
Regulation of Strengthening of LPD Desa Adat in Bali in A Gap

I Made Suwitra and Diah Gayatri Sudibya
Faculty of Law Universitas Warmadewa, Denpasar, Bali-Indonesia
madesuwitra@yahoo.co.id

Published: 20/08/2019

How to cite: Suwitra, I. M., & Sudibya, D. G. 2019. *Regulation of Strengthening of LPD Desa Adat in Bali in A Gap*. Sociological Jurisprudence Journal. Volume 2 Issue 2. Page 122 - 126. <http://dx.doi.org/10.22225/sj.2.2.1253.122-126>

Abstract

The aims of this research is to analyze the implementation of the strengthening of LPDs as a nonbank financial institution in the *Desa Adat* against various regulations issued by the Government both at the national and regional levels in the perspective of an analytical approach. The basic consideration of this research is that there are still some LPDs that are not healthy and even go bankrupt. The method used is the form of normative legal research with legislation, analytic, case and coexistence approaches. Normatively various regulations issued by the government at the national and regional levels are intended to strengthen the existence of LPDs, but in reality not all LPDs in *Desa Pakraman* are strong and healthy, some LPDs even went bankrupt. Therefore a comprehensive study of various perspectives is needed in the context of the legal system.

Keywords: Economy of *Desa Adat*; coexistence; Strengthening of LPD

I. INTRODUCTION

The number of Village Credit Institutions (LPD) in Bali will continue to grow in view of the increasing number of *Desa Adat*. At present there are 1493 *Desa Adat* in Bali (one thousand four hundred and ninety-three), while the number of *Desa Dinas* is 760 (seven hundred and sixty). This was conveyed by *Bendesa Agung* as the Main Assembly of *Desa Pakraman* during the socialization in the Sabha Lango Shanti Hall of the Denpasar City Cultural Office, Thursday, December 13, 2018. The most important statement that could be observed was "strengthening of *Desa Pakraman*" according to the field that was the setting of *awig-awig*, such as: *prajuru*, *padruwen desa*, through improved governance according to modern management.

As a comparison, data from 1990 to 2014 can be conveyed, the development of LPDs and *Desa Adat*, namely when starting as a pilot project for each Regency/City one LPD was established, so that in Bali there were 8 (eight) LPDs. With the assistance of the United States Agency for International Development (USAID) in the form of expert assistance/consultants and educational facilities as well as supervision costs from 1990 to 1992. Then continued with assistance from the Provincial APBD, until the end of 1996, LPD has grown to 849 units of 1,365 traditional villages in Bali, or in other words experienced 62.2% growth (BPD Bali, 1997). Until the end of 1997 the development of the number of LPDs and traditional villages in all regencies and municipalities in Bali reached 904 LPDs with 1,371 *desa adat* (Budhiadnya, 1998). Whereas until 2014 LPDs had grown to 1422 units.

The regulations governing the existence of LPDs are also continually updated with the aim of strengthening the economy of indigenous and tribal peoples in the *Desa adat* container. Referring to the background of the establishment of the LPD, namely to accelerate the process of economic growth in rural areas as a result of lack of capital, in addition to banks and credit institutions that The quantitative cannot yet accommodate or reach the demand for small credit needed by rural communities (Suwitra, 2000).

As evidence, that LPD has an important role, among others, Post-Bali Bombing (on May 2002), in Badung Regency (Bali) shows that the number of prospective customers applying for credit to LPDs in several *desa adat* has experienced a surge. This is in line with the rise Layoffs in most tourism facilities,

which are almost entirely concentrated in Badung Regency and Denpasar City. Those who are mostly migrants from Java are prevented from applying for credit at conventional banks because they do not have a Balinese Identity Card (KTP) and do not have assets in Bali as collateral (Kurniasari, 2007). Therefore the establishment of the LPD as a strengthening of the community economy in the village Adat is very relevant.

From a historical perspective, the LPD in Bali was originally formed by Governor of Bali Province Decree No. 972 of 1984 dated October 1, 1984 concerning the Establishment of Village Credit Institutions (LPD) in the Province of Bali in order to support the smooth development of the economy in Rural Areas, especially for farmers and small entrepreneurs so that it is necessary to get closer to capital through credit business in Rural Areas. It is further regulated through Regional Regulation (Perda) No.2 of 1998 concerning Village Credit Institutions (LPD) that was perfected by Perda No. 8 of 2002 amended by Perda No.3 of 2007 and amended again by Perda No. 4 of 2012, and which has been replaced by Perda No. 3 of 2017.

