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## **Village-Owned Enterprises Legal Accountability for Village Natural Resources Management in the Perspective of Separate Legal Entity and Legal Certainty**

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### **Abstract**

*This article examines the construction of legal accountability for the management of natural resource-based village assets by Village-Owned Enterprises (BUMDesa) after its recognition as a legal entity through Government Regulation Number 11 of 2021. This recognition places BUMDesa as an independent legal subject that operates based on the principle of separate legal entity. However, in practice, the application of this principle still leaves juridical problems, especially related to the separation between village wealth and BUMDesa wealth and the potential shift in the character of village assets from public wealth to objects of private interest. This condition has implications for the weakening of legal protection for village assets and the increased risk of irregularities in the management of village natural resources. This article emphasizes that the legal accountability of BUMDesa is dualistic, namely corporate responsibility for business activities and public accountability for the protection of the interests of village communities and the sustainability of natural resources. The absence of a firm and systematic regulation causes a legal gray space that blurs the boundaries of responsibility between BUMDesa and the village government. Therefore, it is necessary to reconstruct the regulation and strengthening of BUMDesa governance to ensure legal certainty, maintain the public character of village assets, and ensure that its use remains in line with the constitutional goals of maximum prosperity of the people.*

**Keywords:** *Village-Owned Enterprises; Legal Liability; Village Assets; Natural Resources; Separate legal entity.*



## A. Introduction

Village natural resource management is still often perceived as a technical and economic issue, such as optimizing land potential, utilizing village forests, managing water resources, and developing nature-based tourism. The legal perspective is often placed only as an administrative complement, not as the main foundation that determines the legitimacy, certainty, and sustainability of the management. In fact, the law has a central role in ensuring the orderly control, utilization, and protection of public property so as not to cause conflicts or abuse of authority.<sup>1</sup> Without a clear legal basis, village natural resource management has the potential to give birth to uncertainty in asset status, weak protection for the community, and a vague accountability mechanism when losses or disputes occur.

Village natural resources are essentially part of public wealth that has strategic value, not only economically, but also socially, ecologically, and juridically. From a constitutional perspective, Article 33 paragraph (3) of the 1945 Constitution emphasizes that the earth, water, and natural resources contained in it are controlled by the state and used as much as possible for the prosperity of the people.<sup>2</sup> This principle places natural resource management as a public mandate that must be carried out responsibly and fairly. On a local scale, villages are a concrete representation of these principles, so that every village natural resource management must be subject to the principles of public control and community welfare orientation.

It is in this context that Village-Owned Enterprises (BUMDesa) are present as an institutional instrument that is mandated to manage the economic potential of the village, including natural resources. Law Number 6 of 2014 concerning Villages provides a normative basis that BUMDesa is established with capital sourced from the separated village wealth.<sup>3</sup> This provision shows that the management of natural resources by BUMDes is not only an economic activity, but also a legal action related to the management of public wealth. Therefore, every BUMDesa activity should be

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<sup>1</sup> Satjipto Rahardjo, *Legal Sciences*, (Bandung: Citra Aditya Bakti, 2006), p. 19.

<sup>2</sup> Republic of Indonesia, Constitution of the Republic of Indonesia of 1945, Article 33 paragraph (3).

<sup>3</sup> Republic of Indonesia, Law Number 6 of 2014 concerning Villages, Article 87 paragraph (1)

carried out carefully, transparently, and accountably in accordance with the principles of the rule of law.<sup>4</sup>

The strengthening of the legal position of BUMDes is increasingly evident with the birth of Government Regulation Number 11 of 2021 which expressly states that BUMDes is a legal entity.<sup>5</sup> This recognition places BUMDesa as an independent legal subject who has its own wealth, can enter into agreements, and is responsible for every legal act. In modern legal entity theory, this position is closely related to the principle of separate legal entity, which separates the legal personality of the legal entity from its founder and administrator. This principle has long been the foundation of corporate law since the classic decision of *Salomon v. A. Salomon & Co. Ltd*, which affirmed that a legal entity has a separate legal existence from the people who run it.<sup>6</sup>

However, the application of the principle of separate legal entity to BUMDes cannot be completely equated with private legal entities such as limited liability companies. BUMDesa has a special character because it is formed based on the authority of the village public and manages wealth derived from public finances. When BUMDesa manages village treasury land, village forests, water sources, or natural tourism areas, its legal responsibilities are not only corporate, but also public. In this framework, BUMDes not only acts as a business entity, but also as a manager of the interests of the village community. Philipus M. Hadjon emphasized that the management of public interests always requires a legal protection mechanism for the people so that power is not abused.<sup>7</sup>

The problem becomes even more complex when in practice there are still BUMDes that have not been fully positioned as independent legal entities. As a result, the management of village natural resources is often in a gray area between public and private interests. Satjipto Rahardjo reminded that a law that is not able to provide certainty will actually open up space for injustice and abuse of power.<sup>8</sup> In the context of BUMDesa, the unclear construction of legal accountability can result in a shift in

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<sup>4</sup> Jimly Asshiddiqie, *Introduction to Constitutional Law* (Jakarta: Rajawali Press, 2014), p. 297.

<sup>5</sup> Republic of Indonesia, Government Regulation Number 11 of 2021 concerning Village-Owned Enterprises, Article 3 paragraph (1).

<sup>6</sup> *Salomon v. A. Salomon & Co. Ltd* [1897] AC 22 (House of Lords).

<sup>7</sup> Philipus M. Hadjon, *Legal Protection for the People in Indonesia* (Surabaya: Bina Ilmu, 1987), 38.

<sup>8</sup> Satjipto Rahardjo, *Op., Cit.*, 105.

responsibility from the BUMDesa entity to the management personally or vice versa, so that the protection of village natural resources as public assets becomes weak.

The urgency of the issue of BUMDesa's legal accountability for the management of village natural resources can be seen clearly from the practice of guaranteeing village assets by BUMDes for the sake of business financing. Hana Novia Wijaya, Isis Ikhwansyah, and Pupung Faisal pointed out that in some cases, village assets managed by BUMDesa, such as village treasury land or natural resource-based assets, are used as collateral objects to third parties without clarity on the capital participation mechanism and without a firm legal accountability construction.<sup>9</sup> In such conditions, the problem that arises is not only related to the validity or not of the guarantee agreement, but also concerns who is the legal subject who must bear responsibility in the event of default: whether BUMDesa as an entity, the village government as an asset owner, or BUMDesa administrators personally.

