

## The Coherence of Good Administration and Good Governance in Government (A Conceptual Approach)



Sri Nur Hari Susanto<sup>1</sup>, Peni Susetyorini<sup>2</sup>, Kadek Cahya Susila Wibawa<sup>3\*</sup>

<sup>1,2,3</sup>Faculty of Law, Diponegoro University, Jalan dr. Antonius Suroyo, Kampus Universitas Diponegoro Tembalang, Semarang, Jawa Tengah, Indonesia, 50275

**ABSTRACT:** Good administration (*goed bestuur*) and good governance (good governance) are two concepts that are the focus of attention in the study of administrative law. Through a global conceptual and practical approach, the concept of good governance is flexible, adaptable, and normative. It becomes a positive legal regulation. Thus, it has practical normative effects to be implemented by government institutions. The relationship between good administration and good governance will show that the principles of good governance are the third pillar in realizing good governance, besides the two classic pillars that have previously existed, namely the supremacy of law and democracy.

**KEYWORDS:** Good administration, good governance, Administrative law.

### 1. INTRODUCTION

The Administrative Law approach to the concept of government (*bestuur, Verwaltung*) is divided into two meanings, namely material and formal. The material meaning of the concept of government is often formulated negatively, that state power which does not include legislative power and judicial power (*Tatigheid des states die nich Gesetzgebung oder Justiz ist*). Furthermore, in its formal meaning, it is defined as a certain form of governmental action (*een bepalde vorm van overheidsop treden*) (Prakk, & Kortmaan, 1986; Hadjon, 2002).

At the beginning of the 21<sup>st</sup> century, bringing together and connecting the concept of good governance and the concept of good governance from an administrative law perspective is still relatively new, although the latest administrative law handbooks have paid attention to this (Schlössels & Zijlstra, 2010; Addink, 2012). Most administrative law experts today have also paid full attention to focusing their views, especially on the principles of good governance (het beginsel van goed bestuur/good administration principles) or with the norms of propriety as commonly used by the Ombudsman..

Administrative law in general has major changes in its evolution, as a result of the norming of administrative actions that has so far only been carried out sectorally and spread out. The lack of clarity in norms and the length of various procedures often receive criticism, both from politicians and the public. The ideals of rule of law and democracy do not always seem to provide an adequate framework, especially now that public values are under pressure..

The concept of good governance in the national legal system can be correlated to existing and generally accepted principles, as well as to more specific principles in the field of administrative law. Good governance is a term that has a broad scope and is multidisciplinary in nature. Thud, the meaning varies depending on the context. This represents a number of things, for example compliance with basic rights (civil, political and social), effectiveness and transparency, government accountability (in financial or other matters) and prioritizing the supremacy of the law (rule of law/ *rechtsstaat*).

In the concept of good governance, a distinction can be made between different groups of behavior in government administration. These behaviors are related to the legislative, administrative and adjudication processes. Based on literature searches, it can also be seen the development of appropriate regulatory principles (van der Vlies, 1984), reasonable principles of justice - *due process of law* in current legal practice (de Waard, 1987). in addition, the principles of good administration (*beginselen van behoorlijk bestuur*) were previously known. (Nicolai, 1990). These three groups of principles together can be called the principles of proper/good government action.

The need for a clear conceptualization of norming/standardizing government actions arises not only at the national level, but also at the regional and international levels. The strong reciprocal effect of these norms occurs at various levels, both in

## The Coherence of Good Administration and Good Governance in Government (A Conceptual Approach)

discussions about multi-level governance, where the principles of good governance play a central role. These principles have become deeply rooted in each jurisdiction from above and at different levels, but take on the character of legal norms that must be obeyed. In addition, a principles-oriented approach based on unambiguous concepts will lead to more coherence and consistency in the legal norming of government actions..

The central problem which is a legal issue for realizing good governance (*goed bestuur*/good administration), conceptually departs from the principle of legality, both formal (authority and procedures) and material (substance). The general principle of procedure which is based on three main foundations of administrative law (the principle of the rule of law, the principle of democracy, and the instrumental principle), in the development of its concept has made the instrumental principle the main basis in the study of the concept of good governance, related to the value of the "propriety" of government actions. carried out by government organs (in the broadest sense). In connection with this, the legal issue raised in this article concerns: how is the coherence between the concept of good administration (*goed bestuur*) and good governance (good governance) in the perspective of administrative law.

