



The efforts to utilize village funds in order to prevent criminal actions of corruption in Indonesia

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Abstract

Utilization of village funds so far in Indonesia has not been able to improve the welfare of rural communities and the quality of human life as well as poverty alleviation. The objectives of this study are (1) to analyze the regulation on the use of village funds that are not based on the value of justice; (2). To analyze the weaknesses of the regulation on the use of village funds in an effort to prevent the current criminal act of corruption; The approach method in this research is normative juridical, namely legal research sourced from secondary data obtained through library research on primary legal materials carried out by researching statutory materials, secondary legal materials in the form of books, journals and results of previous research and tertiary legal materials in the form of law dictionaries and encyclopedias. The results of the study were then analyzed using a qualitative descriptive method. The result of this research is that Village Finance is managed based on good governance practices. The principles of Village Financial Management as stated in Permendagri Number 113 of 2014 are transparent, accountable, participatory and carried out in an orderly and budgetary discipline, Village Financial Management Power is held by the Village Head. However, in practice, there are still many irregularities in the management and utilization of village funds. This is due to the absence of regulations on the use of village funds based on the value of justice so as to prevent the occurrence of criminal acts of corruption. As for the regulation on the use of village funds, there are still weaknesses, both in terms of substance, aspects of legal structure and aspects of legal culture, because these regulations have not been able to anticipate or prevent the occurrence of criminal acts of corruption with the modes described above. For this reason, it is necessary to rearrange and rearrange the use of village funds in order to anticipate or prevent the occurrence of criminal acts of corruption based on the values of justice and it is necessary to reform the laws and regulations governing villages in Indonesia.

Keywords: utilization of village funds, crime, corruption; Indonesia

Introduction

The Village has a Village income source consisting of Village original income, sharing of regional taxes and regional levies for the Regency/City, part of the central and regional financial balance funds received by the Regency/City, budget allocation from the State Revenue and Expenditure Budget, financial assistance from Provincial Revenue and Expenditure Budget and Regency/City Regional Revenue and Expenditure Budget, as well as non-binding grants and donations from third parties ^[1].

Based on Law Number 6 of 2014 concerning Villages, Villages have sources of income in the form of Village original income, revenue sharing for regional taxes and district/city regional levies, part of the central and regional financial balance funds received by districts/cities, budget allocations from the APBN, financial assistance from the provincial and district/city APBD, as well as grants and non-binding donations from third parties. The village income source is used as a whole to fund all authorities that are the responsibility of the village. These funds are used to fund the implementation of village authority which includes governance, development, community empowerment, and community. Thus, Village income sourced from the APBN is also used to fund this authority ^[2].

The village is given the authority to regulate and manage its authority in accordance with the needs and priorities of the village. This means that the Village Fund will be used to

fund the overall authority of the Village in accordance with the needs and priorities of the Village Fund. However, considering that Village Funds are sourced from Central Expenditures, to optimize the use of Village Funds, the Government is given the authority to set priorities for the use of Village Funds to support Village development programs and Village community empowerment. Prioritization of the use of these funds remains in line with the authority that is the responsibility of the Village ^[3].

The budget allocation for the Village Fund is set at 10% (ten percent) of the total Transfer Funds to the Regions and will be fulfilled in stages according to the ability of the State Budget. In the transition period, before the Village Fund reaches 10% (ten percent), the Village Fund budget is met through relocation of Central Expenditures from Village-based programs. Ministries/institutions submit budgets for Village-based programs to the Minister to be determined as a source of Village Funds. In the event that the Village Fund has been fulfilled in the amount of 10% (ten percent) of the total Transfer Funds to the Regions, the budgeting fully follows the mechanism of the State General Treasurer's fund budgeting which has been regulated in accordance with the provisions of the legislation ^[4].

The source of the Village Fund proposed by the ministry/institution and determined by the Minister will be placed as a non-ministerial/institutional Central Expenditure as a reserve for the Village Fund. The Village Fund Reserve

is proposed by the Government in the context of discussing the Draft State Budget and the Draft State Budget Act. The Village Fund Reserves that have received approval from the House of Representatives will be designated as Village Funds which are part of the Transfer to Regions and Villages Budget. This mechanism is adopted so that the fulfillment of the Village Fund can still be seen as the transfer of Central Expenditures to the Village Fund in the form of Transfer Funds to the Regions. In addition, the mechanism also provides a strong commitment to the Government and the House of Representatives to further empower the Village^[5].

