

Implementation of General Principles of Good Government in Realizing Government That is Clean and Free of Corruption, Collusion and Nepotism

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Date of Submission: 01-08-2024

Date of Acceptance: 08-08-2024

ABSTRACT: General Principles of Good Government are needed as guidelines and direction for state administrative tools to achieve state goals through the administration of state government. General Principles of Good Government are ethical values that have developed in the administration of government which are adhered to by government officials. The problem is how to implement the General Principles of Good Government to create a clean state government, free from corruption, collusion and nepotism today. The research used is normative research with a statutory approach, and the type of data required is qualitative data sourced from primary and secondary data. The results of the research explain that the General Principles of Good Government in the Government Administration Law have specifically actualized constitutional norms in the relationship between the state and citizens. Government administration regulations in this Government Administration law are an important instrument of a democratic legal state, in that decisions and/or actions are determined and/or carried out by government agencies and/or officials or other state administrators in carrying out government functions. As a suggestion, government officials are obliged to carry out government administration in accordance with the provisions of laws and regulations and the General Principles of Good Government. In addition, government officials have obligations to make decisions and/or actions in accordance with their authority; comply with the General Principles of Good Governance and in accordance with statutory provisions.

Keywords: Government, Rule of Law, General Principles, Decisions.

I. INTRODUCTION

In modern legal states, including Indonesia, the General Principles of Good Governance are needed as guidelines and direction for state administration tools to achieve state goals. The General Principles of Good Governance, which were originally ethical values that have developed in society, must be obeyed by government officials. These principles are needed so that actions carried out by state administrative apparatus do not harm the people. A country based on law will definitely experience various problems related to state administration with the aim of a welfare state. State administrators, who in this case are represented by state administration officials, in carrying out their duties and authority, must heed the rules of law and the General Principles of Good Governance in accordance with the principles of the rule of law and do not violate the human rights of citizens. General Principles of Good Government are ethical values developed in state administrative law which function to prevent disputes of interest between state administrative bodies or officials and are used as guidelines for state administrative bodies or officials in issuing a determination/decision (beschikking)(Kusdarini, 2018).

Furthermore, it needs to be explained that there is a shift from the conception of the night watchman state (nachtwachtersstaat) to the conception of the welfare state, bringing about a shift in the role and activities of the government. In the concept of nachtwachtersstaat, the principle of staatsonthouding applies, namely the limitation of the state and government from the socio-economic life of society. The government is passive, only as a

guardian of public order and security. Meanwhile, in the welfare state conception, the government is given the obligation to realize general welfare (bestuurszorg), for this reason the government is given the authority to intervene (staatsbemoienis) in all aspects of people's lives. This means that the government is required to act actively in the dynamics of community life. The existence of the concept of a welfare state with the aim of providing welfare for all citizens is in order to complement the principle of legality that all government activities, activities and actions must be based on statutory regulations. With the development of science and technology in line with the development of the nation, it is very possible that it will also influence the dynamics of the development of society with its various activities, and it is very possible that in dealing with problems that arise, there are no regulations yet (Dewi, 2016). The ideal of a welfare law state in which the state plays an active role in regulating the economy is contained in the preamble to the 1945 Constitution. Many terms are used and they all lead to the welfare of society. The founding fathers used the term "just and prosperous" as stated in the second paragraph of the preamble to the 1945 Constitution. Other terms are "general welfare" and social justice as stated in the fourth paragraph of the preamble to the 1945 Constitution (Suhardin, 2017).

Every form of government intervention must be based on applicable laws and regulations as an embodiment of the principle of legality, which is the main pillar of the rule of law. Jimly Asshiddiqie believes that in understanding the rule of law, all government actions must be based on valid and written statutory regulations. These written statutory regulations must exist and be in effect before or after the administrative actions or actions taken. Thus, every act or administrative action must be based on rules and procedures (regels) (Suratno, 2018). Basically, in a legal state, every government legal action must always be based on the principle of legality or must be based on applicable laws and regulations. Regarding the definition of government action, according to Van Vollenhoven, what is meant by government action is the maintenance of the interests of the state and the people spontaneously and independently by the authorities. According to the Van Poelje Commission in its 1972 report, what is meant by *Publik Rechtljike Handeling* or actions in public law are actions carried out by the authorities in carrying out government functions. The concept of a welfare state is an idea of a state that uses a democratic government system that is responsible for the

welfare of its people. This program aims to reduce people's suffering such as poverty, unemployment, health problems and so on. Therefore, a country that applies the concept of a welfare state has public policies that are services, assistance, protection or prevention of social problems (Huda, 2009).