### 2. RESEARCH METHOD

This research method used a normative (doctrinal) approach in the form of library research, especially a conceptual approach. The conceptual approach departs from the views and doctrines that have developed in legal science (Marzuki, 2013), especially administrative law. The concept approach is intended to analyze legal material. Thus, the meaning contained in legal terms can be known. This is conducted as an effort to obtain new meanings contained in the terms studied, or to test these legal terms in theory and practice (Hajar, 2015).

### 3. RESULTS AND DISCUSSION

#### 3.1. Concept and Dimensions of Good Administration (*Goed Bestuur*)

The concept of good administration (*goed bestuur*) can be approached from various scientific fields such as administrative law, administrative and policy science, governmental science, and economics. The term good administration (*goed bestuur*) can essentially be seen as a fact and a norm, and this depends on the perspective from which this difference is approached (Addink, 2012).

Based on an internal administrative perspective, facts and norms are cultural products that cannot be separated, because they are closely related. Administrative agency policies as facts and law as norms will also be close to each other. Likewise, the role of judges, ombudsman and audit institutions is not limited to just what the law says about good governance, but also about what must be contained in the law relating to this matter. On the other hand, from an external administration perspective, it will always refer to what the law or statutory regulations say about good governance (*goed bestuur*/good administration). Facts and norms, as well as policy and law, are thus again scattered. Therefore, an approach oriented to the principles of good governance will make it possible to bring policy and law to a fairly close state again (Addink, 2012).

The meaning of the term 'law' shows a certain duality, namely on the one hand it refers to the idea of what law actually is (natural law). On the other hand, it refers to positive law that applies in a certain place and time (Ballin, 1979). Despite this duality, the two meanings form an analogous whole. The idea of law (law in the first sense) is the prepositive sense of all law (in the second sense). Legal ideas and positive law cannot exist without each other. The concept of good administration and the principles that embody this concept cannot be achieved without the principles of good governance as stated in prepositive law .

Through the choice of methods combining various views, traditions, arrangements and relationships that are constantly changing, to say a government is a "good" administrative, there are at least four things that need to be considered, namely (Montfort, C. van, 2004):

- a) good administration is not a stable situation, what is "good" will change when the economic, social and moral context changes (*goed bestuur is geen stabiele situatie: wat 'goed' is verandert als economische, sociale en morele contexten veranderen*);
- b) "good" is given different and ever-changing interpretations in various social domains (*het 'goede' krijgt in de verschillende maatschappelijke domeinen een andere, en telkens veranderende invulling*);
- c) there is no 1 (one) external assessor who determines when and whether there is good administration. Therefore, it is not "the government" or "the citizens" who determine whether there is good government. What is good can only be determined intersubjectively. This has consequences for the way in which governance should be evaluated (*er is niet 1 externe beoordelaar die vaststelt wanneer en of sprake is van goed bestuur. Het is dus niet 'de overheid' of 'de burger' die vaststelt of sprake is van goed bestuur. Wat goed kan alleen intersubjectief worden vastgesteld. Dit heeft consequenties voor de manier waarop bestuur moet worden geëvalueerd*);

## The Coherence of Good Administration and Good Governance in Government (A Conceptual Approach)

d) good governance will never be achieved completely, a hundred percent score will never be possible on all dimensions/aspects of good governance (simply because of the mutual tension that exists between parts of good governance). The maximum that can be achieved is the “best possible” management (*goed bestuur zal nooit volledig worden bereikt, nooit zal op alle dimensies van goed bestuur een honderd procent score mogelijk zijn (alleen vanwege de onderlinge spanning die bestaat tussen onderdelen van goed bestuur). Het maximaal haalbare is ‘zo goed mogelijk’ bestuur*).

