

Status of Village Regulations in the Indonesian Legislation System



Dodi Jaya Wardana, Ismi Rajiani

Abstract: *This journal purposes to assess status of village regulation in the Indonesian Legislation System. This journal is a normative legal conducted through library or library research, using the conceptual approach and the statute approach. The results showed that status of village regulations in the legislation system is still a Recognized and has a very strong Juridical footing with the start of Legislation Number 6 of 2014 on the Village. Although the Village Regulation number longer Appears in the hierarchy of legislation after the birth or enactment of Legislation Number 12 Year 2011 on the Establishment of Legislations and Regulations, but its existence is strictly regulated and the position of Village Regulation is stronger Because It has been used as the Juridical governance of the Village With the issuance of Legislation Number 6 Year 2014 on the Village. Legislation Number 12 Year 2011 Concerning the Establishment of Legislations and Regulations still Recognizes the existence of Village Regulations as stipulated in Article 8 paragraph (2) Stating the Legislations Regulation as intended in paragraph (1) is acknowledged to exist and possesses binding legal force as long as it is ordered by a higher Legal Regulation or constituted by authority. Elimination of Village Regulations from the hierarchy legislation does not have implications or impacts on the implementation of village governance, because the Village village governance can still form village regulations together with the village head on a strong basis, namely Legislation Number 6 of 2014 concerning Villages.*

Keywords: *Village Regulations, Indonesian legislation, Democratization of village governance*

I. INTRODUCTION

Village regulations are the base of the legitimacy of village governance in Indonesia. Article 104 of Legislation Number 22 1999 states that a group established as village consultative body is responsible for protecting village customs, formulating, administering and implementing village regulations, and channeling the aspirations of the community. Legislation Number 22 Year 1999 was replaced by Legislation Number 32, 2004 Regarding Village Government and enabled the establishment of village jurisdictional boundaries within Nationally established districts, legitimizes the authority of village representatives to set village

regulations and otherwise manage village affairs According to locally held customs, as long as Reviews These do not contradict higher order legislation or regulations, or conflict with the public interest. Legislation Number 6, 2014 on Village Rural Village establishes the Village Head as the legal authority but in consultation with the Village Consultative Body.

Article 7 paragraph (1) establishes that the legislative and regulatory hierarchy are: a. The 1945 Constitution of the Republic of Indonesia; b. National legislation and case of an emergency law in force; c. National government regulations; d. Presidential decrees; e. Local regulations. Paragraph (2) sub-article (1) (e) states: "a. Provincial Regulations shall be made by the Provincial People's Legislative Assembly together with the Governor; b. Regency / Municipal Regulations shall be made by the Regional House of Representatives of the Regency / Municipality together with the Regent / Mayor; c. Village rules, created by the Village Representative Body (or other name) together with the Village Head (or other name)." Paragraph (3) Provides that the procedures for the enactment of village regulations are the same as procedures for establishing a regency / city regulations. Thus, Legislation Number 10, 2004, the village Regulation establishes regulations that fit neatly within the hierarchy of Indonesian regulations. However, Legislation number 12, 2011 is a substitute rule of legislation is number 10, 2004 the position of Village Regulation becomes unclear, even unregulated and not inserted into the hierarchy system of the Legislations and Regulations in Indonesia. In effect, regulations promulgated by the Village Head Become the Village Regulations and fits into the hierarchy of the Indonesian Legislation System. Furthermore, in legislation number 12, 2011 the discussion on the position of village regulations is not regulated. In other words the position of village regulations is not included hierarchy of Indonesian legislation. Legislation Number 12, 2011 Also Refers to other rules: those established by the People's Consultative Assembly, the People's Legislative Assembly, the Regional Representative Council, the Supreme Court, Constitutional Court, Supreme Audit Board, Judicial Commission, Bank Indonesia, Government Ministers, Institutions or Commission established under Legislation or by legislative order of the Government, Provincial People's legislative Council, Governor, House of Representatives District / Town Region, Regent / Mayor, Village Head or equivalent. That is, village regulation has no specific mention and the question arises, the which the rest of this paper addresses, as to the status of village regulation. Specifically, this paper seeks to answer the questions: 1).

