

THE CONCEPT OF ECONOMIC ANALYSIS OF LAW ON MUNICIPAL BONDS AS A SOURCE OF FINANCING OF REGIONAL INFRASTRUCTURE DEVELOPMENT IN INDONESIA

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ABSTRACT

The issuance of municipal bonds by local governments in Indonesia raises the phenomenon of difficulty in making decisions in formulating strategies for resource utilization that are under the responsibility of local governments. Contractual protection in investment in municipal bonds implies the mutual integration of economics and law in realizing public order because challenges in morality problems develop as threats to people's lives, which include the inverse between price and output, the opportunity cost of alternatives, and the tendency for resources to attract from lower to a higher value. Based on the descriptions above, for further exploration of the problem of implementing Municipal bonds as financing for regional infrastructure development, this study was conducted to analyze facts related to the implementation of municipal bonds as financing for regional infrastructure development in Indonesia based on the concept of economic analysis of law. This study uses normative juridical research by using a social-legal research approach. The results of this study reveal that the concept of economic analysis of law is a concept especially for the settlement of the default event of municipal bonds contract which is based on economics with three basic principles, namely value, usefulness, and efficiency.

Keywords: Municipal Bonds, Infrastructure, Economic Analysis of Law

INTRODUCTION

Economics determines the market mechanism to create automatic directions in allocating scarce resources, whether human resources, capital or other resources. Besides market mechanism, in organizational management, the allocation of resources is generally also carried out through an administrative hierarchical structure. The two ways of allocating resources referred to are two forms of economic organization, which are the main activities that must be carried out in budgeting. Both situations, in reality, will always lead to changes in the boundaries of functions and organizational hierarchies. Organizations undergo gradual changes in systems, from relatively closed ones to increasingly open systems. The risk of changing the system is the complexity that will be faced by the organization, due to the influence of various factors that were previously considered exogenous, but because of the transformation, must be considered endogenous variables. In the organizational mechanism, this will clearly complicate the decision-making that must be made by management. In such situations, the validity of organization and management models in general and various models of decision-making in particular, which are used by organizations, tend to decrease because they have to accommodate the diversity of these endogenous variables.

This phenomenon is a reality that is currently being faced by local governments throughout Indonesia. The issue of independence which is the substance of regional autonomy as regulated in Law Number 23 of 2014 concerning Local Government has caused the

emergence of endogenous variables in the form of aspirations from both the central government and the people in their own regions that must be taken into account and accommodated in every decision made by local governments, so that they have the ability to realize independence, namely the ability of the regions to explore existing financial sources in the regions, manage and use their own finances to finance government activities, by minimizing dependence on funds from the central government, so that local revenue becomes the main source for financing local government expenditures (Halim, 2011).

However, since regional autonomy was enacted through Law Number 22 of 1999 and replaced most recently by Law Number 23 of 2014 concerning Local government, local governments have not yet been able to show their ability to raise awareness about the importance of efficiency in government administration. This is because the centralized system is long rooted in the government system in Indonesia, with a strong influence on organizational culture with a dependency character of local governments. Contextually, during the 31 years of the implementation of regional autonomy, they should have been able to present a force capable of encouraging local government efforts in economic development in their regions. In fact, there are still a large number of activities that are counterproductive, inefficient, and not following the substances of Law Number 23 of 2014 which demands the realization of such independence. This occurs because the role of regional economic resource management has not significantly contributed to improving the performance of local governments in improving community welfare due to the lack of understanding of the importance of microeconomic approaches to local governments in building community welfare. In this context, the implementation of regional autonomy, which demands the ability of local governments to create welfare for their people, is a paradigm that moves away from the government's vision of maximizing people's welfare.

Law Number 33 of 2004 concerning Central Financial Balance and Law Number 23 of 2014 concerning Local Government have opened up opportunities for local governments to seek alternative sources of funding to carry out government and development tasks for their regions. One of the opportunities is the issuance of municipal bonds to finance regional infrastructure development. However, based on a juridical perspective, seizing these opportunities is considered quite difficult, because there is mutual opposition to various substances from the various laws that serve as the legalities for the municipal bonds so that the principle of control and utilization cannot be optimized for opportunities of alternative sources of financing referred by the two laws mentioned above.

