio-economic level of society, cases of health services that often appear in remote areas was a free medical treatment, claims of public health insurance and regional health insurance, malpractice, services that are perceived to be discriminatory and inadequate infrastructure of the health sector.

3. The function of supervision of public services in the field of health should also be done by the Ombudsman Replik Indonesia (ORI), But because of the existence of ORI itself according to Law Number 37 of 2008 only one (1) institution is placed in the provincial capital with wide coverage of supervision for Central Java alone there are 35 districts / cities with a minimum number of apparatus resources should conduct oversight to all sectors of public services organized by the government and local governments including village government. So the level of effectiveness of supervision of public services function in the field of health was already predictable would not be able to encourage the improvement of public service performance in the field of health in the region.

4. The function of external supervision on the performance of public services in the field of health according to Law Number 25 of 2009 could be done by the community through the mechanism of submission of complaints report to the institutions / institutions that provided health services both local public hospitals and community health centers. A serious obstacle about this the model of complaint report was the perception that the complaints would not be handled seriously by health service providers.

## C. RECONSTRUCTION OF PUBLIC HEALTH SERVICE SUPERVISION BASED ON JUSTICE VALUES

### 1. The Shifting of Public Service Paradigm

This shift was accompanied by a paradigm shift in the administrative legal environment of the country leading to the *Responsive Administrative Law Paradigm* and the science of public administration leading to a new paradigm called *The New Public Service Paradigm*. So in this case, the government and the community must work together in realizing everything related to the administration of the state because the participation of the community plays an important role in the shift paradigm of state administrative law. The paradigm shift could be seen in the table as follows:

**Table1**

**Public Service Paradigm viewed from various aspects**

ASPECT	OLD PUBLIC ADMINISTRATION	NEW PUBLIC MANAGEMENT	NEW PUBLIC SERVICE
Theoretical Basis	Political Theory	Economic Theory	Democratic Theory
Concept of Public Interest	Public interest is something that is politically defined and set forth in the rules	Public interest is represented by aggregation of individual interests	Public interest is the result of a dialogue on values
To whom the bureaucracy should be responsible	Clients and Voters	Customers	Citizens
The role of the	Rowing	Steering	Negotiate and

Government			elaborate various interests among citizens and groups
Accountability	According to Administrative hierarchy	The will of the market is the result of the desire of the customer	Accountable to law, values, norms and interests of citizens

Source : Denhart & Denhart (2003: 28-29)

## 2. Implementation of Public Health Supervision in Various Countries

The experiences of several countries that had made public services as a priority in the life of the nation and state could be adopted, such as, Malaysia, Finland and Norway as listed in the following table:

**Table2**  
**Wisdom International Public Service**

No	Country	Wisdom Internasional
1.	Malaysia	<p>1. Established a public service commission under the Constitution</p> <p>2. Head of Commission / Public Service Council shall be stipulated by Yang Dipertuan Agung.</p> <p>Example: <i>Education Services Commission, Court and Legal Services Commission, Health Commission</i></p> <p>3. Each state also establishes a public service commission.</p> <p>4. States also set up public complaints bureaus to accommodate public service issues.</p>

2.	Finlandia	<p>1. A country that highly valued ethics in maintaining public service trust and governance.</p> <p>2. The state guaranteed the channel for citizens' complaints to maintain the performance of public services so that the State provided additional public service channels for its citizens as well as internal monitoring units.</p> <p>3. The State guaranteed diverse forms of citizen participation and independent media to oversee public services.</p> <p>4. The level of citizen participation was very high because citizens were the subject of public service administration so that citizens were very concerning with their public services.</p> <p>5. Informal law was presented in Finland's public state, when a person was caught red-handed for a violation of public service, then the perpetrator would only be remembered for the mistakes he made and lost all the accomplishments of good or no longer remembered and had closed a better job for him.</p> <p>6. Additional formal tasks for judicial chancellors were that they are given a role to participate in deliberations and examine some complaints against the legality of government action.</p> <p>7. Avoidance of politicization in the public service system.</p>
3.	Norwegia	<p>1. A country providing full health care coverage regardless of social class / economic income of its citizens.</p>