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what form of democracy in village governance? 2). what is the position of village regulations in the legislation system? To respond to the questions, primary, tertiary, and secondary legal materials were reviewed restaurants. The next part of this paper discusses the Democratization of village governance. That part is followed by a discussion of the hierarchy of rules in Indonesia. The last part, the conclusion, discusses the findings of the study.

II. RESULTS AND DISCUSSION

A. The Form of Democracy in Village Governance

The form of Democracy in the Village Governance is realized by the two institutions that will implement the democracy namely the village consultative body and the village head. The first, village consultative body is an institution made up of democratically elected local villagers. Article 55 of legislation is number 6, 2014 that the Village Consultative Body functions following: a) to discuss and agree on the draft Regulation with the village Head; b) support and channel the aspirations of the village community; and c) supervise the performance of Village Heads. Dissolution of members of the representative body is through direct election and / or by the deliberations of the body as tailored to the needs of and with the agreement of the each village community. Membership of the representative body is for 6 (six) years from the date of the appointment (requiring a ceremony including the swearing of an Oath / pledge). Members of the village representative body may only be re-Elected 3 (three) times, either consecutively or non-consecutively. As Noted, the body is charged with the governance of the village, protection of its customs and its development.

The village representative body Organizes a forum that includes villagers and community elements organized by the representative body to discuss and agree on village governance affairs, including: a) Structuring the village; b) Village Planning; c) Village Cooperation; d) Planned investment into the Village; e) Establishment of village-owned enterprises; f) additions to and releases of village assets; and g) Extraordinary events. Such forums must occur at least once a year and is funded from the Village of income and expenditure budget.

Article 61 of legislation is number 6, 2014 affirms that the village representative body has the authority to: a. Supervise the implementation of village governance by the village government b. Provide a critical report on the implementation of village governance and community development and empowerment activities; c. Obtain a report on the operational costs of performing the tasks and functions of the village. In accordance with the provisions of article 62 of legislation is number 6, 2014, members of the village representative body have the right: a. to propose draft rules village; b. Ask questions; c. Submit suggestions and / or opinions; d. Choose and Selected and e. Receive allowances from the village's revenue and expenditure budget.

Article 63 stipulates that the obligations of members of the village representative body are:

- a. Promulgating Pancasila, implementing the Constitution of the Republic of Indonesia, 1945, and maintaining the integrity of the Unitary State of the Republic of Indonesia and Unity in Diversity;

- b. To implement a gender-equitable democracy in the administration of the Village Government;
- c. Absorb, collect and follow up villagers' aspirations;
- d. Put public interests above personal and / or group interests;
- e. Respect the social and cultural values and customs of the Villages; and
- f. Maintain norms and ethics in working relationships with village social institutions.

Second, the village head is the leader of the village government and acts as a community leader as well as an extension of the State with closer links to the community. The regulation relevant to the position of village head stipulate:

- a. The name of the Traditional Village is adjusted According to local choice;
- b. Village Head / Traditional Village is domiciled as the head of traditional village and as community leaders;
- c. The village head is directly and democratically Elected by the local community, though traditional villages¹ may use traditional ways of appointment of village heads;
- d. The nomination of a village head can not be on the basis of belonging to apolitical party and village heads cannot become a political party official.

Article 26 of Legislation Number 6, 2014 affirms that the Village Head is in charge of organizing village governance, implementing village development, and community development and empowerment. In performing his duties, the village head is authorized: a. To lead village government; b. Employ staff and dismissing village c. Manage village finance and assets; d. Establish Rules village; e. Establish the village revenue and expenditure budget; f. Foster the life of the village community; g. Foster the peace and order of the village community; h. Foster and improve the village economy to Achieve greater prosperity for the village community; i. Develop village revenue sources; j. Propose and accept the transfer of a portion of the state's wealth to improve the welfare of the village community; k. Develop the socio-cultural life of village communities; l. Appropriate utilize technology; m. provide information on village development plans; n. Represent the village inside and outside the court, or appoint a legal representative to do so in accordance with the provisions of legislation; and o. Carry out other duties in accordance with the provisions of legislation.