Based on background above, This research is gap in the meaning of strengthening in various laws and regulations on the existence of LPD in Bali.

II. METHOD

The method of research that is relevant in reviewing the legal issues discussed is normative legal research, while the problem approach used is the legislative, analytic, case, and coexistence approach. Sources of legal materials use primary legal materials, such as Governor of Bali Province Decree No. 972 of 1984, Perda No. 3 of 2017. Also secondary legal material in the form of written material both in the form of textbooks, journals, media, research results. All of these legal materials are collected by documentation and file system recording techniques (Suwitra, 2009). These legal materials are then analyzed using interpretation techniques.

III. RESULT AND DISCUSSION

The Meaning of Strengthening LPD

In the Decree of the Governor of Bali No. 972 of 1984 as the basis for the first regulation of the existence of LPDs, the meaning of strengthening can be referred to the provisions of Article 1 letter e which formulates that: Village Credit Institutions are Village Credit Institutions throughout Bali. The aims of its establishment is as stated in Article 3, which is as follows:

1. Eradicating debt bondage, illegal pawn, and others that can be equated with it;
2. Increasing the purchasing power of rural communities;
3. Facilitating payment and exchange traffic in the village.

From the provisions of the article above, it can be interpreted, that the LPD's status as a village instrument and an operational unit, functions as a forum for village wealth in the form of money or other securities whose use and utilization is aimed at businesses both involving the interests of the village and increasing the level of the lives of the villagers concerned with it, increase the purchasing power of the community and facilitate the payment and exchange traffic in the village.

Whereas in the Provincial Regulation of Bali No. 2 of 1988 through Article 1 letter g emphasized that: LPD is a Village Credit institution as a savings and loan body owned by the *desa adat*. This provision can be interpreted, that the LPD is an independent credit institution owned by the local community which is controlled by a body, which consists of *Bendesa* as the chairman of the supervisory body (exofficio) and two people as members chosen in accordance with their professional experience, knowledge and integrity. It is relevant to the provisions of Article 2 of Perda No. 2 of 1988 which mandated the establishment of a Supervisory Agency and cannot be held by the LPD Management. So this provision can be interpreted, that the existence of the LPD as a savings and loan institution that has a noble purpose, namely to improve the welfare of the community in rural areas by eliminating the moneylenders and *ijon* that existed before. In addition, the establishment of the LPD in an effort to further modernize the savings and loan model that was previously carried out by various groups called "*sekeha*" such as *sekeha manyi*, *sekeha gong*, *sekeha tuak*. On the basis of *awig-awig* all savings and

loan activities are then accommodated by the LPD.

Types of businesses that can be carried out by LPD according to the provisions of Article 5 of Regulation No. 2 of 1988 are:

1. Receive deposits from the community members in the form of savings and time deposits that are valid according to applicable regulations;
2. Providing loans for productive activities in the agriculture, small industry/handicraft sector, trade and other businesses deemed necessary;
3. Other businesses that are mobilizing village funds;
4. Equity participation in other businesses;
5. Receiving loans from financial institutions.

By paying attention to the authority granted by the Regional Regulation to the LPD, as mentioned in Article 5 above, it can be interpreted that the strengthening of the LPD from the outset was designed through granting authority to accept deposits in the form of savings or futures like other banking institutions, including providing loans or credit. Also in other businesses, capital participation, and receiving loans from other financial institutions, so that the business of LPD activities is not only monotonous in accepting savings and lending, but is expected to innovate in other businesses that mobilize funds to empower village potential in services, such as tourism as an icon of Bali. Or in other words, LPD as a legal entity belonging to the *desa adat* that can do various efforts in working on the potential of the village's customary rights, either through cooperation or through the Cooperation Agency (BKS) by not rule out State law.

