

## Implementation Of Local Regulations For Village Development

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### Abstract

*This study aims to identify and analyze the implementation of regional regulations regarding village development policies and the factors and obstacles that affect village development. The approach method used in this research is a sociological juridical approach. The Regional Regulation on village development policies regulates Village Development. As mandated by Law Number 6 of 2014 concerning Villages and Government Regulation Number 43 concerning Guidelines for the Implementation of the Village Law, namely the realization of an advanced, independent, prosperous Village without losing its identity. In practice, sometimes what is being carried out is not in accordance with what is aspired so that in this study the author wants to know how to implement Regional Regulations regarding village development policies, what factors and obstacles affect village development in the region by using normative juridical research methods. As for the facts found that the implementation of regional regulations on village development policies has not been fully implemented. Resources are critical to effective policy implementation. In implementing the Regional Regulation on village development policies, there are still obstacles related to the availability of resources. Regional regulations regarding village development policies are actually directed at efforts to bring about change in society for the better. These changes will be successful if the community has the resources and attitudes that are conducive to policy.*

*Keywords: Implementation, Region, Regional Regulation, Village Development*

### 1. Introduction

"The Unitary State of the Republic of Indonesia is divided into Provinces and the Provinces are divided into Regencies and Cities, each of which has a regional government which is regulated by law, it is emphasized in Article 18 paragraph (1). 1945 Constitution of the Republic of Indonesia. In the provisions of Article 18 paragraph (2) and paragraph (5) of the 1945 Constitution of the Republic of Indonesia, it is stated that Regional Governments have the authority to regulate and manage their own Government Affairs according to the Principle of Autonomy and Co-Administration and provide the widest possible autonomy. Furthermore, Article 18 paragraph (7) of the 1945 Constitution of the Republic of Indonesia states, "The structure and procedures for administering regional government are regulated by law".

The relationship between the Central Government and the Regions can be traced from the third and fourth paragraphs of the Preamble to the 1945 Constitution of the Republic of Indonesia. The third paragraph contains a statement of the independence of the Indonesian nation. While the fourth paragraph contains a statement that after stating, the first to be formed is the Government of the State of Indonesia, namely the National Government which is responsible for regulating and managing the Indonesian nation.<sup>1</sup>

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<sup>1</sup> General Elucidation of Law Number 23 of 2014 concerning Regional Government jo. Law Number 11 of 2020 concerning Job Creation.

In this case, the amendments to the 1945 Constitution which were carried out several times, starting from 1999 to 2002 have had a significant influence on the duties and functions of the government, particularly regional government, especially in relation to the provision of public services to the community. These changes have laid the constitutional basis for the implementation of public services (public services) by regional governments in the context of regional autonomy.<sup>2</sup>

It is known that autonomy as an embodiment of the decentralized system gives birth to the authority for the regions to manage their own households in full, except for things that have been determined by Law Number 32 of 2004 concerning Regional Government jo. Law Number 11 of 2020 concerning Job Creation as a central government affair.<sup>3</sup> Matters that cover the affairs of the central government include: foreign policy, defence, security, monetary and fiscal, and religion. These five areas are under the authority of the central government. This means that apart from these five areas, various existing authorities are under the authority of the regional government.<sup>4</sup>

The granting of the widest possible autonomy to regions is directed at accelerating the realization of community welfare through service improvement, empowerment, and community participation. In addition, through broad autonomy, in the strategic environment of globalization, regions are expected to be able to increase competitiveness by taking into account the principles of democracy, equity, justice, privileges and specialties as well as the potential and diversity of regions in the system of the Unitary State of the Republic of Indonesia.<sup>5</sup>

