

Analysis of the Role of the Village Consultative Body (BPD) in Drafting Village Regulations in Posigadan District, South Bolaang Mongondow Regency

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ABSTRACT

This study aims to analyze the role of BPD in drafting village regulations in the Posigadan District, South Bolaang Mongondow Regency, as well as examine the factors that hinder the role of BPD in the process of drafting village regulations from the stages of planning, drafting, discussing, and determining. The research method used is normative empirical legal research using the nature of a qualitative approach. The data sources obtained are based on primary and secondary data sources. The results of the study show that in the stages of planning, drafting, discussing, and determining there are obstacles, namely the lack of initiative of BPD members in forming a village regulation, so that the initiative comes from the village government. Other factors that hinder include human resource factors, infrastructure, and budget factors. This research suggests that BPD members need to increase the capacity of their members through education, training and technical guidance on a regular basis. And for the government to participate through budget allocation in the form of operational budgets, budgets for creating decent workplaces and, honorium or adequate incentives.

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1. INTRODUCTION

Law Number 6 of 2014 concerning villages affirms that villages have the authority to regulate and manage the interests of their own community based on the origins and customs recognized in the government system of the Unitary State of the Republic of Indonesia (NKRI). One of the manifest forms of the implementation of this authority is the establishment of village regulations (Perdes) as the highest regulations that apply in the village environment.

Posigadan District is one of the areas located in South Bolaang Mongondow district, North Sulawesi Province. In Posigadan sub-district there are 16 villages, and in this area it consists of diverse social, cultural, economic, and geographical areas. As part of the local government system, villages in the Posigadan sub-district area are mandated to carry out village autonomy as stipulated in the legislation. One of the tangible manifestations of the implementation of the regulatory authority is the establishment of village regulations as the highest legal basis in the village that functions to regulate the implementation of government, development, community development, and public services for community members.

In the process of forming village regulations, the Village Consultative Body (BPD) has a very strategic position. Based on the provisions of the law, BPD acts as a community representative institution that is authorized to propose, discuss, and give mutual approval to the draft village regulation before it is determined by the village head. This means that without discussion and approval from the BPD, a village regulation cannot be established and does not have binding legal force.

This position places BPD as a legislative institution at the village level that represents the aspirations and interests of the community. BPD is expected to be able to ensure that every regulation that is drafted correctly reflects the needs, interests, and values embraced by villagers. Without the active role and participation of BPD, the process of forming village regulations will only be the unilateral authority of the village head, thus contrary to the principles of democracy and openness embraced in the village government system.

Theoretically, in order for the resulting regulations to have good quality and legal validity, the drafting process must follow applicable scientific and legal principles.

Meanwhile, based on the provisions of the law, BPD in carrying out its function in drafting village regulations is regulated in Article 55, Law Number 6 of 2014 concerning villages, namely:

- a. Discuss and agree on the Draft Village Regulation with the Village Head
- b. Accommodating and channeling the aspirations of the village community
- c. Supervising the performance of the village head

In line with the provisions of Law No. 6 of 2014 concerning villages, in the process of drafting village regulations, it is also regulated in Domestic Regulation Number 111 of 2014 concerning technical guidelines in drafting village regulations, which must include several stages in its preparation including:

- a. Article 5 : Planning
- b. Article 6 : Preparation
- c. Article 8 : discussion
- d. Article 11 : Determination

However, based on the facts obtained by the author at the research location, it was found that until now the role of the Village Consultative Body in the Posigadan sub-district area in drafting village regulations is ineffective, the BPD has never carried out the process of drafting, discussing, or determining village regulations to the maximum.

Where from the beginning of the inauguration of BPD Members based on the Decree of the Regent of South Bolaang Mongondow Number 56 of 2020 until now there has not been a single village regulation that has been prepared or made to regulate various community interests in villages in the Posigadan sub-district area.

As a political product, village regulations are drafted democratically and participatoryly, namely the drafting process involves community participation and is drafted systematically in accordance with the provisions of the law. So that the community has the right to propose or provide input to the BPD and the Village Head in the process of drafting Village regulations.

