

# The Principle of Independence of Village Based on Village Law

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## Abstract

Construction of the village is the utilization of resources that belong to a real increase in welfare of society both in the aspect of income, employment, business, access to decision-making, the village, as well as physical development index human development. The village should be understood as the unity of the law society has the right and authority to regulate and take care of the interests of its communities to prosper. The right to manage and take care of the interests of this community called the village autonomy. The end of the degree of public participation is the self-reliance of the community. Independence is impossible materialize without waking from community participation.

**Keywords:** the community, autonomy, independence, the village, the government

## I. INTRODUCTION

The village is historically a forerunner of the formation of community politics and Government in Indonesia long before the state and the nation is formed. The village is an autonomous institution with traditions, customs with their own laws and relatively self-sufficient.

The village had the right origin and traditional rights to organise and take care of the interests of the local community and the role embodies the ideals of independence based on the Constitution of the Republic of Indonesia Year 1945. According to **Y. Zakaria**, in fact, the village is a small country, because as the law society, the village has all the devices of a country, such as the territories, citizens, and government rules. The village has a Government tool supplies the village such as the police and the courts which have the authority to use force in the territory or territory law. This village is an autonomous institution with traditions, customs and law of its own as well as relatively independent. Based on this the village should be understood as the unity of the law society has the right and authority to regulate and take care of the interests of its communities to prosper. The right to manage and take care of the interests of this community called the village autonomy.

The provision in Article 18 paragraph (1) of the Constitution NRI Year 1945 contains two (2) things, namely, first, the territorial division of the Republic of Indonesia composed of areas of the Province and District /City. Second, each region has its own provincial government. This indicates that the Division of territory and governance within the unitary State of the Republic of Indonesia only up to the District /City. Further, in section 200 subsection (1) of the Act Number 32 of Year 2004 about Local Government stated that:

“ In the administration area of District /City village Government was formed consisting of Government's consultative body of the village and the village.”

Act Number 25 of the Year 2004 of the national development planning system has set a long term National development plan which is the elaboration of aim the establishment of the Government of Indonesia. The village had the right origin and traditional rights to organise and take care of the interests of the community role embodies the ideals of independence based on the Constitution of the Republic of Indonesia Year 1945 need to be protected and empowered in order to be strong, forward, independent, and democratic so as to create a solid grounding in the exercise of governance and development toward a just, prosperous society, and prosperous.

Act Number 6 of the Year 2014 of The Village ("the Village Act) is a formal policy instruments of nation building that laid the village as a community that Indonesia must be empowered to achieve the independence and the welfare of society thus Act the village is a space policy gives authority to the village to explore the local potential for community development either personally or collectively.

Construction of the village as the village Act according to **Tri Nugroho** explained there are a number of paradigms of development that Act contained in the village include the recognition of the right of the origin of village, subsidies, diversity is not to be made, togetherness, partnership, family, deliberation, democracy, self-reliance, participation, equality, empowerment, and sustainability. In the new regulation of **Sutoro Eko**, mentioning that the Act has two villages namely paradigm of recognition and paradigm of subsidiarity.

Village Act is a form of recognition that legitimized the position and the position of the village and the community on the basis of origin rights while encouraging changes in the village as an entity in the direction of progress. The presence of the act the village on one side into a hope but on the other hand be a challenge which must be built in a sinergisitas a collaborative between the elements of the community in order to achieve the vision and mission of the independence and well-being of the community.

Village Act that the setting is based on the recognition, subsidiarity, diversity, partnership, togetherness, of family, of deliberation, democracy, self-reliance, participation, equality, empowerment, sustainability.

For the principle of independence is the concrete legal norms on the village Act, which is the basis of the law. Legal principles based on the conclusion **O. Notohamidjojo** in his book "for the sake of Justice and humanity" tells us that the legal principles is the basics or directions (*richtlijn*) in the formation of positive law. The principle of the basic law – useful to practice law. So for clarity, principles of the law (*rechtsbeginselen*) that embodies the general directors for positivizing of the law, for the law and the Judge .

In the functioning of the legal principles that embody mainstream ethics or postulat ("*ethische tendenzen of postulaten, algemene richtlijnen vor positivering van het recht door wetgever in rechter.*"). Legal principles can be compared with the axioma-axioma. The basic principle is the base line (*hoofddlijnen*) of positive law, as a common law rule, which spelled out the rules of law. Legal principles rather than mainstream ethics. Principles of law have the nature of law. Principles of law is meant to encourage what it should according to the law (*wat rechtens behoort te zijn*).

