THE ROLE OF THE VILLAGE COMMUNITY AS A FORM OF LOCAL WISDOM IN REALIZING ANTI-CORRUPTION CULTURE: A STRATEGY TO ERADICATE CORRUPTION IN THE VILLAGE

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ABSTRACT

Law No. 6 of 2014 on the Village has given a new hope for Indonesia, because the village is expected to increase the country's economy through the management of natural resources on a village scale, including in the use of village funds for the welfare of the community. In the provisions of the Village Law, the village has the following authorities: authority based on the right of origin, local authority on village scale, authority in accordance with the duties of the government such as provincial government or district/ city government, and other authorities assigned by the Government, Province. In addition to these opportunities, enactment of the Village Law also gives the village the rights to manage its funding resources in the form of village funds that can be used by villagers to support various village activities according to the potential in each village. However, in the implementation of the management of the village funds, there will always be irregularities done by village heads, village officials or local government officials who have authority in disbursing the village funds. Even sometimes there are corrupt practices in the use of the village funds. Paragraph 12 of the explanation of Law No. 31 of 1999 mentions that community can participate in the prevention and eradication of corruption and the members of the community who have participated are given legal protection and appreciation. One step in preventing corruption is done by growing anti-corruption culture through strengthening the role of rural community in improving anti-corruption culture in the village. The role of the village community is very important, as a form of local wisdom, to prevent corruption in the village.

INTRODUCTION

Law No. 6 of 2014 on Village, or better known as Village Law, has given a new hope for Indonesia. The village is expected to increase the country's economy through the management of natural resources existing in the village. Unlike the Local Government Law, the Village Law develops different perspectives and new concepts related to village and village governance. The Village Law provides recognition and respect for the village with its diversity. In addition, the Village Law also provides clarity and certainty of the legal status of the village in the constitutional system of the Republic of Indonesia. The Village Law affirms: a) the organization of the village administration, b) the implementation of development, c) community development, and d) community empowerment based on Pancasila (Indonesian Five Principles), the 1945 Constitution, NKRI (the Unitary State of the Republic of Indonesia), and Bhinneka Tunggal Ika (Unity in Diversity).

In the provisions of the Village Law, the village has the following authorities:1 authority based on the right of origin, local authority on village scale, authority in accordance with the duties of the government such as provincial government, or district / city government, and other authorities assigned by the Government. Furthermore, the authority existing in the Village Law provides the basis for the village to manage and organize the village-scale natural resources such as in the sectors of forestry, plantations, mining and other natural resources, including in the management of the village-scale tourism sector both in coastal area and mountain area. The regulation on natural resources scattered in various laws and regulations is still very centralistic, especially on the licensing process which is often overlapping with legislation on the Village as regulated in Law no. 6 of 2014 on the Village.

The Village Law provides a significant opportunity for the village to manage the natural resources through the Village-Owned Enterprises (BUMDesa) so that the village really has the independence in managing its own natural, especially the natural resources on the village scale. In addition to these opportunities, the Village Law also gives the village right to manage the source of funds in the form of village funds that can be used by villagers to support various village activities according to the potential in each village. However, there are also some irregularities occurring in the management of village funds, such as by village heads, village officials, or sometimes by local government officials who have authority in distributing the village funds. In addition, sometimes there are corrupt practices in the use of the village funds.

The eradication of corruption, as stated in the UN Convention of 1985, must start from the upper power class and the upper economic class by observing the principles of presumption of innocence.² Based on some of the above problems, the role of criminal policy through non-penal approach is very important as an attempt to prevent corruption crime, among others through the role of village community to always socialize and strengthen the role of local wisdom in preventing corruption as a strategy of eradicating corruption in the village (as social power) and in the state institutions (as political power).³

The definition of corruption eradication is explained in Article 1 number 3 on the General Provisions of Law Number 30 of 2002:⁴

"The Eradication of Corruption is a series of actions to prevent and combat corruption through coordination, supervision, monitoring, pre-investigation, investigation, prosecution and examination in court, with community par-

¹ Indonesia, Undang-Undang Nomor 6 tahun 2014 Tentang Desa Pasal 19, Lembaran Negara Nomor 7 Tahun 2014 Tambahan Lembaran Negara Nomor 5495.

² Ibid. p. 69.

³ Ibid.