Since the adoption of the welfare state concept, which places the government as the party responsible for the general welfare of citizens and to realize this welfare, the government has been given the authority to intervene in all areas of people's lives, which in this intervention is not only based on statutory regulations, but in certain circumstances can act without relying on statutory regulations, but based on their own initiative. This is the characteristic of the concept of a "Welfare State", namely giving authority in the form of freedom of action or discretion as an administrative decision to government administrators. This is in accordance with the opinion of Prajudi Atmosudirdjo, that in the principle of discretion (*discretie, freiesermessen*), a ruling official may not refuse to make a decision on the grounds that "there are no regulations", for this reason he is given the freedom to decide based on his own opinion as long as it does not violate the principle of jurisdiction and principle of legality (Atmosudirdjo, 1981). However, on the one hand, the government's activeness in seeking general welfare must always be based on the general principles of good governance (Ridwan, 2014).

Indonesia as a developing country requires the role of government officials in implementing development. The task of development is one of the aspects of carrying out government tasks whose targets are realized in national goals as stated in the Preamble to the 1945 Constitution. The logical consequence of the tasks carried out by the government apparatus is an act of determination (*beschikking*). The meaning of provisions based on Article 1 point 3 of Law Number 5 of 1986 concerning State Administrative Courts as amended twice by Law No. 51 of 2009, namely: "a written determination issued by a state administrative body or official based on the applicable statutory regulations".

State administration requires limiting the power of the government (state) with the aim of providing protection for individual rights. State administrators implemented by the government as the main element of community leaders and servants have an important role in realizing the welfare of its citizens/society. Every action of government administrators must always be carried out in accordance with applicable law, both written

and unwritten law. However, general principles of government still have an important meaning and function in the practice of government administration. Therefore, as a benchmark for assessing whether state administrators are appropriate in carrying out their actions within the rule of law, they can use the general principles of good governance.

The implementation of general principles of good governance is a logical consequence of every government, including regional governments. The essence of regional government is related to the authority it has in managing and regulating the household affairs of its government. The authority of regional government will be related to the pattern of distribution of power in the administration of government which refers to the government system of the Unitary State of the Republic of Indonesia. Provisions relating to regional government have been accommodated in Article 18 of the 1945 Constitution. It recognizes the existence of diversity and rights of origin which are part of the long history of the Indonesian nation (Munir, 2014).

General Principles of Good Government are principles or principles that serve as the basis for government administrators in carrying out public affairs within their authority. It is hoped that the implementation of the General Principles of Good Government can be carried out in public services. General Principles of Good Government are regulated in Law Number 30 of 2014 concerning Government Administration. The government's most important task is to provide public services for the community. Therefore, the problem in this paper is how to implement the General Principles of Good Government to create a clean government, free from corruption, collusion and nepotism today.

II. RESEARCH METHODS

This research is included in normative research with a statutory approach. The type of data needed is qualitative data sourced from primary legal and secondary legal data (Marzuki, 2005). This research is included in normative research with a statutory approach. The type of data needed is qualitative data sourced from primary legal and secondary legal data (Danim, 2020). Data obtained from the results of library research were analyzed descriptively qualitatively, so as to be able to answer existing problems. To overcome data problems that have weaknesses and shortcomings so that data can still be validated. Objectivity and constraints are carried out using triangulation examination techniques (Danim,

2020). Triangulation is essentially a multi-method approach carried out by researchers when collecting and analyzing data. The basic idea is that the phenomenon under study can be understood well so that a high level of truth can be obtained if approached from various points of view. Photographing a single phenomenon from different points of view will enable a reliable level of truth to be obtained. Triangulation of sources and methods is carried out by cross-checking one data source and method with another, whether obtained through observation methods, documentation/library studies or field notes.

III. RESULTS AND DISCUSSION

The Need for General Principles of Good Governance in State Administration

To create state administrators who are able to carry out their functions and duties seriously and responsibly, it is necessary to have general principles of state administration in order to create good governance. A clean state administrator is a state administrator who adheres to the general principles of state administration and is free from practices of corruption, collusion and nepotism, as well as other disgraceful acts. If state officials act freely without being fully bound by the law, this will open up opportunities for abuse of authority. Abuse of authority will open up the possibility of a conflict of interest between state administrators and the people who feel disadvantaged by the abuse of authority, so that state administration requires limiting the power of the government or state with the aim of providing protection for individual rights. Therefore, no state power should be allowed to run freely without restrictions and supervision, it is necessary to have various methods, procedures, principles or systems developed in various constitutional systems. The system of limiting power, the principle of legality, the mechanism for the right to judicial review, or state administrative justice are examples of various principles, systems or procedures for limiting state power in question. Here, to assess whether government actions are in line with the principles of the rule of law or not, you can use the general principles of good governance (Widjiastuti, 2017).

