



The role of village consultants agency in the welfare state function on the implementation of decision of village legal products

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Abstract

The Village Consultative Agency (BPD) carries out its function as a village legislative organization that accommodates and channels the aspirations of the village community. This research applied a normative juridical method. The results of the study concluded that the mechanism for the formation of the village legal products by the Village Consultative Agency (BPD) was based on Article 65 paragraph (1) of Law Number 6 of 2014 concerning Villages which stated that the deliberations were led by the BPD; deliberation is declared valid if attended by at least 2/3 (two thirds) of the total number of BPD members; the decision making is done by deliberation; if the deliberations cannot be reached, re-voting shall be carried out; the results of the BPD deliberations are determined by the decision of BPD and the notulent enclosed. The formation of Village Law Products in the formation of Village Regulations involving the BPD from the discussion stage to the implementation of Village Regulations which is carried out must actively communicate with the village community and professionals in the legislative drafting and in carrying out its role. The Village Consultative Agency works in accordance to the principles of good government to realize the democratic and participatory village governance.

Keywords: village, village consultative agency, legal product, and state welfare

1. Introduction

The village is a legal community unit that has jurisdictional boundaries, has the authority to regulate and manage the interests of the local community. The importance of village democratization is motivated by two things, first, in the village arena, democracy is an effort to redefine the relationship between the village communities organizing village government.

A social-democratic conception of democracy can include such social rights as social services, providing for those in need, and ensuring the general welfare of others. Some proponents of this view argue that the democratic principles of political equality and participation are meaningless unless individuals have sufficient resources to meet their basic social needs. Indeed, even Roosevelt's four freedoms included the freedom from want"^[1].

One of the most important parts of the Village Law is the state's recognition of the village's original rights (called the recognition principle) and the establishment of local scale authority and decision making locally in the interests of the village community (called the subsidiarity principle).² Legal products in a certain degree have their own material and form that reflects where the law was created.³ In order to become

a useful legal product as the needs of the community are reviewed both juridical, political, and sociological^[4]. Opportunities for developing democratic village autonomy are wide open, with the public entitled to obtain information by monitoring and reporting all activities deemed to be less transparent to the village government and BPD^[5]. For all village government administrators with the principle of people-centered development, the community must be the main actor in development in order to achieve a welfare state^[6].

2. Formulation of the Problem

2.1 How is the mechanism of village legal product formation by the Village Consultative Agency (BPD) based on Law Number 6 of 2014 concerning Villages?

2.2 Is the formation of village legal products by the Village Consultative Agency (BPD) has realized the village democracy based on community participation in the functioning of the welfare state?

3. Results and Discussion

3.1. The mechanism of the formation of village legal products by the Village Consultative Agency (BPD) based on Law Number 6 of 2014 concerning Villages

In the Village legal product described in the Article 69 paragraph (3) of Law Number 6 of 2014 concerning Villages

¹ Russel J. Dalton, Doh C. Shin, and Willy Jou, Understanding Democracy: Data From Unlikely Places, *Journal of Democracy*, Vol. 18, No. 4, Oktober 2007. Pages.144.

² Naeni Amanulloh. *Demokratisasi Desa*. Jakarta, The Ministry of Villages, Isolated Regions, and Transmigration of the Republic of Indonesia. 2015. Pg.9-10.

³ Saiful, The Existence of Village Regulations Post the Enactment of Law Number 12 Year 2011, *Journal of Legal Knowledge Legal Opinion*, Vol. 2, 2014. Pg.3.

⁴ Siti Rodhiyah dan Muhammad Haris, The Role of the Village Consultative Body (BPD) in the Formation of Village Regulations in the Krandon Village, Guntur District, Demak Regency, *Journal of Legal Reform*, Vol. II, No. 2, 2015. Pg.300.

⁵ Kadar Pamuji, Abdul Aziz Nasihuddin, Riris, Supriyantom dan Sukirman, The Development of Community Participation Model in Organizing Village Government in Banyumas Regency, *Legal Journal of Ius Quia Iustum*, Vol. 24, October 2017. Pg.626.

⁶ *Ibid.*,

which states that the Village Regulation is determined by the Village Head after being discussed and agreed upon by the Village Consultative Agency. The Village Regulation Draft in the Article 69 paragraph (4) states that regarding the Village Revenue and Expenditure budget, levies, spatial planning, and Village Government organizations must obtain an evaluation from the Regent/ Mayor before being stipulated as a Village Regulation.

Article 65 paragraph (1) of Law Number 6 Year 2014 concerning Villages states that the Village Consultative Body's deliberation mechanism is explained as follows:

1. the deliberation of the Village Consultative Body is led by the leadership of the Village Consultative Agency;
2. the deliberation of Village Consultative Council is declared valid if attended by at least 2/3 (two thirds) of the total number of members of the Village Consultative Agency;
3. the decision making is done by using deliberation in order to reach consensus;
4. if consensus agreement cannot be reached, decision making shall carried out by voting;
5. the voting as referred to in letter d is declared valid if it is approved by at least ½ (one half) plus 1 (one) of the total number of members of the Village Consultative Agency present in the venue; and
6. the results of the deliberations of the Village Consultative Agency are determined by the decision of the Village Consultative Agency and attached with the notulent of the deliberations made by the secretary of the Village Consultative Agency.