The amount of the Village Fund that has been determined in the APBN is allocated to the Village in 2 (two) stages. In the first stage, the Minister allocates Village Funds to districts/cities in accordance with the number of villages based on the variables of population, area, and poverty rate in a certain weight. The calculation results are then multiplied by the construction cost index as an indicator that reflects the level of geographical difficulty. In the second stage, based on the amount of the Village Fund for each district/city, the regent/mayor shall allocate the Village Fund to each Village. The regent/mayor is given the authority to determine the weight of the variable of the geographical difficulty level of the Village as one of the calculation variables according to the characteristics of the region. The level of geographical difficulty is indicated by, among other things, the availability of basic services as well as the condition of infrastructure and transportation^[6].

Article 80 of Law Number 6 of 2014 concerning Villages states that village development planning is carried out by involving village communities. This provision is further elaborated in PP Number 43 of 2014 concerning Implementing Regulations of Law Number 6 of 2014 concerning Villages, namely that community participation in the village development planning process is carried out through the implementation of Village Deliberations (Musdes) and Village Development Planning Deliberations (Musrenbang)^[7].

In Article 81 paragraph (4) it is emphasized that village-scale local development is carried out by the village itself. Meanwhile, the implementation of sectoral programs that enter the village is informed to the village government to be integrated with village development. On the other hand, this law presents a considerable risk because many villages do not have experience in managing large enough funds^[8].

The potential risk that is quite visible is the misuse or abuse of funds (fraud) by certain parties as well as vertical and horizontal conflicts at the village level. Abuse/deviance occurs due to 3 conditions commonly referred to as the "Fraud Triangle", namely: the opportunity (opportunity), the pressure (pressure) and because of the attitude or character (rationalization), and in the management of the Village Fund the three conditions are very, very possible. Therefore, both the government and the village community need to actively prevent the misuse of funds and the occurrence of conflicts by jointly overseeing the village development process^[9].

The Village Law guarantees the participation of citizens to be actively involved in the process of monitoring and monitoring village development. Article 82 of the Village Law explicitly states the right of the community to obtain information and to be actively involved in supervising the implementation of development. Various findings from the results of supervision and monitoring, including various

complaints regarding the implementation of village development, can be submitted by the community to the village government and the Village Consultative Body (BPD). The involvement of the village community in supervising and monitoring village development can also be done by providing responses to the annual report on the implementation of village development in the Village Deliberation^[10].

Efforts to monitor and monitor village development and village financial management are expected to encourage village government accountability, so that it will have a positive impact on village heads and their apparatus in running the government. So, the supervision carried out does not mean that the village community does not believe in the development process and financial management carried out by the village government. Village communities can supervise and monitor village development and the management of the Village Budget in three stages, namely the planning stage, the implementation stage, and the reporting and accountability stage^[11].

Accountability for criminal sanctions in the management of the Village Fund can be carried out in the event of a criminal act of corruption. In terms of corruption, the types can be grouped into seven types of corruption, namely: (1) types of corruption that are detrimental to state finances; (2) bribing bribes; (3) embezzlement in office; (4) blackmail; (5) fraudulent acts; (6) conflict of interest in procurement, and (7) gratuities. The types of corruption above are part of how to understand the meaning of corruption. The definition of corruption has actually been stated explicitly and clearly in Law Number 3 of 1971 concerning the eradication of criminal acts of corruption. In the law, the definition of corruption mostly refers to the Criminal Law Act (the Criminal Code) which was born before the country's independence. However, until now the public's understanding of corruption is still very lacking^[12].

In order to understand the meaning of corruption in depth and comprehensively is not an easy thing. Therefore, the KPK was formed to focus on observing various behaviors as indications of corruption. Based on Law Number 31 of 1999 in conjunction with Law Number 20 of 2001 concerning the Eradication of Criminal Acts of Corruption, it shows that the habit of corrupt behavior which has been considered by the public as a natural thing and is commonplace even though it is included in the form of a criminal act of corruption^[13].

Regarding village funds, which continue to be a hot topic for various groups, the Corruption Eradication Commission (KPK) has found a number of problems in managing village funds. These problems must be understood as well as possible because they have the potential for deviations. The findings were obtained after the KPK reviewed the Village Law and approved a budget of Rp. 20.7 trillion in the 2015 Revised State Budget. The KPK found 14 findings in four matters, namely institutional regulations, management, supervision, and human resources^[14].

ICW researchers, explained that in the 2010-2015 period, there were 133 cases of corruption that occurred in the village; 186 people were declared suspects and an estimated 205 billion rupiah was lost to the state. According to ICW, of the number of suspects, village heads are the most. "The village head is the most suspect in corruption. There were 122 village heads followed by 26 village officials, 14 from the implementation of village economic activities, 11 from

other people, 7 people from the National Community Empowerment Program (PNPM), 4 people from farmer groups and 2 from partners. After analyzing these cases, ICW found the three most common forms of corruption in villages: embezzlement of funds, misuse of budgets, and abuse of authority. Most often it is the embezzlement of funds because village officials see such large funds tempted and do not know what they will do ^[15].