In performing his duties, the Village Head has the right to: a. Propose the organizational structure and working procedures of the village government; b. Submit draft rules and validate them; c. Receive a fixed monthly income, allowances and other receipts, as well as health insurance; d. Obtain implemented a legal protection of policies; and Providing mandate of execution of other duties and obligations to village apparatus. In addition, article 26 of Legislation Number 6, 2014 requires the village head to:

- a. Submit reports to the district regent / mayor concerning the activities of village government at the end of the fiscal year;
- b. Submit reports on the implementation of Village Government at the end of the regent / mayor.
- c. Provide a report to the village consultative body with concerning village government at the end of the fiscal year; and

d. Provide information on the implementation of village government in writing to the community at the end of each year.

A fundamental tenet of democratic political systems is the capacity for people, either as individuals or in groups, to Participate in the formulation of policies, especially policies that have a direct impact on their lives. Democratic systems may be conceptualized as 'elite' or 'participatory'.

The elite democratic system theory holds that: The scope of democracy is limited to the participation of citizens in free and fair elections to fill political positions in government and legislative bodies. If the citizens have exercised Reviews their right to vote in free and fair elections, then government administration Entrust citizens over sigh to Reviews those who are elected to the Legislature. The democratic elite theory prioritizes the stability and authority of the government. It is the duty of members of the Legislature to oversee that the government, in making policy and administrative decisions, do not deviate from the public interest of the voters. Limited citizen participation is justified on the basis of a belief that citizens tend range to be selfish and will act satisfy the personal needs over social needs the government acts on behalf of the community and thus avoids conflicting social demands and social instability.

Meanwhile Participatory theories of democracy hold that: Citizens, both individually and in groups, are not Merely consumers of satisfaction, but require the opportunity and encouragement for self-expression and development followers of the theory of participatory democracy, reject the assumption that citizens always have conflicting interests view that the essence of the human personality is complementary with the collective life so that each person is able to Harmonize individual interests with the common interest followers of the democratic theory of participation (believe that) the essence of democracy is to Ensure that decisions made by the government (include input) from citizens who may be affected by Reviews those decisions thus, this theory not only wants to bring about democratic governance, but Also democratic societies.

In effect, participatory democracy seeks community involvement in the process of formulating legislation and elite democracy limits society participation. As noted by Hardjasoemantri, when the community has opportunities to participate in governance, the makers of legislation become more cautious in shaping the legislation. Thus, community participation is not only required in order to create good Legislation making process, but Also to anticipate that the substance of the Legislation does not harm the community. Hardjasoemantri advocates that community participation in good governance is necessary because It:

- a. Provides government with the appropriate framework for action.
- b. Increases people's willingness to accept decisions made by government.
- c. Assists in the protection of the legislation.
- d. Democratizes decision making.

Democracy in village governance offer section with a democratic policy rule or village if community-based societal participation is managed responsibly and transparently by the community and used to benefit the community.

Furthermore, from the context of village-based (democratic) Village Rules, every Village Rule should be relevant to the context of community needs and aspirations. With other

sentences, Village Rules made are intended to answer the needs of the community, not merely formulate the desire of the village elite or just to execute instructions from village supra government. From the context (substance), the basic principle is that the Village Rule is more restrictive to the ruling and at the same time protecting the weak people. At a minimum, Village Rules should provide assertiveness about the village government's and Village Consultative Bodies accountability in managing village governance.

In view of the benefits to the people, Village Regulation is intended to encourage community empowerment, to provide space for the development of creation, and innovation potential of the public on public goods, providing space for public participation in governance and village development processes. Such community participation can be seen from the consultation of the draft Village Rule to the community. In accordance with Article 69 Paragraph (9) and (10) of Legislation Number 6 Year 2014 concerning Villages items, namely: Paragraph (9) Village Rule Draft shall be consulted to the Villages and Verse (10) The Village Community shall be entitled to give input to the Draft Regulation Village. Meanwhile, to create order and balance the Village Rules must be restrictive: Prevent the exploitation of natural resources and citizens, prohibit the destruction of the environment, Prevent criminal acts, Prevent the domination of a group to other groups, and so on.

