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LEGAL POLITICS OF UTILIZING VILLAGE FUND ALLOCATION IN TRADITIONAL TOURIST VILLAGE NGADAS, PONCOKUSUMO SUB-DISTRICT, MALANG REGENCY

Abstract

The Traditional Tourist Village represents one of the innovations implemented by the Ministry of Culture and Tourism. The concept of Traditional Tourist Village is applied in several regions within the Malang Regency, with one notable instance being the Ngadas Traditional Tourist Village in the Poncokusumo Sub-District of Malang Regency. From an administrative perspective, Ngadas Traditional Tourist Village functions as an administrative village that adheres to and practices the customs of the Tengger Tribe. A logical consequence of its administrative status is the allocation of funds from both local and central governments. The Village Fund Allocation (ADD) constitutes one of the funds disbursed by the Local Government to the Village to facilitate its governance functions. The ADD is derived from revenue-sharing funds received by the Local Government from the Central Government, which are then incorporated into the Regional Budget or APBD. Subsequently, these funds are adjusted to account for specific allocations. The integration of village governance with customary practices in Ngadas Traditional Tourist Village significantly influences the utilization of the Village Fund Allocation (ADD). The village government operates under its own distinct structure, while the Tengger Tribe's customary practices are overseen by a designated leader. In Ngadas Traditional Tourist Village, both entities mutually influence each other. Various policies undertaken by the Village Head as the representative of the Village Government are influenced by the "Romodukun" (Customary Leader). The influence of the Romodukun constitutes a unique legal politics in Ngadas Traditional Tourist Village. This legal politics arises due to the influence of the Romodukun, although it is not unquestioningly adhered to; rather, it still considers the prevailing legal regulations.

Keywords: *Legal Politics, Traditional Tourism Village, Village Fund Allocation (ADD), Village Head*

Abstrak

Desa Wisata Tradisional merupakan salah satu inovasi yang diterapkan Kementerian Kebudayaan dan Pariwisata. Konsep Desa Wisata Tradisional diterapkan di beberapa wilayah di Kabupaten Malang, salah satu contohnya adalah Desa Wisata Tradisional Ngadas di Kecamatan Poncokusumo Kabupaten Malang. Dari segi administratif, Desa Wisata Adat Ngadas berfungsi sebagai desa administratif yang menganut dan

mengamalkan adat istiadat Suku Tengger. Konsekuensi logis dari status administratifnya adalah alokasi dana baik dari pemerintah daerah maupun pusat. Alokasi Dana Desa (ADD) merupakan salah satu dana yang dikucurkan oleh Pemerintah Daerah kepada Desa untuk memperlancar fungsi pemerintahan. ADD tersebut bersumber dari dana bagi hasil yang diterima Pemerintah Daerah dari Pemerintah Pusat, yang selanjutnya dimasukkan ke dalam Anggaran Pendapatan dan Belanja Daerah atau APBD. Selanjutnya, dana tersebut disesuaikan dengan alokasi tertentu. Integrasi tata kelola desa dengan praktik adat di Desa Wisata Adat Ngadas berpengaruh signifikan terhadap pemanfaatan Alokasi Dana Desa (ADD). Pemerintahan desa beroperasi berdasarkan struktur tersendiri, sedangkan praktik adat Suku Tengger diawasi oleh seorang pemimpin yang ditunjuk. Di Desa Wisata Adat Ngadas, kedua entitas tersebut saling mempengaruhi satu sama lain. Berbagai kebijakan yang diambil oleh Kepala Desa sebagai wakil Pemerintahan Desa dipengaruhi oleh "Romodukun" (Pemimpin Adat). Pengaruh Romodukun inilah yang menjadi keunikan politik hukum di Desa Wisata Adas Ngadas. Politik hukum ini muncul karena pengaruh Romodukun, meskipun tidak mutlak dianutnya; namun tetap mempertimbangkan peraturan hukum yang berlaku.

Kata Kunci : Alokasi Dana Desa (ADD), Desa Wisata Adat, Kepala Desa, Politik Hukum.

INTRODUCTION

Article 1, paragraph (1) of the 1945 Constitution of the Republic of Indonesia states, "Indonesia is a Unitary State in the form of a Republic." The logical consequence of a unitary state is the implementation of national governance, which subsequently establishes regions in accordance with laws and regulations. The application of the concept of a legal state has its own implications in the implementation of governance. If the characteristic of a federal state is regional autonomy, then one of the features of a unitary state, and its consequent impact, is the use of a decentralized system or principle. Decentralization, according to Henry Maddrick, is defined as "the legal conferring of power to discharge specified or residual functions upon formally constituted local authorities" (Dwi Andayani, 2009).