In line with this principle, the principle of real autonomy is also implemented, namely that to handle government affairs, it is carried out based on tasks, authorities and obligations that actually already exist and have the potential to grow and develop in accordance with the potential and uniqueness of the region. Jimly Assidique said that with the decentralization and regional autonomy policies, it is hoped that it can overcome various things and the possibility of developing national disintegration while at the same time increasing community empowerment in the dynamics of development growth independently from below which will ensure justice in the future. Although in practice it cannot be denied that the euphoria of autonomy and decentralization tends to be interpreted as an authority and freedom to regulate and manage one's own household,<sup>6</sup>

Therefore, through Law No. 32 of 2004 concerning Regional Government jo. Law Number 11 of 2020 concerning Job Creation creates the principle of the widest possible autonomy in the context of regional administration. The principle of autonomy as widely as possible of course opens up space for local governments to freely (but still within the corridors of laws and regulations) to provide services to the

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<sup>2</sup> Husni Thamrin, 2013, *Hukum Pelayanan Publik Di Indonesia*, Aswaja Presindo, Yogyakarta, p. 2.

<sup>3</sup> Ibid, p. 7

<sup>4</sup> Hayatun Na'imah, "Sinkronisasi Materi Muatan Perda Syari'ah", *Jurnal Volgeist* Vol. 1 No. 1, 2018, p. 66.

<sup>5</sup> General Elucidation of Law Number 23 of 2014 concerning Regional Government jo. Law Number 11 of 2020 concerning Job Creation.

<sup>6</sup> Jimly Assidaique, 2000, *Pemberdayaan Masyarakat Desa Menuju Masyarakat Madani*, Regional Autonomy Seminar Paper, Banjarnegara, p.4

public in order to realize the welfare of the community. In line with that, the policies made and implemented by the Regions are an integral part of national policies.<sup>7</sup>

The formation of regions is basically intended to improve public services in order to accelerate the realization of community welfare as well as as a means of local level political education. Therefore, the formation of a region must consider various factors such as economic capacity, regional potential, area, population, socio-political aspects, socio-cultural aspects, defense and security as well as other considerations and conditions that enable the region to organize and realize the objectives of the establishment of the region. and the granting of regional autonomy.<sup>8</sup>

One of the fundamental problems in the process of administering government, both at the central, regional, and village levels is how to build or create a government mechanism that can carry out its mission in realizing a prosperous society in a just manner. To realize the welfare of the community, the government must carry out development based on community participation, and provide public services that are as good as possible. The management of governance and development, in reality cannot be separated from the influencing factors, among others: the occurrence of developments and changes in the global environment, in the form of human rights, democracy, rule of law, and good governance.<sup>9</sup>

The theory used in this research is the theory of Stufent heorie by Hans Kelsen and the theory of authority. According to Kelsen, law is a system of norms. Norms are statements that emphasize aspects of "should" or *das sollen*, by including some rules about what must be done. Norms are the product of deliberative human action. In Stufen-theory Hans Kelsen argues that positive legal regulations are arranged pyramidal (levels) from above, namely from *grundnorm* in stages down, to something that implements these legal norms concretely.<sup>10</sup>

Development policies for the regions have not made significant changes to improving people's welfare, and have even created a welfare gap between cities and villages. On the one hand, a large industry that has grown rapidly for nearly 30 years, most of which are located in urban areas. On the other hand, the agricultural and small industry sectors are almost entirely based in rural areas.<sup>11</sup> Therefore, centralized development becomes less actual, so a decentralized approach is needed. In a decentralized approach, the government plays a role and acts as a regulator and facilitator in order to build a conducive climate to accommodate the interaction process of the social, political and economic life of the community.<sup>12</sup>

This study aims to identify and analyze the implementation of regional regulations regarding village development policies and the factors and obstacles that affect village development.

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<sup>7</sup>Husni Thamrin, op. cit., p. 70

<sup>8</sup>Sri Kusriyah, "Politik Hukum Penyelenggaraan Otonomi Daerah dalam Perspektif Negara Kesatuan Republik Indonesia", *Jurnal Pembaharuan Hukum* Vol. 3 No. April 1 2016, University of Sultan Agung 2016, p. 4.

