



Legal Certainty for Village Credit Institutions and Indigenous Village Communities on the Management of Village Credit Institutions

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Abstract. Village Credit Institution (referred to as LPD) is one component that plays an important role in efforts to empower Indigenous Village so that the welfare, prosperity, and happiness of all members of the community can be achieved in Indigenous Village. LPD in its development is strongly supported by the layout and mindset of the community. The dense population will provide space for the development and improvement of the LPD, on the other hand, the growth and development of the LPD require Human Resources with sufficient quality education, but the reality is that in the management of the LPD there are still many workers who do not understand governance as a good financial institution., which has an impact on the existence of the Institution and losses for the people who use its services in the financial sector. This study examines legal certainty empirically normative for LPDs as creditors and indigenous peoples as debtors in providing business loans and how to overcome problems that occur due to LPD management which has an impact on losses for LPDs and the community as creditors and debtors. In granting business loans, it often relies on the principle of trust and does not always apply the six principles in lending, namely Character, Capacity, Capital, Collateral, Condition of Economic, and Constraints, which can lead to bad loans, which have the potential to lack legal certainty. For this reason, LPD must consistently and in an orderly manner always apply the six lending principles.

Keywords: Village Credit Institution (LPD) · debtors · creditor losses

1 Introduction

An indigenous village financial institution called Village Credit Institution (also known as LPD) is based in the Pakraman village region. The Bali Provincial Regulation Number 3 of 2017 on Village Credit Institutions and the Bali Provincial Regulation Number 4 of 2019 on Indigenous Villages in Bali directly govern the LPD's legal foundation. In practically every village in Bali, LPDs exist, and they are created and run by the community units that follow their local customs. The LPD serves internal financial transactions in Indigenous Village for its villagers, which includes savings and loans, and other services in the financial sector. LPD is a medium for Indigenous villages to carry out economic functions, especially as a village financial institution and a container

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for village-owned wealth, to meet the economic needs of the community and Indigenous villages. The nature of the LPD as an economic and financial institution in Indigenous villages is not only focused on profit (profit) or capitalistic accumulation of capital. However, there is also an organization whose actions are governed by Hinduism and cultural practices, and whose foundation is the idea of reconciling the aspirations of the Indigenous village community with those of the Hi (Moksa). 127–128 [5].

The existence of an LPD in an indigenous village is very much needed by the indigenous village and the community (members) of the indigenous village. This institution is expected to be one of the village institutions that can realize prosperity for the indigenous village and the community (members) of the indigenous village because this institution can provide economic, social, and cultural benefits to the members of the Indigenous Village. Therefore, as a financial organization that is a part of Pakraman Village, the LPD needs to practice good governance. LPD as a village financial institution carries out activities/businesses including:

- a. Receiving and collecting funds from Krama Desa, in the form of dhana (fund) as low and small as dhana;
- b. provide loans to Community members, other village members, or the Village;

There have been various phenomena recently related to the problems experienced by several LPDs in Bali, as well as being widely reported in the mass media in Bali. In various reports as an issue that is growing very fast and even in the actual situation, several Village Credit Institutions (LPDs) in Bali are facing problems, including:

1. unprofessional LPD management,
2. there are irregularities in management that result in bankruptcy,
3. LPD legal issues (lawsuit in court),

On August 20, 2021, "Bali Berkarya.com-Denpasar" reported that one of the legal issues LPDs confront is being sued by their clients. Not all of Bali's 1,433 LPDs experienced effective development, according to information obtained from the LPD Special Committee of the Bali Provincial House of Representatives. A total of 158 LPDs, or 11.03 percent of all LPDs, were deemed insolvent in Bali and unable to carry on with business as usual. On the other hand, the Village Credit Institution was established to give the community legal security and protection, ensuring the realization of the customary law community's (indigenous village members) welfare since it is economically, socially, and culturally advantageous.

