

The Implementation of Regulation Number 1 in 2015 Concerning the Establishment of Village and Customary

by Mexsasai Indra

Submission date: 22-May-2023 02:51PM (UTC+0700)

Submission ID: 2099041759

File name: RAMLAS_2019.pdf (236.98K)

Word count: 2347

Character count: 12813

The Implementation of Regulation Number 1 in 2015 Concerning the Establishment of Village and Customary

Mexasai Indra*
Universitas Riau
Pekanbaru, Indonesia
*mexasai.indra@lecturer.unri.ac.id

Abstract—In the context of regional recognition of the existence of adat villages as a mandate from the provisions of Article 101 of Law No. 6 of 2014 on the Village, what is done by the Government of Rokan Hulu Regency is something that should be appreciated, but the problem is how far the implementation of the Rokan Hulu District Government Bylaw No. 1 of 2015, the Implementation of Rokan Hulu District Regulation No. 1 of 2015 on the Determination of Indigenous Villages and Villages has not been implemented properly. Starting from the background above, the main problem in this study can be formulated. How is the Implementation of Rokan Hulu District Regulation No. 1 of 2015 concerning the Establishment of Villages and Customary Villages? To collect data, researchers conducted a library study (library research) and a field study (field research). Literature studies are carried out in several libraries to collect secondary data in the form of primary law such as laws, secondary legal materials such as law books and tertiary legal materials such as legal journals and magazines, all of which function as first-line information. In the field study, researchers distributed questionnaires to 89 (eighty-nine) traditional villages in Rokan Hulu Regency. Problems encountered in implementing Rokan Hulu District Regulation No. 1 of 2015 on the Determination of Indigenous Villages and Villages is caused by Regulatory Factors, Institutional Factors and Cultural Factors of Community Law. The concept to overcome the problems in implementing Rokan Hulu District Regulation No. 1 of 2015 on the Determination of Adat Villages and Villages need a legal umbrella in the form of a Provincial Regulation, re-inventory of customary village which has been established, need strong political will from all government and Riau Provincial Government it is necessary to coordinate with regencies /municipalities in drafting local regulations on indigenous village institutional guidelines.

Keywords: *implementation, local regulation, establishment of village, customary village*

I. INTRODUCTION

In the provisions of Chapter VI Article 18 of the 1945 Constitution which is amended to become provisions of Article 18, 18A, and 18B. Based on these three articles, the regional government in Indonesia consists of three forms:

- Ordinary Local Government (Article 18).
- Special Regional Government (Article 18B paragraph 1).
- Customary law community unit (Article 18B paragraph 2).

Ordinary regional government, in carrying out government administration usually uses the principle of autonomy and assistance tasks (Article 18 paragraph 2). As for the special or special local government and customary law community unit, they use respect and recognition, recognition (Article 18B paragraph 1 and paragraph 2). The language used in the provisions of Article 18 B paragraph 2 is "The state recognizes and respects the customary law community units as well as their traditional rights". This regulation implies that the state must recognize the customary law community units, which include villages, nagari, mukim, huta, sosor, kampung, clan, nagari, parangiu, pakraman, lembang and so on.

The development of government legal politics related to the state's recognition of village entities, there has been a misconception in its development since the enactment of Law Number 5 of 1979 concerning Villages, Law Number 22 of 1999 concerning Regional Government, Law Number 32 of 2004 concerning Government Regions, which cause entities to be conceptualized through the concept of legal unification, whereas according to Article 18B paragraph 2 of the 1945 Constitution above, the conception of villages should be carried out through a legal pluralism approach [1].