In the Government sector of the village, such as punctuality authority, according to Article 19 of the Act. There are four villages namely a) authority based on origin of rights. Local Authority scale b) villages. c) authority assigned by the provincial Government, local governments, local government district/city, and; d) other authority) commissioned by the Government, the regional Government of the province, the local government district/municipality, in accordance with the statutory arrangements. That provision has the meaning of that Act gives the mandate to the district/city to do a "decentralized" authorizes the village. According to the theory of disentralisasi and the state administration law, the mechanisms that cause the chaos logic and the law.

Although the village became part of the district/city Government subsystem, no theory and principle that justify the surrender of authority/government affairs district /city to the village. Illogical if the district/city governments as autonomous units can give birth to an autonomous Government as well. This does not correspond to the formulation of article 18 paragraph (1) which States that so divided the provinces further divided up the area of district /city. The term hierarchy is divided and is vertical. The giver of the authority to the village is the state that is represented by the national government (center). District /city shall not provide decentralized to villages, but rather because of the hierarchical structure of supervision and coaching to the village, as well as the province gave birth to the same thing to the district /city.

From the institutional side, the regulation on the village tend to experience a decline in the quality of democracy. The question of the degradation of democracy most seem to happen on the Agency's consultative institution village (BPD). Institutions that reflect democracy village (BPD) experiencing the "erosion" of institutional. BPD has decreased the formal legal position the position and role that is visible from not specifically BPD's position as a legislative institution of the village and the mechanism of charging membership BPD which was originally picked to become conversationally set consensus based representative areas. A decline in accountability mechanisms accountability is also seen from the conduct of the Government of the village by the village head.

## II. LEGAL MATERIALS AND METHODS

This type of research is the juridical normative research, i.e. research which can be interpreted as a scientific procedure to discover the truth based on scientific logic of the law of the normative. Normative legal research is a research by means of an analysis of the laws and regulations based on the law, legal theory dogmatik, and philosophy of law. This study uses several approaches in order to understand the legal issue in a more holistic. Statute approach, with reviewing and examining the legislation related to the basis of the Constitution and laws and regulations related to the village and approach the concept (conceptual approach), i.e. the sutu approach by understanding abstract elements that exist in the nature of mind.

## III. RESULT AND DISCUSSION

### The Development of the Village

During the reign of the new order, regulations regarding the village changed with the publication of Act No. 5 of the Year 1979 concerning the governance of the country. Act No. 5 of the Year 1979 held a Government order form and made the village with national schemes, in addition to the administration of the village is separated from the rights and privileges of customs origin. The village is required to follow the same pattern and uniform while the autonomy to rule themselves removed.

In the course of the Republic of Indonesia's attempt, the village has developed in various forms so that needs to be protected and empowered to become powerful, advanced, independent, and democratic so as to create a strong grounding in performing governance and development toward a just, prosperous society, and prosperous.

After the reformation, setting about the village changed with Act Number. 23 of Year 2014 about Local Governance which significantly recognizes the autonomy of the village which is owned by the village autonomy

is based on origins and customs not based on the surrender of authority from the Government. In addition, there is a change in the aspect of the governance of the country. The village government consists of a Village Government as Executive and Consultative Bodies of the village (BPD) as the legislative elements. It is this arrangement that is not recognized in Act Number 6 of Year 2014 of the Village. In the performance of his duties, the village chief is responsible to the people through the BPD. Arrangement regarding villages back changes with the birth of Act Number 23 of Year 2014 about Local Governance.

Arrangement regarding villages in Act 23 of Year 2014 and then acted upon by Act Number 6 of Year 2014 of the village (the Village Act). In the event that the authority in principle there is no fundamental change in the settings regarding the authority of the village. As with the previous regulation, the Act defines the village or Village called by any other name is the unity of community law which has territorial boundaries are authorized to arrange and take care of the interests of the local community based on the origin and the local customs are recognized and respected in the system of Government of the Republic of Indonesia.

Fundamental changes in the system of government is good government aspect of the village as well as the related hierarkhis to do with the governance of it. According to the legislation of the village, the village Government consists of a Government Consultative Body of the village and village (BPD). The village chief has an obligation to provide the Organization of the Government of the village to the Regent/Mayor, gave the report a description of accountability to the BPD, and to inform the Organization of the Government reports to the village the community. To improve services in the Village Act asserted that the Secretary of the village will be filled by a civil servant.

