



# *Agreements Between Village-Owned Enterprises (VOEs) Managing Tourist Destinations and Investors; Legal Review*

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**Abstract**— This study examines the legal protection of Village-Owned Enterprises (VOEs) and investors. VOEs is an institution in the village that aims to prosper and improve the economy in the village, while investor funding is expected to develop businesses in the village, especially in the tourism sector. the difference in interests between VOEs and investors is interesting to study in the frame of an agreement. This research aims to find out the urgency of agreements made between VOEs and stakeholders for the management of tourist destinations and evaluate regulations related to this. This research is a literature research that will examine regulations on VOEs and on agreements and their functions. The results of this research show that regulations related to cooperation agreements carried out by VOEs in government regulations on VOEs are still general and lack specificity and technicality. the existence of an agreement is needed to protect the legal interests of VOEs and stakeholders. In addition, the existence of an agreement also serves to convince the parties that their rights and interests are guaranteed and protected by law.

**Keywords:** *Village-Owned Enterprises; agreement; tourism destination.*

## I. INTRODUCTION

The role of Village-Owned Enterprises (VOEs) is very important to support village communities strengthening through community participation in economic activities. VOEs empowers village communities through capacity building, social programmes (education and training), employment, partnership, investment, advocacy, and social programmes in environmental protection. The role of VOEs in rural community empowerment is categorised into three main aspects, namely institutional, economic, and socio-cultural aspects.[1] VOEs are legal entities established by the Village government whose purpose is managing of enterprises, utilization of assets, development of investment and productivity, provision of services and implementation of other types of business in order to ensure the maximum welfare of the people of the village. to manage businesses, utilise assets, develop investment and productivity, provide services, and conduct other kinds of business for the maximum welfare of the people in the Village.[2]

One way to improve community welfare is by managing business units in the tourism sector. VOEs Community Empowerment has an essential role in empowering rural communities, one of which is through tourism management. Aside from being a form of empowerment for village communities, tourism can also function as a tool for developing social asset and village-owned media. In addition, VOEs are very useful for developing a community-based tourism industry. VOEs contribute to the development of tourism as a tool for developing social capital and village-owned media. Social assets, creativity and social norms are the strengths of social enterprises working in rural tourism. The potential of natural tourism in rural areas requires the active participation of VOEs as tourism managers to improve the relationship between visitors and the tourism environment. VOE can contribute effectively and favourably in the developing physical and virtual facilities required for tourism. The importance of social asset in the development of VOEs is to build relationships within and outside the company. The condition of villagers' social asset is negatively correlated with the condition of villagers' economic capital, and a socially vibrant village is necessary for economic

growth. Therefore, it is important to establish a VOEs based on the spirit of kinship with the aim of maximising economic potential, human resources, and natural resources to increase the welfare of the village community.[3]

On the other hand, developing village tourism management requires a lot of capital or investment. VOEs investment in managing tourism is not sufficiently taken from village funds, but must get an injection of funds from third-party stakeholders. The role of capital in tourism economic development is very essential, specifically to facilitate tourism development in the area. Investment can help improve the quality and quantity of tourism facilities, such as hotels, restaurants, and tourist attractions. In addition, investment can also help increase employment and income of the local community. The benefits of foreign investment to national economic growth can be in the form of: a) creating new business, expanding markets or stimulating research and development of new local invention; b) increasing the competitiveness of export industries, and stimulating the local economy through second (financial sector) and third (service sector) markets; c) increasing tax revenues and increasing local/national income, as well as strengthening the value of the local currency for import financing; d) debt servicing is important to protect the presence of financial goods in international markets and maintain the safety and integrity of the financial system.[4]

