

Community Participation in Village Regulation Development in Indonesia (In Law Number 6 of 2014, concerning Villages)

Agung Arafat Saputra
Universitas Pamulang, Indonesia
Correspondent : dosen02146@unpam.ac.id

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ABSTRACT: There is an obligation to involve the community in the drafting of village regulations. Therefore, this conceptual article aims to explore the process of formation and community participation in the development of village regulations. The approach used is a statutory one, involving the collection and descriptive analysis of primary and secondary legal materials. The findings indicate, firstly, the stages of village regulation formation start from planning, drafting, discussion, determination, promulgation, to dissemination. Secondly, community participation in the development of village regulations reflects the presence of a democratic political relationship in village governance. Additionally, the intended participation can serve as a platform for discussing and reaching agreements on strategic matters.

Keywords: Community Participation; Village Regulations.



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INTRODUCTION

In December 2013, the government enacted the Republic of Indonesia Law No. 6 of 2014 concerning Villages (Law No. 6 of 2014). This law subsequently became a crucial element in the history of village governance, representing the central government's commitment to strengthening rural areas.

One of the considerations in the enactment of this law is that villages have their own traditional rights to manage and govern their affairs in order to realize the aspirations of independence based on the Constitution of the Republic of Indonesia of 1945.

The village, as a governance entity, is a community association and a government organizer that holds significant importance in the state administration (Ihsan, 2015). As a legal community entity, the village has the authority to manage and regulate the interests of its community in the administration of governance, with this legal community entity possessing autonomy (Timotius, 2018). However, the autonomy of the village in question is not akin to the autonomy held by provincial, city, or district governments; instead, it is autonomy based on origin and customs (Rosidin, 2019).

To manage and regulate its own affairs, the village can formulate village regulations (Marhum, 2021). Village regulations serve an important function as they portray the characteristics of the village community and embody the values present within that community (Marhum, 2021). Moreover, these regulations are utilized to exercise control over the community. In line with the principles of decentralization and regional autonomy, villages are granted the authority to govern and manage the interests of the local community based on their origins and recognized local customs.

To govern the interests of the community, the Village Consultative Body (Badan Permusyawaratan Desa or BPD) collaborates with the village government to issue village regulations, and the village head issues their enforcement regulations, known as village mayor regulations and village mayor decisions. The village head administers the village's authority based on ancestral rights and local-scale jurisdiction. The implementation is monitored by the village community and the BPD. This is intended to ensure that village residents can continually oversee the implementation of village regulations since these regulations are issued for the benefit of the village community.

In the event of violations of established village regulations, the Village Consultative Body (BPD) is obligated to issue warnings and take appropriate actions in accordance with its authority. This constitutes one of the monitoring features of the BPD. Additionally, aside from the BPD, the village community also has the right to conduct participatory oversight and evaluation of the implementation of village regulations.

In Article 1 of Law No. 6 of 2014, it is explained that village governance is the administrator of government affairs and the interests of the local community in the governance system of the Republic of Indonesia. From this article, it can be understood that village governance has the duty to administer government affairs and act as the executor of the will and interests of its community. Village governance, responsible for both government affairs and the desires and interests of the village community, in practice, must be based on village regulations that emphasize community participation as a manifestation of democracy at the village level. The village community is allowed to provide input in the formation of village regulations as a way to accommodate the aspirations of the community, as emphasized in Article 69 paragraph (9) of Law No. 6 of 2014 .

As stated in the above article, the aim of this article is to provide information on the process of drafting village regulations, given the obligation to involve the community in this process. What does community participation look like in the creation of village regulations?

METHOD

This conceptual article employs a normative legal research method utilizing the statutory approach (Moch Choirul Rizal, 2022). The primary legal materials used are the regulations governing the formation of village regulations in Indonesia, supported by secondary legal materials in the form of relevant publications. The analysis method is descriptive, wherein legal content is explored and

detailed. Additionally, the article makes use of secondary legal materials, specifically publications, to support and enrich the understanding of village regulation formation.