The lack of village regulation in a village has significant implications. Without written regulations, the implementation of government and services to the community does not have clear and definite guidelines. This causes legal uncertainty, arbitrariness in decision-making, service gaps, and complicates the process of supervision and accountability for the performance of the village government.

In addition, this condition illustrates that the granting of village autonomy has not been realized optimally. The village has not been able to manage its own household according to the needs and local conditions, so it is still completely dependent on

regulations from the top level which are not necessarily in accordance with the special needs of the village., if this condition is allowed to continue, then the goal of building an independent, advanced, and prosperous village will be difficult to achieve based on the high expectations of the village community. Furthermore, if this condition is allowed to continue, then the goal of village autonomy to improve community welfare and village independence will not be optimally achieved.

The above phenomenon shows that there is a real gap between what should happen according to the provisions of the law and the prevailing theory based on the facts that occur in the field. Normatively, the BPD has the authority and duty to draft village regulations, but in fact in the field this authority has not been implemented at all. This gap is the main starting point in this study related to the role of BPD in drafting Village Regulations in the Posigadan sub-district area.

This research is also important to be carried out, not only to find out that the BPD has not yet drafted village regulations, but more deeply to analyze why it can be implemented and find out the readiness of the institution and its members, as well as identify what factors are obstacles in the preparation of village regulations. Thus, the results of this research can provide an objective picture and become the basis for formulating appropriate improvement steps and solutions so that in the future BPD can immediately carry out its role and duties in drafting village regulations in accordance with the expectations of the community

2. RESEARCH METHODS

This research is an empirical legal research (juridical empiris), which is research that examines law not only as a written norm (law in books), but also as real behavior in society (law in action). This research focuses on the implementation of government procurement of goods/services through e-purchasing at the Gorontalo Police, by looking at the compatibility between the provisions of laws and regulations and practices that occur in the field.

3. RESULTS OF RESEARCH AND DISCUSSION

a. Analysis of the Role of BPD in Drafting Village Regulations in Posigadan District

The analysis of the role of BPD in drafting village regulations in Posigadan sub-district was carried out by comparing the normative provisions regulated in the provisions of the law with the empirical conditions found in the field.

Normatively, BPD has a position as an institution that carries out the function of village legislation, namely agreeing on draft village regulations with the village head, and has the right to propose draft village regulations. This role is regulated in Article 55 of Law Number 6 of 2014 concerning villages and Domestic Regulation Number 111 of 2014 concerning Technical Guidelines for Village Regulations.

The role of BPD in drafting village regulations for villages in the Posigadan sub-district area, must be carried out based on the procedures or stages that have been regulated in the applicable laws and regulations, as a result of which the products of village regulations formed or prepared by BPD are of good quality in their implementation.

In line with the process of forming or drafting village regulations for BPD in the Posigadan sub-district area, very adequate support must be obtained in the process of drafting village regulations, including human resource support by BPD members, Sarana Prasarana, and budget support that can increase the effectiveness of performance for BPD members in carrying out the legislative function in the village.

1. Planning Stage

The planning stage is the initial foundation that determines the direction and quality of the regulations that will be formed. The applicable principle is the principle of clarity of purpose and the principle of suitability of needs.

Normatively, the role of BPD in drafting village regulations is not only limited to accepting the aspirations of the community, but also identifying various social, economic, and government problems that require regulation through village regulations. Thus, planning is an important instrument to ensure that the village regulations that are formed are really born from the needs of the community and are able to provide solutions to various problems in the village.

