

The Concept Of A Perfect BUMDES Law Entity After Law No. 11/2020 On Working Creation In The Role Of Increasing Village Income

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Abstract

BUMdes is a productive forum in encouraging the empowerment of economic potential in the village, in addition to its existence will be able to open up employment opportunities. This indicates that good management construction is also needed, a construction that supports efficiency so that the principle of independence in village development is realized. The priority of BUMdes is on economic benefits, in addition to social benefits, but the legal aspect must be a foothold. Not merely pursuing benefits just because of the new spirit. However, it is necessary to know the rules to understand the construction as well as the alternatives in it. Regulatory incompleteness (norm ambiguity), namely that based on Government Regulation Number 11 of 2021 concerning Village-Owned Enterprises, BUMdes is in the form of a legal entity, which in its explanation cannot be equated with PT and Cooperatives, while in terms of regulation, business entities can take the form of PT legal entities (Law Number 40 of 2007 concerning Limited Liability Companies). The purpose of this study is to analyze the BUMdes institutional model as a legal entity in Indonesia to increase village income. The method used in this research is normative legal research with statutory, conceptual, and philosophical approaches. The results of the study confirm that BUMdes has a goal as stated in the definition of BUMdes that BUMdes not only aims to increase Village PAD but also must prosper the Village Community itself so that the Legal Entity Form of BUMdes after work creation must be regulated so that it aims directly at the welfare of the village community.

Keywords: *BUMDes Legal Entity; Job Creation; Village Revenue*

1. INTRODUCTION

The Preamble of the 1945 Constitution of the Unitary State of the Republic of Indonesia clearly states that the purpose of independence is to advance the general welfare, educate the nation's life in a just and prosperous manner, prioritize the welfare of society, and also to form a complete Indonesian human being¹.

To put the decentralization concept into practice, province regions, regency regions, and city-regions are created and structured. These regions are given the power to administer and control the interests of local communities based

¹ Sukarmo, I.G., Haq, H., Asikin, Z., Salim, H.S., Minority Shareholders' Legal Protection in a Limited Liability Company System(Article), Journal of Siberian Federal University - Humanities and Social Sciences, Volume 14, Issue 12, 2022, Pages 1606-1612

on their ideas and desires.² The economy, which is the primary force behind progress, is the subject of discussion. Since rural regions in Indonesia are where the bulk of the country's people reside, they serve as the focal point for development. The goal of development is to close different income inequalities, including those between the affluent and the poor and between rural and urban areas. Rural development may be seen as a development program implemented deliberately to enhance output, income, and welfare in the sense of enhancing one's standard of living in the areas of housing, education, and health.³

The government has long implemented several measures to strengthen the economic foundation in rural regions. These efforts, however, did not satisfyingly provide the intended outcomes. To stimulate and propel the economy in rural areas, the government has adopted a new strategy. One of the efforts made is to promote village entrepreneurship, which is supported by Village-Owned Enterprises (BUMdes) created by the government and village communities. BUMdes is a commercial organization that manages the financial resources and assets of villages as part of the empowerment of local communities. Government Regulation Number 11 of 2021's Article 1 Point 1 governs BUMdes arrangements, which:

“Village-owned enterprises, hereinafter referred to as BUMdes, are legal entities established by villages and/or together with villages to manage businesses, utilize assets, develop investment, and productivity, provide services, and/or provide other types of businesses for the greatest welfare of the village community.”

This rule's existence might draw attention to the fact that village-owned businesses are legal entities. Considering that the definition of BUMdes has changed in Law Number 11 of 2020 concerning Job Creation (Job Creation Law), Article 117, BUMdes arrangements are also governed by Village Minister Regulation Number 4 of 2015 concerning Establishment, Management, Leadership, and Dissolution of Village-Owned Enterprises (BUMdes) and Article 1 point (6) of Law Number 6 of 2014 concerning Villages.