Decentralization serves as the foundation of regional autonomy. It involves the delegation of authority from the Central Government to Provincial Governments, which is then further distributed to several District/City Governments and, ultimately, to Village Governments. The decentralization of authority possessed by

the Central Government is also accompanied by Fiscal Decentralization. Fiscal Decentralization refers to the process of allocating budgets from higher levels to lower levels of governance, to support the functions and duties of governance (Dian Wahyuni, 2010).

The recognition of both villages and traditional villages within one unit, with subsequent grant of authority by the Central Government for governing purposes, has led to the provision of funding. The entire regulation concerning this recognition and funding is specified in legislation. One of the rules pertaining to funding is related to village finances. In Article 1, point 10 of the Village Law, the definition of Village Finance is as follows: "Village Finance is all the rights and obligations of the Village that can be valued in terms of money, as well as everything in the form of money and goods related to the implementation of Village rights and obligations."

Subsequent articles elaborate on the rights and obligations of the Village, particularly regarding revenue, expenditure, financing, and financial management. Village revenue is detailed more comprehensively in Article 72 of Law Number 6 of 2014 concerning Villages. The article states: "(1) Village revenue as referred to in Article 71 paragraph (2) originates from: (a) the village's own revenue, consisting of the results of its efforts, assets, self-reliance, participation, mutual cooperation, and other legitimate village revenue; (b) allocations from the State Budget; (c) a portion of regional taxes and levies of the Regency/City; (d) village fund allocations, which are part of the revenue-sharing funds received by the Regency/City; (e) financial assistance from the Provincial and Regency/City Budgets; (f) non-binding grants and donations from third parties; and (g) other legitimate village revenue."

The entire content of legislation refers to general provisions in its definition. This also applies to Article 72 of the Village Law. The nomenclature "Village" in this article refers to the general definition of a Village. The Village referred to includes both regular villages and traditional villages, hence the regulation on revenue sources is used as a guide for revenue sources in regular villages and traditional villages (the implementation of Village finances).

The management of village finances is applied to all villages in Indonesia, including one such village known as Desa Wisata Ngadas (Ngadas Tourist Village). The designation of Ngadas as a tourist village was established by the Department of Tourism and Culture based on Decree Number 556/01/KEP/35.07.108/207. Traditional Tourist Village is one of the government's approaches to tourism development (Martini, U. and M.Franch, 2002)..The governance in Ngadas Village has its unique features due to the existence of dualism in governance. This is evident from the continued practice of customary traditions. The logical consequence of such dualism is the presence of specific legal politics that influence the utilization of village fund allocations.

The focus of this research is on the allocation of village funds in traditional villages. This allocation is often not granted to traditional villages due to several reasons, one of which is the government's allocation of 10% of the National Budget to

villages and urban communities, totaling 83,794. With this number of villages, the government may face difficulties in determining the budget for traditional villages. Apart from the issue of fund allocation, the utilization of these funds also frequently becomes a problem.

METHODS RESEARCH

This research falls within the scope of socio-legal research, utilizing a juridical-sociological approach. The selection of the research location is based on the existence of integration between regular villages and traditional villages, as evident in their governance, with Traditional Tourist Village Ngadas being one of the 36 villages that still uphold the customs of the Tengger Tribe. The types of data employed in this study include both primary and secondary data, gathered through interview techniques and documentary analysis (Sugiyono, 2013).

The research population for investigating the legal politics of utilizing the Village Fund Allocation (ADD) consists of the government apparatus of Traditional Tourist Village Ngadas. From this population, the sample includes the village head, village officials in charge of village finances, and five community members. The sampling technique utilized in this study is purposive sampling. The collected data will be analyzed using qualitative juridical analysis techniques.