In the results of the field research, the researcher obtained data on the planning of the draft village regulation in Luwoo Village, Momalia 1 village, and East Meyambanga Village, which are as follows:

a) Perdes on Peace and Order (Trantib)

The Village Regulation on community peace and public order was proposed because there is a real need for a safe, orderly, and peaceful village atmosphere. Various events such as disturbances of environmental order, crowds without rules, noise, and behavior that disturb mutual comfort are the main reasons for drafting a regulation.

b) Regulation on Liquor (Liquor)

The proposal for a regional regulation plan on Mimum Keras is based on public concern about disturbances of order, disorderly behavior, and often causes social conflicts such as fights. The proposal of the village regulation on liquor as a rule that regulates the circulation, storage and consumption for the community in accordance with the authority of the village.

c) Regulation on Wild Animals

The proposal for a regional regulation plan on the control/control of wild animals emerged from the complaints and aspirations of the community. Disturbances from wild animals can often cause problems in the home environment and in community plantation areas. Sometimes the negligence of animal owners who cannot control or discipline their pets, can cause their own losses to the home environment which is planted with various types of yard plants such as yard flowers, vegetable plants, and also traditional medicinal plants. In plantation areas, livestock are also often targeted, where livestock when released by the owner usually destroys plantation plants. So that this problem is the reason for the proposed regional regulation plan by the community, so that it is anticipated that there will be social conflicts between animal owners and yard and plantation land owners.

2. Preparation Stage

The stage of drafting village regulations is the process of designing and compiling village regulation content materials that will be discussed jointly between the village government and the Village Consultative Body (BPD), at this stage, BPD has an important role as an institution that functions to discuss and agree on draft village regulations with village heads, and even has the right to propose draft village regulations according to the needs of the village community.

Normatively, the indicators of the role of BPD in drafting village regulations based on the preparation stages are as follows:

a. Submit draft village regulations

The legal provisions for BPD in submitting a draft village regulation are regulated in Article 62 letter a, Law Number 6 of 2014 concerning villages, namely, BPD has the right to submit proposals for draft village regulations.

b. Participate in drafting village regulations

The function of BPD members to participate in drafting village regulations is regulated in Article 7 Paragraph 2 of Permendagri Number 111 of 2014 "that BPD can prepare and propose draft village regulations, except for APBDes, RKPDDes, and RPJMDes Perdes.

BPD's participation in drafting a regulation is a form of implementing the legislative function provided by laws and regulations. In the village deliberation forum, each BPD member has the opportunity to provide input on the legal basis, legal material, systematics, or article formulation, if there are provisions that are not in accordance with the interests of the community or contrary to higher regulations, BPD is obliged to propose changes before the draft is agreed.

3. Discussion Stage

The discussion stage is one of the important stages in the process of forming village regulations. At this stage, the BPD together with the village head discussed the draft village regulations that had been prepared previously to obtain a mutual agreement. The discussion was carried out to ensure that the substance of village regulations is in accordance with the needs of the community and does not conflict with higher regulations, and can be implemented effectively in the lives of the village community.

Normatively, the discussion stage can also be seen from the level of participation of BPD members in providing opinions in arguing the material of the draft village regulation. The more active the BPD is in the discussion, the greater the chance that the resulting regulation will be able to accommodate the needs of the community and in accordance with the provisions of applicable laws.

The results of the research obtained by the Researcher, related to the planning of the village regulation which are included in the discussion stage in Posigadan sub-district, including in Luwoo Village, Momalia 1 Village, and East Meyambanga Village are as follows:

a. Luwoo Village

The data on the planning of the village regulation is included in the discussion stage in Luwoo village, namely the Regulation on Wild Animals.

b. Momalia Village 1

The data on the planning of the village regulation is included in the discussion stage in the village of Momalia 1, namely the Regional Regulation on the Levy on the Use of Clean Water

c. East Meyambanga Village

The planning data for the village regulation entered at the discussion stage in East Meyambanga village is a regional regulation that regulates the levy on the use of clean water.

4. Stages of Determination

The determination stage is the final stage in the process of forming village regulations after the draft village regulation obtains joint approval between the village head and BPD. At this stage, BPD has an important role to ensure that the village

regulations to be determined have gone through the process of planning, drafting, and discussing in accordance with the provisions of laws and regulations.

This stage is one of the important ones in the implementation of the BPD legislation function. This evaluation aims to ensure that the content of the draft regulation is in accordance with the provisions of laws and regulations. This evaluation process is carried out in a meeting forum or discussion with BPD, village heads, sub-district governments and local governments before the village regulation gets approval to be determined.