RESULT AND DISCUSSION

1. Village Regulation Formation Process

The governance at the village level represents the smallest administrative unit within a country. In fact, the effectiveness of governance at the central level is greatly influenced by governance at the village level (Moh. Fadli, 2013). Furthermore, governance cannot be divorced from the existence of regulations to achieve its objectives. The village regulations outlined in Law Number 6 of 2014 serve as one of the fundamental authorities for villages to affirm their interests in realizing village autonomy.

Operationally, the laws related to regional autonomy mandate that governance should be directed towards granting broader authority to regional governments to enhance service delivery and active community participation in development across all sectors (Yusa, 2016). It can be concluded that throughout Indonesia's statehood journey, villages have evolved in various forms. Therefore, it is essential to safeguard and empower them to be strong, progressive, self-reliant, and democratic, creating a robust foundation for governance and development towards a just, prosperous, and prosperous society (Anggalana, 2020).

Village regulations are a form of legal product generated by the government at the village level. Article 69, paragraph (3) of Law No. 6 of 2014 stipulates that village regulations are established by the village head after being discussed and mutually agreed upon with the Village Consultative Body (BPD). The primary function of the BPD is to gather, channel, and realize the aspirations and interests of the village community in formulating policies implemented by the village government. Village regulations typically have a local nature and are related to the customs and traditions of the village or community, binding the local residents or other villagers temporarily residing in the village (Wardana, 2019).

It has been explicitly regulated in Article 32, paragraph (1) of the Regulation of the Minister of Home Affairs of the Republic of Indonesia Number 111 of 2014 concerning Technical Guidelines for Village Regulations (Permendagri No. 111 of 2014) that provisions regarding the technical aspects of drafting regulations in villages and decisions of the village head must adhere to the laws governing the formation of legislative regulations. Meanwhile, Article 69, paragraph (1) of Law No. 6 of 2014 specifies that the types of regulations in villages consist of village regulations, regulations jointly issued by the village head, and regulations issued by the village head (Neyasyah, 2019).

In accordance with the provisions of Article 5 of Regulation of the Minister of Home Affairs No. 111 of 2014, the mechanism for the formation of village regulations consists of several stages, as follows:

- (1) Planning: The drafting of the village regulation is determined by the village head and the Village Consultative Body (BPD) in the village government's work plan. Social organizations, customary institutions, and other village institutions can provide input to the village government and/or BPD for the planning of the draft village regulation.
- (2) Drafting: At this stage, the drafting of the village regulation can be initiated by the village head or the BPD. Drafting initiated by the village government must be consulted with the village community. Additionally, the draft village regulation can be consulted with the sub-district head to obtain input, which will be used by the village government for follow-up on the drafting of the village regulation.
- (3) Discussion: In this stage, the BPD invites the village head to discuss and agree on the draft village regulation.
- (4) Determination: The jointly agreed draft village regulation is submitted by the BPD leadership to the village head to be determined as the village regulation, no later than 7 (seven) days from the date of agreement.
- (5) Promulgation: Up to this point, the signed draft village regulation is submitted to the village secretary for promulgation.
- (6) Dissemination: The final stage is the dissemination stage. Dissemination is carried out by the village government and the BPD from the planning stage, drafting stage, discussion stage, to the promulgation of the village regulation. Dissemination is conducted to provide information and/or obtain input from the community and stakeholders.

2. Participation of the Community in the Formulation of Village Regulations

Community participation involves the involvement of the community in the process of identifying issues and potentials within the community, the selection and decision-making regarding alternative solutions to address problems, the implementation of efforts to overcome issues, and the community's engagement in evaluating the changes that occur (Adi, 2007). Community participation emphasizes the direct involvement of residents in policy-making and decision-making in institutions and governance processes that influence the lives of the community. It represents both proactive and reactive involvement in development and program implementation, encompassing agreements, actions, and the sharing of authority and responsibilities on an equal footing (Dwiningrum, 2015).

In linguistic terms, the word "*participation*" means involvement, participation, or engagement. When associated with the governance of a state, participation can be interpreted as the involvement of the community in various activities related to state governance. The process of policy-making, policy implementation, and evaluation of policy implementation represents some forms of community participation. The presence of community participation is heavily influenced by whether the community is engaged in the activities of governing a country, particularly in the legislative domain (Yuliandri, 2014).