This kind of case shows that the management of village natural resources, such as village treasury land developed into natural tourism areas, agro-tourism areas, or other natural resources-based productive land, is very vulnerable to being dragged into private legal relationships. Wijaya et al. emphasized that if BUMDesa is not yet a legal entity or does not have a clear basis of authority in the Village Regulation, then the legal responsibility for guaranteeing village assets can shift to the management personally and can even cause direct losses to the village public wealth.<sup>10</sup> This suggests that the absence of a clear construction of legal accountability has the potential to result in village natural resources losing their juridical protection and turning into objects of uncontrolled private exploitation.

This phenomenon strengthens Eka Kurnia Chrislianto's view that the absence of a firm legal construction regarding the accountability of BUMDes management actually opens up a gray space between public interests and private interests in the BUMDesa body.<sup>11</sup> In the context of village natural resource management, this gray space is very

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<sup>9</sup> Hana Novia Wijaya, Isis Ikhwansyah, and Pupung Faisal, "Legal Liability of Village-Owned Enterprises for Village Assets Managed as Guaranteed Objects," *ACTA DIURNAL Journal of Notary Law* 3, no. 2 (2020): 257-272, <https://jurnal.fh.unpad.ac.id/index.php/acta/article/view/226>

<sup>10</sup> *Ibid.*

<sup>11</sup> Eka Kurnia Chrislianto, "Normative Paradox and Structural Disorientation of Village-Owned Enterprises (BUM Desa) in the Good Corporate Governance Regime," Eka Kurnia Chrislianto: Law Office

dangerous because it concerns strategic assets that are public and have high ecological and social value. When village natural resources are dragged into private engagements without a strong legal basis, the function of BUMDes as an instrument of community welfare has the potential to be distorted into a covert means of privatization of village wealth.

From the perspective of legal certainty, this condition is contrary to the principle of the state of law which requires clear, consistent, and predictable norms to be applied. Jimly Asshiddiqie emphasized that legal certainty is one of the essential elements of the state of law because it ensures that power is exercised based on rules, not mere will.<sup>12</sup> Without legal certainty, the management of village natural resources by BUMDes has the potential to pose high legal risks, both for villages, BUMDes administrators, and the community as the main interest owners.

Based on this description, it can be emphasized that the main problem with the management of village natural resources by BUMDes does not lie in the absence of a legal basis, but in the lack of a systematic and balanced legal accountability construction between the principle of separate legal entity and the principle of legal certainty oriented to the protection of public property. Therefore, the study of BUMDesa's legal accountability for the management of village natural resources from the perspective of separate legal entity and legal certainty is important and urgent, so that BUMDesa is able to function professionally as a business entity while remaining accountable as a manager of natural resources which is the village's public wealth.

## **B. The Legal Position of BUMDesa in the Indonesian Legal System**

BUMDesa (Village-Owned Enterprises) is a business entity formed as a manifestation of village authority in managing and optimizing local economic potential independently. Its establishment gained constitutional legitimacy through Law Number 6 of 2014 concerning Villages which places villages as subjects of public law

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and Legal Consultant, 2025, <https://www.lawyerpontianak.com/2025/06/paradoks-normatif-dan-disorientasi.html>

<sup>12</sup> Jimly Asshiddiqie, *op. cit.*, p. 105–106.

with rights of origin and local authority on a village scale, including in the management of economic business activities through BUMDesa.<sup>13</sup>

However, in practice and academic studies, there is still a debate about the position of BUMDes as a legal entity. Some views state that BUMDesa initially resembled a business unit under the village government structure. However, the development of regulations shows that there is a strengthening of the legal status of BUMDes as an independent legal subject. This can be seen from the birth of Government Regulation Number 11 of 2021 which explicitly affirms BUMDesa as a legal entity established by villages and/or together with villages to manage businesses, utilize assets, and develop village economic investment and productivity.<sup>14</sup>

Theoretically, an entity can qualify as a legal subject if it has separate assets, specific goals, self-interest, and an organized organization. In this context, BUMDesa fulfills these elements because it has a management structure, capital sourced from the participation of segregated village wealth, and business objectives that are normatively determined through Village Regulations.<sup>15</sup> With these characteristics, BUMDesa can be seen as a legal entity that is able to act independently in legal traffic.

The position of BUMDes as a legal subject has implications for its capacity to be a party to civil legal relations, including making agreements with third parties. Several studies have emphasized that the recognition of the legal personality of BUMDes provides a basis for legitimacy for the implementation of business contracts, investment cooperation, and other commercial activities that give rise to legal rights and obligations directly for BUMDesa, not for the village government. In addition to the legal basis, how BUMDes are recognized at the village level is also highly determined by the Village Regulation (Perdes) which regulates the establishment, structure, and governance of BUMDesa. This Perdes is the operational basis so that BUMDesa obtains operational legitimacy before and after the registration of legal

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<sup>13</sup> Republic of Indonesia, Law No. 6 of 2014 concerning Villages, Statute Book of the Republic of Indonesia No. 7 of 2014.

<sup>14</sup> Republic of Indonesia, Government Regulation Number 11 of 2021 concerning Village-Owned Enterprises, Statute Book of the Republic of Indonesia Number 21 of 2021.

<sup>15</sup> Jimly Asshiddiqie, *Op., Cit.*, p. 105–106.

entities, as well as becomes a village instrument to apply the principles of accountability and good governance in the management of its business units.<sup>16</sup>

Based on the provisions of national laws and regulations, BUMDesa can be positioned as a legal subject that has independence in carrying out its business activities. However, in practice, the application and fulfillment of the legal provisions that govern the position still encounter various obstacles. Therefore, the realization of legal certainty is a fundamental requirement for BUMDes to carry out their role optimally and effectively.