Referring to the problems mentioned above, the researcher is interested in studying issues relating to (1) How is legal certainty for LPD as creditors and indigenous peoples as debtors in providing business loans? (2) How to overcome the problems that occur as a result of the management of the LPD which has an impact on the loss to the community as creditors and debtors? Legal certainty for the Indigenous Village Credit Institution and the Indigenous village community on the management of the Village Credit Institution serves as the research's subtitle.

The study design used is normative-empirical legal research (mixed method), which combines normative law aspects with supplementary or empirical elements that are subsequently substantiated by data. Empirical research is used to examine the law, which is viewed as patterned social behavior in the lives of individuals who constantly engage in and relate to social issues [6]. In addition to using a statutory approach (statute approach), a conceptual approach (conceptual approach), and a field approach, the method is a juridical-empirical strategy that draws on research from libraries and the field (interviews, respondents, resource persons).

2 Discussion

2.1 Legal Certainty for LPD as Creditors and Indigenous Community as Debtors in Providing Business Loans

The Village Credit Institution (LPD) is one of the fastest-growing Microfinance Institutions in the Bali Province and until now there have been 1,433 LPDs in Bali. The LPD of Indigenous Village is, theoretically, the most ideal type of community financial institution because it fully and completely satisfies the needs of the community in terms of human scale, sense of ownership and identity, obligations, and *gemeinschaft* (a group of people with close relationships and very close interactions). It also satisfies the needs of the community in terms of culture. 2019: 226 [4].

The LPD, which places importance on preserving family relationships and inter-indigenous collaboration, is operationally based on the customary law of indigenous villages. The purpose of LPD in general is to promote the welfare of the Indigenous Village community economically, so that the community lives more decently, adequately, and prosperously. The Village Credit Institution was started in 1998 and has subsequently expanded. The Village Credit Institution's (LPD) development has taken the following forms:

1. From 1984 to 2022, LPD contributed to economic growth in rural areas.
2. Enhancing rural communities' welfare while maintaining Indigenous village customs.
3. Trying to behave like a financial institution that is governed by state law is difficult if you want to become a tax target.
4. Law Number 1 of 2013 Concerning Microfinance Institutions has been adopted, and all matters pertaining to legal standing, LPD status, and position are now conclusive.
5. Managing the LPD as a Financial Institution subject to Customary Law is the next hurdle.

The Village Credit Institution (LPD) activities are based on customary law and their existence has also been protected by the Bali Provincial Regulation Number 3 of 2017 concerning Village Credit Institutions. The difficulties encountered by a number of LPDs in Bali, including the improper LPD financial management methods, astonished those involved in the recent development of LPDs amid growing trust from the Indigenous Village population. And it was discovered, after being tracked down by the LPD supervisory agency, in this case Bendesa, that certain LPD management personnel had diverted

funds intended to be managed in accordance with the Indigenous Village Perarem and used them for purposes that were at odds with the LPD's own goals. Deviations in management include:

1. The existence of the LPD by unscrupulous LPD management is used as a tool to seek personal gain,
2. The Village Credit Institution (LPD), which is just beginning to thrive in the village community, is employed as a means by the LPD management to further personal interests at the expense of those of the Indigenous village population, including:

1. Village Credit Institution of Sangeh Indigenous Village

Alleged crime perpetrated by an LPD official in the Abiansemal sub-district of Badung Regency's Sangeh Indigenous Village. The method of creating bogus credits is one of them. (detik.com). As a result of the alleged actions done by one of the LPD management, the LPD of Sangeh Indigenous Village temporarily lost more than 130 billion, according to the conclusions of an internal audit undertaken by the Public Accountant Office. In the aforementioned instance, a number of flaws were discovered that caused losses for the Sangeh Indigenous Village LPD, including:

- a. lacks a Standard Operating Procedure (SOP) in writing for lending money and managing savings, time deposits, and loans.
- b. The human resources' incompetence and dishonesty in creating financial reports.
- c. When arranging finances, avoid real-time recording.
- d. Not guided by the prudent credit-granting concept.
- e. Lax oversight of the financing process. (BaliNews.id).