In addition to foreign investment, domestic investment also has several benefits in the development of the tourism sector, including: Creating new jobs: Investment can help create employment opportunities for local people, thereby reducing the unemployment rate in the area. Increases income and welfare: With investment, the tourism sector can grow rapidly, increasing income for businesses and local communities, and improving economic welfare. Accelerate infrastructure development: Investment can provide the necessary resources to build tourism infrastructure, such as hotels, restaurants, and transport facilities. Improve the quality and diversification of tourism products: Investment can encourage the development of more diverse and quality tourism products, so as to attract tourists from both within and outside the country. Improve tourism promotion and marketing: Investment can be used to strengthen promotion and marketing efforts of tourism destinations, so as to increase the number of tourist visits.[5]

Investment has an essential role in the growth of the tourism sector. Investment can help create new jobs, improve capabilities and skills, and make a positive contribution through the flow of industrialisation and modernisation. Investment both in the form of foreign and domestic capital can accelerate economic development in the area. The interests of investors in doing business in the tourism sector are very important to protect, so that they continue to invest and increase their investment. There are two laws that regulate investor protection, namely Law No. 25/2007 on capital and investment in tourism regulated in Law No. 10/2009 on tourism.[6] However, a specific forum is needed to accommodate the interests of VOEs and investors into an agreement.

Regulations on tourism destination management cooperation agreements are needed in developing tourism destinations. The implementation of legal principles and local values in Indonesia must pay attention to the suitability of the law with the social conditions of the community. If the law applied is not in accordance with the social conditions of the community, then this can affect the welfare of the community.[7] This research aims to analyse the urgency of tourism destination management agreements and evaluate the regulations related to it. As for previous research that examines tourism destination management agreements, first, a study entitled Legal Analysis of Investment Cooperation Agreements Between Commodity Partnerships and Foreign Investors According to Investment Law in Indonesia.[8] Second, Ma Junyu's research entitled hospitality industry contract is an agreement.[9] Third, I Gusti Putu Arya Gunawan's research entitled Analysis of Tourism Management Cooperation Agreement Ulun Danu Beratan Pakraman Village Candi Kuning Tabanan Regency.[10] Fourth, Nurhani Fitriah's research entitled Cooperation Agreement Between Landowners and Managers of the Holy River Tourism Area in Pasar Pedati, Central Bengkulu Regency.[11] The novelty of this research is the urgency of legal protection of VOEs and investors based on Cooperation agreements and evaluating related regulations.

## II. LITERATURE REVIEW

### A. Agreement

The terms contract and agreement in the business world are often still interpreted ambiguously. Many entrepreneurs interpret the two terms differently. even though the civil law code does not distinguish the terms contract and agreement.[12] This can be seen from book 3 regarding obligations born from contracts or agreements. Legal experts also argue that the terms contract and agreement are not different. However, in the world of practice there are those who distinguish the terms contract and agreement according to R.Subekti, the term contract has a narrower meaning because it is only interpreted as an agreement or agreement made in writing, while an agreement is interpreted as an agreement made in writing or not.[13]

Agreement is something important because it concerns the interests of the parties who make it. Therefore, every guideline should be made in printed form so that it has legal force, so that the purpose of legal discipline can be achieved. An agreement is an event in which one person gives assurance to another or in which two individuals promise each other to follow through on something.[14] Sri Soedewi Masjchoen recognises that an agreement is a substantial exhibition in which no less than one individual binds himself to another or more.[15]

### B. Village-Owned Enterprises (VOEs)

VOEs pursuant to Government Regulation No. 11 of 2021 is a legal entity established by the village and/or together with villages to for the purpose of managing business, leveraging assets, developing investment and productivity, providing services and/or other types of enterprises to provide the best services for the greatest welfare of the Village community. The VOEs aim is to

improve the well-being of the village community through economic activities and public services that are managed independently by VOEs. Cooperation agreements in the context of VOEs can refer to business cooperation between VOEs together with other parties, which can include various forms of cooperation such as joint management of resources, transfer of technology, science, arts and culture, capacity building of human resources, and other forms of cooperation. In this case, the cooperation agreement must consider the legal position, ownership status, and/or control of the object of cooperation based on the provisions of laws and regulations.[2]