### **1. BUMDesa Governance and Accountability in Village Natural Resources Management**

The governance and accountability of BUMDes in the management of village natural resources must be understood as a legal construction that brings together two regimes at once, namely private law as a business entity and public law as a manager of state/regional wealth on a village scale. BUMDesa is not only required to be professional in business, but also must be publicly accountable because it manages assets derived from village natural resources, such as village treasury land, village forests, spring water resources, and natural tourism areas. In this context, governance is not just a matter of economic efficiency, but an instrument of legal protection for village public assets so that they are not reduced to objects of private commercialization.<sup>17</sup>

One concrete example can be seen in the management practices of BUMDes that develop natural tourism areas based on village treasury land. In some areas, village land that is used as a tourist area is cooperated with private investors through business agreements that do not explicitly affirm the status of land as a public asset that cannot be guaranteed. When the business fails or bears debts, a third party demands repayment by making the village treasury land the object of execution.<sup>18</sup> Juridically, this condition puts the village in a very vulnerable position because the village's natural resources that should be protected as public assets are actually dragged into private legal relationships.

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<sup>16</sup> Fadikta Sisworini, "Village-Owned Enterprises as Legal Entities" 4, no. April (2025): 1-24, <https://ejurnal.uj.ac.id/index.php/WSJ/article/view/2873/2306>.

<sup>17</sup> Philipus M. Hadjon, *op. cit.*, 38.

<sup>18</sup> Hana Novia Wijaya, Isis Ikhwansyah, and Pupung Faisal, *Loc., Cit.*

The case of village asset guarantee by BUMDes shows the weakness of governance. Wijaya, Ikhwansyah, and Faisal documented the practice when village treasury land managed by BUMDesa was used as an object of credit guarantee to financial institutions, even though juridically village land is a public asset that cannot be attached to dependent rights such as private assets. When BUMDes fail to fulfill their payment obligations, legal risks not only befall BUMDes as a business entity, but also threaten the sustainability of village natural resources as public assets. Here it can be seen that the absence of a firm separation between village wealth and BUMDesa wealth opens up opportunities for "covert privatization" of village natural resources through contractual mechanisms.

The main weakness in the case lies in the inconsistent application of the principle of separate legal entity. Although BUMDesa has been affirmed as a legal entity through Government Regulation Number 11 of 2021, in practice BUMDesa is still often positioned as an extension of the village government. As a result, village wealth that should only be separated as capital participation is instead treated as if it is the full property of BUMDes to be pledged or transferred. This is contrary to the theory of legal entities which asserts that legal entities have their own wealth that is separate from the wealth of its founder. This principle has long been affirmed in the decision of *Salomon v. A. Salomon & Co. Ltd* which stated that a legal entity is a separate legal subject from its founders.<sup>19</sup>

Similar problems can also be found in community-based natural resource management practices in other countries, albeit with more established levels of governance. In Nepal, for example, the Community Forestry system grants forest management rights to local community groups through community legal entities. However, such management is closely monitored by the state, and forest assets cannot be used as collateral or transferred to private parties. Agrawal and Ostrom point out that the success of community-based forest management in Nepal lies precisely in the clarity of authority boundaries, internal accountability systems,

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<sup>19</sup> *Salomon v. A. Salomon & Co. Ltd, loc., cit.*

and strong public oversight.<sup>20</sup> This suggests that the governing body can be autonomous, but natural resource assets are still protected as public property.

Another example can be seen in India through Joint Forest Management (JFM), where villagers are given the role of managing state forest areas with the government. Although communities are actively involved, forest status remains a non-transferable public asset. According to Larson and Ribot, this model emphasizes the importance of separating management rights and ownership rights.<sup>21</sup> This distinction is key to preventing natural resources from falling into purely private regimes, even if they are managed by economically oriented entities.

In the context of BUMDesa, lessons from Nepal and India show that natural resource management by community-based business entities will only run healthily if there are three conditions. First, clarity of asset status: village natural resources must still be affirmed as public assets that cannot be used as collateral objects or transferred without a special legal basis. Second, institutional separation, where BUMDes must be positioned as an independent legal entity, so that its legal responsibility is attached to the institution, not automatically to the village or administrator. Third, public accountability: every strategic decision regarding the use of village natural resources must be accountable to the village community.

This phenomenon strengthens Eka Kurnia Chrislianto's view that the absence of a firm legal construction regarding the accountability of BUMDesa administrators actually opens up a gray space between public interests and private interests.<sup>22</sup> In the management of village natural resources, this gray space becomes very dangerous because it allows for the covert privatization of village wealth through the mechanism of business engagement. BUMDesa, which is supposed to be an instrument of community welfare, has the potential to become an entrance for the exploitation of village natural resources by private interests.

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<sup>20</sup> Arun Agrawal dan Elinor Ostrom, "Collective Action, Property Rights, and Decentralization in Resource Use in India and Nepal," *Politics & Society* 29, no. 4 (2001): 485–514.

<sup>21</sup> Anne M. Larson dan Jesse C. Ribot, "Democratic Decentralisation through a Natural Resource Lens," *European Journal of Development Research* 16, no. 1 (2004): 1–25.

<sup>22</sup> Eka Kurnia Chrislianto, *loc. cit.*

From an accountability perspective, the case of village treasury land guarantee by BUMDes also shows the non-functioning of the public accountability mechanism. Bovens emphasized that accountability requires a forum that can assess actions, ask for explanations, and impose consequences.<sup>23</sup> In many cases of BUMDesa, the village community has never been an effective "accountability forum". Financial statements and cooperation agreements are often only known to administrators and village heads, even though the natural resources at stake are public property.

From the point of view of legal analysis, the case shows the existence of three structural weaknesses. First, normative weaknesses, namely the lack of operational affirmation regarding the limits of the use of village natural resource assets as collateral objects in BUMDesa's business activities. Second, institutional weaknesses, namely the vague position of BUMDes as an independent legal entity and separate from the village government. Third, the weakness of accountability, namely the lack of a public accountability mechanism to the village community as the main interest owner.