The purpose of the study is to analyze the regulation on the use of village funds in Indonesia so far and to analyze the weaknesses of the regulation on the use of village funds in order to prevent corruption.

Research Method

The approach method in this research is normative juridical, namely legal research sourced from secondary data obtained through library research on primary legal materials carried out by researching statutory materials, secondary legal materials in the form of books, journals and results of previous research and tertiary legal materials in the form of law dictionaries and encyclopedias. The results of the study were then analyzed using a descriptive descriptive method, which aims to obtain an overview to support legal arguments in a systematic and structured manner based on the provisions of laws and regulations which also refers to supporting facts and theories in the reconstruction of regulation and utilization of village funds in order to prevent corruption.

Discussion

The Village Law gives autonomous authority to the village government in managing and developing its village. Village communities are more prosperous with various empowerment programs and village resource management. The village government can carry out a pattern of improving the village economy through Village-Owned Enterprises (BUMDes), regulate the Village Revenue and Expenditure Budget (APBDes) and carry out various infrastructure developments that can support the improvement of the village economy. From the village to build the country to be realized ^[16].

The abundance of village resources provides a significant opportunity for the village government in developing the village economy and welfare for the village community. These potentials must be properly identified and developed through community empowerment on an ongoing basis. There is a lot of potential that has not been explored optimally and maximally and has not been managed properly. There are many obstacles behind this, including village finances, village human resources and unsupportive infrastructure ^[17].

The disbursement of village funds in the amount of 1-1.4 billion provides fresh air for villages to maximize their potential in managing village potentials and developing them into independent, efficient and highly competitive villages considering that the ASEAN Economic Community (AEC) has already taken place. The village economy is the government's hope to be downstream from the central economic development. However, the question is how does the village government prevent corruption in the management of village natural resources? Both in policy making, budget allocation, and in policy implementation. So that the fear of some people against the implementation of the Village Law, especially in managing village resources

can run well and avoid corruption. Prevention of criminal acts of corruption must continue to be carried out, down to the lowest level of government. So that the realization of an improved rural economy and good governance can be realized. Automatically bureaucratic reform and good government run in parallel based on their functions and needs. Build a village country for prosperity and justice for all Indonesian people ^[18].

Corruption is a term that is not foreign to the people of Indonesia. In principle, the juridical understanding of the criminal act of corruption is stated as affirmed by Law Number 31 of 1999 in conjunction with Law Number 20 of 2001 concerning the Eradication of Criminal Acts of Corruption, it is stated that, corruption is:

Section 2

Any person who unlawfully commits an act of enriching himself or a corporation that can harm state finances.

Article 3

"Every person who with the aim of benefiting himself or another person or a corporation, abuses the authority, opportunity or facilities available to him because of his position or position which can harm the state finances or the state economy".

In Article 2 of Law Number 31 of 1999 in conjunction with Law Number 20 of 2001 concerning the Eradication of Criminal Acts of Corruption, there are several important elements, namely: (1) Everyone; (2) Against the Law; (3) Enriching oneself/others/corporations; (4) Can be detrimental to the state finances or the state economy. Everyone is an individual, including a corporation (Article 1 point 3 of Law number 31 of 1999 in conjunction with Law Number 20 of 2001 concerning the Eradication of Criminal Acts of Corruption). or civil servants.

According to Thomas, management is a process or a series of work carried out by a series of groups of people in which there is planning, organizing, implementing and monitoring by utilizing the potential that exists in achieving certain goals. Village Fund Management (DD) in Presidential Regulation No. 60 concerning Village Funds article 2 reads Village Funds are managed in an orderly manner, obeying the provisions of laws and regulations, efficient, economical, transparent, and responsible by paying attention to a sense of justice and propriety and prioritizing the interests of the community. local. As for the Regulation of the Minister of Finance Number 49 concerning Procedures for Allocation, Distribution, Use, Monitoring and Evaluation of Village Funds article 22 paragraph (2) reads that the implementation of activities financed from the Village Fund is prioritized to be carried out self-managed using local resources/raw materials, and pursued with absorb more labor from the local village community ^[19].

Based on article 75 paragraph (1) of Law Number 6 of 2014 concerning Villages, article 93 paragraph (2) of Government Regulation Number 43 of 2014 concerning Villages as amended by Government Regulation Number 47 of 2015 it is stated that the Village Head is the holder of the Village Finance management authority. This means that in every change of the Village Head after his term of office expires and another or new Village Head is elected, the Village Head has the right to change his government structure to support his work in the Village government as the Village Head. This is in accordance with what is regulated in Law Number 6 of 2014 Article 26 paragraph 3. Regulation of the Minister of Home Affairs Number 113 of 2014 concerning

Village Financial Management explains that the Village Head is the holder of the power to manage Village Finance and represents the Village Government in ownership of property²⁰.