⁴ Ibid. p. 26.

ticipation based on prevailing laws and regulations."

The form of community participation has also been regulated further in Article 2 of Government Regulation No. 68 of 1999 on procedures for the implementation of public participation in the implementation of the state administration, stating that the participation of the public in realizing the implementation of clean state administration shall be carried out in the form of:

- a. the right to seek, obtain, and provide information concerning the administration of the State;
- b. the right to obtain equal and fair service from the State Administrator;
- c. the right to give suggestions and opinions responsibly to the policy of the State Administrator; and
- d. the right to obtain protection in the case of:
 - 1). Carrying out his or her rights as referred to in letters a, b and c;
 - 2). Requesting to be present in the process of inquiry, investigation, and in court as a witness, reporting witness, or expert witness in accordance with applicable laws and regulations⁵.

Based on Paragraph 12 of the explanation of Law No. 31 of 1999, ⁶ the community can participate in the prevention and eradication of corruption, and the members of the community who have participated are given legal protection and appreciation. One step in preventing corruption is done by growing anti-corruption culture through strengthening the role of rural community in improving anti-corruption culture in the village. The role of the village community is very important, as a form of local

wisdom in the village, to prevent corruption in the village. Based on the above description, especially related to the problem of corruption and how to prevent it, this article is entitled "The Role of the Village Community as a Form of Local Wisdom in Realizing Anti-Corruption Culture: A Strategy to Eradicate Corruption in the Village"

Based on the background of the above problems, the research questions are as follows:

- a. What is the form of local wisdom of the village community in realizing a justice-based anti-corruption culture in Indonesia?
- b. What is the role of the village community in fostering an anti-corruption culture as a strategy to eradicate corruption in the village?

Meanwhile, the purposes of this study are:

- 1). To examine and analyze the local wisdom of the village community in realizing a justice-based anti-corruption culture in Indonesia.
- 2). To examine and analyze the role of the village community in fostering anticorruption culture as a strategy to eradicate corruption in the village.

DISCUSSION

1. Local Wisdom of the Village Community in Realizing Anti-Corruption Culture

Corruption eradication strategy can be done with the following measures: First, preventive strategy. It is a strategy in preventing the occurrence of criminal acts of corruption;⁷ Second, detective strategy. It is the strategy of detecting whether there has been a criminal act of corruption;⁸ Third, advocacy strategy. It is a system-building strategy that can solve cases of corruption by law.⁹ Furthermore, before

⁵ Lembaran Negara RI Tahun 1999 Nomor 129.

⁶ Tambahan Lembaran Negara Republik Indonesia Tahun 1999 Nomor. 387.

⁷ Ibid.

⁸ Ibid.

⁹ Ibid.

describing the local wisdom of the village community in realizing anti-corruption culture as part of the strategy of eradicating corruption in the village, it is important to understand about the authority of village community as well as villages in the use of village funds and other authorities owned by the village. Law Number 2 of 2015 on Stipulation of Government Regulation in Lieu of Law Number 2 of 2014 on Amendment of Law Number 23 of 2014 on Local Government to become Law, stipulates that the government affairs which become the authority of the village include the existing government affairs based on the right of village origin, the government affairs whose authorities are submitted by districts / municipalities, tasks of assistance from the government and local government, as well as other governmental affairs which by laws and regulations are submitted to the village.

According to Article 18 of the Village Law, village authority covers the authority in the field of village administration, the implementation of village development, the development of village community, and the empowerment of village community based on community initiatives, rights of origin and village customs. Based on these authorities, village has the right to implement development by utilizing the potential of natural resources, including the use of village funds to realize the welfare of rural communities. Village rights are also regulated and affirmed in Article 371 paragraph (2) of the Local Government Law, ie the village has authority in accordance with the provisions of legislation regarding the village.

