

The Establishment Village Regulation of Problematic in West Sulawesi Province Reviewed from a Sociology of Law Perspective

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Abstract

The establishment of village regulations in West Sulawesi Province creates problems, especially in sociology of law perspective because it is closely related to the lives of village communities which were regulated in a village regulations between: 1) The lack of knowledge of village government officials in the establishment of village regulations. 2) The village regulations drafts were not socialized by village government officials regarding asking for input from the communities until it was passed into a village regulation. 3) The village regulations cannot be implemented. The problems formulation includes: 1) How is the relationship between the establishment legislation of principles with the establishment of village regulations in sociology of law perspective? 2) How is forms of problems arise in the establishment of village regulations in West Sulawesi Province were reviewed from a sociology of law perspective? The type of research was sociolegal research. The results show that's: 1) The relationship between the establishment legislation of principles with the establishment of village regulations in sociology of law perspective can be seen in efforts to uphold internal sociological values of establishment legislation of principles. 2) Forms of problems arise in the establishment of village regulations on West Sulawesi Province were viewed from a sociology of law perspective between: a) The type, hierarchy and content of village regulations were not appropriate. b) Cannot be implemented. c) The formulation was not clear. d) Don't open.

Keywords: Establishment of Village Regulations of Problematic; Sociology of Law Perspective



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INTRODUCTION

The village as a legal community entity (unit) has the authority to regulate and manage the interests of its own community. This means that the legal community unit has autonomy. It's just that village autonomy is not formal autonomy like that of province, city, and district governments, but autonomy based on origins and customs. (Timotius 2018)

One of the most basic and important things in the administration of village governments affairs and for the lives of village communities is the establishing of village regulations, because one of the tasks of village government is the making of village legislative regulations, one type of which is village regulations. (Ashshiddiqi et al. 2023)

The establishment of village regulations is formed by two formal institutions in the village, namely the Village Head and the Village Consultative Body (BPD), where the establishment mechanism, namely a draft village regulation (Ranperdes) was discussed between the village head and the BPD to obtain joint approval to become a village regulation

after that. Village regulations are determined (ratified) by the village head as regulated in Law Number 6 of 2014 concerning Villages.

Many studies have been conducted by previous researchers regarding village regulations, including Agustin and Muh. Sabaruddin Sinapoy in research entitled “The Legal Position of Village Regulations in the Legislative Regulation System”, Rooslia Sukma et al in research entitled “Effectiveness of the Duties of the Subdistrict Head in Facilitating the Preparation of Village Regulations and Village Head Regulations”. Kaharudin et al in their research entitled “Assistance in the Establishment of Village Regulations in Gelangsar Village, Lingsar District, West Lombok Regency”, however, they studied more about the establishment of village regulations from a legal positivism perspective with a statutory regulation approach that did not look at other perspectives such as political, sociological, culture and so on factors in its establishment. Therefore, the author conducted research entitled “Establishment of Village Regulations of Problematic in West Sulawesi Province from a Sociology of Law Perspective” in which there is novelty value in it, namely showing the social (sociological) factors in West Sulawesi Province which are still strong and strong in influencing the process establishment of village regulations.

The establishment of village regulations in West Sulawesi Province creates problems, especially from a sociology of law perspective because it is closely related to the livelihood of village communities which are regulated in a village regulation. This problem between: 1) The lack of knowledge of village government officials in the establishment of village regulations so that the quality of the village regulations produced causes disappointment for the community even though they view village officials as smart and intelligent in administering village government. 2) The village regulation drafts were not socialized by village government officials regarding asking for input from the communities until it was passed into a village regulation. 3) The village regulations cannot be implemented because it is not in accordance with current developments and is not transparent without community participation in its establishment, giving rise to non-compliance with village regulations. As a result, the community sense of trust decreases in the performance of village officials because they are considered unable to protect the community, especially about the establishment of village regulations.

Based on the background of the problem above, the problems that will be answered in this article includes: 1) How is the relationship between the establishment legislation of principles with the establishment of village regulations in sociology of law perspective? 2) How are forms of problems arise in the establishment of village regulations on West Sulawesi Province reviewed from a sociology of law perspective?

RESEARCH METHODS

The type of research was sociolegal research. (Benuf, Mahmudah, and Priyono 2019) The approach method used is: 1) Legislations (statute approach) by reviewing legislations relating to the establishing of village regulations in West Sulawesi Province. 2) Sociology of law by observing and analyzing the emergence of problematic village regulations in West Sulawesi Province, which gives rise to responsiveness and critical attitudes from community who were not involved in the establishment of village regulations, resulting in undemocratic village regulations.

