

The Legal Status of Village-Owned Enterprises (BUMDes) in the National Economic System: Between Village-Owned Entities and Private Enterprises

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Abstract

This study examines the legal status of Village-Owned Enterprises (BUMDes) within Indonesia's national economic framework, emphasizing their dual nature as both public legal entities and private economic actors. BUMDes were established under Law Number 6 of 2014 concerning Villages and further reinforced by Government Regulation Number 11 of 2021, positioning them as hybrid institutions that integrate public accountability with market-oriented operations. Through a normative juridical approach, this article analyzes the intersection between public and private law in the governance of BUMDes, highlighting its sui generis legal character that cannot be strictly categorized within existing legal classifications. The findings demonstrate that while BUMDes are created and supervised under public law, their economic activities operate under civil law principles, creating a complex structure of accountability and legal responsibility. This hybrid nature allows BUMDes to function as agents of inclusive rural economic development, bridging the gap between state regulation and local entrepreneurship. However, the study also identifies ongoing challenges such as regulatory ambiguity, weak institutional capacity, and inconsistent oversight mechanisms that hinder optimal performance. Therefore, it is crucial to establish a more coherent legal framework that provides certainty regarding BUMDes' authority, asset status, and dispute resolution mechanisms. Strengthening the governance and legal clarity of BUMDes is essential to realizing their role as instruments of economic democracy and social justice, in line with the constitutional mandate of Article 33 of the 1945 Constitution of the Republic of Indonesia.

keywords: *Village-Owned Enterprises (BUMDes), legal status, hybrid entity, public-private law, economic decentralization, national economic system.*

A. Introduction

National development is a continuous effort aimed at achieving the welfare of all Indonesian citizens. One of the essential aspects of national development is rural development, which serves as the main foundation of Indonesia's social, economic, and cultural life. Villages hold a strategic role as the front-line unit of government that directly interacts with the people and acts as the cornerstone of national economic resilience. Within this context, the establishment of *Badan Usaha Milik Desa* (Village-Owned Enterprises or BUMDes) becomes highly significant.¹

BUMDes represents a concrete manifestation of the implementation of Law Number 6 of 2014 concerning Villages, which grants villages the authority to regulate and manage the interests of their communities according to their potential and local conditions.² Pursuant to Article 87 paragraph (1) of the said Law, BUMDes is established by the village to manage assets, services, and other business activities aimed at improving community welfare. BUMDes functions as a unique economic instrument, combining social and business aspects simultaneously, where economic profits are expected to correspond with the improvement of villagers' living standards.³

Since the enactment of the BUMDes policy, thousands of BUMDes have been established across Indonesia, engaging in various business

¹ Suroto, *Pembangunan Ekonomi Desa Berbasis BUMDes*, (Jakarta: RajaGrafindo Persada, 2020), hlm. 3.

² Undang-Undang Nomor 6 Tahun 2014 tentang Desa, Lembaran Negara Republik Indonesia Tahun 2014 Nomor 7.

³ Hadi, S., *Hukum dan Kebijakan Pembangunan Desa*, (Jakarta: RajaGrafindo Persada, 2021), hlm. 45.

activities—ranging from clean water management, rural tourism, agriculture, trade, to microfinance services.⁴ Empirically, the presence of BUMDes has proven to stimulate rural economic growth, create employment opportunities, and reduce the development gap between rural and urban areas. However, behind this great potential lies a fundamental issue concerning the legal status of BUMDes within the national economic system.

