

## LEGAL POLITICAL MANAGEMENT ARRANGEMENTS VILLAGE POST FINANCE LAW OF THE REPUBLIC OF INDONESIA NUMBER 6 OF 2014 ON THE VILLAGE

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### ABSTRACT

*Village financial management arrangements post-law No. 6 of 2014 about the village ratio legis is to realize the autonomy of the village according to the provisions of Article 18 and paragraph (7) the Constitution of NRI 1945. To realize the village autonomy must be returned to the values prevailing in the community for the village, so as to realize the vision of the reform to the village an independent, democratic, and prosperous. Therefore the village can't be understood merely as an administrative area, but rather as a social entity, cultural, economic, political and legal. Position village transformed as an entity that is powered socially, politically sovereign, economically powerful and culturally dignified. Autonomy village contains three meanings; (a) Rights of the village to own, manage or gain economic and political resources; (b) Authority to regulate or take decisions on the management of public goods and interests of local communities; (c) The responsibility of the village to take care of the interests of the people of the village through the public service. Financial management of post Act No. 6 of 2014 about the village is to encourage the independence of the village. The village has the freedom and opportunity to explore local initiatives which are then institutionalized into policies, programs and activities in the financial management of the village, one of which is the village fund. The financial importance of the village as the driving engine of progress and independence of the village in order to sustain the NKRI.*

**Keywords:** Politics of law, financial management, village funds, village, government village

### INTRODUCTION

Unitary Republic of Indonesia (NKRI)<sup>14</sup> organized in a decentralized, Article 18 the Constitution of NRI 1945 also stated that the implementation of decentralization should consider the social and cultural diversity and the presence administration units native like

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<sup>14</sup> The term NKRI in addition to having position as identity, also theoretically based on the background of the philosophy of the state is the concept of state and governing, because the term NKRI is moved from the provisions of Chapter I Article 1 (1) Constitution of Republic of Indonesia Year 1945, which stated: "*Indonesia is a country unitary Republic*". The provision is clear that the form of the state for Indonesia is a unitary state, with a choice of form of government is a republic. H.M. Arief Muljadi, *Landasan dan Prinsip Hukum Otonomi Daerah Dalam Negara Kesatuan RI*, Prestasi Pustaka, Jakarta, 2005, p.70.

<sup>2</sup> Philipus M. Hadjon, et. al., *Pengantar Hukum Administrasi*, seventh printing, Gadjah Mada University Press, Yogyakarta, 2001, p.111.

<sup>3</sup> Bayu Surianingrat, *Pemerintahan Administrasi Desa dan Kelurahan*, Cet. IV, Rineka Cipta, Jakarta, 1992, p.140.

<sup>4</sup> Muhammad Yamin, *Gajah mada*, Balai Poestaka, Djakarta tahun 1960, p. 112.

villages, villages and so on, before the founding of NKRI has been living as autonomous administration based on customary law.<sup>15</sup> On the basis of this recognition then appears the term autonomy native villages, the village authority to regulate and manage their own domestic affairs which is the origin of the rights derived from customs and attached since the formation of the village.<sup>16</sup>

Act authorizes wider village to village to run the administration and development, the consequences are a number of funds and resources begin to flow into the village. Law No. 23 Year 2014 on Regional Government and Article 1 of Law No. 6 of 2014 on the village, the village defines as follows:

“The village is a village and traditional village or called by other names, hereinafter called the village, is the unity of the legal community who have boundaries, which is authorized to regulate and administer governmental affairs, the interests of local communities, based on community initiatives, the right origins and / or traditional rights are recognized and respected by the Government administration system of the Republic of Indonesian”.

The concept of village government above, as stipulated in Article 1 paragraph 2 of Act No. 6 of 2014 on the village stated that, "The Village is the implementation of government affairs interests of local people in the system of administration of the Republic of Indonesia."

Unitary state is the state with the centralization of power or because the parts of the country has its own characteristics that must be maintained for the sake of greater interest, can also be decentralized. Basically the unitary State is the State of the State or a single state with a single government. The central government has the power or the highest authority in every field of governance.

