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LEGAL POLITICS OF INDONESIAN VILLAGE-OWNED ENTERPRISES

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ABSTRACT

The village is a driving force for a country's development that plays a vital role in providing the needs and sustainability of the country's economy. Villages have the authority to be autonomous and independent of increasing village independence, one of which is to establish a business entity that follows the characteristics of natural resources and the needs of rural communities called Village Owned Enterprises (VOEs). VOEs, economic institutions in the village, have a very strategic function and role in supporting the implementation of village economic sovereignty and democracy in Indonesia as a business entity characterized by a village. However, the legal politics governing VOEs in Indonesia also impact the management of VOEs. This paper wants to examine the legal politics of VOEs regulation in Indonesia. This paper is a normative legal research using a statutory, conceptual, and historical approach, which will be analyzed descriptively. The results showed a paradigm shift in the construction of VOEs, which was initially regulated as a business entity characterized by a village. It was changed in Law Number 11 of 2020 concerning Job Creation, which stipulates that the status of VOEs as business entities is legal. Meanwhile, related to the form of business entity, it is regulated as a legal entity characterized by a village.

KEY WORDS

VOEs, Indonesia, recession, economic law, village.

The development of law in society is certainly influenced by several factors, including the community's legal culture and the need for adaptive law. The essence of law in Indonesia is a means to regulate the rights and obligations of each citizen by prioritizing the values of Pancasila. Sudikno said that law is not an end but a means or a tool to achieve non-judicial goals, and develops due to stimuli from outside the law, thus making the law dynamic. (Mertokusumo 2003)

The dynamics that occur in the law have implications for the order of life in various countries, especially in Indonesia. Law and state goals cannot be separated and complement each other. Each country has a purpose in being a state, and the law is used as a tool or means to regulate and change society. So, when studied from the perspective of legal politics, the philosophical dimensions of law are closely intertwined with changes in civilization in society. For this reason, regulations or legal provisions can be analyzed through legal politics to determine whether they are responsive or conservative.

It has been explained previously that society needs adaptive and responsive laws. As a state of law, Indonesia bases all regulations on the constitution's mandate, namely Pancasila and the 1945 Constitution (from now on referred to as the 1945 Constitution). Philosophically, the state guarantees all citizens to get prosperity and justice. To realize this, national development is needed in various aspects of life and is carried out from the central government to the village government. Bearing in mind, there is a paradigm shift in government regulation which originally adhered to the principle of centralization to decentralization which was carried out to overcome the problems of power arrangement in Indonesia, which ensured the distribution of economic-political power to the regions fairly and equitably.



Referring to the existence of justice in Indonesia, there are still many inequalities in development, distribution of power, and fulfilment of welfare for citizens. The inequality often found tends to be the gap between urban and rural development. Although villages are currently the subject of development and the estuary of strengthening the national economy, there are still some problems in village development in general, such as the integration of major development with villages that have not been well integrated, to the quality of managing Village-Owned Enterprises (VOEs). (Muhammad 2021)

If examined in depth, the village government has experienced very dynamic political developments, especially in the legitimacy of village autonomy. There seems to be a change in the paradigm of the old village regulation. Initially, the village was only an object of development. Still, in Law Number 6 of 2014 concerning Villages (from now on referred to as the Village Law), villages have the authority to regulate their own household needs (needs of rural communities).) based on the principles of recognition and subsidiarity. There is a strong legitimacy to the village, one of which has an impact on strengthening the village economy.

Empowerment is a series of activities to strengthen and or optimize empowerment (in terms of ability and / or competitive advantage) of disadvantaged groups in society, including individuals who experience poverty problems.(Sukmawati, Haizam, and Saudi 2019) Strengthening village institutions and economy is one of the objectives of village regulation in the Village Law. The arrangement of economic institutions in the village is considered very important, considering that the village has natural resources that have the potential to be managed and utilized for the welfare and independence of the village community. For this reason, in the Village Law, one of the norms that form the basis for villages to improve the quality of human resources in the economic field is to establish Village-Owned Enterprises.

