

# Strengthening Indonesian Administrative Village in the ASEAN Economic Community Era

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## Abstract

Village can implement self-governing community based on the origin and the local custom in order to be democratic, independent and prosperous. Therefore, Indonesia government issues Indonesian Law Number 6, 2014 on the village that provides opportunities for optimizing the Village in rural development. However, rural development should be in a harmony with the local government program, as stipulated in Indonesian Law Number 23, 2014 on Regional Government. Nowadays, Indonesia enters the ASEAN Economic Community. It appears a challenge not only for central government but also for rural urban or administrative village wherein needs to increase human resources development, natural resources finding and rural potency indentifying. Therefore, the strengthening of administrative village is significant to make administrative village understand toward implementing good governance, making aspirational village regulations and establishing village-owned enterprises.

**Keyword:** Strengthening, Administrative Village, Governance, Regulation

## 1. Background

The existence of Administrative Village is not stated explicitly in The 1945 Indonesian Constitution. The 1945 Indonesian Constitution merely stated that “the State recognizes and respects traditional communities along with their traditional customary rights as long as these remain in existence and are in accordance with the societal development and the principles of the Unitary State of the Republic of Indonesia, and shall be regulated by law.”<sup>1</sup> This article is the basis of the recognition an administrative village. Futher, Indonesian Government issue Indonesian Law Number 6, 2014 to strengthen the administrative villages. This legislation is needed because the Villages need to be protected and empowered in order to be powerful, developed, independent and democratic. As the result, the condition of the villages become more prosperous and comfortable.

Based on the description above, the existence of Administrative Village is important because Indonesian people mostly live in the rural. Therefore, the development should be focused in rural area. Once, village development was less concerned by the central government. It caused the development of countryside with poor infrastructure compared to the city. Rural communities is identical with the poor and illiteracy. Meanwhile, the village is a high-producing agricultural products which supply the needs of Indonesian society in general. To up-grade the rural development program into national issue will create a good impact in order to enhance the advance of the village prosperity. Moreover, Indonesia has entered the ASEAN economic community that requires qualified human resources and high-quality products. If the village development do not come into priority, Indonesia can get lose in competition in the era of the ASEAN Economic Community.

ASEAN Economic Community (AEC) is an agreement between ASEAN member countries to implement economic integration in the ASEAN region. This agreement aims to minimize the barriers entry in trade, goods, services and investments among ASEAN Countries. AEC implementation needs government commitment and Indonesian community willingness to improve the human resources competitiveness. Human resources are the most important thing in entering AEC thus the capacity and capability of human resources must be increased. There are four characteristics of AEC, namely single market and production base, a competitive economic region, equitable development area, and fully integrated economic area. These four characteristics are interrelated and strengthened each other thus we cannot depend only on one character. Therefore, Indonesia must implement integrated development programs in all areas to improve the competitiveness of Indonesia among ASEAN countries. The development program implemented by the government should be evenly distributed from the capital, city into the village. Government must conduct an effort to achieve equalization as the ideals and objectives of Indonesia, stated in the preamble of the 1945 Indonesian Constitution. However, to realize the ideals and objectives is currently the most challenging thing, not only challenging in entering the AEC but also in anticipating globalization.

<sup>1</sup> Article 18 B (2) The 1945 Indonesian Constitution

Based on the above descriptions, the Indonesian Government should optimize the development of the countryside in order to become independent area in economy. Indonesian Law Number 6 Year 2014 on Village puts the government obligation to develop the village potency. It provides opportunity for rural village administrations to independently build their own area or working together. To achieve this goal, it is necessary to have broader understanding to Indonesian Law Number 6, 2014 on Village. A comprehensive understanding includes understanding in village governance, the establishment of village regulations and the establishment of village-owned enterprises. These three things must be done either by the central or local governments together with the administrative village itself.

