

Implementation of Village Autonomy in Governance

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Implementation of Village Autonomy in Governance

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Abstract. The problem of decreasing the quality of democracy and the village autonomy system basically stems from the structure and function of village government institutions which are still problematic. It is not easy to determine the structure and function of the institution in accordance with the needs of the community or village government organization. Theoretically, there are no guidelines or standard measures that identify the structure and function of village government institutions that meet the needs of the community/organization. The village is a self-governing community that uses the principle of subsidiarity, where most of the authority originally existed in the community, not being given away. It is related to the mandate of the Preamble to the 1945 Constitution of the Republic of Indonesia, where the formation of the Government of the State of Indonesia is intended to regulate and manage matters that cannot be carried out by the community itself. However, in the development of existing arrangements, before the Village Law was enacted, it could not be able to accommodate the implementation of village authority. In carrying out the implementation of Village Government, Village Development, Village Community Development, and Village Community Empowerment, the Village Government requires authority in its implementation, both the authority origin and attributive authority.

Keyword: Autonomy, Government

1. Introduction

The existence of a regional government unit aims to serve the needs of the community (public service). This means that each region will have its own uniqueness both in terms of population and geographical character. Coastal communities with the main livelihood in fisheries will be different from mountain communities, or inland communities. Rural communities will have different needs with people in urban areas. If the local government exists to serve the needs of the community, the consequence is that the delegated affairs should also differ from one region to another in accordance with the differences in geographical character and the main livelihoods of the population. It is very illogical if in a city area today there are still agriculture, fishery, animal husbandry affairs, and matters related to primary activities. Delegation of autonomous affairs in accordance with their

needs. For this reason, a needs assessment is a must before the matter is handed over to an autonomous region.

The socio-economic conditions of rural communities are often the main focus for policy makers. Unfortunately, many people are trapped by not seeing the root cause of what is really happening in the countryside. More than 37 million Indonesians live in poverty. 63.58 percent of them are people who live in rural areas and 70 percent are farmers. This condition has resulted in the depletion of incentives from the agricultural sector which eventually led to an increase in unemployment and urbanization rates. This poverty that occurs in rural areas is the estuary of the unavailability of access to the means of production, both in the form of access to natural resources, technology, and also market problems.

In the implementation of village governance, most of the village communities have their own pluralism, although most of the institutional forms have followed the official format. This is as explained in the Explanation of the General Section of Law Number 6 of 2014 concerning Village Administration, that The variety of traits and forms of villages, or what is known by other names, does not prevent the founding fathers from choosing the shape of a unified state. Even though it is acknowledged that a unitary state requires homogeneity, the Unitary State of the Republic of Indonesia still recognizes and guarantees the existence of legal community units, community units governed by customary law, and their traditional rights.

In institutional aspects, village regulations tend to experience a decline in quality in terms of democratization. The problem of decreasing the quality of democratization is most evident in the Village Consultative Body (BPD). Institutions that reflect village democracy experience institutional erosion. The BPD has experienced a decline in its formal legal position and role, which is visible and the position of the BPD as a village legislature is not clear and the mechanism for filling BPD membership, which was originally directly elected, becomes determined by consensus based on regional representatives.

The problem of decreasing the quality of democracy and the village autonomy system basically stems from the structure and function of village government institutions which are still problematic. It is not easy to determine the structure and function of the institution in accordance with the needs of the community or village government organization. Theoretically, there are no guidelines or standard measures that identify the structure and function of village government institutions that meet the needs of the community/organization.

In the theoretical approach, decentralization can be categorized into two definitions: the administrative definition and the political definition. The political decentralization perspective defines decentralization as the transfer of authority from the central government to local governments, whereas the administrative decentralization perspective defines decentralization as the transfer of administrative authority from the central government to local governments.

According to Bambang Supriyono, the decentralization policy is an instrument for the government to:

1. Become an effective weapon to channel local pressure, express and unite local interests;
2. Local government can provide a service more efficiently than the central government;
3. Local governments can plan, with a much better understanding of the problems in their area, plans for more efficient social, economic and human resource development than national governments;
4. Local governments can ensure better accountability of public officials to city residents, because they are closer to their communities;
5. Local government can become a more effective communication channel to ensure the proper implementation of central government policies.

Governance practices of countries in the region western europe, according to Didik Suharto, villages tend to be seen as administrative institutions based on territorial communities as part of a unified organ in the political aspects of society and emphasize expectations of solidarity within and between communities. Based on D⁹ik Suharto, the Village Government has an important role to accelerate the process of realizing a just, prosperous and prosperous society. This is because the Village Government is a small-scale government apparatus in the Regional Govern⁵nt that is directly related to the community in their respective regions, so in other words, the Village Government is the spearhead of the implementation of the Government.