Village in conjunction with the central government with territorial approach, consequently expressly position and function of village government recognized by the central government in which the village has the authority to carry out the functions of government as well as conducting development. Therefore, the village is entitled to receive part of the funds by the central government to the district, the village should have been allocated adequate resources, especially in terms of funding to accelerate the development and progress of the region.

Government and DPR (House Of Representatives) are committed to a policy to fund the village, as evidenced by the village fund has approved a budget of Rp 20.7 trillion in the APBNP 2015 revised budget will be distributed to 74.093 villages<sup>17</sup> across Indonesia. The government is targeting a budget that can be immediately channeled to the entire village. In addition to receiving funds directly from the Centre, the financial source of financing large villages also come from the transfer of central funds through the APBD, known as the Village Fund Allocation (ADD). Based on Government Regulation No.43 of 2014, the village fund allocation calculation formula is at least 10% of the funds transfer to the center of the area minus the Special Allocation Fund (DAK). By using such formulations, when using the data in Presidential Decree No. 162 of 2014 on the magnitude of the transfer of funds from the center to the regions, then there is a potential between Rp 30-40 trillion in funds flowing to the village by using mechanisms ADD.

The current regulation in the completeness of the village fund management remains unclear. In addition to Law No. 6 of 2014 about the village, the existing regulations are Government Regulation No. 43 of 2014 on the implementation of the Village Law and Government

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<sup>17</sup> Number of villages refers to Permendagri No. 39 of 2015 about Code and Data Administration Area.

Regulation No. 60 of 2014 which was amended in Government Regulation No. 22 on 2015 about the Village Fund sourced from the State Budget. While it is still much the ministerial regulations until the end of December 2014 which has not been published.

## **METHODOLOGY**

This type of research, referring to research on the type of normative legal research. . Normative legal research is a study to examine the provisions of positive law and legal principles systematically, explain and predict the future development of the law<sup>18</sup>. This study also included into the category of "doctrinal research" and "reform-oriented research".

In this normative legal research approach taken is to statute approach, the conceptual approach, the historical approach, and approach cases.

The legal materials were used in this study is the primary legal materials and secondary legal materials and tertiary legal materials. The primary legal materials in this study include legislation relating to village autonomy after the issuance of Law No.6 of 2014 about village. While the secondary law material used in this study is a scientific work of scholars, research results, encyclopedias, scientific journals and mass media daily or periodical in the field of law, seminar papers. While the tertiary legal materials are legal dictionaries.

Regarding the technique of collecting legal material is literature study, then analyzed to solve legal problems. Researchers do this step to obtain the materials necessary law, both primary and secondary. The collection of legal materials made through the snowball method and identification procedures as well as the inventory of materials primary and secondary law. Against legal materials collected systematically conducted in accordance with the classification of the formulation of the problem and research objectives. Classification for the purpose of assessing the legal materials equivalent to themes relevant analysis using note cards.

Further analysis is done by describing the legal materials, systematized and explanations of legal materials to achieve a conclusion of each material analyzed law so that it can be legal principles.

## **RESULTS AND DISCUSSION**

### **Ratio legis of Financial Management Arrangements Law Politics Village**

The village government is an instrument to build a new vision of life, the village of an independent, democratic and prosperous, so that the meaning of the independence of the Village is not a village solitude in support herself. Independence of the village would not stand in the political vacuum of space, but also related to the dimension of justice that is in the context of relations between the village. Locally-internal, self-reliance and the capacity of the village means that strong local initiatives. Local initiatives are the ideas, the will and willingness Village entities based on local wisdom, communalism and social capital. Thus, a strong local initiative is a local foundation for the independence of the village.

However, this local initiative will not grow well if there is no space that allows to grow. The regulations contain a lot of instruction and intervention would blunt the local initiatives. Because of the independence of the village requires a combination of two things: local initiatives from below and policy responses. It takes a state recognition of the village and the existence of entities including indigenous organizations, followed by a determination of the rights, powers, authority, resources and responsibilities to the village. Authority allows the

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<sup>18</sup> Johnny Ibrahim. Metode Penelitian Hukum Normatif, Bayumedia, Malang Jawa Timur. 2006.h.48.

village to have the opportunity and set up their own household responsibilities and interests of local communities which also will be the frame for the village to make local planning.