## 2. Research Purpose

The purpose of this study aims to provide an overview of how to govern the administrative village in entering the ASEAN economic community based on Indonesia Law Number 6, 2014 on Village. In addition, it also provides strategic steps in organizing the administrative village in order to realize independency and prosperous village.

## 3. Research Method

This research uses legal research method.<sup>1</sup> It examines the application of Indonesia Law Number 6, 2014 along with other legislations involved in administrative village governance. This type of research is explorative. It explores whether the legislation is sufficient or not to accommodate the problems facing in the village as well as to review the legal instrument which is needed by the community and administrative village. However, this legal research have similirity with doctrinal research. Doctrinal research is essentially a library-based study which mean that the material needed by a researcher. The basic aim of doctrinal research is to discover, explain, examine, analyse and present, in a systematic form, facts, principles, provisions, concepts, theories or the working of certain laws of legal institutions.<sup>2</sup>

## 4. Discussion

### 4.1 The Administrative Village Governance

Indonesian Law Number 6, 2014 on Village (Village Act) provides the strategic role of the village as the part of the Unitary State of Indonesian Republic. It provides protection and recognition of indigenous people and their traditional rights through a system of organizing the Administrative Village. It shows that the Indonesia government has commitment towards development in the village and rural areas. Therefore, the implementation of village governance requires good governance from the planning stage until implementation and evaluation of rural development.

However, there are weaknesses in rural development where the village have under qualification of human resources. While entering the ASEAN Economic Community and implementing the law, they required adequate human resources and capable of organizing the village. Unfortunately, many village administrators do not understand how to run the administrative village. The presence of the Village Act creates challenges for the rural communities in managing the village and including good governance, transparency and bringing the democratic situation into the village ahead election.

The administrative village is the implementation of government affairs by the village officials and Village Consultative Body to regulate and to manage the interests of local communities based on the origin and the local customs. Running good administrative village should be implemented by village head and village administrators. Administrative Village consists of the Head of the Village and the village administrators. The village administators compound of the village secretary and other administators for technical field implementation and territorial elements. The number of supported administrator unit is adjusted based on the needs of the local cultural and social conditions. The whole administrator must understand village regulation and be capable of managing an administrative village.

Village Head in running of development of the village can make village regulation and village head regulation. this regulation is used to the establishment of village-owned enterprises, cooperation among villages, business development, and community empowerment. Village also provide infrastructures public facilities such as village roads, bridges, irrigation villages, and markets. While in community empowerment to do with the development of social and cultural life such as, health and education. In order to implement development in the village, the village head has a very important role as the head of this village is the leader of governance and development in the village.

The village head is the first person to carry out the heavy duties and obligations because he is the organizer and primary person in charge in the areas of governance, development, community and government affairs public, including the development of peace and order. Based on the Village Act, an administrative village

<sup>1</sup> Terry Hutchinson, *Researching and Writing in Law*, Riverwood, Thomson Lawbook, 2006, page 6.

<sup>2</sup> Anwarul Yaqin, *Legal Research and Writing*, Lexis Nexis, Kelana Jaya, Selangor, Malaysia, 2007, page 10

has a village authority is divided into four, namely:

- a. Authority based on the origin of the rights;
- b. The authority assigned by the government;
- c. Other powers assigned by the government in accordance with the provisions of the legislation; and
- d. Scale local authority of the village.

The village authority is based on the rights. This origin can be further elaborated that includes the structuring of organizations and community institutions exist, institutions customary law, ownership of indigenous rights, land management of cash indigenous villages, management of communal land, an agreement in the lives of indigenous villagers, filling positions customary village head and tenure indigenous villages.

In addition, the village has also Village Consultative Body (Badan Permusyawaratan Desa/BPD) which functions to perform oversight discuss and draft regulations Village with Village Heads; accommodate and distribute the aspirations of rural communities; and to supervise the performance of the Village Head. This body is filled by representatives of the rural communities that election mechanisms should be in a democratic. . BPD is unlike the people's representative body in Indonesian state or regional government. We know that the members of people's representative body in Indonesian State come from political party. While the members of BPD is not come from political party but come from independent which representing the village community directly. Hence, BPD role in rural development is needed, so the Village Head as the policy makers can make policy be in tune with the wishes of the villagers.

