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LEGAL POSITION OF VILLAGE REGULATIONS MADE BY THE VILLAGE DELIBERATIVE BODY (BPD) IN THE HIERARCHY OF STATUTORY REGULATIONS

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Village regulations (Perdes) play a central role in linking national development policies with local needs, reflecting villagers' daily realities. Although crucial for governance, their legal status within Indonesia's legal hierarchy remains problematic. This study uses normative legal research to examine the regulatory gap surrounding the review of Perdes. While Perdes are subordinate to Regional Regulations, no institution—neither the Supreme Court nor the State Administrative Court (PTUN)—is clearly empowered to review their formal or material validity. As a result, Perdes occupy a legal grey zone lacking an authoritative oversight mechanism. This situation contradicts the constitutional principle of legal certainty under Article 28D(1) of the 1945 Constitution. The paper argues that the absence of a judicial review framework creates a legal vacuum that undermines accountability and the effectiveness of village-level governance and calls for reforms to properly integrate Perdes into Indonesia's system of statutory regulation.

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1. INTRODUCTION

Villages serve not only as administrative institutions; they are also places where daily community life takes place in a local way. Villages are where the most tangible development can be implemented. This is because villages serve as the meeting point between macro policies at the national level and micro realities on the ground. In this regard, the success of national development programs depends heavily on the ability of the central government, regional governments, and village officials to implement policies at the local level [8].

Furthermore, constitutional recognition of indigenous legal communities and their traditional rights, as stipulated in Article 18 paragraph (7) of the 1945 Constitution, demonstrates that the Indonesian state values the development of social and cultural diversity in many areas, including at the village level. With this recognition, villages as local government institutions gain sociological and historical legitimacy to play a significant role in the life of the nation. Furthermore, a special law, Law Number 6 of 2014 concerning Villages, enhances this foundation. This law significantly shifts the perspective on village management from being merely part of development to being part of active autonomy [16].

Villages are given greater authority in terms of regulation (local legislation), finance (Village Funds), and community development through the Village Law. First, in terms of government authority, the Village Law grants villages the independence to regulate and manage government affairs, development, community development, and community empowerment. Second, in terms of finance, the distribution of Village Funds, funded directly from the State Budget, is regulated. Therefore, villages are now actively involved in local development, not merely as objects of development [4].

The Village Consultative Body (BPD) is a fundamental pillar of democracy when villages are granted autonomy. It serves as a strategic partner to the Village Head in the regulatory process, conveying community aspirations and overseeing the implementation of village governance. The BPD's function is crucial in ensuring that village-level policy-making is participatory, transparent, and accountable. The BPD is a crucial part of contemporary village governance due to its legislative (discussing and agreeing on Draft Village Regulations with the Village Head), aspiration (accommodating and channeling community aspirations), and oversight (monitoring the Village Head's performance).

The existence of the Village Consultative Body (BPD) is a fundamental pillar of democracy within the framework of village autonomy. The BPD is a village "mini-parliament" with members elected from

the community. The BPD performs three primary duties, making it a strategic partner to the village head. As stipulated in Article 55 of the Village Law, the Village Consultative Body has the following functions:

1) Legislative Function (Discussing and Approving Village Regulations)

Article 55 letter a of the Village Law explicitly states that the BPD has the function of discussing and approving draft Village Regulations (Ranperdes) together with the Village Head. This demonstrates that the BPD is not merely a rubber stamp for the Village Head's policies, but rather plays an active and equal role in the regulation-making process at the village level. Approval from the BPD is an absolute requirement for a draft regulation to be ratified as a valid Village Regulation. This function ensures that every policy created reflects the aspirations and needs of the community, not just unilateral policies.

2) Aspiration Function (Accommodating and Channeling Community Aspirations)

According to Article 55, letter b of the Village Law, the BPD is responsible for receiving and disseminating community aspirations. This function serves as a communication channel between residents and the village government. The BPD must proactively listen to community complaints, hopes, and input before processing and officially submitting them to the Village Head and Village Government. It is crucial to do this work to ensure that policies made at the village level are truly based on community participation and real needs.

3) Supervisory Function (Overseeing the Performance of the Village Head)

As stipulated in Article 55, letter c of the Village Law, the BPD has an additional legislative function as a supervisor of the Village Head's performance. This function allows the BPD to oversee the implementation of Village Regulations, the Village Revenue and Expenditure Budget (APBDes), and established programs. The BPD uses this oversight to establish checks and balances, which are essential to ensure transparency, prevent abuse of power, and increase accountability in village governance.

Although Village Regulations play a crucial role, there are complex legal issues regarding their place within the legal system. This issue is paradoxical because, although Village Regulations are listed as a type of regulation in Article 8 paragraph (1) of Law Number 13 of 2022 concerning the Second Amendment to Law Number 12 of 2011 concerning the Formation of Legislation (hereinafter referred to as the P3 Law), the law does not explicitly place them below Regency/City Regional Regulations. This legal vacuum, or recht vacuum, raises doubts, as the principle of "lex superior derogat legi inferiori" (higher law overrides lower law) becomes unclear.