Thus the ratio legis of Financial Management Arrangements Law Politics Village to realize the independence of the village that are relevant objectives and benefits, among others:

1. Realizing the independence of the village as a base independence of NKRI;
2. Strengthening the position of the village as the subject of development;
- ii. The approach to community development planning;
- iii. Equitable development;
- iv. 5. Implementation of the efficiency of development funding in accordance with local needs;
- v. Generating local economy and the livelihoods of village communities;
- vi. 7. Encourage trust, responsibility and a challenge for the village to arouse the initiative and the potential of the village;
- vii. Improved capacity to manage village governance and development;
- viii. Stimulate the growth of the participation of local communities.

There are three basic principles of financial village. First; The village has the right to obtain the allocation of government because the village run the functions of governance, development, and social. Second; money follow function: the money is used to finance the function, which is based on the authority and function of village planning. Third; no mandate without funding: no mandate without money. This principle applies in the duty of assistance given to the village. The village has the right to refuse the duty of assistance if it is not accompanied by the funds, personnel, facilities and infrastructure

With the existence of Act No. 6 of 2014 about the village, village head is the highest authority in the management of village finances. Village financial management refers to the authority of the village include the authority in the field of organizing the village government, the implementation of rural development, rural community development and empowerment of rural communities based on community initiatives, rights' origins and customs of the village. The village authority be realized by the village head and village governance structures that together, at its core authority of the village administration, the legal basis of Article 18 and paragraph (2) NRI Constitution of 1945.

Financial management related to the observance of the village, got some obstacles in the development field. For it in the management of the village need for dissemination, empowerment of human resources within the government apparatus in the villages to be targeted efficiently and transparently. In essence the village government can create a solid foundation in implementing governance and development towards a just society, and prosperous. In this context, supported by financial management in organizing village government based on legal principles.

The principle of law is an essential element of the rule of law, be regarded as an important element of the rule of law on the basis, namely: (1) The legal principle is the cornerstone of the birth of the rule of law, meaning that the rule of law can ultimately be returned to the principle of law; (2) The legal principle is the reason / general purpose (ratio-legis) of birth of the rule of law, meaning that the principle of the law will not be exhausted its power to give birth to the new regulations.

Seek ratio legis is not an easy task because it requires great effort and earnest, is included in determining the government's authority in the village. If the ratio legis of a law can be found,

then it helps law enforcement officials to break the deadlock in the rule of law, including of course the bureaucrats. Further said by Dworkin;

The law comprises not only rules but also principles. When rules run out, judges look to the legal principles that are imbedded in the general body of the law. The law comprises not merely the rules laid down by legislatures and other promulgators of formal legal rules, but also the principles, notably including moral principles, that legislators or judges might draw upon in creating new rules. Judges have a duty to be moral philosophers.

In understanding the effort to find a legal principle can be started by lifting a rule of law to a higher level which is generally known as the ratio legis-seeking activities. In this case the withdrawal to a higher level this one could find a more solid understanding and a more general scope than the original.

Ratio legis village setting based on Article 3 of Law No.6 of 2014 about the village, which is based on:

- a. recognition;
- b. subsidiarity;
- c. diversity;
- d. togetherness;
- e. mutual cooperation;
- f. family;
- g. discussion;
- h. democracy;
- i. independence;
- j. participation;
- k. equality;
- l. empowerment; and
- m. sustainability.

Setting principles or norms on the basis of the overall arrangement in the Law of the village, including the village financial management. In general, rural setting aims, among others:

- a. Give recognition and respect for existing village with diversity before and after the formation of the Republic of Indonesia;
- b. Provide clarity and legal certainty on the status of the village in the constitutional system of the Republic of Indonesia for the sake of justice for all Indonesian people;
- c. Preserve and promote the customs, traditions, and culture of the village;
- d. Encouraging initiative, movement, and the participation of the village community and the potential for development of village assets to the common welfare;
- e. Village Government formed a professional, efficient and effective, open, and accountable;
- f. Improve public services for the people of the village in order to accelerate the realization the general welfare;
- g. Increasing the resilience of social-cultural society in order to realize the village of villagers who are able to maintain social cohesion as part of national security;

- h. Improve the economy of the village community and overcome the gap of national development; and
- i. Strengthen rural communities as the subject of development.