The main issue arises from the “hybrid” nature of BUMDes. On one hand, BUMDes is established by the village government, and most or all of its capital originates from separated village assets.⁵ This condition places BUMDes within the realm of public law, as it involves the management of public funds and administrative accountability to the village government. On the other hand, BUMDes also engages in business activities involving contracts, investments, and transactions with third parties—activities that are private in nature and subject to civil law and business competition principles.⁶

This ambiguity gives rise to various practical issues. For instance, when a dispute arises between BUMDes and a private party, the appropriate forum for settlement becomes unclear: should it be resolved in the Administrative Court (*Pengadilan Tata Usaha Negara* or PTUN) because BUMDes is a public entity, or in the District Court because it concerns civil matters?⁷ Moreover, the legal status of BUMDes assets also remains debatable—whether they are classified as state assets that cannot be pledged, or whether they can be managed flexibly like corporate assets. Furthermore, the legal

⁴ Kementerian Desa, Pembangunan Daerah Tertinggal, dan Transmigrasi, *Profil BUMDes Indonesia 2023*, Jakarta: Kemendesa PDTT, 2023.

⁵ Peraturan Pemerintah Nomor 11 Tahun 2021 tentang Badan Usaha Milik Desa, Pasal 3 ayat (2).

⁶ Rahardjo, S., *Hukum dalam Perspektif Ekonomi Kerakyatan*, (Yogyakarta: Gadjah Mada University Press, 2019), hlm. 68.

⁷ Sastrawidjaja, M., “Kedudukan Hukum BUMDes dalam Sistem Peradilan Indonesia,” *Jurnal Hukum & Pembangunan*, Vol. 50 No. 2 (2021), hlm. 245.

status of BUMDes has implications for governance aspects.⁸ Since its funding originates from public resources, BUMDes management must be transparent and accountable. However, as a business entity, BUMDes is also required to be efficient, innovative, and profit-oriented. The balance between public interests and economic objectives thus becomes the central challenge for BUMDes operations across regions.

In the context of the national economic system based on Article 33 of the 1945 Constitution of the Republic of Indonesia, BUMDes holds a strategic position. The Article stipulates that the economy shall be organized as a common endeavor based on the principle of kinship. Accordingly, BUMDes can be viewed as the embodiment of the *people's economy*—an economic model oriented toward collective welfare rather than individual profit.⁹ Therefore, BUMDes is expected to serve not only as an engine of growth but also as a driver of equity and rural independence.¹⁰

Nevertheless, this idealization will be difficult to achieve if the legal position of BUMDes remains unclear. Legal uncertainty affects policy legitimacy, oversight mechanisms, and legal certainty for parties engaged in partnerships with BUMDes. Hence, analyzing the legal status of BUMDes whether as a village owned public entity or as a private enterprise is crucial, not only to clarify its juridical aspects but also to strengthen its role within an inclusive and equitable national economic system.

⁸ Kemendesa PDTT, *Pedoman Tata Kelola BUMDes yang Baik*, (Jakarta: Kemendesa, 2022), hlm. 9.

⁹ Nasution, A., *Ekonomi Pancasila dan Pembangunan Desa*, (Bandung: Alfabeta, 2020), hlm. 31.

¹⁰ Hidayat, A., “Implikasi Hukum Kedudukan BUMDes sebagai Badan Hukum Publik dan Privat,” *Jurnal Hukum Ekonomi Negara*, Vol. 6 No. 1 (2022), hlm. 77.

B. Discussion

The Legal Status of Village-Owned Enterprises (BUMDes) in the National Economic System Based on Indonesian Legislation

Village-Owned Enterprises (BUMDes) are rural economic institutions established under Law Number 6 of 2014 concerning Villages as an integral part of the national economic system. Article 87 paragraph (1) of the Law stipulates that BUMDes is established by the village with the purpose of managing local economic potential through the management of assets, services, and other businesses for the welfare of rural communities. Thus, BUMDes is not merely a business entity but also a strategic instrument for implementing the principle of economic decentralization at the village level.¹¹

In the context of the national economic system, the legal standing of BUMDes can be understood as a manifestation of Article 33 of the 1945 Constitution of the Republic of Indonesia, which declares that the economy shall be organized as a common endeavor based on the principle of kinship. BUMDes plays a vital role in strengthening the people's economy and reducing the development gap between rural and urban areas—one of the persistent challenges of national development.¹² Therefore, BUMDes is positioned as an economic actor oriented toward collective welfare rather than mere financial gain.