### III. RESEARCH METHODS

This research is a doctrinal study that uses a qualitative approach and descriptive analysis. The researcher was interested in looking at phenomena related to law and economics: in this case, the rural economy developed by VOEs, but it should be noted that the researcher analysed it from the normative side. Qualitative research focuses on evaluating the provisions related to VOEs cooperation agreements in great depth. In order for the researcher to complete and organise knowledge in a targeted manner, the research uses both primary and secondary legal sources, after which it is expressed in a very simple discussion style..[16]

### IV. ANALYSIS AND DISCUSSION

#### **Village-Owned Enterprise Cooperation Policy**

The implementation of cooperation of VOEs is regulated by regulation of Indonesia government Number 11 of 2021 about VOEs. The regulation of VOEs provides space for VOEs to develop business activities by cooperating with other parties.[2] Cooperation carried out by VOEs is not only carried out with government institutions but also private institutions with legal status in Indonesia.[2] The form of cooperation carried out can be in the form of business and non-business cooperation.[2]

Forms of business cooperation between VOEs and other parties in developing businesses have provisions that must be mutually profitable and protect the rights of the village and the village community.[2] In addition, business cooperation is prohibited from providing any obligation or achievement to make village assets as collateral for the non-performance of such achievements.[2]

VOEs are legal entities,[2] and obtain their legal entity status after being issued a certificate of electronic registration by the Minister of State for Legal Affairs and Human Rights.[2] This means that VOEs are legal subjects that can exercise rights and obligations as other legal entities such as cooperatives and limited liability companies. However, there are differences with other legal entities when it comes to agreements, namely the approval of business implementation carried out by VOEs must be approved by the advisors and supervisors or the Village Consultative Assembly in accordance with their authority as stipulated in the Articles of Association of VOEs.[2]

This regulation does not mention and explain in detail the percentage or share allowed for investors to invest in businesses managed by VOEs. this regulation also does not explain the types of businesses that are allowed and not allowed for investors to invest in businesses managed by VOEs. therefore this regulation still requires more specific and technical regulations.

#### **Legal Certainty of Stakeholders' Investment**

According to Utrecht, legal certainty has two meanings. First, the presence of rules makes individuals understand what is allowed and forbidden. Second, there is Legal guarantees for humans from government arbitrariness, because with the rules, individuals can know what the state can impose or do to them.[17]

Legal certainty is necessary to account for and avoid risks. Legal certainty is one of the most significant factors that contributes to the country's economic toughness. The government has the responsibility to provide legal certainty to economic actors by responding and following up on the opinions and wishes of economic experts. Thus the law is expected to utilise for an element of encouragement, guidance, guidance in directing and creating a conducive climate in the economic field.[18] Uncertainty regarding liability issues may make prospective investors sceptical as any unknown future regulations can shut down the businesses they invest in.[19]

Law and Regularity Law also appears to demand a specified minimum level of order and certainty, because without this it is impossible to declare that what operates in a given territory constitutes a legal system. However, there are clearly no exact criteria that can be adopted to define the level of order or certainty required to achieve this goal, and the state can avoid the arbitrary nature of tyranny where all are subject to the momentary whims of a tyrant, to the intricately organized and regulated states associated with Western democracies. Law and Order Law apparently need a specific minimum level of order and certainty, as without this it is impossible to state that what operates in a given territory amounts to a legal system. Clearly, however, there are no precise criteria that can be applied to determine what level of regularity or certainty is required to achieve this goal, and states can avoid the arbitrary nature of tyranny where all are subject to the momentary whims of a tyrant, to elaborate and complex orderly regulated states associated with Western democracies.[20]