The sustainability of the LPD's existence is strengthened by the formation of a supervisory institution tasked with carrying out internal supervision and inspection of the existing model of the Internal Control System in formal and modern institutions, especially related to activities carried out such as savings and loans so that the institution remains healthy and continues to be trusted by the residents of the village. Administrative techniques are carried out starting from the sub-district level, known as the Central Village Credit Institution Center (PLPDK), the Guidance institution at the regency/city level up to the provincial level. 3 of 2017 concerning LPD which replaces the previous regulation called the LPD Empowerment Agency (LPLPD). In addition there is a new institution called the LPD Cooperation Agency (BKS LPD) as a forum for LPD collaboration to improve its performance.

Strengthening of LPDs can also be considered in terms of ownership and capital. LPD as a financial institution through the policy of the Provincial Government, its ownership is handed over to the *desa adat* in the hope that in the long run traditional villages can play a greater role in sustaining economic, social and spiritual development in rural areas. Whereas all LPD capital sources come from non-governmental organizations themselves in the *urunan* of *krama* from the *desa adat* manners, Regional Government assistance, and capital accumulation from retained earnings as well as community savings and BPD Bali loans.

To motivate LPD growth, the net profit sharing (net of all expenses) at the end of the year is determined as follows:

1. General/capital reserve: 40%
2. Reserve reserves: 20%
3. Village development funds: 20%
4. Production services: 10%
5. Development funds: 5%
6. Social funds: 5%.

Normatively the issuance of various regulations at the regional level regarding LPDs is intended to strengthen LPD institutions. Likewise at the national level, with the enactment of Law no. 1 of 2013 concerning Microfinance Institutions through the provision of Article 39 paragraph (3) affirmed that the Village Credit Institution and *Pitih Nagari* Credit Institution and similar institutions that existed before this law came into effect, were declared to be recognized under customary law and not subject to the

constitutions. So the LPD is still subject to local regulations and regulated in *awig-awig* of *desa adat*. So there is a legal coexistence between State law (Perda) and *awig-awig* in its strengthening.

Village Credit Institution (LPD) Strengthening Gaps

The existence of an internal control body for the existence of LPDs by the Supervisory Agency chaired by *Bendesa* exoffically, PLPDK, administrative guidance by BPD, LPD Empowerment Agency, LPD Cooperation Agency to improve LPD performance, but in reality some LPDs in Bali are unhealthy, stuck, even bankrupt. That the number of LPDs in Bali has reached 930 LPDs and increased again to 1,304 LPDs in 2005. Entering 2015, the number of LPDs was recorded at 1,432 LPDs and increased to 1,433 in the last 2016, as revealed in the report of the work of the Bali Provincial DPRD LPD Special Committee. The Chairperson of the Bali Provincial DPRD LPD Special Committee stated the total of 1,433 LPDs, not all of them developed well, there were 158 LPDs (11.03 %) in Bali which were declared bankrupt because they were no longer in operation. And the most are located in Tabanan, which reached 54 units. Followed in Gianyar Regency is 31 units, Buleleng is 25 units, Karangasem 24 units, Badung and Bangli 8 units each, Klungkung 4 units and Jembrana 1 units. As for Denpasar City with a total of 35 units, none of them was declared bankrupt.

Pansus LPD DPRD Provinsi Bali juga menemukan 38 LPD (2,65 persen) yang masuk kategori tidak sehat. Khusus untuk LPD tak sehat ini, Gianyar menjadi 'jawara' dengan 15 LPD, disusul Tabanan 8 LPD, Buleleng 6 LPD, Badung 4 LPD, Karangasem dan Bangli masing-masing 2 LPD, serta 1 LPD tidak sehat di Klungkung. Khusus untuk LPD yang dinyatakan sehat, jumlahnya mencapai 909 LPD (63,43 persen). Rinciannya 188 LPD di Tabanan, 142 LPD di Gianyar, 118 LPD di Buleleng, 107 LPD di Karangasem, 99 LPD di Bangli, 86 LPD di Klungkung, 79 LPD di Badung, 60 LPD di Jembrana, dan 30 LPD yang sehat di Kota Denpasar. Data menarik lainnya, dari keseluruhan jumlah LPD di Bali, 34 LPD tercatat memiliki kekayaan di atas Rp 100 miliar. 30 LPD diketahui memiliki kekayaan Rp50 miliar - Rp100 miliar, 233 LPD dengan kekayaan Rp10 miliar - Rp50 miliar, 185 LPD memiliki kekayaan Rp5 miliar - Rp10 miliar, 401 LPD dengan kekayaan Rp1 miliar - Rp5 miliar, 315 LPD memiliki kekayaan Rp100 juta - Rp1 miliar, dan 235 LPD dengan kekayaan di bawah Rp100 juta (Bali Tribun 29 April 2017).

