

**RURAL (VILLAGE) FINANCE MANAGEMENT AND ITS EFFECT ON
UNLAWFUL MISCONDUCT**

**GESTÃO DE FINANÇAS RURAL (VILAS) E SEU EFEITO NA MÁ
CONDUTA ILÍCITA**

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ABSTRACT: The purpose of this research is to understand and explore village financial management after the Law of the Republic of Indonesia Number 6 of 2014 on Villages which has implications for unlawful acts. This research method uses this research, referring to the type of research on normative research. The specificity of this normative research is based on finding the truth of coherence, namely a truth based on the suitability between what is studied and the rules applied in village financial management, which have criminal implications. The research result show after the village financial management law of the Republic of Indonesia Number 6 of 2014 concerning villages that contain the potential for criminal acts of corruption occurred in: First, the Allocation of Village Funds; Second, the source of Grant Financing; Third, Village Original Income Sources; Fourth, other sources of village income. The conclusion is after the Law on Village Financial Management of the Republic of Indonesia Number 6 of 2014 concerning Villages with Implications for unlawful acts. Generally, in the form of abuse of authority by the village head and village officials as village financial managers, this happened due to several things: first, the determination of *wetmatigheid*, *rechtmatigheid*, and *doelmatigheid*.

Keywords: Corruption, Financial management, Law, Unlawful, Village

RESUMO: O objetivo desta pesquisa é entender e explorar a gestão financeira da aldeia após a Lei da República da Indonésia Número 6 de 2014 sobre Aldeias, que tem implicações para atos ilegais. Este método de pesquisa usa esta pesquisa, referindo-se ao tipo de pesquisa sobre pesquisa normativa. A especificidade desta pesquisa normativa assenta na constatação da verdade da coerência, ou seja, uma verdade assente na adequação entre o que se estuda e as regras aplicadas na gestão financeira da aldeia, que têm implicações criminais. O resultado da pesquisa mostra que a lei de gestão financeira da aldeia da República da Indonésia Número 6 de 2014



relativa às aldeias que contêm o potencial para atos criminosos de corrupção ocorreu em: Primeiro, a Alocação de Fundos da Aldeia; Em segundo lugar, a fonte de Financiamento de Subsídios; Terceiro, Fontes de Renda Originais da Aldeia; Quarto, outras fontes de renda da aldeia. A conclusão é após a Lei de Gestão Financeira de Aldeias da República da Indonésia Número 6 de 2014 relativa a Aldeias com Implicações para atos ilegais. Geralmente, na forma de abuso de autoridade por parte do chefe da aldeia e dos funcionários da aldeia como gestores financeiros da aldeia, isso aconteceu devido a várias coisas: primeiro, a determinação de wetmatigheid, rechtmatigheid e doelmatigheid.

Palavras-Chave: *Corrupção; Gestão financeira; Lei, Ilegal; Aldeia*

1 INTRODUCTION

Historically, the village was the forerunner of community politics and government in Indonesia long before this nation was formed. The social structure of the village type, indigenous peoples and others has become a social institution that has a critical position. The village is an autonomous institution with its traditions, customs and laws and is relatively independent. Among other things, the high level of diversity makes the village the most concrete embodiment of the nation (1). The village is a complex terminology, so to better understand the term bright village, it is seen from sociological, economic, legal and political terms. In a sociological sense, the village is described as a community unit or community of residents who live in an environment where they know each other with social ties, still strong customs and a relatively homogeneous pattern of life and depends a lot on nature (2). The village is better understood concerning the rules that form the basis for regulating people's lives and their position in the state government system as a unitary legal area where a community resides in which the power (authority) organizes its government (governs the Affairs). Household) to take care of the interests and needs of the community itself (autonomy), including managing village finances (3).

Concerning village financial management, it is the implementation of village autonomy, where the authority and obligation of the village are to organize and manage itself by law following applicable laws and regulations. The essence of village



autonomy and regional autonomy is the same. Both are autonomous, and their autonomy is the same and is limited by applicable laws and regulations (3). Village autonomy, which is the original autonomy, is not the only form of autonomy for the village because, of course, the village as part of the regional government has five types of autonomous authority, namely: original autonomy, devolution authority, and distributive authority, and authority in co-administration tasks. Authentic or genuine autonomy is understood as the rights and origins of the authority attached to the village as a legal community unit, as the community's right to regulate and manage itself by law (4).

