

## Research Article

# Village Consultative Institution Status of As a Form Of Democracy Life In The Village

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**ORCID**Rini Irianti Sundry: <https://orcid.org/0000-0002-6320-5666>**Abstract.**

Villages hold a prominent and expansive position in terms of sovereignty and their role in regulating and managing village affairs, as outlined in Law Number 6 of 2014 concerning Villages, Government Regulation Number 43 of 2014, and Government Regulation Number 76 of 2015, which pertain to the implementation of regulations stated in Law Number 6 of 2014 concerning Villages. Within the authority of the Village Head and members of the Village Representative Institution, one crucial aspect related to village governance is the existence of Village Regulations. These regulations play a vital role as they serve as the legal foundation for the implementation of various village programs and activities. As statutory regulations, Village Regulations are bound by formal and material principles that must be adhered to. Village regulations, as legal products, must align with the procedural techniques for creating legislation outlined in Law Number 12 of 2011 concerning the Establishment of Laws and Regulations. The process of formulating laws and regulations requires specific knowledge and skills that should be well understood by both the village government and the village community.

**Keywords:** village, regulation, government

## 1. INTRODUCTION

The village is a unit of territory within the framework of the unitary state of the Republic of Indonesia, the village is also one of the components of nation-building that has long existed and exerts considerable influence in the development of the State, but it is undeniable that the development of Most villages are still very far away in the development priorities of development

With the birth of Law No.6 of 2014 concerning Villages, several village autonomous rights were also born. The existence of regulations will certainly give birth to authority in the village government, this must be balanced with good and ideal village administration so that it can carry out good services and administrative implementation in order to improve the welfare of the village community. Law No. 6 of 2014 concerning

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Villages aims to provide clarity on the status of the existence of villages that have been established in the past with their various diversity before and after the formation of the Unitary State of the Republic of Indonesia.

Regional autonomy is the right policy to be implemented in Indonesia as a country consisting of various islands and there are various types of tribes in it which confirm that in this country rich in natural resources live various types or human characters with all their interests. The collapse of the new order regime has given birth to a new system, namely desentralization or regional autonomy where the government is no longer centralized in the Capital city of Indonesia and has been devolved to each region.

In the era of regional autonomy, local governments have the authority to run the wheels of government in their respective regions. Based on what is written in the Law of the Republic of Indonesia Number 23 of 2014 concerning Regional Government Article 1 paragraph 6 "Regional Autonomy is the right, authority, and obligation of autonomous regions to regulate and take care of their own government affairs and the interests of local communities in the System of the Unitary State of the Republic of Indonesia". The article provides an assertion that local governments have the responsibility and authority to take care of their own household affairs.

The birth of Law No. 6 of 2014 concerning Villages brought a breath of fresh air to rural communities, especially since the regulation was accompanied by a policy on the launch of village funds given to village governments for the purposes of improving development and welfare of village communities. The policy is broadly based on the assumption that for the optimization of Village Government Implementation, the government or village officials understand better about the potential of the village, including with all problems related to the socio-economic life of the village community concerned. [1]

Villages have a more sovereign, large and broad position and role in regulating and managing villages as stated in Law Number 6 of 2014 concerning Villages, Government Regulation Number 43 of 2014 jo Government Regulation Number 76 of 2015 concerning Implementing Regulations in Law Number 6 of 2014 concerning Villages.

The village perspective is different from the government perspective, namely seeing the village as part of the government, or seeing that the center, province, regency/city, sub-district and village/kelurahan are hierarchical structures in the government of the unitary State of the Republic of Indonesia. The government works under the control of the President which flows hierarchically and top down from the top up to the village level. According to the perspective of the government, the village is the smallest, lowest, frontmost and closest government organization to the community. The most "small" means that the area and task of government carried out by the village is

able to reach the smallest scope or size compared to the district/ city, provincial or central government organizations. The "bottom" means that the village occupies the bottom composition or layer of government in the governance of the Unitary State of the Republic of Indonesia (NKRI). However, "bottom" does not mean that the village is subordinate to the regency/city, or the village head is not a subordinate of the regent/mayor, because the village government organizes government affairs and the interests of the local community in the System of Government of the Unitary State of the Republic of Indonesia. So that if it is related to the general understanding above, it means that the village that organizes affairs based on the interests of the local community while also carrying out activities ordered by the Central and Regional governments within the framework of the Unitary State of the Republic of Indonesia. [2]

The broader authority of the village is given laws and regulations to make the village have governance like a regency/city. One of the main discussions that must be considered is what are the authorities possessed by the Village and how the village regulations themselves are. When compared to regional regulations, since 2009 the Ministry of Home Affairs has carried out an evaluation process of 9000 (nine thousand) problematic regional regulations [3].