Village-Owned Enterprises are one of the business entities at the village level which are expected to be able to strengthen village economic independence. The regulation of Village-Owned Enterprises in the Village Law is the juridical basis for establishing VOEs in Indonesia. However, the management of VOEs experienced obstacles caused by several factors, including (1) human resource factors related to business management and management; (2) the legal status of VOEs that are not regulated in the Village Law; (3) the lack of public knowledge related to VOEs regulations. In addition, in 2014, the number of VOEs formed was 1,022. Then until 2019, it has reached 45,887 VOEs; this number exceeds the target set in the Medium Term Development Plan 2014-2019, around 5000 VOEs. However, from the number of VOEs those have been established, only 36,607 are considered to be actively operating, and as many as 20 percent, or 9,280 VOEs, are not running optimally. (Ade Nurul Aida 2020).

Meanwhile, in 2020 the Government enacted Law No. 11 of 2020 concerning Job Creation which aims to provide convenience in doing business and simplify convoluted regulations in Indonesia. The Job Creation Law carries several legal implications for most of the legislation in Indonesia, one of which is related to the Village Law, which regulates Village-Owned Enterprises. The Job Creation Law regulates and states that VOEs is a business entity with legal entities. As a result of the regulation in the Job Creation Law, VOEs must make some adjustments to accommodate the provisions in the Job Creation Law which are further regulated by the Government Regulation Number 11 of 2021 concerning Village-Owned Enterprises.

Based on the two laws governing VOEs, there appears to be a paradigm shift in the management of the VOE's business. However, it also impacts how the village community interprets, utilizes, and manages VOEs through the values of local wisdom. Suppose the regulation of VOEs in the era of the Job Creation Law cannot be elaborated on the needs and quality of human resources in the village. In that case, it will be possible for business management stagnation and the potential for corruption to arise due to VOEs business management's lack of risk mitigation.

This research is research that serves as a complement to several previous studies, namely: (1) research conducted by Justman Khairul Hadi on the position of Village Owned Enterprises (VOEs) based on Law Number 11 of 2020 concerning Job Creation. The results



show that the birth of the Job Creation Act confirms the status of VOEs as a legal entity, and VOEs fulfills it as a public legal entity. Thus, VOEs has legal personality and capacity, especially in civil law, and debates regarding the status of VOEs after the Act. This Job Creation is considered complete; (HADI 2021) (2) research conducted by Iznan Habib Kashogi et al. on the analysis of the formation of Village-Owned Enterprises before and after the enactment of Law Number 11 of 2020 concerning Job Creation. The results showed that the status of VOEs before the enactment of the Job Creation Act was a business entity in the form of a legal entity because BUM Des had met the characteristics of a legal entity. Then the legal entity status of VOEs was confirmed in the Job Creation Act. (Kashogi, Rajab, and Bustannudin 2022).

From the previous explanation, research on the development of legal politics regarding the regulation of VOEs in the Employment Copyright Law would need to be studied for an ideal management model for VOEs as a business entity that is not only purely looking for profit but can be a business entity that runs a business in the field of business. Thus, this study examines the development of legal politics governing VOEs in Indonesia.

METHODS OF RESEARCH

This research is normative legal research (juridical normative), commonly known as library research. Library research is a series of activities related to collecting library data, reading, recording, and processing research materials. (Zed 2008) Meanwhile, it can also be understood that library research is research conducted by reading books or magazines and other data sources to collect data from various kinds of literature in both libraries and elsewhere. (Mahmud 2011) So it can be concluded that library research is a series of activities to find the truth or answers to problems you want to know by first reading, collecting, and analyzing various reading sources. The approaches used in this research are the statutory, conceptual, and historical or historical approaches.

In this study, researchers used secondary data, which is primary data that has been further processed and presented either by primary data collectors or by other parties. The use of secondary data is "to search for initial data or information, to obtain a theoretical basis or legal basis, to obtain boundaries, definitions, and meanings of a term. (Ashshofa 1996) The secondary data consists of primary, secondary, and tertiary legal materials. Primary legal materials include basic norms or rules (Pancasila and the 1945 Constitution), laws, and regulations related to this research issue. Secondary legal materials such as books or other materials that explain primary legal materials. Tertiary legal materials include newspapers, the internet, legal dictionaries, encyclopedias, and Indonesian language dictionaries.

