



Legal reconstruction of village fund management in improving the welfare of village communities based on justice value

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Abstract

The aims of this research are to analyze the weaknesses in village fund management regulations in order to improve the welfare of village communities and To analyze the reconstruction of village fund management regulations in order to improve the welfare of village communities. The results of this research show that The village fund management regulations still contain weaknesses, both in terms of substance, legal structure, and legal culture aspects, because these regulations have not been able to lead to the realization of community welfare. For this reason, it is necessary to reorganize and reorganize the management of village funds in order to give complete authority to the village government so that it can improve the welfare of village communities. Therefore The reconstruction of the statutory regulations must be in Article 24, Article 26, Article 33, and Article 53, PP number 22 of 2015, Ministerial Regulation 16/2018, in Article 3 letter (b) which states that "Priority for the use of Village Funds is based on the principle of Priority Needs by creating a priority scale in accordance with the village development plan (RKP)", and Lastly, in Article 3 letter (c) which changes to: "Priority for the use of Village Funds is based on the Focused principle; namely prioritizing the choice of using Village Funds in 3 (three) to 5 (five) types of activities according to needs according to priorities so as to improve community welfare".

Keywords: Legal reconstruction, village fund, welfare, justice value

Introduction

The enactment of Law Number 6 of 2014 concerning Villages, has objectives for villages, namely: first: to provide recognition and respect for existing villages in all their diversity before and after the formation of the unitary state of the Republic of Indonesia, second; provide clarity on the status and legal certainty of villages in the constitutional system of the Republic of Indonesia in order to realize justice for all Indonesian people, third; preserving and advancing the customs, traditions and culture of village communities, four; encouraging initiatives, movements and participation of village communities to develop village potential and assets to improve shared prosperity, fifth; forming a village government that is professional, efficient and effective as well as open and responsible, sixth; improving public services for village communities to realize general welfare, seventh; increasing the socio-cultural resilience of village communities in order to create village communities that are able to maintain social unity as national resilience, eighth: advancing the economy of village communities and overcoming gaps in national development, and ninth; strengthening village communities as subjects of development (Permata, 2022) ^[4].

In order to optimize the implementation of village government, implementation of village development, guidance and empowerment of village communities, government regulation Number 43 of 2014 concerning implementing regulations for Law Number 6 of 2014 concerning Villages has been stipulated, as amended several times, most recently by regulation number 11 of 2014. 2019 concerning the second amendment, to Government Regulation Number 34 of 2014 concerning implementing regulations of Law Number 6 of 2014 concerning Villages. This aims to realize village administration that is based on the principles of village administration as mandated by Law

Number 6 of 2014 concerning Villages, including; legal certainty, orderly government administration, orderly public interests, openness, professionalism, accountability, effectiveness, efficiency, local wisdom, diversity and participatory (Widodo, 2019) ^[9].

Based on Village Minister Regulation number 21 of 2016, in 2016 there are two priorities for the use of village funds, namely: first in the development sector and second in the community empowerment sector. In this regard, according to Article 81 paragraph (4), it is stated that village-scale local development is carried out by the village itself. Meanwhile, in implementing sectoral programs that enter the village, they are informed by the village government to be integrated into village development. However, managing village funds requires the village government to be prepared in terms of human resources, as well as the existence of clear regulations that support village development commitments, both infrastructure and humans receiving community support. In this way, village prosperity will be realized well (Widodo, 2018) ^[8].

Sociologically, the use of village funds is still widely used to fulfill activities that do not support the real needs of village communities and village development which has implications for prosperity for village communities. Apart from that, village funds are currently even used for direct cash assistance (BLT) activities. The activity of providing direct cash assistance was deemed ineffective and should not be desired by the village government as budget manager. Where this activity does not provide a positive signal for the progress and welfare of the village community, but on the contrary it actually causes commotion and jealousy among the village community.

One very important thing with Law Number 6 of 2014 concerning Villages is the provision regarding the State's obligation to allocate village funds sourced from the APBN

which is budgeted each fiscal year. With these village funds, the village government has a definite budget so that it can carry out government, development, and community empowerment activities with a clear budget. The existence of the law on villages shows that changes and success have occurred, not only in village infrastructure but also in community interactions which are seen to be getting better, supported by communication tools that have developed throughout the village.

Based on this problem, the author then formulate several problem discussed in this article, namely:

1. What are the weaknesses in the regulation regarding Village Fund Management in Improving the Welfare of Village Communities in Indonesia currently?
2. How is the Legal Reconstruction of Village Fund Management in Improving the Welfare of Village Communities Based on the Value of Justice?