The research objects include: Lembang-Lembang Village, Tangan Baru Village, and Sepabatu Village in Polewali Mandar Regency, Simbang Village and Betteng Village in Majene Regency, and Buntu Buda Village in Mamasa Regency in West Sulawesi Province. Materials of law consist of primary and secondary materials of law. The data analysis technique used qualitative descriptive methods.

RESULTS AND DISCUSSION

Based on the research data that has been obtained, the author took several samples of village regulations which were analyzed and assessed as causing problems in the establishment process includes: Simbang Village Regulation Number 1 of 2012 concerning Sources of Village Income and Wealth, Sepabatu Village Regulation Number 01 Tahun 2014 concerning the Sepabatu Village Revenue and Expenditure Budget for the 2014 Fiscal Years *junto* Sepabatu Village Regulation Number 01 Tahun 2014 concerning Upper Change the Sepabatu Village Revenue and Expenditure Budget for the 2014 Fiscal Years, Lembang-Lembang Village Regulation Number 06 Tahun 2015 concerning the Lembang-Lembang Village Revenue and Expenditure Budget for the 2016 Fiscal Years, Tangan Baru Village Regulation Number 01 of 2018 concerning the Prohibition of Defecation Indiscriminately, Betteng Village Regulation Number 2 of 2021 concerning the Betteng Village Revenue and Expenditure Budget for the 2021 Fiscal Years, Betteng Village Regulation Number 2 of 2022 concerning the Betteng Village Revenue and Expenditure Budget for the 2022 Fiscal Years, and Buntu Buda Village Regulation Number 01 of 2022 concerning the Buntu Buda Village Revenue and Expenditure Budget for the 2022 Fiscal Years.

Relationship between the Establishment Legislation of Principles with the Establishment of Village Regulations in Sociology of Law Perspective

According to Karl Larenz, that law of principles are ethical law measures that provide direction to the establishing of law. Based on Karl Larenz's opinion regarding law of principles, of course law of principles are a guideline in the establishing of law. The law in question is positive law (*ius constitutum*) where one of the positive law is legislations. (Julyano and Sulistyawan 2019)

According to A. Hamid S. Attamimi, the principles of establishing good legislative regulations are law of principles that provide guidelines and guidance for pouring the contents of regulations into appropriate forms and structures, using appropriate methods, and following the processes and procedures for establishing which has been specified. He further stated that in the context of the establishment of legislations in Indonesia, the principles of establishing good laws are as follows: the principles of Indonesian law ideals, the principles of a state based on law, the principles of government based on a constitutional system, and other principles. (Widayati 2020)

According to the author, from the perspective of legislative science, the realization of good legislation cannot be separated from the principles of establishing the legislation itself. Legislation is formed through a law-forming policy where the policy requires a guideline, basis, or foundation in the establishment of legislations process known as the establishment legislation of principles. It is hoped that these principles will be able to produce good legislation and

become a solution to every law problem that occurs in the life of society, nation, and state for the sake of realizing justice.

A regulation can be said to be good if it can accommodate the interests of various existing elements according to the needs of the community it regulates, in accordance with applicable legislations, both the structure and the mechanism for its establishment, so that the regulations can be accepted and can be implemented in community life well. Village Regulations are one of the rules that will be used in administering village government so that these Village Regulations must comply with the rules for establishing good and correct regulations in accordance with applicable regulations. (Kaharuddin, Sofwan, and Jayadi 2020)

Village Regulations are the key to village development, only with good Village Regulations can human rights, state rights and obligations as well as the division of state power and state territory/regional divisions, as well as citizenship and population and state finances be presented as a form of the presence of the state in rural communities. A good village regulation is a village regulation that is obeyed and becomes a living law for the village community. So that social order can be realized which ultimately improves rural development. (Rahmi, Hartarti, and Fitria 2023)

The relationship between the establishment legislation of principles and the establishment of village regulations from a sociology of law perspective can be seen in the aspect of village community participation in the stages of their establishment. This participation shows that there is community involvement in the process of establishment village regulations in the context of realizing democratic village governance.