Ultimately, although vulnerable village regulations directly impact people's lives, their legitimacy is questionable and unequal, especially if their substance contradicts higher-level regulations. To ensure legal certainty and legal protection for every regulation made at the village level, this represents a legal gap that requires serious attention [14].

The consequences of this ambiguity are not only theoretical but have also had real implications in the field. Without a clear normative framework and adequate review mechanisms for the public to reject or challenge Village Regulations deemed detrimental, village officials and communities face significant legal vulnerabilities. Empirical findings across several locations indicate that Village Regulations (Perdes) are inconsistent with Regional Regulations (Perda) or higher-level regulations, resulting in losses for the community, regulatory chaos, and potential conflict [18]. For example, in cases of spatial planning and village levies that lack a strong legal basis and conflict with district/city regulations, the community suffers. At the same time, resolution efforts are time-consuming and costly, and cause social damage.

Given the complexity of the issues and the existing legal vacuum, an in-depth, highly relevant, and urgent research study is necessary. Theoretically, this research aims to examine the relationship between unique (*sui generis*) village regulations and the formal legal hierarchy system. It also examines the urgency of applying the principles of legisprudence to create rational, legitimate, and high-quality regulations.

This research should provide concrete solutions to unravel the legal tangle and restore the role of the Village Consultative Body (BPD). The BPD's role is expected to shift from being merely a supplementary organ to an equal strategic partner in formulating village legal products. To address this issue, an active role for local governments in more effective guidance and oversight of Village Regulations (Perdes) is needed. This will ensure that each Perdes has a strong legal framework and does not cause harm to the community. It is also a crucial step in restoring the BPD's role as a sovereign institution in driving village development. Based on the above background, the following research questions can be formulated: First, what is the legal standing of Village Regulations made by the Village Consultative Body (BPD) within the hierarchy of laws and regulations in Indonesia? Second, does the absence of a formal judicial review mechanism for Village Regulations impact legal uncertainty and harm to the community? The objectives of this study are as follows: First, to analyze and evaluate the legal standing of Village Regulations (Perdes) within the hierarchy of laws and regulations in Indonesia. Second, to examine the legal and social implications of the absence of a formal judicial review mechanism for Perdes, as well as its impact on legal certainty for village communities.

2. RESEARCH METHOD

The research method used is normative legal research [21], using library materials or secondary sources collected. Legal research is also a process of determining legal rules, principles, and doctrines to address the legal issues at hand [9]. The basic materials used in this study came from library data. Everything related to data analysis is narrated holistically to achieve a comprehensive combination, and conclusions can be drawn in a balanced, structured manner using a deductive method.

One of the original results of this research is the 2021 study by Muhammad Iqbal Pajri from Muhammadiyah University of Palangkaraya entitled "Implementation of the Village Consultative Body (BPD) Function in Optimizing Development in Tuo Sumay Village, Sumay District, Tebo Regency." This research specifically discusses how the BPD in Sidodadi Village is implemented in accordance with Article 55 of Law No. 6 of 2014 concerning Villages: discussing and approving Village Plans. The BPD's functions consist of working with the village head, receiving and disseminating the village community's aspirations, and overseeing its performance. The BPD's functions consist of (a) discussing and approving draft village regulations with the village head (legislative function); (b) receiving and disseminating village community aspirations (aspiration function); and (c) supervising the implementation of village regulations and village head regulations.

Second, the BPD in Sidodadi Village, Masaran District, Sragen Regency faces challenges in implementing its functions in accordance with Law No. 6 of 2014. Internal challenges include obstacles arising within the BPD, such as the busyness of BPD members outside their activities and a lack of operational funds. External challenges originate from outside the BPD, such as the village government's work mechanisms that are not open to the BPD and a lack of operational funds.

Third, the Sidodadi Village Consultative Body (BPD) in Masaran District, Sragen Regency, has made various efforts to overcome obstacles hindering the implementation of its functions according to Law Number 6 of 2014: 1) Efforts to overcome internal obstacles by holding evening deliberations to reduce operational expenses; 2) Efforts to overcome external obstacles by holding coordination meetings between village officials to reduce village expenses.

Another research source is Sri Nurhayati, from Sebelas Maret University, in 2017, entitled "Supporting and Inhibiting Factors in the Role of the Tawengan Village Consultative Body in the Process of Establishing Village Regulations." The context of the content explains: 1. The Village Consultative Body functions to establish Village Regulations together with the Village Head, accommodate and channel

community aspirations, and conduct oversight. In addition to carrying out its function as a bridge between the Village Head and the village community, it can also act as an institution that acts as a representative institution for the community. The implementation of the duties and functions of the Village Consultative Body basically refers to the duties and functions of the institution that have been regulated in statutory regulations, namely carrying out legislative functions, accommodating and channeling community aspirations and supervisory functions.