Another characteristic of the administrative village is the village discussion. Village Discussion is followed by Village Consultative Body (BPD), administrative village, and elements of the village community to deliberate on strategic matters in village development. They discuss arrangement of the village, village planning, the cooperation of the village, the investment plan of the village, the establishment of owned enterprises of village, additions and disposals of assets as well as extraordinary events in village. Village Discussion held at least once a year and facilitated by administrative village. Therefore, this Village Discussion determine the direction of development of the village.

Administrative village has independency but not autonomy. It means that the Village Act does not deserve village autonomy but stresses on the independency of the village because the village is not part of the structure of Indonesian government system. The village is law community unit and a small region that have authority to manage and regulate their own administration based community initiatives. There is a difference between autonomy and independence. Autonomy is the right of local governments to manage their own regions while independency means that the village is able to organize their own administration without government interference. The government is only to supervise the implementation of the village governance.

#### 4.2 The Making of Village Regulation

Regulation of the village was previously known as the rules of the village or the village head's decision. Once, the Indonesian Law Number 19, 1965 on the Civil Village, called it as Decree of Village Head. In the new order, Village Regulations were unknown yet, the terminology remained as the decree of village head, as stipulated in article 18 of Indonesian Law Number 5, 1979 on the Administrative Village. Section 18 of the Law stated that "the head of the village set a village decision after discussion with Consultative Body's Village." The term of the Village Decision then changes to Village Regulation based on Indonesian Law Number 22, 1999 on Regional Government. Likewise, Indonesian Law Number 32, 2004 in lieu of Indonesia Law Number 22, 1999 still uses the term Village Regulations. Indonesian Law Number 32, 2014 was no longer valid, as the announcement of the new laws, namely Indonesian Law Number 6, 2014 on Village and Indonesian Law Number 23, 2014 on Regional Government. Both laws use the term of Village Regulation as the consequence of the running of administrative village system. Since the policy of decentralization in the reform era, a village regulation is a legal product in legitimizing village development activities and running administrative village organizations. In other words, Village Regulations drafts as a reference in implementing governance and development in the village.

Village regulations are the laws set by the Village Head after being discussed and agreed on Village Consultative Body. The drafted village regulation can be initiated by administrative village or Village Consultative Body. In addition, the village has a regulatory function in strengthening the implementation of rural development. Making of village regulation is the duty of the administrative village as in the arrangement of the village budget and the establishment of village owned-enterprises or organizations in managing the village in accordance with the characteristics of the village. Preparing the draft regulation also required the village public consultation namely villagers. The public consultation is necessary. The public consultation is dissemination forum to the villagers at which the village officials socialize that the village regulation aims to govern things stipulated in the regulation.<sup>1</sup>

<sup>1</sup> Nurul Firmansyah dan Wing Prabowo. *Berhukum dari Desa, Memotret Proses Lahirnya Aturan Berbasis Masyarakat Desa*. Jakarta: Perkumpulan HuMA, 2013, page 65.

Making Village Regulations also requires the participation of the villagers. This participation is a form of implementation of democratic principles in the Village Act. In addition, the principles of democracy must also refer to the principles that village regulations must not class with public interests, values/norms prevailing in the community and with the higher legislation that is higher. Besides, it must regard to social and cultural development existed in the community, involve the community in drafting of village regulations in accordance with the existing rules and mechanisms.<sup>1</sup>

As described above, the establishment of village regulations becomes the basis for the implementation of rural development. It is suggested that the development of the regulations and the village should be in line. In addition, rural development is a collective responsibility of the whole components in the village. However, rural development still requires the attention of the central government in control of government policy. On the other hand, the central government and local governments sometimes have their own policies and development involving the village, such as the development of human resources in the ASEAN Economic Community. Therefore, it needs harmonization of regulation at the village level to the central government. Policy harmonization aims to avoid overlapping between programs and policies.

