

## CHAPTER I

### INTRODUCTION

#### A. Background

The enactment of Law No 6 of 2014 on the Village has made several changes on the development of legislation on the village in Indonesia. The development of legislation on the village has given some advantages on the village. for example, in this law the village will get special budget for the development of village. Indonesia government has allocated one billion for each village that has been begun from 2013 in every village in each province in Indonesia. However some problems also exist, for example the issue of ability on the village officials to manage the budget properly. There are communities who responded about allocation of fund Law No 6 of 2014 in order to create the wealth, wisdom of village.<sup>1</sup>

A village is a united area where numbers of family live together. The Village has its own government system and is lead by a head of the village. The village is a united society. The Majority of the villagers work in agricultural aspect and have a low education level. They have also a spiritual ceremony and an original tradition left by their ancestors.

There is a classification of village based on its width. Firstly, *Desa Pedalaman* it is a village which is far from the city. The atmosphere of

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<sup>1</sup> Purwo Santoso, 2003, *Pembaharuan Desa*, Yogyakarta, Pustaka Pelajar, p. 23.

the village is as a society with simplicity and lonlines life and close to the nature. Secondly, *Desa Pantai* spread over the small islands with the majority of members of fisherman , some of them are as substitution farmer.<sup>2</sup>

Based on the primary job, the village can be classified into some classifications. Firstly, agricultural village that includes the wet and dry land. Secondly, the village farm and garden owned by villager, private garden company, fisherman village, sea fisherman village and cattle village. Thirdly, The industry village that produce the traditional and modern agriculture tools.<sup>3</sup>

The village has a leader called as the head of village (kepala desa) who has the leadership period of six years, It can be prolonged into one more period. He does not have responsibility to the head of Sub-District but he is coordinated by Head of Sub-District. The Head of village is doesn't allowed to be the leader of political party, but they can be a member of political party, and community organisation, as member of DPRD, join the general election campaign, presidential election and the head of regional government election, he is selected by villagers and is at least 25 years old. The lowest education level is junior high school and has status of the member of the village. The election of head village is conducted by election committee formed by

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<sup>2</sup>Winarno,Istilah-Istilah, *Kamus Umum Bahasa Indonesia*, Jakarta, Ghalia Indonesia, 2005, p. 168

<sup>3</sup>Ibid.

BPD, and the members of BPD are the village government, leaders of social institution, and figures of community.<sup>4</sup>

The Head of village has also some obligations such as improving the prosperity of society, creating, peace and order. Democracy implementation exercises the principles of good governance in the village free from corruption, collusion, and nepotism, obeys the rules, creates the good administration of village government. implement the management of village administration, implements the points of village program, settles conflicts among villagers with a peaceful way, increases the income of the village, conserves the social culture, develops the institution of village, develops the natural resources potency, and conserves the environmental life.<sup>5</sup>

Village is formed by the community and it must observe the history of village, social and culture of the public. The form of village can be done by corporation of some villages or part of side village and elaboration of two or more villages. It can also be created by form of out village. It can be changed or suited its status to be sub district based on the rule of village government to observe the suggestion and opinion of the community. Village can be the sub district, head of sub district and its administration run by civil servant. Its status can also be

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<sup>4</sup>Purwo Santoso, Op.Cit.,p. 96.

<sup>5</sup>Sarman, Mohammad Taufik Makarao, 2011, *Hukum Pemerintahan Daerah di Indonesia*, Jakarta, p. 286

changed to be sub district and its wealth for villagers and managed by sub district to develop the need of public.<sup>6</sup>

The village has some classifications based on its width. It can be classified based on its location that spreads from the city around it. The ideal of isolated village is described peaceful such as simplicity, loneliness, closed natural. The village beach is the spread village in the small islands whose the a majority of work is fisherman and it can create the source of sea and substitution farmer.<sup>7</sup>

Based on the development of village, it can be divided into four types namely traditional market ( pre village) found in isolated culture community whose the majority of work is agriculture technology, the way to care the health and the way to eating still have dependence of the nature. This type has sporadic form and temporary status. *Swadaya* village has the unique character such as relative static traditional where its villager depends on the quality of its leadership. The daily life depends on the surrounding nature that has not been managed and used correctly.<sup>8</sup>

The structure of class in the community is still in vertical and static. The status of villager is determined based on the generation of caste and the width of land. *Swakarya* village has been handed by

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<sup>6</sup>Sarman, Mohammad Taufik Makarao, Op.Cit.,p.40.