The draft revised Village Decree is then legislated into Village Regulations by the village government and Village Consultative Bodies. Before the Village Rules are implemented a, the village government and the Village Consultative Bodies are obliged to conduct public socialization, to provide in Formulation on the Village Rules so that the public is aware and ready to implement or support the Village Rules. In another sentence, socialization is important to inform the village community village that regulation has been established to regulate the interests of the local village community. More than that, the subject to be arranged in the substance or content of the Village Regulations is the community (Democratization) of the Village concerned.

The exclusion or exclusion of Village Regulations into the hierarchy of Legislations and regulations as stipulated in Legislation Number 12 of 2011 on the Establishment of Legislation does not mean that the Village can number longer be a source of positive Legislation at the village level or as a guidance in the implementation Village. The Village Head, together with the Village Consultative Bodies, can still form a Village Rule. Village Regulation is not a legal product is prohibited roommates its existence in Indonesia or is not a haram (not permitted) of its existence within the Unitary State of the Republic of Indonesia. Even so, it will have greater legal certainty when the legal basis for the existence of Village Regulation is confirmed by legal products that are regulated clearly, explicit and detailed in Legislation.

Determination of Village Rule is an explanation of various authorities owned by the Village Refers to the provisions of higher legislation. As a legal product, Village Regulation should not conflict with higher regulations and should not harm the public interest items, namely: a.

Disruption of inter-community harmony; b. Disruption of access to public services; c. disruption of public order and tranquility; d. Disruption of economic activities to improve the welfare of village communities; and e. Discrimination against ethnicity, religion and faith, race, intergroup, and gender.

The types of regulations that exist in the Village, in addition to Village Regulations are Village Head and Village Head Regulations.

The Village Head Regulation is a regulation stipulated by the Village Head of 2 (two) Villages or more that Engages in inter-village cooperation. The joint Village Head regulation as Referred to in paragraph (1) shall be a combination of the interests of the respective Villages in the inter-village cooperation.

B. Position of Village Regulations in the Legislation System

To make improvements to Legislation Number 10 Year 2004 on the Establishment of Legislations and Regulations of the People's Legislative Assembly submitted a Draft Legislation on Procedures for the Establishment of Legislations and Regulations which was then Ratified and promulgated into Legislation Number 12 Year 2011 on the Establishment of legislation decree, the which is declared effective on 12 August 2011. 1945 Constitution of the State of the Republic of Indonesia;

- 1) Decision of the People's Consultative Assembly;
- 2) Legislation / Government Regulation in Lieu of Legislation;
- 3) Government regulations;
- 4) Presidential decree;
- 5) Provincial Regulations; and
- 6) Regency / Municipal Regulation.

Thus Spike the Provincial Regulations and Regency / City Regulations are included in the hierarchical system, while the Village Rules are not included in the hierarchical system. In Article 8 paragraph (1) and (2) of Legislation number. 12 Year 2011 village or Mentioned regulations are explicitly or vaguely. In full Article 8 paragraph (1) and (2) of Legislation number. Article 1 Paragraph (1) includes regulations stipulated by the People's Consultative Assembly, the People's Legislative Assembly, the Regional Representative Council, the Supreme Court, the Constitutional Court, the Examining Board Finance, Judicial Commission, Bank Indonesia, Minister, body, institution or on the same level commission established by Legislation or Government on the order of the Legislation, Provincial People's Representative Council, Governor, Regency / Municipal House of Representatives, Mayor, Village Head or equivalent. (2) The Legislations and regulations as Referred to in paragraph (1) are recognized and have a legal binding force as long as it is ordered by a higher or Legal Regulation is established on the basis of authority.

So the Village Regulations based on Legislation number 12 Year 2011 separated its existence as a Regional Regulation as regulated by Legislation number 10 Year 2004. In other words the current position of village regulations shows that it is not a regional regulation anymore. The question arises as to whether there is a vague or unclear arrangement of village regulations by Legislation number 12 of 2011 against Legislation number. 10 Year 2004 the existence and urgency

of village regulations Juridical Become reduced? The question will be answered the next in the description.