Harmonization of regulations is a form of compatibility of draft laws which must be in accordance with the principles of the formation of legislation. This harmonization must be aligned with Indonesian Law Number 6, 2014 on the village and Indonesian Law Number 23, 2014 on Regional Government. In addition, these two laws regulates village to pay more attention to the rules and regulations of the district / provincial town. Therefore, it needs local regulations on the establishment of village regulations as a guideline in preparing the village administration village regulations. It regards to local governments have the authority to evaluate and synchronization village regulations with other regulations.

Administrative village Democratic is the basis for drafting regulations participatory village. Therefore, this principle is applied in organizing the administrative village and in making of village regulations in order to implement the administrative village governance and to explore the potential of rural areas.<sup>2</sup> As the result, the administrative village can compete in the era of globalization and the ASEAN Economic Community. Human resources are a major problem that needs to be upgraded as well as products of the village must also be qualified. Optimization of rural development will automatically increase community capacity building in general. Indeed, entering the ASEAN Economic Community should be addressed wisely both central and local governments and village governments.

Based on the discussion above, it can be concluded that the preparation of Village Regulations is the elaboration process of harmonizing policies and optimizing the village potency. The process should consider on the needs and conditions of the local village, and refer to the legislation. Therefore, regulation of this village has an important significance in protecting the interests of the community and the village development needs for community participation.

#### 4.3 Establishment of The Village-owned Enterprisse

The village also has the authority in the establishment of village-owned enterprises (Badan Usaha Milik Desa/BUMDesa). Village-owned enterprises is an institution established by the administrative village through village regulations. The institution is commercial based and it is established, owned and managed by the administrative village. The establishment of village-owned enterprises is intended as an effort to provide the best service for the people of the village, the needs of many people's lives, improve living standards for people in the village as well as to reduce poverty. In addition, village-owned enterprises also intended to raise rural incomes thereby strengthening the independence of the village, especially in the financial sector. Regulation on the establishment of village-owned enterprises have also been arranged in the Indonesian Law Number 6, 2014 on the village. The law regulate that the village can establish village-owned enterprises are run with the spirit of brotherhood and cooperation. Establishment of village-owned enterprises should be through village meetings. This village-owned enterprises can engage in the ministry of economy and / or society, business development, empowerment, provision of assistance through grants and social assistance for rural welfare.

The development of village-owned enterprises is a form of a strengthening of the economic institutions village and is a tool local economic utilization with various kinds of potential that exists in the village. Therefore, the position of village-owned enterprises is a professional commercial entities without the intervention of administrative village officials. Manager of village-owned enterprises only coordinates to the administrative village or provides periodic reports. In addition, the administrative village is expected as the largest shareholder in the establishment of village-owned enterprises. In establishing village Owned enterprises, the administrative village should includes capital that budgeted in the village budget. this is in accordance with the meaning of

<sup>1</sup> Didik sukriono, *Pembaharuan Hukum Pemerintah Desa, Politik Hukum Pemerintah Desa di Indonesia*, Setara Press, Malang, 2010, page 240.

<sup>2</sup> M.Silahuddin, *Kewenangan Desa dan Regulasi desa*, Kementerian Desa, Pembangunan Daerah Tertinggal dan Transmigrasi Republik Indonesia, Jakarta, 2015, page 23-24

village-owned enterprises in Indonesian Ministerial Decree Number 4, 2015 which states that the village-owned enterprises is the body businesses that all or most of the capital is owned by Village through direct investments originating from the village of wealth separated in order to manage assets, services and other businesses to the welfare of the villagers.