The implementation of the legislative function of the Village Consultative Body has not been carried out effectively. However, in this case the Village Consultative Body in Tawengan Village also does not violate the regulation in this case Law Number 6 of 2014 concerning Villages and Government Regulation Number 111 of 2014 concerning Technical Guidelines for Village Regulations Article 7 paragraph (1) states that the Village Consultative Body can prepare and propose draft Village Regulations, paragraph (2) Draft Village Regulations as referred to in paragraph (1) except for the draft Village Regulation on the Village medium-term development plan, Draft Village Regulation on the Village Government work plan, draft Village Regulation on the Village APB and draft Village Regulation on the Accountability Report for the realization of the implementation of the Village APBDesa, because in reality the Tawengan Village Consultative Body has never submitted a Draft Village Regulation.

One of the supporting factors for the implementation of the Role of the Village Consultative Body in the process of Drafting and Determining Village Regulations is the community as the determinant of success in carrying out its functions, the implementation of the process of making Village Government regulations must involve the community as the subject of Village development and the cause of the ineffectiveness of the implementation of the duties and functions of this institution, especially the implementation of legislation, is due to the lack of understanding and skills and abilities of members of the Village Consultative Body in Drafting and Making a Village Regulation, in this case the Government has not implemented the rules made, in the Boyolali Regency Regional Regulation Number 10 of 2015 concerning Guidelines for the Preparation of Village Government Organizations and Work Procedures Article 19 paragraph (1) The Regional Government has the authority to guide and supervise the implementation of Village Government, Article 20 Guidance and supervision carried out by the Regional Government as referred to in Article 19 paragraph (1) includes: letter i reads organizing education and training for the Village Government, Village Consultative Body, Community Institutions, and traditional institutions.

3. RESULTS AND DISCUSSION

The Position of the Village Consultative Body in the Constitutional System of the Republic of Indonesia

Constitutionally, the existence of the Village Consultative Body (BPD) embodies the principle of a self-governing community, as recognized in Article 18, paragraph (7), of the 1945 Constitution, which states that the state recognizes and respects customary law communities and their traditional rights. Therefore, the BPD has constitutional legitimacy to perform local legislative functions within the village government.

Given the Village Consultative Body's (BPD) role as a working partner of the Village Head, there is no doubt of an inseparable relationship between the two institutions. As a follow-up to Law Number 9 of 2015 concerning the Second Amendment to Law Number 23 of 2014 concerning Regional Government, the Government issued Government Regulation Number 47 of 2015 concerning Amendments to Government Regulation Number 43 of 2014 concerning Implementing Regulations of Law Number 6 of 2014 concerning Villages. The contents of this Government Regulation, among other things, regulate the implementation of the Village Government. Article 11 states that the Village Government consists of the Village Government and the Village Consultative Body (BPD) [1].

The Village Consultative Body, as regulated in the Government Regulation, is established under Article 29, which states, "The Village Consultative Body (BPD) serves as an element of the Village Government administration." Furthermore, Article 30 paragraph (1) states, "BPD members are representatives of the residents of the village concerned based on regional representation determined through deliberation and consensus." The duties of the Village Head are regulated in Article 14, paragraph (2), which states, "The Village Head has the task of administering government, development, and community affairs." The authority of the Village Head is regulated in paragraph (2) of Government Regulation Number 47 of 2015 concerning Amendments to Government Regulation Number 43 of 2014 concerning Implementing Regulations for Law Number 6 of 2014 concerning Villages."

The BPD carries out a legislative function at the village level, namely establishing Village Regulations together with the village head. This function essentially resembles the legislative function at the national level carried out by the DPR, albeit within a limited scope of authority. The existence of the BPD demonstrates the presence of a check-and-balance mechanism at the lowest level of government, as a means of implementing the principles of deliberative democracy in the village.

From a constitutional law perspective, the BPD is a non-executive institution with representative and oversight functions. This is emphasized in Article 55 of the Village Law, which states that the BPD has three main functions: discussing and agreeing on draft village regulations with the village head, accommodating and channeling community aspirations, and overseeing the performance of the village government.

The BPD's position as a representative institution of the village community is not subordinate to the village head, but rather an equal partner working based on the principles of partnership, participation, and accountability. The horizontal relationship between the BPD and the village head strengthens the legal legitimacy of every public policy adopted at the village level. According to Lawrence Friedman's legal system theory, the effectiveness of legal institutions depends on the structure, substance, and culture of law. In the context of the BPD, all three must be in harmony: a clear institutional structure, legal substance in the form of legitimate authority, and a legal culture in the form of village community awareness to participate in decision-making [5]. The BPD's function is not only normative but also sociological. This means that the BPD serves as a means of social and political representation, enabling the community to voice its aspirations. Through this function, the BPD serves as a guardian of Pancasila values at the local level, particularly the fourth principle, which concerns democracy guided by the wisdom of deliberation/representation. The BPD's role as a representative of the village people is philosophically grounded in the concept of participatory democracy. In this system, political decisions are not solely derived from the will of the village elite but also from deliberations of all elements of society. This model is considered more in keeping with the social character of Indonesian society, which prioritizes collectivity and mutual cooperation.