LITERATURE REVIEW

Etymologically, the term legal politics is an Indonesian translation of the Dutch legal term *rechtspolitiek*, which is the formation of the two words *Recht* and *Politiek*. Several legal experts define legal politics from various perspectives, such as:

1. Satjipto Rahardjo thinks that legal politics is an activity of choosing and the method used to achieve certain national and legal goals in society. Furthermore, Satjipto added that several basic questions arise in legal politics, namely what is the desired goal, how is it taken, when is the right time to change the law, and is it formulated with a standard pattern that can decide the process of selecting goals and how to achieve them. The goal is well. (Raharjo 2004);
2. Bellefroid, legal politics is a legal discipline that regulates how to change *ius constitutum* to *ius constituendum* or creates new laws to achieve their goals. Legal politics activities include changing laws and creating new laws because of the fundamental interest in carrying out social change by making a *regeling* (regulation) instead of *beschiking* (determination). (Mia Kusuma Fitriana 2015);



3. Soedarto said that legal politics is a policy from the state through a state agency authorized to establish the desired regulations, which are expected to be used to express what is contained in society and achieve what they aspire to. (Syaukani and Thohari 2013).

Legal politics adheres to the principle of double movement, which is, apart from being a framework for formulating policies in the field of law by authorized institutions, is also used to criticize legal products that have been promulgated based on these legal policies. (Syaukani and Thohari 2013) So, when examined from the point of view of the law, legal politics is a tool in a particular legal system to achieve a legal goal that is by the wishes of the community by using a policy. It can be further explained that legal politics can also be interpreted as a public policy to determine which laws need to be maintained (maintenance dimension), revised (renewal dimension), and created (creation dimension) to achieve state goals. (Triyono and Harlina 2022).

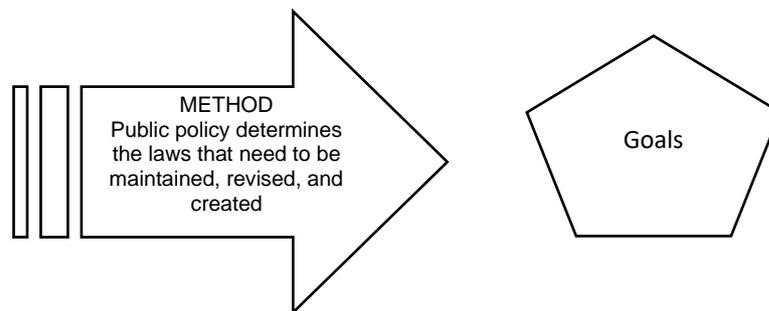


Figure 1 – Legal Politics (Source: Rahmat Triyono and Indah Harlina, Politik Hukum, 2022)

As part of legal science, legal politics is a condition sine qua non for a comprehensive study of science. The targets of the study of legal politics are divided into 5 (five), namely: (1) *ius constitutum*; (2) changes in people's lives; (3) *ius constituendum*; (4) the process of changing the *ius constitutum* to *ius constituendum*; and (5) the result of the process of changing the *ius constitutum* to *ius constituendum*. (Latif and Ali 2018).

The target of the *ius constitutum* study is interpreted as a law that has been established. To understand the *ius constitutum* in society, there are 3 (three) studies that can be carried out, namely: (1) whether a provision is an applicable legal provision; (2) what is the position of the legal provisions; and (3) what is the meaning or content of the legal provisions. The target of changes in people's lives in question changes in institutions or communities living in territorial units. Change is defined as the state of something different from the original state. At the same time, society is a group of people bound to a certain culture; or a group of institutions.

The target of the *ius constituendum* or the law that must be established or the law idealized by society. The target of the process of *ius constitutum* to *ius constituendum* which can be described by carrying out several activities as follows: (1) describe the issue of the *ius constitutum*; (2) describe the elements of community change; (3) compare the elements of the *ius constitutum* with the elements of changing people's lives to find trouble in applying the *ius constitutum* to the realities of people's lives they face; (4) formulating problems to be solved; (5) find the data needed to solve the problem; (6) analyze the data to solve the problem to find 3 (three) alternative problem solving (7) set a filter to choose one alternative, and (8) establish a conclusion in the form of *ius constituendum*.

