



THE POSITION AND EXAMINATION OF VILLAGE REGULATIONS IN THE INDONESIAN LEGAL REGULATION SYSTEM

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ARTICLE INFO

Keywords:

Examination; Position;
Regulations; Village.

ABSTRACT

The purpose of this research is to find out the position and testing of village regulations in the legal and regulatory system in Indonesia. When village regulations are studied in the perspective of the hierarchy of laws and regulations, they must refer to Law No. 12 of 2011 as amended by Law No. 15 of 2019 and Law No. 13 of 2022 concerning the Formation of Legislation (LcFL). However, in Article 7 paragraph (1) LcFL does not stipulate the existence of Village Regulations in the order of laws and regulations. This condition has implications for the unclear legal status and authority to review the village regulations themselves. Furthermore, the issuance of Law No. 6 of 2014 concerning Villages, the position and authority of villages is based on the principle of autonomy which directs the form of village independence including the authority to make policies on a locality scale in the form of village regulations. The research results show that although village regulations are not mentioned in the hierarchy of statutory regulations, village regulations can be said to be a further elaboration of higher statutory regulations. so that its existence is still recognized as a legal product, while testing village regulations is carried out using executive preview and executive review testing mechanisms. The executive preview and executive review mechanism is the authority of the Regent/Mayor which was born from the process of monitoring legal products in the village in a preventive and repressive manner.

A. INTRODUCTION

The consequence of Indonesia as a rule of law state is that every attitude, thought, behavior and policy of the government of the state and its people must be based on/in accordance with existing laws and regulations and are intended to prevent arbitrariness and arrogance of power. It is the

law that holds power and leads the administration of the state, as is the concept of *nomocratie*, that is, power is exercised by laws and regulations¹.

The 1945 Constitution of the Unitary State of the Republic of Indonesia has guaranteed the recognition of customary law community units or villages described in the provisions of Article 18B paragraph (2), that the state recognizes and respects customary law community units along with their traditional rights as long as they are live and in accordance with the development of society and the principles of the Unitary State of the Republic of Indonesia, which are regulated in law.²

This provision was strengthened by the Constitutional Court Decision Number 31/PUU-V/2007. In this decision, the Constitutional Court formulated the criteria for customary law community units to be said to be *de facto* still alive and developing (actual existence) both territorially, genealogically, and functionally. The criteria referred to include: (i) the existence of a community whose citizens have group feelings; (ii) the existence of customary governance institutions; (iii) the existence of customary assets and/or objects; and (iv) the existence of customary law norms; (v) the existence of certain areas.³

The village is a vital part that cannot be separated in the hierarchical structure of the state, because in essence there can be no country without having the smallest parts which in the context of the Indonesian state are usually called villages.⁴ Villages and customary villages or what are referred to by other names, hereinafter referred to as Villages, are legal community units that have territorial boundaries, which are authorized to regulate and manage their areas in accordance with origin rights, and/or traditional rights.⁵ This shows that in addition to adhering to democracy, the village also has genuine autonomy which is recognized and respected in the Indonesian constitutional system. It was emphasized that the Village was no longer an administrative area, and was no longer even a subordinate or element of regional implementation, but became an independent village.

Based on the consideration of Law no. 6 of 2014 concerning Villages,⁶ it is said that the Village has the rights of origin and traditional rights in regulating and managing the interests of the local community and plays a role in realizing the ideals of independence based on the 1945 Constitution of the Republic of Indonesia. one of the instruments used by the village in regulating and managing the interests of the village community is with juridical instruments in the form of village regulations

After the enactment of Law No. 6 of 2014 concerning Villages, the position and authority of the village is based on the principle of autonomy

1 Effendi, Orien., "Pembatasan Kekuasaan Berdasarkan Paham Konstitusionalisme Di Negara Demokrasi" *Politica: Jurnal Hukum Tata Negara Dan Politik Islam* 7, No. 2, (2020): 111-133.

2 The 1945 Constitution of the Unitary State of the Republic of Indonesia

3 Constitutional Court Decision Number 31/PUU-V/2007

4 Moh. Fadli, Jazim Hamidi, and Mustafa Lutfi, *Formation of Participatory Village Regulations (Head To Good Village Governance)*, (Malang, UB Press, 2013): 3.