In the provision of Article 101 of Law Number 6 Year 2014 concerning Villages it is emphasized: First, the Government, Provincial Governments, and Regency / Municipal Governments can arrange the Customary Villages. Second, the Structuring of Customary Villages as referred to in paragraph (1) shall be stipulated in a Regional Regulation. Third, the Regional Regulation referred to in paragraph (2) shall be accompanied by an attached map of the boundary. Based on the provisions of Article 101 of Law Number 6 Year 2014 concerning the Village, the Government of Rokan Hulu Regency has enacted Regional Regulation Number 1 of 2015 concerning the Establishment of Indigenous Villages and

1 Villages, in the provision of Article 3 of the Regional Regulation of the Rokan Hulu Regency Number 1 Year 2015 Regarding Village Designation and Desa Adat, 89 (eighty-nine) adat villages have been established in Rokan Hulu Regency. In the context of regional recognition of the existence of a customary village as mandated by the provisions of Article 101 of Law Number 6 of 2014 concerning the Village, what was done by the Government of Rokan Hulu Regency is something that should be appreciated, but the problem is the extent of the implementation of the recognition of the Rokan Hulu Regency Government based on Regional Regulation Number 1 Year 2015, actually implemented in the field, it is interesting to study further and in-depth in the form of a study with the title: "Implementation of Rokan Hulu District Regulation Number 1 Year 2015 Concerning on the Establishment of Villages and Customary Villages" [2].

Starting from the background above, the main problem in this study can be formulated. How is the Implementation of Rokan Hulu District Regulation No. 1 of 2015 concerning the Establishment of Villages and Customary Villages?

II. METHODS

This research was carried out in Rokan Hulu Regency, from 89 (eighty-nine villages) several villages would be taken as samples. Determination of the sample Population is a group of objects to be studied or the whole party related to the problem under study in this study. The population in this study were 89 (eighty-nine) traditional villages in Rokan Hulu Regency, then the sample is part of the population that will be used as the object of research. From this sample primary data will be obtained later. In determining the sample, the research team used a purposive method, which was to establish a number of samples that represented the existing population, whose sample category was determined by the research team themselves. The categories in question are the respondents who deal with and relate to traditional villages, as the sample in this study are:

- Customary figures in traditional villages.
- Chairperson of Rokan Hulu Regency DPRD.
- The Regent of Rokan Hulu represented by the Legal and Administrative Affairs Section.
- Chairperson of the Riau Malay Customary Institution.

To collect data, researchers conducted a library study (library research) and a field study (field research). Literature studies are carried out in several libraries to collect secondary data in the form of primary law such as laws, secondary legal materials such as law books and tertiary legal materials such as legal journals and magazines, all of which function as first-line information. In the field study, researchers distributed questionnaires to 89 (eighty-nine) traditional villages in Rokan Hulu Regency.

III. RESULTS AND DISCUSSION

Based on the provisions of Article 6 of Law Number 6 of 2014 concerning Villages, it was stated that "Villages consist of villages and adat villages". Then in the provisions of Article

96, it is stated that "the Government, the Provincial Government of the Province, and the Government of the Regency / City Region carry out the administration of customary community law and are determined to be Customary Villages". Law Number 6 of 2014 concerning Villages mandates that the "Arrangement of the Villages as referred to in paragraph (1) be stipulated in the Regional Regulations". The Government of Rokan Hulu Regency has enacted Regional Regulation No. 1 of 2015 concerning the Establishment of Villages and Customary Villages. In the perspective of sociological thinking, the existence of Regional Regulation No. 1 of 2015 concerning the Establishment of Villages and Customary Villages should be questioned to what extent the implementation of this Perda, after being promulgated in the regional gazette. Therefore, the following will be discussed, related to law enforcement theory.

In the provision of Article 109 of Law Number 6 year 2014 concerning the Village stating "Institutional arrangement, filling positions, and tenure of the Head of Customary Villages based on customary law are stipulated in Provincial regulations". The provisions of Article 109 of Law Number 6 of 2014 concerning Design according to the Head of Legal Affairs and Subdivision of Legislation Regulations on Rokan Hulu Regency Secretariat. Becoming an obstacle in implementing Rokan Hulu District Regulation No. 1 2015. So that the existence of Regional Regulation No. 1 Year 2015 concerning the Determination of Villages and Customary Villages according to those concerned is only limited to the determination made by the Rokan Hulu Regency Government on the existence of adat villages, but has not been realized in field.