The last is the result of changing from *ius constitutum* to *ius constituendum*. The law that must be established (*ius constituendum*) is the law aspired by a country or citizen. Ideally, the law that will be stipulated is a law that is appropriate or contains philosophical values that are believed by the community. For example, suppose it is related to the Indonesian context. In that case, the legal provisions promulgated by the Indonesian constitution should be by the mandate (Pancasila and the 1945 Constitution).



In general, legal politics is the direction of legal policy regarding how the law is formed and enforced. To produce a policy or regulation that is by the goals of the state and the needs of the community, legal politics is related to social, political, economic, cultural, and scientific relations. Therefore, legal politics has a scope or work area of legal politics, such as: (Muliadi 2013)

1. The process of extracting values and aspirations that develop in a society by state officials who are authorized to formulate legal politics;
2. The process of debate and formulation of values and aspirations in the form of draft legislation by the competent state administration, formulating and establishing legal politics;
3. State administrators are authorized to formulate and stipulate legal politics;
4. Legislation containing legal politics;
5. The factors that influence and determine a good legal policy that will be and have been determined;
6. Implementing laws and regulations is the implementation of a country's legal politics.

Law Number 6 of 2014 concerning Villages (from now on referred to as the Village Law) is hope and legitimacy for village communities to determine the village's position, role, and authority. Government regulations Number 43 of 2014 concerning Implementing Regulations of Law Number 6 of 2014 concerning Villages and Government Regulations Number 60 concerning Village Funds sourced from the State budget are the initial basis for regulating village government administration, village development implementers, village community development, and village community empowerment based on the constitution Indonesia, namely Pancasila and the 1945 Constitution of the Republic of Indonesia (from now on referred to as the 1945 Constitution). VOEs is formed by the village Government to utilize all economic potentials, economic institutions, as well as the potential of natural resources and human resources in order to improve welfare in the village community. VOEs specifically cannot be equated with legal entities such as Limited Liability Company, Commanditaire Vennotschap (CV) or cooperative. (Winarsi, Widyantoro, and Moechthar 2018)

Village regulations in the Village Law, village authority become a mandate. The position of the village as a community government, a hybrid between a self-governing community and local self-government, is not as a government organization within the district/city government system (local state government), so the village has a very strategic role in regulating the village needs. The development model, which was originally government-driven or community-driven development, is now village-driven development. (M. Silahuddin 2015) Village regulation is carried out by referring to the main principles in the Village Law, namely the principle of recognition; subsidiarity; diversity; togetherness; cooperation; kinship, discussion; democracy, independence, participation, equality, empowerment, and sustainability. The principle of recognition and subsidiarity is the principle of village regulation, as referred to in Article 3 of the Village Law, where the principle of recognition is an acknowledgment of origin. In contrast, the principle of subsidiarity means the determination of local-scale authority.

The village is not synonymous with the village government and the village head alone, but the village government, which is the community's government, forms a unified legal entity. This means that the community also has the authority to regulate the village and the village government. Village authority consists of authority in the village government administration, authority in the village development implementation, authority in the village community development, and authority in the village community empowerment based on community initiatives or based on origin rights.

Authority based on the right of origin means the authority of inheritance is still alive and on village or village community initiatives by developing community life. At the same time, the local authority at the village scale is the authority to regulate and manage the interests of the village community that have been carried out by the village or which have arisen due to village developments and village community initiatives. So, the previously described powers



strengthen the village's right to "regulate" and "manage," as referred to in Article 20 of the Village Law.

The relationship of the village-driven development system with two main principles in village regulation (the principle of subsidiarity and the principle of recognition) has resulted in the Government recognizing the village economic institutions into the Village BUM. This is because the recognition principle, accompanied by economic redistribution and allocation of village funds for the Village, is realized by policy actions in the form of initiating the establishment of VOEs and the use of village funds for the development of VOEs. Likewise, the subsidiarity principle, which has the substance of determining village-scale local authority and making decisions locally for the benefit of the village, is manifested in local government facilitation of local authority over VOEs and the initiative to establish VOEs through Village Consultations and stipulated by Village Regulations.