The implementation of the Village Government is expected to foster initiative and creativity as well as encourage increased community participation in development by utilizing available resources and potential, in addition to being able to develop and empower village potential in increasing village income, which in turn will produce village communities that are capable of being independent. Based on the background above, the problems that the writer will examine are : How is the current governance of Village Government in Brebes Regency seen from the aspect of village autonomy?, What are the obstacles in implementing village governance in implementing village autonomy?, and What is the ideal governance for the Village Government in order to implement village autonomy?

2. Method

In the theoretical approach, there are two definitions of decentralization: the definition¹³ from an administrative perspective and the definition from a political perspective. The political decentralization perspective defines decentralization as the transfer of power from the central government to local governments, whereas the administrative decentralization perspective defines decentralization as the transfer of administrative authority from the central government to local governments.

3. DISCUSSION

The State of Indonesia is a state of law, this is stated in Article 1 paragraph (3)¹¹ of the 1945 Constitution as a result of the Third Amendment of 2001. The rule of law in principle requires that all actions or actions of the authorities have a clear legal basis or have legality, whether based on

written law not unwritten law. Thoughts about the rule of law are very broad, far older than state science or state science. The ideal of a state of law was first coined by Plato in his book entitled Nomoi (the law). Then this idea was developed by his student Aristotle who said that a good state is a state governed by a constitution and the rule of law.

The rule of law theory essentially means that the law is supreme and it is the obligation of state administrators or the government to submit and obey the law. There is no power above the law (above the law) and everything is under the law (under the rule of law). The concept of the rule of law is a translation of two terms, namely rechtstaat (Continental Europe) which is guided by the civil law system and the rule of law which is guided by the concept of common law. Rechtstaat or rule of law is what in Indonesia is translated as a state of law. Theoretically, a country can be said to be a state of law if it contains the following:

- a. Constitutional protection, meaning that apart from guaranteeing individual rights, the constitution must also determine procedural methods to obtain protection for guaranteed rights;
- b. An independent and impartial judiciary;
- c. Free elections;
- d. Freedom of expression;
- e. Freedom of association/organization and position; and
- f. Civic education (citizenship).

Philips M. Hadjon, suggests that there are three kinds of concepts of the rule of law, namely rechtstaat, the rule of law, and the state of Pancasila law. The figures of the legal state of rechtstaat are Immanuel Kant and Frederick Julius Stahl, the theory of rechtstaat is based on the Continental European system, in this theory the elements of the rule of law are :

1. Recognition and protection of basic human rights;
2. The state is based on the trias political doctrine (the notion of separation of powers);
3. The government is run based on the rule of law or legislation; and

4. The existence of a state administrative court in charge of dealing with violations of law by the government (onrechtmatige overheidsdaad), thus that in this case the position between government officials and the people is distinguished in terms of legal settlement in court. Law violations by the people are resolved through ordinary courts (general) while law violations by government officials are resolved through administrative courts. The concept of a state of law known as the rule of law pioneered by Albert Venn Dicey which developed in Anglo Saxon countries, in the concept of the rule of law emphasizes three main elements, namely:

1. The rule of law or the supremacy of law;
2. Equality before the law or equality before the law; and
3. The constitution based on individual rights.

Villages according to the provisions of Article 1 paragraph (1) of Law Number 6 of 2014 concerning Villages are villages and customary villages or what are called by other names, hereinafter referred to as Villages, are legal community units that have territorial boundaries that are authorized to regulate and manage government affairs, the interests of the local community based on community initiatives, origin rights, and/or traditional rights that are recognized and respected in the government system of the Unitary State of the Republic of Indonesia. Whereas in paragraph (2) it is determined, Village Administration is the administration of government affairs and the interests of the local community in the government system of the Unitary State of the Republic of Indonesia. In paragraph (3), what is meant by the Village Government is the Village Head or what is referred to by another name assisted by the Village apparatus as an element of the Village Administration.

Before the formation of the Unitary State of the Republic of Indonesia, the settlement existed under an alternative name. As evidence of its existence, the Elucidation of Article 18 of the 1945 Constitution of the Republic of Indonesia (prior to the amendment) states: "On the territory of the State of Indonesia, there are approximately 250 "Zelfbesturende landschappen" and "Volksgemeenschappen," such as villages in Java and Bali, Nagari in Minangkabau, hamlets and clans in Palembang, etc. These places have a unique makeup and can therefore be termed unique. The State of the Republic of Indonesia acknowledges the status of these special regions, and all state rules pertaining to these territories will take into account the origin rights of the regions. Therefore, its existence must be acknowledged and safeguarded inside the Unitary State of the Republic of Indonesia. The variety of qualities and forms of Villages, or what are known by other names, does not prevent these founding fathers from choosing the shape of a unified state.