Legal certainty is necessary in foreign investment activities in the tourism sector for several reasons. First, legal certainty provides assurance to foreign investors that their rights will be protected and respected by the government and legal institutions in the host country. This treatment provides confidence and conviction for investors to invest safely and steadily. Second, legal certainty creates a consistent and scalable business environment. Clear and consistent regulations support investors to make wiser investment decisions and optimize their businesses. Investors can measure the risks and potential returns of an investment more precisely. Third, legal certainty occupies a core position in addressing differences in interests and understanding that lead to disputes

in investing. If a dispute arises between the parties, the existence of a strict and effective legal system will resolve the dispute fairly and transparently. The realization of the above will provide legal guarantees for both parties so that it has an impact on the emergence of sustainable investment. Another important benefit of legal certainty is to create regulatory harmonization. Harmonious, uniform and consistent regulations will make it easier for foreign investors to be able to invest in countries that need it without having to experience complicated legal obstacles.[21]

The most important aspect of the existence of a contract is legal certainty. Therefore, the contract made by the parties must fulfill the requirements that are clear, certain, and without creating ambiguity or uncertainty. This implies that the parties involved in a contract must understand their agreed rights and obligations, and execute the agreement efficiently and effectively. If any contract is deemed unclear or uncertain, then the contract may be deemed unworkable. Judicial institutions often require a "reasonable" degree of certainty, meaning that the parties must be able to demonstrate a reasonable degree. In essence, legal certainty is a flexible concept and can vary depending on the detailed circumstances of each matter.[22]

Legal certainty is thus necessary in foreign investment activities in the tourism sector to protect the rights of investors, create a stable business environment, and ensure fair and transparent dispute resolution.

#### **Urgency of the Agreement**

One of the intended legal certainty can be achieved by entering into an agreement between the parties. Based on the principle of *pacta sunt servanda*, agreements apply as laws to those who make them.[23] To examine the urgency of the agreement, it is necessary to explain the philosophical, economic and juridical functions of the agreement.

The philosophical function of the agreement is to realise justice for the parties making the contract.[12] Because the interests of the parties can be protected by the agreement. Agreements provide a role in facilitating civil relations and supporting the freedom of exchange of interests.[24] The interests of VOEs and investors certainly have similarities and differences. The similarity is that in business of course what the parties want to achieve is profit, and it must be shared fairly. While the difference is that the implementation of cooperation in the development of tourist destinations by VOEs not only has the goal of profit but also the welfare of the village community. The interests of the village community are urgent to protect.

The juridical function of the agreement is to realise legal certainty for the parties making the agreement. The legal certainty in question includes two aspects, first, the protection of the legal subject of the agreement from the arbitrariness of other legal subjects. Second, the legal subject of the agreement in reality must be able to assess the legal consequences of his actions, both as a result of his actions and negligence.[12, p. 47] In addition, legal certainty in the agreement should also eliminate or at least reduce the meaning of legal ambiguity.[25] The interests of the village community must all be contained in an agreement in order to be protected and obtain legal certainty. If this is not done, the result is a dispute that can harm both parties, especially the village community.

The economic function of the agreement has meaning in realising the purpose and purpose of the business of making agreements. J. Beatson mentions several economic functions of the agreement, namely the agreement guarantees that the mutually agreed expectations between the parties will be fulfilled, the contract facilitates the business transaction plan to be carried out, the agreement sets the standard of implementation and responsibility of the parties, the agreement allows allocating business risks more precisely, the agreement provides a means of dispute resolution for the parties.[26] The existence of an agreement can make it easier for the parties, especially the VOEs to carry out the tourism business and know how far the targets and risks will be travelled.

It appears that an agreement is very urgent to be carried out by VOEs and investors in developing tourist destinations, both philosophically, juridically and economically.

## V. CONCLUSION

The articles or verses that regulate cooperation agreements between VOEs and stakeholders in government regulation number 11 of 2021 concerning VOEs are still too general, so regulations that are more specific and technical are needed. The urgency of the agreement between VOEs and investors in developing tourist destinations can be seen philosophically, which means that the justice of the parties who will cooperate in the tourism business can be realised by agreement. Juridically, it shows that the legal certainty of the parties in doing business in tourist destinations can be realised by agreement. Economically, it shows that an agreement can facilitate doing business, especially in the development of tourist destinations.

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