5 Article 1 point 43 Law Number 23 of 2014 concerning Regional Government

6 Preamble to Law Number 6 of 2014 concerning Villages

which directs the form of village independence. The village is expected to be fully respected by supra-village as a legal entity, which is given the authority to make policies on a locality scale. In the implementation of village autonomy, the authority to formulate regulations at the village level is delegated to the Village Consultative Body. By definition, village regulations are statutory regulations stipulated by the village head after being discussed and agreed with the village consultative body.⁷

The hierarchy of statutory regulations is regulated in Law No. 12 of 2011 as amended by Law No. 15 of 2019 and Law No. 13 of 2022 concerning the Establishment of Legislative Regulations (LCFL). The regulations state that the types and hierarchy of Legislative Regulations consist of: a) the 1945 Constitution of the Republic of Indonesia; b) Decision of the People's Consultative Assembly; c) Legislation/Government Regulations in Lieu of Laws; d) Government Regulations; e) Presidential Regulation; f) Provincial Regional Regulations; and g) Regency/City Regional Regulations.⁸

Article 7 paragraph (1) LcFL emphasizes that the existence of Village Regulations in the hierarchy (order) of laws and regulations is not regulated. The absence of village regulations in the hierarchical structure of laws and regulations has implications for the unclear legal status of village regulations and their binding strength.

The legal status of village regulations, in its regulations, states that other types of laws and regulations also include regulations stipulated by the People's Consultative Assembly, the People's Representative Council, the Regional Representative Council, the Supreme Court, the Constitutional Court, the Supreme Audit Agency, the Judicial Commission, Bank Indonesia, the Minister, bodies, institutions, or commissions of the same level established by law or the government by order of law, Provincial Regional People's Legislative Council, Governor, Regency/City Regional People's Legislative Council, Regent/Mayor, Village Head or equivalent.⁹

Furthermore, it is explained that these laws and regulations are recognized and have binding legal force as long as they are ordered by higher laws and regulations or are formed based on authority.¹⁰ Village regulations as a form of legislation have a significant impact. With the existence of village regulations, the community has the opportunity to participate directly in the policy making process in the village. This not only increases the sense of ownership and responsibility for village development, but also allows the creation of policies that are more responsive to the needs and aspirations of local communities.¹¹ Apart from that, village regulations can also be an instrument to overcome unique and specific

7 Article 1 number 7 of Law no. 6 of 2014 concerning Villages

8 Article 7 paragraph (1) of Law no. 12 of 2011 concerning the Formation of Legislation.

9 Article 8 paragraph (1) of Law no. 12 of 2011 concerning the Formation of Legislation.

10 Article 8 paragraph (2) of Law no. 12 of 2011 concerning the Formation of Legislation.

11 Sara, et al, (2020)., "Regulatory Impact Assessment Analysis in Traditional Village Regulations As Strengthening Culture In Bali", *International Journal of Environmental, Sustainability, and Social Science* 1, No. 3, (2020): 16-23.

problems at the village level which may not be specifically regulated in other laws and regulations.¹² This allows for flexibility and adaptation in solving diverse problems in the village. Apart from that, village regulations can also be a basis for local economic development and environmental preservation, because they can regulate the sustainable use of natural resources in accordance with local needs and conditions. Thus, village regulations are not only a legal instrument, but also a means of strengthening community sovereignty and independence in managing their own affairs effectively and sustainably.

Another implication of not regulating village regulations in the hierarchical structure of statutory regulations concerns the authority to review the village regulations themselves. Article 9 paragraph (2) LcFL reads that "In the event that a Legislation under the Act is suspected to be contrary to the Law, the review is carried out by the Supreme Court". Village regulations are not regulated in the hierarchical structure of statutory regulations makes it unclear regarding who and how the mechanism for reviewing village regulations is. So departing from the dynamics and problems above, the author is interested in discussing how the Position and Review of Village Regulations in the Legislative Regulation System. With the hope that this research will reveal the position and testing of village regulations in the legal and regulatory system