Furthermore, if we observe your the hierarchy of Legislations and Regulations in Legislation Number 12 Year 2011 on the Formulation of the Legislations and Regulations Mentioned above, it is different from the regulation of the existing hierarchy of Legislations and Regulations Number 10 Year 2004 About Establishment of Legislations and Regulations that do not include the Decree of the People's Consultative Assembly and incorporate Village Regulation as a hierarchical system of the Legislations of the Republic of Indonesia. Then in the provisions of Legislation Number 10 Year 2004, precisely in Article 7 paragraph (1) stating that the type and hierarchy of Legislation are as follows:

- a. Constitution of the State of the Republic of Indonesia;
- b. Legislation / Government Regulation in Lieu of Legislation;
- c. Government regulations;
- d. Presidential decree;
- e. Regional Regulation.

Furthermore, in Article 7 paragraph (2) Stating that the Regional Regulation as Referred to in paragraph 1 letter e covers:

- a. Provincial Regulations shall be drawn up by the Provincial People's Representative Council together with the Governor;
- b. Regency / Municipal Regulations shall be made by the Regional House of Representatives of the Regency / Municipality together with the Regent / Mayor;
- c. Village Regulations / Regulations on the same level, made by the Village Representative Body or other names together with the Village Head or other names

Based on the provisions of Article 7 paragraph (2) sub-paragraph e of Legislation Number 10 Year 2004 above makes the basis that Village Rules are included / Recognized in the type and hierarchy of the Legislations and Regulations of the Republic of Indonesia. In other words, if you see the provisions of Article 7 paragraph (1), (2), and (3) of Legislation number. 10 of 2004 above, the village regulations are clearly one of the definitions of Regional Regulations that exist at the village level. Nevertheless, the procedures for making the rules of the village should be regulated by the regulation of the district or city concerned. In the history of village arrangements, several regulations have been set on the Village items, namely Legislation Number 22 of 1948 on the Principles of Regional Government, Legislation Number. 1 of 1957 on the Principles of Regional Government, Legislation Number 18 Year 1965 on the Principles of Regional Government, Legislation Number 19 Year 1965 About Village For Transitional Form To Accelerate the Realization of Level III Regions Across the Territory of the Republic of Indonesia, Legislation Number 5 Year 1974 on the Principles of Government in the Region, Legislation Number 5 Year 1979 on Village Governance, Legislation Number 22 Year 1999 on Regional Government, Legislation Number 32 Year 1965 on Regional Government, and most recently Legislation Number 23 Year 2014 on Regional Government.

In practice, the regulation of the village cannot accommodate all the interests and needs of the village community roommates up to number has amounted to about 73,000 (Seventy Three Thousand) Villages and about 8,000 (Eight Thousand) villages. In addition, the implementation of village regulation that has been applied is number longer Appropriate with the development of the times, especially among others concerning the position of society, Democratization, diversity, community participation,

as well as progress and even distribution of development the resulting in disparities between regions, poverty, and socio-cultural problems that can Disrupt the unity of the Unitary State of the Republic of Indonesia.

In relation to the legal status or the existence of Village Regulations in Legislation Number 6 of 2014 about Village, in Article 69, the Village Regulation Type consists of Village Regulations, Village Head Rules, Regulations and Village Head. Rules in the Village are prohibited against the public interest and / or the provisions of the higher Legislation. Village regulations are determined by the Village Head after being Discussed and agreed with the Village Consultative Board.

Furthermore, Village Folded Regulation is a Local Rule. Village regulations are established on the basis of the principles of legislation. A. Hamid S. Attamimi states, that the principle of the establishment of legislation that deserves special in the domain of Indonesian-ness, consists of: Legal ideals of Indonesia, the Legal State Based Principles, Principles of Government under the Constitution and other principles , In the formulation of Legislation, in addition to adhering to the principles of the Formulation of good legislation, Also based Also on the principles of common Legislation, the which consists of the General Legislation of the country based on the Legislation, the General Legislation of government based on the constitutional system, the principle of state Legislation based on people's sovereignty.