The results of the evaluation resulted in the bylaw being cancelled because it was contrary to higher regulations and hampered the business climate. The correlation is that in order not to happen the same thing because of the limited human resources, knowledge and skills possessed by the Village Government, increasing knowledge of the authority and form of village regulations is something that must be owned by the Village Government so that the village regulations stipulated do not conflict with higher laws and regulations and hinder the business climate. On the other hand, the accountability of local-scale policymakers must be qualified so that the village regulations set can make villages independent, innovative and prosperous and touch all circles of village communities. [4]

Village Heads and village officials, other village organs referred to in Law No. 6 of 2014 and have an important position is the Village Consultative Body (BPD). This body has three functions: discussing and agreeing on the Draft Village Regulation with the Village Head, accommodating and channeling the aspirations of the Village community, and supervising the performance of the Village Head (Article 55).

In addition to these functions, BPD also has rights, among others:

1. supervise and request information about the implementation of Village Government to the Village Government;

2. express opinions on the implementation of Village Government, the implementation of Village Development, Village community development, and village community empowerment; and
3. obtaining operational costs for the implementation of their duties and functions from the Village Revenue and Revenue Budget (Article 61). Meanwhile, its members have the right to submit proposals for the draft Village Regulations, ask questions, submit proposals and/or opinions, vote and be selected, and get benefits from the Village Revenue and Expenditure Budget

From several authorities of the Village Head and BPD members, there is one important thing related to the implementation of village government, namely the existence of Village Regulations (Perdes). In village governance, rural planning is very crucial because it is the legal basis for the implementation of various village programs and activities. The explanation of the duties and authorities of the Village Head and BPD members above shows that the authority to determine village regulations is in the village head. But the determination can only be made after the draft rural regulation is discussed and agreed with BPD (Article 69) [5]

In addition, the initiative to apply for a Rural Regulation is not only in the hands of the Village Head, but also in the hands of bpd members. Here it appears that the Village Head is an executive body at the village level, which works with the BPD as its legislative body. Here the technical ability to make a Rural Regulation is not only a need for village heads or village officials who have related tasks, but also important to know by BPD members. Unfortunately, not all BPD members have the technical ability to draft a Rural Regulation both for reasons of level of education, and for reasons of educational background that is not related to the law.

Based on the above problems, it is necessary to study how the model of technical guidance and assistance that can be carried out to Village Heads and Chairmen or members of the Village Requirements Board in order to be able to implement village regulations that meet the sociological, juridical, philosophical requirements, and meet formal and material principles in accordance with the procedures for forming laws and regulations to be effective and binding and still accommodate the interests of the community and local wisdom.

## 2. METHOD

This research uses a qualitative method (qualitative approach) with a normative juridical approach, namely the study of documents derived from the concepts and theories of invitation law regulations that regulate related to the procedures for forming regulations, especially village stick regulations. To complete the data, researchers conduct in-depth observations and interviews through Focus Group Discussions.

The instrument used is a semi-structured interview, using open-ended questions. The benefits of this research are theoretically to produce new theories / concepts and policies related to the implementation of Law No.6 of 2014 concerning Villages that are equitable and directed towards improving the quality of life of rural communities, while practically expected to be able to find strategies to synergize and optimize human resources in villages as well as provide recommendations to decision makers and stakeholders who intersect with the government village

The study was conducted in villages in Cianjut regency, including Jati Kecamatan Bojong Picung Village, and CentralKarang Village, Cianjur District, Cianjur Regency Data collected from the results of the study and then the data will be processed and analyzed using qualitative processing techniques. The presentation is carried out by systematically compiling so that descriptive analysis is carried out, which is a way of analyzing data obtained scientific conclusions that are the answer to the problems posed.

Types of Research The legal research method known today is a creative of and continues to develop in legal studies, which is seen as "legal research", then developed into legal research. And what is meant by legal research in the library turns out to have several meanings, namely legal research that includes all the activities of law teachers, judges, prosecutors, lawyers, legal consultants in carrying out their duties in the field of law and also the activities of a law student. Legal research as research to find the law in concreto which includes various activities to find out whether it is a law that is worthy of being applied in concreto to solve a certain case.