<sup>7</sup>Yando, Undang-Undang Nomor 6 Tahun 2014, [http://www.academia.edu/6008466/Undang-Undang\\_Nomor\\_6\\_Tahun\\_2014\\_tentang\\_desa](http://www.academia.edu/6008466/Undang-Undang_Nomor_6_Tahun_2014_tentang_desa) access on Oct'26,2014 at 10:00 a..m

<sup>8</sup>*Ibid.*

foreign agriculture such as the new technology introduction that has been felt by community.

The democracy has developed into the village, and the skill to create thing is determined to decide the status of community. The generation status or the width of land are not used to determine the status of community, and the sosial mobilty in vertical and horizontal can be shown. *Swasembada* village has the developed community, known the education, agriculture mechanisme participation of the community effective and social norms are always joined with the capability and skill of villagers. There are bisnismen who invest the big capital in the company.<sup>9</sup>

The village has the leader who called the head of village with the leadership periode in six years or it can be prolonged into ones of position in the further leadership. He does not have responsibility to head of subdistrict but he is controlled by head of subdistrict. Head of village is forbidden to be head of politic, has position as leader or member of BPD and community institution, as member of DPRD, joined in the general elective campaign, president election and head of office election. Head of village is selected by villager and has age minimal 25 years old and the lowest education is junior high school and has the status of area village. The election of head village is done by election committee who formed by BPD, created by BPD, and the

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<sup>9</sup>Purwo Santoso, Op.Cit.,p. 98

member of BPD is village government, leader of social institution and figure of community.<sup>10</sup>

The election of village has variation in one village to others and his leadership periode is in the culture law of public and his traditional right is in his life and admitted by traditional law.<sup>11</sup>The head of village has position as head of government in the village and he is observed by head of district and has responsibility to head of by head of subdistrict who has function to lead the government community, development and care of community. Head of village also has task to create the government community, development and sociality or other tasks that given to the village.<sup>12</sup>

The head of village has obligation to develop the quality of village that needs rule of village administration where the management of village government will be the right of villager to get the fund by APB of village, help of central local government. Source of village administration can be gotten by the village's income, village's source, village's reachness such as administrative land of village, market of village, development of village of the swadaya resource, source of comunity, result of tax of subdistrict, province government, contribution of public. APB of village consists of the part of village's

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<sup>10</sup>Bahrullah, Pemerintahan Desa, <http://www.tempo.co/topik/masalah/1283/Pemerintah-Desa>, access on Nov'2,2014 at 11:00 a.m

<sup>11</sup>*Ibid.*

<sup>12</sup>*Ibid.*

administration, village's source and the volunteer fee. Project of APB of village is discussed in the conference of village's development project. Head of village and BPD determine the APB of village in every period with the rule's village.<sup>13</sup>

Source of village's administration is arranged by Law no 6, 2014 that arranges the policy of Indonesia government to allocate the budget of village development for village's wealth. Indonesia government had allocated the administration for the village is one billion that had been begun in 2013 in every village of each provinces in Indonesia. The source of administration that has been realized is the one of implementation of Law no 6, 2014. The fund is given by full cash system and part of village receives the fund in step by step into nominal financial to development of village by APBD.<sup>14</sup>

Based on the previous background, it is interesting to study further the development of regulation on the village after the enactment of Law No 6 of 2014.<sup>15</sup> According to Marwan Jafar the minister of village, isolated village building and transmigration, the administration of village will be given 1 billion for one village and it will be distributed step by step. He said that pegedangan village is the best village in 8 villages in Indonesia and it will be the example of village that will be given the fund one billion. It has village government and it has good

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<sup>13</sup>*Ibid.*

<sup>14</sup>Law No 6 of 2014 about Village.