Legislation Number 12 Year 2011 regarding the establishment of legislation has given recognition to Village regulations as a Legislation of Indonesia. What is meant by Village Regulations pursuant to Legislation Number 12 Year 2011 on the Establishment of Legislation is a Legislation made by the Village Representative Body or by other names together with the Village Head or other names. The procedures for drafting the Legislation up to the regency / municipal regulation are regulated in Legislation Number 12 Year 2011, while the provisions on the procedures for making the Village Regulations are delegated by Legislation Number 12 Year 2011 to be regulated by the relevant Regency / City Regulations. The delegation to regulate the procedures for making the Village Regulation seems to be intended to accommodate the diversity of villages in each District or City. Prior to the enactment of Legislation Number 12 Year 2011 on the Establishment of Legislations and Regulations, Village Regulation is a part of the Regional Regulation which includes the type of Legislations regulation, as set forth in Article 7 paragraph (2) letter c of Legislation Number 10 year 2004 concerning the Establishment of Regulation Legislation. After the enactment of Legislation number 12 of 2011 on the Establishment of Legislations and Regulations, Village Regulations are not explicitly mentioned as one of the Legislation. However, the position of the Village Regulations actually still includes the legislation. This is based on the

provisions of Article 8 paragraph 1 of Legislation Number 12 Year 2011:

The types of Legislations and regulations as Referred to in Article 7 paragraph (1) include the Regulations established by the People's Consultative Assembly, the People's Legislative Assembly, the Regional Representative Council, the Supreme Court, the Constitutional Court, the Supreme Audit Board, judicial Commission, Bank Indonesia, a body, a body or commission of the same level established by Legislation or Government on the order of the Act, the Provincial People's Legislative Council, the Governor, the Regency / Municipal People's Representative Council, the Regent / Mayor , the Village Head or the equivalent. "

The recognition of the existence of Village Rules and having binding legal force as long as ordered by a higher Regulations or established under the authority (formal), reinforced in Article 8 paragraph (2) of Legislation Number 12 Year 2011. Based on Article 101 of legislation Number 12 in 2011, all Legislations and regulations that are the Implementing Regulations of legislation Number 10 Year 2004 are declared as valid as long as they are not contradictory to the provisions of legislation Number 12 Year 2011. Although the village government can not simply form a Village Rule to elaborate a higher level of Legal Regulation number if there is an order from the legislation or delegation Because the original affairs authorities or held by the Village are very limited.

Furthermore, Legislation Number 6 Year 2014 on Village Rural Village determined by the Village Head after Discussed and agreed with the Village Consultative Board is the legal and policy framework in the implementation of Village Government and Village Development. Determination of Village Rules is an elaboration of the various authorities owned by the Village Refers to the provisions of the higher legislation. As a political product, Village Rules are processed democratically and participative, the process of compilation involves the participation of villagers. Villagers have the right to propose or provide input to the Village Head and Village Consultative Bodies in the process of drafting the Village Rules. Types of Rules in the Village, in addition to Village Rules Regulations are Village Head and Village Head Rules. Village regulations are prohibited to conflict with the public interest and / or the provisions of the higher Legislation. As described in Chapter VII on Village Rules in Legislation Number 6 of 2014 on this Village which reads article 69 that: (1). Type of Rules in the Village consists of Village Rules, Village Head Rules, Regulations and Village Head. (2). The regulation as Referred to in paragraph 1 is prohibited against the public interest and / or the provisions of the higher Legislation. (3). Village Regulation is determined by the Village Head after being Discussed and agreed with the Village Consultative Board. (4). The draft Rules on Village Revenue and Expenditure Budget, levy, spatial, and organization of the Village Government should get an evaluation from the Regent / Mayor before it is determined to be a Village Rule. (5). The evaluation result as Referred to in paragraph 4 shall be submitted by the Regent / Mayor number later than 20 (twenty) working days from the date of receipt of the draft of the Regulation by the Regent / Mayor.

Status of Village Regulations in the Indonesian Legislation System

In the Act Number 6 of 2014 on the Village was considered more Decentralizing power against loose in the Village. The Legislation re-enacted the role of Village Consultative Bodies as a village parliament to exercise oversight of village policies, especially in establishing village regulations.