The type of legal research can be divided into 4 types of research, some of the definitions of legal research. Soetandyo Wignyosubroto mentioned that there are four types of legal research, namely:

Studies that seek to inventory positive laws. A. Research in the form of efforts to find the law of the principles and basics of the philosophy (dogma and doctrine) of positive law. B. Research in the form of legal discovery efforts in concreto that are feasible to

be applied to solve a certain c. legal case theories about the process of occurring and interpreting the process of working law in society.

This type of research is included in research that seeks to inventory positive law and also seeks to make legal findings in concreto to resolve cases that occur in the community, in this case related to the formation of village regulations based on village autonomy

### 3. RESULT And DISCUSSION

#### 3.1. Villages in Governance

Article 1 number 2 of Law Number 6 of 2014 concerning Villages states that Village government is Governance is the entire legal institution used as a basis for carrying out Government activities in a special sense is domestic government and can also be referred to as "bestuursrecht" or constitutional law in the "narrow" sense.[6]

The relation to governance is that after the amendment of the Constitution of the Republic of Indonesia of 1945, it is stated in article 18 paragraph (7) that "The composition and procedures for the implementation of Regional Government are regulated in the Law and Article 18B paragraph (2) "The State recognizes and respects the unity of the indigenous law community and its traditional rights as long as it is alive and in accordance with the development of society and the principles of the Unitary State of the Republic of Indonesia which are regulated in Invite". This means that Villages and Customary Villages in their governance have government functions, village finances, village development, as well as receiving facilities and guidance from the Central Government and assistance from the Regency/City Government.

Villages have a more sovereign, large and broad position and role in regulating and managing villages as stated in Law Number 6 of 2014 concerning Villages, Government Regulation Number 43 of 2014. Villages as self-governing communities are very different from formal government, general government and local government in terms of authority, village structure and apparatus, as well as village governance. In accordance with the principles of recognition and subsidiarity, villages have authority based on the right of origin and local authority on a village scale, which is certainly very different from the authority of local governments. In terms of governance, the village has village deliberations, as a collective forum between village governments[6]. Village Consultative Body, community institutions, customary institutions and components of the wider community, to agree on strategic matters concerning village life. All this gives

an idea that the character of the village as a self-governing community is much larger and stronger

### 3.2. Establishment of Village Regulations

Indonesia as a state of law, adhering to the teachings of the state as constituting like other modern countries, has a written constitution called the 1945 Constitution. The 1945 Constitution is placed as a fundamental law so that it becomes the basic law or a source of making other laws and as a higher law. The 1945 Constitution is the highest law in the order of legislation of the Republic of Indonesia.

Article 69 of Law Number 6 of 2014 concerning Villages states that Village Regulations include Village Regulations, Joint Village Head Regulations and Village Head Regulations. Village regulations are laws and regulations set by the Village Head after being discussed and agreed upon by the Village Consultative Body. Village Regulations contain materials on the implementation of village authority and further elaboration of higher laws and regulations. The implementation of village authority in the preparation of village regulations contains aspirations and participation between the Village Head, Village Consultative Body and village communities through Village deliberations contained in Article 3 of Law Number 6 of 2014 concerning Villages, namely the principles of deliberation, participation, equality and empowerment. [7]

According to Van der Vlies as quoted by A. Hamid S. Attamimi distinguishes 2 (two) categories of principles for the formation of appropriate legislation (*beginselen van behoorlijk regelgeving*), namely formal principles and material principles. Formal principles include: 1. The principle of clear purpose (*Het beginsel van duidelijke doelstelling*); 2. The principle of proper institution (*Het beginsel van het juiste organ*); 3. The principle of the necessity of arrangement (*Het noodzakelijkheid beginsel*); 4. The principle can be implemented (*Het beginsel van uitvoerbaarheid*); 5. The Principle of Consensus (*het beginsel van de consensus*)

Material principles include: 1. The principle of clarity of terminology and systematics (*het beginsel van de duidelijke terminologie en duidelijke systematiek*); 2. The principle that legislation is easily recognizable (*Het beginsel van de kenbaarheid*); 3. The principle of equations (*Het rechts gelijkheids beginsel*); 4. The principle of legal certainty (*Het rechtszekerheids begin cell*); 5. The principle of the execution of the law according to individual circumstances (*Het beginsel van de individueelerchtsbedeling*).