B. RESEARCH METHODS

Research uses the type of normative juridical legal research,¹³ namely research conducted by tracing positive law and documents related to the focus of the problem under study. by using a research approach, namely: the statutory approach (statute approach), and the conceptual approach (conceptual approach).¹⁴

C. RESULTS AND DISCUSSION

1. The Village Regulation Position

Indonesia is a country of laws.¹⁵ Explicit affirmation in the Indonesian state constitution indicates that the rule of law is upheld in running the life of the nation. Democracy that wants to be implemented to manifest people's sovereignty is framed in a legal framework so that people's sovereignty is actually realized in the administration of the state. This is as stated that "Sovereignty is in the hands of the people and implemented based on the Constitution".¹⁶ That is, the Constitution as the highest law that represents the will of the people in general is

12 Madjid, Abdul, Triya Indra Rahmawan, and Galieh Damayanti., "Village Regulation as A Participation-Based Development Instrument in Indonesia." *International Journal of Social Science Research and Review* 5, No. 1, (2022): 34-44.

13 Suratman and H. Philips Dillah., *Legal Research Methods*, (Bandung, Alfabeta, 2013): 54

14 Marzuki Peter Mahmud.,. *Legal Research*, (Jakarta, Kencana Prenada Media Group, 2016): 26

15 Article 1 paragraph (3) of the 1945 Constitution of the Republic of Indonesia.

16 Article 1 paragraph (2) of the 1945 Constitution of the Republic of Indonesia.

related to the administration of the State as well as in all its forms no other laws.

According to Jimly Asshiddiqie, legal norms can be understood as follows: first, general and abstract forms that are regulating; second, concrete and individual forms are decisions that are or contain administrative decisions (*beschikking*); third, the form of a decision in the form of a judge's verdict which is usually referred to as a judgment. Regulations produce rules (*regels*) which should not be called by any other term than 'rules'. Determination or administrative decision-making produces something that is none other than the term 'decree or decision'. Likewise with judgments or trials that produce nothing but 'decisions'. It is a common practice in the world that laws made by parliament only outline the necessary provisions.¹⁷

Derivative regulations as executors are more technical, of course, in order to make it easier for the executive as executor of the law.¹⁸ Thus, the legislature in this case is the maker of autonomous regulations and the executive is the maker of implementing regulations.

The state government is structured hierarchically starting from the highest level, namely the central government or national government to the lower levels along with their autonomy, namely *regional government and village government*. *In certain cases there is a link with the level of laws and regulations* which are also arranged hierarchically.¹⁹ Autonomy which is interpreted as regulating and managing household affairs independently along with the authority to make rules. Thus, the regulations of the autonomous government also show a hierarchy in the system of laws and regulations.

The village is a vital part that cannot be separated in the hierarchy of the state structure, because in essence there can be no country without having the smallest parts which in the context of the Indonesian state are usually called villages.²⁰

The village, which is an autonomous region, is also an inseparable part with the authority to make its own rules in the context of administering its government. As according to Taliziduhu, one of the important elements of village autonomy is a "representative" or deliberative institution or body which as long as the implementation of village household affairs holds a "regulating" function.²¹ The village which is currently known as genuine autonomy and decentralization autonomy will affect the resulting legal products. Unlike the government

17 Jimly Asshiddiqie., *Concerning Law*, (Jakarta, Rajawali Press, 2011): 7-8.

18 Sukimin, Sukimin, Heru Nuswanto, and Ani Triwati., "Peraturan Desa Dalam Kedudukan Dan Pengujian Konstitusionalitas Perspektif Peraturan Perundang-Undangan Indonesia." *Jurnal Usm Law Review* 6, No. 1, (2023): 358-371.

19 Saputra, Deni Jaya., "Kedudukan Peraturan Desa dalam Hierarki Perundang-undangan Setelah Keluarnya Undang-Undang Nomor 12 Tahun 2011." *Eksekusi* 2, No. 1, (2020): 1-22.

20 Adhe Ismail Ananda., *The Role of Regional City Governments in Developing and Supervising Of Village Regulation*, *Jurnal Daulat Hukum* 3, No. 3, (2020): 345-353.

