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Model Regulation of Strengthening Village Government Authority in Policy Determination: Case Study in Indonesia

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Abstract

The village as the smallest part of the administration of government has a very important role in running the government in supporting national development. In relation to the existence of villages, it cannot be denied anymore and cannot be separated from central government regulations and the implementation is based on Law Number 6 of 2014 concerning Villages. This study aims to identify and analyze the model of setting the authority of the village government in setting policies at Indonesia. The research method used is a type of empirical juridical research with a statutory and conceptual approach. From the results of the research it can be suggested that it should optimize the policies set by the village government and the existence of standard management mechanisms and systems and correct accountability systems.

1. Introduction

The goal of development is in accordance with the mandate of Pancasila and the 1945 Constitution of the Republic of Indonesia (1945 Constitution of the Republic of Indonesia) aimed at all levels of society wherever they are, both in villages and in cities. Since Indonesia's independence in 1945, special regulations for villages, which are strong, legitimate and sustainable, have not been sufficient so that debates about this have been ongoing, limited only to the nature, meaning and vision of the state for villages.

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Several problems related to poverty, underdevelopment, backwardness, and dependence on the government attached to the village. In the digital era like today, there are also many problems related to villages, including regarding village data that really matches what is in the field. In the implementation of village government, it is necessary to have a form of policy in the form of regulation based on the strengthening of authority. The importance of a regulatory model for strengthening village government authority in setting policies and with a digital touch must start from the village, so as to provide the space for openness and certainty needed to develop Indonesia from the village.

The process of making public policy is a complex process because it involves many processes and variables that must be studied. Therefore, some political experts who are interested in studying public policy divide the processes of preparing public policy into several stages. The purpose of this division is to make it easier for us to study public policy. The approach used before (conventional) data collection often creates polemics so that the program that is proclaimed is not on target, therefore it is time to improve it by taking advantage of the digital era. For this reason, a new approach is needed that is able to combine conventional approaches with digital approaches based on community participation. Therefore, it is necessary to have accurate data collection that is carried out starting from the village/kelurahan with the consideration that the village community itself knows better the real conditions around it. With accurate data collection on villages/kelurahan in various sectors, be it in the fields of ideology, economy, socio-culture, health, education, security and so on, which are collected in one data that is easy to access and shared between Central Agencies and Regional Agencies.

This is where the importance of village policy formulation is based on the participation of community members in providing information related to the real conditions that occur around them, and supported by sophisticated technology to carry out aerial photography so that the data conveyed is not only in the form of numbers but also photographic/recorded evidence. The spatial data obtained is used to obtain parcel thematic data (demography, education, health, economy, etc.), including village maps according to applicable regulations (administration, village boundaries, infrastructure, topography, land use, etc.), verification of village potential data, estimates and projections of land-based village development, village carrying capacity, infrastructure development, and others.

The formulation of policies used in village planning and development has data that can prevent manipulation of data and budgets originating from the village level and supra-village. A supra village is someone who has the authority to succeed in village development by monitoring areas in his territory. This is where the importance of realizing regulation as a form of policy formulation. Looking at the characteristics of the Balinese people and their unique cultural heritage, there is no single ethnic group in the world that is exactly like the Balinese. This condition gives the impression that Bali is not a newly emerging migration area. It is not a place for people who have recently settled to shape their homes and surroundings but a community that has been undergoing a long evolution for so long (Bali Development Vision and Mission Book 2018-2023).

Likewise, with the potential that is currently owned, the village is the spearhead of the movement in development, so that the description of the village that is presented is duly based on data with an accurate description of conditions. In an effort to realize the formulation of policies at the village level, there must be a legal basis as the basis for administering government through Village Regulations. Legal products as a form of policy formed in accordance with procedures following existing laws and regulations, such as the 1945 Constitution of the Republic of Indonesia, Law Number 12 of 2011 concerning Formation of Legislation, Law Number 23 of 2014 concerning Regional Government, Law -Law Number 6 of 2014 concerning Villages, as well as other laws and regulations related to villages. Article 18 paragraph (2) of the 1945 Constitution of the Republic of Indonesia, stipulates that

provincial, regency and city regional governments regulate and manage their own government affairs according to the principles of autonomy and co-administration.

2. Materials and Methods

The research method used is a type of empirical juridical research with a statutory and conceptual approach. This study aims to find out and analyze the model for regulating village government authority in setting policies in Indonesia, in this case the village as the smallest part of governance has a very important role in running government in supporting national development, and the existence of villages cannot be denied anymore and cannot be separated from the regulation of the central government and the implementation is based on Law Number 6 of 2014 concerning villages.