2. The Indigenous Village of Gulingan has a Village Credit Institution

Allegations of corruption against an LPD management member in the Gulingan Indigenous Village in the Mengwi District, Badung Regency. The creation of bogus credit and the disbursement of some deposits without the customer's knowledge were the deviations made. According to the audit's findings, one of the Gulingan Indigenous Village LPD Management's purported activities caused the Gulingan Indigenous Village LPD to lose Rp. 30,922,440,294 as a result (30.9 billion). (newsDetik.com).

In the aforementioned case, it was found that the Gulingan Indigenous Village LPD's losses were improperly managed due to a number of issues, including (Balipost).

- 1) Maintain a nominative list of loans, but use a different balance sheet method. In the balance sheet system, there are various credit nominative lists.
- 2) Does not have an Operating Procedure System (SOP) in writing for lending.
- 3) Has no policy on the need for credit documents like the KTP (Identity Card) and KK (Family Card).
- 4) Ignoring credit research.
- 5) Is missing the conclusions reached at the credit committee meeting.

- 6) Omits the guarantee's supporting documentation in the form of photographs and the verification of field security inspections.
- 7) Does not yet have a loan restructuring policy and procedure that has been endorsed by the Bendesa and adopted by the citizens of the community.
- 8) Do not have an AYDA and SOP for defaulted loans (Foreclosed Assets)
- 9) The rules of good credit are not taken into account while issuing credit.

Numerous LPDs in a number of areas in Badung Regency, as well as others in Klungkung, Gianyar, and Tabanan Regencies, also have same issues. According to information from the Bali Provincial House of Representatives of LPD Special Committee, 158 LPDs, or 11.03 percent of Bali's total 1,433 LPDs, have been declared bankrupt and are no longer in operation. Given that the ratio of developing and advanced LPDs is substantially higher, at 88.7%, it can be concluded that LPD development is still going along rather well. This graph demonstrates the community's enthusiasm and optimism that not all LPDs are mismanaged. To boost public trust in the LPD, however, adjustments still need to be done. Given that many financial institutions, including BRI, Cooperatives, BPR, and other microfinance institutions with more professional management, have recently expanded into rural areas, there is fierce competition in the banking industry. Of course, this should serve as a reminder to LPDs to remain competitive with more experienced management. Give the neighborhood a sense of protection and legal security when utilizing LPD services.

Unprofessional LPD management not only harms the community as users of LPD services but also harms the institution in this case the LPD which brings losses to the village concerned. People who entrust their money to be managed by the LPD need legal protection and certainty that the money will one day return along with the benefits obtained in the form of profits. Likewise, for LPDs, funds deposited by the community as savings and funds issued by LPDs for the community in a credit agreement are expected to be utilized and beneficial to realize community welfare and encourage the maintenance of the existence of the LPD. If the LPD is mismanaged, which results in non-refundable funds deposited by the community, the LPD is required to return the public funds, or in a situation where the LPD is unable to collect loans that have matured as agreed in the credit agreement, then this situation will gradually result in bankruptcy for the LPD and the LPD is no longer able to maintain its existence. For this reason, as a village-owned financial institution, it is necessary to have awareness, obedience, and consistency from all LPD management and related institutions in determining policies for the LPD, to always adhere to the principles of being a professional financial institution.

O. Notohamidjojo defined the goal of law as "protecting human rights and obligations in society, to protect social institutions in society (in a broad sense, including social institutions in the political, social, economic, and cultural fields), based on justice, to achieve balance and peace, and the general welfare (*bonum commune*)" [1]. Likewise, the existence of customary institutions and regional regulations related to the LPD, plays a role in creating the realization of the legal goal of protecting the rights and obligations of the community and LPD in every Indigenous Village, so that the existence of the LPD in the Indigenous Village can create balance and prosper the village economy and society to realize general welfare. So that the LPD can carry out its functions properly and legal certainty and protection can be created. If the management of the LPD is carried out

unprofessionally as happened in the management of the Gulingan Indigenous Village LPD and Sangeh Indigenous Village LPD, the community's trust in the LPD will be lost which has an impact on the LPD's unable to carry out its function as a financial institution that improves the welfare of the community, village development cannot run as it should. Programmed and the LPD will cease to exist and even go bankrupt. The existence of this unprofessionally managed institution is troubling the community, unable to provide protection against refunds/community savings funds which has an impact on the absence of trust from the community, legal certainty is not achieved because LPD cannot resolve bad loans that harm the community and Indigenous Villages.