A further implication of the above conditions is that it is difficult to make decisions in formulating strategies for utilizing resources that are under the responsibility of local governments, especially in carrying out cost-benefit analyzes which are commonly used in economic analyses of law. The calculation of the opportunity for municipal bonds in the perspective of economic analysis of law rests on the issue of legal efficiency based on the postulate of economic theory regarding the inverse relationship between price and output, alternative opportunity costs, and the tendency of resources to draw from a lower value to a higher value. The theory of economic analysis of law can be used to form a formula regarding the efficiency of the law which is described more specifically based on the cost-benefit analysis paradigm. Local governments, in issuing municipal bonds, should obey several provisions – one of which is that the "obligation should obtain prior approval from the DPRD". This obligation relates to the financial obligations that must be borne by local governments, those are "the obligation to pay interest and principal arising as a result of the issuance of municipal bonds at maturity". This shows that municipal bonds are regulated in civil law context.

Referring to the potential contained in municipal bonds in the form of obtaining funds needed for infrastructure development, it can be ascertained that the aspect of civil liability is very important because it relates to legal protection for investors whose investment behavior can be ascertained by calculating the concepts of cost-benefit analysis. This will be even more important when municipal bonds are issued through the capital market, where the legal

protection based on the principles of civil law is felt by investors to be very weak. Municipal bonds must refer to the law in the capital market. This is stated in Article 38 of Government Regulation Number 30 of 2011. One of the procedures that must be followed by local governments that will issue the obligation is that the regional finances must be audited first by a public accountant registered in the capital market for the accounting period of local government for the last three years.

The implementation of this audit is a requirement that must be met by the local governments when submitting a bond issuance proposal to the Minister of Finance. This is in accordance with the provisions stipulated in the Minister of Finance Regulation Number 111 PMK.07 of 2012 concerning Procedures for Issuance and Accountability of Municipal Bonds. In contrast to the audit as stipulated in Law Number 23 of 2014 which aims to be an audit for the accountability of local governments to the Regional People's Representative Council (DPRD), the audit referred to by Regulation of the Minister of Finance Number 111 PMK.07 of 2012 is a special audit that is held to comply with statutory provisions as a requirement for local governments to issue municipal bonds. Referring to the provisions on auditing as one of the requirements in regional legislation, the Regional Financial Management, Accountability, and Supervision system must also become a concern for local governments after the municipal bonds are issued. Thus, regional financial management by local governments must also refer to the Decree of the Minister of Home Affairs Number 29 of 2002 concerning Guidelines for the Management, Accountability, and Supervision of Regional Finances as well as Procedures for Preparing Regional Revenue and Expenditure Budgets, Implementing Regional Financial Administration and Compiling Budget Calculations of Regional Revenue and Expenditure, which establishes a framework to facilitate the implementation of regional autonomy systems and procedures for the preparation of the Regional Revenue and Expenditure (APBD).

Based on the provisions in the Decree of the Minister of Home Affairs Number 29 of 2002, related to the implementation of municipal bonds, it must be initiated by the local government through reforming the budget system. The main substance of the budgeting system in the Decree of the Minister of Home Affairs Number 29 of 2002 strongly emphasizes efforts to achieve results work or output from the defined cost or input allocation planning. In this context, the local government has rights and obligations related to finance to fulfill the overall duties of the state. Legal rules that regulate these matters become the object of State Administrative Law in a broad sense. Thus, the relationship between budgeting and municipal bonds in state administrative law is because budgeting is part of the task of administering the public interest which is carried out by local governments as local government administrators in protecting public interests, which is confirmed in Article 27 of Government Regulation Number 54 of 2005.

The implementation of municipal bonds through reforming the budgeting system is the logic for a consequence of broad autonomy from local governments regarding fiscal decentralization concerning alternative sources through the municipal bonds as alternative financing of regional infrastructure, which demands transparency, accountability, and professionalism in every aspect of government fields that are managed – by local governments. Apart from the foregoing, in the context of the issuance of the municipal bonds, there is a legal relationship between investors and local governments as the issuers. The legal relationship is based on two sources of law, namely the municipal bonds itself which is a transferable debt, which contains a promise from the local government as the issuing party to pay the debt in the form of interest for a certain period and pay off the principal debt at a predetermined time to investors. The legal relationship that exists in the municipal bonds is a purely civil aspect based on freedom of contract as regulated in Book III of the Civil Code.