For this reason, village development financing is sourced from village finances obtained from several sources, including original village income, APBN allocation, some regional taxes and district/city regional levies, and financial assistance from the APBD. From provincial and district cities, grants and non-binding grants and other villages of legitimate income. Village financial management follows the pattern of village financial management where the village head is the holder of the power to manage village finances. Revenue, expenditure, and financing must be regulated in the Village Revenue and Expenditure Budget (APB) regulations set in the village by the village head, together with the Village Consultative Body (BPD).

Based on the background above, the researcher will analyze village financial management after the Law of the Republic of Indonesia Number 6 of 2014 concerning Villages which has implications for unlawful acts.

2 METHOD

This research refers to the type of research on normative research. The specificity of this normative research is based on finding the truth of coherence, namely a truth based on the suitability between what is studied and the rules applied in village financial management, which have criminal implications. M. Hadjon, as quoted by Sukardi (2009), stated that normative legal research is research to systematically examine favorable legal provisions and principles and explain and predict future legal



developments. The type of research is normative legal/juridical research by searching, collecting, and analyzing primary and secondary legal materials. The approach used in answering the problem formulation described above is the statute, conceptual, historical, and case approaches.

The technique of collecting legal materials in this research is a literature study, then analyzed to solve legal problems. Researchers took this step to obtain the necessary primary and secondary legal materials. Legal materials are collected through the snowball method and procedures for identifying and inventorying primary and secondary legal materials.

3 RESULT AND DISCUSSION

3.1 FINANCIAL MANAGEMENT OF CRIMINAL CORRUPTION THAT IMPLICATES VILLAGE

After the village financial management law of the Republic of Indonesia Number 6 of 2014 concerning villages with the potential for criminal acts of corruption occurred in: First, the Allocation of Village Funds (ADD). The process of funding village finances through the RKUD transfer mechanism has been carried out for a long time. Based on PP Number 72 of 2005 concerning Villages, local governments should allocate transfer funds from accounts forwarded to the Village Center, known as Village Fund Allocations (ADD). What is meant by ADD in PP Number 72 of 2005 is the fund allocated by the regency/city Government to the village, which is sourced from the financing of the Central and regional Balancing Funds received by the Regency/City. The portion of the Central and Regional Fiscal Balance Fund, the Regency/City, received to the village is at least 10% distributed proportionally to each village. The calculation of the amount of the ADD budget that should be allocated by the regions to be forwarded to the village account is also regulated in REGULATION No. 72 of 2005 with the following formula: Regulation of ADD in PP No. 72 of 2005 was then regulated in more detail in Permendagri Number 37 of 2007 concerning Guidelines for Village Financial Management.



Second, the source of Grant Financing (APBD). In addition to receiving a budget from the Regional Revenue and Expenditure Budget (APBD), villages also receive some funds from significant APBD assistance funds from the district and provincial APBD. The source of APBD income is quite large, and the adjustments set differently for each village are local taxes and levies. Article 68 of PP Number 72 of 2005 concerning Villages states that "for district/city regional tax proceeds at least 10% (ten percent) for villages and part of district/municipal retributions for villages. "Allocating retribution and tax proceeds for the region for villages have been felt since the enactment of PP No. 72 of 2005, which continued to be regulated in PP No. 43 of 2014. The mandate of PP No. 72 of 2005 and PP No. 43 of 2014 concerning Villages stipulates that each village's collection and allocation of tax proceeds are different. Villages that contribute more taxes are entitled to receive higher levy allocations than villages with smaller contributions. When receiving budgets from districts, provinces also allocate APBD for village development which is transferred directly to the village account. The amount of funds from this province depends on each province's capacity and development strategy.

Third, Village's Original Income Sources. The source of the village's original opinion in the provisions of Law Number 6 of 2014 concerning Important Villages. The source of development financing can be obtained through the village's original income. Original village income is obtained from business results, property income, self-help and participation, cooperation, and others from the original village income. Developing and managing various types of village-owned assets can generate various types of village income.