Since the New Order was overthrown by the reform order, one of its agendas was to amend the 1945 Constitution, which had broad implications for all state buildings, including the central government and regional governments. Government is no longer centralized, but decentralized and regions are given the right to carry out regional autonomy as widely as possible. After entering this era until now, the existence of

regional regulations (and other regional legal products) has become a central issue. In order to implement regional autonomy, districts are given broad authority and become the spearhead in the implementation of public services. Therefore, regional state administration tools are required to be able to carry out their duties and obligations well and professionally, so as not to harm the citizens they serve. This is because services to the community, including investment licensing services, are the main task of the government in a modern legal state (welfare state). To be able to carry out their duties well and professionally, tools are needed in the form of regional legal products which formulate and implement the general principles of good governance. This idea about the need for general principles of good governance has long been proposed by experts in State Administrative Law.

The general principles of good governance are born from the practice of state and government administration so they are not the formal product of a state institution such as a law. The general principles of good government can be understood as general principles that serve as the basis and procedures for administering a decent government, in this way the administration of government becomes good, polite, fair and honorable, free from injustice and violations of regulations, acts of abuse of authority and arbitrary actions. Based on Jazim Hamidi's opinion that: general principles of good governance are ethical values that live and develop within the State Administrative Law, and function as guidelines for state administrative officials in carrying out their functions, are a test tool for administrative judges in assessing state administrative action (in the form of a decision or *beschikking*) and as a basis for filing a lawsuit for the plaintiff. Most of the general principles of good governance are still unwritten principles, still abstract, and can be explored in the practice of life in society, and some other principles have become written legal rules and are scattered in various positive legal regulations (Widjastuti, 2017).

At its inception, the general principles of good governance were only intended as a means of legal protection and were used as instruments to increase legal protection for citizens from government actions. The function of general principles of good governance in administering government is as a guide or guide for the government or state administration officials in the framework of good governance. stated that the general principles of proper government are actually guidelines for state administrators in carrying out their duties. These signs are needed so

that actions remain in accordance with the true objectives of the law. The general principles of good governance can be likened to traffic signs and travel guidelines in order to facilitate government relations, namely between the government and those governed or citizens. General principles of good governance are then used as the basis for assessment and administrative efforts, in addition to serving as unwritten legal norms for government actions. In its development, the general principles of good governance have had the following importance and functions:

- a. For state administration, it is useful as a guide in interpreting and implementing statutory provisions that are vague, vague or unclear, as well as limiting and avoiding the possibility of state administration using *freiesermessen*/implementing policies that deviate greatly from statutory provisions. In this way, state administration is expected to avoid acts of *onrechtmatigedaad*, *detournement de pouvoir*, *abuse de droit*, and *andultravires*.
- b. For citizens as seekers of justice, the general principles of good governance can be used as the basis for a lawsuit as stated in article 53 of Law no. 5 of 1986 as amended by Law no. 51 of 2009.
- c. For State Administrative Court Judges, it can be used as a tool to review and cancel decisions issued by State Administrative bodies or Officials.
- d. General principles of good government are also useful for legislative bodies in drafting laws (Solechan, 2019).

Understanding the General Principles of Good Government in State Administration

As explained above, the government's actions or intervention in the concept of a welfare state as the party responsible for realizing the greater welfare and prosperity of its citizens. As a rule of law, the government's actions to provide welfare must also be based on applicable laws and regulations or often act based on *freiesermessen*, however, these actions often lead to abuse of authority which results in conflicts of interest between citizens and the government. According to Jazim Hamidi (1999), based on the formulation of expert understanding and additional understanding of the General Principles of Good Government, elements can be drawn that form a comprehensive understanding of the General Principles of Good Government, namely: 1) Principles General of Good Government are ethical values that live and develop in the legal environment of state administration; 2) General Principles of Good

Government serve as guidelines for State Administrative Officials in carrying out their functions, are a testing tool for administrative judges in assessing state administration actions (which take the form of decisions/beschikking), and as a basis for filing lawsuits for plaintiffs; 3) Most of the General Principles of Good Governance are still unwritten principles, still abstract, and can be explored in the practice of life in society; 4) Some other principles have become written legal rules which are regulated in various positive legal regulations. Some principles have been transformed into written legal rules, but their nature remains legal principles.

The concept of a welfare state is often referred to as a modern legal state in the material sense. Bagir Manan (1996) said that the concept of a welfare state is: "The state or government is not merely the guardian of security or public order, but is the main bearer of responsibility for realizing social justice, general welfare and the greatest prosperity of the people". According to Bagir Manan, the welfare state law places the state or government not only as the guardian of security or public order, but has the responsibility to realize social welfare and general well-being for its people.