The way BUMdes works is by accommodating the economic activities of the community in an institutional form or a professionally managed business entity, but still relying on the village's original potential. This can make community businesses more productive and effective. In the future, BUMdes will function as a pillar of national independence, which is also an institution that accommodates the economic activities of the community that develop according to the characteristics of the village to improve the welfare of the village community.⁴

Law Number 6 of 2014 Concerning Villages (Law 6/2014), Government Regulation Number 11 of 2021 Concerning Village-Owned Enterprises and its Amendments PP 47 of 2015, and Permendesa Number 4 of 2015 Concerning Establishment, Management,

² Dedi Supriyadi Bratakusuma, et. All, *Otonomi Penyelenggaraan Pemerintah Daerah*, (PT.Gramedia Pustaka Utama, 2004), 9

³ M.J Kasiyanto, *Masalah dan Strategi Pembangunan Indonesia*, (Jakarta: PT Pustaka Pembangunan Swadaya Nusantara, 1994), 55.

⁴ Herry Kamaroesid, *Tata Cara Pendirian dan Pengelolaan BUMDES*, (Jakarta: MitraWacana media, 2016), 2.

Management, and Dissolution of Village-Owned Enterprises (BUMdes) contain the regulations governing BUMdes as a business entity. The legislative framework governing BUMdes serves as a strategic initiative to achieve success in the economic and development sectors targeted at rural areas. BUMdes are one of the manifestations, and even BUMdes can take the form of legal entities and not legal entities, which in the explanation cannot be associated with CV, PT, and cooperatives. BUMdes are founded with a spirit of kinship and mutual collaboration.

However, looking at the regulation, there are still things that need to be considered while supporting the construction of BUMdes for effective and efficient management. BUMdes as regulated is a business entity that is wholly or partially 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 (Article 1 point 6 of Law Number 6 Year 2014). To run its business, BUMdes has a management organ consisting of, Advisors, Operational Executives, and Supervisors, with their respective roles. The activeness in running BUMdes' businesses is in the operational executors such as running brokering, joint business (holding), social business, financial business, trading, renting business, and other profit-oriented businesses that are in line with improving the welfare of the village community based on existing economic potential.

BUMdes is a useful venue for promoting the village's economic potential to be realized, and it will also be able to provide job possibilities. This suggests that to implement the concept of independence in village development, it is also necessary to have an effective management structure, one that encourages efficiency. To protect the character of BUMdes, which designates the village community as the beneficial owner, village discussion is to be interpreted as the highest forum in decision-making at the village level. This is done to ensure that there is no absolute authority in the management of BUMdes.

However, while BUMdes prioritizes economic advantages over social benefits, the legal component still needs to have some sway. not only chasing advantages due to the new spirit. To grasp the construction and the variations within it, you must, however, be familiar with the rules. BUMdes fall under the definition of a legal entity under Government Regulation Number 11 of 2021 concerning Village-Owned Enterprises, which in its explanation cannot be compared to PTs or cooperatives. However, under Law Number 40 of 2007 concerning Limited Liability Companies, a business entity may also take the form of a PT legal entity.

The method used in this research is normative legal research.⁵ The approaches used are the statute approach,⁶ conceptual approach, and philosophical approach.⁷ The sources of legal materials used in this research are the 1945 Constitution of the Republic of Indonesia, Law Number 6 of 2014 concerning Villages (Law 6/2014) and

⁵ Hirsanuddin, Rodliyah, Minollah, Hybrid contract design in sharia banking product development(Article), Journal of Legal, Ethical and Regulatory Issues, Volume 24, Issue Special Issue 1, 2021, Pages 1-13.

⁶ Muhaimin, Husni, L., Wira, L., Authoritative Institution In Disputes Resolution In The Conversion Of Conventional Bank To Sharia Bank, Journal of Legal, Ethical and Regulatory Issues, 2021, 24(4), pp. 1-8.

⁷ Muhaimin, The existence of Sharia insurance business arrangement by positive law, Journal of Legal, Ethical and Regulatory Issues, 2018, 21(Specialissue).

Government Regulation Number 11 of 2021 concerning Village-Owned Enterprises and its amendments PP 47 of 2015 and Permendesa No.4 of 2015.