21 Taliziduhu Ndraha., *Dimensions of Village Government*, Third Print, (Jakarta, Bumi Aksara, 1991): 8.

at the regional level, the village also carries out its autonomous government based on deliberative or representative joints. Thus, village representative institutions exist as representatives of village communities which guarantee that people's sovereignty is also realized at the village level.

The legal product generated from representative institutions at the village level is village regulations.²² It is this village regulation that will then become a legal instrument for the administration of village governance, both as the legality of granting authority to village government officials, regulating the life of village communities, as well as regulations derived from higher regulations. In this case the formation of village regulations for writers will open up opportunities for community participation as a form of democratic state administration and the consequences of adhering to the rule of law state.

Regulation Village is Laws and Regulations stipulated by the Village Head after being discussed and agreed with the Village Consultative Body.²³ Village regulations are formed in the context of administering village governance, thus village regulations must become a further elaboration of higher statutory regulations and may not conflict with the public interest and must pay attention to the socio-cultural conditions of the local village community in an effort to achieve government goals. long, medium and short term community development and services.²⁴

The types of legal regulations in Indonesia consist of: The 1945 Constitution of the Republic of Indonesia; Decision of the People's Consultative Assembly; law/Government Regulation in lieu of law; Government regulations; presidential decree; Provincial Regional Regulations and Regency/City Regional Regulations.²⁵ This type of legislation is structured hierarchically and in stages. The importance of this hierarchy lies in its function to ensure that each regulation is not contradictory and is in line with the norms or regulations above it, as well as facilitating coordination and supervision of the implementation of laws and public policies. With this structure, legal certainty is more guaranteed and understanding and application of regulations becomes more efficient and effective, which overall supports good governance and sustainable national development. However, this hierarchy of statutory regulations does not explicitly mention village regulations.

Furthermore, in article 8 paragraph (1) LcFL it is said that the types of Legislation other than those referred to in Article 7 paragraph (1) include regulations stipulated by the People's Consultative Assembly,

22 Luthfy, Riza Multazam., "Politik Hukum Pengaturan Peraturan Desa Dalam Produk Hukum." *Jurnal Legislasi Indonesia* 18, No.4, (2021): 492.

23 Article 1 paragraph (7) Law No. 6 of 2014 concerning Villages

24 Rusnan, Sarkawi, and Johannes Johny Koynja., "Kewenangan Pemerintah Desa Dalam Pembentukan Peraturan Desa Di Desa Parampuan Kecamatan Labuapi Kabupaten Lombok Barat." *Jurnal Diskresi* 2, No. 2, (2023).

25 Article 7 paragraph (1) of Law no. 12 of 2011 concerning the Formation of Legislation.

the People's Representative Council, the Regional Representative Council, the Supreme Court, the Constitutional Court, Audit Board, Judicial Commission, Bank Indonesia, Minister, body, institution, or commission at the same level established by law or by the government by order of law, Provincial Regional People's Legislative Council, Governor, Regency/City Regional People's Legislative Assembly, Regent/Mayor, Village Head or equivalent.

Then in article 8 paragraph (2) of Law no. 12 of 2011 concerning the Formation of Legislation, it is stipulated that the Legislative Regulations as referred to in paragraph (1) are recognized and have binding legal force as long as they are ordered by higher Legislation or are formed based on authority.

The provisions of Article 8 paragraph (1) include the phrase "village head or equivalent" which means that village regulations as legal products of village governance are a type of statutory regulation. Furthermore, the provisions of Article 8 paragraph (2) explain that these laws are recognized as existing and have binding legal force as long as they are ordered by higher laws and regulations or formed based on authority. That is, to recognize village regulations, one must look at which institutions have the authority to form village regulations and whether this authority is ordered by a statutory regulation.

According to Bagir Manan, statutory regulations are any written decisions issued by officials or authorized positions which contain general binding rules of conduct.²⁶ So in accordance with the provisions of the article above (Article 7 (1), Article 8 (1) and (2) of LcFL and the definition of laws and regulations by Bagir Manan, it is clear that village regulations are also related to authority.