According to Philipus M. Hadjon (1993), The General Principles of Good Government must be viewed as unwritten legal norms, which the government must always obey, although the exact meaning of the General Principles of Good Government for each particular situation cannot always be explained precisely. It can be said that the General Principles of Good Governance are unwritten legal principles, and also in certain circumstances legal rules can be drawn that can be applied. If the general principles of good governance are interpreted as legal principles or foundations, then the general principles of good governance can be interpreted as legal principles that are explored and discovered from elements of morality, ethics, decency and propriety based on applicable norms (Marbun, 2001). It can be said that some of the General Principles of Good Governance are still legal principles, and others have become legal norms or legal rules (Ridwan, 2014).

From the formulation of the understanding of the General Principles of Good Government, the following conclusions can be drawn:

- a. General Principles of Good Governance are legal norms (written) and/or ethical norms (unwritten) that specifically apply in the state administration environment;
- b. General Principles of Good Government are important principles because they serve as

guidelines for State Administrative Officials in carrying out their authority;

- c. General Principles of Good Government as important principles that must be followed by judges which function as a testing tool for Administrative Judges as to whether State Administrative Decisions are valid or not;
- d. General Principles of Good Governance as a basis for filing a lawsuit for the plaintiff;
- e. The unwritten General Principles of Good Government are binding when used as a basis for State Administrative Judges in deciding cases;
- f. One of the functions of the General Principles of Good Governance is as a direction or benchmark for the implementation of state administrative authority to provide and determine the limits that must be taken into account by a State Administrative Official in acting;
- g. General Principles of Good Government as a testing tool for Judges in the State Administrative Court to assess the validity or not of a State Administrative Decision (Pratiwi et al., 2016).

Concept of General Principles of Good Government according to Crince Le Roy which includes: the principle of legal certainty, the principle of balance, the principle of careful action, the principle of motivation for every decision of a government body, the principle of not being able to mix up authorities, the principle of equality in decision making, the principle of fair play, the principle of justice or fairness, the principle of responding to reasonable expectations, the principle of eliminating the consequences of an invalid decision, and the principle of protecting personal views of life. Koentjoro added two more principles, namely: the principle of policy and the principle of implementing public interests (Azhar, 2015).

Good governance always develops and follows global developments, it cannot only be national. The administration of government is to provide public services to the community, which are influenced by political, economic dynamics, developments in information technology, social culture, all of which mix and influence the administration of government (Putrijanti, 2018).

General principles of good governance are very necessary in administering government, apart from that, it can also be said to assist State Administration Officials in monitoring actions issued by State Administration. These principles are needed so that actions carried out by state administration tools do not harm citizens.

Therefore, the basic considerations for the formation of Law Number 30 of 2014 concerning government administration are; a. that in order to improve the quality of government administration, government agencies and/or officials in using their authority must refer to the general principles of good governance and based on the provisions of statutory regulations; b. that to resolve problems in government administration, regulations regarding government administration are expected to be a solution in providing legal protection, both for citizens and government officials; c. that to realize good governance, especially for government officials, laws regarding government administration are the legal basis needed to base decisions and/or actions of government officials to meet the legal needs of the community in administering government (Law of the Republic of Indonesia No. 30 of 2014 Concerning Government Administration).

Regarding the mention of general principles of good governance in Indonesia, before the issuance of Law Number 30 of 2014 concerning Government Administration there were still various variations. Some experts refer to the term general principles of proper government, general principles of proper government, principles of clean and fair government, general legal principles for the proper administration of the state. General principles of good government are the translation most widely used by legal experts in Indonesia such as KuntjoroPurbopranoto, Indriharto, Amrah Muslimin, M. Solly Lubis, Paulus EffendieLotulung, Moh. Mahfud MD, and SF Marbun. RochmatSoemitro once used the term "general principles of healthy government" when proposing the draft concept for the Administrative Justice Law. A. Baramuli refers to the terms "general principles of clean and fair government". AtengSyafurudin, SjachranBasah, Philipus M. Hadjon, and Laica Marzuki in several of their writings use the term "general principles of proper government". Meanwhile, A. Hamid S. Attamimi and Bagir Manan use the term "general principles of proper state administration." (Hamidi, 1999). However, after the issuance of Law Number 30 of 2014 concerning Government Administration, the term general principles of government was formally referred to as general principles of good government. This can be seen from the provisions of Article 1 number 17 of Law Number 30 of 2014 concerning Government Administration which states that; General principles of good government, hereinafter abbreviated to General Principles of Good Government, are principles used as a reference for

the use of authority for government officials in issuing decisions and/or actions in administering government.