Contractual protection in investment in municipal bonds implies the mutual integration of economics and law in realizing public order because challenges in morality problems develop as a threat to people's lives. For this, Cooter & Ullen states that the theory of economic analysis of law is used in relation to the following:

1. The economies provide a behavioral theory to predict how people respond to change in-laws
2. Economics provides a useful normative standard for evaluating law and policy.
3. Besides efficiency, economics predicts the effects of policies on another important value, the distribution of income and wealth.

Furthermore, Cooter & Ullen also stated that in the interaction between law and economy, economic analysis of law highlighted the thoughts so far that “many people view the law only in its role as a provider of justice, not to view the law as an incentive for changing behavior—that is as implicit prices and instrument for policy objectives (Cooter & Ullen, 2004). This opinion from Cooter & Ullen, in practice, is always faced with the reality of the difficulty of the law in creating the order for society because of the distortion that occurs in the practices of legal life which also results in the difficulty of realizing economic prosperity in the life of a state. Based on this, according to David Friedman's thinking, the concept of economic analysis of law should be used as a needed alternative when it is related to the concept of implementing municipal bonds.

Thus, for further exploration of the problem of implementing Municipal bonds as financing for regional infrastructure development, the problem for this study is formulated as follows: "how is the economic analysis of law concept in the implementation of municipal bonds as financing for regional infrastructure development in Indonesia?" in an attempt to “analyzing facts related to the implementation of municipal bonds as financing for regional infrastructure development in Indonesia based on the economic analysis of law concept”.

Municipal bonds in the Substance of Civil Law

Municipal bonds are loans investors make to local governments. They are issued by cities, states, counties, or other local governments. Municipal bonds pay interest to investors, usually twice a year. Bond issuers repay the principal on the bond's maturity date. That's one to three years for short-term bonds and 10 years or more for long-term bonds (Amadeo, 2011).

Article 1 number 10 Government Regulation Number 54 of 2005 concerning Regional Loans, defines municipal bonds as "Regional Loans offered to the public through public offerings on the capital market."

Meanwhile, Article 28 of the Government Regulation Number 54 of 2005 states the civil aspects of the local governments, as follows:

"Each Municipal bond loan agreement at least states":

- A. Nominal value;
- B. Due date;
- C. Interest payment date;
- D. Interest rate (coupon);
- E. Frequency of interest payments;
- F. How to calculate interest payments;
- G. Provisions concerning the right to buy back Municipal bonds before maturity; and
- H. Provisions on transfer of ownership.

Elucidation to Article 28 of Government Regulation Number 54 of 2005, clearly describes the following civil aspects, namely:

1. The Municipal Bonds loan agreement is outlined in the trustee agreement and signed by the Regional Head and the Trustee as the representative of the bondholder/lender.
2. Referred to as “nominal value” is the principal value of Municipal bonds, namely the amount that can be billed by the Municipal Bondholders to the bond issuer at maturity, or the amount of the Municipal bonds principal obligation that must be paid by the Local government to the Municipal Bondholders.
3. What is meant by “maturity date” is the period specified in the municipal bonds issuance agreement (usually stated in the trustee agreement) in which the bondholder has the right to demand redemption of the rights related to the municipal bonds.
4. The due date may include the due date for principal payments as well as interest payments.

5. "Interest rate (coupon)" is defined as the benefit promised to Municipal Bondholders at a certain percentage of the nominal value. The interest rate can be fixed rate or floating rate.
6. In the issuance of Municipal bonds, an agreement can be made that the issuer (local governments) can buy back the Municipal bonds.

Based on the civil aspects mentioned above, the clause on the regional investment by the community will become a legal action that must be obeyed by each party, namely the local government and investors in the municipal bonds. Thus, in the context of the relationship between local government and investors, the law of business transactions which is categorized as being in the realm of civil law applies as an agreement. The agreement further creates an engagement, which then becomes a contract with the legal contract contained therein, related to property and binds the parties who bind themselves to each other.

A contract for municipal bonds, made by the parties, namely the local government and investors must comply with the legal principles contained in the source of contract law as regulated in Chapter Thirteen of Book Three of the Civil Code. The basic principle for freedom of contract becomes the basis for the parties to determine the contents and achievements contained, while still adhering to the juridical provisions that bind the parties, namely:

- A. Choice of law does not violate public order
- B. Choice of law can only be made in the area of contract law
- C. It must be related to the contract concerned
- D. Not to smuggle the law
- E. Not for land transactions or rights over movable objects
- F. May not be regarding the provisions of civil law with a public character
- G. Violating good faith
- H. Choice of law is used to avoid criminal responsibility
- I. The existence of compelling legal rules
- J. The selected substantive law governs the object of the contract.