Furthermore, regarding the scope of the dimensions of good administration (*goed bestuur*), then by referring to the UN definition, public governance debates, comments and additions to both, as well as observations based on a brief historical outline and general principles. Furthermore, this leads to four dimensions of good governance. These dimensions form the character associated with (Montfort, 2004):

- a) *democratie : participatie, publieke rekenschap, verantwoordelijkheid, organisatie van reflectie en deliberatie* (democracy: participation, public accountability, responsibility, organizational reflection and deliberation);
- b) *wet en recht: rechtstatelijkheid, rechtmatigheid en integriteit* (Laws and legal: supremacy of law, legitimacy and integrity);
- c) *gemeenschappelijkheid : aansluitend bij gedeelde warden* (similarity: in line with shared values); And
- d) *uitvoering : kwaliteit, doelmatigheid, voorzien in maatschappelijke vraag (inclusief handelings-en leervermogen)* [implementation: quality, efficiency, and meeting social demands (including capacity to act and ability to learn)].

### 3.2 Good Administration and Its Practical Consequences in Law and Justice

The principles of good government are part of administrative law. These principles in administrative law can be approached through interpretive concepts (Dworkin, 1986). An interpretive approach will provide clarity about what is or is not considered law. The important thing that can be understood from Dworkin's approach is the discretionary space for interpretation regarding the principles. Dworkin in his view suggests that only one interpretation is possible, and this will create clarity and consistency in the content and scope of the principles of good government. Justice in the general sense can be different from justice in the context of good governance (administrative law). The legal approach in conducting assessments focuses on actions that are following the law or not, and if it is not then generally there are legal means to enforce legal norms that are violated.

Good administration (*goed bestuur*) can conceptually lead to practical normative consequences. The practical normative consequence of good administration (*goed bestuur*) as a legal principle is that bodies/institutions must comply with these legal norms in carrying out their duties. The administrative body must gather the necessary knowledge of the relevant facts and interests to be considered during preparation. This is proven that the principles of good governance have been included in the provisions of legislation (Addink, G.H. 2012).

The consequences of most of the principles of good governance lie in the legal regulations that must be obeyed by bodies/institutions and the provisions that apply directly from an international agreement

### 3.3 Development of the Concept of Good Governance

The concept of good governance, which was originally not a legal concept, has turned into a legal concept and has become the basis for a modern state together with the principle of the supremacy of law and the principle of democracy. This concept is the most modern and dominant of the three pillars of the country, while the concept of the rule of law and the concept of democracy are the more classic pillars but are still alive. The concept of good governance can only become legal principles if it has been codified and has legal consequences (Addink, 2019).

Three steps can be distinguished in carrying out concept positivization, namely identification, internalization, and enforcement of good governance. Hence, there is a direct relationship between good governance and human rights which can be illustrated in various articles in international agreements on human rights. Recent developments related to law regarding good governance and the development of most of the principles of justice which were previously unwritten, have more or less codified and internationalized national administrative law with the development of the principles of good governance, including the principles of good governance (Addink, G.H., 2012).

Three steps can be distinguished in carrying out concept positivization, namely identification, internalization and enforcement of good governance, so that there is a direct relationship between good governance and human rights which can be illustrated in various articles in international agreements on human rights. Recent developments related to law regarding good governance and the development of most of the principles of justice which were previously unwritten, have more or less codified and internationalized national administrative law with the development of the principles of good governance, including the principles of good governance (Hadjon, 2012).

## The Coherence of Good Administration and Good Governance in Government (A Conceptual Approach)

### 3.4 The Coherence of *Goed Bestuur*/Good Administration and Good Governance Dimensions

As mentioned in the explanation above, the principles of good administration (*goed bestuur*) are rooted in the principles of supremacy/rule of law (the principles of proper/good governance and the principles of governance based on human rights) and the principles of democracy (the principles of transparent government, the principles of participatory government, the principles of effective government, and accountability) while the principles of good governance are the foundation for a modern democratic rule of law. Starting from the conceptual approach and substance of each study of these principles, the relationship between UNDP good governance and the dimensions of good administration (*goed bestuur*) can be illustrated through mapping in the following table:

**Table 1. The Coherence of the Principles of Good Governance and Dimensions of *Goed Bestuur*/Good Administration**

Good Governance Principles (UNDP)	Dimensions of Good Administration ( <i>Goed Bestuur</i> )
<i>Participatie</i>	<b>Dimensie 1: Voldoen aan democratische principes (Fulfill democratic principles) :</b> - <i>representatie</i> (representation) - <i>verantwoordelijkheid</i> (responsibility) - <i>verantwoording</i> (accountability) <i>interventie (exit, voice en loyalty)</i> [intervention (exit, voice and loyalty)] - <i>deliberatie – reflective</i> [deliberation-reflection]
<i>Accountability</i>	
<i>Transparancy/Openness</i>	
<i>Equity and inclusiveness</i>	<b>Dimensie 2: Wet en recht (Act and Law) :</b> - <i>rechtsstaatelijk</i> (supremacy of law) <i>rechtmatig</i> (incl. ABBB's) [valid, including AUPB] - <i>integer</i> (intact)
<i>Rule of law</i>	
<i>Consensus orientation</i>	<b>Dimensie 3: Gemeenschappelijke percepties en waarden (Shared Perceptions and Values) :</b> <i>consensus over basiswaarden</i> (consensus about basic values) <i>consensus over lange termijn doelen (deliberatie over die doelen/waarden)</i> [consensus about long-term goals – deliberation about those goals/values]
<i>Strategic/long term vision</i>	
<i>Responsiviteit</i>	<b>Dimensie 4: Uitvoering (Implementation) :</b> <i>responsief (kunnen) inspelen op vraag en maatschappelijke ontwikkelingen</i> – [responsive (able) to respond to social demands and developments] <i>kwaliteit (inc. Doeltreffendheid en doelmatigheid)</i> – [ quality (including effectiveness and efficiency) - <i>handelingsvermogen</i> (ability to act)
<i>Efficiency</i>	

Source: Processed and analyzed from UNDP, 1997 & Montfort, 2004

Furthermore, if the principles of good governance as presented by Addink (2019) and juxtaposed with the dimensions of good governance according to van Montfort (2004), then the following description can be understood below:

**Table 2. Description of the Relationship between the Principles of Good Governance and the Dimensions of *Goed Bestuur*/Good Administration**

The Principle of Good Governance	Dimensions of Good Administration ( <i>Goed Bestuu</i> )
<b>1. Transparency</b>	<b>Dimensie 1: Voldoen aan democratische principes (Fulfill democratic principles) :</b> - <i>representatie</i> (representation) - <i>verantwoordelijkheid</i> (responsiveness) - <i>verantwoording</i> (accountability) <i>interventie (exit, voice en loyalty)</i> [intervention (exit, opinion and loyalty)] - <i>deliberatie – reflective</i> [deliberation-reflection]
<b>2. Participatie</b>	

## The Coherence of Good Administration and Good Governance in Government (A Conceptual Approach)

<p><b>3. The Principle of Properness</b></p>	<p><b>Dimensie 2: Wet en recht (Act and Law) :</b>  - <i>rechtsstaatelijk</i> (supremacy of law)  <i>rechtmatig</i> (incl. ABBB's) [valid, including AUPB]  - <i>integer</i> (intact)</p>
<p><b>4. The Principle of Effectiveness</b></p>	<p><b>Dimensie 3: Gemeenschappelijke percepties en waarden (Shared Perceptions and Values) :</b>  <i>consensus over basiswaarden</i> (consensus about basic values)  <i>consensus over lange termijndoelen (deliberatie over die doelen/waarden)</i>  [consensus about long-term goals – deliberation about those goals/values]</p> <p><b>Dimensie 4: Uitvoering (Implementation) :</b>  <i>responsief (kunnen) inspelen op vraag en maatschappelijke ontwikkelingen</i> –  [responsive (able) to respond to social demands and developments]</p>
<p><b>5. Accountability</b></p>	<p><i>kwaliteit (inc. Doeltreffendheid en doelmatigheid)</i> – [ quality (including effectiveness and efficiency)  <i>handelingsvermogen</i> (ability to act)</p>
<p><b>6. The Principle of Human Rights</b></p>	<p><b>Dimensie 1, 2, 3, 4</b></p>

Source: Processed and analyzed from Addink, 2019 and van Montfort, 2004.

