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Research Article

Legal Responsibility of the Village Head in Village Asset Management

(A Constitutional Study on the Implementation of the Village Law)

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Abstract: Village assets constitute vital economic resources for village autonomy and community welfare. However, legal responsibilities of Village Heads in managing these assets often encounter obstacles, ranging from lack of administrative compliance to misuse of authority. This study aims to analyze the construction of legal responsibility of Village Heads in managing village assets according to Law No. 6 of 2014 concerning Villages and its implementing regulations, and to examine the implementation of these responsibilities in practice along with constitutional implications. The research employs a doctrinal legal approach with conceptual orientation, placing legal doctrines and expert opinions as primary materials and legislation as secondary materials. The analysis uses four theoretical frameworks: Decentralization Theory, Authority Theory, Legal Responsibility Theory, and Constitutional Theory. The findings indicate that Village Heads possess attributive authority as holders of village asset management power, but this authority is accompanied by strict legal responsibilities, both administratively and civilly-criminally. Implementation faces challenges including regulatory comprehension gaps, weak supervision, and lack of public participation. Constitutional analysis reveals that irresponsible management contradicts the mandate of Article 18 of the 1945 Constitution and the welfare goals in the Preamble. Strengthening supervision mechanisms, increasing human resource capacity, and enhancing public participation are necessary to ensure village asset management aligns with constitutional principles.

Keywords: Constitutional Analysis; Legal Responsibility; Village Assets; Village Governance; Village Head.

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1. Introduction

Within Indonesia's constitutional order, the village occupies a strategically important place as the lowest tier of government that deals face-to-face with citizens on a daily basis. The passage of Law Number 6 of 2014 concerning Villages marked a fundamental change in how village governance is understood. Under this law, a village is treated no longer as a mere target of development but as an actor endowed with wide-ranging authority to organise and administer the affairs of its community, grounded in origin rights and authority of a local scale. This is reflected in Article 1 point 1 of the Village Law, which characterises a village as a community bound by law and territory, empowered to arrange and administer governmental matters and communal interests that grow out of community initiative, origin rights, and traditional rights that the Republic acknowledges and honours within its unitary framework (Huda, 2015). Among the many dimensions of running a village, the stewardship of its assets stands out as especially important. What counts as a village asset is wealth belonging to the village, whether inherited as original property, obtained through the Village Revenue and Expenditure Budget (APBDes), or gained by other lawful means. In concrete terms this covers land held by the village, communal fields, marketplaces, public buildings, and similar holdings that generate revenue and underpin the village's capacity to stand on its own. When such assets are handled well, the payoff is tangible: stronger community welfare and faster progress in local development.

Because authority over village finances and assets rests in the hands of the Village Head, this office sits at the heart of any effort to keep asset management open, answerable, and effective. The point is made directly in Article 26 paragraph (2) letter c of the Village Law, which vests the Village Head with power over financial and village asset management in the course of discharging the office. Since that power flows straight from statute, it is attributive in character, and with it comes a weighty legal accountability attaching to every decision the Village Head takes over village assets.

In practice, however, the handling of village assets does not always track what the statutes require. Reports from different regions repeatedly surface problems such as misuse of authority over village land, opaque leasing arrangements, and the disposal of assets that skips the required steps. The study by Nugroho et al. (2019), for instance, found that a number of instances in Yogyakarta where Village Heads managed village land contrary to its intended use traced back to a poor grasp of the rules, modest levels of formal education, and a tendency to treat such matters lightly alongside little appetite for reading the applicable regulations.

This condition raises fundamental questions regarding the construction of legal responsibility of Village Heads in village asset management and how law enforcement mechanisms operate when deviations occur. Are existing regulations sufficient to regulate such responsibilities? How is their implementation in practice? And more importantly, how does the constitutional perspective assess irresponsible village asset management practices?

Viewed constitutionally, the management of village assets is inseparable from the charge laid down in Article 18 of the 1945 Constitution on regional government and the autonomy of villages. As units within the broader regional government arrangement, villages hold autonomous entitlements to administer resources of their own, yet those entitlements come paired with a duty to advance communal welfare in the spirit of the fourth paragraph of the Preamble to the 1945 Constitution (Manan, 1994). Where a Village Head misuses the power to manage assets, what results is a breach of that constitutional charge, with direct consequences for the entitlements of the village population.

Based on this background, this research raises two main problem formulations. First, how is the construction of legal responsibility of Village Heads in village asset management according to Law Number 6 of 2014 concerning Villages and its implementing regulations? Second, how is the implementation of such responsibility in village asset management practices along with constitutional analysis within the framework of the Pancasila rule of law?