There are two important principles of village setting as stated in the provisions of Article 3 sub-articles a and b of the Village Law¹⁰: 1) Recognition. It is the recognition of the right of origin. 2) Subsidiarity. It is the

establishment of local-scale authority and local-scale decision making for the benefit of the village community. It is said to be important because in addition to being the basis for other principles, both principles are also reaffirmed as the authority of the village, as provided for in Article 19 of the Village Law. Therefore, these two principles can be regarded as two principles in the substance of the Village Law, and it is important to be specifically protected. This recognition principle is closely related to the definition of the village as stipulated in Article 1 point 1 of the Village Law, that the village "...regulates and administers based on community initiatives, rights of origin, and or traditional rights that are recognized and respected in the government system of The Unitary State of the Republic of Indonesia." Recognition is a relevant principle within the context of village as a legal community unity that exists and has the right of origin, in which each village has its own diversity in accordance with its context.11

The principle of subsidiarity is affirmed in Article 19 letter b of the Village Law, "The authority of the Village includes: ... b) local authority in the village scale". The existence of local authority is a consequence of the recognition of the village as a legal community unity that has the right of origin. The meaning of subsidiarity principle is as follows:¹²

- a. The use of authority and decisionmaking about the interests of the local community to the village.
- b. State assigns village-scale local authority to be village authority with or without delegation mechanism or delegation of authority from districts / municipalities.
- c. The Government provides support and facility to villages in developing initiatives to arrange and establish village-scale local authorities.

Direktorat Pemberdayaan Masyarakat Desa, Dirjen Pembangunan dan Pemberdayaan Masyarakat Desa, Panduan Pelatih: Pelatihan Masyarakat Tentang Advokasi Desa, Kementerian Desa, Pembangunan Daerah Tertinggal dan Transmigrasi, 2015, p. 60.

¹¹ Ibid, p. 67.

¹² Ibid, p. 68-69.

The role of village community in the prevention and eradication of village-scale corruption is based on the provision of Article 41 of Law Number. 31 of 1999 on the Eradication of Corruption¹³ as follows:

- 1. The community can participate in the prevention and eradication of corruption.
- 2. The participation of community as referred to in paragraph (1) shall be manifested in the form of:
 - a. the right to seek, obtain, and provide information of alleged corruption;
 - b. the right to obtain services in seeking, obtaining and informing the alleged corruption to the law enforcement officers in charge of corruption;
 - the right to give suggestions and opinions in a responsible manner to law enforcement officers in charge of corruption;
 - d. the right to obtain answers to questions concerning the reports given to law enforcers within 30 (thirty) days;
 - e. the right to obtain legal protection in respect of:
 - 1) carrying out his/her rights as referred to in letters a, b and c;
 - 2) to be present in the process of inquiry, investigation, and in court as reporting witness, or expert witness, in accordance with the provisions of applicable laws and regulations;

The public participation has previously been regulated in Article 8 paragraph 1 of the Law of the Republic of Indonesia Number.28 of 1999 concerning the Implementation of State Administration that is clean and free from corruption, collusion, and nepotism. It is stated that the public participation in the administration of the State is the right and

responsibility of the community to participate in realizing the implementation of a clean government, including the participation of rural communities in an effort to civilize anticorruption behavior that is a form of local wisdom as one strategy to eradicate corruption in the village.¹⁴

In Paragraph 12 of the explanation of Law No. 31 of 1999, 15 it is stated that this law also provides the widest opportunity for the community to participate in the prevention and eradication of corruption. And the members of the community who have participated are given legal protection and appreciation. Based on the existing public participation and the view that village community can also be qualified as a victim of corruption that is detrimental not only to the state finance, but also the village community, a fundamental question proposed is: What is the role of the village community as a form of local wisdom in realizing anticorruption culture as a strategy to eradicate corruption in the village?

participation The of village communities in the management and use of village budgets begins with the process of identifying problems, planning village activities, and carrying out the activities. These all are parts of the role in preventing corruption in the village. Community participation must be in accordance with several principles, such as the balance between the purpose of law toward the creation of justice and the certainty in the realization of law order in society. The role of the people in each village can be realized in various forms and ways according to local wisdom embedded in each village. Communities have rights and responsibilities in the effort to prevent and eradicate corruption. The rights and responsibilities are carried out by adhering to the principles and provisions set forth in the prevailing laws and regulations and

¹³ Lembaran Negara RI Tahun 1999 Nomor 140.

¹⁴ Lembaran Negara RI Tahun 1999 Nomor.75.

Tambahan Lembaran Negara Republik Indonesia Tahun 1999 Nomor, 387

by observing religious norms and other social norms.