According to language, the word “participation” means taking part, joining, or taking part. When related to state administration, participation can be interpreted as a form of community participation in various forms of state administration activities. The process of making policies, implementing policies, and evaluating the implementation of a policy are several forms of community participation. The existence of community participation will be largely determined by whether the community is involved in a country’s government activities, especially in the legislative realm. (Mar’ah, Malinda, and Pramesta 2022)

Community participation is an important thing in the establishment of legislation because legislation based on community participation is expected to have long-term validity and effective use so that it can solve problems that occur in society. In a democratic system, the most important thing is how to ensure the widest possible open participation space for every level of society. However, this guarantee is also accompanied by various continuous efforts to encourage the growth of public awareness to be involved in the government administration process. The participation of village communities in channeling their aspirations in the establishment of village regulations requires the existence of democratic political relations in village governance which are supported by the village head, the Village Consultative Body, and the village community in a village deliberation. The village deliberation held are used as a medium to discuss and agree on strategic matters. Village law products are formulated democratically to create peaceful management of village resources to realize social justice. The Village Government together with the BPD are obliged to formulate village regulations based on village strategic decisions that have been determined at the village deliberation. (Rosidin 2019)

Village community participation in the establishment of village regulations in West Sulawesi Province is juridically confirmed in Law Number 12 of 2011 concerning the Establishment of Legislation which can be seen in the table below:

Table 1. Relationship between the Establishment Legislation of Principles with the Establishing of Village Regulations

Number	The Establishment Legislation of Principles	Relationship between the Establishment Legislation of Principles with the Establishment of Village Regulations
1.	Clear Goals	The establishment of village regulations has a clear objective, namely, to regulate the administration of village government and society.
2.	Authorized Official	Village regulations are formed and discussed jointly by officials elected by the community in the Village Head Election, namely the Village Head and the Village Consultative Body (BPD).
3.	Type, Hierarchy (Sequence Order) and Appropriate Content	The type and content of village regulations must not conflict with higher legislations (lex superior derogat lex inferior).
4.	Held	Village regulations that have been promulgated in the Village Gazette must be implemented and enforced.
5.	Useful	Village regulations are very necessary and useful for the community.
6.	Clear Formulation	The establishment of village regulations, like other legislation, goes through systematic stages including: planning, drafting, discussing, determining, ratifying, promulgating, and disseminating information. Apart from that, the language in village regulations is easy to understand and does not have multiple interpretations.
7.	Openness	The stages in establishment village regulations include planning, drafting, discussing, determining, ratifying, promulgating, and disseminating transparent (open) information so that the community can provide input regarding the substance of village regulations.

Sumber: Law Number 12 of 2011 concerning The Establishment of Legislation.

Based on table 1 above, the establishment of village regulations in West Sulawesi Province from a sociology of law perspective can be seen in efforts to enforce sociological values in the establishment legislation of principles, including: 1) The purpose of forming village regulations is clear to the community. 2) Officials who have the authority to form village regulations so that the community can give ideas. 3) There is certainty for the community that village regulations do not conflict with higher legislation. 4) The community wants village regulations to be consistently implemented and enforced so that violations do not occur. 5) Village regulations can be useful for the community to achieve justice. 6) The substance or content of village regulations is clear and does not give rise to multiple interpretations. 7) The community wants the establishment village regulations of process to be transparent (open) to create responsive and aspirational village regulations.

Problems Arise in the Establishment of Village Regulations on West Sulawesi Province were Reviewed from a Sociology of Law Perspective

Tabel 2. Problems Arise in the Establishment of Village Regulations on West Sulawesi Province were Viewed from a Sociology of Law Perspective

Number	The Village Regulations of Types	Problems Arise
1.	Simbang Village Regulation Number 1 of 2012 concerning Sources of Village Income and Wealth	1. The Type, Hierarchy and Material Content are not Appropriate. 2. It Cannot be Implemented
2.	Sepabatu Village Regulation Number 01 Tahun 2014 concerning the Sepabatu Village Revenue and Expenditure Budget for the 2014 Fiscal Years <i>junto</i> Sepabatu Village Regulation Number 01 Tahun 2014 concerning Upper Change the Sepabatu Village Revenue and Expenditure Budget for the 2014 Fiscal Years	1. The Type, Hierarchy and Material Content are not Appropriate. 2. Not Open
3.	Lembang-Lembang Village Regulation Number 06 Tahun 2015 concerning the Lembang-Lembang Village Revenue and Expenditure Budget for the 2016 Fiscal Years	1. Unclear Formulations 2. Not Open
4.	Tangan Baru Village Regulation Number 01 of 2018 concerning the Prohibition of Defecation Indiscriminately	1. The Type, Hierarchy and Material Content are not Appropriate. 2. Not Open 3. Unclear Formulations

5.	Betteng Village Regulation Number 2 of 2021 concerning the Betteng Village Revenue and Expenditure Budget for the 2021 Fiscal Years	1. The Type, Hierarchy and Material Content are not Appropriate. 2. Unclear Formulations 3. Not Open
6.	Betteng Village Regulation Number 2 of 2022 concerning the Betteng Village Revenue and Expenditure Budget for the 2022 Fiscal Years	1. The Type, Hierarchy and Material Content are not Appropriate. 2. Unclear Formulations 3. Not Open
7.	Buntu Buda Village Regulation Number 01 of 2022 concerning the Buntu Buda Village Revenue and Expenditure Budget for the 2022 Fiscal Years	1. Unclear Formulations 2. Not Open

Sumber: Inventarisasi Peraturan Desa Bermasalah Provinsi Sulawesi Barat.