Philipus M. Hadjon stated three sources of authority, namely attribution, delegation, and mandate. Attribution authority is the authority that is given or determined for certain positions. The concept of delegation of authority is delegation of authority. While the concept of mandate contains the meaning of assignment, not delegation of authority.²⁷ So that theoretically village regulations can be formed through a delegation or mandate from a higher government, namely in the sense: government affairs which are the authority of the district/city which are handed over to the village or co-administered tasks from the Government, provincial government, and/or district/city government.

The final decision on village governance falls on the concept of decentralization for village governance in general,²⁸ original autonomy which is also attached to the right of origin in which the village government is run based on the original arrangement in the customary

26 Maria Farida., *The Science of Legislation (1): Types, Functions, Content Material*, (Yogyakarta, Kanisius, 2007): 11.

27 Yuniza, Mailinda Eka, et al., "Sumber Kewenangan Pemerintah: Permasalahan dan Prospek Pengaturannya dalam Ius Constituendum." *Jurnal Magister Hukum Udayana (Udayana Master Law Journal)* 12, No. 4, (2023): 835-852.

28 Article 1 number 1 Law No. 6 of 2014 concerning Villages.

village.²⁹ In the name of autonomy, then, given the authority to regulate the affairs of the village government and the authority to make a regulation to carry out this authority.

In the implementation of village autonomy, the authority to form regulations at the village level was delegated to the Village Consultative Body through Law no. 6 of 2014 concerning Villages. By definition, village regulations are statutory regulations stipulated by the village head after being discussed and agreed with the Village Consultative Body.³⁰

Seen in this definition, there are two village government organs that jointly form village regulations, namely: first, the village head has the right to propose draft village regulations and has the authority to stipulate village regulations.³¹ *Second*, the Village Consultative Body which has the right to propose draft village regulations³² and has the function of discussing and agreeing on draft village regulations.³³

Village regulations formed in the context of carrying out village government functions, some of which have been regulated in Law no. 6 of 2014 concerning Villages, such as: establishment of a draft Village Expenditure Budget (APBDes),³⁴ establishment of the Medium Term Development Plan (RPJM) and the Village Government Work Plan (RKPD),³⁵ formation of village-owned enterprises (BUMDes).³⁶ In addition, it is known that there are customary village regulations that were formed in order to maintain and develop the social life of customary law communities based on the customs of each village.³⁷

Government Regulation no. 43 of 2014 concerning Implementing Regulations for Law no. 6 of 2014 concerning Villages, also mentions several village government authorities that use village regulations, namely: following up on regent/mayor regulations, village governments by establishing village regulations regarding authority based on origin rights and village-scale local authority in accordance with the situation, conditions, and needs local,³⁸ management of village-owned assets relating to the addition and disposal of assets,³⁹ planning, utilization and utilization of village assets and spatial planning in the development of

29 Article 103 Law no. 6 of 2014 concerning Villages.

30 Article 1 number 7 of Law no. 6 of 2014 concerning Villages.

31 Article 26 paragraph (2) letter d and paragraph (3) letter b of Law no. 6 of 2014 concerning Villages.

32 Article 62 letter a Law no. 6 of 2014 concerning Villages.

33 Article 55 letter a Law no. 6 of 2014 concerning Villages.

34 Article 73 paragraph (3) of Law no. 6 of 2014 concerning Villages.

35 Article 79 paragraph (3) of Law no. 6 of 2014 concerning Villages.

36 Article 88 paragraph (2) of Law no. 6 of 2014 concerning Villages.

37 Article 110 Law no. 6 of 2014 concerning Villages

38 Article 37 paragraph (3) Government Regulation No. 43 of 2014 Concerning Implementing Regulations for Law No. 6 of 2014 concerning Villages.

39 Article 110 paragraph (2) Government Regulation No. 43 of 2014 Concerning Implementing Regulations for Law No. 6 of 2014 concerning Villages.

rural areas,⁴⁰ establishment of village social institutions,⁴¹ and the establishment of village customary institutions.⁴²

So that it can be said, that in today's development even though village regulations are not regulated explicitly in the hierarchy of statutory regulations, the position of village regulations eventually shifts only as a further elaboration of higher statutory regulations, in this case district/city regional regulations. in the context of carrying out the administration and functions of government, not as the implementation of village autonomy or can be formed as long as it is ordered by higher laws and regulations.