Etymologically in Indonesian, the word "principles" which in English is translated as "principles" is interpreted as "foundation", "foundation". Therefore, this principle for state administration tools should be used as a basis or basis for acting and behaving. The word "general" is defined as an adjective which means "concerning all or everything" which means that all state administration tools or government tools or people who run the government are subject to or must implement these principles or principles. The definition of "government" according to SF Marbun can be understood in two terms, namely government in the sense of function which means governing activities and government in the sense of organization which means a collection or government units. The government referred to here is government in a broad sense, meaning that all organizations or groups of government units in a country, including Indonesia, must all implement the principles of government. The term "good" is etymologically defined as "beautiful", "proper", "orderly" (nice, neat, flawless) (Kusdarini, 2019).

The administration of a country's government is generally guided by regulations, both written and unwritten. In Indonesia, the administration of state government is largely based on statutory regulations, namely various types (forms) of regulations that have binding force made by authorized officials or institutions. The highest order of laws and regulations is the 1945 Constitution. Therefore, when administering government in Indonesia, one must rely on the rules set out in the 1945 Constitution, which has undergone four amendments.

Facts or events that can be observed in the relationship between government and society give rise to government behavior and culture, and are formed from the value system of government itself, especially the value of public service with the characteristics: government obligations, government monopoly will be faced with increasingly sharp political awareness (demands for public services and civil services which are increasingly exploding) from the community as the party being governed. The government is always faced with the governed, both of whom are always faced with increasingly rapid environmental changes. To facilitate government relations in conditions like the above, analogous to traffic management, necessary "signs" are required, which must be obeyed by every road user, with all enforcement so that everyone arrives safely at their

destination on time. The principles of government administration are normative, originating from the government value system and all government guidelines and not only from positive law. Likewise, ethical, philosophical and religious values are made into positive law, so these values are disconnected from their source and can easily be used as practical political tools and tools for the regime in power to suppress other parties or those being governed. There are several general principles of good governance that you need to know, namely as follows (Djaenuri & Aisyah, 2018):

- a. The Principle of Legal Certainty is a principle in a legal state that prioritizes the basis of legislation, propriety and justice in every government administration policy;
- b. The principle of balance is a principle that requires government administration officials or agencies to maintain, guarantee, at least strive for balance, namely (a) balance of interests between individuals and individuals; (b) balance of interests between individuals and society; (c) balance of interests between government and citizens; (d) balance of interests between current and future generations; (e) balance of interests between humans and the ecosystem.
- c. The principle of equality is a principle that prioritizes equal treatment from government policies.
- d. The principle of accuracy is a principle which means that a decision must be prepared first and then the decision must be taken carefully.
- e. The principle of motivation is the principle of making a decision which must be supported by reasons based on facts which are used as the basis for a decision based on statutory regulations.
- f. The principle of not exceeding or mixing authority is a principle that requires every Government Administrative Official or Agency not to use the authority they have for their personal interests.
- g. The principle of reasonable action is a principle that requires Government Administrative Officials or Agencies not to act and make discriminatory decisions.
- h. The principle of justice is that every government administration must reflect proportional justice for every citizen.
- i. The principle of fairness and propriety is a principle that requires Government Administrative Officials or Agencies not to act arbitrarily.
- j. The principle of responding to reasonable expectations is a principle that requires Government Administrative Officials or Agencies to fulfill their promises which give applicants reasonable expectations for the services and actions required from the government.
- k. The principle of eliminating the consequences of a void decision is a principle that requires Government Administrative Officials or Agencies to take immediate action or compensate for losses that arise as a result of a void decision.
- l. The principle of protection of personal views of life is a principle that requires Government Administrative Officials or Agencies to respect the personal views of life of a person or group and take action and provide services without discrimination to every member of society.
- m. The Principle of Orderly Implementation of Government Administration is a principle that is the basis for order, harmony and balance in controlling the Implementation of Government Administration.
- n. The principle of openness is a principle that opens up to the public's right to obtain correct, honest and non-discriminatory information in the administration of government while still paying attention to the protection of personal, group and state secrets.
- o. The principle of proportionality is a principle that prioritizes the balance between the rights and obligations of citizens or residents who have an interest in the decisions or behavior of government administration officials on the one hand, and between the interests of citizens and government administration on the other hand.
- p. The principle of professionalism is a principle that prioritizes expertise in accordance with the duties and code of ethics that applies to Government Administrative Officials or Bodies that issue relevant government administrative decisions.
- q. The principle of accountability is a principle that determines that every activity and final result of the State Administrator's activities must be accountable to the community or people as the holder of the highest sovereignty of the state in accordance with the provisions of the applicable laws and regulations.
- r. The principle of public interest is a principle that prioritizes general welfare in an aspirational, accommodating, selective and non-discriminatory manner.
- s. The Principle of Efficiency is a principle of government administration that is oriented

towards minimizing the use of resources to achieve the best work results.