	<p>2. Hospital services for free, the public was only charged with administrative costs and cheap drugs.</p> <p>3. State policy governed every citizen had the right of personal medical service.</p> <p>4. Every citizen had access to health services quickly without queuing at the Hospital.</p> <p>5. People were given access to control the health care system as a consequence of payment of taxes which already paid to the state.</p> <p>6. The health commission shall be given the duty / responsibility of approving the draft policy on public services in the field of health and welfare of the community.</p> <p>7. Communities were provided with access to health facilities which were published in a systematic and transparent manner.</p> <p>8. People were required to independently maintain personal and family health.</p> <p>9. Public service in the field of health was designed with the principles of the people, for the people and by the people.</p> <p>10. State prioritized public health services, placing the largest budget in the state budget for the benefit of all citizens.</p> <p>11. The State maintained a trustworthy and well-organized health service.</p>
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In this research it is deemed necessary to reconstruct the Law and Government Regulations covering the basic philosophical principles, the true benefit of the law is the greatest happiness

for the most people by actualizing the concept of good governance included the principle of proportionality, orderly state administration, legal certainty, public interest and professionalism. The following authors summarized the reconstruction of Public Health Service Supervision policy based on the value of justice, as follows:

**Table 3**

**Reconstruction of Public Service Supervision Policy in the Field of Health  
Based on Justice Values**

No	Subject	Description
1.	Basic Reconstruction	The empirical experience of the weaknesses of public service supervision in the field of health caused the quality of the public service level in the field of health was less to meet public expectations. On the other hand, facing the challenges of the 21st century required a more competitive public service and could combine international wisdom and local wisdom; Pancasila.
2.	Reconstruction paradigm	The paradigm of constructivism enhanced and promoted the value of democracy through participatory oversight to encourage the improvement of the performance of public services in the health sector to meet the basic needs according to public expectations.
3.	Reconstruction Theory	Grand Teory : (1) Theory of Justice (2) The Welfare State Theory Midle Teory.: (1) Theory of legal effectiveness Apiled Teory : (1) Theory of legal system (2) Progressive legal theory (3) Theory of working law

4.	The Purpose of Reconstruction	Providing fast, precise, cost-effective, equitable, fair, responsive public health services supported by an objective and participatory public oversight system.
5.	The concept reconstructed value	<p>a. Basing on the value of justice for citizens who receive basic health services, by encouraging the active role of the community through independent and proportional supervision.</p> <p>b. The strengthening of civil society (in Arabic Ijtimai) or <i>civil society</i> according to the concept of <i>good governance</i>, adds principle of proportionality.</p>
6.	The substance of the law in the reconstruction	<p>a. The principle in Article 4 of Law number 25 of 2009 concerning on Public Service</p> <p>b. Community participation in Article 39 of Law Number 25 of 2009 concerning on Public Service.</p> <p>c. Community monitoring in article 54 of Law Number 36 of 2009 concerning on Health</p> <p>d. Community participation and supervision in article 43 of Government Regulation No. 96 of 2012 concerning on the implementation of Law No. 25 of 2009.</p>

### 3. Reconstruction of Public Service Supervision Value Concept in the Health Sector

In reconstructing public service policies in the field of health based on justice value as the final goal in this research was to first review the current public health services based on regulation and rechtisdee, Empirical validity of legislation based on the value of justice according to the needs of the community and further identify and analyze the weaknesses of the implementation of public services supervision in the field of health substantially, structures and cultures that bring about a reconstruction of the supervision of public services based on the value of justice for the realization of the noble ideals of the nation.

The importance of public participation in promoting the performance of public services, ie:<sup>3</sup>

1. Community participation will create a government policy that is more oriented to the public interest;
2. Community participation will alleviate the duties of the government apparatus;
3. A participatory government policy will be more legitimate in the community.