In general, a Village Owned Enterprise (from now on referred to as VOEs) is a business entity located at the village level, established by taking into account the potential and advantages of village natural resources and aiming for the welfare of the village community. According to the Village Law, VOEs is a business entity whose entire or most of the capital is owned by the Village through direct participation from separated Village assets to manage assets, services, and other businesses for the greatest welfare of the Village community. The essence of the establishment of this business entity is to empower village communities to cultivate the potential and natural wealth of the village, which is used as the village's original income. This is supported by the design of a business entity that can operate in a profit-oriented business sector and a type of business engaged in public services to promote the prosperity of rural communities.

Historically, VOEs was regulated as legal entity in the explanation of Article 213 paragraph (2) of Law Number 32 of 2004 concerning Regional Government which stated that Village Owned Enterprises were legal entities as regulated in laws and regulations. They reaffirmed in Article 78 paragraph (3) Government Regulation Number 72 of 2005 concerning Villages concerning the Form of Village-Owned Enterprises must be a legal entity. VOEs have existed since 2010, through Permendagri No. 39 of 2010, concerning Village-Owned Enterprises. Then about 10 years later, with the enactment of the Village Law, the Voe's business entity arrangements also changed.

In Chapter X, Article 87 of the Village Law states that the Village can establish a business entity called VOEs, which is managed in a spirit of kinship and cooperation and can run a business in the economic field and public services by the provisions of the legislation. These norms become the juridical basis for VOEs for all villages in Indonesia so that rural communities can create and mobilize economic potential in their villages. However, the regulation in the norm still reaps the pros and cons related to the "can establish" diction which gives rise to villages that do not establish VOEs for reasons of necessity. The point is that several villages think that in their village, there is still no need for a new business entity other than cooperatives and other individual business entities.

VOEs' regulation is later regulated in Government Regulation 47 of 2015 concerning Implementing Regulations of Law Number 6 of 2014 concerning Villages. Several important aspects of VOEs are regulated in Government Regulation 47 of 2015, including aspects of establishment and management organization, aspects of village capital and wealth, aspects of the articles of association and bylaws, development of business activities, and aspects of establishing joint VOEs. Regarding the procedures for the establishment, management, and management, as well as dissolution of VOEs and VOEs Bersama, it is regulated by a ministerial regulation that administers government affairs in the field of village development, rural area development, and village community empowerment in coordination with the minister who carries out government affairs in the field of government in the country.

In addition to several previous regulations related to VOEs, the regulation of VOEs in the Village Law era is fully regulated in the Regulation of the Minister of Villages, Development of Disadvantaged Regions, Transmigration of the Republic of Indonesia, Number 4 of 2015, concerning the Establishment, Management and Management, and Dissolution of Village, Owned Enterprises.



Table 1 – Tabulation of the Dynamics of Village Owned Enterprises Regulations from the perspective of the Village Law and the Job Creation Law

| Village Owned Enterprises | | | |
|---------------------------|---|---|---|
| No | Substance | Village Law and its derivative regulations | The Job Creation Act and its derivative regulations |
| 1. | Purpose of Regulation in law | Article 4 of the Village Law, especially in the economic field, outlines the following: <ul style="list-style-type: none"> • advancing the economy of the Village community and overcoming the national development gap; and • strengthening the village community as the subject of development | In Article 3 of the Job Creation Law, it outlines the objectives of the regulation as follows: <ul style="list-style-type: none"> • Creating and increasing job opportunities by providing convenience, protection, and empowerment of micro small and Medium Enterprises, industry and national trade. • Ensuring citizens get jobs • Adjusting regulations related to the investment ecosystem |
| 2. | Legal Status of Village Owned Enterprises | Not explained in detail and clearly. | It is described in Article 117 and in Government Regulation No. 11/21 concerning VOEs that VOEs is a legal entity. |
| 3. | Village Owned Enterprise Capital | According to Article 17 of the Minister of Village Regulation Number 4 of 2015, the initial capital of VOEs comes from the Village Budget and consists of: (1) Village capital participation; and (2) Village community capital participation. | <ul style="list-style-type: none"> • According to Article 40 paragraph (1) PP 11/2021 concerning Village BUM, VOEs capital consists of: (1) Village capital participation; (2) Village community capital participation; and (3) part of the operating profit stipulated in the Village Consultative Meeting/Inter-Village Deliberation to increase capital. • Furthermore, in Article 40 paragraph (2) PP VOEs, capital can come from (1) village capital participation; and (2) Village capital participation and village community capital participation. |
| 4. | BUM Village Business Form | <ul style="list-style-type: none"> • According to Article 7 of Regulation of the Minister of Villages, Development of Disadvantaged Regions and Transmigration No. 4 of 2015, VOEs can consist of business units that are legal entities in the form of business institutions. For VOEs whose business unit is not a legal entity, the form of organization is based on village regulations. • Article 8 of the Permedesa states that VOEs can form Limited Liability Companies and Micro Finance Institutions. | Unregulated |
| 5. | Type or business activity | The type of VOEs business classification is contained in Articles 19 to 24, which generally consist of: <ul style="list-style-type: none"> • the field of social business that provides public services; • rental business field; • intermediary business; • Production or trading business; • financial business field; • joint venture. | According to Article 50 Government Regulation Number 11 of 2021 concerning VOEs, VOEs business units can be in the form of: (1) managing resources and potentials, both natural, economic, cultural, social, religious, knowledge, skills, and local wisdom-based living procedures in the community. ; (2) local resource-based processing industry; (3) distribution and trade network; (4) financial services; priority public services for basic needs including food, electrification: sanitation, and housing; |