Fourth, other sources of village income. Other sources of financing to carry out village activities come from grants or assistance from private companies or generally through Corporate Social Responsibility programs and organ social assistance programs from ministries/agencies. Regarding the financing mechanism through grants from Ministries/Institutions, generally in the form of programs. Based on the results of field reviews, K/L assistance was not recorded in the APB of Glaga Fragrant Village. For example, receiving funding for crop failure due to the overflow of Porong



mud (Lapindo) was not recorded in the Village Budget. Village officials feel they have no obligation because the assistance will record the gifts of other parties.

The above forms can allow village authorities to conduct an abuse of authority in criminal acts of corruption.

The characteristics of corruption crimes need to be understood in terms of elements against the law, both formal and material, as formulated in Law Number 31 of 1999 in conjunction with Law Number 20 of 2001 concerning the Eradication of Criminal Acts of Corruption, Even though the act is not regulated in the legislation the law. Still, if the act is considered despicable because it is not following the sense of justice or the norms of social life in society, then the act is punished.

Corruption continues to develop following the sophistication of the technological system, so it takes various forms to express it. According to Junaidi Soewartojo stated that (6):

Corruption is the behavior or actions of a person or more in violation of the norm by using and or misuse of power or the opportunity through the process of procurement, acceptance or collection designation granting facilities or services that have been done in activities reception and spending money or wealth, irregularities money or wealth as well licensing and other services for personal purposes or group directly or indirectly detrimental to the interest or wealth or richness of the country or society.

To a certain extent, because of corruption, law enforcement officers have been placed in the position of facing each other at the top of those who handle the case. Related to that, Kartini Kartono explained (7):

Corruption is the behavior of individuals who use authority and position to extract personal gain, harming the public interest and the state. So, corruption is a symptom of mismanagement of power for personal gain. (e.g. with legal reasons and force of arms) to enrich themselves.

In essence, from the definition of corruption above, it is interpreted as a misuse of public power for private benefit Husted (2002) and the use of the public for private gain, both for financial and non-financial interests (9). In this case, what is included in



the category of corruption is bribery, extortion, trading influence, nepotism, and all related actions (10).

Meanwhile, according to As Hornby and H. Wakefield, corruption is the offering and accepting bribes. M.H. McKee defines corruption as the abuse of power for personal gain. One cannot assume that corruption is always the same and has the same impact or motivation (11).

David M. Chalmers said that hidden payments are in the form of gifts, administrative fees, over-providing services, giving gifts to those who have family relationships, coercion to influence, imposing social status, or anything detrimental. Public interest and welfare, with or without payment, are considered corruption. Later, David M. Chalmers explains, “This term is often used also for the misjudgment of officials in the public economy” (12).

Based on Law Number 31 of 1999 in conjunction with Law Number 20 of 2001 concerning the Eradication of Criminal Acts of Corruption, what is meant by the Corruption Law are:

1. Against the law detrimental to the state's finances or economy (Article 2 paragraph 1) ... shall be sentenced to imprisonment of 4 – 20 years and a fine of Rp. 200 million – Rp. 1 billion; or can also be sentenced to death.

2. Abusing authority because of a position or position that can harm the state's finances or economy (Article 3) will be sentenced to life imprisonment or one year fine of Rp. 50 million – Rp. 1 billion.

3. Giving bribes to Civil Servants, including Judges and Advocates (Article 5, 6, 11, 12 letters a, b, c, d, and Article 13) ... shall be punished with imprisonment of 1 – 5 years and a fine of Rp. 50 million – Rp.250 million; imprisonment of 3-15 years or a fine of Rp. 150 million – Rp.750 million; life imprisonment – 20 years and a fine of Rp. 200 million – Rp. 1 billion; imprisonment for a maximum of 3 years or a fine of Rp. 150 million;

4. Embezzlement in office and falsification, destruction, or omission of documents (Articles 8, 9 and 10). imprisonment of 1 – 5 years and a fine of Rp. 50 million – Rp. 250 million; imprisonment of 2-7 years and a fine of Rp. 100 million – Rp.