RESULTS AND DISCUSSION

General Overview of Ngadas Traditional Tourist Village

Ngadas Traditional Tourist Village is one of the villages located in Malang Regency, within the administrative region of Poncokusumo Sub-District, situated approximately 26 km from the sub-district and 63 km from the regency center. The topography of Ngadas Traditional Tourist Village consists of moderate land elevation, at approximately 2300 meters above sea level (Primary Data). This elevation contributes to the village's cool air temperature, ranging from 15°C to 20°C. Due to these geographical characteristics, a significant portion of the population in Ngadas Traditional Tourist Village is engaged in potato farming as their primary livelihood (Morrison, A. M., Bruen, SM., dan Anderson, D.J., 1998). However, based on my research findings, the community in Ngadas Traditional Tourist Village is gradually venturing into the tourism industry by establishing several homestays. Additionally, the other sources of livelihood for the people of Ngadas Traditional Tourist Village (Primary Data) are as follows:

Occupation	Total
Landowner Farmers	1726
Tenant Farmers	151
Agricultural Laborers	38
Medium/Large-Scale Entrepreneurs	18
Crasftsmen/Small Industries	2

Industries Laborers	6
Construction Workers	34
Traders	18
Transportations	21
Civil Servantas	6
Cattle Breeders	13
Goat Breeders	13
Horse Breeders	14

Analysis of the Legal Politics of Utilizing Village Fund Allocation (ADD) in Ngadas Traditional Tourist Village, Poncokusumo Sub-District, Malang Regency

Legal politics pertains to policies related to law or policies in the field of law (HRT Sri Soemantri). In discussing the legal politics of utilizing the Village Fund Allocation (ADD), it is necessary to delve into the typology of Ngadas Traditional Tourist Village. According to Prof. Fadli, there are several typologies of villages, namely:

Village Types	Description	Region
There is Tradition, but no Village	Tradition is very dominant. The Village has no influence	Papua
No Tradition, but there is Village	Tradition influence is very weak. Modern Village has grown strong	Jawa, apportion of Sulawesi, Kalimantan Timur, a portion of Sumatera
Integration between Village and Tradition	Tradition (Traditionalism) and Village (Modernism) are both strong. A compromise between the two occurs	Sumatera Barat
Dualism/Conflict between Tradition and Village	Tradition influence (Traditionalism) is much stronger than Village, resulting in local leadership dualism. Village government is ineffective	Bali, Kalimantan Barat, Aceh, NTT, Maluku
No Village, no Tradition	Sub-district as an administrative unit (local state government). No local democracy.	Urban Area

From the table, it can be observed that Ngadas Traditional Tourist Village falls under the category of village and traditional village integration. Village Fund Allocation (ADD) must be provided to all villages across Indonesia, including those in Malang Regency, and the Local Governments are required to create derivative

regulations to support the process of Village Fund Allocation (ADD). In supporting the implementation of Village Fund Allocation, Malang Regency Government has issued derivative regulations, namely Malang Regent Regulation No. 2 of 2020 concerning Guidelines for the Implementation of Village Fund Allocation. However, the allocation of Village Fund (ADD), which should have been distributed to each village, could not be fully realized due to several reasons. Ngadas Village, located in Poncokusumo Sub-District, Malang Regency, only began receiving Village Fund Allocation (ADD) in the year 2015. Prior to 2015, the village received stimulus funds and subsidies from the government. In the following two years, the village was designated as a Traditional Tourist Village. In 2020, the Malang Regency Government issued legal provisions in the form of Malang Regent Regulation regarding the implementation of Village Fund Allocation (Primary Data).

Malang Regent Regulation No. 2 of 2020 concerning Guidelines for the Implementation of Village Fund Allocation addresses various aspects of the Village Fund Allocation (ADD), including mechanisms for disbursement and disbursement period. Article 4 paragraph (1) stipulates the following regarding the disbursement of Village Fund Allocation (ADD):

"(1) The disbursement of ADD shall be carried out in 2 (two) stages as follows: a. the first stage, no later than January, in the amount of 40% (forty percent); and b. the second stage, no later than June, in the amount of 60% (sixty percent)."

However, in the factual condition, the disbursement of Village Fund Allocation (ADD) is distributed in 3 stages, with the first and second stages each being 40%, and the third stage being 20%. The discrepancy between the regulation and the factual condition is not only evident in the disbursement but also in the utilization of funds. According to Malang Regent Regulation No. 2 of 2020, the utilization of Village Fund Allocation (ADD) is prioritized for financing village expenses related to the administration of village governance. However, in reality, 60% of the Village Fund Allocation (ADD) is used for community empowerment.

To understand the legal politics of utilizing Village Fund Allocation (ADD), it is necessary to examine the structure of village governance and the involvement or participation of the local community in decision-making. The use of the decentralized system did not start immediately after Indonesia gained independence, but rather, the system has undergone changes over time. During Sukarno's leadership, Indonesia implemented a centralized system, both in terms of power and authority. This was codified in Presidential Decree No. 6 of 1959, which was subsequently promulgated into Law No. 18 of 1965 concerning the Basic Principles of Regional Government. Several years later, Law No. 18 of 1965 was repealed and replaced with Law No. 5 of 1974 concerning the Basic Principles of Regional Government.