When viewed from the arrangement (hierarchy) of all types of legislation in Indonesia, then it is not only stipulated solely, but it is more Because The Legislations and regulations in Indonesia in addition to being formed by different agencies, each having its own functions and content of different content in accordance with the level, so that the hierarchy, functions and material content of the Regulations legislation always form a functional relationship between the Regulation of the one with another.

Village Regulation is a form of legal product produced by the government at the village level created by the Village Deliberation Board together with the village head where the Formulation procedure is regulated by the relevant Regency / City Regulation.

In preparing the Village Rules there are limitations that should be used as a general reference in the preparation regulations legislation. Under the provisions of Article 5 of Legislation Number 12 Year 2011, in drafting the Legislations and Regulations shall be based on the principles of the establishment of good Legislations Regulations, which include:

1. Clarity of purpose; that any formulation of the Legislation shall have a clear objective to be Achieved;
2. The Appropriate institutional or organizers; that every type of legislation should be made by the institution / official forming the appropriate legislation. Such statutory regulations may be void or null and void, if made by an unauthorized institution / official;
3. Conformity between type and content of the material; that in the Formulation of Legislations and Regulations should really pay attention to the material content that is Appropriate with the type of legislation
4. Can be implemented a; whereas in every legislative formulation it shall take into account the effectiveness of the legislation in society, both philosophically, jurisdictionally and sociologically;
5. Utility and usability; Legislation that is made every Because it is really needed and useful in regulating the life of the people, nation and state;
6. Clarity of formulation; that every Legislation shall meet the technical requirements of the systematic regulatory regulator, and the choice of word or terminology, and the legal language is clear and easy to understand so as not to result in any kind of interpretation in its implementation;
7. Openness; that in the process of formulating legislation, starting from planning, preparation, preparation, and discussion is transparent and open. Thus, all levels of society have the widest opportunity to provide input in the process of formulating the Legislations and Regulations.

Legislation Number 12 Year 2011 Concerning the Establishment of Legislations and Regulations still Recognizes the existence of Village Regulations as stipulated in Article 8 paragraph (2), the which states that the Legislations and Regulations Referred to in paragraph (1) are Recognized and have binding legal force to the extent ordered by a higher Legal Regulation or established by authority. In the context of Legislation Number 12 Year 2011 Concerning the Establishment of Legislation Regulations, Legislation

hierarchy is number longer solely based on structural hierarchy, but Also Adopted functional hierarchy, so functionally Village Rule Legislation is not a prohibited product, but it is still a Recognized its existence and have the legal binding power.

The removal of village regulations from hierarchy Legislation does not have implications or impacts on the implementation of village governance, since the Village Consultative Bodies can still establish village regulations along with village heads on a firm base that is Legislation Number 6 of 2014 on Villages.

III. CONCLUSION

Based on the previous description, several conclusions can be put forward as follows:

1. Democratization in village administration is indicated resources through the authority of the Formulation of Village Regulation namely the existence of an institution authorized to establish a Village Regulation, the institution is the Village Consultative Board and the Village Head, respectively as the Village level executive body. The Village Consultative Body has a function: to discuss and agree on the draft of village regulations with the village head, to accommodate and channel the aspirations of the village community and to supervise the performance of the village head. Democratization in village governance IS ALSO demonstrated through community participation in village Consultations draft. Participation can be seen from the consultation of the draft Village Rule to the community. In accordance with Article 69 Paragraph (9) and (10) of Legislation Number 6 Year 2014 concerning Villages items, namely: Paragraph (9) Village Rule Draft shall be consulted to the Villages and Verse (10) The Village Community shall be entitled to give input to the Draft Regulation Village. As a political product, Village Rules are processed democratically and participative, the process of compilation involves the participation of villagers. Villagers have the right to propose or provide input to the Village Head and Village Consultative Bodies in the process of drafting the Village Rules.