Legally, the status of BUMDes is further affirmed in Government Regulation Number 11 of 2021 concerning Village-Owned Enterprises.¹³ Article 2 of the regulation states that BUMDes is a legal entity established by a village and/or jointly with other villages, with all or most of its capital owned by the village through equity

¹¹ Hadi, S., *Hukum dan Kebijakan Pembangunan Desa*, (Jakarta: RajaGrafindo Persada, 2021), hlm. 44.

¹² Nasution, A., *Ekonomi Pancasila dan Pembangunan Desa*, (Bandung: Alfabeta, 2020), hlm. 28.

¹³ Peraturan Pemerintah Nomor 11 Tahun 2021 tentang Badan Usaha Milik Desa, Lembaran Negara Republik Indonesia Tahun 2021 Nomor 18.

participation derived from separated village assets. Through this recognition, BUMDes attains the status of a public legal entity, authorized to conduct economic activities on behalf of the village government.¹⁴ Nevertheless, the nature of BUMDes is not entirely public. In its operations, BUMDes performs economic functions based on the principles of efficiency, productivity, and profitability. This means that BUMDes also participates in market activities similar to private entities, including entering into cooperation agreements with third parties, managing business units, and forming joint BUMDes in the form of limited liability companies (*Perseroan Terbatas* or PT). Consequently, the legal position of BUMDes occupies a unique domain—it is neither fully subject to public law nor entirely governed by private law.¹⁵

This dual nature carries significant implications for the national legal system. On one hand, BUMDes must comply with regulations governing village financial management, as its initial capital originates from public funds. On the other hand, in its business operations, BUMDes is subject to civil law and market mechanisms as regulated under the Indonesian Civil Code (*Kitab Undang-Undang Hukum Perdata* or KUHPerdata).¹⁶ Therefore, BUMDes can be regarded as a *hybrid legal entity* that balances public and private legal elements.¹⁷

Within the framework of the national economic system, BUMDes performs three strategic roles. First, as a driver of the local economy, BUMDes strengthens the production chain at the village level. Second, as an employment generator, BUMDes helps reduce urbanization and unemployment rates. Third, as a fiscal pillar for the village, BUMDes increases village-generated income (*Pendapatan*

¹⁴ Suroto, *Pembangunan Ekonomi Desa Berbasis BUMDes*, (Jakarta: RajaGrafindo Persada, 2020), hlm. 7.

¹⁵ Rahardjo, S., *Hukum dalam Perspektif Ekonomi Kerakyatan*, (Yogyakarta: Gadjah Mada University Press, 2019), hlm. 66.

¹⁶ Kitab Undang-Undang Hukum Perdata (KUHPerdata), Pasal 1338 ayat (1).

¹⁷ Sastrawidjaja, M., “Kedudukan Hukum BUMDes dalam Sistem Hukum Nasional,” *Jurnal Hukum dan Pembangunan*, Vol. 50 No. 2 (2021), hlm. 245.

Asli Desa or PADes), contributing to regional development. Accordingly, the existence of BUMDes is not only relevant to rural economic development but also directly connected to a socially just national economic system.¹⁸

The Legal Character of BUMDes Between Public and Private Entities and Its Implications for Legal Management and Accountability

Normatively, BUMDes constitutes a public legal entity because it is established through a Village Regulation (*Peraturan Desa* or *Perdes*) and its capital originates from separated village assets. Thus, the existence of BUMDes is inherently tied to the authority of the village government and forms part of the village administration system as stipulated in Article 26 paragraph (2)(c) of Law Number 6 of 2014. However, BUMDes's function as an economic manager also subjects it to private law principles, particularly in conducting business contracts and partnerships with third parties.¹⁹

This dual legal character has led BUMDes to often be referred to as a *sui generis* legal entity—an entity possessing unique characteristics that cannot be fully classified within a single legal system. This duality is reflected in two main aspects. First, in terms of establishment and supervision, BUMDes is subject to public law, as it is supervised by the village government and the community through village deliberations (*musyawarah desa*).²⁰ Second, in terms of business operations, BUMDes is subject to private law, since it engages in commercial activities.