Under the laws of the village, the village was formed on the initiative of the community having regard to the origins of the village and the local socio-cultural conditions. Formation of the village must meet several conditions, including population, land area, part of the working area, the device, as well as the facilities and infrastructure of the Government. Formation of the village can be an amalgamation of several villages, or parts of the village, or the expansion of one of the village into two or more villages, or the formation of the village just outside the village. The condition of the village community and its territory no longer meet the requirements can be deleted or merged. On the other side of the village can also be changed its status into a neighborhood based on the initiative of the Government Consultative Body joint Village village (BPD) having regard to the suggestions and opinions of local people.

With starting the promulgation of Act Number 23 of the Year 2014 about Local Governance provide a strong foundation for the village in realizing the "Development Community" where the village is no longer as subordinate administration or regional level but rather as an "Independent Community" that the village and its people has the right to speak for the interests of the people themselves. The village was given the authority to regulate the village independently including social, political and economic. The existence of independence is expected to be able to increase the participation of villagers in the social and political development.

#### **Autonomy of the Village**

For the village, which belonged to different autonomous with the autonomy that is owned by the province or area of the regional district and city areas. It is owned by the village autonomy is based on its origin and customs and traditions, not upon the surrender of authority from the Government. The village or other names, hereinafter called the village is the unity of Community law which have the authority to arrange and take care of the interests of the local community based on the origin of the local customs and recognized in the system the national government and are in the area of the county.

The cornerstone of thought that needs to be developed at the moment is its diversity, participation, autonomy, democracy, and community empowerment. The recognition of the autonomy of the village, according to **Taliziduhu Ndraha** explains as follows:

- 1) Autonomous villages classified, recognized, met, trusted and protected by the Government, so the villagers dependence to the "generosity" of the Government may be on the wane.
- 2) Position and the role of Government the village recovered, restored as it was before or developed so that it is able to anticipate the future

Village autonomy is the right, the authority and the obligation to arrange and take care of her own affairs of Government and the interests of society based on rights of origin and socio-cultural values of the society to grow and develop and follow the development of the village. Government Affairs based on the origins of the village, which became the county or city government authorities handed over control to the village. But it should always be remembered that there were no rights without obligations, there is no authority without responsibility and there is no freedom without limits. Therefore, in the implementation of the rights, authority and freedom in implementing the autonomy of the village must still uphold the values of responsibility against the Republic of Indonesia by emphasizing that the village is a part that is not an integral part of the nation and the country of Indonesia.

The exercise of authority and freedom village autonomy demands responsibility for maintaining the integrity, unity and the unity of the nation in the bonds of the Republic of Indonesia responsibility to realize the

people's welfare implemented in the corridors of the applicable legislation. Village autonomy is the right, the authority and the obligation to arrange and take care of her own affairs of Government and the interests of society based on rights of origin and socio-cultural values of the society to grow and develop and follow the development of the village. Government Affairs based on the origins of the village, which became the County or city government authorities handed over control to the village. But it should always be remembered that there were no rights without obligations, there is no authority without responsibility and there is no freedom without limits. Therefore, in the implementation of the rights, authority and freedom in implementing the autonomy of the village must still uphold the values of responsibility against the unitary State of the Republic of Indonesia by emphasizing that the village is a part that is not an integral part of the nation and the country of Indonesia.

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### **Administration of the Village**

The term Administration related to the activities of cooperation undertaken human or group thus achieved the desired goal. To understand more about the administration of the village, then the author will explain in advance what is the Administration, government administration, Administration of the village. The Administration is drafting and logging data as well as information systematically with a view to providing information as well as make it easier to regain overall and in conjunction with one another. The Administration is a tool to achieve a goal that was set previously, if the Administration were investigated more deeply, it looks all kinds of work done or the way a human being to achieve a goal.

Government Administration is derived from the term alien Administration (English) or Bestuurs Administration (Netherlands) can be defined as follows:

- a. functions of administrative control by the bodies or Government agencies of all levels to undertake activities to achieve the purpose of the Government in accordance with their respective competences as established on the basis of regulation legislation.
- b. use of principles as well as the science of public administration by the agencies or institution of the Government so that there is an orderly administration is drafting related activities of the organization, the division of authority, working relationships, coordination, synchronization, delegation of authority, planning, implementation, supervision, and so on.