2. Examination of Village Regulations

The term testing for legal norms (laws and regulations) can be divided based on the subject and object of the regulation. Judging from the subjects who carry out the testing, testing can be carried out by judges (toetsingsrecht van de rechter or judicial review), testing by the legislature (legislative review) and testing by the executive branch (executive review).⁴³ Another understanding states that there are three broad categories in examining laws and regulations and state administration actions, namely: judicial review, political review, and state administrative officials or agencies (administrative reviews).⁴⁴

Testing laws and regulations when viewed based on the time of testing, is divided into two terms, namely review and preview. Review means looking at, assessing, or re-examining. While the preview is the activity of looking at something before the perfect state of the object being viewed. If the statutory regulations are valid as statutory regulations, then the test can be referred to as a review. However, if the status is still a draft law and has not been officially promulgated as a law, then the test cannot be called a review, but a preview.⁴⁵

The authority to review statutory regulations aims to maintain and ensure the implementation of government administration which is carried out based on statutory regulations as the basis for carrying out government activities so that they are always aligned and in line with the 1945 Constitution of the Republic of Indonesia. Therefore, the

40 Article 125 paragraph (1) Government Regulation No. 43 of 2014 Concerning Implementing Regulations for Law No. 6 of 2014 concerning Villages.

41 Article 150 paragraph (4) Government Regulation No. 43 of 2014 Concerning Implementing Regulations for Law No. 6 of 2014 concerning Villages.

42 Article 152 paragraph (1) Government Regulation No. 43 of 2014 Concerning Implementing Regulations for Law No. 6 of 2014 concerning Villages.

43 Mulyani, Basri., "Dekonstruksi Pengawasan Peraturan Daerah Setelah Berlakunya Undang-Undang Nomor 11 Tahun 2020 Tentang Cipta Kerja." *Juridica 2*, No. 1, (2020): 91-113.

44 Ni'matul Huda, *State of Law, Democracy & Judicial Review*, (Yogyakarta, FH UII Press, 2004): 73

45 Simorangkir, Assertri, and Tuti Widyaningrum., "Kewenangan Pengujian Peraturan Perundang-Undangan Oleh Eksekutif Setelah Berlakunya Undang-Undang Cipta Kerja." *Jurnal Hukum Staatrechts 4*, No. 1, (2021): 51-77.

process of reviewing village regulations becomes a very important thing to do, to harmonize with the provisions of the legislation higher invitations and public interest besides testing village regulations to protect the community from the arbitrariness of the authorities and to protect the rights of the village community. In order to guarantee and ensure that the formation of village regulations does not conflict with statutory regulations and the public interest, it is necessary to examine village regulations.⁴⁶

Based on the previous discussion, it can be seen that the position of the Village Regulation is the implementing regulation of the Regency/City Regional Regulation. This condition has implications for the provision that as implementing regulations of regional regulations, village regulations must receive supervision by the Regency/City Regional Government so that they do not conflict with higher regulations. This means that Village Regulations as a product of statutory regulations that are formed must be based on Regency/City Regional Regulations if the content contained therein conflicts with higher statutory regulations (Laws up to Regency/City Regional Regulations) can be canceled by The Regional Head of Regency/Municipality if the material content is considered to be contrary to higher laws and regulations.

In Law no. 6 of 2014 concerning Villages, it is stated that district/city governments have the authority to evaluate and supervise village regulations.⁴⁷ The supervisory action carried out by the district/city government is manifested in the form of annulment by the bupati/mayor when a village regulation and village head regulation conflict with the public interest and/or higher statutory provisions.⁴⁸ The process leading to cancellation is carried out with the stages that village regulations that have been promulgated are submitted by the village head to the bupati/mayor no later than 7 (seven) days after they are promulgated for clarification. The Regent/Mayor clarifies village regulations by forming a clarification team no later than 30 (thirty) days after receipt.⁴⁹ The results of the clarification are divided into two results, namely first, results of clarification that are in accordance with the public interest, and/or provisions of higher laws and regulations; secondly, results of clarifications that are contrary to the public interest and/or provisions of higher laws and regulations. When the results of the clarification are contrary to the public interest, and/or the provisions

46 Agustin et al., *The Legal Position of Village Regulations in the Legislation System*, *Journal of Halu-Oleo Legal Research* . (2019): 94

47 Article 69 paragraph (2) of Law no. 6 of 2014 concerning Villages

48 Article 87 Government Regulation No. 43 of 2014 concerning Regulations for Implementing Law Number 6 of 2014 concerning Villages.