These principles are more normative, although not legal norms, because of the ethical considerations that enter into the realm of law. The principles of forming laws and

regulations are important to apply because in the era of broad autonomy there can be a formation of Village Regulations making a regulation on the basis of momentary intuition not because of the needs of the community. In principle, the principle of forming laws and regulations is very relevant to the general principles of good administration,

Based on Article 5 of Law Number 12 of 2011 "In forming laws and regulations, it must be carried out based on the principle of forming good laws and regulations, which includes: a. clarity of objectives; b. appropriate institutions or forming officials; c. conformity between the type, hierarchy, and material of the charge; d. enforceable; e. usefulness and usefulness; f. clarity of formulation; and g. openness.

Article 6 of Law Number 12 of 2011 states: (1) The content of the Laws and Regulations must reflect the principles of: a. highlighting; b. humanity; c. nationality; d. kinship; e. kenusantaraan; f. bhinneka Tunggal Ika; g. fairness; h. similarity of position in law and government; i. order and legal certainty; and/or j. balance, harmony, and alignment. (2) In addition to reflecting the principles referred to in paragraph (1), certain laws and regulations may contain other principles in accordance with the legal field of the relevant laws and regulations.

After being explained about the legal basis for the formation of village regulations, the next question is how to prepare village regulations. Based on Article 32 paragraph (1) of Regulation of the Minister of Number 111 of 2014 concerning Technical Guidelines for Regulations in Villages, it states that the technique for drafting Regulations in Villages and Decrees of Village Heads is in accordance with the provisions of the Law on the Establishment of Laws and Regulations, namely Law Number 12 of 2011. The naming of this article expressly means that the establishment of village regulations is the same as other laws and regulations. This positions that village regulations are also a legal product that must be obeyed for all village communities and on the other hand village regulations cannot be formed carelessly without obeying what are the signs of the formation of laws and regulations.

The Regulatory Framework in the Village is also contained in the Annex to the Minister Of Home Affairs Regulation Number 111 of 2014 concerning Technical Guidelines for Regulations in the Village. So that the Village Head and Village Officials can get clear instructions on how the village regulations are formed. The reason for the lack of laws and regulations and the lack of quality of human resources in preparing regulations in the village can no longer be used as a reason for the obstruction of the Village Government in preparing regulations in the village. The next step that must be considered is how the socialization and assistance carried out by the Regency/City Government.



The above principles are formal and material principles that indicate the necessity of village regulations as well as laws and regulations to comply with these principles. This activity illustrates that the spirit of the village government to organize village government must be given with intensive assistance by both the Central Government and the Regency/City Government.

### 3.3. Authority to Establish Village Regulations

Article 103 of Law Number 6 of 2014 concerning Villages states that the authority of customary villages based on the right of origin as referred to in Article 19 letter a includes;

1. Regulation and implementation of government based on the original structure;
2. preservation of the socio-cultural values of Indigenous Villages;
3. settlement of customary disputes under customary law;
4. which applies in Indigenous Villages within areas that are in line with human rights principles by prioritizing deliberative settlements;
5. the holding of the customary village judicial peace session in accordance with the provisions of the laws and regulations;
6. maintenance of the peace and order of the Indigenous Village community based on customary law in force in the Customary Village; and
7. development of customary law life in accordance with the socio-cultural conditions of the Indigenous Village community.

The implementation of authority based on the right of origin and local-scale authority of Indigenous Villages as referred to in Article 19 letter a and letter b and Article 103 is regulated and managed by Indigenous Villages by taking into account the principle of diversity.

Authority of Villages and Customary Villages Based on The Right of Origin. In Article 1 number 14 of Law Number 6 of 2014 concerning Villages, the Minister is the minister who handles villages. This means that the person who determines the authority is the village minister. However, with the amendment of Government Regulation number 43 of 2014 concerning Implementing Regulations of Law Number 6 of 2014 concerning Villages through Government Regulation number 47 of 2015, where article 39 is amended so that it reads Further provisions regarding the determination of village authority are

regulated by a ministerial regulation that organizes government affairs in the field of domestic government.

## 4. CONCLUSION

The existence of the village as an organ of government to organize village government is real. Villages are given the authority to organize village government accompanied by the Village Revenue and Expenditure Budget and the authority to form village regulations and other authorities as ordered by Law Number 6 of 2014 concerning Villages, Government Regulation Number 43 of 2014 jo Government Regulation Number 47 of 2015 concerning Implementing Regulations of the Law, Village regulations that are legal products must be in accordance with the technique of forming regulations legislation contained in Law Number 12 of 2011 concerning the Establishment of Laws and Regulations. The technique of forming laws and regulations has certain arts and skills that must be well understood by the village government and the village community.

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