Law No. 5 of 1974 concerning the Basic Principles of Regional Government incorporated the principles of deconcentration, decentralization, and task delegation. However, in practice, the implementation of this law tended to be centralized and monolithic (Syaukani HR, 2000). The principles of decentralization, deconcentration,

and task delegation were merely illusions at that time. The government seemed to indulge the people and stakeholders with these principles, but in practice, the government did not want to share its power. A centralized and absolute authority was the prevailing understanding. The authoritarianism of the government during that period resulted in the centralization of political and economic resources (King Sulaiman, 2017). Consequently, in the early years of the reform era, decentralization became a central point to be implemented. The hope for decentralization was one of the people of Indonesia's aspirations and a sharp criticism of the leadership of the President at that time. The hope for decentralization bore positive results when, on January 1, 2001, the policy on decentralization was officially reintroduced. This return to decentralization was codified in Law No. 22 of 1999, which was later revised into Law No. 32 of 2004 concerning Regional Governments (Kristian Widya Wicaksono, 2012). This law has since been revised and became Law No. 6 of 2014 concerning Villages.

In exercising their authority (resulting from decentralization), Village Governments have a village structure. Over the past few decades, there have been changes in the structure of village governments due to the use of different systems. Some of these changes are as follows:

1. Village Government Structure during the Kingdom Era

During the kingdom era, villages did not have a formal government structure. Villages were led by a single individual appointed by the King. The closer the village was to the kingdom, the narrower the authority possessed by the village leader.

2. Village Government Structure during the Dutch Colonial Period

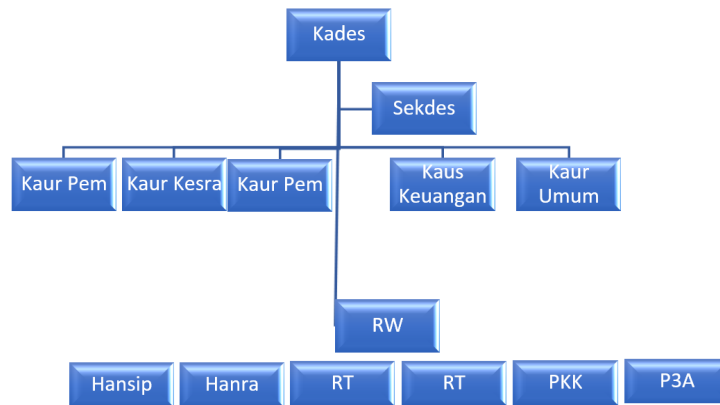
During the Dutch colonial period, village structures were led by a Lurah (head) assisted by several other officials, such as carik, ulu-ulu, jogoboyo, kebyan, modin, and kepetengan (Aiko Kurasawa). Village governance at that time had to comply with the orders of regional authorities, and the full, original, and complete village autonomy began to diminish.

3. Village Government Structure during the Japanese Colonial Period

During the Japanese colonial period, the village government structure was similar to the Dutch administration, but the titles and names were in Japanese, such as Kutyo, Mandor, Aza, Keibodan, heiho, Gumi, Fujingakai, Seidendan, and others (Aiko Kurasawa, 2015). During this time, the village population was mobilized by the Japanese authorities to fight against the enemies, resulting in limited effectiveness of the village government.

4. Village Government Structure Before and After Law Number 6 of 2014

The village government structure before the enactment of Law Number 6 of 2014 was as follows:



Meanwhile, the village structure after the enactment of Law Number 6 of 2014 is as follows:



The structure as applied in several villages in Indonesia, including Traditional Tourist Village Ngadas, Poncokusumo Sub-District, Malang Regency, is quite similar to the village structure regulated in the legislation, with the village head as the head of the government. The tasks and authorities of each village apparatus are governed by Law Number 6 of 2014 and some of its implementing regulations Arida, I. N. S., & Pujani, L.K., 2017).

Based on the village structure, it is implied that the village head has the authority to lead the overall village government, but there is an intersection where the participation of the community is required in all activities planned by the village head. This practice is also implemented in Traditional Tourist Village Ngadas. Moreover, active participation by the Romodukun (customary leader) is evident in the village head's decision-making concerning religious and cultural matters. The role of the Romodukun reflects the traditional practice of past governments, where the Romodukun or head of adat (custom) plays a central role as the leader of communal life (Nugroho, M.A., & Pranata, R, 2018).