250 million; extortion in the office (article 12 letter e, f, and g) are convicted to life imprisonment – 20 years and a fine of Rp. 200 million – us \$ 1 billion;

5. Extortion in office (Article 12 letters e, f, and g) shall be sentenced to life imprisonment – 20 years and a fine of Rp. 200 million – Rp. 1 billion;

6. Contractors who commit fraudulent acts (Article 7, 12i) shall be imprisoned for 2-7 years and a fine of Rp. 100 million – Rp. 350 million; life imprisonment – 20 years and a fine of Rp. 200 million – Rp. 1 billion;

7. Gratification, namely Article 12 B sentenced to life imprisonment – 4 years and a fine of Rp. 200 million – Rp. 1 billion;

8. Attempt, assistance, or conspiracy to commit a criminal act of corruption (Article 15) shall be sentenced to death or imprisonment for one year and a fine of Rp. 100 million – Rp.1 billion;

The criminal act of corruption in normative existence is a crime that is widespread into a transnational crime, destroys the nation's moral values, hinders and harms the development of the nation and blocks the way for the creation of justice, prosperity and welfare of the Indonesian nation.

Starting from several things have been outlined so that the definition of village financial losses is part of state financial losses as stipulated in the norms of Law Number 31 of 1999 in conjunction with Law Number 20 of 2001 concerning the Eradication of Criminal Acts of Corruption. There is no need to differentiate and interpret the position of the village as a non-governmental organization because the post-war village law provides for the administration of a traditional village or village government, or it is stated that the allocation of village funds is sourced from the Regional Revenue and Expenditure Budget of the State Budget (APBN). Law of the Republic of Indonesia Number 17 of 2003 concerning State Finances states that state finances are rights and obligations that can be valued in money or goods. Village finances directly get money which, of course, in village finances or customs, there are financial rights and obligations attached to the village's finances. So, the village as a local entity must also implement good village financial management, including:

1. *Wetmatigheid*, village financial management must be legal. It means that village financial management documents based on legal products in the form of Village



Regulations consisting of Village RPJM, Village RKP and Village Budgets must exist as the legal basis for implementing village financial management. Thus, if the *wetmatigheid* document in question is not stipulated or is not following the rules of village financial management, the output/output of the results carried out in the future for managing village finances can have implications for criminal acts of corruption.

2. *Rechmatigheid*, in carrying out activities based on the law and the authority to implement village financial management, appointed village financial managers, including Village Finance Technical Implementers (PTKD), as Village Secretary and Treasurer. In the village structure, the village financial management office does not exist. The village head, as the only holder of the village financial management authority, is very prone to abuse of authority because establishing the principle of check and balance cannot be carried out because the authority, or in other words, is called an official, has been appointed and assigned by the village head's decision but not carried out in carrying out their duties and functions according to financial management based on statutory regulations. It may occur because the village financial manager is appointed and dismissed by the village head's decision; on the contrary in the village financial management institution, the village apparatus is under the village head so that the space for the delegation of authority in managing village finances cannot be carried out correctly following village principles. The General Government that abuses this authority can also have implications for criminal acts of corruption that are detrimental to finances.

4 FINAL CONSIDERATIONS

After the Law on Village Financial Management of the Republic of Indonesia Number 6 of 2014 concerning Villages with Implications for unlawful acts, generally in the form of abuse of authority by the village head and village officials as village financial managers, this happened due to several things as follows: first, the determination of *wetmatigheid*, not the RPJM village, nor the RKP APB village and if there is an additional reduction in Village Finance or PACK APB village, the management of





village finances must have legal certainty, as the legal basis for implementing village financial management. Village. Second, in *rechtmatigheid*, the village head is the only holder of village financial management power and must delegate to other officials as the Village APB Manager who establishes checks and balances and stipulates them by the village head's decision but in the implementation of village financial management. The authority concerned is abused. Third, *doelmatigheid*, the village's financial management, does not compile accountability or is limited to engineering.

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6 CONFLICTS OF INTEREST

The authors declare no conflict of interest

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