- t. The Principle of Effectiveness is the principle of administering government administration that is oriented towards appropriate and efficient goals.

Law No. 30 of 2014 concerning Government Administration has regulated the General Principles of Good Governance, but not all accommodate the principles mentioned above, this is evident in the provisions of Article 10, namely the General Principles of Good Governance, in paragraph (1) The General Principles of Good Governance referred to in this Law include the principles of: a. legal certainty; b. benefit; c. impartiality; d. accuracy; e. not abusing authority; f. openness; g. public interest; and h. good service. (2) Other general principles outside the General Principles of Good Governance as referred to in paragraph (1) may be applied as long as they are used as the basis for the judge's assessment as stated in a court decision that has permanent legal force.

Explanation of Article 10 Paragraph (1) Letter a: What is meant by "principle of legal certainty" is the principle in a state of law that prioritizes the basis of provisions of laws and regulations, propriety, consistency, and justice in every policy of government administration. Letter b: What is meant by "principle of benefit" is the benefit that must be considered in a balanced manner between: (1) the interests of one individual with the interests of another individual; (2) the interests of individuals with society; (3) the interests of citizens and foreign communities; (4) the interests of one community group and the interests of another community group; (5) the interests of the government with citizens; (6) the interests of the current generation and the interests of future generations; (7) the interests of humans and their ecosystems; (8) the interests of men and women. Letter c: What is meant by "principle of impartiality" is the principle that requires Government Agencies and/or Officials in determining and/or carrying out Decisions and/or Actions by considering the interests of the parties as a whole and not discriminating. Letter d: The term "principle of accuracy" means the principle that a Decision and/or Action must be based on complete information and documents to support the legality of the determination and/or implementation of the Decision and/or Action so that the Decision and/or Action in question is prepared carefully before the Decision and/or Action is determined and/or carried out. Letter e: The term "principle of

not abusing authority" means the principle that requires every Agency and/or Government Official not to use their authority for personal or other interests and not in accordance with the purpose of granting the authority, not to exceed, not to abuse, and/or not to mix up authority. Letter f: The term "principle of openness" means the principle that serves the public to gain access and obtain correct, honest, and non-discriminatory information in the administration of government while still paying attention to the protection of personal, group, and state secret human rights. Letter g: The term "principle of public interest" means the principle that prioritizes public welfare and benefits in an aspirational, accommodating, selective, and non-discriminatory manner. Letter h: What is meant by "principles of good service" is the principle of providing timely services, clear procedures and costs, in accordance with service standards, and provisions of laws and regulations. Article (2): What is meant by "other general principles outside the General Principles of Good Governance" are general principles of good governance that originate from district court decisions that have not been appealed, or high court decisions that have not been appealed or Supreme Court decisions.

Implementation of General Principles of Good Governance in the Practice of State Government Administration

As explained, although the General Principles of Good Governance have been regulated in the Law, in practice the implementation of government is still far from the implementation of the General Principles of Good Governance. This is often contradictory and it is not an exaggeration to say that it deviates from the General Principles of Good Governance, which in this case is clearly seen in various decisions or actions and activities of the state government, such as:

- a. The Constitutional Court decided a controversial case that was more politically visible than constitutional law, namely regarding the testing of the provisions on the age requirements for Presidential and VicePresidential Candidates regulated in Law Number 7 of 2017 concerning General Elections. The Constitutional Court in decision Number 90/PUU-XXI/2023 stated that it "granted the applicant's request in part". The Constitutional Court then in the ruling read out by Chief Justice Anwar Usman stated that Article 169 letter q of the Election Law which states "at least 40 (forty) years old" is contrary to the 1945 Constitution and has no binding

legal force, as long as it is not interpreted as "at least 40 (forty) years old or has/is currently holding a position elected through a general election including regional head elections". Based on the ruling, the wording of the provisions of Article 169 letter q of the Election Law changed to "at least 40 (forty) years old or has/is currently holding a position elected through a general election including regional head elections". However, if the decision is examined in detail, there is a fundamental problem, especially related to the Verdict. That the verdict of the Constitutional Court is: "at least 40 (forty) years old or has/is currently holding a position elected through general elections including regional head elections".