An example of the Romodukun's active participation in the government of Traditional Tourist Village Ngadas is evident when the village head plans public facilities related to religious and cultural matters, such as the construction of community halls, temples, and viharas. The primary determinant in making these

decisions is the Romodukun, based on existing laws and regulations. The active participation stems from a high regard for adat (Tenggerese customs). The Romodukun not only plays a role in development-related matters but also in activities that require collaboration with other village governments or Romodukun from other villages. All decisions related to these matters are made by the Romodukun.

According to the results of interviews with several members of Traditional Tourist Village Ngadas, the village head does not object to the decisions made by the Romodukun in these two areas. However, if the decisions made by both the village head and the Romodukun are not in line with the prevailing laws and regulations, the decisions will be reconsidered, taking into account the legal aspects or, in other words, Traditional Tourist Village Ngadas still adheres to a legalistic approach in decision-making (Dinoroy M. Aritonang, 2015). This contrasts with the legalistic approach that prevails in Baduy society and Bali's customary societies.

In Baduy society, if the village head and the customary leader have differing opinions, the customary leader's decision takes precedence. The intervention of the customary leader in the Baduy society is quite significant, while the Romodukun's intervention in decision-making in Traditional Tourist Village Ngadas is not as significant because it fundamentally adheres to laws and regulations and consensus through community meetings (Abdillah, F., Damanik, J., Fandeli, C. & Sudarmadji, S. (2015).

Meanwhile, the politics of law in the government of Desa with adat institutions in Bali tends to be divided. According to Sri Wahyu Kridasakti's research titled "A Case Study of the Regulation of Institutional Relations between Village Government-Bureaucracy with Adat Village in the Bali Province Area," the institutional relations between administrative villages or what is also called bureaucratic villages and adat villages practically follow the rule of thumb. The institutional relations in Administrative/ Bureaucratic Villages are based on laws and regulations, while in Adat Villages, the institutional basis is determined by awig-awig (customary laws) and pararem (agreements) (Sri Wahyu, 2022). This use of different foundations often leads to disharmony in the institutions of Administrative and Adat Villages. Both types of villages have strong foundations for their institutions .

The intervention in decision-making in these institutions is in line with the theory proposed by Prof. Bagir Manan, known as Policy Behind The Legal Policy. Politics of law is inseparable from economic, cultural, defense, and politics from politics itself (Asep Bambang Hermanto, 2020). The intervention of the Romodukun has been studied by Prof. Rachmat Safa'at, who believes that there is a harmonization of village government performance carried out by the village head and the Romodukun, as the customary leader (Rachmat Safa'at, 2013).

In conclusion, the politics of law or the policies adopted by the village head are not solely based on their own wishes but can be influenced by the authority of the Romodukun (Customary Leader) as someone who holds significant influence in the cultural, tribal, and religious aspects of Traditional Tourist Village Ngadas. This condition often occurs in a village with dual leadership or in villages where customs

are deeply embedded. In adat villages, the head of adat or Romodukun is the one making all the decisions concerning village activities, while in administrative villages, the village head is in charge of all government affairs. The intervention or influence of the Romodukun on the decisions made by the village head can be seen as a form of harmonization between Village Government and the prevailing customs in the area. The decisions made by the village head with the intervention of the Romodukun are expected to be beneficial for the welfare of the community, Aligning with the theory of progressive law proposed by Prof. Satjipto Raharjo, he argues that the best law is one that benefits the greatest welfare of humanity, as law is created to address human needs. Law is not merely a tool or instrument but must also humanize people (Imam Koeswahyono, 2013).

The intervention carried out by the Romodukun, along with the local community's desire to establish Traditional Tourist Village Ngadas as an adat village, can be considered one of the foundations for transforming the village's form in accordance with the Ministry of Home Affairs Regulation Number 1 of 2017 concerning Village Arrangement.

CONSLUSION

The legal-political or policy decisions made by the Village Head are not purely driven by their own will, but can be influenced by the authority of the Romodukun (Traditional Leader) as one of the influential figures in the cultural, ethnic, and religious life of Traditional Tourist Village Ngadas. This condition is commonly observed in villages with dual leadership or in communities that strongly adhere to their customary practices. The intervention or influence of the Romodukun on the decisions made by the Village Head can be seen as a form of harmonization between the Village Government and the prevailing customs in the region.

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