Steven Gifis provides the definition of a contract, which is "an agreement or a series of agreements in which the law provides compensation for default on the agreement, or for the implementation of the contract by law as a duty". As a contract, an agreement regarding municipal bonds contains an element of the promise given by one party to another. In this agreement, people are bound to the legal consequences that arise because of their own will. If the promise is broken, default occurs. Four consequences that can occur if one of the parties commits default, namely:

1. Paying damages suffered by other parties in the form of compensation
2. Cancellation of the agreement
3. Transfer of risk
4. Pay the court fee if it comes to the judge's case

Default occurs due to one of the parties disability to carry out the appropriate performance according to what should be and this is a violation of the law or an act against the law on the rights of one of the parties, better known as an unlawful act committed by someone who because annoyance causes harm to others.

In relation to losses due to the under-performance, there are elements of costs, both economic costs and social costs. A conflict of interest between the contracting parties usually underlies the event of the default. Conflict of interest, in the perception of each party, referred to in the contract, is often resolved by ignoring the law as "social engineering" which is a legal concept in resolving various conflicts of interest in people's lives, both because of the role of the state and the role of individuals in the conflict.

Concept of Economic Analysis of Law

Economic analysis of law, such as the idea of wealth maximization which conditions

changes in the rule of law, can increase efficiency if the winning party's profits exceed the losses of the losing party. In the next stage, the winning party can compensate the losing party, so that the losing party's condition is still better. In this context, Posner considers one aspect of justice that does not only include distributive and corrective justice. Posner emphasized "Pareto improvement", which in this case, the purpose of legal regulation can provide valuable input for justice and social welfare (Mercuro & Medumo, 1999).

The concept of economic analysis of the law of social welfare departs from an analysis of legal efficiency based on the postulates of classical economic theory about the inverse relationship between prices and output, alternative opportunity costs, and the tendency of resources to pull from the lower value to higher-value use. This theory raises the problem of the state's obligation to create welfare for its people with a paradigm to maximize wealth (Wealth Maximization) which is an elaboration in the theory of economic analysis from the law, by applying the principles of efficiency, which Posner defines as "allocation of resources in which value is maximized, has limitations as an ethical criterion of social decision making" (Posner, 1992). Therefore, Posner's theory can be used to form a formula regarding legal efficiency which is described more specifically based on efficiency theory and cost-benefit analysis. Efficiency in Posner's point of view relates to increasing one's wealth without causing harm to others. In addition to the issue of efficiency, the discussion of economic analysis of law focuses on cost-benefit analysis. This theory is an analytical tool for decision-making. A decision of the choice to be taken can be seen from the costs that may arise or become a consequence if the decision has been made. On the other hand, the benefits that may be derived from the decision can also be calculated. The two can then be compared to see which one of the two that will be greater obtained – the costs or benefits. Through this approach, the cost-benefit analysis can be seen to be more widely used in economic analysis of law. In general, cost-benefit analysis is related to economic welfare, which economics uses at a normative level.

Posner further argues that cost-benefit analysis seeks to implement the criteria of the Kaldor-Hicks concept concerning the social value of well-being, then describes and incorporates these methods into public policy decisions (Bill, 2008). Posner emphasizes that the Kaldor-Hicks criterion is an improvement if economic actors who benefit from the change can pay compensation to economic actors who suffer losses and the amount of profit obtained is greater than the compensation paid; which is called the compensation criteria. Therefore, it can be explained that the use of cost-benefit analysis is pure as an evaluation, as input before making a decision, as well as a decision-making rule. Economists face a problem when trying to compare levels of satisfaction between individuals. The difficulty in determining the state affairs in terms of greatest satisfaction to individuals in society requires the introduction of the Pareto criterion as Pareto Superiority. In his theory, Posner states the Kaldor-Hicks concept as Potential Pareto Superiority, that is, "the transaction will only be Pareto superior if the transacting parties provide compensation to a third party for the losses they have suffered." Posner's depiction of an economic viewpoint of law then gave birth to the behavioral law or behavioral economy. These two habits are then synthesized until they are merged into behavioral of law and economy.