49 Article 19 Regulation of the Minister of Home Affairs No. 111 of 2014 concerning Guidelines for Regulations in the Village

of higher laws and regulations, the regent/mayor cancels the village regulation with a regent/mayor decision.⁵⁰

In particular, regarding the draft village regulations regarding the Village Revenue and Expenditure Budget (APBDesa), levies, spatial planning, and village government organizations must receive an evaluation from the regent/mayor before being enacted into a village regulation.⁵¹ The village regulation is submitted to the bupati/mayor through the camat or other designation no later than 3 (three) days after it is agreed to be evaluated.⁵² The district head/mayor can form a team to evaluate draft village regulations.⁵³ Evaluation results are submitted by the regent/mayor no later than 20 (twenty) working days from the receipt of the draft regulation by the regent/mayor. In the event that the bupati/mayor has provided evaluation results, the village head is obliged to correct them. The village head is given a maximum of 20 (twenty) days after receiving the results of the evaluation to make corrections. If the bupati/mayor does not provide evaluation results within the specified time limit, the village regulation applies automatically.⁵⁴

So, testing of village regulations is carried out using an executive preview and executive review testing mechanism. The executive preview and executive review mechanism is the authority of the Regent/Mayor which was born from the process of monitoring legal products in the village in a preventive and repressive manner. Therefore, to ensure legal certainty of a legal product, village regulations should still be included in the hierarchical system of statutory regulations or specifically regulated in village laws.

D. CONCLUSION

After the enactment of Law No. 12 of 2011 as amended by Law No. 15 of 2019 and Law No. 13 of 2022 concerning the Formation of Legislative Regulations, Village Regulations are no longer explicitly mentioned as a type of statutory regulation. in the hierarchy of statutory regulations. However, with Law No. 6 of 2014 concerning Villages and Government Regulation no. 43 of 2014 concerning Regulations as derivative regulations, it is stated that one of the authorities of village governments that use village regulations is to follow up on regent/mayor regulations. So it can be said that the position of village regulations is as a further elaboration of higher statutory regulations, in this case district/city regional regulations in the context of government administration and government functions. Meanwhile, testing of

50 Article 20 Regulation of the Minister of Home Affairs No. 111 of 2014 concerning Guidelines for Regulations in the Village.

51 Article 69 paragraph (4) of Law Number 6 of 2014 Concerning Villages

52 Article 14 paragraph (1) Minister of Home Affairs Regulation No. 111 of 2014 concerning Guidelines for Regulations in the Village

53 Article 18 paragraph (1) Minister of Home Affairs Regulation No. 111 of 2014 concerning Guidelines for Regulations in the Village

54 Article 69 paragraph (4) of Law Number 6 of 2014 Concerning Villages

village regulations is carried out through executive preview and executive review testing mechanisms. The executive preview and executive review mechanism is the authority of the Regent/Mayor which was born from the process of monitoring legal products in the village in a preventive or repressive manner. Preventive supervision is regional government supervision in the form of evaluations that test draft village regulations, while executive review is a repressive supervision process in the form of clarification of regulations. Both the regent/mayor's authority in the form of evaluation and clarification is carried out actively and is attached to the process of forming village regulations.