Therefore, the reform of BUMDes governance in village natural resource management must be directed to:

- 1) affirmation that village natural resource assets can only be used as capital participation and cannot be pledged or transferred without a firm legal basis;
- 2) strengthening the application of the principle of separate legal entity so that legal responsibility is attached to BUMDes as a legal entity, not to the village or administrators personally; and
- 3) The development of a public accountability system that requires transparency in business agreements, financial statements, and supervision of village communities.

Learning from the practices of other countries, the reform of BUMDesa governance should be directed to the public-community enterprise model, where BUMDes continue to function as a professional business entity, but village natural resources are firmly positioned as public assets that cannot be transformed into

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<sup>23</sup> Mark Bovens, "Analysing and Assessing Accountability: A Conceptual Framework," *European Law Journal* 13, no. 4 (2007): 447-468.

private assets through contractual mechanisms. With construction like this, BUMDesa is not only an instrument of village economy, but also an instrument of legal protection for the sustainability of village natural resources.

## **2. Legal and Public Accountability for Village Natural Resources Assets Managed by BUMDes**

Legal accountability for village assets managed by Village-Owned Enterprises (BUMDesa) is one of the central issues in the study of the law and governance of village economic organizations. Village assets, according to Law Number 6 of 2014 concerning Villages, are assets owned by the village and are used for the greatest possible welfare of the village community. When these assets are handed over or managed by BUMDesa, either through a capital participation mechanism or management rights, the legal responsibility for these assets is no longer just administrative but also contains complex juridical consequences.

Many village assets managed by BUMDes are basically sourced from natural resources, such as village treasury land, village forests, spring water sources, coastal areas, and natural tourism potential. These assets not only have economic value, but also contain social, ecological, and constitutional value because they are attached to the principle of state control over natural resources for the greatest prosperity of the people as per Article 33 paragraph (3) of the 1945 Constitution. Thus, BUMDesa's accountability for village assets cannot be understood solely as corporate liability, but also as public accountability for strategic natural resource management.

In this context, Hana Novia Wijaya and colleagues explained that when village assets are given management rights to BUMDes without a formal capital participation mechanism, this has significant implications on the legal responsibility of BUMDesa managers if then the assets are used as collateral objects to obtain additional capital. In their normative research, it was found that the form of legal accountability differs depending on the status of BUMDes as a legal entity or not. A BUMDes that are legal entities are responsible for the act of guaranteeing village assets as long as this authority is regulated in the village regulations that are the basis of its operations (*intra vires*), while when BUMDes

are not a legal entity, liability can spread to the operational management, advisors, and supervisory board personally if the entity's responsibilities are insufficient.<sup>24</sup>

This approach reflects a key problem in the village asset accountability system managed by BUMDesa: the opening of the boundary between the responsibility of the entity and the personal responsibility of the management, especially when the right to manage village assets is not elaborated through formal capital participation. The unclear legal status of BUMDes in existing laws and regulations magnifies the risk of this ambiguity because the law has not explicitly required a specific form of legal entity for the operation of BUMDesa, while the village regulations on which BUMDes are based often do not include details of the attribution of responsibility for the assets.<sup>25</sup>

From a legal perspective, when village assets in the form of natural resources are separated as capital participation in BUMDesa, there are two accountability regimes at once. First, BUMDesa is civilly responsible as a separate legal entity for every legal act it performs in the management of these assets, including alliances with third parties, business management, and the risk of business losses. Second, the village government continues to shoulder public responsibility to ensure that the use of village natural resources does not deviate from the goals of community welfare and does not damage environmental sustainability. This is where the peculiarity of natural resource-based village assets lies, because even though they have been separated as capital, their public character is not completely lost.

Problems arise when natural resource-based village assets are treated the same as pure private assets. The practice of guaranteeing village treasury land or natural tourism areas managed by BUMDes to third parties shows a reduction in the meaning of natural resources from public wealth to mere object of business guarantee. Juridically, this is dangerous because it can shift the function of village natural resources from an instrument of collective welfare to an instrument of private economic interests. In the context of legal liability, this condition creates ambiguity: in the event of a default, whether the BUMDesa as a legal entity, the

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<sup>24</sup> Hana Novia Wijaya, Isis Ikhwanayah, and Pupung Faisal, *Loc., Cit.*

<sup>25</sup> *Ibid.*

village government as the initial owner of the asset, or the village community as the owner of the substantive interest must bear the consequences.

Accountability for village assets sourced from natural resources should be built with the precautionary principle. BUMDesa can only use these assets within the scope of use, not the transfer of ownership rights or the imposition of collateral, unless expressly regulated by laws and regulations. In this context, the legal liability of BUMDes is not only measured by the fulfillment of contractual obligations, but also by its ability to maintain the sustainability of the ecological and social functions of village natural resources.

Juridically, accountability for village assets managed by BUMDes not only involves internal relationships between entities and villages, but also has implications for external relationships with third parties. When village assets managed by BUMDes are used as collateral objects to obtain credit or financing facilities, BUMDesa's rights and obligations must be interpreted based on the provisions of village regulations, higher laws and regulations, and the principle of prudence in contract law. In the event of default or misconduct, BUMDes as a business entity, if they are incorporated, have the capacity to be responsible corporately based on the criteria of legal entities, while BUMDes that are not yet legal entities are in a higher risk position because of the possibility that responsibility can shift to individual administrators.

Another critical problem is the lack of legal literacy at the village level regarding the implications of asset liability. Without an adequate understanding of the legal regulation of village assets and the consequences of their management by BUMDesa, villages and BUMDesa administrators can unconsciously make decisions that expose personal legal risks. This requires the role of supervision both internally and externally by law enforcement officials or government audit bodies to ensure that the management of village assets by BUMDes does not exceed the limits of legality regulated by law.

Thus, legal accountability for village assets managed by BUMDes must be seen as a deep and multidimensional legal construction. It involves the legal status of BUMDesa, the mechanism of transfer or asset management rights, as well as compliance with the principles of transparency and accountability in reporting

and decision-making. Improving regulations and increasing the legal capacity of the management and the village itself is a prerequisite so that the accountability of village assets managed by BUMDesa can run with legal certainty and protection for the interests of the village community as the main owner of the asset.