3. Results and Discussions

The rule of law is not only subject to the rule of law, but also includes ethical (moral) values, good norms in this case contained in the law or as a civilization that lives in society for the public interest which has an impact on society. There is equality before the law, in this case everyone regardless of their position and class in society is subject to the same law. Likewise, state functionaries are subject to the same laws as those that apply to ordinary people. Law which is a series of regulations and or laws and regulations that give birth to state institutions and or government agencies that have their respective authorities granted by the laws and regulations, where such authority and power cannot be used outside the legal corridor. This is because it must be subject to the principle of equality before the law (Rumiartha, 2022).

In various activities carried out there is a lot of environmental damage due to excessive utilization in pursuing certain development targets and also violations of the norms of life in rural communities. This is because development planning is top-down planning, where the approach makes the community the target of development (object) not as actors, so an alternative new development paradigm is needed. This approach is based on the experience of villages where the community works effectively in managing the resources that exist in the village and its environment. Therefore it is necessary to establish a rule in order to realize the above (Bagus Oktafian Abrianto, 2011).

To conduct public policy studies is a study that intends to describe, analyze, and explain carefully the various causes and effects of government actions. Public policy studies according to Thomas R. Dye, as quoted by Sholichin Abdul Wahab as follows: "Public policy studies include describing public policy efforts, assessing the impact of forces originating from the environment on the content of public policies, analyzing the consequences of various institutional statements and political processes on public policies; in-depth research on the effects of various political policies on society, both in the form of public policy impacts on society, both in the form of expected (planned) and unexpected impacts. The role of the state has been placed in a stronger and bigger position in creating public welfare and social justice. Taking Satjipto Rahardjo's opinion, therefore, the task of the state, in case of government, is to formulate in every law so that this goal, namely the welfare of the community, can be realized so that it will be seen and can be felt in a real way that the law plays a very important role in realizing the welfare of the community. This is what Satjipto Raharjo even went so far as to say, "Law should make you happy." The ideal of a welfare legal state where the state plays an active role in regulating the economy is contained in the preamble of the 1945 Constitution of the Republic of Indonesia.

The all Indonesian laws and regulations related to constitutional relations (Rumiartha, 2022). Regulation is a rule or principle regarding the act of regulating the regulation (regeling) can be found in statutory regulations (algemeen verbindende voorschriften) internal regulations that apply to internal regulations (interne regelingen) and policy regulations (beleidregel). Governor Regulations that are formed based on the governor's interpretation of statutory regulations always appear within the scope of local government administration. The formation of governor regulations in this category is also based on the authority of local governments as state administration officials inherently in their position as state administration officials (Bagir Manan & Kuntana Magnar, 2011).

In various definitions there is nothing that has similarities between one definition and another. Even if you look deeper, each definition has its own weaknesses. One legal definition is refuted by another legal definition. Imanuel Kant, a German scholar who lived in the last century said "Noch suchen die Juristen eine Definition zu Ihrem Begrife von Recht", which means "no single jurist can formulate a definition of law" (L.J. van Apeldoor,1985). Satjipto Raharjo, based on Gustav Radbruch's view, revealed that validity is the validity of the enactment of law and its relation to the basic values of law. Law is required to fulfill various works and by Radbruch is called the basic values of law namely justice, usefulness (zweckmaszigkeit) , and legal certainty (Schrenk, 2006).

The basic ideas regarding Village Government are diversity, participation, genuine autonomy, democratization and community empowerment (N. Daldjoeni, 2011). According to H.A.W. Widjaja, the village is a legal community unit that has an original structure based on special origin rights. Even though the village has experienced development in several aspects, Josef Mario Monteiro is of the opinion that the important elements inherent in each village are unlikely to change due to changing times (Josef Mario Monteiro, 2016).

The village is a state administration organization in a country and the village government is the lowest government in the composition of the state government. Things that can still be seen as inherent in the village, explained more clearly by Josef Mario Monteiro, namely; having the right to manage their own household affairs, being in an area with clear and certain boundaries, having a large enough population or community according to the requirements, who are in an orderly manner and residing in fixed locations, the head is directly elected , free and confidential by the entitled villagers. The existence of a legal basis (written and unwritten) which is obeyed by the community together with the village administration apparatus, has a permanent and sustainable name and contains a certain meaning for the community (Josef Mario Monteiro, 2016).