<sup>15</sup>*Ibid.*

function to manage the management of village such as waste management and culinary location that arranged by all villagers.<sup>16</sup>

Based on Law no 6 of 2014, the administration will be given step by step in 2014 but it will have been distributed in 2015 step by step. The number of budget allocation is determined 10% from fund of transferring to the village according to M. Chatib Basri as financial minister.<sup>17</sup>

Based on chapter 72 of village Law, the budget of village is taken from the allocation of APBN or central budget by village programme. In 2015, the fund of village will be given as transition of year from Susilo Bambang Yudhoyono's era to the elected president 2015 as the result of general election 2014.<sup>18</sup>

Based on M. Chatib Basri the allocation of fund will be distributed based on the accommodation of APBN and fiscal national. The government also thinks about the readiness of sub district or city in observation and promotion of administration village. The village also has to have the readiness to realise the village development.<sup>19</sup>

The allocation of administration village that has been arranged 9,1 trillion that will be taken from re allocation of budget in national

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<sup>16</sup> Gabrillin, Dana Desa Senilai Rp. 1 Milyar Akan Diberikan Secara Bertahap, <http://nasional.kompas.com/Dana.Desa.Senilai.Rp.1.Miliar.Akan.Diberikan.secara.Bertahap>, access on Feb'1.2014 at 14:27 p.m

<sup>17</sup> *Ibid.*

<sup>18</sup> *Ibid.*

<sup>19</sup> *Ibid.*



programe of community (PNPM) in some ministries of country or institution.<sup>20</sup>

Acoording to M. Chatib Basri, the villager has to have haigh role to plan and to implement the tehnic of distribution of the administration village and development of the village. In one side, they have to get the promotion from the ministry or related institution. The development of the village in 2015 needs handeling from the govrnment of the village and central government about the number of administration village and technic of distribution in the administration in the village.<sup>21</sup>

Beside fund of administration village that distributed from the APBN of central government, village also has other souches such as the budget as village in result of aset, swadaya, participation and volunterr fund of other sources and ect.<sup>22</sup>

Base on Budiman Sujadmiko as ex of vice leader of special committe of village rule, the government only alocated the fund 9,1 triliun base on 2014, the village shoot have alocation 64 trilion. So the central government has obligation to alocated 64 triliun for the village. He said that alocation of the village can be realized step by step but it has to acording the APBN about the total of APBN is 64 trilion.<sup>23</sup>

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<sup>20</sup>RFQ, Dana Desa Dikucurkan Secara Bertahap, <http://www.hukumonline.com/dana-desa-dikucurkan-secara-bertahap>, access on Feb'1.2015at 14:48 a.m

<sup>21</sup>*Ibid.*

<sup>22</sup>*Ibid.*

<sup>23</sup>*Ibid.*

Based on Yantoni purba leader of gerindra party, in APBD of north sumatra in 2014, all village have to fund for development of the village but many village are known that have not gotten the administration of the village. In fact, they have to have fund for development the village 50 million in one village. Some villagers and head vilage in sibolangit sub district have statment that until now the village doesnt have budget from central government to manage their village. They give the polemic to local government of north sumatra and late local government has to pay to give fund for 33 sub district or city base on APBD. Some village that have not gotten the fund 50 milion are Sayum sibolangit, Bandar baru, Sikeben, sembahe and rumah sumbul village. In one side the head of village in every village fill that the local government does not give the budget for development of village acoarding to APBN. Every village needs 50 million to build the invra structure of village and clean water facility. Acoarding to this case, the alocation of administration village is not fare in noth Sumatra, base on APBD the alocation would be use for increase the economy of village and decrease the jobles and poverty that increase in every period.<sup>24</sup>

Based on the observation of administration village, the fund of village has not been distributed till last august 2014. Almost 82% of

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<sup>24</sup>Asep, Para Kepala Desa Keluhkan Dana Pemerataan yang Tak Merata, <http://regional.kompasiana.com/para-kepala-desa-keluhkan-dana-pemerataan-yang-tak-merata>, access on Feb'1,2015 at 15:00 a.m

village government in sub district which has 351 village governments wait for the fund from the central government. according to the some head villages, the administration of village can not have distributed in 2014 and it's the late transferring.<sup>25</sup>

