

Legal Studies of Village-Owned Enterprises as Legal Entities for the Prosperity of Village Communities

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Abstract

A business entity established and owned by a village is designed to support the community in meeting their daily needs, enhancing their knowledge, and providing business and employment opportunities. This requires an institution capable of managing these activities effectively. The institution in question must be able to generate profits because the potential within a village is intended to promote the welfare of the local community. This study examines village institutions functioning as economic entities, commonly known as Village-Owned Enterprises (BUMDes). The study also explores the legal status of these entities and their role in implementing programs aimed at building a prosperous society. The research findings confirm that BUMDes, as regulated by Government Regulation Number 11 of 2021 and the Regulation of the Minister of Villages, Development of Disadvantaged Regions, and Transmigration Number 3 of 2021, have legal entity status. This means that these institutions are recognized and regulated by law, allowing them to engage in business activities legally, while also being responsible for adhering to applicable laws and regulations. The village government wholly owns these business institutions, and their mission is to manage and develop the village's economic potential. Additionally, BUMDes are intended to create jobs, enabling village communities to meet their basic needs, increase their income, and advance the local economy. The legal framework governing these institutions must be a focus for stakeholders to ensure the creation of legal justice, certainty, and benefits.

Keywords: Village Owned Enterprises; Legal Entity; Well-Being.

The Indonesian government is striving to achieve balanced development across regions and villages through enhanced development efforts. However, many challenges remain, particularly concerning the disparities between urban and rural development in Indonesia (Budianta, 2010). The strategic role of village development is crucial in ensuring equitable development and its outcomes. Rural development not only promotes equitable growth but also has a direct impact on the welfare of rural communities through programs designed to improve their livelihoods (Pakpahan et al., 2024). Furthermore, the formation and function of villages are

regulated normatively by law. Article 18B Paragraph 2 of the 1945 Constitution of the Republic of Indonesia states that:

"The state recognizes and respects customary law community units and their traditional rights as long as they are still alive and in accordance with the development of the public and the principles of the Unitary State of the Republic of Indonesia as regulated in law."

To foster village independence, the government implemented a policy of Village Fund Allocation (ADD) to strengthen the economies of village communities. While each village is responsible for implementing

government policies, some are also managed by Village-Owned Enterprises (BUMDes), which are official institutions recognized by law (Rahmah, 2019). BUMDes are companies primarily funded by the village through direct contributions to village wealth. These entities are tasked with managing assets, services, and other businesses that contribute to the prosperity of village communities (Dwi Orbaningsih, 2021).

Village-owned enterprises play a vital role in village communities ((Ramadana, 2013); Larasdiputra et al., 2019). Their main focus includes spreading community initiatives, enhancing village potential, monitoring and utilizing natural resources, and optimizing human resources. Through this role, BUMDes are responsible for implementing community programs, identifying and exploiting economic and social opportunities, and ensuring the sustainable use of natural resources. This business entity is crucial for promoting sustainable growth and development at the village level, particularly by improving skills and fostering citizen participation.(Adiliani et al., 2023)

Villages often have untapped potential that can significantly improve the quality of life for their residents. To harness this potential, many villages have chosen to establish BUMDes to manage empowerment programs and other initiatives. The village government plans to establish various business units under the management of BUMDes to increase residents' income. This approach aims to develop multiple sectors of the village economy, from agriculture to crafts.

It is essential for BUMDes to be formed as legal entities, as this provides the necessary legal foundation and organizational structure to manage the programs and businesses they undertake. BUMDes, with their autonomy in ownership and management, can efficiently manage firms and resources (Murwadi et al., 2017). BUMDes also serve as tools for villages to coordinate community empowerment efforts and local economic development (Senjaya D,

2022). Their programs—such as natural resource management, skills training, and the development of superior products—are intended to sustainably improve community welfare. The success of these initiatives, however, hinges on active local community participation and a well-considered approach to managing the businesses and programs in place.

METHODS

Soerjono Soekanto describes the normative juridical research method as a type of legal research that relies on secondary data or library materials. This method enables researchers to search for literature and regulations relevant to the legal problem or issue under investigation. It involves analyzing and understanding the legal aspects of a problem by considering existing legal texts. By using relevant legal references, researchers can gain a deeper understanding of the applicable regulations and their relationship to the context of the problem being studied (Soekanto, 2007).