RESULTS AND DISCUSSION

One of the objectives of legal harmonization in municipal bonds is to formulate legal objectives that are implemented in the agreement/contract so that the contract can create a balance (equilibrium). Rationally, those who fail to achieve the substance of the contract must accept the legal consequences of their actions. Balance and fairness between the interests in the contract must ensure impartiality of either party, consider the same in principle, and try to find adjustments to the aspects that are contained in the contract. This is following the opinion of Cooter & Ullen that – it will happen "if the balance is juxtaposed with justice" (Atmasasmita & Wibowo, 2016).

In the context of balance and justice, the economic analysis approach to the law of resolving the failure-achievement event of a contract is based on economics with three basic principles, namely value, utility, and efficiency,— or as stated by Cooter & Ullen regarding the principles of maximization, balance, and efficiency (Maximization, Equilibrium, and Efficiency). Economic analysis of the law will look at the efficiency aspect in determining a choice of the consequences arising from the default, whether to pay for losses suffered by other parties in the form of compensation, cancellation of the agreement, transfer of risk, and/or pay the cost of the case if the case comes to the judge. Efficiency is always relevant in making these choices because the perception of efficiency views the law as an attempt to minimize costs. The principle that becomes the basis for economic analysis of the law is the maximum satisfaction that must be obtained from any event even though it is a choice of sanctions that must be taken due to poor performance as defined in the Pareto Optimum principle in which an agreement made should benefit one party, even though it will harm the other party.

Default, at a contract event in legal terms, is called a breach of contract. Breach of contract in a material sense is a condition in which one of the parties fails to fulfill its promise as stated in the contract. A breach of this type of contract gives the other party the right to terminate (or cancel) the contract. The party whose rights are not fulfilled can choose to sue all the obligations fulfilled by the other party or to ignore them. In addition, the first party can choose the option to continue the contract or sue only part of the obligations contained in the contract that the other party has not fulfilled. In practice, it is not easy to prove that material violations have occurred. According to John and Joseph, there are several factors that affect this condition, namely:

1. If the contract has specified a time for breach of contract
2. The breach of contract is considered more as a material violation than a violation caused by negligence or certain conditions
3. The breach of contract was mostly caused by considerations of material violations (Risnain, 2021).

Breach of contract in the immaterial sense does not give the party whose right is not fulfilled to terminate (or cancel) the contract but only gives her/him the right to sue for the fulfillment of part of the contract. The breach of contract event in the implementation municipal bonds contract occurs when the local government cannot fulfill its obligations as stipulated in municipal bonds in the following cases:

- a. Insufficient investment nominal value;
- b. Broken due date;
- c. The breach of the interest payment date;
- d. The amount of the interest rate (coupon) is not appropriate
- e. The frequency of interest payments is not fulfilled;
- f. The method of calculating interest payments is not suitable;
- g. Not being concerned about the right to buy back Municipal Bonds before maturity; and
- h. Disregard for the transfer of ownership provisions.

Economic analysis of law states that contract law is based on the principle “*pacta sunt servanda*” (Adolf, 2007) in which contracts must be respected, that in the context of contract law is the principle of loyalty to a promise which is an absolute principle of its enforceability because the law is an agreement. “When people don't keep their promises, the law is meaningless.” The consequence of the *pacta sunt servanda* principle is that a contract will be seen from its legal consequences. Every contract that is made binds the parties like a law. Therefore, each party must respect the contracts made by the parties. The derivative result of the *pacta sunt servanda* principle is that no one as a third party may not interfere or interfere, either to add or reduce or delete the contents of the agreement. This is to achieve legal certainty for the contracting parties.

To carry out a contract in accordance with the *pacta sunt servanda* principle, contract law also underlines the commitment of the parties based on the principle of good faith which is the

intention of one party in an agreement not to harm its promised partner or not to harm the public interest. Therefore, the principle of good faith not only works after the agreement is made but also has started working when the parties are about to enter or want to enter into the agreement concerned (Arafat, 2015). In this context, the economic analysis of the law states that "contract law can be viewed as filling in these "gaps" in the contract - attempting to reproduce what parties would have agreed to if they could have costly planned for the event initially." What is stated in the economic analysis of law contains a substance for the provision of incentives in relation to the efficiency that should be contained in the contract law for the implementation of municipal bonds.