Method of research

This study uses a constructivist legal research paradigm approach. The constructivism paradigm in the social sciences is a critique of the positivist paradigm. According to the constructivist paradigm of social reality that is observed by one person cannot be generalized to everyone, as positivists usually do.

This research uses descriptive-analytical research. Analytical descriptive research is a type of descriptive research that seeks to describe and find answers on a fundamental basis regarding cause and effect by analyzing the factors that cause the occurrence or emergence of a certain phenomenon or event.

The approach method in research uses a method (*socio-legal approach*). The sociological juridical approach (*socio-legal approach*) is intended to study and examine the interrelationships associated in real with other social variables (Toebagus, 2020) ^[6].

Sources of data used include Primary Data and Secondary Data. Primary data is data obtained from field observations and interviews with informants. While Secondary Data is data consisting of (Faisal, 2010) ^[2]:

1. Primary legal materials are binding legal materials in the form of applicable laws and regulations and have something to do with the issues discussed, among others in the form of Laws and regulations relating to the freedom to express opinions in public.
2. Secondary legal materials are legal materials that explain primary legal materials.
3. Tertiary legal materials are legal materials that provide further information on primary legal materials and secondary legal materials.

Research related to the socio-legal approach, namely research that analyzes problems is carried out by combining legal materials (which are secondary data) with primary data obtained in the field. Supported by secondary legal materials, in the form of writings by experts and legal policies.

Research result and discussion

1. Weaknesses in the regulation regarding village fund management in improving the welfare of village communities in Indonesia currently

The important point in the legalization of Law Number 6 of 2014 concerning Villages is that there is a budget that has

been provided by the government which is sourced from the APBN and is transferred to villages, namely village funds. This is in accordance with the mandate stated in Article 22 paragraph (2) of Law number 6 of 2014: "The assignment as referred to in paragraph (1) is accompanied by a fee". The existence of village funds is a necessity, apart from being considered a manifestation of the government's concrete attention to village governance. With the existence of village funds, the village government can feel its existence based on its origins and local authority. The process of government attention regarding village funds that have been transferred to villages has so far been running for approximately 7 (seven) years, starting from 2015 to 2022. Looking at the practice of using and managing village funds, from time to time until now, it is felt that they have not been able to answer the problems that exist in village communities. This is not in accordance with the concept that was developed, as stated in Law Number 6 of 2014 concerning Villages, that with the enactment of this law, villages are given full freedom and power in government management, as well as village development aimed at improving community welfare. villages and the quality of life of village communities, which includes poverty alleviation.

In line with the dynamics of national development, it is necessary to develop rural areas. The development of rural areas is a combination of development between villages within one district/city as an effort to accelerate and improve the quality of services, development, and community empowerment through participatory development.

Looking at the history of cases that have occurred so far, in managing village funds there are several problems faced, including (Fadhila, 2023) ^[1]:

- a. There are regulations or technical rules that do not support the implementation of village fund management completely by the village government, such as technical guidance regulations regarding guidelines for managing the use of village funds from time to time until now.
- b. The APBN budget is in the form of village funds which have been given by the government to village governments through transfer funds, but have not yet given full authority to the village government to manage it. It is evident that the implementation instructions for management are regulated rigidly and do not give villages the freedom to use these funds. according to the conditions of each village, there are many activities that should not be a village priority but are forced to be implemented because they are directions and policies through existing regulations because these regulations are hampered. So that village authority has been lost, the village government seems to be forced to carry out a predetermined program, resulting in inaccurate village development targets. Village independence no longer exists, so the village head is no longer the authority in the village but merely a technician/executor of the village government.
- c. Attention regarding the budget in the form of village funds provided by the government for village funds is disproportionate for each village. With the conditions of each village being different, some have original village income and do not receive the same attention. This means that there is no special attention for villages that are excluded because one of them is the village's

original income. So it cannot provide solutions in terms of welfare and will even trigger inequality and avoid inequality for development and improving the welfare of village communities.

- d. The village head, as the leader and budget user of village funds, has a low level of formal education, while village officials are above that. So, under these conditions, the commitment to build a better and more advanced village so that it can provide welfare for the village community is still far away.

The dynamics of village financial management, especially village funds, have become a polemic for the community and the village government itself. Most village people assume that with these village funds, they are able to meet the needs of the people in each village. However, in practice, the government is hampered by existing regulations, so that people's expectations do not match reality. Many people think that the village government does not take sides and understand what the people want, sometimes many people even think and assume that this village government has committed many deviations.

However, in practice, in implementing village funds, the village government is hampered by existing technical regulations (Mufidah, 2023) ^[3]. This means that the village government cannot solely manage village funds, it must refer to the rules given by the government.