RESULTS AND DISCUSSION

One new method to improve the village economy is the establishment of Village-Owned Enterprises (BUMDes). BUMDes are institutions managed entirely by village residents for the benefit of the village, functioning to enhance the village's development (Rodiyah, 2019; Susanti et al., 2020). BUMDes operate as business entities to advance the economy of village communities or as professionally led organizations (Ikhwanisyah et al., 2020; Nuraini et al., 2021). This method can boost the productivity and efficiency of community businesses at the village level while balancing environmental sustainability with local economic development (Reza M. Zulkarnaen, 2016).

According to Maryunani's perspective, village business institutions are regulated and operated by the community and village government to improve the village's economic aspects and create social ties that align with the

village's nature, needs, and potential. In this context, village business institutions can stimulate local economic growth by utilizing village resources. Village governance supports economic growth and harmonious social interaction, with village communities playing a crucial role in managing these institutions. This approach balances economic development with the preservation of social and cultural principles at the village level (Rian Nugroho and Firre An Suprpto, 2021).

Law Number 6 of 2014 concerning Villages regulates the formation of BUMDes (Nomor, 6 C.E.). According to Paragraph 1, Article 87 of this Law, villages are authorized to establish business units known as BUMDes. These entities involve all village community members in their management. BUMDes are officially permitted to operate within the economic and public interest sectors, ensuring compliance with legal provisions and maintaining legal responsibility. Consequently, BUMDes are tasked with developing the village's economic sector and providing public services that benefit the village community.

The normative foundation for village-owned enterprises is outlined in Government Regulation Number 11 of 2021. This regulation mandates that one or more villages establish BUMDes to manage various businesses, maximize asset utilization, drive investment and productivity growth, provide services, and engage in other commercial activities. It covers the establishment, structure, management, and business areas BUMDes can undertake. As a result, BUMDes play a critical role in driving village-level economic growth, enhancing the value of village assets, and offering services that improve the quality of life for villagers and surrounding communities.

For an organization to be considered a legal entity, it must meet several requirements. One key requirement is that the organization must have a clear purpose distinct from the personal wealth of its founders or members. This purpose should serve common interests, fulfilling

broader and collective needs rather than individual ones. Additionally, legal entities must have a management structure with several administrators responsible for operations and decision-making. Meeting these criteria allows an organization to obtain legal recognition and the associated rights of legal entity status.

As a result, the legal rules governing business institutions owned by the village with legal entity status include several essential elements. First, the business entity consists of a group of formally organized individuals or organizations. This is demonstrated through articles on association and household budgets, which address aspects related to managing village-owned business institutions. The internal structure of the institution is regulated by legal rules, including positions such as Advisor, Operations Executive, and Supervisor.

Second, village-owned enterprises have clear objectives. The Village Conference sets the goals for establishing these entities. During this process, village communities come together to agree on specific goals and methods for establishing and managing village-owned enterprises.

Third, a crucial characteristic of village-owned enterprises with legal entity status is that their assets are distinct from the personal assets of their founders and members. A village-owned business that meets these requirements ensures that the institution's resources and wealth are not commingled with the personal assets of individuals or groups. This separation provides a solid legal foundation for village-owned enterprises to operate independently and manage their investments responsibly.

Furthermore, village-owned enterprises that fulfill these three requirements have a strong legal basis for conducting economic activities and advancing the welfare of village communities through systematic efforts.

Public and private legal entities represent two different types of legal entities. Public legal entities, including state agencies, are established by the government to address state or societal

needs and are regulated by legislation. Private legal entities, also known as civil legal entities, are created for the benefit of individuals (Anisa, 2023).

BUMDes are owned and managed by the village government or community groups within the village, indicating that BUMDes are not owned by individuals or private parties. Instead, BUMDes are collectively considered public assets owned by the village community. This classification makes BUMDes a public legal entity. As such, BUMDes aims to enhance the economic welfare of the village community and optimize local potential. BUMDes is responsible for serving the public interest and advancing the welfare of village communities, with the hope that it will provide economic, social, and environmental benefits. BUMDes enjoys the same legal protection as other public legal entities, including the rights and obligations of entering into contracts or collaborations with third parties and owning assets.

The process for registering Village-Owned Enterprises (BUMDes) through the village information system is outlined in Government Regulation Number 11 of 2021 and the Regulation of the Minister of Villages, Development of Disadvantaged Regions, and Transmigration Number 3 of 2021. Registration of a village BUM requires changes to Village Regulations and the budget. Additionally, Minutes of Deliberation supporting the formation or operation of BUMDes are needed. Village governments can apply for registration through the village information system to the relevant minister. This regulation helps village governments register BUMDes and defines the requirements necessary to ensure the survival and effectiveness of BUMDes in managing economic activities at the village level.