Structurally, the Village Consultative Body (BPD) is not a regional government organ as stipulated in Law Number 23 of 2014 concerning Regional Government, but rather is part of the autonomous village government system. Therefore, the BPD is not subordinate to the district/city government hierarchy, but is an integral part of the village government, which enjoys autonomy under national law. In terms of authority, the BPD has the right to oversee the implementation of Village Regulations and the use of the Village Revenue and Expenditure Budget (APBDes). This authority is intended to maintain public accountability and prevent abuse of power at the village level. In practice, the BPD's oversight function often faces challenges due to limited human resource capacity.

From the perspective of the hierarchy of norms theory, the BPD obtains the authority to formulate regulations through delegation from higher-level regulations, namely the Village Law and District/City Regional Regulations. Therefore, legal products produced by the BPD must not conflict with higher-level

legal norms, in line with the principle of *lex superior derogat legi inferiori* [10]. In state administration, the Village Consultative Body (BPD) serves as a counterbalance to the dominance of the village executive. This mechanism demonstrates the adaptation of the principle of checks and balances to village governance. Thus, the BPD is responsible for overseeing the implementation of village policies without exceeding the authority established by law. The concept of participation and representation upheld by the BPD aligns with the principles of good governance, particularly accountability, transparency, and public participation. The BPD is a crucial instrument for ensuring that village policies reflect the community's interests, not merely the administrative policies of the village head. Therefore, the BPD holds a crucial position in the Indonesian state system as a representative institution at the local level. Its function not only reflects village democracy but also strengthens the implementation of the rule of law (Rechtsstaat) at the smallest governmental level. The existence of the BPD is clear evidence that political and legal decentralization in Indonesia has reached the very roots of society.

The Village Consultative Body as a Local Legislative Institution in the Formation of Village Regulations

The Village Consultative Body (BPD) is a representative legislative body at the village level, playing a key role in formulating Village Regulations (Perdes). Based on Article 55 of Law Number 6 of 2014 concerning Villages, the BPD's function is to discuss and agree on draft village regulations with the village head. This function makes the BPD a local legal and political institution that exercises legislative authority at the micro-level, in accordance with the principles of decentralization and village autonomy.

From a constitutional law perspective, the BPD's role in formulating village regulations is the implementation of the principle of local self-government, namely the ability of village communities to regulate and manage their own affairs through democratic representative institutions. This principle reinforces the principles of recognition and subsidiarity as stipulated in Article 18B paragraph (2) of the 1945 Constitution.

The role of the Village Consultative Body (BPD) in the village-level legislative process is a miniature of the national legislative system. In this context, the BPD serves to balance the power of the village head so that it is not concentrated in one person's hands. The functional relationship between the BPD and the village head illustrates the principle of checks and balances as applicable in the national constitutional system.

The BPD's authority in the formation of Village Regulations (Perdes) is rooted in Article 69 paragraph (1) letter b of the Village Law, which states that one of the village head's obligations is to implement village democracy through deliberation with the BPD. This means that the BPD functions not only as a formal approving body but also as a deliberative forum that determines the direction of village policy. Within the framework of the *Stufenbau des Rechts* theory developed by Hans Kelsen, Village Regulations are at a level of legal norms below Regency/City Regulations. Therefore, their formation process must adhere to the principles of legality and national legal hierarchy. The BPD's role as the institution that forms Village Regulations (Perdes) places it within the decentralized national legal system.

Meanwhile, Hans Nawiasky argued that in a legal system, every norm must be derived from and in accordance with a higher norm (die *Stufenordnung der Rechtsnormen*). In this context, the BPD's authority to establish Village Regulations derives its legitimacy from the Village Law, which in turn derives from the 1945 Constitution as the highest basic norm [11].

The formation of Village Regulations by the Village Consultative Body (BPD) has not only a normative dimension but also a sociological one. This is because the BPD is the institution closest to the village community, thus able to accommodate aspirations directly. Therefore, the process of forming Village Regulations should be a manifestation of active community participation in legal development at the local level. The concept of public participation in the formulation of Village Regulations is reinforced by Article 96 of Law No. 12 of 2011, in conjunction with Law No. 13 of 2022, which guarantees the community's right to provide input at every stage of the legislative process. Therefore, the BPD is obliged to involve community elements openly, both through village deliberations and consultative forums.