Administration of the village is all activities or processes related to the implementation of the objectives of the Government of the village, in the implementation of the public administration of Village regulations in IGO/IGOB is the cornerstone of about the structure, the division of duties and authorities as well as the responsibility of the Government of the village, the village head and Pamong Desa since the Year 1905. As we know the Administration is the cooperation activities carried out by a group of people/organizations in an effort to achieve the goals that have been set. Same is the case with the administration of the Village is a Government Organization that is led by the village chief who is elected directly by the people and helped by devices other villages.

The Financial activities of the Government of the village include:

- 1) the village head is obliged to manage about financial income and expenditure of the village.
- 2) working on bookkeeping on income and financial expenses the Government owned the village.
- 3) preparation of budget revenue and expenditure of the village.
- 4) make financial accountability for the village.

From the explanation above, the authors draw conclusions of village administration is the process of government activities led by the head of the village village and assisted by other devices to achieve the goal that has been set together.

### **Construction of the Village**

Development is changes made programmatically and thoroughly carried out by nation-States in order to obtain the progress to achieve prosperity and well-being. The village development plan is primarily a guide for Governments in the governance of the village village, and become a single entity in the system planning of regional development districts or cities. Given the importance of the position of the village development plan, then the process of preparing the village development planning must be carried out in a democratic and participatory by involving all stakeholders.

According to **Kuncoro**, development is a process that is complex and full of uncertainty that cannot be easily controlled and planned from the Center. Therefore with conviction of the pioneers of the long series of reasons put forth Decentralization and arguments about the importance of decentralization in development. According to **Siagian**, the construction is an attempt or a series of business growth and change in planning done consciously by a nation, the country and the Government, towards modernity in order the construction of the nation. Furthermore he stated that construction contains a very broad aspect of one of them includes the development in the field of politics. **Sumitro Maskun** defines development as an effort to enhance the human

capacity to influence its future. According to **Nugroho** at the core of the development is basically the economic movement of the people. There is a saying that the most dangerous condition in the country if its people are poor. Poverty had the worst influence to each side of human life. Therefore, the task of development is to overcome poverty.

With this understanding we can say that the core of the development is moving the economy so that people have the ability to not be in poverty. In the political language is referred to as "the people's economy moving." Development can be effectively achieved by looking at the strength of the subject should be constructed and identifies basic tasks and functions of the institutions strategic development. Staple strength built by government of Indonesia is a competitive advantage. Thus, every field must support towards the formation of economic competitiveness. In particular a priority for sektorekonomi is building the competitiveness of economy both in sectoral or regional basis.

Power support ideology, politics and the law is the implementation of the policy of the autonomous region which conformed to the basic law enforcement and consistent. Power support in the field of socio-cultural paradigm of education is to build the intellectual life of the nation. Of course they are not going to happen if not supported security and order. By looking at the condition, then the strategy for economy/business is require the implementation of good cooperate governance, and to the economic sector is not a business requires that the implementation of good governance.

The vision of development is the realization of a developed society, the independent sejatera, fair, and loyal to Pancasila and Contitution Of Republic od Indonesia 1945. It had a vision for an indefinite period, because of the nature of the "progress" are hung with time. Therefore, it can also be compiled five annual vision, and adapted to the challenges and needs that must be reached in the next five years.

Mission development is no different with the mission of the State of Indonesia, as it poured in Preamble Constitution NRI Year 1945, namely, protecting all nations of Indonesia and the rest of the blood spilled and to advance the general welfare, the intellectual the life of the nation, and carry out the order of the world which is based upon the independence, peace, and social justice. Associated with the context of the present, then again with enhanced development mission observing the condition of objective in the community, namely the existence of a gap as development challenges.

Construction of the village is the utilization of resources that belong to the increase in kesejahteraan a real good in the Community aspects of income, employment, business, access to decision-making, the village, as well as physical development index human development.

Development in the village became the responsibility of the village chief as provided for in Article 26 of the Act the village confirmed that the village head has the task of organizing the Affairs of governance, development, and societal. Development activity planned in the village development plans discussion forum and the outcome of the deliberations set out in the work plan of the village Government.

In the implementation of the construction of the village head assisted by the village and can be assisted by the community institutions. The concept of the construction of the village explains the development community is a movement to promote a better life for the whole community, with active participation, even if it is possible with swakarsa initiative) of the community itself. Therefore how evocative and developing participation is absolutely necessary for the process of building the community itself.

#### **The Village's Community**

The culture of the villagers still belongs to fall into the category that has not been developed and still simple. Most people assume that the village community particularly the farming community still regarded in general which they considered to be uniform or equal among the farming community with one another. In fact even inversely proportional whereby each farmer has different characteristics for example, on the level of development of the society, the type of plants grown, technology or agricultural tools that they use, farming systems they wear, and also a form of physical geography conditions.