Source: Privately processed, 2022.

In Regulation of the Minister of Villages, Development of Disadvantaged Regions and Transmigration Number 4 of 2015, the legislators also did not regulate the legal status of VOEs. Article 7 then stipulates that VOEs can consist of business units that are legal entities in the form of business institutions whose share ownership is from VOEs and the community.



The form of the VOEs business unit in Village Minister Regulation No. 4/2015 is directed to take the form of a Company and Microfinance Institution. Of course, this arrangement is contradictory to the norm in the Village Law, which states that VOEs cannot be equated with Limited Liability Companies, Limited Partnerships, and Cooperatives because VOEs are affirmed as business entities characterized by a village. This kind of condition confuses the grassroots, in this case, the village government, regarding how the establishment of VOEs follows the nature of its formation, which is ideally able to realize rural economic independence.

In 2020, the Government passed Law Number 11 of 2021 concerning Job Creation to solve regulatory problems in Indonesia, such as overlapping regulations, simplifying the bureaucratic system, and facilitating investment for Indonesia. VOEs are also the object of regulation in this law, where VOEs are declared legal entities and regulated in PP No. 11 of 2021 concerning Village-Owned Enterprises.

In detail, the regulation regarding VOEs in Article 117 of the Job Creation Law changes the provisions in Law Number 6 of 2014 concerning Villages Article 1 number 6 concerning the meaning of Village-Owned Enterprises, namely as Legal Entities established by villages and/or together with villages to manage the business, utilize assets, develop investment and productivity, provide services, and/or provide other types of business for the maximum welfare of the Village community. According to the explanation of Article 117 paragraph (1) of the Job Creation Law which amends Article 87 of the Village Law, which explains that the Village Government forms the Village BUM to utilize all economic potential, economic institutions, as well as the potential of natural resources and human resources to improve the welfare of the Village community. VOEs cannot be equated with legal entities such as limited liability companies or cooperatives. Therefore, VOEs is a business entity characterized by a Village that, in carrying out its activities in addition to assisting the implementation of the Village Government, also meets the needs of the Village Government.

Therefore, VOEs is a business entity characterized by a Village that, in carrying out its activities in addition to assisting the implementation of the Village Government, also meets the needs of the Village community. VOEs can also carry out services, trade, and other economic development functions.

Therefore, the position of VOEs in the Indonesian village government is as an economic institution at the village level as a legal entity that can run a profit-oriented business and become a legal entity oriented to public services for rural communities. In addition, VOEs are also pursued as a means of improving the welfare, empowerment, and independence of village communities based on local wisdom.