In addition, BUMDesa's accountability for natural resource-based village assets must also be placed within the framework of public accountability. BUMDesa is obliged to open information to the village community regarding the form of utilization, cooperation with third parties, potential legal risks, and environmental and social impacts of business activities. Without such transparency, village communities lose their position as supervisory subjects, and village natural resources have the potential to be elitively managed by a handful of actors who have access to power and information.

Thus, the analysis of accountability for village assets managed by BUMDes must confirm that:

- 1) Village assets sourced from natural resources have a special character as a strategic public asset.
- 2) The separation of assets as capital of BUMDes does not remove the public dimension and its constitutional responsibilities.
- 3) The accountability of BUMDes is not only civil-corporate, but also public and ecological.

Any deviation in the management of village natural resources assets has the potential to violate the principle of state control over natural resources and the welfare goals of the village community. To make it easier to understand, the following table is shown on the liability of BUMDes with legal entities vs non-legal entities:

**Table 1**  
**Comparison of Legal Liability of Village Assets by BUMDesa**

<b>Aspects</b>	<b>BUMDes Legal Entity</b>	<b>BUMDes are not legal entities</b>
Legal status	Legal entity subject	Not having a separate legal personality
Ownership and control of assets	The assets included become the wealth of the BUMDes which	Fixed assets are juridically owned by the village,

<b>Aspects</b>	<b>BUMDes Legal Entity</b>	<b>BUMDes are not legal entities</b>
	are separate from the wealth of the village	BUMDesa is only the manager
Liability for the alliance	Borne by BUMDesa as a legal entity	Can be charged to the management personally and/or jointly
Legal risks for administrators	Relatively smaller, as long as it acts according to authority	Comparatively larger, because there is no separation of institutional responsibilities
Possibility of village assets being used as collateral	It can be done if it is regulated in the Perdes and in accordance with the guarantee law	Highly risky and prone to breaking the law
Protection of village assets	More secured through corporate mechanisms	Weak, because the boundaries of liability are unclear
Legal certainty for third parties	Higher	Low and likely to be unstable
Legal accountability	Corporate and public accountability	Personal and public accountability mixed

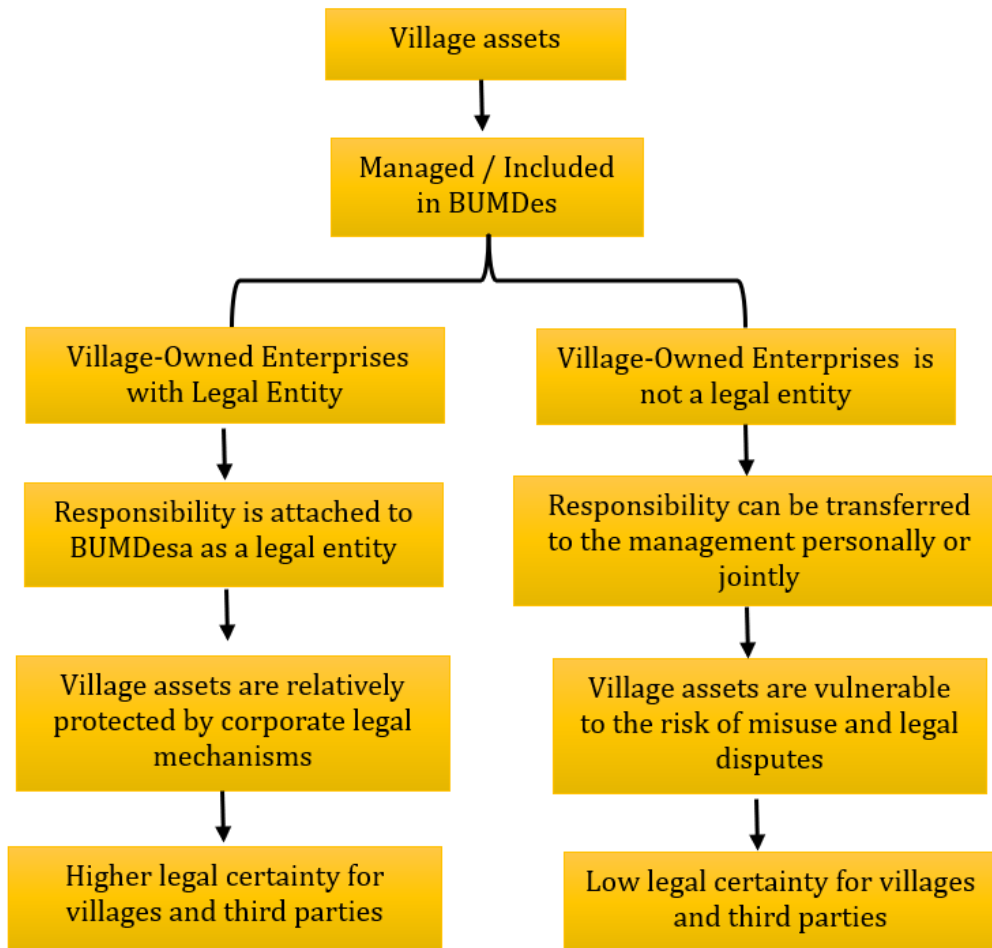
The table highlights that BUMDes with legal entity status provide clearer asset separation, stronger legal protection, and greater legal certainty. As a legal entity, BUMDes bears rights and liabilities independently, thereby limiting personal liability of administrators and safeguarding village assets. In contrast, non legal entity BUMDes lack separation of assets and responsibility, exposing managers to personal liability, increasing legal risks, and reducing legal certainty for third parties.

This distinction is significant because the existence of legal entity status establishes a clear allocation of rights, obligations, and risks in accordance with the principles of corporate and public law. By separating village assets from institutional management, a legally incorporated BUMDes ensures accountability through formal governance mechanisms and compliance with statutory regulations, thereby enhancing investor and creditor confidence. Conversely, the absence of legal personality blurs institutional responsibility, weakens asset protection, and increases the potential for administrative abuse and legal disputes,

which may ultimately undermine good governance and the sustainability of village economic activities.