Then according to him, it is also necessary to make an inventory of the heterogeneity and homogeneity of several villages that have been stipulated in Regional Regulation No. 1 of 2015 concerning Determination of Villages and Customary Villages, based on the provisions of Article 3 of Regional Regulation No. 1 of 2015 concerning Determination of Villages and Customary Villages, 89 (eighty-nine) customary villages.

According to the Head of Law and Head of Regulations of the Rokan Hulu Regency Secretariat of 89 Customary Villages as stipulated in the provisions of Article 3 of Regional Regulation No. 1 of 2015 concerning the Establishment of Customary Villages and Villages. Not all of them are seen from the factor of the legal culture of the community which is homogeneous so that these situations and conditions, in his opinion, will be an obstacle in implementing Regional Regulation No. 1 of 2015 concerning the Establishment of Villages and Customary Villages. When compared with the existence of traditional villages in Bali for example. In the Province of Bali known as the concept of "expert village" instead of the term "customary village" this has been recognized through the Provincial Regulation of Bali No. 3/2001 on Desa Pakraman which was passed on March 21, 2001 and promulgated on May 8, 2001 replacing the Provincial Regulation Bali No. 06 of 1986 sourced from the philosophy of Tri Hita Karana which contains a balance of relations between the Creator, humans, and nature.

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Indeed, when compared to the concept of Desa Pakraman in Bali, its existence is more clearly seen in the governance structure in Indonesia, this is because in Bali seen from the socio-cultural approach the composition of the population is more homogeneous. When compared to Rokan Hulu Regency, it turns out that of the 89 villages that have been stipulated in Regional Regulation No. 1 of 2015 concerning the Establishment of Customary Villages and Villages, as a customary village, it turns out that based on interviews with the Head of Law and Subdivision of the Regional Secretariat of the Government of Rokan Regency Upstream, it turns out that socio-culturally the composition of the population is not homogeneous as for example some villages in Ujung Batu District, which in terms of population composition have occurred cultural acculturation especially "migrants" who come from West Sumatra. Likewise, with villages that have been "contaminated" by ex-transmigration villages.

Based on the results of interviews with the Head of the Community Empowerment Agency of the Rokan Hulu District Government in 2015. One of the problems in implementing Local Regulation No. 1 of 2015 concerning the Establishment of Indigenous Villages and Villages is a change of policy at the central government level. Where at the time Local Regulation No. 1 of 2015 concerning the Determination of Villages and Indigenous Villages was arranged vertically the coordination function was carried out with the Ministry where the Ministry of Home Affairs had its own Directorate which handled village issues, but in its development related to the village it was now under the Ministry of Villages and the development of disadvantaged regions, so that from a policy aspect there is a difference between the Ministry of Home Affairs and the Ministry of Villages.

According to the person concerned indeed, at the time of Regional Regulation No. 1 of 2015 concerning the Determination of Villages and Customary Villages prepared by BPMDES involving LAM Rokan Hulu Regency was also not

based solely on the mandate of Law Number 6 of 2014 concerning Villages mandating the determination of villages adat, but was also motivated by the desire of the Rokan Hulu Regency Government to obtain a budget from the Central Government, whose budget post was posted at the Ministry of Tourism, this also underlies the formation of the Rokan Hulu District Regulation No. 1 of 2015. However, actually in several villages in Rokan Hulu Regency, although Regional Regulation No. 1 of 2015 concerning the Establishment of Customary Villages and Villages was only determined by the Regional Government of Rokan Hulu Regency, but in practice they have implemented their respective customary laws, this is done by the villages in terms of homogeneous population composition.

IV. CONCLUSION

Based on the description and analysis of the problems studied, it can be concluded that the Implementation of Rokan Hulu District Regulation Number 1 Year 2015 Regarding Determination of Villages and Customary Villages has not been implemented as it should. It is recommended to the Riau Provincial Government to immediately issue a Regional Regulation on customary village institutions. It is hoped that a legal umbrella in the form of a Provincial Regulation on Institutional Arrangements, filling positions, and terms of office of the Head of the Customary Village Customs that have been stipulated in Perda No 1 of 2015.

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