Based on Edi as head of institution BPMKB in Tasikmalaya, the distribution of administration village has been realized only in several areas in Tasikmalaya such as Ciawi, Cineam, Pageragueng sub districts and some villages in Karangnunggal bantarkalong. They hope that the administration of village will be given according to APBN.<sup>26</sup>

Allocation of administration village for each village must be realized based on the proposal of each village that made by head of village and community. The institution of village get the fund for development of village especially in infrastructure of the village.<sup>27</sup>

Some observations about allocation of administration in Tasikmalaya, every village only gets 100.000.000 Ruphias. This fund is used for the improvement and development of the road and some offices infrastructure. It thinks that the fund is better for positive effect of village building in every village.<sup>28</sup>

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<sup>25</sup> Rafi, Dana Desa Diserahkan Bertahap, <http://news.liputan6.com/read/2132421/menteri-marwan-dana-desa-rp-14-miliar-diserahkan-bertahap>, access on Feb'1.2015 at 15:00 p.m

<sup>26</sup> *Ibid.*

<sup>27</sup> *Ibid.*

<sup>28</sup> *Ibid.*

Based on the observation of administration in Kolaka Kendari, the budget of administration village has not been distributed maximal because the ADD ( village administration allocation ) has to be given 250 million for every village and the sub district has budget 1 bilion in every year but all of fund has not been relized in this area. The programe should have been distributed through the head village and head of subdistrict.<sup>29</sup>

Based on the village government (BPMD), the total budget will be given is defferent in every village depend on the width of village. The ADD will be used for insentif of village government, oprational village, PKK promotion and physic building and the head of village will get 1,8 million in month, 750 million in a month for staf of village, 20 million in one year for oprational budget central government, 10 million in one month for promotion of PKK and 100 million in one year for oprational development.<sup>30</sup>

Accoarding to minister of village and transmigration Marwan Jafar, government will have sugested that APBN of administration village will be increase 29 trilion and it can be distributed into 74.000 villages so each village receives 350 million more. He has submitted to all villages that they have to give report of transparant fund to government

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<sup>29</sup>Suyanto, Jokowi Beri Anggaran Dana Desa, <http://www.republika.co.id/berita/pemilu/menuju-ri-1/14/06/09/n6walu-tim-jokowijk-anggaran-rp-1-miliar-per-desa-bertentangan-dengan-uu>, access on Feb'17.2015 at 17:12 p.m

<sup>30</sup>*Ibid.*

because it will be observed by KPK and the usefulness of the administration village must be matched with the potential of villagers.<sup>31</sup>

Some cases of administration village can be explored by some media and research that done by community organization like distribution of administration village in Situbondo East Java that administration of village from the central government is not distributed fluently and the nominal of fund is not till 1 billion, in fact, the APBN for Situbondo has to be given by central government 600 till 700 million ruphias. It means that the central government does not have enough fund for administration of village. Based on the rule no 60 tahun 2014, the distribution of administration village will be realized into three steps, 40 %, 40% and 20 %. But, the community of Situbondo does not have administration suitable the rule.<sup>32</sup>

Based on Dahniar and Lasimpo as economic researcher, the word bank is able to answer all troubles in the village but it will be conflict with the local village because PPK ( design of sub district building ) does not suggest from local government to make relationship with the word bank. Based on chapter 72 Law of village the budget of village will be thrown to create the programs of village. In one side the government of village has to give information about the budget of village so all villagers will have realized in all sector of the village.<sup>33</sup>

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<sup>31</sup>*Ibid.*

<sup>32</sup>*Ibid.*

<sup>33</sup>*Ibid.*

There is no the limited of administration village til now the purpose of administration village is to develop the growth economy inclusive and economy growth catalizem and the wealth of citizens. All component of community and government must have principe to make decision to use the administration of village from APBN to develop and improve the need of village so, the wealth of village can be reached. If there is the incumbrance of distribution in the village, they have to inform it to government of village and it will be continued to central to government to get the administration of village suitable with the APBN.<sup>34</sup>