<sup>9</sup> Moch. Soelkhan, 2012, *Penyelenggaraan Pemerintahan Desa*, Setara Pres, Malang, p. 1-2

<sup>10</sup> Soetiksno, 2008, *Filsafat Hukum Bagian 1*, Pradnya Paramita, Jakarta, p. 64

<sup>11</sup> Sugino Pranoto, et al, "Pembangunan Perdesaan Berkelanjutan Melalui Model Pengembangan Agropolitan", *Jurnal Management dan Agribisnis*, Vol. 3 No. 1, Institut Pertanian Bogor 2006, p. 1.

<sup>12</sup> Moch. Soelkhan, op. cit., p. 1-2

## 2. Research Methods

The approach method used in this research is a sociological juridical approach. The data sources used include primary data sources obtained from sources from interviews and secondary data obtained from materials, documents, laws and regulations, reports, theories, materials from the literature, and other sources related to problem to be researched.<sup>13</sup>

After the data has been collected and is complete enough, the next step is to process and analyze the data. The data analysis method used is qualitative analysis, where after all the data has been collected, processing, analyzing and constructing the data thoroughly is carried out by providing an interpretation of the existing problem formulation in order to answer the problems posed in this study.<sup>14</sup>

## 3. Results and Discussion

Law Number 6 of 2014 concerning Villages has recognized the authority of the village to regulate and manage the government and the interests of its own community. The village referred to in this Law is not only the Village Government, but also the legal community unit. In other words, all elements in the village have the opportunity to be involved. Therefore, Law Number 6 of 2014 concerning Villages also includes democracy as the principle of village regulation. Democracy is defined as a system of organizing village communities in a government system carried out by village communities or with the consent of village communities, and the nobility of human dignity as creatures of God Almighty is recognized, organized, and guaranteed (Law Number 6 of 2014 concerning Villages). , Explanation of Regulatory Principles).

In managing this democratic life, Law Number 6 of 2014 concerning Villages stipulates the structure and function of institutions in the system of government and organization of rural communities. The institutions referred to in Law Number 6 of 2014 concerning Villages consist of the village government as the organizer of village administration; Village Consultative Body as a community representative institution that has government functions; Village Community Institutions as a forum for empowering village communities who also participate in planning and implementing development; and Village Deliberations as the highest forum for strategic decision-making in the village.

In the implementation of Law Number 6 of 2014 concerning Villages, the construction of relations between these institutions is still not balanced. Therefore, the system of checks and balances has not been able to work. Apart from this construction, the Village Consultative Body, Village Community Institutions, and other actors in the village also do not yet have adequate capacity to carry out their respective functions. Therefore, the author tries to embody the intent and content related to the implementation of village development from the Regional Regulation on Village Development, divided into several frameworks including

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<sup>13</sup>HB. Sutopo, 2006, *Metodologi Penelitian Kualitatif*, Surakarta: Universitas Sebelas Maret, p. 180

<sup>14</sup>Amirudin and H. Zainal Asikin, 2003, *Pengantar Metode Penelitian Hukum*. Jakarta: Raja Grafindo Persada. p. 167.

### *Arrangement of Village Institutional Relations*

In the implementation of a democratic government, the implementation of a system of supervision and balance among the institutions that have a government function is needed. This is important to avoid the concentration of power in certain institutions and ensure inter-institutional control runs so that there are no irregularities in the government. In the village context, a system of supervision and balance is expected to grow between institutions that carry out government functions, namely the Village Government and the Village Consultative Body.