Concerning contracts for the issuance of municipal bonds by local governments, the concept of economic analysis of law has the following consequences:

1. The doctrine of incompetence is triggered when an incompetent person makes a promise. The law provides incentives to protect incompetent people at least cost by interpreting contracts in their best interests. These incentives are one form of legal protection for municipal bonds investors. In this context, municipal bonds contracts should be made within the competence corridor of local governments, especially to ensure that local governments that issue these bonds are not in a condition of liquidity crisis or solvency that will cause the government the area is an achievement on the contract that was signed by it.
2. Whereas the mutual benefit of the parties bound by municipal bonds contracts must be maximized. This implies a "Pareto efficiency" principle, as neither party will agree to a contract based on their voluntary contracting, to make conditions worse. Another way of putting this is in Posner's term, "wealth" which must be maximized (wealth maximization).
3. The economic analysis of the law also states that two different legal claims for breach of contract will be assessed in terms of 1) compensation for reliance loss and 2) compensation for the expected loss. In this case, the economic analysis of the law shows that the rule of law which obliges the breach of contract to pay for the loss of trust by setting the right incentives is related to the efficiency principle.
4. Furthermore, the economic analysis of the law also states that the rule of law which only obliges one of the contract breakers to provide compensation for the loss of trust will not be able to guarantee an efficient outcome. However, the rule of law which obliges one of the contract breakers to pay the estimated losses by setting appropriate incentives is following the efficiency principle.

Basically, the contracting law, besides guaranteeing order in legal certainty, must also be able to meet the demands of justice. Legal certainty requires that what is promised must be fulfilled by the parties, in addition to fulfilling the norms of justice from the contract clause. This fairness is based on balanced bargaining power between each contracting party. The imbalance in bargaining power will cause a contract to lead to or become unconscionable as an unfair agreement or an agreement that is contrary to conscience. Therefore, in municipal bond contracts, the contract must allocate the obligations of each party efficiently and adjust the compensation values rationally by allocating obligations efficiently and adjusting the price reasonably. Thus, contract clauses that are unreasonably burdensome to the other party are conditions that are contrary to justice. This aspect of justice is the basis for achieving Pareto Efficiency or maximizing wealth as stated in the teachings of economic analysis of law.

Pareto efficiency and wealth maximization in the contract must be based on the reciprocal principle (reciprocity), which requires that the parties to the contract must exercise their respective rights and obligations reciprocally. According to this principle, the performance of a contract must provide mutual benefits. Either party should not simply make unbalanced achievements. Basically, if a party is granted rights, he is required to carry out his obligations. Likewise, if the other party is burdened with obligations, then he will get his rights. Economic analysis of the law draws its main conclusions about social behavior in municipal bond contract agreements, in which local governments, who dare to participate in municipal bonds in the capital market, must commit to producing socially optimal resource allocations. Contextual to this is the relationship between the behaviors in the contract regarding municipal bonds. Then the working power of law in the approach to contracting behavior should be based on the paradigm of value, utility, and efficiency. It has been known that economics, in exploring human behavior, always looks at it from the aspect of scarcity or limited resources. Economic analysis

of law looks at aspects of efficiency in determining a choice in human life. The concept of choice and rationality results in people having to spend money because they have to determine the risk of the consequences of a value, either high or expensive, which will have a very significant effect. This is then linked to the law, concerning the application of sanctions where heavy or light sanctions will also have an impact on the behavior of the person who will receive the sanction. Therefore, this efficiency problem is highly correlated with the sanction of an under-performance, in which people view that efficiency should lead to the achievement of value from the distribution of income and wealth (Hussain, 2020).

Regarding the law that governs agreements/contracts, an economic analysis of the law from Posner states that civil law must be committed to the principle of efficiency (Hussain & Hassan, 2020). In this regard, the legal system for regions must be divided into two parts: the first is investment assistance in the regions, and the second, with tax justice and social law, must compensate for this by pursuing distributive justice. In simplified terms: "civil law must prioritize criteria for efficiency, and public law must prioritize justice". As an effect of wealth maximization, equal treatment which is diversified into the form of efficiency –and equity are not partial and separate factors in civil law. Efficiency and justice are not only mutually exclusive, but the two variables are also in the reciprocal quadrant. Because of this relationship, the pursuit of these two objectives for a contract does not have to make fairness and efficiency a competitive trade-off, as both can be carried out simultaneously and cooperatively. If later in the management of municipal bonds, there are injustices that reduce people willingness to become investors, then justice will prove to be a prerequisite to achieve efficiency (Hussain, 2021).