Community participation in various forms, such as participation in the process of planning, development and supervision in the concept of participatory supervision theory, namely:

1. The supervision of participation is interpreted as the involvement of all stakeholders, even the wider community to participate actively participated in overseeing every stages in the public service in the field of health which will make effective community supervision and its estuary will encourage the performance of public service in the field of health in accordance with public expectation.
2. The purpose of public services such as public health services is to build integrity, prevent the occurrence of conflicts, encourage high public participation, improve democratic quality and shape the character and awareness of the community to actively encourage and realize good governance, in line with efforts to realize public health services.

**Table 4**

**Table Reconstruction of articles of Indonesian Republic Law**

**No. 25 of 2009 Concerning on Public Services**

<b>ARTICLE 4</b>	
<b>CURRENTLY APPLIED</b>	<b>IDEAL HERE:</b>
<p>The implementation of public services was based on:</p> <ul style="list-style-type: none"> <li>a. public interest;</li> <li>b. legal certainty;</li> <li>c. equality of rights;</li> <li>d. the balance of rights and</li> </ul>	<p>The principle of Article 14 of Law no. 25 of 2009 concerning public services was organized by considering:</p> <p>The implementation of public service was based on:</p> <ul style="list-style-type: none"> <li>a. public interest;</li> </ul>

<sup>3</sup>Setiyono Raharjo, The Future of Progressive Law, p. 124

obligations;	b. legal certainty;
e. professionalism;	c. equality of rights;
f. participative;	d. balance of rights and obligations;
g. equation of treatment / non-discriminatory;	e. professionalism;
h. openness;	f. participative;
i. accountability;	g. equation of treatment / non-discriminatory;
j. facilities and special treatment for vulnerable groups;	h. openness;
k. punctuality; and	i. accountability;
l. Speed, ease, and affordability.	j. facilities and special treatment for vulnerable groups;
	k. punctuality;
	l. speed, ease, affordability and
	m. proportionality.

## ARTICLE 39

CURRENTLY APPLIED	IDEAL HERE:
Article 39	Article 39
(1) Public participation in implementing the public services begins from the preparation of service standards to evaluation and awarding.	(5) Public participation in implementing the public services begins from the preparation of service standards to evaluation and awarding.
(2) The participation of the community as referred to in paragraph (1) shall be realized in the form of cooperation, fulfillment of the rights and obligations of the community, and an active role in the preparation of public service policies.	(2) The participation of the community as referred to in paragraph (1) shall be realized in the form of cooperation, fulfillment of the rights and obligations of the community, and an active role in the preparation of public service policies.
(3) Communities may establish public service oversight bodies	(3) Communities may establish
(4) Procedures for public	public service oversight bodies

<p>participation in the provision of public services shall be further regulated in a government regulation.</p>	<p>(4) Procedures for public participation in the provision of public services shall be further regulated in a government regulation.</p> <p>(5) The Regional Government shall facilitate the mechanism for the establishment of an independent public service supervisory institution in the area stipulated in a Regional Regulation.</p>
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**Table 5**

**Table Reconstruction of Article 54 of Indonesian Republic Law No. 36 of 2009 Concerning on Health**

<b>Article 54 no.36 of 2009 Concerning on Health</b>	
<p>(1) The implementation of health services shall be carried out responsibly, safely, qualitatively, equitably and non-discriminatively.</p> <p>(2) The Government and regional government shall be responsible for the provision of health services as referred to in paragraph (1).</p> <p>(3) Supervision over the implementation of health services as referred to in paragraph (1) shall be conducted by the Government, regional government, and the community.</p>	<p>(1) The implementation of health services shall be carried out responsibly, safely, qualitatively, equitably and non-discriminatively.</p> <p>(2) The Government and regional government shall be responsible for the provision of health services as referred to in paragraph (1).</p> <p>(3) Supervision over the implementation of health services as referred to in paragraph (1) shall be conducted by the Government, regional government, and the community.</p> <p>(4) Community monitoring was carried out by independent public oversight bodies whose establishment was governed by regional regulations.</p>