Even though it is acknowledged that a unitary state requires homogeneity, the Unitary State of the Republic of Indonesia still recognizes and guarantees the existence of legal community units, community units governed by customary law, and their traditional rights. In terms of the composition and administration of Regional Government, after the amendment to the 1945 Constitution of the Republic of Indonesia, the Village arrangement or referred to by another name in terms of government refers to the provisions of Article 18 paragraph (7) which affirms that "The structure and procedures for administering Regional Government regulated by law". This means that Article 18 paragraph (7) of the 1945 Constitution of the Republic of Indonesia opens the possibility of a government structure in the Indonesian government system. Through the amendment to the 1945 Constitution of the Republic of Indonesia, the recognition of customary law community units is confirmed through the provisions in Article 18 letter B paragraph (2) which reads

"The state recognizes and respects customary law community units and their traditional rights as long as they are still alive and in accordance with community development and the principles of the Unitary State of the Republic of Indonesia, which are regulated by law".

In the history of Village regulation, various Village-related laws have been enacted, including Law No. 22 of 1948 on the Principles of Regional Government, Law No. 1 of 1957 on the Principles of Regional Government, and Law No. 18 of 1965 on the Principles of Regional Government. Regional Government, Law No. 19 of 1965 pertaining to Praja Villages as a Transitional Form to Accelerate the Realization of Level III Regions Throughout the Territory of the Republic of Indonesia, Law No. 5 of 1974 pertaining to Principles of Government in the Regions, Law No. 5 of 1979 pertaining to Governance Villages, Law No. 22 of 1999 pertaining to Regional Government,

and finally Law No. 32 of 2004 pertaining to Regional Government. In its execution, the Village regulation has not been able to fulfill all the interests and needs of the Village community, which consists of around 73,000 villages and 8,000 subdistricts. In addition, the current implementation of village regulations is out of step with the times, particularly in terms of the position of communities governed by customary law, democratization, diversity, community participation, as well as progress and equitable development, resulting in regional disparities, poverty, and socio-cultural problems that threaten the unity of the Unitary State of the Republic of Indonesia.

Aristotle argued that humans are social creatures (*zoon politicon*), namely creatures who basically have a desire to live in society with other humans. This means that every human being has a desire to gather and establish relationships with one another. The collection or union of human beings who have a relationship with each other is called society. So society is formed when there are two or more people living together, so that in their social life various relationships or ties arise which result in them getting to know each other and influencing.

Living in society is mixing and associating with each other to be able to obtain all the necessities for a decent life as a human being. Therefore, in social life, what is important is to establish a positive process of cooperation, so that from this cooperation can obtain significant benefits for each other's lives. This positive cooperation is that in pursuing a decent life as human beings, each should not interfere with each other, but must help each other. In addition to being a collection of individuals, society is also organized into groups and institutions. Not often do the interests of community members coincide. However, shared interests promote the formation of groupings among them. In addition to these groupings, there are institutionalizations that demonstrate a concerted effort to address a problem area in society, such as economics, politics, religion, etc.

In a society which MacIver describes as the web of government, there are various rules that regulate relations between individuals aimed at achieving peace, order and prosperity. As is known, there are various kinds of interests attached to each of them. These individuals who are parallel, different, or opposite in their efforts to fulfill what are referred to as basic needs and secondary needs. So that in meeting these needs there are no excesses in society due to conflicts, especially between conflicting interests, it is necessary to have rules so that everything runs in an orderly and orderly manner. In simple and modern society, norms remain as something that absolutely must exist in society. The life of these norms is intended to maintain balance, harmony, and harmony of human relations in society. Without norms and life does not obey the norms, the relationships that exist in society will be chaotic and society will be destroyed. A norm is a rule that a person must follow in relation to people or the environment. The term norm, which derives from Latin, or rules in Arabic, is frequently also referred to in Indonesian as guidelines, standards, or rules. In its evolution, the norm is described as a standard or baseline for societal behavior or conduct. Therefore, norms encompass all regulations that must be followed.

There is a new norm if there are more than one person, because the standard governs how a person behaves towards other people or his environment. Each norm contains orders, which in the foreign tongue are generally referred to as *das Sollen* (ought to be/ought to do), although in Indonesian, the term "should" is frequently used. Legal norms may be formulated orally or in writing by the entities authorized to formulate them, whereas moral, customary, religious, and other standards are unwritten, emerge from societal habits, and evolve through time. In contrast to state legal norms, which do not always correspond to the sense of justice/community opinion, the

recurrent occurrences of good and bad habits are always in agreement with the community's sense of justice.

4. Conclusion

The village is a self-governing community that uses the principle of subsidiarity, where most of the authority originally existed in the community, not being given away. It is related to the mandate of the Preamble to the 1945 Constitution of the Republic of Indonesia, where the formation of the Government of the State of Indonesia is intended to regulate and manage matters that cannot be carried out by the community itself. However, in the development of existing arrangements, before the Village Law was enacted, it had not been able to accommodate implementation of village authority.

20 In carrying out the implementation of Village Government, Village Development, Village Community Development, and Village Community Empowerment, the Village Government requires authority in its implementation, both the authority origin and attributive authority. Where these authorities aim to encourage initiatives, movements, and participation of the Village community for the development of Village potential and assets for mutual prosperity in order to realize the goals of regional autonomy.

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