Furthermore, as the organizer of village government, the Village Government is the party given the task of carrying out the four areas of village authority, namely governance, development, community development, and community empowerment. In carrying out its duties, the Village Government is given a number of powers, rights, and obligations which include its role as the person in charge of governance and development in the village, the arm of the state who is close to the community, as well as village community leaders. To ensure the continuity of the monitoring and balance system, the Village Consultative Body is given various functions: a legislative function, namely to participate in discussing and agreeing on draft village regulations (*perdes*) together with the Village Head; the function of representation, namely to accommodate and channel the aspirations of the village community; and control function,

In carrying out these government functions, the Village Consultative Body is given rights as an institution and rights as members. In the legislative function, each draft Village Regulation from the Village Government must be discussed together and get an agreement from the Village Consultative Body. Members of the Village Consultative Body are also entitled to submit a draft village regulation to be discussed and agreed with the Village Government. In addition, in the Regulation of the Minister of Home Affairs (Regulation of the Minister of Home Affairs) No. 111 of 2014 concerning Technical Guidelines for Village Regulations, it is stated that the planning for the preparation of the Village Regulation draft is determined by the Village Head and the Village Consultative Body in the Village Government work plan.

In order for the administration of government to be properly supervised, Tegal Regency Regional Regulation Number 7 of 2015 concerning Village Development, Rural Area Development and Village Determination, the Village Head is required to provide a written statement of government administration to the Village Consultative Body at the end of each fiscal year (TA).

The Village Consultative Body is given the right to request information and express opinions. Members of the Village Consultative Body also have the right to ask questions and submit proposals and/or opinions. In relation to the implementation of these rights, the Village Consultative Body is obliged to carry out a representation function, namely to absorb, accommodate, collect, and follow up on the aspirations of the village community. Regional Regulation on Village Development provide the basis for the operation of a system of supervision and balance between the Regional

Government, the Village Government and the Village Consultative Body. However, there are a few things to note in this setting.<sup>15</sup>

*First*, Regional Regulation on Village Development does not require the Village Head to submit a report on the end of the term of office to the Village Consultative Body, but to the regent/mayor. When compared to the previous regulation, this is a setback because Government Regulation (Government Regulation) No. 72 of 2005 concerning Villages states that the accountability statement report (LKPJ) at the end of the term of office is also submitted in writing to the Village Consultative Body, in addition to the regent/mayor through the sub-district head. This is also confirmed in the Minister of Home Affairs Regulation No. 35 of 2007 concerning General Guidelines for Reporting Procedures and Accountability for Village Administration. Meanwhile, for the village,

*Second*, Article 51 of Government Regulation No. 43/2014 concerning Implementing Regulations of Law No. 6 of 2014 concerning Villages and various Home Affairs Ministerial Regulations which regulate the implementation of the Village Consultative Body's supervision of the Village Government, describe the various powers of the Village Consultative Body to monitor and evaluate the performance of the Village Government, as well as submit a final view on the village head's report on the administration of village government (LKPeraturanD) for the Village Head. . The most detailed arrangements can be found in the Permendagri concerning the Village Consultative Body. However, in all regulations, there is no mechanism that needs to be carried out by the Village Consultative Body if the Village Head does not convey,<sup>16</sup>

*Third*, in contrast to Law no. 22 of 1999 which regulates the authority of the Village Consultative Body to impose sanctions on the Village Head or Government Regulation No. 72 of 2005 which stipulates that the Village Consultative Body can propose sanctions for the Village Head to the regent, such authority does not exist in Law Number 6 of 2014 concerning Villages. Article 28 of Law Number 6 of 2014 concerning Villages does regulate oral or written administrative sanctions and temporary or permanent dismissal for Village Heads who are negligent of their obligations as regulated in Articles 26 and 27 of Law Number 6 of 2014 concerning Villages.

Of the three functions it has, the Village Consultative Body only carries out the supervisory function of the Village Government. The lack of implementation of the functions of the Village Consultative Body also seems to be influenced by the regulations governing the election mechanism. During the implementation of this study, the Village Consultative Body was still filled with members who were elected based on the old regulations, namely by means of deliberation and consensus as stipulated in Article 30 of Government Regulation no. 72 of 2005 concerning Villages. The consequence seen in most of the study villages from this election method is the

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<sup>15</sup> Siti Rodiyah & Muhamnad Harir, "Peranan Badan Permusyawaratan Desa (BPD) Dalam Pembentukan Peraturan Desa Di Desa Krandon Kecamatan Guntur Kabupaten Demak", Jurnal Pembaharuan Hukum Vol. 2 No. May 2-August 2015, p.294.