### ***Rural Financial Management System***

In the village financial management refers to the Minister of Home Affairs No. 113 of 2014 on the Management of Rural Financial hereinafter abbreviated. Regulation minister of home Affair No.113 of 2014 basically to implement the provisions of Article 106 of Government Regulation No.43 of 2014 concerning the Implementation Regulations Act .6 of 2014 about the village. At General provisions in chapter 1 section 1 point 6 of Regulation minister of home affair No. 113 of 2014 Financial mentioned villages are all rights and obligations of the village which can be valued in money and everything in the form of money and goods related to the implementation and obligations of the village, whereas in Article 1 point 7 of Regulation minister of home Affair No. 113 of 2014, the village is the overall financial management activities including planning, administration, reporting, and financial accountability village. Management of village finances managed according to the principles of transparent, accountable, participatory and conducted in an orderly and disciplined specified budget. For a period of time managed rural financial management during the first fiscal year from January 1 to December 31.

Financial management authority holders village is the village head. The village head also represents the village government in the ownership capital of a village separated associated with power that belongs to the village heads in rural financial management has the authority. The authority is of village heads in rural financial management does not itself, is assisted by a Technical Executive Village Financial Management (PTPKD).

### ***Rural Financing System in Rural Financial Management***

Financing village covering all receipts that need to be repaid and / or expenditure that would be accepted back, both in the relevant fiscal year or in the years following budget: in the financing of the village, the group consisting of: receipt of financing and financing expenses.

Acceptance of financing include the substantial amount of the budget (SiLPA) the previous year, the disbursement of the reserve fund, and the sale of the wealth of the village separated. SiLPA in this include; exceedances receipt of revenues over expenditures, expenditure savings, and the remaining funds continued activity. As is known in the financing of the village, SiLPA used to cover the budget deficit realization of income is less than the realization of expenditures, to fund the implementation of the follow-up activities, and fund other liabilities that by the end of the fiscal year have not been resolved.

In connection with the financing expenses, consisting of formation of reserve funds and capital investment villages. Concept to establish a reserve fund by the village government to fund activities that fund the provision can't be at once / fully charged in a budget year. In forming a reserve fund established by the regulations of the village, at least make: setting goals formation of reserve funds, programs and activities that will be financed from the reserve fund, the amount and details of the annual reserve fund to be budgeted, the source of reserve funds and the budget implementation of the reserve fund.

Thus, in the financial management of the Village are all rights and obligations of village invaluable with currency units. Included in the village are the property rights over money and goods. APBDes the annual financial plan sourced village of village income. The village head is the holder of the mastery of village financial management is implicitly responsible for the

realization of the budget of the village, the village treasury, accounting and reporting of financial statements village.

Basically Law No. 6 of 2014 about the village, has accommodated the principles of democracy, independence, participation, equality and empowerment, It is described in article 80 of Law No. 6 of 2014 about the village which states that:

1. Rural Development Plan as referred to in Article 79 held by involving rural communities.
2. In preparing the Rural Development plan referred to in paragraph (1), the Village Government shall hold the Village Development Planning Meeting.
3. Rural Development Planning Meeting set priorities, programs, activities, and needs of Rural Development financed by the Budget of the village, the village governmental organizations, and / or Budget districts / cities.
4. Priorities, programs, activities, and needs of Rural Development as referred to in paragraph (3) was formulated based on an assessment of the needs of village communities which include:
  - a. improving the quality and access to basic services;
  - b. development and maintenance of infrastructure and the environment based on technical capabilities and local resources are available;
  - c. the development of large-scale productive agricultural economy;
  - d. development and utilization of appropriate technology for economic progress; and
  - e. improving the quality of public order and tranquility of the village is based on the needs of rural communities.