This research aims to elaborate the construction of legal responsibility of Village Heads in village asset management based on constitutional provisions and laws and regulations, as well as to analyze the implementation of such responsibility in practice along with its constitutional implications. Thus, this research is expected to contribute to strengthening village governance administration in accordance with constitutional principles.

2. Research Method

The study proceeds through a doctrinal legal approach (*doctrinal research*), sometimes labelled a conceptual legal inquiry (*conceptual approach*). Under this method, the doctrines, opinions, and reasoning of legal scholars serve as the principal material, consistent with the root of the word "doctrinal," which traces back to *doctrine*, the teachings of jurists. The choice suits the aim of the study, which is conceptual: to probe in depth how the legal responsibility of Village Heads over village assets is constructed and what it implies constitutionally (Marzuki, 2021). To build a robust analytical framework, this research relies on legal theories developed in literature. First, Decentralization Theory to explain the constitutional basis of village autonomy (Manan, 1994). Second, Authority Theory from H.D. van Wijk, Willem Konijnenbelt, and Philipus M. Hadjon to analyze the sources and limits of Village Head authority. Third, Legal Responsibility Theory to examine the forms and mechanisms of Village Head accountability. Fourth, Constitutional Theory from I Dewa Gede Atmadja and Jimly Asshiddiqie to elevate the analysis to a fundamental level by connecting village asset management issues with constitutional mandates and values. Sources of legal materials in this research consist of three categories. Primary legal materials are doctrines, theories, and expert opinions contained in textbooks, scientific journals, legal articles, and previous research findings. Secondary legal materials are relevant laws and regulations, including the 1945 Constitution, Law Number 6 of 2014 concerning Villages and its amendments, Government Regulation Number 43 of 2014 concerning Implementing Regulations of Law Number 6 of 2014 concerning Villages, Minister of Home Affairs Regulation Number 1 of 2016 concerning

Village Asset Management as amended by Minister of Home Affairs Regulation Number 3 of 2024. Tertiary legal materials are legal dictionaries, encyclopedias, and other supporting sources. The specification of this research is descriptive-analytical, namely describing the construction of legal responsibility of Village Heads and conducting critical assessment of its implementation from a constitutional perspective.

3. Results and Discussion

Construction of Legal Responsibility of Village Heads in Village Asset Management

Constitutional Foundation and Hierarchy of Norms in Village Asset Management

The management of village assets rests on firm constitutional footing inside Indonesia's legal order. Article 18 paragraph (2) of the 1945 Constitution confirms that provincial, regency, and city governments arrange and administer their own governmental affairs under the twin principles of autonomy and co-administration. Villages, though not named outright in that provision, enjoy recognition and respect as units of legal community under the constitution. This is reinforced by Article 18B paragraph (2) of the 1945 Constitution, under which the state acknowledges and honours customary-law communities together with their traditional rights for as long as they endure and remain consonant with social progress and the principles of the Unitary State of the Republic of Indonesia. In the hierarchy of norms developed by Hans Kelsen and Hans Nawiasky, village asset management is regulated through a tiered legal structure. The highest norm is Pancasila as the Staatsfundamentalnorm, then the 1945 Constitution as the *Staatsgrundgesetz*, followed by Laws as *Formell Gesetz*, and Regional Regulations/Village Regulations as *Verordnung & Autonome Satzung*. Law Number 6 of 2014 concerning Villages becomes the primary foundation that comprehensively regulates villages, including provisions on village assets (Soeprapto, 2010).

The scope of Law Number 6 of 2014 concerning Villages is broad, reaching the guiding principles of regulation; the standing and classification of villages; village arrangement and authority; the running of village government; the rights and duties of villages and residents; village regulations; village finance and assets; village and rural-area development; village-owned enterprises; inter-village cooperation; community and customary institutions; and the tasks of guidance and oversight. The specific rules on village assets sit in Articles 76 through 78 of the Village Law and are afterwards spelled out more fully in government and ministerial regulations. At the operational tier, Government Regulation Number 43 of 2014 concerning Implementing Regulations of Law Number 6 of 2014 concerning Villages sets out village asset management in greater detail. Building on it, Minister of Home Affairs Regulation Number 1 of 2016 concerning Village Asset Management supplies the principal technical guidance, laying down the steps for planning, procurement, use, safeguarding, upkeep, write-off, and transfer of assets. That regulation was later revised by Minister of Home Affairs Regulation Number 3 of 2024, both to keep pace with shifts in policy and to meet the demand for quicker land acquisition serving the public interest, while tightening the mechanics of asset management. In Minister of Home Affairs Regulation Number 3 of 2024, detailed provisions are regulated regarding amendments to several articles, including Article 25 on village asset transfer, Article 28 on village asset administration and reporting, as well as the addition of new articles that regulate in detail the procedures for exchanging village land. This regulation also reinforces the role of the Village Head as the holder of village asset management authority as well as supervision mechanisms by Regents/Mayors and Governors.