There is another term used to refer to "participation," namely "involvement." According to Muin Fahmi, "involvement" is a term often used interchangeably with "participation." In Dutch literature, "involvement" (*inspraak*) is considered one form of participation. The elements of "involvement" include: (1) the availability of an organized opportunity for the community to express opinions and thoughts on the fundamentals of government policies; (2) the existence of opportunities for the community to engage in discussions with the government; and (3) within reasonable limits, it is expected that the results of these discussions can influence decision-making (Hidayat, 2011).

The involvement or participation of the community has become a growing concept in modern political systems. As a democratic effort, the process of forming and ratifying legislation is no longer the exclusive domain of officials and legislative bodies (Maharani, 2015). Therefore, participation can be understood as active community involvement when there is a provision of participation opportunities for the community, both as individuals and groups, to realize participation in an essential demand as part of the democratic process in the formation and determination of public policies and regulations (Putra, 2020).

Community participation is a crucial aspect in the drafting and formulation of legislation because legislation based on community participation is expected to be enduring and effective in addressing issues within society. The most important aspect in a democratic system is how to ensure broad participation opportunities for all layers of society. However, this assurance must be accompanied by sustained efforts to enhance public awareness and encourage participation in the governance process (Rosidin, 2019).

Regarding community participation in legal development within the context of a unified state system, Philippe Nonet and Philip Selznick present a theory on three fundamental legal conditions in society. Firstly, there is repressive law, signifying law as a tool of repressive power. In repressive law, the objective is order, and its legitimacy is based on societal security. The rules are detailed but less binding on rule-makers, often involving discretion. Coercion seems extensive and is only weakly restricted, while the emphasis is on the "morality of constraint." Law is subservient to political power, and expectations of unconditional obedience are emphasized, with disobedience viewed as deviation. Criticism is considered disloyalty (Masriani, 2010).

Secondly, there is autonomous law, where law acts as an institution capable of taming repression and protecting its own integrity. The goal of autonomous law is legitimacy based on procedural honesty. Rules in autonomous law bind both rulers and the ruled, with discretion limited by law. Coercion is controlled by legal constraints, and its morality is institutional morality. Law is "independent" of politics. Expectations of obedience are not overly strict and are justified by law, for instance, within the framework of rule testing. Community participation is restricted by established procedures.

Thirdly, there is responsive law, which serves as a response to the needs and aspirations of the community. In responsive law, the legitimacy of law is based on substantive justice, and rules are subject to principles and wisdom. Discretion is exercised to achieve goals. Coercion is more apparent in the form of positive alternatives such as incentives or self-obligation systems. The

morality observed is "morality of cooperation," while legal and political aspirations are integrated. Disobedience is assessed in terms of substantive measures and losses and is seen as the emergence of legitimacy issues. Opportunities for participation are expanded through the integration of legal aid and social assistance.

From the theoretical explanations, it can be illustrated that society is a determinant variable in both the formation and application of the law. Therefore, to obtain a good legislative product, it is not sufficient to only fulfill juridical foundations but also needs to have philosophical and sociological foundations. To meet these sociological foundations, the participation of the community in the legislative formation process is required. Community participation in the formation of local legislation, at the very least, will produce laws that are responsive to the legal needs of the community.

Thus, discussing the issue of participation always involves efforts for the active involvement of all community components in various planned activities. This active involvement is the energy that propels the wheel of development or community activities in achieving goals or solving a problem. Community participation is defined as the active involvement of community members, whether as individuals, groups, or the community as a whole, in decision-making processes, planning, and the implementation of programs and community development. This is done both within and outside the community environment based on a sense of awareness and responsibility (Soelaiman, 1985). Conceptually, community participation serves as both a tool and a goal for community development, functioning as the driving force and guide in the process of social change (RS, 2013).

Meanwhile, the participation of the village community in expressing their aspirations for the formulation of village regulations requires a democratic political relationship in village governance supported by the village head, Village Consultative Board (BPD), and the village community in a village meeting (Baharudin, 2019).