2. Anti-Corruption Culture as a Strategy to Eradicate Corruption in the Village

The policy on natural resource management in Indonesia, including agrarian resources, refers to the ideology of control and utilization as reflected in Article 33 Paragraph (3) of the 1945 Constitution as follows:

"The earth and the water and the natural wealth contained therein are controlled by the state and used as much as possible for the prosperity of the people".

Based on these provisions, it can be concluded that the state controls the natural wealth contained therein for the prosperity of the people. In addition to the social welfare concept described above, there is a relevant theory of social justice as referred to in the fifth principle of Pancasila, that is, "Social justice for all Indonesian people." The meaning of all Indonesian people here also includes the welfare for the village community, through the right of the village to manage its own natural resources through Village-owned Enterprises (BUMDesa).

The provisions in the management of village-scale natural resource by Village-owned Enterprises (BUMDesa) in realizing the welfare of the village community can be described as follows:

First, Presidential Regulation No.2/2015 on RPJM 2015-2019. Point 1 (v), preparing and implementing new regulations on shareholding among governments, investors, and villages in natural resource management. Point 1 (vi), running rural development investment programs with shareholding

Second, Law No. 6 of 2014 on Village, Article 1 point 6, "Village Owned Enterprise (BUM Desa) is a business entity whose all or part of capitals are owned by the village through direct participation derived from village assets separated to manage assets, services and other businesses for the welfare of village community". According to Article 1 point 9, rural area is the area that has the main activities of agriculture, including the management of natural resources. Subsequently, Article 4 of Law No. 6 on Village explains that Village is allowed to establish a village regulation in order to promote the economy of rural communities and overcome the national development gap. In this case, the village officials should be able to open the door for investor to enter the management Village-Owned Enterprises (BUMDesa) in natural resource management of village scale.

Article 26 explains that one of the duties of the Village Head is implementing village development. This means that village development is aimed at improving the welfare of the village community. Therefore, the Village Head must be able to independently create opportunities for investors to enter and engage in village development, one of which is through Village-Owned Enterprises. Article 26 (1) states: "The Village Head is responsible for organizing Village Governance, implementing Village Development, and coaching as well empowering Village Community". In performing the duties referred to in paragraph (1), the Village Head shall be obliged to: 1) develop the economy of the village community; 2) develop the potential of natural resources: and 3) preserve the environment.

Article 54 Paragraph (1) states that Village Deliberation is a consultative forum which is followed by Village Deliberation Body, Village Government, and Village Community element to deliberate things that are strategic

patterns involving villages and villagers as shareholders.

Muchsan, Hukum Administrasi Negara dan Peradilan, Administrasi Negara di Indonesia, (Jakarta: Liberti, 2003), p.9.

in the implementation of Village Government. Furthermore, Article 54 paragraph (2) states that the strategic things as intended in paragraph (1) include: a. village arrangement; b. village planning; c. village cooperation; d. investment plans coming into the Village; e. establishment of Village-Owned Enterprises; f. addition and release of Village Assets; and g. extraordinary event.

Article 81 Paragraph (3) states that the implementation of Village Development as referred to in paragraph (1) shall be conducted by utilizing local wisdom and natural resources of the Village. Article 90 states that the Government, Provincial Government, District / Municipal Government, and Village Government shall encourage the development of Village-Owned Enterprises by:

- a. providing grants and / or access to capital;
- b. performing technical assistance and access to markets; and
- c. prioritizing Village-Owned Enterprises in managing natural resources in the village.

Third. Government Regulation Number 43 of 2014, as amended by Government Regulation No. 45 of 2015, Article 1 point 7 states that Village-Owned Enterprise is a business entity whose part or all of its capital is owned by the Village through direct participation derived from village wealth separated to manage assets, services, and other businesses for the greatest welfare of the village community. Article 132 Paragraph (1) states that Village may establish Village-Owned Enterprises. Meanwhile, Article 132 paragraph (2) states that the establishment of Village-Owned Enterprises as referred to in paragraph (1) shall be conducted through Village deliberations and stipulated Village Regulation. Article 132 paragraph (3) states that the organization of Village-Owned Enterprises management is separated from the Village Government organization. Article

132 paragraph (4) states that the organization of Village-Owned Enterprises management as referred to in paragraph (1) shall at least consist of: a. advisor; and b. operational implementer.