This creates problems for the village government, in this case, the village head as the manager of the village fund budget. where on the one hand, with the existence of a village law and the existence of a budget, the village is given hope, however, in implementing the existing budget, the village cannot do more because it has to refer to technical regulations.

Basically, there are many factors that are weaknesses in improving the welfare of village communities. Therefore, it is very difficult for the village government to answer existing problems, where the existing rules/regulations related to the implementation of village funds are still controlled by the government, namely in the form of ministerial regulations and other technical instructions. So this becomes a challenge for villages in responding to the village's expectations of prosperity and independence in implementing government as a whole throughout Indonesia. Based on the explanation above, it can be seen that the regulations for the use of village funds still have emerging weaknesses. Where these regulations have not been able to provide flexibility to villages in managing households and managing government as a whole, which has the impact of hampering shared ideals and desires in realizing community welfare.

According to welfare theory, this is considered incompatible with this theory. with the existence of village funds which should be the full authority of the village government, which aims at the prosperity and well-being of the community, however this is not in accordance with reality as the nation's goals are stated in the preamble to the 1945 Constitution which states: "Establishing an Indonesian state government that protects all bloodshed Indonesian people, to advance general welfare."

One of the efforts to realize this prosperity is by strengthening the position and role of villages. where welfare is seen as a condition where a person, or group of people consisting of men and women are able to fulfill their

basic rights in maintaining and developing a dignified life. Thus, the existence of the Law on Villages, which is expected to regulate in detail and give authority to the village government, in reality, has not yet been fully implemented.

2. Legal reconstruction of village fund management in improving the welfare of village communities based on the value of justice

Looking at existing developments, it can be seen that there is quite significant differences in the educational strata of village officials and village heads, as stated in law number 6 of 2014 concerning villages, regarding the requirements to become village heads and village officials.

To become a village head, a person only needs to have a junior high school diploma, while to become a village official he must have a high school diploma. This is of course inversely proportional. As a leader, the village head should have a higher level of education, this will have an impact on leadership management because it cannot be denied that village officials who have an educational level above that or higher will have a lighter attitude towards the village head because of their higher level of education. lower than them.

It is also not enough for a village head to just have character, a village head is also required to have above-average intelligence in terms of managing village funds which aims to improve the welfare of the village community.

A village head, even though he is assisted by his apparatus, has a difficult task in running the government at the village level. Nowadays villages are required to be able to manage government budgets whose value is quite large, reaching Rp. 1 (one) billion more every year.

Thus, the village head and his apparatus must further increase the capacity of human resources (HR) with various training activities or technical guidance (bimtek), including activities to increase the human resources of village officials held for village officials which are considered very helpful in increasing the capacity and abilities of village officials. The results of the training and technical guidance carried out were very beneficial for village officials in carrying out administrative tasks in the village and increased insight for village officials. Increasing human resources through training, technical guidance and mentoring is a necessity for village officials in line with changes in the paradigm of government administration in villages, where we know that not many village officials are capable of carrying out their duties (Yusuf, 2022) ^[10].

As the person in charge of the village, the village head has quite a heavy task in terms of improving the welfare of his village community. This certainly cannot happen alone and cannot be separated from the role of local government.

Village fund management, based on law number 60 of 2014 concerning Villages, as well as Minister of Home Affairs Regulation number 20 of 2018 as technical guidance regarding the principles of village financial management as regulated, in village financial management it is expressly stated that village fund management must be carried out with four main principles, namely transparency, participation, order, and discipline. This regulation also means that village financial management starts from the planning, implementation, administration, reporting, and accountability processes. In managing village finances, it

must also be carried out based on good government governance (Good Governance) (Toebagus, 2022) ^[7]. What is an important concern in good governance is transparency and accountability. The village government will not be strong, and autonomy will not be useful if it is not supported by good governance.

Based on the above, the reconstruction of village funds proposed by the author is as follows:

- a. According to article 24 of Law Number 6 of 2014 concerning Villages, it is stated that the administration of village government is based on the principles of: a. legal certainty, b. orderly government administration, c. orderly public interest, d. openness, e. proportionality, f. professionalism, g. accountability, p. effectiveness and efficiency, i. local wisdom, diversity, and k. participatory local wisdom. This article needs to be emphasized regarding the authority of the village as both the authority and the user of the budget so that it must be given freedom and independence. Furthermore, in article 26 paragraph (1) the village head is tasked with organizing village government, carrying out village development, fostering village society and empowering village communities. And in article 26 paragraph (2) letter c that in carrying out the duties as intended in paragraph (1) the village head has the authority to hold the power to manage village finances and village assets, and in paragraph (2) letter h that fosters and improves the village economy to and integrates in order to achieve a productive scale economy for the greatest prosperity of village communities.
- b. According to the provisions of article 33 letter d of Law Number 6 of 2014 concerning Villages, prospective village heads are required to meet the requirements: have at least a junior high school diploma or equivalent. The provisions of Article 33 have an impact on the low level of human resources and capacity as a village head and a leader at the village level.
- c. According to article 53 paragraph (2) of Law Number 6 of 2014 concerning villages, village officials are dismissed as referred to in paragraph (1) letter c because: a. age has reached 60 years, b. permanent absence, c. no longer fulfills the requirements as a village official or d. violating prohibitions as a village official. This article does not mention the consequences of being a village official and the risks that must be accepted when unable to carry out duties as an assistant to the village head. It often happens in the field that, no matter how good the capacity and capability of a village head, he will not be able to do anything if he is not supported by qualified equipment.
- d. According to Government Regulation number 22 of 2015, an amendment to PP number 60 of 2014 concerning village funds sourced from the state revenue and expenditure budget (APBN), village funds as referred to in paragraph (1) are allocated fairly based on: a. basic allocation, b. The allocation is calculated by taking into account the population, poverty rate, area, and level of geographical difficulty of each village. This article does not appear to provide a concrete answer to the measurements used as a basis for determining the distribution of village funds. In its implementation, the distribution of village funds was based on the release of sample tests for several

districts/cities and it was found that these variables were not the same as the database used to calculate the distribution of village funds.

- e. Article 3 letter b of the Minister of Villages, Development of Disadvantaged Areas and Transmigration Regulation of the Republic of Indonesia number 16 of 2018 concerning priority use of village funds in 2019, reconstruction by adding sufficient explanation, namely article 3 letter b becomes: priority use of village funds is based on the principle of need priority, namely prioritizing village interests that are more urgent, more needed and directly related to the interests of the majority of the village community by creating a priority scale in accordance with the village development plan (RKP Desa) as decided in the village meeting. With this reconstruction, it is hoped that the community will be able to participate in improving the development and welfare of the village community which has been agreed upon or discussed at the village level.
- f. In article 3 letter c of the Regulation of the Minister of Villages, Development of Disadvantaged Regions and Transmigration of the Republic of Indonesia number 16 of 2018 concerning priority use of village funds in 2019, it is determined that the priority use of village funds in 2019. This provision needs to be reconstructed by adding a sentence, but it is given priority to Village needs are adjusted to real conditions and village needs based on the needs of the village community (Sidik, 2023). Thus, the priority use of village funds is based on a focused principle, namely prioritizing the choice of using village funds on 3 (three) to 5 (five) types of activities in accordance with national, provincial, district/city, and village priority needs, and not implementing fund practices. Villages are divided equally, but priority is given to village needs according to real conditions and village needs based on the needs of the village community.
- g. The existence of human resources (HR) for village government officials is very low. So not many village officials, even the village head, are able to respond to existing developments, so this has an impact on the management of village funds which is not yet optimal.

Conclusion

1. There are still weaknesses in village fund management regulations, both in terms of substance and authority. In substance, with the existence of village funds that aim to realize the prosperity and well-being of village communities, this cannot yet be fully realized, This is because the village head who has the authority and is the user of the budget, cannot freely manage it. This is not in accordance with the mandate of Law Number 6 of 2014 concerning Villages, Article 26 paragraph (2) letter c that the village head holds the authority to manage village finances and village assets. Ideally, the use of village funds is no longer regulated in a rigid and detailed manner, so that in this case the Village government in the practice of using village funds has the freedom to use them according to the needs of the community in each village with a priority scale as outlined in the Village RKP. The implementation of course refers to existing laws and regulations, as well as other regulations, so that it continues to prioritize the

principles of transparency and accountability. but in the context of needs, it is adjusted to the conditions of the village concerned

2. Legal reconstruction as proposed by the author is in Article 24 of Law no. 6 of 2014, Article 26 paragraph (2) letter c Law number 6 of 2014, Article 33 letter d Law number 6 of 2014, Article 53 paragraph (2), Law number 6 of 2014. PP 22 of 2015 amendment to PP 60 of 2014 Article 3 letter b, Regulation of the Minister for Development of Underdeveloped Regions and Transmigration of the Republic of Indonesia number 16 of 2018, and Article 3 letter c Regulation of the Minister of Villages, Regional Development, Disadvantaged Regions and Transmigration of the Republic of Indonesia Number 16 of 2018. With the existence of structured legal reconstruction to implement regulations from top to bottom, the law can run better and in accordance with the values of justice.

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