

Juridical Analysis Of The Drafting and Formulation Of Regulations Villages in Realizing Management Principles Of Regional Empowerment and Area Development (Research Study In Bintan District)

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ABSTRACT. The preparation and formulation of Village Regulations in Realizing the Management Principles of Regional Empowerment and Regional Development must go through the stages of the process of drafting and formulating draft village regulations with the aim of ensuring that the village regulations do not conflict with the public interest and/or higher statutory regulations. However, the Village Government in Bintan Regency has not implemented the stages of the process of drafting and formulating village regulations which have not been maximized, resulting in village regulations that are not in accordance with the systematicity of statutory regulations and it is feared that village regulations will conflict with the public interest and/or statutory regulations. higher invitation. The problems in this research are: How are the Legal Arrangements in the Preparation and Formulation of Village Regulations in Realizing the Principles of Management of Regional Empowerment and Regional Development, How are the Implementation of the Drafting and Formulation of Village Regulations in Realizing the Principles of Management of Regional Empowerment and Regional Development, what factors are obstacles/constraints and solutions in the Preparation and Formulation of Village Regulations in Realizing the Management Principles of Regional Empowerment and Regional Development. Based on these problems, this research uses normative and empirical legal research methods. The research results show that this arrangement does not contain definite elements of an evaluation and clarification team, and has not been running optimally in practice, there are obstacles in the field. The implementation of the stages of drafting and formulating Village Regulations has not been carried out and well coordinated so that the results of village regulations have not been optimal. The obstacles faced are the lack of knowledge, understanding and experience of village officials' human resources regarding the preparation of village regulations, the geographical location between villages and sub-districts and districts, not all of which can be reached by land and not all of them require quite a short time, coordination is not optimal. As for suggestions from the research results on the need for statutory regulations that contain an attachment to the technical format for drafting village regulations, the Regional Government of Bintan Regency can carry out outreach to all village governments regarding the preparation and formulation of village regulations, and strengthen human resource capacity.

Keywords: Village Government, Village Regulations, Preparation and Formulation.

Introduction

Villages that have original rights and traditional rights in organizing and managing the interests of the community play a role in realizing the ideals of independence based on the 1945 Constitution of the Republic of Indonesia need to be protected and empowered to become firm, advanced, independent and democratic so that they can create a strong foundation. Steadfast in implementing governance and development towards a just, prosperous, and prosperous society. Thus, the aim of establishing Village regulations is a further elaboration of the provisions as intended in Article 18 paragraph (7) and Article 18B paragraph (2) of the 1945 Constitution of the Republic of Indonesia¹.

¹ Undang-Undang Nomor 6 Tahun 2014 tentang Desa, Penjelasan.

The administration of government affairs must be based on the interests of the local village community, which, of course, is in line with the constitutional mandate of people's welfare and the village government also carries out orders from the central government and regional government, which of course reflects the form of the Unitary State of the Republic of Indonesia. In its implementation, the Village Government is led by the Village Head, directly elected by the local village community. The duties and authority of the village head have been accommodated in Law Number 6 of 2014 concerning Villages.

Policies in implementing village government are formulated in a regulation, namely Village Regulations, which are formed based on policies like orders from the central government or regional government or considering the conditions and needs of local village communities. So from this, village legal products must not conflict with higher regulations and must not conflict with the public interest and prioritize local communities. One problem that often arises is that it does not provide significant benefits to village communities, especially if the regulations relate to sustainable programs.

Technical guidelines for village regulations have been established through the Regulation of the Minister of Home Affairs of the Republic of Indonesia Number 111 of 2014 concerning Technical Guidelines for Village Regulations so that they become the process flow for village governments in the preparation and process of forming village regulations. Implementation of village development cannot be separated from the intervention of the Regional Government, which is the task of guiding and supervising the Village, so the implementation of village government can benefit the local community.

Bintan Regency has 10 (ten) sub-districts, and 9 (nine) sub-districts have villages. The Bintan Regency Government must provide guidance and supervision over the implementation of village government, especially in the preparation and formulation of village regulations in realizing the management principles of regional empowerment and regional development. The Bintan Regency Government issued Regent Regulation Number 8 of 2015 concerning Procedures for Preparing Village Regulations as an order in Article 32 paragraph (2) of Minister of Home Affairs Regulation Number 111 2014 concerning Technical Guidelines for Preparing Village Regulations. In general, the Minister of Home Affairs Regulation Number 111 of 2014 concerning Technical Guidelines for Preparing Village Regulations and the Regent's Regulation Number 8 of 2015 concerning Procedures for Preparing Village Regulations have the same provisions so that the village government has guidelines for drafting Village regulations.