Article 1 point 1 of Law Number 6 of 2014 concerning Villages states that a Village is a village and a customary village or what is referred to by another name, hereinafter referred to as a Village, is a legal community unit that has territorial boundaries that are authorized to regulate and manage government affairs, community interests. based on community initiatives, origin rights, and/or traditional rights that are recognized and respected within the system of government of the Unitary State of the Republic of Indonesia. Article 1 paragraph (1) of Government Regulation Number 43 of 2014 concerning the Implementation of Law Number 6 of 2014 concerning Villages states that a Village is a village and a customary village or what is referred to by another name, hereinafter referred to as a Village, is a legal community unit that has territorial boundaries which has the authority to regulate and manage government affairs, local community interests based on community initiatives, origin rights and/or traditional rights that are recognized and respected within the system of government of the Unitary State of the Republic of Indonesia.

Village arrangements are determined by Article 7 of Law Number 6 of 2014 concerning Villages. Article 7 (1) The Government, Provincial Regional Government, and Regency/City Regional Government may carry out Village arrangement; (2) The arrangement as referred to in paragraph (1) is based on the results of an evaluation of the level of development of the Village Administration in

accordance with the provisions of the laws and regulations; (3) The arrangement as referred to in paragraph (1) aims to:

a. Realizing the effectiveness of Village Government administration;
b. Accelerate the increase in the welfare of the Village community;
c. Accelerating the improvement of the quality of public services;
d. improve the quality of Village Administration governance; And
e. increase village competitiveness.

Next, in article 7 (4) The arrangement as referred to in paragraph (1) includes establishment, removal, merger, change of status; and determination of the village. According to the provisions of Article 19 of Law Number 6 of 2014 concerning Villages, it is stated that Villages have 4 (four) authorities, including:

a. authority based on origin rights;
b. Village-scale local authorities;
c. authority assigned by the Government
d. other authorities assigned by the Government.

In connection with some of the powers that the village has, it is necessary to understand that in practice the administration of governance as a whole is aimed at regulating and accommodating the interests of the village community which are packaged in a series and form of policy as the most important part of the output of governance. However, as one of the official policy makers with the authority to be involved in the formulation of public policies, it is necessary to base planning as a very substantive first step for government institutions in determining the success of a village development-oriented policy.

Based on Article 24 of Law Number 6 of 2014 concerning Villages, the implementation of the arrangement and foundation in the implementation of village administration is carried out on the basis of:

a. Legal certainty
b. Order of Government Administration. Appropriate Forming Institutions Or Officials
c. Orderly Public Interest Conformity Between Types, Hierarchies, And Content Materials
d. Openness
e. Proportionality
f. Professionality, Utilization and Effectiveness
g. Accountability Clarity Formula
h. Effectiveness and Efficiency.
i. Local Wisdom
j. Diversity
k. Participatory

Aside from being a legal product, Village Regulations are processed in a democratic and participatory manner, namely that the drafting process includes the participation of the village community. The village community certainly has the right to propose or provide input to the Village Head and the Village Consultative Body in the process of drafting Village Regulations. Village regulations governing village authority based on origin rights as well as village-scale local village authority are supervised by the village community and the Village Consultative Body. This is of course intended so that the implementation of village regulations can always be monitored on an ongoing basis by members of the local village community, because village regulations are established for the benefit of the village community itself (Sultan Alwan, 2022).

In essence, a village regulation has a function, namely, First, to protect normatively the customs that have been passed down from generation to generation by the local village community. Second, as a means to normalize the authorities that are village affairs, such as village origin rights, city district authority which is handed over to the village, co-administration tasks, and other authorities based on the laws and regulations above. And third, as a normative means to accommodate and channel the aspirations of the village community (Adhining Prabawati Rahmahani, 2021).

Furthermore, if analyzed, even though the formulation of Article 7 Paragraph (1) of Law Number 12 of 2011 concerning Formation of Legislation does not explicitly include village regulations, in the formulation of Article 8 Paragraph (2) of Law Number 12 of 2011 concerning Formation of Legislation - Legislation states that the laws and regulations as referred to in paragraph (1) are recognized and have binding legal force as long as they are ordered by higher laws and regulations or are formed based on authority. Then in the explanation of Article 8 paragraph (2) it is emphasized what is meant by "based on authority" is the implementation of certain government affairs in accordance with the provisions of laws and regulations.

If you want to examine the issue regarding the legal status of village regulations from the perspective of Law Number 12 of 2011 concerning the Establishment of Legislation, then the principle of lex specialis derogat legi generalis can be used. This means that the existence of village regulations is regulated specifically in Law Number 6 of 2014 concerning Villages (lex specialis), namely the legal status of village regulations is legally binding because they get the attribution of authority from Law Number 6 of 2014 concerning Villages, while the Law Number 12 of 2011 concerning the Formation of Laws and Regulations (lex generalis) continues to recognize the existence of village regulations as statutory regulations as specified in Article 8 paragraph (2), which states that the statutory regulations as referred to in paragraph (1) are recognized as existing and has binding legal force as long as it is ordered by higher laws and regulations or is formed based on authority.