The implications of this legal character are extensive. From the perspective of legal accountability, BUMDes administrators are responsible to the village government in an administrative sense, and

¹⁸ Hadi, S., *op.cit.*, hlm. 52.

¹⁹ Suroto, *op.cit.*, hlm. 11.

²⁰ Hidayat, A., "Implikasi Hukum Kedudukan BUMDes sebagai Badan Hukum Publik dan Privat," *Jurnal Hukum Ekonomi Negara*, Vol. 6 No. 1 (2022), hlm. 76.

to business partners in a civil sense. If violations occur in the management of village funds, liability is governed by criminal or administrative law. However, if a breach of contract occurs in business relationships, the dispute resolution is governed by civil law. Therefore, it is essential for BUMDes to apply the principles of *good governance*, which include transparency, accountability, participation, and professionalism in business management.²¹

Furthermore, in the context of dispute resolution, the legal status of BUMDes also creates a jurisdictional dilemma.²² If a dispute involves public village policies, the appropriate forum for resolution is the Administrative Court (*Pengadilan Tata Usaha Negara* or PTUN). However, if the dispute concerns business relations or contractual cooperation, the appropriate forum is the District Court under civil law. This demonstrates that the legal status of BUMDes not only affects applicable legal mechanisms but also determines the legal protection afforded to the parties involved.²³

From an economic development perspective, the hybrid nature of BUMDes presents distinct advantages.²⁴ Through its legal flexibility, BUMDes can adapt to market demands without abandoning the principles of social justice that underpin the national economy. Therefore, BUMDes serves as a bridge between the public and private sectors—strengthening local economies while contributing to national economic stability.

Nevertheless, for this role to be effectively realized, legal clarity is required regarding the scope of authority, asset status, and accountability mechanisms of BUMDes. The central government needs to issue clearer implementing regulations defining the legal position of BUMDes, including accountability and governance guidelines. In addition, improving the capacity of BUMDes human resources (HR) is crucial for ensuring that these entities operate

²¹ Kemendesa PDTT, *op.cit.*, hlm. 17.

²² Sastrawidjaja, M., *op.cit.*, hlm. 249.

²³ KUHPerdata, Pasal 1338 ayat (1).

²⁴ Rahardjo, S., *op.cit.*, hlm. 69.

professionally and competitively. Thus, the hybrid legal character of BUMDes should not be viewed as an obstacle, but rather as a strength in realizing sustainable village economic independence.²⁵

Legal Standing of Village-Owned Enterprises (BUMDes) in the National Economic System

In the framework of Indonesia's national economic system, Village-Owned Enterprises (BUMDes) hold a strategic position as hybrid institutions that operate at the intersection of public and private entities. Established under Law Number 6 of 2014 concerning Villages, BUMDes are designed to strengthen local economic structures through community-based management that reflects the principles of self-reliance, participatory development, and economic democracy.²⁶ Their establishment embodies the spirit of Article 33 of the 1945 Constitution, which places the economy under the principles of togetherness and equitable prosperity.

From a legal standpoint, BUMDes represent a unique form of business entity because they are not fully public institutions like State-Owned Enterprises (BUMN) nor purely private entities.²⁷ Instead, they function as collective economic institutions managed by the village community under the coordination of the village government. This duality of character often creates ambiguity in legal interpretation—especially regarding liability, governance, and supervision mechanisms. However, this ambiguity can also be viewed as a reflection of Indonesia's socio-economic pluralism, which allows flexible models of community-based economic empowerment.

In the national economic system, BUMDes act as microeconomic agents capable of bridging the gap between state policies and local

²⁵ Rahardjo, S., *op.cit.*, hlm. 71.

²⁶ Undang-Undang Nomor 6 Tahun 2014 tentang Desa.