Furthermore, in the following diagram, the concept of legal responsibility for village assets will be presented:

**Diagram 1.**  
**Conceptual Diagram of Legal Liability of Village Assets**



The Conceptual Diagram of Village Asset Legal Accountability clearly displays the crucial point of the BUMDesa problem, namely how the legal status of BUMDes determines the direction and burden of accountability for the village assets it manages. This diagram is not only descriptive, but also contains implicit criticism of BUMDesa management practices that are not fully consistent with the principles of modern legal entities.

Conceptually, the diagram shows that village assets are the starting point of all legal relations. When village assets are transferred to BUMDesa, there should

be a shift in responsibility from the legal regime of public administration to the legal regime of business entities. However, this shift will only run in its entirety if BUMDes is truly positioned as an independent legal entity. In the first branch of the diagram, namely BUMDes is a legal entity, legal responsibility is directly attached to BUMDes as a legal entity. This model reflects the principle of separate legal entity, where BUMDes acts and is responsible on its own behalf, so that village assets are relatively protected by corporate legal mechanisms and legal certainty for villages and third parties becomes more secure.

On the other hand, the second branch of the diagram, BUMDes is not a legal entity, critically showing the weak legal protection of village assets. In this position, BUMDes does not have a separate legal personality, so accountability cannot be attached to the entity, but has the potential to shift to the management personally or jointly and severally. This condition indicates a serious risk: village assets that are actually public assets can be dragged into private conflicts, either through debt obligations, business disputes, or civil lawsuits. This diagram thus reveals that the absence of legal entity status is not just an administrative problem, but a fundamental problem related to the legal protection of village wealth.

Critically, this diagram also illustrates the existence of structural inequities in BUMDes management practices in Indonesia. On the one hand, regulations encourage BUMDes to play a role as a professional driver of the village economy. But on the other hand, many BUMDes are still run without a strong legal entity construction, so their legal accountability becomes vague. This diagram indirectly criticizes this situation by showing that the weaker the legal status of BUMDes, the greater the legal risk that must be borne by the management and the more vulnerable the position of village assets as public wealth.

Furthermore, this diagram also emphasizes that legal certainty is not something that is born automatically from the existence of BUMDes, but depends on how BUMDes are constructed juridically. Legal certainty can only be realized if legal accountability is centered on the BUMDes entity as a legal entity, not disseminated unclearly to individual administrators. If not, then BUMDes will actually turn into a gray space between public and private interests, where the limit of village asset protection becomes very fragile.

Thus, the Conceptual Diagram of Village Asset Legal Accountability not only serves as a map of the accountability flow, but also as a tool of criticism of BUMDesa management practices that are not yet fully based on the principle of the state of law. This diagram emphasizes that the legal reconstruction of BUMDes must start from strengthening the status of its legal entity, because only in this way can village assets be systematically protected, legal accountability becomes clear, and the balance between business functions and public service functions can be maintained.

From the aspect of accountability, accountability for village assets managed by BUMDesa, especially those sourced from natural resources, must be understood as public accountability inherent in the management of wealth with village communities. Mark Bovens asserts that accountability presupposes the existence of a relationship in which an actor is obliged to explain and justify his actions to a particular forum, which is authorized to assess, criticize, and impose consequences in the event of irregularities.<sup>26</sup> In the context of BUMDesa, the accountability forum is not only the village government, but also the village community as the main owner of natural resources.

This accountability is becoming increasingly important because the village assets managed by BUMDes are largely sourced from natural resources, such as village treasury land, village forests, and spring water sources, which are constitutionally under the regime of state control for the greatest possible prosperity of the people.<sup>27</sup> Therefore, the management of these assets cannot be treated solely as a business affair, but must be accountable in an open, rational, and public-interest oriented manner.

In terms of governance, BUMDesa accountability is in line with the principles of Good Corporate Governance, especially the principles of accountability and transparency which require clarity of functions, structures, and accountability

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<sup>26</sup> Mark Bovens, *loc. cit.*

<sup>27</sup> Republic of Indonesia, Constitution of the Republic of Indonesia of 1945, Article 33 paragraph (3).

mechanisms in asset management.<sup>28</sup> The application of this principle in BUMDes means that every utilization of village natural resource assets must have a clear basis of authority, accurately recorded in financial statements, and can be audited and accounted for to the village public. Without this mechanism, the management of village natural resources assets has the potential to give birth to elitist practices of control and deviation of public wealth.

Furthermore, Bovens emphasized that accountability is not just an administrative obligation, but a mechanism to control power so that it is not used arbitrarily.<sup>29</sup> In the context of BUMDesa, the power to manage village natural resources must be controlled through information disclosure, involvement of village communities in deliberations, and supervision by the Village Consultative Body (BPD). Without this control, BUMDes have the potential to move away from their public mandate and turn into an instrument of certain group interests.

In addition, accountability is also related to legitimacy. According to Bovens, institutions that are not accountable will lose their social legitimacy.<sup>30</sup> In the management of village natural resources, this legitimacy is crucial because the success of management is highly dependent on community trust. If the community does not know how village land, village forests, or water sources are managed, with whom they are cooperated, and what the legal risks are, then BUMDesa has failed to carry out its public accountability function.

Thus, the accountability aspect in the accountability of village natural resource assets managed by BUMDes means that:

- 1) every policy and agreement must be legally explainable and justified to the village community;
- 2) any use of assets must be transparently reflected in the financial statements; and
- 3) Every use of natural resources must be socially and ecologically accountable.