The farming community can be divided into two between community growers of traditional and modern farmers, distinguishing between the two is for the first group of farmers that they are still subject to and determined by nature because it is still of low technology their knowledge, production and they produce only for the effort to meet the needs of everyday life and live out his family, and did not pursue profits while farmers groups to the two they prefer the benefit, they are also using technology and modern management system and planting crops that are sold over the counter.

The traditional culture of the villagers is a great product from the results of his childhood influences of nature to society that depend on nature itself. Residents of a village settlement pattern is an aspect that can illustrate clearly how the link between the structure of village life patterns fisik internal people.

In the social-ecological perspective, dependence is a form of an inefficient provision of social, where the community does not have the capability of reaching goals and solve the problem of latent integrated. The independence of the community as a social adaptation formulation as opposed to dependence. Addiction is a form of blindness or apathy of a community group will be the developments leading to the change, but the

combative toward help. Community dependence on outside parties should be positioned as a short term needs, not the needs of long-term and continuous. Independence viewpoints need to be based on values, beliefs, consciousness and the experience of the difficulties of his life. Consciousness and the experience of the communities will be the difficult situation faced by can arouse her rise to build himself and work collectively, and with the situation that there is no other choice to not participate due to her as sub-ordinansi of institutional premises.

### **Independence of Community**

The society's independence is seen as a condition that is formed through a collective society doing social change. Collective behavior changes that can be developed by outside parties (Governments) which menyaratkan the existence of a movement of community participation. For it in the community give aid funds, then the help it needs to be addressed as a stimulant or motivate for self build, spend yourself, as well as build initiatives initiatives independently. To that end, the development of self-reliance is a form of social change depending on the situation of human beings against the aid becoming more reliant on the basis of the initiative and creativity of the local community.

With this perspective, the community formed by the independence of the sub-sub elements in them, such as family and community groups. The family running the function not only parenting (reproduction), but also in the organization of control through economic activities, politics, and religion. The pattern of relationships that wakes up in the family can be arranged in structural (symmetrical, complementary and cooperative) in the role of each Member of the family, both in the family and social environment of the community. Patterns of family interaction in relationships will determine the formation of family independence format. According to **Greene**, that the process of the formation of the County, independency, families going through this aspect of the system of belief, the pattern and the pattern of organizational communication.

Meanwhile, self-reliance community groups determined by sentiment, feeling, fate and the need to achieve a common goal on the basis of consideration of the formation of the group, both groups are formed on the initiative of its members as well as by parties outside. Self-reliance community groups can be formed through the stages of the process, namely the existence of social pressure, prove the existence of the resistance and the challenges of identity development, organizing joint, ongoing struggle, the occurrence of a change of structure social.

Regardless of the indication of the community's independence exists, then the size of the society's independence is the result of the realization of the attainment of public participation. It also sesua with the opinion of **Pretty**, **Subiyono** and **Kai**, that the end of the degree of public participation is the self-reliance of the community. Independence is impossible (impossible) materialize without waking from community participation. Follow **Arntein** opinion, independence can be said to be independent if the aspect of participation, the public has full power over the whole control did completely development activities.

In development-oriented perspective on the people, to develop the independence of the community need to be evolved the movements of society. The movement was intended as the effort moves a critical period are organized in the participating communities are full of initiative, not offices, and independent so that justice, sustainability and adequacy. There are discretion authority required from the Government to the institutional communities through community empowerment to help the development of voluntary action initiatives/creativity movement so that the community can grow. This means that for the attainment of self-reliance community of the results of public participation needs to gain the support of other stakeholders participation either vertically or horizontally.

## **IV. CONCLUSION AND SUGGESTION**

Empowerment of village community is an effort to develop the independence and well-being of the community by improving knowledge, attitudes, skills, behaviour, capacity, awareness, and make use of resources through the determination of the policy, the program, activities, and mentoring that fits with the essence of the problem and the priority needs of the community. From the explanation above, the authors draw conclusions of village Administration is the process of government activities led by the head of the Village village and assisted by other devices to achieve the goal that has been set together. In the perspective of development of society, the society's independence is a certain state or condition to achieve an individual or a group of humans who no longer rely on help/third-party generosity in securing self-interest. From that sense it can be said that the independence of the community constitute a system, values, ideas and mainstreaming which will be achieved in the degree of people's lives.

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