²⁷ Andri Gunawan Wibisana, *Hukum Ekonomi dan Pembangunan Berkelanjutan di Indonesia*, Jakarta: Rajawali Pers, 2022, hlm. 57.

economic needs.²⁸ They serve as instruments for inclusive economic distribution and local capital accumulation, particularly in rural areas often excluded from formal economic circulation. Nevertheless, in practice, many BUMDes face challenges related to weak management capacity, lack of legal awareness, and inconsistent guidance from regional governments.²⁹ These challenges demonstrate that the institutional position of BUMDes still requires a clearer legal and regulatory structure.

From a doctrinal perspective, the legal position of BUMDes can be analyzed through two main dimensions: public law and private law.³⁰ In public law, BUMDes are part of the local government administration unit, carrying out public functions in promoting local welfare.³¹ Meanwhile, in private law, BUMDes are business entities with independent legal personalities capable of entering contracts, owning assets, and engaging in business transactions.³² The coexistence of these two legal dimensions makes BUMDes a *sui generis* entity—distinct from cooperatives, limited liability companies (PT), or regional enterprises (BUMD).

In terms of economic function, BUMDes play a pivotal role in strengthening rural economic sovereignty through local-scale entrepreneurship.³³ Unlike private companies motivated primarily by profit, BUMDes emphasize the principles of social benefit, collective ownership, and reinvestment for community welfare. Thus, their

²⁸ Mubyarto, *Ekonomi Pancasila: Gagasan dan Strategi Pembangunan*, Yogyakarta: BPFE, 2014, hlm. 73.

²⁹ Sri Mulyani, “Evaluasi Tata Kelola BUMDes dalam Pemberdayaan Ekonomi Desa,” *Jurnal Kebijakan Ekonomi dan Pembangunan*, Vol. 10, No. 2 (2023), hlm. 122.

³⁰ Jonaedi Efendi dan Johny Ibrahim, *Metode Penelitian Hukum: Normatif dan Empiris*, Jakarta: Prenadamedia, 2021, hlm. 211.

³¹ Ibid.

³² Budi Santoso, “Kedudukan Hukum BUMDes sebagai Subjek Hukum dalam Sistem Ekonomi Nasional,” *Jurnal Hukum dan Pembangunan*, Vol. 54, No. 1 (2023), hlm. 46.

³³ Amartya Sen, *Development as Freedom*, Oxford: Oxford University Press, 1999, hlm. 120.

presence supports the realization of a welfare-oriented legal system that prioritizes equitable prosperity over market liberalism.³⁴

However, the blurred boundary between public and private character in BUMDes operations often leads to legal and administrative conflicts.³⁵ For instance, when a BUMDes faces bankruptcy or contract disputes, determining legal responsibility—whether it lies with the village government, the management, or the community shareholders—becomes complicated. This situation underscores the need for harmonization between the Village Law and other business entity laws such as the Company Law and Cooperative Law.

The government's recent policy direction through the revision of the Village Law (2023) aims to strengthen BUMDes' legal standing by granting them the status of a legal entity (Badan Hukum).³⁶ This recognition carries significant implications for accountability, transparency, and business governance, ensuring that BUMDes can compete fairly in the market while maintaining their social function. The formalization of legal entity status also provides certainty in ownership rights, taxation, and contract execution.

Nevertheless, the transformation of BUMDes into legal entities must not lead to the loss of their social and participatory essence.³⁷ The spirit of BUMDes lies in the empowerment of the village community, not in the pursuit of profit accumulation. Therefore, while legal formalization is necessary for protection and standardization, the governance model must remain inclusive, participatory, and community-oriented.

³⁴ Satjipto Rahardjo, *Hukum Progresif: Hukum yang Membebaskan*, Jakarta: Kompas, 2009, hlm. 54.