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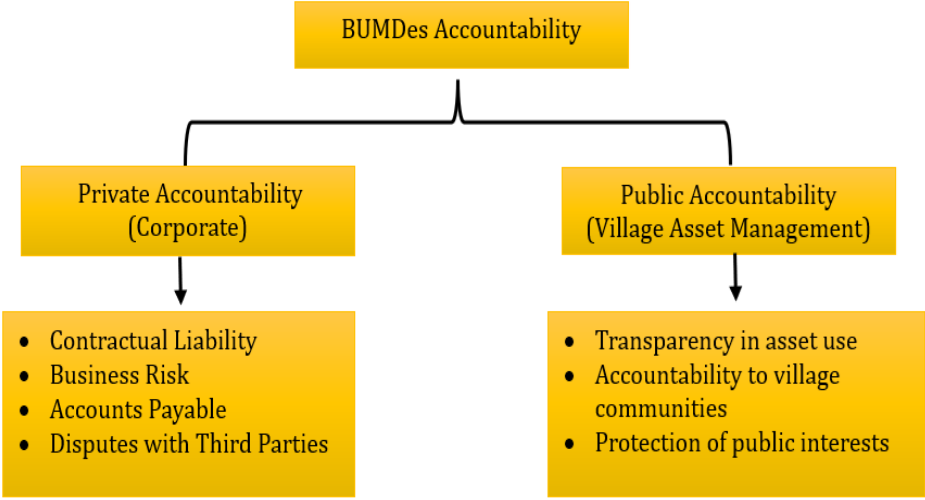
<sup>28</sup> Afhani Fizi, Monica Rahardian, and Ary Helmina, "The Application of Good Corporate Governance (GCG) Principles in Companies," *Surplus: Journal of Economics and Business* 1, no. 2 (2023): 379–387.

<sup>29</sup> Mark Bovens, *loc. cit.*

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

This accountability is what distinguishes the management of village natural resource assets by BUMDes from pure private asset management, because there is always an obligation to maintain the public interest and the sustainability of resources for future generations. The following will also be displayed a diagram of Layered Accountability for Village Assets:

**Diagram 2.**  
**Layered Accountability Diagram for Village Assets**



The Layered Accountability Diagram for Village Assets illustrates that BUMDesa's accountability for village assets is not single, but is divided into two complementary dimensions. First, private (corporate) accountability, which is the responsibility of BUMDesa as a business entity for all business risks, contractual obligations, and legal obligations arising from relationships with third parties. In this dimension, BUMDes is positioned as a legal subject who must be accountable for every business action professionally and in accordance with the principles of corporate governance.

Second, public accountability, which is the responsibility of BUMDesa as a village wealth manager who is obliged to ensure transparency, protection of community interests, and the use of village assets appropriately and oriented towards public welfare. This dimension emphasizes that even though BUMDesa carries out business functions, village asset management must still be subject to the principles of public financial management and can be accountable to the village community.

Thus, the diagram emphasizes that BUMDes must be able to carry out two forms of accountability at once: as a professional business entity and as an accountable public institution. This layered accountability model is key to maintaining a balance between economic efficiency and the protection of public interests in the management of village assets.

### **C. Administrative Supervision as an Instrument to Prevent Abuse of Authority**

Administrative supervision of BUMDes in the management of village natural resources is a crucial element in the context of good village governance. The concept of good governance requires a supervisory system that not only functions as a reactive mechanism against irregularities, but also as a preventive instrument to prevent abuse of authority from the beginning of the planning and decision-making process. According to Winarsi and Moechthar, the principle of good governance is one of the requirements so that the management of BUMDes can contribute significantly to the welfare of the village community, while minimizing corrupt practices and conflicts of interest in the management of BUMDesa.<sup>31</sup>

Within this framework, the Village Regulation (Perdes) plays a central role as a normative instrument that sets the limit of the legality of village business management, including natural resource management. The Perdes is not only the basis for the establishment of BUMDesa, but also determines the types of natural resources that can be managed, the mechanism for their utilization, the prohibition of guaranteeing or transferring rights to village assets, and strategic decision-making procedures. Thus, the Perdes functions as a preventive control tool to ensure that every action of BUMDes remains within the corridor of authority given by law.

The strengthening of the Perdes in the context of BUMDesa governance is supported by the role of the Village Consultative Body (BPD) as a village legislative institution that has the authority to discuss and agree on draft village regulations and supervise the implementation of village government. Research shows that BPD plays a strategic role in discussing and agreeing on Perdes that are relevant to village asset

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<sup>31</sup> Sri Winarsi and Oemar Moechthar, "Implementation of the Law Principles of Good Corporate Governance in Indonesian Village-Owned Enterprise (BUMDes)," *Yuridika* 35, no. 3 (2020): 635–56, <https://doi.org/10.20473/ydk.v35i3.21637>.

management, but in practice still faces challenges such as limited human resource capacity and weak internal coordination.<sup>32</sup>

In addition, the synergy between the Village Head and BPD is the basis for checks and balances of village government administration which functions to supervise the management of BUMDesa. Empirical studies show that effective collaboration between BPD and Village Heads can strengthen transparency, accountability, and public participation in village decision-making. In the context of BUMDesa, a healthy working relationship between the Village Head and BPD will reduce the risk of unilateral decisions that can potentially harm village assets.

In an ideal administrative construction, responsibility for the management of village natural resources is clearly divided between three main actors: the Village Head, BUMDes management, and BPD. The Village Head, as the holder of administrative authority, is responsible for the legality of the village asset management policy and must ensure that all strategic decisions of BUMDes are in accordance with the Perdes and applicable legal provisions. BUMDesa management is corporately responsible for business operations, contractual management, and the implementation of professional business practices. Meanwhile, BPD has the responsibility of legislative supervision over the implementation of village government, including supervision of policies that affect public assets and the use of natural resources.<sup>33</sup>

This division of responsibility formalizes checks and balances at the village level. BPD, in the context of village government, is not just a symbolic institution, but a representative institution that functions to oversee public policies such as village regulations, budgets, and asset management activities. Thus, the existence of BPD helps prevent the domination of administrative authority by only one actor, especially the Village Head or BUMDesa administrators.

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<sup>32</sup> Florentina Bhoko Longa, Kotan Y. Stefanus, and Agnes Doortji Rema, "Supervision of Village Consultative Bodies on the Implementation of Village Government in Loa, Soa, Ngada Villages," *Journal of Innovative Research (JUPIN)* 5, no. 3 (2026): 2017–26, <https://doi.org/https://doi.org/10.54082/jupin.1363>.

<sup>33</sup> Dedi Lukman, Lia Amalia, and Muhamad Abas, "The Effectiveness of Village Consultative Bodies Based on Permendagri No. 110/2016 On Village Consultative Bodies," *JIHHP: Journal of Law, Humanities and Politics* 6, no. 1 (2025): 841–49, <https://doi.org/https://doi.org/10.38035/jihhp.v6i1.6383>.