Research Methods

In this research, the author uses a normative-empirical legal research methodology that combines both. The location of this research is Bintan Regency, Riau Islands Province. The sample used by researchers is a random technique. Namely, 1 (one) person from Regional Apparatus who has duties and functions in the field of law, especially duties and functions in the field of drafting and formulating regional legal products, 1 (one) person from Regional Apparatus who has duties and functions of village empowerment, 2 (two) people in the District in Bintan Regency, and 3 (three) Villages in Bintan Regency. The author made efforts to explore verbal data sourced from the literature that the author obtained from the fiber library with data that the author could obtain in the field and then analyzed in order to obtain conclusions. The data collection technique for primary data in this research is direct interviews with informants, while the tool is a question guide. In this research, the data obtained will be analyzed descriptively and qualitatively. The analysis is carried out by describing and illustrating data and facts resulting from research in the field with interpretation, evaluation, and general knowledge.

Results and Discussion

Mechanism for Preparing and Formulating Village Regulations

Legislative theory is a critical theory in analyzing the drafting and formulation process in a statutory regulation, including village regulations. Legislation starts from planning, law-making, drafting, formulation, discussion, promulgation, and the socialization of legal products². The same stages apply to village regulations. Village Regulations, according to Law Number 6 of 2014 concerning Villages, are Legislative Regulations stipulated by the Village Head after being discussed and agreed upon with the Village Consultative Body.

One of the duties of the Village Head is to establish village regulations³ and the village head has rights, one of which is to submit a draft and establish Village Regulations⁴. The Bintan Regency Government has stipulated Regent Regulation Number 8 of 2015 concerning Procedures for Preparing Village Regulations. In general, the Regent's Regulation adopts what is regulated by the Regulation of the Minister of Home Affairs of the Republic of Indonesia Number 111 of 2014 concerning Technical Guidelines for Village Regulations.

² Anis Ibrahim, *Loc.cit.*

³ Undang-Undang Nomor 6 Tahun 2014 tentang Desa Pasal 26 ayat (2) huruf d.

⁴ Undang-Undang Nomor 6 Tahun 2014 tentang Desa Pasal 26 ayat (3) huruf b.

The draft Village Regulations that have been evaluated and mutually agreed upon are submitted by the leadership of the Village Consultative Body to the Village Head to be adopted as Village regulations by 7 (seven) days from the date of the agreement. The draft Village Regulations, as referred to in paragraph (1), must be stipulated by the Village head by affixing his signature 15 (fifteen) days from the receipt of the draft Village Regulations from the leadership of the Village Consultative Body⁵.

Systematic Techniques for Formulating and Preparing Village Regulations.

The technique for preparing Village Regulations regarding Review of Village Medium Term Development Plans and Village Regulations regarding Number 05 of 2022 concerning Amendments to the Village Revenue and Expenditure Budget for Kampung Melayu Village is not perfect or not by attachment II to Law Number 12 of 2011 concerning the Formation of Legislative Regulations. This is, of course, because, among other things, Human Resources in Village Apparatus still need to understand the techniques for drafting Village Regulations, which will impact the implementation of village government.

The systematic preparation of Village Regulations refers to attachment II to Law Number 12 of 2011 concerning the Formation of Legislative Regulations. The systematic preparation of village regulations includes the following:

1. The title of the Village Regulation contains information regarding the type, number, year of promulgation or stipulation, and name of the Village Regulation.
2. The preamble contains divinity, the position of forming Village Regulations, co-signers, legal basis, and dictum.
3. The body of the Legislative Regulations contains all the contents of the Legislative Regulations, which are formulated in an article or several articles.
4. The closing part is the final part of the Legislative Regulations, which contains the formulation of the order promulgating and placing Village Regulations in the Village Gazette, signing the ratification or enactment of Village Regulations, promulgation or Determination of Village Regulations, and the final closing part
5. Explanation (if necessary) functions as an official interpretation for the Village Regulations regarding certain norms in the body. Therefore, the explanation only contains descriptions of words, phrases, sentences, or equivalents of foreign

⁵ Peraturan Bupati Nomor 8 Tahun 2015 tentang Tata Cara Penyusunan Peraturan di Desa Pasal 10 ayat (2).

words/terms in the norm, which examples can accompany. Explanation as a means of clarifying norms in the body must not result in unclearness of the norms in question.

6. Attachments (if necessary) can contain, among other things, descriptions, lists, tables, pictures, maps and sketches. If a Village Regulation requires more than one attachment, each attachment must be numbered sequentially using Roman numerals.