- b. Actions of the General Election Commission on October 25, 2023, the General Election Commission has accepted Gibran's candidacy registration file. In fact, as reported by Kompas, based on General Election Commission Regulation Number 19 of 2023, which had not been revised at that time, Gibran did not meet the requirements because he was not yet 40 years old. Regarding this action of the General Election Commission, the Election Organizer Honorary Council emphasized that the Chairman of the General Election Commission Hasyim and his colleagues had accepted Gibran Rakabuming Raka's registration as a prospective vice presidential candidate. According to the Election Organizer Honorary Council, this action is considered to violate the procedure in making rules for accepting presidential and vice presidential candidates, in accordance with General Election Commission Regulation Number 19 of 2023(Heizar, 2024).
- c. Government officials participate in the campaign, the President's statement may campaign and also take sides in the election as long as it does not use state facilities. According to Jokowi, campaigning is a democratic right and political right of every citizen, including the president and ministers. Referring to Article 299 of Law Number 7 of 2017 concerning General Elections, there are a number of state officials who are allowed to carry out campaigns, namely: the president and vice president, other state officials who have the status of members of political parties, and other state officials who do not have the status of members of political parties.
- d. State civil servants are also not neutral, the State Civil Service Commission noted that

there were 2,073 complaints regarding violations of State Civil Apparatus neutrality during the 2020 regional head elections and ahead of the 2024 elections. Quoting Kompas.id, this figure refers to the 2022 State Civil Service Commission report. Of that number, 1,605 State Civil Apparatus or 77.5 percent were proven to have violated neutrality and received recommendations for the imposition of moral and disciplinary sanctions. However, the State Civil Service Commission noted that only 1,402 State Civil Apparatus or 88.5 percent had been followed up by the Personnel Development Officer with the imposition of sanctions. In its report, the State Civil Service Commission also mapped violators of State Civil Apparatus neutrality based on position. State Civil Apparatus with functional positions were recorded as violating neutrality the most (26.5 percent). Followed by State Civil Apparatus in executive positions (17.2 percent), leadership positions (15.7 percent), administrator positions (13.4 percent), and supervisors (11.8 percent)(Farisa, 2023).

Several examples of these cases show that the General Principles of Good Governance have not been given attention and implemented in the administration of government, even though the Law on Government Administration explicitly regulates the purpose of the establishment and scope of the regulations and principles of Law Number 30 of 2014, as stipulated in Article 3, Article 4, and Article 5, which read as follows. Article 3: The objectives of the Law on Government Administration are: a. to create orderly administration of government; b. to create legal certainty; c. to prevent abuse of authority; d. to guarantee accountability of Government Agencies and/or Officials; e. to provide legal protection to citizens and government apparatus; f. to implement provisions of laws and regulations and apply the General Principles of Good Governance; and g. to provide the best possible service to citizens. Article 4 paragraph (1): also regulates the scope of the regulation of Government Administration in this Law, including all activities: a. Government Agencies and/or Officials who carry out government functions within the scope of the executive institution; b. Government Agencies and/or Officials that carry out government functions within the scope of the judiciary; c. Government Agencies and/or Officials that carry out government functions within the scope of the legislative institution; and d. Other Government

Agencies and/or Officials that carry out government functions as stated in the 1945 Constitution of the Republic of Indonesia and/or laws. Article (2): Regulation of Government Administration as referred to in paragraph (1): includes the rights and obligations of government officials, government authority, discretion, implementation of government administration, government administration procedures, government decisions, administrative efforts, guidance and development of government administration, and administrative sanctions. While Article 5: Implementation of Government Administration is based on: a. the principle of legality; b. the principle of protection of human rights; and c. general principles of good governance.

Explanation of Article 5 letter a: what is meant by "principle of legality" is that the implementation of Government Administration prioritizes the legal basis of a Decision and/or Action made by a Government Agency and/or Official. Letter b: What is meant by "principle of protection of human rights" is that the implementation of Government Administration, Government Agency and/or Official may not violate the basic rights of citizens as guaranteed in the 1945 Constitution of the Republic of Indonesia. The actions as stated above are state administrative actions, so Law Number 30 of 2014 concerning Government Administration, through Article 1 number 8 states: "Government Administration Actions hereinafter referred to as actions are actions of government officials or other state administrators to carry out and/or not carry out concrete actions in the context of the implementation of government" which is the realm of state government administration actions.