In practice, the BPD often faces implementation challenges due to limited human resources and a lack of technical understanding of legislation. This condition results in the quality of some Village Regulations not meeting formal and material standards. Therefore, the institutional capacity of the BPD needs to be strengthened through legislative drafting training at the village level. In terms of procedural matters, the process of establishing a Village Regulation (Perdes) by the Village Consultative Body (BPD) includes planning, discussion, joint approval, ratification by the village head, and promulgation in the village gazette. This structure adopts the regulatory cycle pattern as applied in national legislation. In addition to its legislative function, the BPD also carries out a representative function oriented towards public accountability. As a representative of the village community, the BPD must ensure that every regulation it establishes aligns with community interests and does not conflict with local values. From a legal and political perspective, the BPD's role in establishing a Village Regulation (Perdes) is a manifestation of legislative decentralization, namely the delegation of some authority to establish legal

norms from the central government to regions and villages. This decentralization aims to strengthen the effectiveness of laws that are appropriate to the social conditions of local communities.

The quality of legislation produced by the Village Consultative Body (BPD) depends heavily on the institution's ability to conduct empirical studies on community needs. Without evidence-based studies, Village Regulations (Perdes) have the potential to be irrelevant or ineffectively implemented. Therefore, an Evidence-Based Policy approach is a crucial paradigm in the village legislative process. The principles of transparency and public accountability must also be the primary guideline for the BPD in formulating regulations. With public information transparency, the public can monitor every village legislative process, thereby preventing abuse of authority. Digitizing Village Regulation documents is a strategic step to achieve this goal. In an evaluative context, the effectiveness of regulations created by the BPD must be measured periodically. This evaluation aims to ensure that each regulation truly provides social benefits and does not conflict with higher-level legal norms. As a local legislative body, the BPD must balance formal legality with social legitimacy. This means that the regulations produced must not only comply with applicable law but also be accepted by the village community as just and beneficial. This balance reflects the integration of positive law and local social values. Thus, it can be emphasized that the BPD plays a role as a local legislative body that carries out a strategic function in the formation of Village Regulations. This role is not only technical-normative, but also political, sociological, and ideological, reflecting the implementation of substantive democracy at the grassroots level. By strengthening capacity, transparency, and participation, the BPD becomes a crucial instrument in building a national legal system that is adaptive, participatory, and socially just.

Deliberation and Public Participation Mechanisms in Legislation, Effectiveness, Evaluation, and Inter-Structural Relationships in Village Regulations.

The process of formulating village regulations should be based on the principle of deliberation as a mechanism of local political legitimacy that represents the collective will of village residents. Technical regulations on the organization of deliberations and the roles of relevant parties provide a normative foundation for community involvement, ensuring that village legal products are rooted in local aspirations.

Village deliberations, as regulated by the ministry's technical policies, are not merely procedural rituals but rather institutional tools for aggregating interests and fostering consensus among local actors, including the village head, the Village Consultative Body (BPD), and community groups. These tools serve to reduce information asymmetry during the drafting stage of village regulations. Effective public engagement requires a systematic consultation mechanism: socialization of drafts, open deliberation

forums, and simple impact assessments involving traditional leaders, youth, women, and marginalized groups. The implementation of village policy-making guidelines encourages these practices as part of accountable governance [20].

From a governance and village development perspective, public participation in the formation of village regulations contributes to the quality of resource allocation and the sustainability of village programs when residents feel represented in the formulation of norms, compliance and collaboration in implementing regulations increases, thus increasing the effectiveness of local policies. However, the reality on the ground shows variability in practice: the facilitation capacity of village governments and the BPD, as well as the existence of technical and cultural barriers, influence the extent to which deliberations are inclusive; international documents on optimizing Village Law emphasize the need to strengthen the capacity of facilitators and transparency mechanisms to close this gap [13].

A participation-oriented implementation model requires instruments for measuring participation and evaluating the process, such as meeting attendance lists, transparent minutes, and documentation of public consultations. Without documented evidence of the process, claims of participation risk becoming a normative formality lacking substantive content. Legally, ministerial technical regulations and guidelines for the formation of village regulations place deliberations as a mandatory procedure; this not only strengthens the legal legitimacy of the Village Regulation but also provides an evaluative basis for external and internal supervisors to assess process compliance.

The role of the Village Consultative Body (BPD) as a community representative in deliberations needs to be balanced with internal accountability mechanisms, such as returning deliberation results to constituents and following up on consultations. Without this two-way communication, the BPD's representative function is vulnerable to being substituted for genuine citizen participation. Gender bias and inclusion of vulnerable groups must be integrated into deliberation mechanisms: quorum arrangements, schedules that facilitate women's participation, and gender-sensitive methods for gathering aspirations help ensure that village regulations reflect the interests of the entire community. Local studies emphasize that simple procedural designs can enhance representation [6].