³⁵ M. Fauzan, "Problematisasi Hukum BUMDes sebagai Entitas Bisnis di Pedesaan," *Jurnal Ilmu Hukum Lex Renaissance*, Vol. 8, No. 1 (2024), hlm. 89.

³⁶ Kementerian Desa PDTT RI, *Rancangan Revisi UU Desa dan Penguatan BUMDes sebagai Badan Hukum*, Jakarta, 2023.

³⁷ Todaro, Michael P. & Stephen C. Smith, *Economic Development*, 12th ed., Boston: Pearson, 2015, hlm. 142.

In a broader context, the existence of BUMDes reflects Indonesia's effort to create a pluralistic economic system that balances state intervention, market dynamics, and community autonomy.³⁸ By integrating the BUMDes framework into the national economy, Indonesia is not merely developing rural enterprises but also realizing the constitutional mandate to build an economy based on kinship and collective welfare. In this sense, BUMDes stand as a manifestation of the Indonesian version of "community capitalism"—a middle ground between neoliberal competition and socialist collectivism.

Ultimately, the legal standing of BUMDes in the national economic system should be understood as part of a transformative legal policy that seeks to democratize access to production resources.³⁹ The presence of BUMDes proves that law and economics can work synergistically to achieve social justice for all Indonesians. Thus, strengthening BUMDes is not only a matter of economic efficiency but also a legal imperative in realizing the ideal of a welfare-based state economy.

C. Conclusion

The legal status of *Badan Usaha Milik Desa* (Village-Owned Enterprises or BUMDes) occupies a distinctive position within Indonesia's national economic system, as it stands between two domains: an economic entity conducting business activities and an administrative body managing public assets. Legally, BUMDes is established under Law Number 6 of 2014 concerning Villages and further reinforced by Government Regulation Number 11 of 2021 on Village-Owned Enterprises. These regulations provide BUMDes with legitimate autonomy to operate, while still being grounded in the principles of social justice and the spirit of kinship as stipulated in Article 33 of the 1945 Constitution of the Republic of Indonesia.

³⁸ Emil Salim, *Pembangunan Berkelanjutan dan Hukum Ekonomi Indonesia*, Jakarta: LP3ES, 2016, hlm. 88.

³⁹ Rahardjo, Satjipto, *Hukum Progresif: Hukum yang Membebaskan*, Loc.Cit.

Although BUMDes already has a clear legal foundation, its practical implementation often reveals lingering ambiguities. In many cases, BUMDes is treated as a public entity when managing village funds, yet regarded as a private legal subject when entering contracts with third parties. This ambiguity creates legal uncertainty in matters of accountability, asset ownership, and dispute resolution. Consequently, the legitimacy of BUMDes in conducting economic activities is frequently questioned, particularly because Indonesia's legal framework has yet to fully accommodate the *sui generis* nature of BUMDes.

Within the framework of the national economy, BUMDes plays a strategic role as a driving force for people-based economic empowerment at the local level. By managing village resources through community participation, BUMDes is expected to balance economic efficiency with social justice. Thus, BUMDes is not merely a productive enterprise but also a mechanism of social empowerment that revives the values of cooperation and collective welfare in a modern economic context.

Nevertheless, such ideals are difficult to realize without adequate governance mechanisms and legal certainty. Weak institutional capacity, overlapping regulations, and local political interference often undermine the professionalism of BUMDes management. Therefore, policy reform is urgently needed to clarify the boundaries between public and commercial interests, including developing accountability mechanisms that reflect the dual nature of BUMDes.

In the future, the legal framework of BUMDes should move toward an institutional model that is both flexible and accountable, supported by multi-layered supervision involving the village government, community members, and external oversight bodies. Through such a system, BUMDes can effectively function as an agent of sustainable rural economic development while strengthening the national economy from the grassroots level.

Ultimately, BUMDes represents the practical embodiment of the Pancasila economic philosophy — combining values of solidarity, equity, and self-reliance. With clear legal standing and good governance, BUMDes has the potential to become a key pillar in achieving sustainable village independence and national economic justice.

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