The problems that arise in the establishment of village regulations in West Sulawesi Province reviewed from a sociology of law perspective are caused by sociological values in the establishment legislation of principles. The village regulations that cause problems in their establishment reviewed from a sociology of law perspective can be explained as follows:

Simbang Village Regulation Number 1 of 2012 concerning Sources of Village Income and Wealth

Problems that arise include: 1) The type, hierarchy and material content are not appropriate, where village regulations are not in accordance with current developments because until now village government officials and the BPD have not formed new village regulations to regulate the sources of village income and wealth has the potential to develop over time. 2) It cannot be implemented where these village regulations cannot be implemented because it is not appropriate with current developments, especially regarding the development of village income and wealth sources from time to time.

Sepabatu Village Regulation Number 01 Tahun 2014 concerning the Sepabatu Village Revenue and Expenditure Budget for the 2014 Fiscal Years *junto* Sepabatu Village Regulation Number 01 Tahun 2014 concerning Upper Change the Sepabatu Village Revenue and Expenditure Budget for the 2014 Fiscal Years

Problems that arise include: 1) Type, hierarchy and material content are not appropriate with the similarity in numbers between the previous village regulations and the changing village regulations, there should be different numbers in the two village regulations, which ultimately causes confusion in the community. 2) Not open, where the stages of establishment village regulations including planning, drafting, discussing, determining, ratifying, promulgating, and disseminating information that are not transparent (open) so that the community is not given the opportunity to give idea related to its establishment. The lack of transparency in the establishment of village regulations has resulted in the community's sense of trust decreasing in the performance of village government officials and the BPD because they are considered

unable to protect the community, especially those related to village financial management as regulated in this village regulations.

Lembang-Lembang Village Regulation Number 06 Tahun 2015 concerning the Lembang-Lembang Village Revenue and Expenditure Budget for the 2016 Fiscal Years

The problems that arise include: 1) Unclear formulations where the planning stage creates problems because village government officials and the BPD do not carry out outreach in the form of asking for idea from the community regarding the village's financial situation which is outlined in the village regulations before it is passed into village regulations. Apart from that, the information dissemination stage creates problems because when village government officials inform the community that new village regulations have been born, confusion arises among the community because since the planning stage, village government officials and the BPD have not carried out socialization in the form of asking for idea from the community until they are passed into village regulations. 2) Not open, where the stages of establishment village regulations including planning, drafting, discussing, determining, ratifying, promulgating, and disseminating information that are not transparent (open) so that the community is not given the opportunity to provide input regarding their establishment. The lack of transparency in the establishment of village regulations has resulted in the community's sense of trust decreasing in the performance of village government officials and the BPD because they are considered unable to protect the community, especially about village financial management as regulated in this village regulations.

Tangan Baru Village Regulation Number 01 of 2018 concerning the Prohibition of Defecation Indiscriminately

The problems that arise includes: 1) The type, hierarchy and material content are not appropriate, where this village regulation is not appropriate because it still uses Law Number 32 of 2004 concerning the Regional Government even though it has been amended by Law Number 23 of 2014 concerning the Regional Government. 2) It cannot be implemented where these village regulations have not been implemented consistently where residents are still found defecating in the river because the availability of bathrooms/toilets in their homes is still limited. 3) The establishment is unclear where the planning stage causes problems because the village government officials and BPD do not carry out socialization in the form of asking for input from the community regarding the draft village regulations (ranperdes) before they are passed into village regulations, the drafting stage causes problems because of the low knowledge of village government officials and the BPD. In compiling the draft village regulations, after analysis it was found that the placement of two articles was not systematic, the information dissemination stage caused problems because when village government officials informed the community that new village regulations had been born, confusion arose among the community because they did not know about the village regulations, while on the other hand they still many community members have not received assistance from bathroom/toilet facilities village government officials.