<sup>16</sup> Minister of Home Affairs Regulation No. 82 of 2015 concerning the Appointment and Dismissal of Village Heads; Minister of Home Affairs Regulation No. 46 of 2016 concerning Village Head Reports; Minister of Home Affairs Regulation No. 110 of 2016 concerning BPD.

low level of community representation. Residents do not know who the members of the Village Consultative Council represent their territory and, conversely, members of the Village Consultative Body also do not have a commitment bond with the residents they represent.

With the above arrangement, the position of the Village Government in the administration of village governance which is horizontally immovable is not without reason. In the discussion on the Village Consultative Body between the People's Representative Council (DPR) and the government, there is concern that granting large control powers to the Village Consultative Body will lead to sharp disputes between the Village Government and the Village Consultative Body. This condition will result in delays in the development process as has happened in the past. In other words, the strengthening of the position of the Village Government was deliberately designed by the legislators to ensure smooth governance and development processes in the village without being much 'disturbed' by the dynamics of different views in the village. However,<sup>17</sup>

### *Village Governance*

As a very important concept for development and poverty reduction, governance should be an instrument for achieving goals. Regional Regulation on Village Development, However, when it is dominated by administrative obligations, governance will be understood narrowly as an end and not as an instrument of welfare improvement. The goal of improving welfare can be neglected because governance itself is considered a goal.

Regional Regulation on Village Development characterized by too many rules, late rule setting, and fluctuating rules. The many rules are dominated by administrative obligations that must be fulfilled by the Village Government. In terms of participation, although the number of people involved in village deliberations has increased, marginalized people have not been involved in decision-making. Forms of budget transparency have begun to be developed, but have not been effective. In terms of accountability, the dominant accountability is upward accountability. Although it has begun to be seen, downward accountability has not occurred in all villages. Affirmative policies have not yet become the focus of most village governments.

These many regulations often overlap, causing confusion at the district and village levels. An example is the rule regarding village authority. This rule is mandated by Government Regulation no. 43 of 2014 concerning Implementing Regulations of Law Number 6 of 2014 concerning Villages which were stipulated on 30 May 2014. According to Article 39 of this Government Regulation, the ministry that handles villages needs to determine village authority. At that time, the ministry in charge of village matters was the Ministry of Home Affairs. However, after the change of government in 2014, the elected president Joko Widodo formed the Ministry of Villages, Development of Disadvantaged Regions and Transmigration (Kemendes

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<sup>17</sup>Digilib.its.ac.id, Community Capacity in Implementing Village Development (case study: Nagari Kamang Mudiak, Kamang Magek District, Agam Regency, West Sumatra) (online), p.1, <http://digilib.its.ac.id/public/ITS-Master-14009-Paper.pdf-1964352.pdf>

PD TT). Since then, village affairs have become the responsibility of the Ministry of Home Affairs and the Ministry of Villages PD TT.

With the formation of the Kemendes PD TT, institutional dualism occurred. A week after its formation through Presidential Regulation no. 12 of 2015 concerning the Kemendes PD TT, the Kemendes PD TT took the initiative to stipulate the PD TT Village Regulation No. 1 of 2015 concerning Guidelines for Authority Based on Origin Rights and Village-Scale Local Authorities as required in Government Regulation no. 43 of 2014. However, one and a half years after the Minister of Home Affairs Regulation No. 44 of 2016 concerning Village Authority. The Ministry of Home Affairs assumes that the determination of village authority is part of the village affairs it is in charge of. This Minister of Home Affairs Regulation was issued after Government Regulation no. 43 of 2014 which was later changed to Government Regulation No. 47 of 2015 concerning Amendments to Government Regulation No. 43 of 2014 concerning Implementing Regulations of Law Number 6 of 2014 concerning Villages. In Government Regulation No. 47 of 2015, it is explicitly stated that the determination of village authority is a matter handled by the Ministry of Home Affairs.