In accordance with the provisions of Article 1 paragraph (2) of the 1945 Constitution, sovereignty lies in the hands of the people and is implemented according to the Constitution. Furthermore, according to the provisions of Article 1 paragraph (3) of the 1945 Constitution, the Republic of Indonesia is a country of law. This means that the system of governance of the Republic of Indonesia must be based on the principle of people's sovereignty and the principle of a state of law. Based on these principles, all forms of Decisions and/or Government Administration Actions must be based on people's sovereignty and the law which is a reflection of Pancasila as the state ideology. Thus, it is not based on the power inherent in the position of the government organizer itself. The use of state power against citizens is not without conditions. Citizens cannot be treated arbitrarily as objects. Decisions

and/or actions against citizens must be in accordance with the provisions of laws and regulations and the general principles of good governance. Supervision of Decisions and/or actions is a test of the treatment of citizens involved who have been treated in accordance with the law and pay attention to the principles of legal protection that can be effectively carried out by state institutions and free and independent State Administrative Courts. Therefore, the systems and procedures for carrying out government and development tasks must be regulated by law.

The task of government to realize the goals of the state as formulated in the Preamble to the 1945 Constitution and this task is a very broad task. The scope of the tasks of government administration is so broad that regulations are needed that can direct the implementation of government to be more in accordance with the hopes and needs of the community (citizen friendly), in order to provide a basis and guidelines for government agencies and/or officials in carrying out the tasks of implementing government. The provisions for implementing government are regulated in a Law called the Law on Government Administration. The Law on Government Administration guarantees basic rights and provides protection to citizens and guarantees the implementation of state duties as required by a state of law in accordance with Article 27 paragraph (1), Article 28 D paragraph (3), Article 28 F, and Article 28 I paragraph (2) of the 1945 Constitution. Based on these provisions, citizens are not objects, but subjects who are actively involved in implementing government. In order to provide protection guarantees to every citizen, this Law allows citizens to file objections and appeals against decisions and/or actions, to the relevant Government Agency and/or Official or Superior Official. Citizens can also file lawsuits against Decisions and/or Actions of Government Agencies and/or Officials to the State Administrative Court, because this Law is the substantive law of the State Administrative Court system.

The characteristics of a welfare state according to Muchsan(1992) are that the state aims to improve the welfare of its citizens evenly, and the state is required to provide the best and broadest possible service to the community. This is because, without good and even service, it is impossible to achieve welfare in the community's life. In relation to these characteristics, there are two symptoms that definitely appear in a welfare state, namely, first, government intervention in aspects of community life is very broad and second, in the implementation of government functions, the

principle of discretion is often used. Government intervention in aspects of community life is required for the sake of creating equitable community welfare, not welfare according to the liberal concept. With this intervention, the occurrence of free fight liberalism can be avoided, which will only benefit the strong party. Therefore, the task of the state in the case of the government is to formulate in every law so that the goal, namely community welfare, can be realized so that it will be seen and can be felt in real terms that the law plays a very important role in realizing community welfare. This is what SatjiptoRahardjo even further said that, "the law should make you happy"(Rahardjo, 2006).

IV. CONCLUSION

The General Principles of Good Governance in the Law on Government Administration have specifically actualized constitutional norms in the relationship between the state and citizens. The regulation of government administration in this Law on Government Administration is an important instrument of a democratic state of law, that decisions and/or actions determined and/or carried out by government agencies and/or officials or other state administrators including institutions outside the executive, judiciary, and legislative that carry out government functions that can be tested through the Court. These are the ideal values of a state of law. The implementation of state power must side with its citizens and not vice versa. This law is needed in order to provide guarantees to citizens who were originally objects to become subjects in a state of law which is part of the realization of people's sovereignty. The sovereignty of citizens in a country cannot be realized in itself, either in whole or in part.

As a suggestion, government officials are obliged to organize government administration in accordance with the provisions of laws and regulations, government policies, and the General Principles of Good Governance. In addition, Government Officials have an obligation to make decisions and/or actions in accordance with their authority; comply with the General Principles of Good Governance and in accordance with the provisions of laws and regulations; comply with the requirements and procedures for making decisions and/or actions; comply with this Law in using discretion when urgent; provide official assistance to government agencies and/or officials who request assistance to carry out certain government administration; provide an opportunity for citizens to have their opinions heard before making

decisions and/or actions in accordance with the provisions of laws and regulations. The existence of a mechanism to provide an opportunity for citizens to have their opinions heard can be done through face-to-face meetings, socialization, deliberation, and other forms of activities that are individual and/or representative. Furthermore, it is necessary to notify members of the public regarding decisions and/or actions that cause losses no later than 10 (ten) working days from the time the decision and/or action is determined and/or carried out: prepare standard operational procedures for making decisions and/or actions; examine and examine government administrative documents, as well as open access to government administrative documents to members of the public, unless otherwise determined by law; issue decisions on requests from members of the public, in accordance with matters decided in objections/appeals; carry out valid decisions and/or actions and decisions that have been declared invalid or canceled by the court, the relevant official, or the official's superior; and comply with court decisions that have permanent legal force.

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