Analysis of Village Head Authority in the Perspective of Authority Theory

In the account of authority given by H.D. van Wijk, Willem Konijnenbelt, and Philipus M. Hadjon, governmental authority may arise in only three ways: attribution, delegation, and mandate. Attribution refers to fresh authority conferred on a government organ by a statutory provision, making it original authority drawn directly from law. Delegation describes the handover of authority from an organ that already holds it by attribution to another organ, whereupon responsibility passes in full to the recipient of the delegation (*delegetaris*). Mandate, by contrast, is a tasking whereby an authorised organ directs a subordinate to act in its name, with responsibility staying with the one who gave the mandate (Hadjon, 2011). In the context of village asset management, Law Number 6 of 2014 concerning Villages provides attributive authority to the Village Head as the holder of financial and village asset management power. Article 26 paragraph (2) letter c of the Village Law explicitly states that the Village Head is authorized to hold the power of financial and village asset management. This authority is attributive in nature because it is directly granted by law, thus the Village Head possesses constitutional legitimacy to manage village assets.

The four core responsibilities of the Village Head are set out in Article 26 paragraph (1) of the Village Law: to run the village government, to carry through village development, to nurture the development of the village community, and to empower that community. To perform them, the Village Head is furnished with a set of powers under Article 26 paragraph (2), one of which is holding the reins of financial and village asset management. Minister of Home Affairs Regulation Number 1 of 2016 concerning Village Asset Management as amended by Permendagri Number 3 of 2024 further reinforces the position of the Village Head. Article 2 paragraph (1) of Permendagri 1/2016 states that village asset management constitutes all activities covering planning, procurement, utilization, safeguarding, maintenance, elimination, transfer, administration, reporting, and accountability of village assets. Article 3 paragraph (1) affirms that the Village Head as the holder of village asset management authority is authorized to establish village asset management policies.

The upshot is that the Village Head holds attributive authority in full over village asset management, though that authority stops short of being absolute. Portions of the power may be passed to village staff or other parties where the statutes allow it. Article 26 paragraph (3) letter e of the Village Law, for example, entitles the Village Head to mandate the carrying out of further duties and obligations to village officials. It is common in practice for a Village Head to mandate the Village Secretary or the Head of Financial Affairs to handle part of the technical work of asset management. Even so, granting such a mandate leaves the Village Head's principal responsibility intact, since the office remains the holder of authority over village assets.

Legal Responsibility of the Village Head

The legal responsibility of the Village Head in village asset management can be analyzed from various perspectives, namely administrative responsibility, civil responsibility, and criminal responsibility. First, there is administrative responsibility, which turns on whether the Village Head keeps to the procedures and terms fixed by the regulations. Article 27 of the Village Law lays out the Village Head's obligations, among them managing village finances and assets and rendering reports on the conduct of village government. Minister of Home Affairs Regulation Number 1 of 2016 concerning Village Asset Management then details the asset-management steps the Village Head is bound to follow, from planning, procurement, use, safeguarding, and upkeep through to write-off and transfer of assets (Ridwan HR, 2018).

Forms of administrative responsibility may include warnings, reprimands, to temporary or permanent dismissal. Article 30 of the Village Law stipulates that the Village Head may be temporarily dismissed by the regent/mayor if declared to have committed a criminal act punishable by imprisonment for at least 5 years. Article 31 regulates permanent dismissal of the Village Head, one of which is for failing to carry out obligations as referred to in Article 27. Second comes civil responsibility, which is triggered when the handling of village assets inflicts loss on the village or on others. Article 1365 of the Indonesian Civil Code addresses unlawful acts and obliges the wrongdoer to make good the resulting loss. Applied here, a Village Head who acts unlawfully, for instance by transferring assets outside proper procedure or by leasing them below fair value without defensible grounds, can be held civilly answerable and required to compensate for that loss.