Based on research in the Posigadan sub-district area, it was found that the BPD has carried out its role in giving approval to the draft village regulation and evaluating the content of the village regulation before it is determined, even that is only related to the draft of the Regional Regulation on RPJMDes, RKPDes, and APBDes submitted by the village government, not yet touching the substance of the Regional Regulation of the authority of the BPD. So that the implementation of the role of BPD has not been running optimally, because BPD functions more as a party that gives administrative approval for the Ranperdes RPJMDes RKPDes and APBDes, rather than carrying out the stages of determining the regional regulation related to social conditions in the village.

In relation to the role of BPD in the Posigadan sub-district area, including Luwoo village, Momalia 1 Village, and East Meyambanga Village, it shows that the proposed draft of the draft regulation that has been prepared previously does not include the draft of the regulation that is included in the stage of determining the village regulation, so that the sustainability of the role of BPD in shaping legal products in the village by BPD members is ineffective. At the stage of determining the perdes related to the role of BPD members, the nature of the BPD has not touched the authority for BPD members in determining a draft of the Perdes.

The role of BPD in the stage of determining village regulations in the Posigadan sub-district area has not been fully effective because it has not touched the substance of the village regulation on the authority of the BPD. This can be seen in the role of the BPD in the ineffective discussion stage, so that at the determination stage there is not a single perdes that are included based on the authority of the BPD in the process of forming the perdes.

b. Factors that hinder the role of BPD in drafting village regulations

a. Human Resources

Based on the results of research in Posigadan sub-district, the human resource factor is the main obstacle that causes the role of BPD in the preparation of village regulations to not run effectively. The limited ability of BPD members can be seen at almost every stage of the formation of village regulations, starting from planning, drafting, discussion, to determination.

In general, BPD members come from a variety of different educational, occupational, and experience backgrounds. This condition affects the ability of BPD members to understand the legal aspects and the village legislation process. As a result, the implementation of the BPD function in the formation of village regulations has not been carried out optimally in accordance with the authority given by laws and regulations.

b. Facilities and Infrastructure

Legal Facilities and Infrastructure are one of the important supporting factors that affect the effectiveness of the implementation of duties for BPD members, including in carrying out the function of village legislation through the preparation

of village regulations. Facilities and infrastructure are not only in the form of buildings or workspaces, but also include supporting facilities such as computer devices, office stationery, legal documents, village libraries, and other operational support that can support the performance of BPD members.

In practice, the preparation of village regulations requires a fairly long process, starting from identifying community needs, planning, compilation, discussion, to determining village regulations. All of these stages require adequate support of facilities and infrastructure so that they can run effectively and efficiently and it was found that the limitations of facilities and infrastructure are one of the factors that hinder the role of BPD in drafting village regulations. These obstacles have an impact on the low quality of discussion, delays in the drafting process, and the lack of optimal legislation functions by the BPD.

c. Budget Factors

Budget is one of the factors that determine the effectiveness of the implementation of BPD's duties and functions. According to Soerjono Soekanto, in the theory of legal effectiveness, the availability of facilities and infrastructure is the existence of financing support in the form of a budget. In the context of the preparation of village regulations, the budget functions as a source of financing for all stages of the preparation of village regulations, starting from planning, drafting, discussion, to determination.

Budget limitations are one of the main obstacles that cause BPD to not be able to carry out its role optimally. The allocation of BPD operational funds is generally still limited and is used more for routine administrative activities than to support the legislative function. As a result, various activities that should be carried out in the process of drafting the regional regulation could not be carried out optimally.

4. CONCLUSION

The role of BPD in drafting village regulations in Posigadan sub-district has been carried out based on the level of the stages of drafting village regulations based on the provisions of laws and regulations, namely Law No. 6 of 2014 concerning Villages and Permendagri Number 111 of 2014 concerning technical guidelines for village regulations, which include the stages of planning, preparation. The discussion, determination and factors inhibiting the role of BPD in drafting Village Regulations in the Posigadan sub-district area consisted of three indicators, namely, human resource factors, infrastructure factors and budget factors including the lack of availability of operational budgets, and low honorariums or incentives for BPD members.

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