Strengthening the capacity of implementing parties (village government, BPD, external facilitators) through technical training, participatory facilitation modules, and access to draft regulation templates can improve the quality of deliberations. Academic repositories and local policy documents recommend adopting a continuous training approach. Administrative transparency in the publication of draft regulations, minutes of deliberations, and feedback mechanisms are prerequisites for legitimacy to

prevent elite-centered regulation-making practices. Technical regulations governing publication and consultations provide opportunities for oversight by civil society and local media.

Deliberation mechanisms, designed institutionally and operationally to ensure public participation, are key to developing aspirational, effective, and sustainable village regulations. Practical recommendations include strengthening technical guidelines, process documentation, facilitator capacity, and inclusive instruments. All these components complement each other to realize democratic village governance.

The effectiveness of village regulations should be understood as the degree to which they achieve the expected normative and operational objectives of those regulations, namely, producing local policies that respond to community needs, guarantee legal certainty, and facilitate effective governance and village development. Effectiveness measurements should link the objectives of the regulations to output and outcome indicators [15].

Evaluation of village regulations is an important instrument for examining the extent to which regulations have been implemented as designed, whether their implementation has had the desired impact, and what factors hinder or promote their effectiveness; the evaluation approach should combine normative analysis (conformity with the legal hierarchy) and empirical analysis (field data). One aspect of assessing effectiveness is adherence to regulatory development procedures—whether the drafting process, deliberation, public consultation, and technical review have been carried out, as the quality of the process often determines the legitimacy and social compliance with the resulting normative product. This procedural evaluation also serves as an indicator of the accountability of village institutions.

From an outcomes perspective, evaluations need to test whether village regulations contribute to local development goals: for example, improving public services, managing local resources, alleviating poverty, or protecting vulnerable groups. This requires the design of indicators that are specific, measurable, and relevant to the substance of the regulations. The successful implementation of village regulations is often influenced by the capacity of village officials and the Village Consultative Body (BPD). Evaluations should identify gaps in technical, human, and organizational capacity to formulate targeted policy recommendations for institutional strengthening. Contextual factors such as budget availability (APBDes), administrative infrastructure, and local government support play a crucial role in the effectiveness of village regulations; a good evaluation should incorporate contextual analysis to prevent findings from generalizing actual failures related to resource constraints [4].

The village regulation evaluation methodology should be multi-method, combining document studies (regulatory analysis), citizen perception surveys, in-depth stakeholder interviews, and participant observation to capture both the legal dimensions and the practical realities on the ground. A mixed-methods approach enhances the validity of the findings. Furthermore, process indicators (e.g., the number of deliberations, consultation documentation, and processing time) and outcome indicators (e.g., changes in service access, reduced conflict, and program implementation) should be distinguished within the evaluation framework, as expedited procedures do not necessarily translate into substantive outcomes.

Evaluations also need to assess the consistency of village regulations with higher-level regulations; clarifications or revocations by district/city governments can signal substantive inconsistencies that undermine the effectiveness of local regulations. Therefore, normative conformity analysis is a critical component of any legal evaluation. Community participation in the evaluation process strengthens accountability and the relevance of findings; engagement mechanisms, such as post-implementation feedback forums or social surveys, help capture residents' perceptions of compliance and perceived benefits, preventing the evaluation from being solely top-down. For institutional learning purposes, structured evaluations of village regulations should generate lessons learned that can be adopted by other villages; documenting best practices and failures helps accelerate the diffusion of effective regulatory innovations at the local level [3].

The use of integrated data (one-data) and village information systems can improve the quality of evaluations: the availability of accurate data facilitates the measurement of outcome indicators and enables evidence-based evaluations that quantitatively detect policy effects. Therefore, strengthening local data governance is an integral part of any evaluation strategy. From a methodological perspective, effectiveness evaluations should assess not only quantitative outcomes but also qualitative aspects such as social legitimacy and perceptions of fairness; regulations that are technically effective but perceived as unfair risk generating long-term social resistance.

Strengthening the capacity of local evaluators, both at the sub-district and district levels, is crucial to ensure the evaluation process is not always dependent on external parties. This capacity building includes indicator measurement techniques, field data collection, and the development of applicable policy recommendations. A good evaluation report should include operational recommendations, such as changes to technical provisions, rescheduling activities, additional resource allocation, and a clear follow-up plan, so that evaluation results translate into tangible improvements at the village level. To enhance the credibility of the evaluation, a mechanism for validating findings through data triangulation and

stakeholder review is necessary. Recommendations are more easily implemented if they receive local political support and recognition from affected community groups.

The relationship between the Village Consultative Body (BPD), the Village Head, and the community is the pivot of local democracy, determining the quality of village lawmaking. These three actors form a normative cycle that begins with the initiation of ideas, the formulation of drafts, discussions in deliberative forums, and the establishment and enactment of village regulations. This relationship is functional rather than merely structural, as each actor's role touches on aspects of representation, executive power, and community participation [17].