The purpose of the law is to safeguard people. According to Lili Rasjidi and B. Arief Sidharta, the law was developed and made necessary by humans in order to defend and advance human dignity and allow people to live normal lives in accordance with that dignity [3]. Likewise, the existence of customary institutions that oversee LPDs and Regional Regulations as institutions that make policies for LPDs, namely as controls for LPDs. However, the existence of this institution cannot function optimally if you look at the legal cases that befell the LPD. However, this condition is more a problem of unprofessional management, both for the recruitment of administrators (human resources) and in the provision of credit, and the weak control of the institution itself, namely village institutions and local governments. LPD as creditors and indigenous peoples as debtors in providing business loans, which are managed unprofessionally result in the absence of legal certainty and legal protection for both the LPD itself and the community.

2.2 Overcoming Problems Occurring Due to LPD Management That Has an Impact on Losses for the Community as Creditors and Debtors

The Governor of the Province of Bali's Decree No. 972 of 1984, dated October 1, regarding the Establishment of Village Credit Institutions in the Province of Bali, served as the impetus for the establishment of the LPD in Bali. This organization is designed to aid in the economic growth of rural areas, particularly for farmers and small business owners. This objective requires financial backing, which might be provided through rural credit businesses. The Regional Regulation (Perda) No. 2 of 1998 concerning Village Credit Institutions was then strengthened by the Regional Regulation No. 8 of 2002, which was subsequently revised by the Regional Regulation Nos. 3 of 2007 and once more by the Regional Regulation No. 4 of 2012 before being finally replaced by the Regional Regulation of the Province of Bali No. 3 of 2017. LPD business entities based on article 7 Regional Regulation No. 3 of 2017, include:

- (1) LPD business fields include:
 - a. Receiving/raising funds from Krama Desa in the form of dhana as low and small as dhana (fund);
 - b. Providing loans to village community members and villagers;
 - c. LPD may grant loans to other villagers under the condition that there is community cooperation;
 - d. A Governor Regulation will further govern the cooperation between Villages mentioned in letter c;

- e. Receive loans from financial institutions, subject to further limitations on the total amount of loans or financial support/assistance, up to a maximum of 100% (one hundred percent) of the total capital, including reserves and retained earnings.
 - f. Maintain surplus liquidity in a specified Bank in exchange for reasonable fees and competitive interest rates.
- (2) LPD must adhere to the prudential concept of LPD management while conducting the type of activity mentioned in paragraph (1).
 - (3) The Governor's Regulation governs additional rules relating to the prudential concept of LPD administration.

The Indigenous Village's Customary Law strengthens the LPD, particularly to defend harsh measures against disobedient debtors [8]. The goal of legal protection is to coordinate society's competing interests so that no one is left out of the benefits that the law provides [2]. This must be backed up by ever-improving LPD management in line with modern requirements for the 4.0 era. A computer-based recording system will generate data more quickly and accurately. Human resources (HR) with expertise in accounting and IT must support the deployment of a computer-based recording/bookkeeping system. The outcome is a belief in good manners that may still be upheld to advance the LPD by using savings or loans to accomplish its primary aim, which is to improve the economic circumstances of community members. Therefore, integrity is not only necessary for components of academic ability and experience, but honesty as a sort of integrity is particularly influential on the trust of village manners in the presence of the LPD, making integrity an indispensable item to have. 2019: 281–282 [7].