2. ANALYSIS AND DISCUSSION

2.1. Bumdes Legal Entity Concept

Development is essentially an effort to build up the village's economic potential to create welfare and better people's lives fairly and equitably, to improve living conditions, access to education, and employment opportunities, to support the upholding of political freedom, democracy, and human rights, and to build and raise awareness of the need for sustainable development in the village.⁸

According to Margaret Blair, who uses the phrase "corporate personhood," there are four key advantages to having a clear legal entity status:⁹

1. Provides continuity and a clear line of succession over asset ownership and contract fulfillment
2. Provides an identifiable persona to be able to act as the main actor in business activities
This persona is the bearer or holder of important intangible assets such as reputation and trade names, as well as a direct party to contracts made with third parties. In addition, this persona is the claimant or sued in court
3. Provides a mechanism to separate the assets of the business from the personal assets of the individuals involved in the company
4. The separateness of the corporate entity requires a self-governance mechanism in the form of a managerial hierarchy that has a fiduciary duty.

The legal basis for BUMDesa in Indonesia is Law No. 6/2014 on Villages. This law provides a clear legal basis for the establishment and management of BUMDesa as an economic institution at the village level.

Some articles in Law No. 6/2014 related to BUMDesa include:

- a. Article 79 Paragraph (1) states that "BUMDesa is a business entity with a legal entity, domiciled in the village, in the form of a cooperative, limited liability company, or other business entity, all or most of whose capital is owned by the Village."
- b. Article 80 Paragraph (1) states that "BUMDesa has a function as a village economic institution that is managed professionally and environmentally sound to improve the welfare of the village community."
- c. Article 81 regulates the management of BUMDesa capital that comes from various sources, such as the village revenue and expenditure budget, business results, donations, grants, or loans.
- d. Article 83 Paragraph (1) states that "BUMDesa can form business units, subsidiaries, or cooperate with other domestic and foreign parties."

⁸ Afero, D., Rosalia, F., & Budiono, P., "Badan Usaha Milik Desa (Bumdesa) dalam Perspektif Desentralisasi Pembangunan.", *Jurnal Studi Pemerintahan dan Akuntabilitas*, 1(2), (2022):151-159, <https://doi.org/10.35912/jastaka.v1i2.1136>.

⁹ Margaret M Blair, "The Four Functions of Corporate Personhood", *Vanderbilt University Law School, Public Law and Legal Theory Working Paper* No. 12-15, (2013): 4-6, <https://doi.org/10.29303/ius.v9i2.1109>

- e. Article 84 states that BUMDesa is further regulated by Village Regulation which regulates the authorized capital, articles of association, management, and form and type of BUMDesa business.

Village Regulations are precise rules made at the village level that govern how BUMDesa should be run. They may also contain more particular rules on how BUMDesa should be established, managed, and other matters. BUMDesa was created by Perdes under the Law's stipulations. However, contrary to what is stated in Article 7 paragraph 1 of the law, Law No. 12/2011 on the Establishment of Laws and Regulations does not include the nomenclature of Perdes in the hierarchy of laws and regulations. The question of whether or not Perdes may serve as the legal foundation for the creation of a public legal body is raised regarding the founding of BUMDesa.¹⁰

Article 87 paragraph 1 of the Village Law does not implicitly mention the status of Bumdes as a legal entity, but it is explained that in carrying out its business activities, it is possible to follow legal entities that have been stipulated in the provisions of laws and regulations such as PT or microfinance institutions. However, this also causes inconsistencies in the norms of the definition of Bumdes itself, which means that Bumdes is a village-owned business entity, if the subsidiary is in the form of a legal entity while the Bumdes itself is in the form of a non-legal entity, it means that the Bumdes cannot become a shareholder, which in the end, in the subsidiary in the form of a legal entity, the shareholder is usually the village head.

Since the enactment of the job creation law, the role of Village-Owned Enterprises (BUMDesa) remains relevant and can even be further strengthened to boost the economy at the village level. The job creation law or more precisely the Omnibus Law on Job Creation (Law No. 11 of 2020) aims to increase investment and create jobs.

In the context of BUMDesa, several aspects need to be considered after the law:

- a. Strengthening the Role of BUMDesa: With the regulatory changes brought about by the job creation law, there is potential to strengthen the role of BUMDesa as one of the economic pillars at the village level. BUMDesa can play a role in managing village resources and creating jobs through various local economic activities.
- b. Ease of Investment: One of the objectives of the job creation law is to create a more conducive investment climate. This can provide opportunities for BUMDesa to attract investment from the private sector or partnerships with other companies, thereby increasing the potential for business development in the village.
- c. Business Protection and Security: The job creation law also seeks to enhance legal protection and business security. This will assist BUMDesa in facing legal challenges and promote trust for investors or business partners.
- d. Community Empowerment: To achieve sustainable development goals, BUMDesa can play a role in community empowerment through training programs, skills development, and socio-economic partnerships.