### 4. CONCLUSION

Concerning the concept of good administration (*goed bestuur*), it focuses on government agencies carrying out correct and appropriate actions at the right time, while the concept of good governance focuses on the views of agencies/institutions, priority interests that promoted and respected values, as well as the management process in a broad sense as a reflection of the culture of interaction between institutions, then several main conclusions can be stated as follows:

1. The legal concept of good administration (*goed bestuur*) which is rooted in the principles of the rule of law and the principles of democracy, will show the practical normative consequences that must be carried out by government bodies/institutions themselves, both through moral approaches, positive law and through interpretive concepts.
2. Good governance, which was originally a concept, can be transformed into a legal norm by positiveizing a number of its principles in statutory regulations and through the practice of court decisions and international agreements.
3. The development of the Administrative Law perspective on the principles or principles of good governance in relation to the realization of good administration (*goed bestuur*), will make these principles or principles the third pillar, in addition to the first pillar of the rule of law and the second pillar principles of democracy

### REFERENCES

- 1) Addink, G.H. (1999). *Algemene Beginselen van Behoorlijk Bestuur*. Kluwer, Deventer.
- 2) Addink, G.H. (2012). Het concept van 'goed bestuur' in het bestuursrecht en de praktische consequenties daarvan. <https://www.kzgw.nl/wp-content/uploads/2015/11/Verdieping-Prof-Dr-G-H-Addink.pdf>
- 3) Addink, G.H. (2019). *Good Governance : Concept and Context*. Oxford University Press, UK.
- 4) Ballin, E.M.H. Hirsch. (1979). *Publiekrecht en Beleid* (diss. Amsterdam UvA). Samson, Alphen aan den Rijn
- 5) de Waard, B.W.N. (1987). *Beginselen van Behoorlijke Rechtspleging* (diss. Utrecht). W.E.J. Tjeenk Willink, Zwolle.
- 6) Dworkin, Ronald. (1986). *A Matter of Principle*. Harvard University Press Cambridge, Massachusetts.
- 7) Hadjon, Philipus M. (2002). *Pengantar Hukum Administrasi Indonesia*. Gajah Mada University Press, Yogyakarta.
- 8) Hadjon, Philipus M. (2012). *Hukum Administrasi Sebagai Instrumen Hukum Untuk Mewujudkan Good Governance, dalam Hukum Administrasi Dan Good Governance*. Penerbit Universitas Tri Sakti, Jakarta.
- 9) Hajar, M. (2017). *Model-Model Pendekatan Dalam Penelitian Hukum dan Fiqh*. Kalimedia, Sleman.
- 10) Marzuki, Peter Mahmud, (2013). *Penelitian Hukum*, Kencana, Jakarta.
- 11) Nicolai, P. (1990). *Beginselen van Behoorlijk Bestuur* (diss. Amsterdam UvA), Deventer.
- 12) Prakke, L. & C.A.J. Kortmann. (1986). *Het Bestuursrecht va de landen der Europese Gemeenschappen*. Kluwer, Deventer.
- 13) Schlössels, R.J.N & S.E. Zijlstra.(2010). *Bestuursrecht in de Sociale Rechtsstaat*. Kluwer, Deventer

## The Coherence of Good Administration and Good Governance in Government (A Conceptual Approach)

- 14) UNDP (1997). Governance for Sustainable Human Development, United Nations Development Programme. <https://www.gdrc.org/u-gov/g-attributes.html>
- 15) van der Vlies, I.C. (1984). Het wetsbegrip en beginselen van behoorlijke regelgeving (diss.: Amsterdam UvA). Vuga, Den Haag.
- 16) van Montfort, C. (2004). Ruimte voor Good Bestuur tussen Prestatie, Proces en Prinsipe, Wetenschappelijke Raad Voor Het Regeringsbeleid. Den Haag. <https://library.oapen.org/bitstream/id/8a6fc483-6067-40e2-8f82-9fb07c699bc2/439822.pdf>



There is an Open Access article, distributed under the term of the Creative Commons Attribution – Non Commercial 4.0 International (CC BY-NC 4.0) (<https://creativecommons.org/licenses/by-nc/4.0/>), which permits remixing, adapting and building upon the work for non-commercial use, provided the original work is properly cited.