RESULTS AND DISCUSSION

According to Gustav Radburch, the law aims to fulfill the elements of justice, expediency, and legal certainty. Law has a relationship with fulfilling a sense of justice for the community. If it is associated with Indonesia, then ideally, the existing law in society must contain the values contained in the Indonesian constitution, namely Pancasila and the 1945 Constitution. Aristotle understood justice in the sense of equality. In numerical similarity, every human being is equated in one unit. For example, there is the principle that all people are equal before the law. Then proportional equality is to give everyone what is their right, according to their abilities and achievements. (Rhiti 2015)

Legal certainty and benefits associated with fulfilling community welfare must provide optimal benefits. It can come from anywhere, for example, providing the widest possible employment opportunities to reduce unemployment, improving the quality of human resources to develop independence in business (by the mandate of the Employment Creation Act), and strengthening structures and institutions in Indonesia in every line or sector.

The legal politics of VOEs appears since the initiation of VOEs in Law Number 32 of 2004 concerning Regional Government (old) as the first legal basis regarding the existence of VOEs. It should be realized that the village recognition in the Law is still not optimal, unlike



the Village Law, which provides legitimacy for autonomous village regulation. It is the same with the dynamics of VOEs regulation in Indonesia, which, when traced from the perspective of legal politics, consists of aspects of *ius constitutum*, community change, *ius constitutum*, the process of change until the results of these changes can be carefully analyzed as follows: First, the *ius constitutum* aspect. The initiation of the establishment of VOEs in villages has been regulated in Law Number 32 of 2004 concerning Regional Government (old) with rural economic conditions experiencing high inequality with urban areas and state recognition of villages that have not been maximized. The urgency of the existence of VOEs in Indonesia, both in the regulation of the (old) Regional Government Law, the Village Law, to the Job Creation Law, is a need for rural communities as the smallest area of the Indonesian government to regulate and grow the village economy.

Second, change in society. The rise of bondage practices in the village, and the inequality of national development, causing the welfare and social justice for the village community, is not optimal. Under these conditions, the government seeks to increase the independence of rural communities and village legitimacy to adapt to the demands of global market developments. Indonesia, as a country that has many regions and islands, is ideally able to create jobs and strong economic conditions.

Third, *ius constituendum*. The village regulation in the (old) Regional Government Law places the village as the smallest area, which is only an extension of the government's arm and does not have autonomous authority. The village does not yet have the power to choose and regulate the needs of the village and is still dependent on the government. For this reason, the community wants a regulation that is adaptive to village conditions amidst the demands of globalization through the Village Law as a legal basis for village regulation based on Pancasila values and adheres to two main principles of village regulation, namely the principle of village recognition and subsidiarity. On the other hand, after the government strengthened villages through the Village Law, in the field of strengthening the economy and finding solutions to legal problems in Indonesia, Law Number 11 of 2020 concerning Job Creation was enacted.

Fourth, the process of changing the *ius constituent* to the *ius constituendum*. The regulation of VOEs in the Village Law is considered not optimal when the legal status of VOEs has not been explicitly regulated. On the other hand, village communities also need institutional strengthening through regulations, so VOEs is regulated as business entity with legal entity. This is a momentum for VOEs to run a business more professionally and improve the quality of human resources in the village. This is necessary to harmonize the construction of VOEs amid the challenges of globalization and global market competition.

Fifth, the result of the change from *ius constitutum* to *ius constituendum*. It appears that from changing the regulation of VOEs, which at first had not been regulated regarding its legal status, and then it was regulated to become a business entity with a legal entity, which has implications for the management of VOEs business to be more professional. Even VOEs are almost the same as BUMN and BUMD. However, in its management, VOEs have challenges and opportunities caused by regulating the Job Creation Law. The challenges of VOEs are (1) strengthening the quality of human resources to understand VOEs regulations, managing business and management of VOEs; (2) improving skills in managing village natural resources by taking into account the use of the environment; and (3) management of business risk mitigation and VOEs business responsibilities towards business management and to third parties (community, government, shareholders).

CONCLUSION

Legal norms or provisions in society are born due to the need to regulate certain phenomena or conditions. In the Indonesian context, the values embodied in Pancasila and the 1945 Constitution of the Republic of Indonesia are ideals and the spirit of the Indonesian people, which are always adhered to and reflected in every regulation or legislation in Indonesia.