Article 135 paragraph (1) states that the initial capital of Village-Owned Enterprises comes from Village Budget. Article 135 paragraph (2) states that the capital of Village-Owned Enterprises consists of: a. the inclusion of village capital; and b. the inclusion community capital. Article 135 Paragraph (3) states that the wealth of Village-Owned Enterprises, originating from the inclusion of the village capital as referred to in paragraph (2) letter a, shall be the separated village property. Article 135 paragraph (4) states that the inclusion of village capital, as referred to in paragraph (2) letter a, comes from the Village Budget. Article 135 paragraph (5) states that the government, provincial government, and district / municipal governments may provide assistance to the Village-Owned Enterprises that is channeled through the village budget.

Fourth. Presidential Regulation Number 12 Year 2015 on the Ministry of Village, the Development of Underdeveloped regions, and Transmigration, Article 9 states that the Directorate General of Development and Empowerment of Villages has the duty to organize the formulation and implementation of policies in the field of basic social services management, the development of village economic enterprises, the utilization of natural resources and appropriate technology, the development of village infrastructure facilities and the empowerment of village communities in accordance with the provisions of the legislation.

Fifth, the Regulation of Ministry of Home Affairs (Permendagri) No.114 of 2014 on Guidelines for Village Development, Article 69 Paragraph (1) states that the Village Head shall prioritize the utilization of human resources and natural resources existing in the village and utilize community self-help and community-

Page 133-143

based mutual assistance as referred to in Article 63 through the mechanism of village development on a self-managed basis. Article 2 Paragraph (5) states that in order to coordinate village development as referred to in paragraph (2), the Village Head may be accompanied by professional assistants, village community empowerment cadres, and / or third parties. Article 3 states that the village development referred to in Article 2 covers the field of village administration, the implementation of the village development, the development of the village community and the empowerment of the village community.

Article 6 Paragraph states that (1) the design of the Village Mid-Term Development Plan (RPJM Desa) shall contain the vision and mission of the Village Head, the direction of the village development policy, and the activity plan which includes the field of the village administration, the implementation of the village development, the development of village community, and the empowerment of the village community.

Sixth, The Regulation of Minister of Village, Development of Underdeveloped Regions and Transmigration (Permendes PDTT) No.1 / 2015 on the Authority Guidelines Based on the Right of Origin and Village-scale Authority, Article 1 point 2 states that the Village Authority shall be the authority of the Village which includes the authority in the field of Village Governance, the implementation of Village Development, the development of Village Community, and the empowerment of Village Community based on community initiatives, village rights and customs. Article 1 point 4 states that village-scale authority is the authority to regulate and manage the interests of village communities that have been run by the Village, or effectively carried out by the Village or that arise because of the development of the village and the village community's practices. Article 8 states that the village-scale local authority in the field of village government,

as referred to in Article 7 letter a, shall include among others:l. The establishment of Village-Owned Enterprises.

Seventh, The Regulation of Minister of Village, Development of Underdeveloped Regions and Transmigration (Permendes PDTT) No.2 of 2015 on the Guideline and Mechanism of Decision Making through Village Deliberations, Article 88 paragraph (1) states that Village may establish a Village-Owned Enterprise. Article 88 paragraph (2) states that the establishment of Village-Owned Enterprises, as referred to in paragraph (1), is agreed through the Village Deliberation. Article 88 Paragraph (3) states that the result of the agreement of the Village Deliberations as referred to in paragraph (2) shall serve as a guideline for the Village Government and Village Consultative Body to determine the Village Regulation on the Establishment of Village-Owned Enterprises. Article 89 paragraph (1) states that the subjects discussed in the Village Deliberations as referred to in Article 88 paragraph (2) include: a. Village-Owned Enterprises management organization; b. venture capital of Village-Owned Enterprises; and c. Articles of Association and Bylaws of Village-Owned Enterprises.

Eight, the Regulation of Minister of Village, Development of Underdeveloped Regions and Transmigration (Permendes PDTT) No.4 of 2015 on the establishment, management, and dissolution of Village Owned Enterprises, Article 4 (1) states that Village may establish Village-Owned Enterprises based on Village Regulation on Establishment of Village-Owned Enterprises. Article 4 paragraph (2) states that Village may establish Village-Owned Enterprises as referred to in paragraph (1) taking into account: a. initiatives of Village Governments and / or village communities; b. potential of village economic enterprises; c. natural resources in the village; d. human resources who are capable of managing Village-Owned Enterprises; and e. capital participation

from the Village Government in the form of financing and the wealth of the Village which is handed over to be managed as part of the business of Village-Owned Enterprises.