#### **4. Closing**

The implementation of regional regulations in the context of village development has not been implemented optimally because the program has not yet been achieved in accordance with the policy objectives that have been formulated as a benchmark for the success of the program, while the factors that influence village development are resources as effective policy implementers. In the implementation of regional regulations in the context of village development, there are still obstacles related to the availability of limited resources so that it affects the implementation of the program.

#### **5. Refferences**

##### **Journal & Internet**

- [1] Hayatun Na'imah, "Sinkronisasi Materi Muatan Perda Syari'ah", *Jurnal Volgeist* Vol. 1 No. 1, 2018.
- [2] Sri Kusriyah, "Politik Hukum Penyelenggaraan Otonomi Daerah dalam Perspektif Negara Kesatuan Republik Indonesia", *Jurnal Pembaharuan Hukum* Vol. 3 No. April 1 2016, University of Sultan Agung 2016
- [3] Sugino Pranoto, et al, "Pembangunan Perdesaan Berkelanjutan Melalui Model Pengembangan Agropolitan", *Jurnal Management dan Agribisnis*, Vol. 3 No. 1, Institut Pertanian Bogor 2006.
- [4] Siti Rodiyah & Muhamnad Harir, "Peranan Badan Permusyawaratan Desa (BPD) Dalam Pembentukan Peraturan Desa Di Desa Krandon Kecamatan Guntur Kabupaten Demak", *Jurnal Pembaharuan Hukum* Vol. 2 No. May 2-August 2015
- [5] Digilib.its.ac.id, Community Capacity in Implementing Village Development (case study: Nagari Kamang Mudiak, Kamang Magek District, Agam Regency, West



Sumatra) (online), p.1, [http:// digilib.its.ac.id/public/ITS-Master-14009-Paper.pdf-1964352.pdf](http://digilib.its.ac.id/public/ITS-Master-14009-Paper.pdf-1964352.pdf)

**Book**

- [1] Husni Thamrin, 2013, *Hukum Pelayanan Publik Di Indonesia*, Aswaja Presindo, Yogyakarta.
- [2] Jimly Assidaiqie, 2000, *Pemberdayaan Masyarakat Desa Menuju Masyarakat Madani*, Regional Autonomy Seminar Paper, Banjarnegara.
- [3] Moch. Soelkhan, 2012, *Penyelenggaraan Pemerintahan Desa*, Setara Pres, Malang.
- [4] Soetiksno, 2008, *Filsafat Hukum Bagian 1*, Pradnya Paramita, Jakarta.
- [5] HB. Sutopo, 2006, *Metodologi Penelitian Kualitatif*, Surakarta: Universitas Sebelas Maret.
- [6] Amirudin and H. Zainal Asikin, 2003, *Pengantar Metode Penelitian Hukum*. Jakarta: Raja Grafindo Persada.

**Laws and regulations**

- [1] 1945 Constitution of the Republic of Indonesia
- [2] Law Number 23 of 2014 concerning Regional Government
- [3] Law Number 11 of 2020 concerning Job Creation
- [4] Law of the Republic of Indonesia Number 6 of 2014 concerning Villages
- [5] Law Number 10 of 2004 concerning the Establishment of Legislation
- [6] Minister of Home Affairs Regulation No. 82 of 2015 concerning the Appointment and Dismissal of Village Heads
- [7] Minister of Home Affairs Regulation No. 46 of 2016 concerning Village Head Reports
- [8] Minister of Home Affairs Regulation No. 110 of 2016 concerning the Village Consultative Body.