The administrative supervision framework is closely related to the conception of ultra vires law in legal entities. An ultra vires act refers to an act carried out by a legal entity that exceeds the legally granted authority. In the context of BUMDesa, this action can occur when BUMDesa administrators manage village natural resources without a firm basis for the Village Regulation or without the administrative approval of the Village Head and proper BPD supervision.

The legal consequences of an ultra vires act are not just administrative inconsistencies, but can have more serious legal implications. Juridically, actions that go beyond legal authority are considered invalid and therefore not binding on the village as the owner of public assets. In addition, these actions have the potential to give rise to civil and administrative liability for the management and related parties in making decisions that violate the law.<sup>34</sup>

For example, if BUMDesa guarantees village treasury land or transfers the function of village forest areas without an explicit basis for the Village Regulation and without proper approval, this action not only exceeds legal authority but also has the potential to harm the principles of public accountability and transparency in village government. In such a situation, legal responsibility can shift from BUMDesa as a corporate entity to personal management if there is evidence of negligence, bad faith, or abuse of authority in the management of village assets.

#### **D. Conclusion**

The recognition of BUMDes as a legal entity through Government Regulation Number 11 of 2021 confirms that BUMDes is an independent legal subject subject that is subject to the principle of separate legal entity. However, the application of this principle in the context of BUMDes cannot be fully equated with private legal entities such as limited liability companies, because BUMDes are born from the authority of the village public and manage wealth sourced from public finances, especially natural resource-based village assets. Therefore, the legal accountability of BUMDes is not only corporate-civil, but also public-constitutional, which requires the protection of

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<sup>34</sup> Harjanti Widiastuti, Wahyu Manuhara, and Evy Rahman, "Measuring the Governance of Village-Owned Enterprises in Indonesia," *Journal of Economics and Business* 22, no. 2 (2019): 257–88.

the interests of the village community and the sustainability of the socio-ecological function of village natural resources.

The results of the discussion in this article show that the main problem in the management of village natural resources by BUMDes does not lie in the absence of a legal basis, but in the lack of a systematic and firm construction of legal accountability. The unclear boundary between village wealth and BUMDesa's wealth, as well as the weak application of the principle of separate legal entity, has created a gray space between public and private interests. This condition opens up opportunities for the practice of guaranteeing village assets, such as village treasury land or natural tourism areas, which has the potential to reduce village natural resources from public wealth to a mere object of business guarantee and threaten legal certainty and protection of village assets.

Legal accountability for village assets managed by BUMDes must be understood as a form of multi-layered accountability, namely corporate accountability and public accountability. On the one hand, BUMDesa as a legal entity is fully responsible for every legal act and business risk arising from its business activities. On the other hand, the village still bears the public responsibility to ensure that the use of the village's natural resources does not deviate from the constitutional goal of maximizing the prosperity of the people. Thus, the accountability of BUMDes is not only measured by compliance with business agreements, but also by its ability to maintain public character, ecological sustainability, and social legitimacy of village natural resource management.

The management of village natural resources by BUMDesa after its recognition as a legal entity through Government Regulation Number 11 of 2021 puts BUMDes in a unique position, because on the one hand it is an independent legal subject subject to the principle of separate legal entity, but on the other hand it manages assets sourced from village public wealth which contains a constitutional dimension, social, and ecological. Therefore, the legal liability of BUMDes cannot be reduced solely as corporate liability, but must be understood as multi-layered liability that includes civil, administrative, and public liability. The absence of a strict administrative supervision mechanism through Village Regulations, Village Head Decrees, and active supervision of the Village Consultative Body has opened up space for ultra vires actions, namely

actions of BUMDes that exceed legal authority and have the potential to shift the character of village natural resources from public wealth to objects of private interest. Thus, strengthening the governance of BUMDes is not only related to affirming the status of its legal entity, but mainly lies in the establishment of an administrative supervision system and checks and balances that are able to maintain the autonomy of BUMDes as a business entity within the framework of the public interest and the constitutional goal of maximizing the prosperity of the village community.

#### **E. Recommendations**

Based on the above discussion and conclusion, several recommendations can be given, namely: First, a more strict regulatory reconstruction is needed regarding the position of natural resource-based village assets in BUMDesa's business activities. The regulation must affirm that village assets can only be used as capital participation and a means of business utilization, not as an object of collateral or transfer of ownership rights, unless explicitly ordered by law. The Village Regulation (Perdes) must also be designed more comprehensively to regulate the limits of the authority of BUMDesa, the mechanism of asset separation, and the legal consequences for each action of village asset management, so that the principle of separate legal entity can be applied consistently without eliminating the public character of village assets.

Second, strengthening the governance and public accountability of BUMDes must be a top priority. Every use of village natural resources must be accompanied by a transparency mechanism, involvement of the village community, supervision of the Village Consultative Body (BPD), and periodic financial and legal audits. By building an open and participatory accountability system, BUMDesa can function as a professional, business-professional public-community enterprise, but remain faithful to its constitutional mandate as a manager of village public wealth. This approach not only strengthens legal certainty, but also prevents the covert privatization of village natural resources and maintains the sustainability of their socio-ecological functions for future generations.

Third, BUMDesa governance reform needs to be directed at strengthening an integrated, transparent, and participatory administrative supervision system by making Village Regulations as the main instrument for determining authority limits,

Village Head Decrees as a tool for operational control over each strategic policy, and the Village Consultative Body as a representative supervisor that ensures public accountability. Any use of village natural resources must be based on clear legal procedures, involve the approval of the BPD and village deliberations, and be accompanied by the obligation of information disclosure to the community. In addition, it needs to be affirmed normatively that natural resource-based village assets can only be used as a means of capital utilization and participation, not as an object of guarantee or transfer of rights, unless expressly stipulated by law, so that ultra vires actions can be prevented from the beginning. With this approach, BUMDesa not only functions as a village economic instrument, but also as a village government legal institution that ensures the protection of public assets, prevents abuse of authority, and ensures that the management of village natural resources runs in a fair, sustainable, and oriented manner to the welfare of the community.

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