¹⁰ Afero, D., Rosalia, F., & Budiono, P., "Badan Usaha Milik Desa (Bumdesa) dalam Perspektif Desentralisasi Pembangunan", *Jurnal Studi Pemerintahan dan Akuntabilitas*, 1(2), (2022): 151-159, <https://doi.org/10.35912/jastaka.v1i2.1136>

After the issuance of the new law, there may be changes or adjustments regarding the appropriate legal entity for village-owned enterprises. However, until then, one popular form of legal entity for village-owned enterprises is the Cooperative. A cooperative is a business entity established based on the principles of independence, democracy, togetherness, social responsibility, and a fair economy. A cooperative can be owned and operated by a group of people who have a common interest and goal to improve the economic welfare of its members and the surrounding community.

The advantages of establishing a cooperative as a village-owned enterprise are as follows:

- a. Self-reliance: Cooperatives can help villages to develop their economy and reduce dependence on external parties.
- b. Togetherness: Cooperative members will work together to achieve common goals and address common economic problems.
- c. Democratic Participation: Cooperatives adhere to the principle of democracy in decision-making, where each member has equal voting rights in meetings and elections of administrators.
- d. Profit Sharing: Profits generated by the cooperative will be distributed to members according to their participation and transactions with the cooperative.
- e. Community Economic Empowerment: Cooperatives can help rural communities to improve their skills and capacity to manage businesses collectively.

Indonesia is not the only country or the first country to have the concept of economic entities such as BUM Desa. In China, for example, Township-Village Enterprises (TVEs), which have similar characteristics to BUM Desa, have become the main driving force for the industrialization of rural areas in the country. TVEs have become one of the engines driving China's economic growth. The progress of TVEs in China gives hope that BUM Desa in Indonesia will achieve the same success story.¹¹

TVE (Town/Village Enterprise) refers to small and medium-sized enterprises based in rural and small urban areas in China. The TVE program was first introduced by the Chinese government in the 1980s as part of an economic reform policy to encourage economic development in rural areas.

Some points to note about TVEs in China:¹²

- a. Legal status: TVEs are usually governed by laws and regulations applicable to companies or business entities generally in China. There may be specific laws governing certain aspects of a TVE's activities, such as labor, tax, and environmental laws, but the details may vary depending on the level of government (national, provincial, or local) in China.
- b. Registration and business license: Like any other company in China, TVEs must be registered and obtain a business license under applicable regulations. This process usually involves the local business registration authority.

¹¹ Sukarja, D., Siregar, M., & Lubis, T. M., "TELAH KRITIS STATUS BADAN HUKUM DAN KONSEP DASAR BADAN USAHA MILIK DESA", *Arena Hukum*, 13(3), (2020): 568–588. <https://doi.org/10.21776/ub.arena.hukum.2020.01303.9>

¹² Perotti, E. C., Sun, L., & Zou, L. "State-owned versus township and village enterprises in China", *Comparative Economic Studies*, 41, (1999): 151-179,

- c. Labor rights: TVEs are also required to comply with applicable labor laws, such as working hour standards, minimum wages, and employee protection. Labor laws in China have undergone significant developments in recent years, so it is important for TVEs to always comply with the latest laws in this regard.
- d. Taxes: TVEs must comply with applicable tax regulations in China. This includes the payment of corporate income tax, value-added tax (VAT), and other taxes relevant to their business activities.
- e. Environmental regulations: TVEs are also required to comply with environmental regulations set by the Chinese government. They must adhere to set environmental standards and take responsibility for the environmental impact of their business activities.

In China, villages also play an important role in the country's social and economic structure. To develop the rural economy and improve the welfare of people in the villages, the Chinese government has implemented various policies and programs to support local economic initiatives.