Thus it can be concluded that the legal status of village regulations is legally binding because they get the attribution of authority from Law Number 6 of 2014 concerning Villages, or in other words, even though village regulations no longer appear in the hierarchy of laws and regulations after the birth of the Law regime Number 12 of 2011 concerning the Formation of Legislation, but its existence is strictly regulated in Law Number 6 of 2014 concerning Villages.

As the smallest form of government in the Indonesian constitutional system, currently the village administration is indirectly given autonomous rights called genuine autonomy which is different from regional autonomy, because the existence of genuine autonomy is not the result of "granting" or delegating authority from the state (central government). However, the thing that needs to be considered is that the existence of autonomy must be understood correctly, even though in autonomy there is independence, freedom of government units, be it provincial regional governments, regency/city governments, including villages, the independence and freedom they have does not extend to independence quality. In the context of governance, autonomy can also be interpreted as managing or managing one's own household, autonomy is also interpreted as something that means freedom or independence (zelfstandigheid) but not independence (onafhankelijkheid). In autonomy there must be sufficient space to exercise freedom to run the government, in autonomy it always requires independence or freedom (Bagir Manan, 2001).

Whereas related to village autonomy, it always requires independence or freedom, so a regulatory model is needed to strengthen village government authority in establishing expanded policies, not only in the form of delegated authority but in the form of attributional authority. Attribution is the granting of government authority by legislators to government organs. Delegation is the delegation of government authority from one government organ to another government organ.

The regulatory model for strengthening village government authority in establishing expanded policies, in this case the authority of the village government no longer follows the scheme of handing

over or delegating part of the authority from the district/city, but with a scheme of recognition (recognition) and subsidiarity of the interests of the local community, directly from the Law -Invite the Village.

The regulatory model for strengthening village government authority in establishing expanded policies can be implemented with the first scheme, the authority of origin recognized by the state, namely managing assets (natural resources, customary land, village land) within the village jurisdiction area, forming a village government structure by accommodating original arrangement, resolve disputes according to custom and preserve local customs and culture. The second scheme, inherent authority (attribution) regulates and manages the interests of the local community on a local/village scale, namely development planning and village spatial planning, forming village government structures and organizations, holding village head elections, forming village representative bodies, managing village budgets, forming social institutions, developing Village-owned enterprises, and others that are within village jurisdiction.

The regulatory model for strengthening village government authority in establishing expanded policies, in this case setting policies in village regulations based on further elaboration of higher laws and regulations with village legal products taking into account the socio-cultural conditions of the local community. Village regulations governing Village authority based on origin rights and on a local Village scale, the implementation of which is overseen by the Village community and the Village Consultative Body. This is intended so that the implementation of Village Regulations can always be monitored on an ongoing basis by members of the local Village community, bearing in mind that Village Regulations are stipulated for the benefit of the Village community.

Village regulations are formed based on the principle of establishing statutory regulations. The preparation of Village Regulations must be in accordance with the rules of the applicable laws and regulations. Through the regional autonomy policy, each village in the regional area is given the authority and responsibility to regulate and manage the interests of the local community according to their own initiative based on the aspirations of the community in accordance with statutory regulations. Through its authority to regulate and manage the interests of the community, the village government will try to improve the economy according to the conditions, needs and capabilities possessed, so as to provide opportunities and opportunities for villages to make every effort to achieve the goal of increasing the welfare of the people in the local village (Wijayanto, 2020).

Although the regulatory model for strengthening village government authority in establishing expanded policies will be applied, in this case the establishment of village regulations policies is prohibited from conflicting with the public interest and other laws and regulations. Village Regulations are prohibited from conflicting with public interests and/or higher statutory provisions. If there is a violation of the implementation of the Village Regulations that have been stipulated, the Village Consultative Body is obliged to remind and follow up on the said violation in accordance with its authority. That is one of the supervisory functions of the Village Consultative Body. Apart from the Village Consultative Body, village communities also have the right to conduct participatory monitoring and evaluation of the implementation of village regulations.

4. Conclusions

Whereas related to village autonomy, it always requires independence or freedom, so a regulatory model is needed to strengthen village government authority in establishing expanded policies, not only in the form of delegated authority but in the form of attributional authority. Attribution is the granting of government authority by legislators to government organs. Delegation is the delegation of government authority from one government organ to another government organ.

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