Institutionally, the BPD performs a legislative function at the village level, specifically tasked with discussing and approving draft village regulations with the Village Head. This position positions the BPD as a mediator between the will of the community and the decisions of the village executive, thus ensuring that the quality of the relationship between these institutions determines whether the regulation-making process is participatory and accountable. Technical documentation for the formation of village legal products emphasizes the need for coordination between the BPD and the Village Head from the planning stage to promulgation. The Village Head, as the head of the village executive government, has the initiative and administrative responsibility to prepare draft regulations, conduct outreach, and implement established norms. The relationship between the village head and the BPD must be dialogic, not confrontational, so that the resulting regulations are not merely the product of centralized institutional decisions but also reflect local aspirations verified through representatives.

The community, in turn, plays two key roles: as a source of aspirations and as a monitor of implementation. Meaningful community participation requires access to information about the design, the opportunity to express opinions in deliberation forums, and a concrete feedback mechanism. Without such involvement, the social legitimacy of village regulations will be weakened even if bureaucratic procedures have been met.

The relationship between these actors is not conflict-free; normative tensions often arise between the executive (village head), who wants to implement policies quickly, and the deliberative function of the BPD, which demands in-depth deliberation. This conflict, if managed transparently through deliberation mechanisms and open documentation, can enrich the substance of regulations, but if thwarted by local hegemony, it risks creating arbitrary regulations. From a governance law perspective, the role of the BPD is not merely a symbol of representation, but rather a mechanism for democratic control over the authority of the Village Head; the BPD ideally channels the voices of vulnerable groups and corrects

policy directions that ignore the public interest. Best practices demonstrate that an institutionally active BPD can increase transparency and reduce the practice of capture by local elites [19].

The operational mechanism of this relationship is manifested in a series of stages: planning (identifying issues and needs), preparation (drafting academic papers), discussion (BPD-Village Head deliberations and public forums), stipulation, and promulgation and dissemination. The regularity of this process requires documentation (minutes, attendance lists, draft revisions) that serves as procedural evidence and material for evaluating the quality of the regulation. The technical guidelines for developing village regulations recommend this format and stages as a minimum standard.

Quality public participation demands more than physical presence; it requires facilitation that enhances deliberative capacity, such as providing concise information on the regulation's impact, guided dialogue sessions, and alternative methods for gathering aspirations (surveys, group forums, local social media). When the community is facilitated in this way, the input that emerges tends to be constructive and can be incorporated into the draft regulation by the BPD and Village Head. Transparency is key to publishing draft regulations, notifying of deliberation schedules, and providing access to minutes, minimizing the opacity that allows regulations to be established without public oversight. A healthy relationship among the BPD, the Village Head, and the community is reflected in the practice of publishing information and providing a real feedback forum [2].

Legal legitimacy also depends on the alignment of village regulations with higher-level regulations; the Village Consultative Body (BPD) and Village Head are obligated to ensure that draft village regulations do not conflict with regional regulations, government regulations, or national laws. In practice, technical coordination with relevant agencies at the sub-district and district levels is crucial to prevent norm conflicts that could lead to the revocation of village regulations. Horizontal (between residents and the BPD) and vertical (between the village and district government) dynamics interact. When the BPD functions effectively as a representative, they serve as an extension of the community's voice in vertical forums, facilitating the harmonization of norms and conveying local needs to higher levels of government. Conversely, when the BPD is weak, harmonization becomes fragile, and villages risk producing isolated regulations.

The existence of local complaint or mediation mechanisms strengthens relationships between actors. When communities have channels to raise objections or provide input after regulations are enacted, the BPD and Village Head receive direct feedback that can be used for revisions or more responsive enforcement. Such mechanisms also reduce the potential for escalation of social conflict [7].

The roles of gender and social inclusion cannot be overlooked in this relationship: the Village Consultative Body (BPD) and the Village Head must actively ensure the representation of women, youth, indigenous groups, and vulnerable groups in the regulation-making process. Inclusive participation not only increases social legitimacy but also enriches the substance of regulations, making them more responsive to the needs of all citizens.

The relationship between actors is also conditioned by local political culture and the village patronage system, with patron-client patterns tending to exhibit asymmetry, with the village head more dominant and the BPD less effective. Changing local political culture requires time and interventions that target civic education, transparency in village budgets, and the strengthening of internal control mechanisms. National legal instruments and technical guidelines (e.g., Ministerial Regulations, guidelines for the formation of village legal products) recommend collaborative practices between the BPD and the Village Head, including mandatory public consultation and process documentation. Compliance with these guidelines serves as a formal benchmark for a healthy relationship; however, actual implementation often requires technical assistance from local governments or civil society organizations [12].