Article 82 paragraph (5) of Law Number 6 of 2014 concerning Villages states that in the context of overseeing the implementation of village development, the village community participates in the Village Conference to respond to reports on the implementation of Village Development. Regarding the procedures for drafting regulations in the Village set forth in Article 83 and Article 84 of Government Regulation Number 43 of 2014 concerning Regulations for Implementing Law Number 6 of 2014 concerning Villages as follows:

Article 83

1. The village regulation draft was initiated by the Village Government.
2. The Village Consultative Agency can propose a draft Village regulation to the village government
3. The draft of village regulations as referred to in paragraph (1) and paragraph (2) must be consulted with the Village community to obtain input.
4. The village regulation draft as referred to in paragraph (2) is determined by the village head after being discussed and agreed with the Village Consultative Agency.

Article 84

1. The draft of village regulations that have been mutually agreed upon are conveyed by the leadership of the Village Consultative Agency to the village head to be determined to be a village regulation no later than 7

(seven) days from the date of agreement. The village regulation draft as referred to in paragraph (1) must be determined by the village head by signing at the latest 15 (fifteen) days from the receipt of the village regulation draft from the leadership of the Village Consultative Agency.

2. The village regulations are declared is valid and have binding legal force since they are promulgated in the Village Gazette and Village News by the Village Secretary.
3. The village regulations that have been enacted as referred to in paragraph (3) are submitted to the regents/ mayors as guidance and supervision materials no later than 7 (seven) days after they are enacted.
4. The village regulations must be disseminated by the village government.

Based on the above explanation, the mechanism for the formation of village legal products by the Village Consultative Agency (BPD) based on Law Number 6 of 2014 concerning Villages includes formulating Village Regulations together with the village government in which the process is carried out by the BPD and to the village in formulating village regulations contains inviting BPD members to convey their intention to form village regulations by submitting the main points of the proposed village regulations; BPD submits draft village regulations: BPD provides input or proposals to complete or perfect village draft regulations; the chairperson of the BPD submits the proposal to the agenda; BPD holds a meeting to get a joint agreement with the community. After that the village regulations or village products are established together with the Village Government, then they are approved and approved and determined as a legal product.

3.2 The implementation of the formation of village legal products by the Village Consultative Agency (BPD) in realizing the village democracy based on community participation in the function of the welfare state

The Village Consultative Body in the formation of village legal products as an embodiment of village democracy will refer to the Laws and Regulations that contain the involvement of the Village Consultative Body in making village legal products. Then what will become the next benchmark is to use the principle of good government or the general principle of good governance contained in Law Number 28 of 1999 concerning State Administration that is Clean and Free of Corruption, Collusion and Nepotism in order to create a law-aware society as well as a member of the Village Consultative Agency that belong to it.

Jurgen Habermas argues that guaranteeing the welfare of all people is central to the modern state. Furthermore, according to Habermas, the guarantee of the welfare of all the people in question is manifested in the protection of "The risk of unemployment, accident, illness, old age, and death of the breadwinner must be covered largely through welfare provisions of the state"^[7].

Village communities can express their aspirations, suggestions or opinions in village deliberations in addition to routine meetings attended by members of the Village Consultative Body representative region that refers to the

⁷ Gianfranco Poggi, *The Development of the Modern State Sociological Introduction*, California: Stanford University Press, 1992, page. 126.

principle of good government. The principle of good government is contained in Law Number 28 of 1999 concerning State Administration that is Clean and Free of Corruption, Collusion and Nepotism, including among others the principle of legal certainty, the principle of orderly administration of the state, the principle of public interest, the principle of openness, the principle of proportionality, the principle of professionalism, and the principle of accountability. In carrying out the functions and authority of the Village Consultative Agency in the formation of village legal products as an embodiment of village democracy, it can meet the principle of good government. The existence of legal certainty, an orderly administration of the state, prioritizing the public interest, proportionality, professionalism, and accountability, participation of rural communities with their aspirations, as well as transparency in a policy or regulation will create a good government that can provide public welfare.

The Village Consultative Agency in the formation of Village Regulations prioritizes public welfare rather than personal or group interests in an aspirational, accommodative and selective manner. Openness, that the Village Consultative Agency opens itself to the right of the community to obtain true, honest and non-discriminatory information about the formation of Village Regulations while still paying attention to the protection of personal and group human rights. Proportionality, that the Village Consultative Agency prioritizes the balance between rights and obligations in the formation of Village Regulations. Professionalism is that all members of the Village Consultative Agency must have expertise in the formation of Village Regulations or legislative drafting which can be obtained from the legislative drafting training. The final of the village implementation activities carried out by the Village Consultative Agency in accordance with the provisions of the Legislation must be accountable to the village community.

4. Conclusions

There are some conclusion can be drawn from this study, as follow:

The mechanism for the formation of village legal products by the Village Consultative Agency (BPD) based on Article 65 paragraph (1) of Law Number 6 of 2014 concerning Villages states that the deliberations are led by the BPD; deliberation is declared valid if attended by at least 2/3 (two thirds) of the total number of BPD members; the decision making is done by deliberation; if deliberations are not reached, re-voting is carried out; the results of the BPD deliberations are determined by the BPD's decision and the notulent enclosed. The Formation of Village Law Products in the formation of Village Regulations involving the Village Consultative Agency from the discussion stage to the implementation of the Village Regulation. So that members of the Village Consultative Agency must actively communicate with their village community and professionals in the legislative drafting. Secondly, in carrying out its role the Village Consultative Agency works according to the principle of good government to realize the democratic and participatory village governance.

5. Suggestion

Some suggestion are as follow

1. For the Village Consultative Agency, it is expected to provide more time to participate in the regular meetings

between members of the Village Consultative Agency whose intensity has been agreed.

2. For the creation of Village Regulations in accordance with the laws and regulations, it is necessary to have a Legislative Drafting training given to all members of the Village Consultative Agency.

7. References

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