In this regard, in China, villages may have various forms of business entities or economic entities that are governed by applicable regulations and policies in the country. Forms of business entities or economic entities in Chinese villages may include:¹³

- a. Collective Economic Organizations: Collective economic organizations operated by villages or community groups within them to manage local economic resources and develop joint enterprises.
- b. Village Enterprises: Village-level enterprises established to manage specific industries or businesses in the village. Village enterprises can be a pillar of the rural economy by creating jobs and advancing the local economic sector.
- c. Agricultural Cooperatives: Agricultural cooperatives consist of farmers or groups of people in the village who work together to buy, process, or market agricultural products together.
- d. Rural Small and Medium Enterprises (SMEs): Small and medium enterprises that operate in rural areas and are involved in various sectors of the economy.

The establishment of this village-owned enterprise is because it has been mandated that to increase community and village income, the village government can establish a village-owned enterprise. The pillar of this BUMDes institution is a village socio-economic institution that is truly capable as a commercial institution that can compete outside the village.¹⁴ BUMDes is a people's economic institution of commercial institutions, first of all in favor of fulfilling the needs (productive and consumptive) of the community through distribution services for the provision of goods and services.¹⁵ This is realized in the procurement of community needs that are not burdensome (such as cheaper prices and easier to obtain) and profitable. In this case, BUMDes as a commercial institution, is still paying attention to efficiency and effectiveness in real sector activities and financial institutions (acting as MFIs), (Ramadana, 213).¹⁶

¹³ Perotti, E. C., Sun, L., & Zou, L.

¹⁴ Karim, A., *Peningkatan Ekonomi Desa Melalui Badan Usaha Milik Desa (BUMDes)*, (Makasar: Nas Media Pustaka, 2019)

¹⁵ Karim, A.

¹⁶ Karim, A.

Here are some of the main roles of BUMDesa as a pillar of the village economy:

- a. Local Potential Management: BUMDesa assists in identifying and managing local economic potential in the village, such as agriculture, plantations, tourism, crafts, or other sectors. This helps the village utilize its resources and potential for the benefit of the village economy as a whole.
- b. Job Creation: By managing various local businesses and economic activities, BUMDesa creates jobs for villagers. This helps to reduce unemployment rates and increase employment opportunities for local communities.
- c. Driving Economic Growth: By developing businesses and enterprises in the village, BUMDesa helps improve economic growth at the local level. The revenue generated from BUMDesa businesses can also contribute to the turnover of money in the village and increase the purchasing power of residents.
- d. Improving Community Welfare: Profits generated from BUMDesa businesses can be used to support the development of infrastructure and public services, such as education, health, and other public facilities. This can improve the quality of life and welfare of the village community.
- e. Community Economic Empowerment: BUMDesa plays an important role in the economic empowerment of local communities. Villagers involved in the management and ownership of BUMDesa have the opportunity to participate in decision-making and take an active role in the economic development of their village.
- f. Minimizing External Dependency: By developing local economic potential, BUMDesa can help reduce the village's dependency on external resources. This can increase the resilience of the village economy to changes in external economic conditions.

The role of BUMDesa as a pillar of the village economy is not only economically impactful but can also create a more inclusive and sustainable environment at the village level. Therefore, it is important to empower and support BUMDesa in its efforts to drive local economic growth and improve the welfare of village communities.

2.2. The Right Form of Legal Entity for BUMDes

Before the enactment of the Job Creation Law (Law No. 11/2020), Village-Owned Enterprises (BUMDes) in Indonesia did not have a clear legal form. Instead, BUMDes operated based on institutional principles and regulations set by the local government.

The government has long implemented several measures to strengthen the economic foundation in rural regions. The village is only the implementer of this top-down policy, which was started by the national government. Additionally, development is often in a homogeneous manner rather than depending on the various conditions, cultures, and capabilities of different locations. In addition to a lack of laws that support innovation, there is also a fear of moving forward, of making errors, and of looking for stability.

The Village Unit Cooperative was a cooperative company structure that the government established in 1992, which was commemorated by the promulgation of Law No. 25 of 1992 on Cooperatives. The cooperative, however, was unable to boost the rural economy. Cooperatives are frequently employed by the juragan in rural areas as a strategy for economic development. As a result, cooperatives solely serve the interests of their

capital owners, which is contrary to the mission of the cooperative legal organization, which is to promote the welfare of its members through a people's economy.

The notion of bolstering regional corporate entities emerged along with the ethos of regional autonomy. The government released Law No. 32/2004 on Regional Government, a new strategy to boost the local economy. Villages may construct BUMDes in line with their requirements and potential, according to Article 213 paragraph (1) of the Law.