Administration of village is the most important element for the success full of village building but it can be the warning if the atitude and behavior of government in the village or central has the bad morality because it will inhibit the vision and mission of Law No 6 of 2014 about administration of village. One of the problem in distribution of administration village is coruption in local government or village government. The process of distribution in administration village should be transparant and obey the government regulation. The standart of general fund should be determined by financial ministry to privent the mark up of administration village. In one side the head of village and the village government submitt the budget of administration village by agreement from village Institution of Village Conference (BPD).

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<sup>34</sup>Firman, Alokasi Dana Dalam APBN, <http://www.kemenkeu.go.id/Berita/pemerintah-tambah-alokasi-dana-dalam-apbn-p-2015>, access on Feb'17.2015 at 17:36 p.m

KPK also has role to check the total budget for administration village that has the different number in every village. It can be done to get the transparency of APBN for fund of village.<sup>35</sup>

Some opinions of public that learn the bad behavior of government in the village of provinc about coruption of administration village, for example the head of village who can take a little or a big part of its fund. Some opinions about the high risk of some government village that they have big chance to use the administration for their need. Based on this statment, there are some trics that can be done to prevant the corruption.<sup>36</sup>

First, observation that has to be done by government and community. Government must open the information transparency in all communities from the central to isolated area. Community has to know the total number of budget and its alocation and the head of village has to give information system about village development based on chapter 86 Law of village that all villages have right to get information access by village information system that developed by government of subdistrict and city.<sup>37</sup>

Second, information system that does not have to use technology because its not relevan with the environment and social. The government of village has to publicate every information that stamped on the wall of head village's office. So, community that come to the

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<sup>35</sup> *Ibid.*

<sup>36</sup> *Ibid.*

<sup>37</sup> *Ibid.*

office can learn the development of administration village in up to date.<sup>38</sup>

Third, complain media that has to be reserved in public media to clarify some complain of public about the budget of village from the APBN and the media has to be put the phone number of short message service or number of central media actively to report everything that disobey the Law about administration of village such as the mis procedure or mal administration of allocation the budget by village or sub district government.<sup>39</sup>

Fourth, the discussion honestly between community and government about the true village building in public. The villager is recognised to know all aspect in the village that must be solved from the smallest to biggest aspect in the village, so community has right to determine the budget of administration village and local government has to convinced to communities of village about the need of village comprehensively. In one side the government has to believe to villagers because they can manage the need to develop the village. It is the opposite statement from central government that think the community of village can not manage the budget for their village. In fact, all villagers who know all needs of the village and they can decide the total

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<sup>38</sup>*Ibid.*

<sup>39</sup>*Ibid.*



budget for development or village and they will give the financial report to local government.<sup>40</sup>

Finally, the government has to observe the village directly such as discussion to the villager, giving the management education about financial management for development village, observation the work system of budget management and evaluation of allocation administration village to develop the village. It is suitable with the Law No 25 of 2009 chapter 10 act 1 about public service.

In conclusion, to get the correct mission and vision of allocation the administration village, there are some steps that implemented by government such as observation of allocation of administration village directly, discussion with the villagers about some aspects that have to develop in the village, give education about management of APBN and the role of communities such as discussion with the head of village and government to build the village, work system of allocation the budget for development of the village and control and the allocation of budget.

## **B. Research Question**

Based on previous background, this research question is designed as follows: How is the latest development on the village government in the Law No 6 of 2014 ?

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<sup>40</sup>*Ibid.*

### **C. Objectives of Research**

The objective of the research is to study the development of legislation on the village in Indonesia, particularly, comparison between Law No 32 of 2014 and Law No 6 of 2014.

### **D. Benefits of Research**

At the end of reasearch it is expected that the research.

1. Contribute to of legal scince particulary, on the issue of the latest development of some legislation on the village in Indonesia.
2. Give purpose to some recommendation to policy on the implementation of Law No 6 of 2014.