Despite the administrative village as the largest shareholder in the village-owned enterprises, the village should not be a manager in this village-owned enterprises. It is intended for people who manage village-owned enterprises can be run in a professional manner and concentrate in promoting village-owned enterprises. Nonetheless, the manager of the village-owned enterprises also need to be supervised by the Village Consultative Body. Supervision is conducted in order to avoid interference from the village government to village-owned enterprises, especially in the management of its finances. The village in setting up village-owned enterprises must consider several aspects:

- a. a government initiative villages or rural communities;
- b. the potential of rural economic enterprise;
- c. village's natural resources;
- d. human resources capable of managing the village-owned enterprise; and
- e. equity of the village administration in the form of financing and wealth of the village were handed over to be managed as part of a village-owned enterprises.

The Proposal of the establishment of village-owned enterprises shall be submitted in the village meeting which has specific agenda of the establishment of the village-owned enterprises. Subject being discussed at village meetings include:

- a. Establishment of village-owned enterprise in accordance with the conditions of economic and social culture;
- b. Management organization owned the village;
- c. Statutes and by-laws of the date of the Village Owned Enterprises;

Results from these village discussion formulated again in village regulations established by the Government together with the Village Consultative Body. The potential of the village above must be managed entirely by rural communities through economic institutions that village-owned enterprises. Therefore, in areas managed by the village-owned enterprises, namely:

1. agriculture;
2. the field of livestock;
3. the field of savings and loans;
4. the field of waste management;
5. the industrial areas of the home; and
6. areas of the market.

Importance of village-owned enterprise is still not recognized by the villagers. It can be seen the low establishment of village-owned enterprise in various villages in Indonesia. Some reasons for the low establishment of village-owned enterprise are as follows:

1. The level of public awareness about the existence of village-owned enterprise is still low.
2. Ability administrative village in making drafting a village regulation on the establishment of village-owned enterprises is still low.
3. Village budget is inadequate and there is no allocation for equity participation in the village-owned enterprises, whereas natural resources owned by the village is huge potential.

The presence of village-owned enterprises as the company is expected to encourage the dynamics of the rural economy and prevent the foreign companies and the national forces into the village, especially in entering the era of globalization and the ASEAN Economic Community. Rural development funds to enlarge the village means increase the chances of village construction. Rural development also means the distribution of money in the village increased compared to the previous period. Budget distribution to villages also have an impact on economic activity dipersedaan and this can be realized through the establishment of village-owned enterprises.<sup>1</sup> The advantages of this village-owned enterprise are:

- a. the creation of new jobs. Unemployment is a great problem for the government can be reduced in the presence of this village-owned enterprises.
- b. Reduce urbanization. Villagers usually prefer to work in cities rather than rebuild his village. Development of rural economy is getting better able to prevent the villagers moved to the cities.
- c. Explore the potential of the village. Potential village can be excavated properly and utilized by the villagers in increasing degree of economy of the community.
- d. Supporting the development of national economy; and
- e. Their equitable development of the center to the regions and from urban to rural.

The all above must be supported by adequate human resources so that the benefit of the village-owned

<sup>1</sup> Journal of Desa Indonesia, Ahmad Munir, *Era Pembangunan Desa dengan Ketimpangan Desa-Kota*, Edition I, Moth 3 Year 2016, page 4.

enterprises can be realized.

## 5. Summary

The Indonesian government has passed Indonesia Law Number 6, 2014 on the village. This legislation provides an opportunity for the village to maximize rural development. Synergy development between central government, local government and village into a force capable of making Indonesia Country to compete in the era of globalization and the ASEAN Economic Community. Improving the quality of human resources and the quality of industrial products into parts that should not be abandoned. Some aspects that should be improved by the government, especially in the village with establishment, namely:

- a. Increased capacity of government management of the village;
- b. The need for the establishment of village regulation and democratic aspirations; and
- c. The need for village-owned enterprises as a consequence of the optimization of rural development.

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