BUMDes is a village business organization that focuses on the economic field to enhance the local community's economy. This goal covers the intention of enhancing the village economy, raising the village's initial revenue, improving the management of village potential in line with community requirements, and providing the foundation for the expansion of economic equality. These also provide the foundation for the expansion of economic equality in the village in an endeavor to enhance social welfare.

Regional autonomy is the authority to manage the affairs and interests of the community in its region. After the reformation, legislation was born in the implementation of local government, namely, Law Number 22 of 1999 which was replaced by Law Number 32 of 2004, until finally there was a change through Law Number 23 of 2014 concerning Regional Government, which had a major influence on the implementation of village governance, namely with the birth of Law Number 6 of 2014 concerning Villages, hereinafter abbreviated as the Village Law. In addition to placing provinces and regencies/cities as a means of implementing regional autonomy, the government views that it is time for villages to implement their autonomy.

The autonomy in question is the implementation of village autonomy with the passing of the Village Law, which provides opportunities for villages to develop villages by establishing BUMDes and is supported by Government Regulation No. 43 of 2014 and Government Regulation No. 47 of 2015 concerning Amendments to Government Regulation No. 43 of 2014 concerning Implementation Regulations of Law No. 6 of 2014 concerning Villages, especially Chapter VIII on BUM Desa, Permendes No. 4 of 2015 on the Establishment, Management, and Management, and Dissolution of Village-Owned Enterprises, and Government Regulation No. 60 of 2014 on Village Funds sourced from the State Budget (APBN), have provided a basic foundation related to the administration of village government and empowerment of village communities as a form of the autonomous region. Thus to build and advance a village, the village government is encouraged to have BUMDes that are useful for building, progressing, and the potential of the village.

To achieve the equitable and prosperous society envisioned in the Village Law, the central government developed this provision solely to encourage villages to actively engage in boosting their local economies. Before the passage of the Job Creation Law, BUMDes were typically village-owned businesses that were governed by village regulations set forth by the local village council. At the time, BUMDes' legal standing was primarily administrative, and its participation in economic operations in the hamlet required the backing and consent of the local administration.

Although BUMDes did not have a clear legal form prior to the Job Creation Law, some of them may operate as cooperatives or other business entities that have been established with a legal form. However, this depends on the prevailing policies and regulations in the region.

The Job Creation Law, which was passed in 2020, regulates various matters related to investment, employment, and regulatory simplification, including provisions relating to BUMDes. However, as the writer's knowledge is limited to September 2021, the writer is unable to provide up-to-date details on the regulations governed by the Job Creation Law concerning BUMDes. Instead, we advise the reader to refer to the original text of the Job Creation Law and related regulations issued by the government to understand in detail the changes that exist regarding the status and legal form of BUMDes after the Law comes into effect.

Law Number 11 of 2020 on Job Creation, hereinafter referred to as the Job Creation Law, in article 1 number 1 explains the definition of Job Creation as follows:

Job Creation is an effort to create jobs through measures such as providing convenience, protection, and empowerment for cooperatives and micro, small, and medium enterprises. This includes measures to improve the investment ecosystem and ease of doing business, as well as investment from the Central Government and the acceleration of national strategic projects. In the context of this law, Job Creation refers to a series of actions and policies aimed at creating jobs through various means, including providing support and incentives to cooperatives as well as micro, small, and medium enterprises. These measures aim to increase the level of investment, create a more favorable business climate, and encourage the implementation of strategic projects that can contribute to economic growth and national development.

In its consideration, the Job Creation Law aims to be able to absorb as much Indonesian workforce as possible during increasingly competitive competition and the demands of economic globalization. In line with this, arrangements related to the ease, protection, and empowerment of cooperatives and micro, small, and medium enterprises, improvement of the investment ecosystem, and acceleration of national strategic projects, including efforts to improve the protection and welfare of workers regulated in various sector laws are currently considered inadequate to support the acceleration of job creation. Therefore, changes are made in the form of the Job Creation Law to achieve these objectives.