The Village-Owned Business Section is formed by the village with an agreement to manage economic and social activities within its area. As a legal entity, this Village-Owned Enterprise is accountable for its legal actions before the law and holds the same rights as other

business entities. Legal entity theory ensures that Village-Owned Enterprises can operate effectively, be protected by law, and provide fair and sustainable economic and social benefits to the community.

The research results indicate that the Village-Owned Enterprise (BUMDes) program includes four distinct business units, each tailored to the village's potential. These units are tourism, Village Drinking Water Management (PAMDes), waste management, and Internet service. Each unit is designed to address local needs and enhance the welfare of the village community. The primary goal of this initiative is to create economic opportunities and provide beneficial services to village residents while maximizing the use of available resources. Through these various business units, BUMDes aims to positively impact the village economy and community as a whole.

One of the initial business programs of Village-Owned Enterprises is the tourism business unit. This unit operates in the tourism sector, encompassing tourism management systems, business tourism, tour packages, digital marketing or promotions, and other collaborations with third parties. The Village-Owned Tourism Business Unit began in 2017, initially managed by a Community Self-Help Group. It collaborates with BUMDes to provide economic and social benefits to the village by creating jobs and increasing income for the community (Ayuningtyas & Wibawani, 2022).

BUMDes also implements a second business program: the Village PAM Business Unit, which focuses on managing village drinking water. This unit, known as PAM Desa, improves services and access to drinking water, contributing to the village's original income. It provides clean water for residents and irrigation for rice fields, addressing previous reliance on river water contaminated by livestock manure. The PAM Village business unit sources water from a spring at the foot of Mount Ciremai, benefiting the village residents by ensuring access to clean water.

The third business program of BUMDes is a waste management unit. This unit aims to process waste and provide benefits to the village community by utilizing both organic and inorganic waste to produce useful products such as fertilizers. The program also includes waste control, involving community participation in waste collection from households and collaboration with third parties, such as restaurants and tourist attractions. This initiative not only cleans the environment but also generates income through waste management fees, engaging the village community in its operations.

The fourth business program managed by BUMDes is the Internet business unit. Developed in collaboration with third parties, this unit aims to address the demand for internet services in and outside the village. By leveraging information and communication technology, BUMDes seeks to increase connectivity and access to information. This initiative aims to transform the village into a digital village, bridging the digital divide, expanding access to information, and encouraging community participation in internet technology to enhance the village's prosperity.

In addition to the aforementioned business units, BUMDes is also involved in supporting village MSMEs (Micro, Small, and Medium Enterprises). BUMDes works to create and assist village MSME groups, enhancing their business capacity and capabilities. By providing training, guidance, and collaboration opportunities, BUMDes helps MSMEs expand their businesses and contribute to the overall village economy. This support includes bridging e-commerce and village MSMEs by offering guidance, outreach, and training to market MSME products.

In Village-Owned Enterprises (BUMDes), business unit programs play a crucial role in improving the welfare of village communities. The village government oversees BUMDes, which manages and optimizes economic potential at the village level. By implementing various business unit programs, BUMDes can

create job opportunities that contribute to local economic stability. These employment opportunities enable village residents to earn sufficient wages to meet their basic needs, thereby gradually increasing their income and fostering sustainable local economic growth. Consequently, these programs support both the village's economic development and the improvement of the community's quality of life and overall welfare.

The Village-Owned Enterprise program aligns with the principles and objectives of a welfare state. The primary principle of a welfare state is to ensure fair and equitable access to essential services, aiming to achieve an equal level of welfare for all citizens. This is accomplished through economic empowerment, which helps reduce social and economic inequalities within village communities. The program provides social and financial services and involves the public in decision-making processes, thereby supporting the principles of equitable welfare and community involvement.

CONCLUSION

Village governments can register Village-Owned Enterprises (BUMDes) through the village information system, in accordance with Government Regulation Number 11 of 2021 and the Regulation of the Minister of Villages, Development of Disadvantaged Regions, and Transmigration Number 3 of 2021. To complete this process, they must meet several requirements, including submitting minutes of village meetings, updating village regulations, providing primary statutes and bylaws, and outlining detailed work programs. Upon successful registration, BUMDes receive a registration certificate. As a legally recognized entity, a Village-Owned Enterprise operates with legal status, which ensures legal certainty in conducting its business activities and contributes to the local economic growth of village communities. Village-Owned Enterprises, therefore, have the authority to operate legally and receive legal protection for their business

activities. By implementing business programs through an integrated and sustainable approach, Village-Owned Enterprises can significantly enhance the living conditions and welfare of

village communities. These programs can provide social services, create employment opportunities, promote local economic development, and empower the community.

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