By conducting this village meeting, it can serve as a means to discuss and agree on strategic matters. Legal products formulated in a democratic manner are expected to realize the peaceful management of village resources and create social justice. The village government, along with the Village Consultative Board (BPD), in formulating village regulations, must be based on decisions already established in the village meeting (Ihsan, 2015).

The concept of community participation in the formation of legislation is enshrined in the Republic of Indonesia Law Number 12 of 2011 concerning the Formation of Legislation (Law No. 12 of 2011). According to this law, in the concept of village governance, the village community has the right to provide suggestions and input on draft village regulations. Draft village regulations must be consulted with the village community (Marhum, 2021).

The forms of community participation in the drafting or formation of legislation are stipulated in Article 96 paragraph (1) of Law No. 12 of 2011, which states that the community has the right to provide input orally and/or in writing in the formation of legislation. It is further elaborated in paragraph 2 that oral and/or written input can be done through public opinion meetings, field visits, socialization and seminars, workshops, and discussions. This regulation can be used as a

basis for the various forms of participation by the village community in the formation of village regulations.

Participation by the community in the formation of regulations depends on the situation and conditions of the community and its environment (Sirajudin, 2006). In this regard, there are opportunities for community participation in the formation of village regulations, which can be carried out through activities such as:

- (1) Proposing or preparing community-initiated draft regulations: Each community member, either individually or collectively, prepares a draft regulation through a valid method, which is then discussed with the village head, BPD (Badan Permusyawaratan Desa or Village Consultative Body), and the village community in a village deliberation (musyawarah desa).
- (2) Providing input on proposed village regulations: Community members can offer their insights and suggestions regarding the draft regulations that are being proposed.
- (3) Participating in the discussion phase: When the draft village regulations enter the discussion phase, community participation involves overseeing the discussion process, ensuring that diverse perspectives are considered.
- (4) Conducting monitoring and evaluation: After the village regulations are established and ratified, community participation continues through monitoring and evaluating the implementation of these regulations.

In a democratic system, community participation fundamentally serves as a means to prevent the abuse of power by leaders, channel the aspirations of the community, involve the public in decision-making processes, and uphold sovereignty. In this context, village regulations can be considered participatory if (Moh. Fadli, 2013):

- (1) The formulation of village regulations should be carried out with the aim of promoting good governance.
- (2) Participation, transparency, and oversight are fundamental in preventing the misuse of development in the village during the formulation of village regulations.
- (3) Participation in the formulation of village regulations is both a right and a duty of the community.
- (4) Empowerment of all parties is encouraged.
- (5) All aspirations are considered without exception.
- (6) Decision-making occurs through a process that is honest, open, and fair.
- (7) There is broad access to various information, which is a public right.

According to Alexander Abe, direct community participation in the formation of legislation, including village regulations, brings about three significant impacts. First, it avoids the possibility of manipulation of public involvement and clarifies what the community desires. Second, it adds value to the legitimacy of the planning formulation. Third, it enhances the awareness and political skills of the community (Ida Ayu Putu Widiati, 2019).

CONCLUSION

A government is inseparable from the existence of regulations to achieve its goals. Village Regulations within Law No. 6 of 2014 are one of the products that villages use to manage interests in realizing village autonomy. As explained in Article 69, paragraph (1) of Law No. 6 of 2014, the types of regulations in the village consist of village regulations, joint regulations with the village head, and regulations of the village head. Meanwhile, in Article 5 of Regulation of the Minister of Home Affairs Number 111 of 2014, the mechanism for the formation of village regulations includes planning, preparation, discussion, determination, promulgation, and dissemination.

Participation of the rural community in expressing their aspirations for the formulation of village regulations necessitates the existence of a democratic political relationship in village governance, supported by the village head, the Village Consultative Body (BPD), and the community in a village meeting. By conducting such village meetings, it serves as a platform for discussion and consensus on strategic matters. The concept of community participation in the formation of legislation is explicitly outlined in Law No. 12 of 2011.

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