Village independence is now an important issue that needs to be taken more seriously and discussed more deeply. because since Law no. 6 Year 2014 on the Village was approved, the main policy is the allocation of village funds estimated from IDR 800,000,000 (eight hundred million rupiah) to IDR 1 billion for each village. The fiscal decentralization policy to the village shows a large and progressive partisanship of the central government prioritized for increasing regional development and the service to the community for the realization of community welfare. The funds can be used as village development capital through Village-Owned Enterprises as stipulated in Articles 87-90 of Village Law with the purpose to encourage the increasing economic scale of the economy of productive enterprise of village community, as well as in the management of village-scale natural resources.¹⁷ The authority of the village is the right of the village to organize, manage, and responsible for government affairs and the interests of the local community¹⁸

Comprehensively, rural and village development is an important factor for regional development, poverty alleviation, and gap reduction among regions. The development of the number of villages in Indonesia increased rapidly, from 72,944 villages in 2012 to 74,093 villages in 2014. Unfortunately, this ever increasing number is not followed by an increase in the welfare of the people. The isolation of the region due to limited access, either transportation, telecommunications, education, health, or settlements, especially in villages in border areas, underdeveloped

regions and small outer islands, contributes to the high rates of village poverty.¹⁹

The development of the village economy has not been maximized due to lack of access and capital in the process of production, processing, and marketing of the products of village communities. The target of rural and village development is to reduce the number of under-developed villages until 5,000 villages and increase the number of independent villages by at least 2,000 villages.

The direction of village and rural development policy of 2015-2019 is as follows: 20

First, the strengthening of village governance through capacity building and mentoring of village government apparatus and village government institutions in a sustainable manner

Second, the development of the Village through the fulfillment of minimum service standards of villages in accordance with village geographic conditions, poverty alleviation and economic development of rural communities through the structuring and strengthening of Village-Owned Enterprises

Third, the development rural areas through sustainable management of natural resource and environment, spatial arrangement of rural areas, development of the economy of rural areas in encouraging rural-urban linkages

Fourth, the systematical, consistent, and sustainable supervision of the implementation of Village Law through coordination, facilitation, supervision and assistance

Based on the direction of village and rural development policies of 2015-2019, there is the role of village as well as the village

¹⁷ Fajar Sidik, "Menggali Potensi Lokal Mewujudkan Kemandirian Desa," Jurnal Kebijakan dan Administrasi Publik, Vol. 19, No. 2, November 2015, Jogyakarta: JKAP UGM Yogyakarta, p. 116.

¹⁸ Ibid., p. 119.

Sutoro Eko, Desa Membangun Indonesia, FPPD, Yogyakarta, 2014, p. 23.

²⁰ Ibid., p. 27.

Page 133-143

community in preventing the occurrence of irregularities in village development which includes the use the village funds / budget derived from the state finance. Therefore, the typical characteristics of each village in Indonesia and local wisdom should be able to develop anti-corruption culture as a strategy of eradicating corruption in the village.

CLOSING

1. Conclusion

Based on the description above, it can be summarized as follows:

First, the village community, in accordance with the local wisdom in each village, has tremendous potential to develop and realize a justice-based anti-corruption culture in Indonesia. The potential is done to realize the anti-corruption culture as a strategy to eradicate corruption occurring in the village scale.

Second, the village community has a role in promoting an anti-corruption culture as a strategy to eradicate corruption in the village. In accordance with the direction of village and rural development policy of 2015-2019, there is a role of village as well as the village community in preventing the occurrence of irregularities in village development, especially in the use of village funds / budget derived from state finance. Therefore, villagers, in accordance with local wisdom, are expected to develop anti-corruption culture as a strategy to eradicate corruption in the village.

2. Suggestion

The suggestions proposed to realize the anti-corruption culture in eradicating corruption in the village are as follows:

First, it is necessary to make a guideline for the strategy of eradicating corruption for the village community according to the local wisdom of each village.

Second, it is necessary to make a guidance model to foster an anti-corruption culture according to the local wisdom of the village community in the form of village regulations.

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Agus Surono : The Role Of The Village Community As A Form Of.... Page 133-143