### **Financial Management of Rural Post Law of the Republic of Indonesia Number 6 Year 2014 on The Implications village on Corruption.**

Autonomy village is genuine autonomy is not the only form of autonomy for the village, as indeed the village as part of the regional administration has five (5) types of powers of autonomy, namely: genuine autonomy, devolving authority, distributive authority, and the authority of the tasks. Indigenous autonomy understood as the rights and authority of the origin of the village as a unit attached to the legal community, as community rights to organize and manage his own household. Management of village finances after the Law No. 6 of 2014 about the village that has implications for potential corruption occurred on:

#### ***Village Fund Allocation (ADD)***

Based Law of the Republic of Indonesia No. 6 of 2014 about the village getting stronger against the existence of ADD. Furthermore, the organic rules of Government Regulation No. 43 of 2014 concerning the village funds, set up implementation mechanisms ADD and also allocation. In general there is no fundamental change in the governance of the implementation of ADD, except for the determination formula, there are significant changes, especially in the determination of the amount of budget allocated APBD to be allocated to the account of the village.

#### ***Sources of Financing of the budget***

In addition to receiving budget allocations from the state budget, the village also received some funds from the district budget and funds from the provincial budget. Sources of revenue from the budget are quite significant and varied set amount for each village is revenue from

taxes and levies component. Government Regulation No. 43 of 2014 about the village, stipulated that the allocation of levies and tax-sharing differs in each village. Villages that contribute donate more tax, entitled to levy a higher allocation than the village with a smaller contribution. On receipt of the budget of the district, province also allocates its budget for rural development which is transferred directly to the account of the village. The amount of funding from the province depends on the capability and development strategies of each province.

### ***Source of Revenue Villages***

The original source of the village in the opinion of the provisions of Law No. 6 in 2014 on the village of important things. Associated with it that the source of development financing can be obtained through the rural village revenue (PADes). PADes is derived from the results of operations, assets, self-help and participation, mutual aid, and other revenue village. Various types of development and management of assets owned by the village could potentially generate different types of revenue villages. Based on the results of field review, some kind of opinion which is generally obtainable native village include:

- a. Results of operations of the village: the results of the ground the village treasury, the results of the village market, a result of the public baths and attractions are administered by the village, the result of the lease of wealth / assets of the village, the results of the village charges: rural roads, irrigation, rural, public cemeteries are taken care of village.
- b. Results villages separated wealth management: The return on equity in the company owned by the village, the company owned by regional / local enterprises, the state-owned enterprises / state-owned enterprises and the private or community-owned enterprises.
- c. The results of self-help and community participation.
- d. Results of mutual cooperation.

### ***Other sources of Revenue Village***

Other sources to do the village comes from grants or assistance from personal or company that generally through Corporate Social Responsibility programs and social assistance programs or grants from the Ministry / Institution. Associated with financing through the mechanism of a grant from the Ministry / Agency generally in the form of programs. Based on a review in the field, the assistance of the Ministry / Agency is not recorded in APBDes,

The forms above which can provide opportunities village officials can carry out abuses of authority in corruption. Based on the few things that have been described, the significance of financial losses due to the village is part of the state financial losses as the norm provisions of Law No. 31 of 1999 jo Law No. 20 of 2001 on Corruption Eradication, because after the Act village where the governance of village and traditional village or mention other allocation Village Fund sourced from the State Budget and Expenditure (APBN), thereby according the Law of the Republic of Indonesia Number 17 Year 2003 on State Finance, which is the financial state is Rights and Responsibilities that can be assessed for money or goods, then the village finance directly obtain disbursement of money country course in villages and rural finance indigenous rights and financial obligations inherent in the financial state of the village.

## **CONCLUSION**

Ratio legis legal political financial management arrangements Village Post Law of the Republic of Indonesia No. 6 of 2014 about the village, is to realize the autonomy of the



village according to the provisions of Article 18 and paragraph (7) Constitution of 1945. NRI enactment of Act Village is expected to realize the vision of reform towards The village is an independent, democratic and prosperous. Village Autonomy contains three meanings: (a) Rights of the village to own, manage or gain economic and political resources; (b) Authority to regulate or take decisions on the management of public goods and interests of local communities; and (c) The responsibility of the village to take care of public interests village through the public service.

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