When carrying out the duties, authorities, rights, and obligations as referred to in the Legislation, the Village Head is obliged to:

1. Submit a report on the implementation of Village Administration at the end of each fiscal year to the Regent or Mayor;
2. Submit a report on the implementation of Village Administration at the end of the term of office to the Regent or Mayor;
3. Provide a written statement of government administration to the Village Consultative Body at the end of each fiscal year; and
4. Provide and/or disseminate written information on government administration to the Village community at the end of each fiscal year.

There are several factors that have the potential for criminal acts of corruption by village heads in Indonesia, namely due to expensive political costs (Cost Politics) or what is known as money politics, legal factors, environmental aspects or influences, opportunity factors to commit corruption crimes and desire factors to obtain money in an easy and short way. In essence, money politics is a form of campaign violation to influence others in choosing someone or not to elect someone in the context of democracy in the village head election, regional head election and general elections for members of DPRD, DPD, DPR RI to presidential and vice presidential elections.

Money politics in village head elections is generally carried out by sympathizers and the success team or even the candidates themselves before the D day of village head elections etc. The practice of money politics is carried out by giving money, basic necessities such as rice, oil and sugar to the community with the aim of attracting public sympathy so that they cast their votes for the candidate concerned. In village head elections and general elections, there are many actions of money politics or Money Politics that have colored the party events and the map of democracy taking place in this country. Money Politics has a lot of influence on the national political map as well as in the processes that occur in political parties. In the standard norms of democracy, every citizen has the same voting rights and values (one person, one vote, one value). However, through Money Politics political support is given on account of money and other economic resources received by certain political actors.

During the election of village heads, high political costs are also a core factor in the occurrence of corruption by village heads in Indonesia, as stated by Indonesia Corruption Watch (ICW) in an event entitled 'ICW's monitoring of village fund corruption', at the ICW Office, on Jl. East Kalibata IV D, South Jakarta. ICW held the event as a follow-up to the process of dealing with the Corruption Eradication Operation (OTT) on village fund corruption in Pamekasan Madura by the KPK on August 2, 2017 which secured the Pamekasan Regent, Pamekasan District Attorney Head, Dassok Village Head, and two other civil servants in corrupt practices. village funds. Almas Sjafrina, an ICW researcher who was a speaker at the event, said that there were four factors that caused corruption in village funds, including the

fact that there was a high cost politics disease due to the competitive arena of village head elections. towards the village head election, they will mostly try to restore their deficit through a corruption process after successfully taking office. There is even a village head who tries to collect village funds while serving to run in the next election^[21].

In terms of educational strata, it can be seen that there are quite significant differences as stated in Law Number 6 of 2014 concerning the requirements to become village heads and village officials. To become a village head, it is only enough to have a junior high school certificate and to become a village official, you must have a high school certificate. This is, of course, inversely proportional to the one who has higher education strata, he is the one who leads, it is feared that this will have an impact on leadership management because it cannot be denied that village officials who have the above educational strata will have an attitude of light towards the village head because education below. Nowadays, it is not enough for a village head to only have a character because a village head must also have above-average intelligence in terms of managing village funds, which can trap a village head in corruption cases^[22].

The village head and his apparatus have a heavy duty in running the wheels of government at the village level. Currently, villages are required to be able to manage the government budget, which is worth more than IDR 1 billion per year. So that the Village Head and his apparatus must further increase the capacity of Human Resources (HR) with various training activities or technical guidance (Bimtek). Including the activity of increasing the human resources of village apparatus which was held recently for village apparatus, it was considered very helpful in increasing the capacity and ability of village apparatus^[23].

The results of the training and technical guidance carried out were very useful for village officials in carrying out administrative tasks in the village and increasing insight for village officials. Increasing human resources through training, technical guidance and assistance is a need for village officials in line with the changing paradigm of implementation in village government, in addition, many new village officials are appointed with varied educational backgrounds. So it is necessary to have this training or technical guidance, and it is hoped that it will continue to all devices according to the duties and responsibilities of the village government which continues to increase^[24].

Efforts to prevent corruption can be carried out by:

1. Assist the Village in planning, implementing, and monitoring Village development and Village community empowerment;
2. Assisting the Village in implementing the management of basic social services, developing the Village economy, utilizing natural resources and appropriate technology, developing Village infrastructure, and empowering the Village community;
3. Increase the capacity of the Village Government, Village community institutions in terms of development and empowerment of the Village community;
4. Organizing in Village community groups;
5. Increase capacity for Village Community Empowerment Cadres and encourage the creation of new Village development cadres;
6. Assisting the Village in the development of rural areas in a participatory manner; and
7. Coordinate assistance at the sub-district level and

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