Evaluation and Facilitation by the Bintan Regency Government

The Regency/City Regional Government has the responsibility to provide guidance and supervision over the implementation of Village government⁶. Regional Governments can delegate duties and functions of guidance and supervision to regional officials⁷. The guidance and supervision by the Regency/City Regional Government are: a. provide guidelines for implementing Regency/City affairs assignments carried out by the Village; b. provide guidelines for drafting Village and Village Head Regulations; c. for preparing participatory development planning; d. facilitate the implementation of Village Government; e. evaluate and supervise Village Regulations; f. determine the financing of the allocation of balancing funds for the Village; g. supervise the management of Village Finances and the utilization of Village Assets. h. carry out guidance and supervision of the implementation of Village Government, i., organize education and training for the Village Government, Village Consultative Body, community institutions, and traditional institutions. Giving awards for achievements carried out in the administration of Village Government, Village Consultative Body, community institutions, and traditional institutions; k. make efforts to accelerate rural development; l. make efforts to accelerate Village Development through financial assistance, mentoring assistance, and technical assistance; m. increasing the capacity of Village BUMs and inter-village cooperation institutions, and providing sanctions for deviations committed by the Village Head by statutory provisions.

Legal Consequences and Impact of Village Regulations are not by Minister of Home Affairs Regulation Number 111 of 2014 concerning Technical Guidelines for Preparing Village Regulations.

In Bintan Regency, there are still village regulations in the drafting stage that are not by Minister of Home Affairs Regulation Number 111 of 2014 concerning Technical Guidelines for Preparing Village Regulations or Bintan Regent Regulation Number 8 of 2015

⁶ Pasal 112 ayat (1) Undang-Undang Nomor 6 Tahun 2014 tentang Desa
⁷ Pasal 112 ayat (2) Undang-Undang Nomor 6 Tahun 2014 tentang Desa

concerning Procedures for Preparing Village Regulations, so it is feared that this will have an impact on the development of national law and resulting in poor legislative regulations.

Each stage in the process of drafting village regulations is essential. Suppose all of these processes need to be followed. In that case, there will be legal consequences, including village regulations not in the public interest and higher statutory regulations. It can be concluded that the legal consequences and legal impacts of village regulations that are not by the stages of drafting village regulations are as follows:

1. The legal consequences of inappropriate village regulations are:
 - a. If the village regulations do not comply with standard standards such as systems, principles, procedures for preparation and discussion, preparation techniques, and implementation, there will be multiple interpretations of the policies outlined in the village regulations.
 - b. These village regulations do not have solid legal force or legal legality because they need to contain the principles for forming statutory regulations and general principles of good governance.
 - c. Village regulations can be null and void if they conflict with higher laws and regulations.
2. The impact of inappropriate Village Regulations is:
 - a) The impact on the regional government is that the regional government cannot filter the policies made by the village government, so the impact that will be faced is that there are village regulations that conflict with the authority of the regional government, there are village regulations that conflict with higher laws and regulations.
 - b) The impact on the village government, namely that the village makes policies that are not by the authority of the village government, which can result in abuse of authority, abuse of administration, and not by long-term development plans and not the regional government's medium-term ones.
 - c) The impact on the local community is that village regulations that are not in the public interest and community needs will have an impact on decreasing the welfare of the local community, the existence of social inequality between the village government and the community, and high crime rates due to.

Obstacles in Preparing and Formulating Village Regulations in Realizing the Management Principles of Regional Empowerment and Regional Development.

In the implementation of the preparation and formulation of a Village Regulation, there are several obstacles or constraints experienced by the village government, including the following:

1. Human Resources.

Human Resources are the most crucial part of preparing legal products. The professionalism of Human Resources is the most crucial support in drafting regulations in the Village. Village officials hold the power to determine village policies that can bring happiness and benefits to the local community.

2. Geographical Conditions.

The geographical location of Bintan Regency, whose land area is only 2.21%, the rest is sea area and currently consists of 272 large and small islands. Only 39 of them are inhabited. So, the majority of modes of transportation used are sea transportation routes. Not all distances between villages and sub-districts and districts can be reached by land and require a short amount of time, so direct coordination often takes longer. Kampung Melayu Village is one of the villages located in Tambelan District, which is one of the outermost islands of Bintan Regency. Transportation access takes 1 x 24 (one time twenty-four) hours by sea to arrive in Tambelan District.