Village-owned enterprises at the village level are experiencing progressive legal and political developments, considering that the legislators align the interests of VOEs as business entities that were not originally declared legal entities. In the era of regulation of the Job Creation Act, it was expressly stated as a legal entity. VOEs appear prepared to become one of the village's business entities that can develop like a Regional Owned Enterprise (at the regional level) or a State Owned Enterprise-SOE (at the national/central level).

Therefore, the legal politics in regulating VOEs in Indonesia results from a paradigm shift in VOEs as a business entities characterized by a village as a legal entity. This has implications for the management of VOEs, which must be carried out professionally and elaborated with the values of local wisdom in the village. However, the legal construction of VOEs as a professional legal entity cannot abandon the main principles in VOEs governance, namely the principles of kinship and cooperation that characterize villages in Indonesia.

REFERENCES

1. Ade Nurul Aida, oleh. 2020. "Problematika BUMDes Dalam Menggerakkan Ekonomi Desa." V: 2.
2. Ashshofa, Burhan. 1996. Metode Penelitian Hukum. Jakarta: PT. Rineka Cipta.
3. HADI, JUSMAN KHAIRUL. 2021. "Kedudukan Badan Usaha Milik Desa (Bumdes) Berdasarkan Undang-Undang Nomor 11 Tahun 2020 Tentang Cipta Kerja." JURIDICA : Jurnal Fakultas Hukum Universitas Gunung Rinjani 3(1): 29–52.
4. Kashogi, Iznan Habib, Dasril Rajab, and Bustannudin. 2022. "Analisis Pembentukan Badan Usaha Milik Desa Sebelum and Sesudah Diundangkannya Undang-Undang Nomor 11 Tahun 2020 Tentang Cipta Kerja." Limbago: Journal of Constitutional Law 2(1): 21–34.
5. Latif, Abdul, and Hasbi Ali. 2018. Politik Hukum. Jakarta: Ghalia.
6. M. Silahuddin. 2015. Buku 1 Kewenangan Desa and Regulasi Desa. Jakarta: Kementerian Desa, Pembangunan Daerah Tertinggal, and Transmigrasi Republik Indonesia.
7. Mahmud. 2011. Metode Penelitian Pendidikan. Bandung: CV. Pustaka Setia.
8. Mertokusumo, Sudikno. 2003. Mengenal Hukum-Suatu Pengantar. Yogyakarta: Liberty.
9. Mia Kusuma Fitriana. 2015. "Peranan Politik Hukum Dalam Pembentukan Peraturan Perundang-Undangan Di Indonesia Sebagai Sarana Mewujudkan Tujuan Negara (Laws and Regulations in Indonesia As the Means of Realizing the Country ' S Goal)." Jurnal Legislasi Indonesia 12(02): 1–27.
10. Muhammad. 2021. "The Practice of Village Governance: Comparing Traditional Form of Desa and Cultural Form of Nagari." Jurnal Pemikiran Administrasi Negara 13(1): 1–12.
11. Raharjo, Satjipto. 2004. Ilmu Hukum. Bandung: PT. Citra Aditya.
12. Rhiti, Hyronimus. 2015. Fisafat Hukum Edisi Lengkap (Dari Klasik Ke Postmodernisme). Yogyakarta: Univeristas Atma Jaya.
13. Sukmawati, Fitri, Mohd Haizam, and Mohd Saudi. 2019. "Effects of Utilization of Village Funds on Community Empowerment in Indonesia." 6(5): 15–23.
14. Syaukani, Imam, and A.Ahsin Thohari. 2013. Dasar-Dasar Politik Hukum. Jakarta: Rajawali Press.
15. Trijono, Rachmat, and Rachmat Harlina. 2022. Politik Hukum, Faktor Yang Mempengaruhi Kebijakan. Jakarta: Papas Sinar Sinanti.
16. Winarsi, Sri, Agus Widyantoro, and Oemar Moechthar. 2018. "The Law Principles for Village-Owned Enterprises (BUMDes) Management in Indonesia to Improve the Village's Economy." JURISPRUDENCE International Journal of Sociological Jurisprudence 1(2): 130–36. <https://ejournal.warmadewa.ac.id/index.php/sjj>.
17. Zed, Mestika. 2008. Metode Penelitian Kepustakaan. Jakarta: yayasan Obor Indonesia.