**Table 6**

**Table Reconstruction on Article 43 Government Regulation no. 96 of 2012 Concerning on the Implementation of Law no. 25 of 2009**

<b>Article 43 Government Regulation no. 96 of 2012 Concerning on the Implementation of Law no. 25 of 2012</b>	
<p>The participation of the public in the supervision and evaluation of the implementation of the Public Service, as referred to in Article 41 letter c, was manifested in the form of:</p> <ul style="list-style-type: none"> <li>a. supervision and evaluation on the implementation of Service Standards;</li> <li>b. supervision of policy implementation; and</li> <li>c. Supervision of sanctions imposition</li> </ul>	<p>The participation of the public in the supervision and evaluation of the implementation of the Public Service, as referred to in Article 41 letter c, was manifested in the form of:</p> <ul style="list-style-type: none"> <li>a. supervision and evaluation on the implementation of Service Standards;</li> <li>d. supervision of policy implementation; and</li> <li>b. Supervision of sanctions imposition</li> <li>c. The supervision of the community as meant in letters a, b and c in the regions was carried out by an independent public service supervisory institution whose establishment was regulated by regional regulations.</li> </ul>

### **3. CONCLUSION**

1. The supervision of public services in the field of health was based on various formal legislation / existing regulations namely the Law of the Republic of Indonesia number 25 of 2009 concerning on Public Service, Law of the Republic of Indonesia number 36 of 2009 concerning on Health, Government Regulation no. 96 of 2012 on the Implementation of Law of the Republic of Indonesia number 25 of 2009, had not been able to accommodate the aspirations

and participation of the community to actively improve the performance of public services in the field of health. The above phenomenon was the opposite state between das sein (existing) and das solen (supposed), Contradictory to the ideal legal purpose that generates public confidence to the state. The policy resulted that the health services provided by public hospitals and community health centers in the regions had not been able to meet the expectations of the community as the basic service recipient yet could be felt by the community fully in accordance with the principles of justice value.

2. The weakness of the supervision of public services in the field of health lied in the philosophical study and the underlying legal system, not only out of date, fatamorganis and bias of values, but also produced sub-standard performance in a rapidly changing society, namely; a) The aspect of substance in the form of a principle that became the heart of legislation did not reflect the strengthening of civil society according to the concept of *good governance*, lack of active participation of the community in the supervision of public services,unavailability of balanced reciprocal communications in order to contribute to fulfill basic needs as an aspect of public services in accordance with the desired; b)Structural aspects, in the public supervision of the health sector was still bad,concerning to the operational management which was the low quality of service,the weak management of evaluation control over the performance of public service providers that made up the poor mindset of the community, lack of complain mechanisms related to service dissatisfaction,reciprocal communication medium between public health service providers and society was inadequate; c) Aspects of service culture still adhered to the conventional paradigm, lack of public participation in services,uncertainty, less responsive, less innovative, bureaucratic, inefficient, inaccurate service, poorly maintained ethics and yet accommodate the culture of modern society.

3. Reconstruction of the value of justice in the supervision of public services in the field of health based on the philosophy of the balance between rights and obligations was a fundamental problem to be implemented at the level of legislation by adopting *international wisdom* and *local wisdom*namely services based on the conscience and character of Pancasila, supervision of public health services to the welfare and fulfillment of basic needs included; a) The sincerity / commitment of the government to prioritize services to citizens, which were comfortable, cheap, efficient, informative, responsive, accurate, accountable, fast and dedicated; b)Provision of 24-hour service based on information technology; c) Provision of facilities and infrastructure that

meet minimum service standards; d)Establishment of an independent, professional and proportional public service complaint body to encourage public participation.

While the reconstruction of policy norms of public services supervision in the field of health should be based on the value of justice, the reconstruction of legal substantiation in article 4, concerning on principle and article 39 in Republic of Indonesia Law no. 25 of 2009 article 54 in Republic of Indonesia Law No. 36 of 2009, and article 43 in Government Regulation no. 96 of 2012.

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