From a fiscal accountability perspective, the BPD–Village Head–community relationship also plays a role in oversight of the Village Budget (APBDes): village regulations related to budget allocation, asset management, or local levy arrangements must be discussed through a deliberation mechanism involving the BPD and provide space for community participation so that village fiscal policies do not proceed unchecked. Participatory audit practices and the publication of the APBDes strengthen this oversight function. Strengthening healthy relationships requires institutional tools: standard operating procedures (SOPs) for establishing village regulations, a deliberation calendar, a simple academic paper template, and public communication channels. When such procedures are in place and adhered to, interactions among the BPD, Village Head, and community become more predictable, measurable, and easier to evaluate.

4. CONCLUSION

Based on the discussion, it can be concluded that the absence of a formal judicial review mechanism for Village Regulations (Perdes) creates a legal vacuum in Indonesia's legal review system. The Perdes' position, subordinate to Regional Regulations, but beyond the reach of the Supreme Court and the State Administrative Court (PTUN), leaves it without a competent legal forum to test its formal

and material validity. This situation contradicts the principle of legal certainty guaranteed by Article 28D, paragraph (1), of the 1945 Constitution of the Republic of Indonesia.

Usually, the hierarchy of laws and regulations, as stipulated in Article 8, paragraph (2), of Law Number 12 of 2011, in conjunction with Law Number 13 of 2022 concerning the Formation of Legislation, does not yet provide a formal judicial review mechanism for Perdes. Although Perdes are recognized as part of the national legal system, the absence of a judicial review mechanism leads to overlapping authority between local governments, sub-district heads, and the Village Consultative Body (BPD) in the clarification and revocation process.

From a social perspective, the absence of a formal judicial review mechanism for Village Regulations creates uncertainty and potential conflict in village communities, particularly when the regulations are deemed discriminatory, non-participatory, or violate the rights of village residents. This situation weakens the legitimacy of village law and reduces public trust in the local government system. Legally, this situation indicates the need to reformulate the legal policy to provide a formal judicial review mechanism for Village Regulations through authorized institutions, either by amending existing laws or by establishing a separate judicial review institution at the regional level. This is in line with the principles of recognition and subsidiarity that form the basis of village autonomy as stipulated in Article 18B paragraph (2) of the 1945 Constitution and Law Number 6 of 2014 concerning Villages. Thus, it is important to emphasize that strengthening the control and judicial review mechanisms for Village Regulations is a strategic step to ensure legal certainty, protect the rights of village communities, and strengthen democratic, transparent, and accountable village governance..

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ABOUT THIS ARTICLE

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POSICIÓN JURÍDICA DE LOS REGLAMENTOS DE ALDEA ELABORADOS POR EL ÓRGANO DELIBERADOR DE ALDEA (BPD) EN LA JERARQUÍA DE REGLAMENTOS ESTATUTARIOS

RESUMEN

Los reglamentos de aldea (Perdes) desempeñan un papel fundamental en la vinculación de las políticas nacionales de desarrollo con las necesidades locales, reflejando la realidad cotidiana de los aldeanos. Si bien son cruciales para la gobernanza, su estatus legal dentro de la jerarquía legal de Indonesia sigue siendo problemático. Este estudio utiliza la investigación jurídica normativa para examinar el vacío regulatorio en torno a la revisión de los Perdes. Si bien los Perdes están subordinados a los Reglamentos Regionales, ninguna institución —ni el Tribunal Supremo ni el Tribunal Administrativo Estatal (PTUN)— está claramente facultada para revisar su validez formal o material. En consecuencia, los Perdes ocupan una zona gris legal, carente de un mecanismo de supervisión autorizado. Esta situación contradice el principio constitucional de seguridad jurídica consagrado en el Artículo 28D(1) de la Constitución de 1945. El documento argumenta que la ausencia de un marco de revisión judicial crea un vacío legal que socava la rendición de cuentas y la eficacia de la gobernanza a nivel de aldea y exige reformas para integrar adecuadamente a Perdes en el sistema de regulación legal de Indonesia..

Palabras clave: situación jurídica, regulaciones de aldea, órgano deliberativo de aldea, regulaciones regionales

村级议事机构 (BPD) 制定的村规在法律体系中的法律地位

摘要

村规 (Perdes) 在连接国家发展政策与地方需求方面发挥着核心作用，反映了村民的日常生活。尽管村规对治理至关重要，但其在印尼法律体系中的法律地位仍然存在问题。本研究运用规范性法律研究方法，探讨了村规审查方面的监管空白。虽然村规隶属于地方规章，但没有任何机构——无论是最高法院还是国家行政法院 (PTUN) ——被明确授权审查村规的形式或实质有效性。因此，村规处于法律灰色地带，缺乏权威的监督机制。这种情况与1945年宪法第28D(1)条规定的法律确定性原则相悖。本文认为，司法审查框架的缺失造成了法律真空，削弱了村级治理的问责制和有效性，并呼吁进行改革，将村级议会 (Perdes) 妥善纳入印尼的法律法规体系。

关键词：法律地位，村级规章，村级议事机构，地区规章