The philosophical basis for the enactment of the Job Creation Law is based on Article 4, Article 5 paragraph (1), Article 18, Article 18A, Article 18B, Article 20, Article 22D paragraph (2), Article 27 paragraph (2), Article 28D paragraph (1) and paragraph (2), and Article 33 of the 1945 Constitution of the Republic of Indonesia.

There is a regulation on BUMDes in the Job Creation Law as stipulated in Article 117 of the Job Creation Law which amends the provisions in Law Number 6 Year 2014 on Villages Article 1 point 6 Village-Owned Enterprises, hereinafter referred to as BUM Desa, are Legal Entities established by villages and/or together with villages to manage

businesses, utilize assets, develop investment and productivity, provide services, and/or provide other types of businesses for the greatest welfare of the Village community.

And the provisions of Article 87 which also regulates BUMDes are amended in the Job Creation Law in Article 117 so that it reads as follows:

Article 87

- a. Villages can establish BUM Desa
- b. BUM Desa as referred to in paragraph (1) shall be managed with a spirit of kinship and cooperation.
- c. BUM Desa can conduct business in the economic sector and/or public services per the provisions of laws and regulations.
- d. BUM Desa as referred to in paragraph (1) may form a legal entity business unit following the needs and objectives.
- e. Further provisions regarding BUM Desa as referred to in paragraph (1), paragraph (2), paragraph (3), and paragraph (4) shall be regulated by Government Regulation.

The elucidation of Article 117 paragraph (1) of the Job Creation Law which amends the provisions in Article 87 of the Village Law explains that BUMDes is formed by the Village Government 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. BUMDes specifically cannot be equated with legal entities such as limited liability companies, or cooperatives. Therefore, BUMDes is a business entity characterized by the Village, which in the implementation of its activities in addition to assisting the implementation of the Village Government, also meets the needs of the Village community. BUMDes can also carry out the functions of service, trade, and other economic development.

By managing revolving funds and savings and loans, for example, BUMDes can gather savings on a small scale in the Village community while also boosting the Village's revenue streams. BUM Desa's operations are focused on supporting the enhancement of the welfare of the Village community as well as financial gain. Business units in leveraging economic potential are projected to be developed by BUM Desa. If company operations proceed smoothly, BUM Desa may eventually adopt the legal structure outlined in the laws and regulations if they so want.

The position of BUMDes after the Job Creation Law as a New Entity Legal Entity whose position is equivalent to a Limited Liability Company (PT) is equivalent to BUMN at the national level and BUMD at the regional level as explained in the Explanation of Article 117 of the Job Creation Law which amends Article 87 of the Village Law that the position of BUMDes as a legal entity cannot be equated with Companies and Cooperatives. The expected positive impacts of BUMDes status as a legal entity include facilitating village partnerships, making it easier to promote regional potential, accelerating regional economic improvement through villages, and accelerating the success of the National Sustainable Development Goals (SDGs). So BUMdes needs to have its own characteristics compared to other legal entities that already exist in Indonesia because it should be remembered that BUMdes has a goal as stated in the

definition of BUMdes that BUMdes not only aims to increase Village PAD but also must prosper the Village Community itself so that the Legal Form of BUMdes after work creation must be regulated so that it aims directly at the welfare of the village community.

Some of the most crucial arrangements that must be implemented for BUMdes are that Bumdes shouldn't have subsidiaries in the form of PT since, if Bumdes does, the PT Law will apply and the Bumdes subsidiary may be privatized. As we can see from the BUMN and BUMD Laws, the Job Creation Law or its Implementing Regulations do not govern Bumdes in the form of Persero or Public Companies. Therefore, if it is not regulated, the goals of building Bumdes, which include fostering community growth and raising PAD, won't be realized.

3. CONCLUSION

According to the definition of BUMdes, the objective of BUMdes is to improve the welfare of the village community directly, in addition to increasing village PAD. As a result, the legal form of BUMdes after work creation must be regulated to achieve this goal. The most significant of the arrangements that must be implemented for BUMdes is that it cannot have subsidiaries that are formed as PTs because, if it does, the PT Law will be applied and the Bumdes subsidiary may be privatized. As we can see from the BUMN and BUMD Laws, the Job Creation Law or its Implementing Regulations do not govern Bumdes in the form of Persero or Public Companies. Therefore, if it is not regulated, the goals of developing Bumdes, which include fostering community growth and raising PAD, won't be realized.

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