Additionally, in village asset management, there is also a known accountability mechanism through reporting. Article 27 paragraph (2) of the Village Law requires the Village Head to provide reports on village governance administration to the regent/mayor, accountability reports to the Village Consultative Body (BPD), and to inform the community about village governance administration reports. These reports must contain information regarding village finance and asset management, enabling the community to supervise and demand accountability if irregularities are found. Third, and gravest of all, is criminal responsibility, which comes into play where the Village Head commits an offence in managing village assets, such as corruption, embezzlement, or abuse of office. Law Number 31 of 1999 concerning the Eradication of Corruption Crimes, as amended by Law Number 20 of 2001, spells out the conduct that amounts to corruption, including enriching oneself or another in a way that damages state finances or the state economy. Seen through the lens of criminal law, a Village Head may be classed as a state official or public servant. Under Article 2 of the Corruption Crime Law, anyone who unlawfully enriches himself or another so as to harm state finances faces life imprisonment, or a prison term ranging from a minimum of four to a maximum of twenty years. Should a Village Head be shown to have engaged in corruption while managing village assets, this is the provision under which charges would lie. Research conducted by Nugroho et al. (2019) revealed that law enforcement against abuse of authority in village land management can be carried out through administrative law instruments or criminal law, depending on the severity of the violation and the impact caused. Administrative law enforcement instruments include supervision as a preventive measure and the application of sanctions as a repressive measure. Meanwhile, if criminal elements such as corruption are found, the criminal law process may be pursued.

Implementation of Village Head Responsibility and Constitutional Analysis

Implementation Practices and Challenges Faced

The implementation of Village Head responsibility in village asset management in the field faces various obstacles and challenges. Based on a review of various research and reports, several main problems can be identified:The first is a shortfall in understanding the rules. A good many Village Heads and their staff have yet to fully absorb what the regulations on village asset management require. The findings of Nugroho et al. (2019) point to a leading cause of irregularity in village land management: Village Heads who have not mastered the regulations, coupled with limited schooling and a habit of underrating such issues while showing little interest in reading the applicable rules. Thin socialisation and scant guidance from local governments only deepen the problem.

The second is a fragile oversight system. Although the regulations prescribe supervision over village asset management, it has not worked well in practice. Oversight by the BPD, which speaks for the village community, tends to fall short because its members are limited in capacity and understanding. Oversight from regents, mayors, and governors likewise stays largely administrative and rarely reaches the substance of how assets are managed. The consequence is that deviations slip by unnoticed or surface only belatedly (Muchsan, 2000). Third, minimal community participation. Village communities as owners of rights to village assets are often not actively involved in supervising village asset management. Access to information regarding village asset management remains limited, and complaint mechanisms for finding irregularities are not yet adequately available. In fact, community participation is an essential element in realizing village asset management accountability.

Fourth, conflict of interest. In several cases, village asset management is colored by conflicts of interest between Village Heads, village officials, BPD, and certain parties. Village land, for example, often becomes an object of dispute due to its high economic value. Transfer of rights to village land to third parties without proper procedures often occurs due to weak supervision and the existence of personal or group interests (Sanga, 2022). Fifth, sanctions that have not provided deterrent effects. Although various administrative, civil, and criminal sanctions have been regulated, the application of sanctions in practice remains suboptimal. Many cases of village asset management deviations are not followed up firmly, thus failing to provide deterrent effects for perpetrators and not serving as lessons for other Village Heads.

Constitutional Analysis of Village Asset Management Implementation

Constitutional analysis of the implementation of Village Head responsibility in village asset management can be conducted using Constitutional Theory and the Concept of the Rule of Law (Atmadja, 2015). Consider first the charge in Article 18 of the 1945 Constitution. That article directs regions, villages among them, to arrange and administer their own affairs on the principles of autonomy and co-administration. The charge hands villages the entitlement to manage resources of their own, village assets included, toward the betterment of community welfare. That entitlement, though, must be matched by a duty to exercise it openly, answerably, and fairly. When a Village Head misuses the power over village assets, the constitutional charge is breached; irresponsible handling of assets does more than drain village finances, it betrays the constitutional commitment to realise the welfare of the village community (Asshiddiqie, 2010). Consider next the aims of the state declared in the Preamble to the 1945 Constitution. Its fourth paragraph sets them out plainly: to shield the whole Indonesian nation and its territory, to advance the general welfare, to educate the life of the nation, and to take part in ordering the world. Village assets are one of the resources meant to be put to work in reaching the aim of general welfare at the local level. Manage those assets irresponsibly and this constitutional aim is set back, for the villagers who ought to reap the benefit of the assets instead lose out as the assets fall under the control or use of a select few. Consider, thirdly, the principle of the Pancasila rule of law. As Jimly Asshiddiqie frames it, Indonesia's rule of law cannot rest on formal legality alone; it must also carry moral content, substantive justice, and the values of divinity, humanity, unity, democracy, and social justice. Brought to bear on village asset management, this principle asks that assets be managed not merely by the letter of procedure but in a way that embodies fairness and benefit for the whole village community. Practices that serve only a narrow group, or that leave the community worse off, run against the social-justice values at the core of the Pancasila rule of law (Asshiddiqie, 2012).