BIBLIOGRAPHY

Books:

- Jimly Asshiddiqie., *Perihal Peraturan Perundang-Undangan*, Jakarta: Rajawali Press, 2011.
- Maria Farida., *Ilmu Perundang-undangan (1): Jenis, Fungsi, Materi Muatan*, Yogyakarta: Kanisius, 2007.
- Marzuki Peter Mahmud., *Penelitian Hukum*, Jakarta: Kencana Prenada Media Group, 2016.
- Moh. Fadli, Jazim Hamidi, dan Mustafa Lutfi., *Pembentukan Peraturan Desa Partisipatif (Head To Good Village Governance)*, Malang: UB Press, 2013.
- Ni'matul Huda., *Negara Hukum, Demokrasi & Judicial Review*, Yogyakarta: UII Press, 2005.
- Suratman and H. Philips Dillah., *Metode Penelitian Hukum*, Bandung: Alfabet, 2014.
- Taliziduhu Ndraha., *Dimensi-dimensi Pemerintahan Desa*, Jakarta: Bumi Aksara, 1991.

Journals:

- Adhe Ismail Ananda., "The Role of Regional / City Governments in Developing and Supervising of Village Regulation", *Jurnal Daulat Hukum* 3, No. 3, 2020.
- Agustin et al., "The Legal Position of Village Regulations in the Legislation System", *Journal of Halu-Oleo Legal Research* 1, 2019.
- Effendi, Orien., "Pembatasan Kekuasaan Berdasarkan Paham Konstitusionalisme Di Negara Demokrasi" *Politica: Jurnal Hukum Tata Negara Dan Politik Islam* 7, No. 2, 2020.
- Luthfy, Riza Multazam., "Politik Hukum Pengaturan Peraturan Desa Dalam Produk Hukum." *Jurnal Legislasi Indonesia* 18, No. 4, 2021.
- Madjid, Abdul, Triya Indra Rahmawan, and Galieh Damayanti., "Village Regulation as A Participation-Based Development Instrument In

- Indonesia." *International Journal of Social Science Research and Review* 5, No. 1, 2022.
- Mulyani, Basri., "Dekonstruksi Pengawasan Peraturan Daerah Setelah Berlakunya Undang-Undang Nomor 11 Tahun 2020 Tentang Cipta Kerja." *Juridica* 2, No. 1, 2020.
- Rusnan, Sarkawi, and Johannes Johny Koynja., "Kewenangan Pemerintah Desa Dalam Pembentukan Peraturan Desa Di Desa Parampuan Kecamatan Labuapi Kabupaten Lombok Barat." *Jurnal Diskresi* 2, No. 2, 2023.
- Saputra, Deni Jaya., "Kedudukan Peraturan Desa dalam Hierarki Perundang-undangan Setelah Keluarnya Undang-Undang Nomor 12 Tahun 2011." *Eksekusi* 2, No. 1, 2020.
- Sara, et al., "Regulatory Impact Assessment Analysis in Traditional Village Regulations As Strengthening Culture In Bali", *International Journal of Environmental, Sustainability, and Social Science* 1 No. 3, 2020.
- Simorangkir, Assertri, and Tuti Widyaningrum., "Kewenangan Pengujian Peraturan Perundang-Undangan Oleh Eksekutif Setelah Berlakunya Undang-Undang Cipta Kerja." *Jurnal Hukum Staatrechts* 4, No. 1, 2021.
- Sukimin, Sukimin, Heru Nuswanto, and Ani Triwati., "Peraturan Desa Dalam Kedudukan Dan Pengujian Konstitusionalitas Perspektif Peraturan Perundang-Undangan Indonesia." *Jurnal Usm Law Review* 6, No. 1, 2023.
- Yuniza, Mailinda Eka, et al., "Sumber Kewenangan Pemerintah: Permasalahan dan Prospek Pengaturannya dalam Ius Constituendum." *Jurnal Magister Hukum Udayana (Udayana Master Law Journal)* 12, No. 4, 2023.

Regulation:

The 1945 Constitution of the Republic of Indonesia.

Law No. 12 of 2011 as amended by Law No. 15 of 2019 and Law No. 13 of 2022 Concerning the Formation of Legislation.

Law No. 6 of 2014 Concerning Villages.

Law No. 23 of 2014 concerning Regional Government.

Government Regulation Number 43 of 2014 concerning Regulations for Implementing Law No. 6 of 2014 concerning Villages.

Regulation of the Minister of Home Affairs Number 111 of 2014 concerning Guidelines for Regulations in the Village.

Constitutional Court Decision Number 31/PUU-V/2007.