The management of the LPD of Gulingan Indigenous Village and the LPD of Sangeh Indigenous Village lacks support from debtors in completing their obligations to carry out each credit agreement in an orderly manner, as evidenced by when the credit agreement expires, the debtor has not been able to complete its obligations to make payments. In addition, the condition that has the greatest influence on the existence of the LPD is the lack of obedience from the management in the management and management of the LPD, as has been mandated in the village customary law, the decisions of the village institutions that are LPD policymakers and the provisions in the Bali Provincial Regulations. The administrators fail to govern properly, violate the relevant legal requirements, and even hold a tenuous belief in the reality of karma pala, the idea that every good conduct will produce good and every bad deed will produce evil. Therefore, one of the factors that cannot promote or reduce the existence of the LPD is the lack of this attitude and belief. In the future, LPD will be able to compete with other financial institutions, especially those that have a close connection to rural areas and have gained the support of those communities, like Bank of Republic Indonesia, Cooperatives, BPR, and other microfinance institutions that have the potential to seize the market. In order to prevent abuse of power that could lead to corruption, human resources are needed to serve as more professional managers. Additionally, management should constantly seek to improve and become more professional, especially when it comes to the provision of credit facilities. LPD can function and develop healthily when it is put into practice. It is therefore crucial to act as a guideline when extending credit by putting into practice the

six principles of lending, known as the 6Cs: Character (personality), Capacity (ability), Capital (capital), Collateral (guarantee), Economic Condition (economic condition), Constraints (restraints), and Character (personality). LPDs will be able to realize their goal of flourishing their customary law communities and even be able to contribute more broadly to the growth of advancing the country's and state's economy with the application of the 6 C principles correctly and consistently in the management of LPDs. People no longer need to be afraid of using LPD services because they may offer legal assurance and protection while doing so in the banking business. According to Satjipto Raharjo, legal protection is an endeavor to organize various societal interests so that there is no conflict of interests and everyone can enjoy all the legal rights. This organization is accomplished by limiting some interests and granting power to others independently. Measurable. (Satjipto Raharjo 2000, p. 53–54) because the law can serve as a means of realizing certainty and offering protection from harm in order to guarantee the continuity of peace and the welfare of all people.

3 Conclusion

1. In granting business loans by LPD as creditors to indigenous peoples as debtors who are not guided by the principles of lending, which results in bad loans, there is the potential for legal uncertainty in the settlement which results in losses for the community and the LPD itself. Many LPDs in Bali experienced this; 158 LPDs, or 11.03 percent of the total 1,433 LPDs in Bali, were declared bankrupt. LPDs in Badung Regency, including the LPD of Gulingan Indigenous Villages and the LPD of Sangeh Indigenous Village, are among those experiencing a crisis of public trust because their management lacks adequate Standard Operating Procedures (SOP) in terms of lending, time deposits and savings, unqualified. On the other hand, legal certainty for LPDs as creditors and indigenous peoples as debtors in providing business credit can be created if there is obedience and compliance of creditors and debtors in carrying out credit agreements, and the obedience and compliance of LPDs in managing them carry out professional management principles supported by human resources. Who are professionals in their fields.
2. Resolving issues that arise from LPD management that have an effect on the community as creditors and debtors by strengthening LPD management to realize community welfare, hiring/hiring professional managers (managers), so that no abuse of authority has the potential to cause corruption and the management of the LPD is carried out professionally, particularly in providing credit facilities. For this reason, it is important to always obey and comply with the guidelines in providing credit, by implementing six principles in lending, which are frequently referred to as the "6C" factors, i.e., Character, Capacity, Capital, Collateral, Economic Condition, and Constraints, so that the objectives of the LPD are: as an Indigenous village financial institution to realize community welfare (village members) and promote the village economy to be realized.

4 Suggestion

1. All institutions and agencies involved in managing the LPD must function efficiently and use their authority in a professional manner if they are to assist the LPD in developing into a financial institution that will serve the interests of the entire community, particularly the community of customary law.
2. By consistently paying respect to the principles of management and lending, the LPD supervisory body should perform its tasks in a reliable manner, preserving the stability of the LPD management.

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