Consider, finally, the principle that power must be limited. Constitutional theory holds that a constitution operates as a device for restraining power (*limited government*). The authority given to the Village Head as steward of village assets has to be bounded by law and its exercise kept under watch. Article 18 of the 1945 Constitution extends autonomous authority to villages, but that authority carries limits rather than running unchecked. Asset management must stay inside the legal frame and answer to clear accountability mechanisms; once a Village Head oversteps the bounds of the office, the constitutional principle of limited power has been transgressed.

Future Projection: Strengthening Village Asset Governance

Based on the above analysis, strategic measures are needed to strengthen village asset governance and ensure that the legal responsibility of Village Heads can be effectively implemented: First, strengthening human resource capacity. Local governments need to enhance the capacity of Village Heads and village officials through intensive training and assistance regarding village asset management in accordance with laws and regulations. Training materials should cover technical aspects of asset management, regulatory understanding, as well as comprehension of legal responsibility and risks of deviation.

Second, strengthening supervision mechanisms. Supervision by the BPD needs to be enhanced through improving the capacity of BPD members and providing adequate access to information. Supervision by regents/mayors and governors must also be strengthened, not only administratively but also covering substantive aspects. Minister of Home Affairs Regulation Number 3 of 2024 has regulated the approval mechanism of the Governor for the transfer of certain village assets, which represents a positive step in strengthening supervision. Third, strengthening community participation. Village communities need to be educated about their rights in supervising village asset management. Villages are obliged to provide easy access to information for the community regarding village asset management, including through village information boards, village websites, or village deliberation forums. Complaint mechanisms for when the community finds irregularities in village asset management also need to be provided and socialized.

Fourth, firm and consistent law enforcement. Law enforcement officials need to firmly prosecute every case of village asset management deviation in accordance with statutory provisions. Firm and consistent law enforcement will provide deterrent effects and prevent similar deviations in the future. Additionally, mechanisms for recovering village losses due to asset management deviations need to be developed, both through civil and administrative channels. Fifth, regulatory refinement. Although regulations on village asset management are already quite comprehensive, there is still room for refinement, especially in terms of stricter sanction provisions and more effective supervision mechanisms. The central government together with local governments need to periodically evaluate the implementation of regulations and make revisions if weaknesses or discrepancies with evolving needs are found.

4. Conclusions

This research yields two main conclusions in accordance with the problem formulations proposed. First, the construction of legal responsibility of Village Heads in village asset management is based on attributive authority granted by Law Number 6 of 2014 concerning Villages. The Village Head as the holder of village asset management authority has the authority to plan, procure, utilize, safeguard, maintain, eliminate, and transfer village assets. This authority is accompanied by strict legal responsibility, encompassing administrative responsibility (compliance with procedures and reporting), civil responsibility (compensation for losses due to unlawful acts), and criminal responsibility (especially related to corruption crimes). Implementing regulations such as Minister of Home Affairs Regulation Number 1 of 2016 as amended by Permendagri Number 3 of 2024 regulate in detail the mechanisms of village asset management and reinforce the role and responsibility of the Village Head. Second, the implementation of Village Head responsibility in village asset management in the field still faces various obstacles, including gaps in regulatory understanding, weak supervision mechanisms, minimal community participation, conflict of interest, and suboptimal sanction enforcement. Constitutional analysis reveals that irresponsible village asset management practices contradict the mandate of Article 18 of the 1945 Constitution concerning village autonomy, the state objectives in the Preamble to the 1945 Constitution to realize general welfare, the principle of the Pancasila rule of law demanding substantive justice, and the principle of limitation of power in the constitution. Strategic measures are needed to strengthen village asset governance, including strengthening human resource capacity, strengthening supervision mechanisms, strengthening community participation, firm and consistent law enforcement, and regulatory refinement so that village asset management can be carried out responsibly and in accordance with constitutional principles.

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