The LPD Special Committee for the Provincial DPRD in Bali also found 38 units of LPDs (2.65 %) who were in the unhealthy category. Specifically for this unhealthy units, Gianyar became a 'champion' with 15 units, followed by Tabanan 8 units, Buleleng 6 units, Badung 4 units, Karangasem and Bangli each with 2 units and 1 unhealthy unit in Klungkung. Especially for LPDs that were declared healthy, the number reached 909 units of LPDs (63.43 %). The details are 188 units in Tabanan, 142 units in Gianyar, 118 units in Buleleng, 107 units in Karangasem, 99 units in Bangli, 86 units in Klungkung, 79 units in Badung, 60 units in Jembrana and 30 units LPD is healthy in Denpasar. Other interesting data, from the total number of LPDs in Bali, 34 units is recorded have assets above Rp 100 billion. 30 units of LPDs are known to have a wealth of IDR 50 billion - IDR 100 billion, 233 units with a wealth of IDR 10 billion - IDR 50 billion, 185 units have a wealth of IDR 5 billion - IDR 10 billion, 401 Units with a wealth of IDR 1 billion - IDR 5 billion, 315 Units has a wealth of IDR 100 million - IDR 1 billion , and 235 Units with assets below Rp. 100 million (Bali Tribune 29 April 2017).

Another aspect of the gap observed was the embezzlement of LPD funds by making fictitious financial reports, as happened in the LPD Selingsing which located in Pangkung Karung Village, Kerambitan Tabanan (Bank Pembangunan Daerah Bali, 1997). The case of fictitious credit distribution occurred in the Banyualit Singaraja LPD which cost the LPD Rp.1,836,126,650 (one billion eight hundred thirty six million one hundred and twenty thousand rupiahs) (Bank Pembangunan Daerah Bali, 1997).

Paying close attention to some of the cases above, it indicates that the supervision function, guidance does not work as expected. While funding of 5% of LPD profits continues to be levied. Therefore coaching by the legal structure has not been running optimally. It is relevant to the legal system theory as stated by Friedman, that the effectiveness of law is determined by the substance of the law, legal structure and legal culture (Friedman, 1975).

IV. CONCLUSION

Through various regulations both at the national and regional levels, normatively it is intended that there is a strengthening of the existence of LPD in Bali. However, empirically, there is a gap, namely some LPDs in Bali are not healthy, even jammed and bankrupt. In addition, some LPD officials do not carry out embezzlement or even corruption.

REFERENCES

- Bank Pembangunan Daerah Bali. (1997). *Peluang dan tantangan BPD Bali dalam membina dan mengembangkan usaha LPD di Propinsi Bali*.
- Budhiadnya, I. M. (1998). Kinerja Lembaga Perkreditan Desa (LPD) di Propinsi Daerah Tingkat I Bali. *Laporan Penelitian Fakultas Ekonomi UNUD Bekerjasama Dengan Bappeda Tingkat I Bali*.
- Friedman, L. M. (1975). *The Legal System: A Social Science Perspective*. New York: Rusell Sage Foundation.
- Kurniasari, T. W. (2007). Lembaga Perkreditan Desa (LPD) dalam perspektif hukum: sebuah Lembaga Keuangan Adat Hindu penggerak usaha sektor informal di Bali. *Jurnal Masyarakat Dan Budaya*, 9(1).
- Suwitra, I. M. (2000). *Prospek sanksi adat dalam menanggulangi kredit macet LPD suatu pemikiran dalam rangka pembaharuan hukum pidana*. Program Pascasarjana Universitas Udayana, Denpasar.
- Suwitra, I. M. (2009). *Eksistensi Hak Penguasaan dan Pemilikan Atas Tanah Adat di Bali dalam Perspektif Hukum Agraria Nasional*. Program Doktor Ilmu Hukum Fakultas Hukum Brawijaya Malang.