Betteng Village Regulation Number 2 of 2021 concerning the Betteng Village Revenue and Expenditure Budget for the 2021 Fiscal Years

The problems that arise include: 1) The type, hierarchy and material content are not appropriate, where the knowledge of village government officials and the BPD is low, so that in preparing this draft village regulations, it includes a Regent's Regulations whose number and year are not clear, ultimately causing confusion in the community. 2) The establishment is unclear where the planning stage creates problems because village government officials and the BPD do not carry out outreach in the form of asking for input from the community regarding the village's financial situation which is outlined in the village regulations before it is ratified as a village regulation. Apart from that, the information dissemination stage creates problems because when village government officials inform the community that new village regulations have been born, confusion arises among the community because since the planning stage, village government officials and the BPD have not carried out socialization in the form of asking for input from the community until they are passed into village regulations. 3) Not open, where the stages of establishment village regulations including planning, drafting, discussing, determining, ratifying, promulgating, and disseminating information that are not transparent (open) so that the community is not given the opportunity to provide input regarding their formation. The lack of transparency in the formation of village regulations has resulted in the community's sense of trust decreasing in the performance of village government officials and the BPD because they are considered unable to protect the community, especially about village financial management as regulated in this village regulations.

Betteng Village Regulation Number 2 of 2022 concerning the Betteng Village Revenue and Expenditure Budget for the 2022 Fiscal Years

The problems that arise include: 1) The type, hierarchy and material content are not appropriate, where the knowledge of village government officials and the BPD is low, so that in preparing this draft village regulations, it includes a Regent's Regulations whose number and year are not clear, ultimately causing confusion in the community. 2) The establishment is unclear where the planning stage creates problems because village government officials and the BPD do not carry out outreach in the form of asking for input from the community regarding the village's financial situation which is outlined in the village regulations before it is ratified as a village regulation. Apart from that, the information dissemination stage creates problems because when village government officials inform the community that new village regulations have been born, confusion arises among the community because since the planning stage, village government officials and the BPD have not carried out socialization in the form of asking for input from the community until they are passed into village regulations. 3) Not open, where the stages of establishment village regulations including planning, drafting, discussing, determining, ratifying, promulgating, and disseminating information that are not transparent (open) so that the community is not given the opportunity to provide input regarding their formation. The lack of transparency in the formation of village regulations has resulted in the community's sense of trust decreasing in the performance of village government officials and the BPD because they are considered unable to protect the community, especially regarding village financial management as regulated in this village regulations.

Buntu Buda Village Regulation Number 01 of 2022 concerning the Buntu Buda Village Revenue and Expenditure Budget for the 2022 Fiscal Years

Problems that arise include: 1) Unclear formulations where the planning stage creates problems because village government officials and the BPD do not carry out outreach in the form of asking for input from the community regarding the village's financial situation which is outlined in the village regulations before it is passed into village regulations. In addition, the stage of information dissemination raises the problem is because when village government officials inform the community that a new village regulation has been born, confusion arises among the community because since the planning stage, village government officials and the BPD have not carried out socialization in the form of asking for input from the community until it is passed into a village regulation. 2) Not open, where the stages of establishment village regulations including planning, drafting, discussing, determining, ratifying, promulgating, and disseminating information that are not transparent (open) so that the community is not given the opportunity to provide input regarding their formation. The lack of transparency in the formation of village regulations has resulted in the community's sense of trust decreasing in the performance of village government officials and the BPD because they are considered unable to protect the community, especially about village financial management as regulated in this village regulations.

CONCLUSION

Based on the descriptions that have been explained, several things can be concluded, includes: 1) The relationship between the establishment legislation of principles with the establishment of village regulations in sociology of law perspective can be seen in efforts to enforce sociological values in the principles of establishment legislations such as: the purpose of establishment village regulations is clear to the community, officials who have the authority to form village regulations so that the community can provide input, there is certainty for the community so that village regulations do not conflict with the law a higher level of invitation, the community wants village regulations to be consistently implemented and enforced so that no violations occur, village regulations can be useful and useful for the community in order to achieve justice, the substance or content of village regulations is clear and does not give rise to multiple interpretations, and the community wants the process to The stages of establishment village regulations are transparent (open) in order to create responsive and aspirational village regulations. 2) Forms of problems arise in the establishment of village regulations on West Sulawesi Province were reviewed from a sociology of law perspective between: a) The type, hierarchy and content of village regulations are not appropriate, giving rise to community criticism. b) cannot be implemented, so that community unrest. c) the establishment is unclear, causing public confusion. d) not open so that community have apathy and non-compliance with the law.

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