2. The position of village regulations in the legislative system is still a Recognized and the position of Village Regulation as a product of village Legislation has had a very strong Juridical ground with the establishment of Legislation Number 6 of 2014 on the Village. Although the Village Regulations longer number Appears in the hierarchy of legislation after the birth or enactment of legislation Number 12 Year 2011 on the Establishment of Legislations and Regulations, but its existence is strictly regulated and the position of Village Regulation is stronger Because It has been used as the Juridical governance of the Village with the issuance of Legislation Number 6 Year 2014 About the Village. Legislation Number 12 Year 2011 Concerning the Establishment of Legislations and Regulations still Recognizes the existence of Village Regulations as stipulated in Article 8 paragraph (2), the which states that the Legislations and Regulations Referred to in paragraph (1) are Recognized and have binding legal force to the extent ordered by a higher Legal Regulation or established by authority.

In the context of Legislation Number 12 Year 2011 Concerning the Establishment of Legislation Regulations, hierarchy Legislation is number longer solely based on structural hierarchy, but Also Adopted functional hierarchy, so functionally Village Rule is not a prohibited Legislation product, but it is still a Recognized its existence and have the legal binding power. The removal of village regulations from hierarchy Legislation does not have implications or impacts on the implementation of village governance, since the Village Consultative Bodies can still establish village regulations along with village heads on a firm base that is Legislation Number 6 of 2014 on Villages.



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REFERENCES

1. Asshiddiqie, Jimly. 2010. Development and Consolidation of the State Institute of Post-Reformation. Jakarta: Sinar Grafika. (Asshiddiqie, Jimly., 2010. Development and Consolidation of State Institutions Post Reforms (Jakarta: Rajawali Press, 2010).
2. Astawa, I Gde Pantja. 2008. Dynamics of Law and Science of Legislation in Indonesia. Bandung: PT ALUMNI. (Astawa, I Gde Pantja, Legal Dynamics Science and Law in Indonesia. (Bandung: PT Alumni, 2008).
3. Halim Hamzah, Practical Ways to Develop And Designing Local Regulation A Theoretical and Practical Manual Accompanied Articulated Towards Empirical Theoretical Conception, Jakarta: Rajawali Pers. (Hamzah Halim, Practical Ways To Compile And Design Local Regulations A Theoretical And Practical Study The Theoretical Conceptual accompanied Toward Empirical Manual Articulation (Jakarta: Rajawali Press, 2013).
4. Huda, Ni'matul. Developments in Constitutional Law Debate and Ideas Improvement. Yogyakarta: FH UII Press. 2014 (Ni'matul Huda, Constitutional Law Debate and Improvement Idea Development, (Yogyakarta: Faculty of Law of Indonesian Islamic University Press, 2014).
5. Isra, Saldi Shifting Function Legislation, Jakarta: Rajawali Press, 2013, (Saldi Isra, Shifting Legislative Function (Jakarta: Rajawali Press, 2013).
6. Rosidin, Debt. 2010. Autonomy and Decentralization. Bandung: CV REFERENCES FAITHFUL. (Rosidin, Debt. Regional Autonomy and Decentralization. (Bandung: CV REFERENCES FAITHFUL, 2010).
7. Saifuddin. 2009. Public Participation in Formation of Regulation Legislation. Yogyakarta: FH UII PRESS. (Saifuddin, Public Participation in the Formation of Legislation. (Yogyakarta: Faculty of Law Press, 2009).
8. Soeprapto, Maria Farida Indrati. Science of Legislation, Type, Functions and Material Content. Yogyakarta: KANISIUS. 2007. (Soeprapto, Maria Farida Indrati. Law Science (Yogyakarta: Doubleday, 1998).
9. Sukriono, Didik. 2010 Village Government Law Reform, Village Government Law Politics in Indonesia. Malang: Equivalent Fress. (Sukriono, Didik. Renewal of Village Governance Law, Political Law of Village Government in Indonesia. (Malang: Equivalent Press, 2010).
10. Wasistiono, Sadu. 2007. Rural Development Prospects. Bandung: PT. FOCUS MEDIA-Members IKAPI. (Wasistiono, Sadu. Village Development Prospects. (Bandung: Focus Media, 2007).
11. Yuliandri, Principles of Establishment Regulation Legislation Good, Jakarta: Rajawali Press, 2009, 24 (Yuliandri, Principles for the Establishment of Good Regulations (Jakarta: Rajawali Press, 2009)

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