3. Minimal Coordination between Regional Apparatus.

The synergy between regional apparatus must be in harmony in carrying out guidance and supervision of village government administration. The Bintan Regency Community and Village Empowerment Service has direct duties in planning, financial management of village asset funds, community empowerment, and the area of village government and village officials who specifically deal with village government affairs. The sub-district has duties and functions, including guidance and supervision of the village government and the Legal Section of the Bintan Regency Regional Secretariat, which has the authority to prepare regional legal products and harmonize legal products.

4. Lack of Technical Guidance from Regional Government.

The Regional Government has the authority to supervise the implementation of village government, including the guidance of the preparation of village regulations. Technical guidance or training is essential for increasing the capacity of Human Resources in village officials so that understanding in the preparation and formulation of village regulations is implemented well.

Solutions in Preparing and Formulating Village Regulations in Realizing the Management Principles of Regional Empowerment and Regional Development.

The solutions in the preparation and formulation of Village Regulations in realizing the management principles of regional empowerment and regional development are as follows:

1. Human Resources.

Knowledge, understanding, and experience of human resources in village apparatus elements still need to be improved, so it is necessary to increase the capacity of human resources in village apparatus. The Village Government has a budget for a program to increase the capacity of human resources for village apparatus elements⁸.

2. Geographical Conditions.

The sea dominates the geographical condition of Bintan Regency, so it requires a long time and long distances to travel, and not all villages have adequate signals in this case; the steps that can be taken as a solution to these obstacles are as follows:

- a) Conduct regular meetings by the Community and Village Empowerment Service, the Legal Section of the Regional Secretariat, Subdistrict, and Village Government in Bintan Regency every year in the fourth quarter or before the proposal for implementation in the coming year.
- b) Hold regular meetings between sub-districts so that the village government can deepen its knowledge and understanding of the techniques for drafting village regulations and carry out direct coordination.

3. Lack of coordination between regional apparatus.

It is necessary to strengthen coordination between the Legal Section of the Bintan Regency Regional Secretariat as the regional apparatus in charge of law, the Bintan Regency Community and Village Empowerment Service, which is in charge of community and village empowerment, and the 9 (nine) sub-districts which oversee the village government. The synergy between regional officials who have duties and functions in village development and supervision must be in harmony.

4. Lack of Technical Guidance from Regional Government.

The Bintan Regency Community and Village Empowerment Service has provided technical guidance on preparing village regulations in coordination with the Legal Section of the

⁸ Hasil wawancara dengan Kepala Desa Kampung Melayu, Kecamatan Tambelan Isbandi, tanggal 10 Juli 2023 di Kantor Bupati Kabupaten Bintan.

Bintan Regency Regional Secretariat every year by inviting village heads throughout the Bintan Regency.

Conclusion

1. Guidelines for the preparation and formulation of village regulations are essential. The stages of the drafting process determine the validity of a village's legal product. Legislation is prohibited from contradicting higher regulations to avoid overlapping authority and implement the Indonesian state form, namely the Unitary State of the Republic of Indonesia. The types and hierarchy of laws and regulations are stipulated in Law No. 12/2011 on the Formation of Laws and Regulations. Guidelines for the preparation of village regulations are regulated through Minister of Home Affairs Regulation No. 111/2014 on Technical Guidelines for the Preparation of Village Regulations, which then mandates local governments to form technical guidelines for the preparation of village regulations through regulations of the head of the regent/mayor. Village regulations contain material for the implementation of village authority and further elaboration of higher laws and regulations. Village authority is limited through Law Number 6 of 2014 concerning Villages and Government Regulation Number 43 of 2015 concerning Implementation Regulations of Law Number 6 2014 concerning Villages. Bintan Regent Regulation No. 8 of 2015 on the Procedure for Drafting Village Regulations in the Village as a guideline for the Bintan Regency Government and Village Government in preparing Regulations in the Village. Through this regulation, the authority between the Bintan District Government and the Village Government is emphasized as a manifestation of the principle of managing regional empowerment and regional development.
2. The implementation of the preparation and formulation of village regulations in realizing the principles of regional empowerment management and regional development has yet to run optimally. The stages of the preparation process carried out by village officials in Bintan Regency have not entirely followed the Minister of Home Affairs Regulation Number 111 of 2014 concerning Technical Guidelines for Preparing Village Regulations and Bintan Regent Regulation Number 8 of 2015 concerning Procedures for Preparing Village Regulations and village regulation preparation techniques that are not by appendix II of Law Number 12 of 2011 concerning the Formation of Legislation. So, there are still Village Regulations that need to be revised. Especially in the evaluation and

clarification stages, which involve the local government in drafting and formulating village regulations but have yet to be well coordinated, and the results obtained have not been maximized.

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