Thus, in formulating legal policies related to municipal bonds, according to Romli Atmasasmita and Kodrat Wibowo, there are three legal principles that should be used as guides, namely legal certainty, justice, and benefit, while according to Klaus Mathis, efficiency must be added as the fourth principle because the legal system needs efficiency as a driving force to achieve justice. According to Romli Atmasasmita and Kodrat Wibowo, efficiency is juxtaposed with legal certainty, justice, and benefit, so the integration of these factors into law will be a factor that encourages behavior change. These three principles will become the basis for providing sanctions and compensation which will ultimately generate utility for both local governments and investors in municipal bonds. On that basis, following the opinion of Klaus Mathis, to achieve justice and efficiency, the legal provisions of an agreement/contract must provide space for the entry of the following aspects, especially if there is a dispute between the contracting parties due to the occurrence of default from one of the parties; (1) the need for and the possibility of state action, (2) the impact on social groups and individuals, (3) the impact on the economy, (4) the existence of alternative regulations, and (5) benefits in law enforcement. Municipal bond contracts must contain all of the aspects above.

Efforts that must be made by local governments to avoid the occurrence of default in the implementation of municipal bonds are to emphasize the need for efficiency and effectiveness in regional financial management. The dimensions of local government performance to achieve efficiency and effectiveness are not only related to economic decisions but also related to the accountability of decisions in the legal sector to prevent their development and eliminate the potential for irregularities in local government finance.

Based on this, efforts to improve people's welfare through municipal bonds are formulated in the APBD through financial programs and budgets based on several approaches that are considered relevant, including:

1. A sociological approach that emphasizes the aspects of community welfare. Municipal bonds must be able to provide benefits for the welfare of the community and be able to reveal the social impacts caused by government programs contained in the APBD.
2. Economic approach: APBD must be able to reveal various macro and micro-economic indicators that affect investment in municipal bonds with their impact on the achievement of community welfare
3. A regulatory approach that emphasizes many laws and regulations that are designed and enforced primarily for the benefit of improving the welfare of the community. In this approach, regulations that

prioritize the interests of the public sector become a priority to be accommodated for the issuance of municipal bonds.

4. Behavioral approach as the phenomenon of rampant corruption has caused an effect on the development of the behavior of individuals affected by the "parasitic" culture syndrome with their attitudes more towards *rational utility maximizers*, namely attitudes that rationally seek to maximize benefits for themselves from the issuance of municipal bonds

The four approaches mentioned above are a value chain to avoid the implementation of municipal bonds in the APBD, which is generally seen from the occurrence of budget slack, either through mark-up cost measures or investment mark-down of the municipal bonds. Opportunities for carrying out these actions occur and are deliberately created through legal uncertainty and manipulation of information by utilizing symmetric information in budget preparation. The reasoning based on the economic analysis approach to the law is based on the assumption that rational individuals will try to maximize their economic benefits and will be reluctant to act if they estimate that they will only get small economic benefits (Hussain, 2021).

CONCLUSION

Basically, municipal bonds are recognition from local governments regarding debts and promises to investors. Therefore, the issuance of municipal bonds must be subject to civil aspects, one of which is the legal aspects of the legal contract between the Local Government and investors for the municipal bonds. The concept of economic analysis of law is a concept especially for the settlement of the default event of municipal bonds contract which is based on economics with three basic principles; those are value, usefulness, and efficiency.

The legal economic analysis will look at the efficiency aspect in determining options for local governments in issuing municipal bonds with a consideration of the consequences of the possibility of default. Efficiency is always relevant in making these choices because the perception of efficiency views the law as an attempt to minimize costs.

The principle that becomes the basis in economic analysis of the law is the maximum satisfaction that must be obtained from each event even though it is a choice of sanctions that must be taken due default, as the Pareto Optimum principle that the agreement made should benefit especially for investors. The maximum satisfaction is the accumulation of value and benefit obtained by investors because investing in municipal bonds is truly profitable and brings economic benefits.

The essence of the concept of legal economic analysis which aims to create efficiency in every legal decision will be very useful if it is applied in the local government plan to issue municipal bonds as an alternative source of financing for regional infrastructure development. For this reason, local governments need to conduct an in-depth study of the concept of legal economy analysis involving economic and legal experts.

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