



CONSTITUTIONAL REVIEW MECHANISMS FOR VILLAGE REGULATIONS IN INDONESIA

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ABSTRACT

This article examines the effectiveness of constitutional control mechanisms applied to village regulations within Indonesia's statutory system. Although village governments possess regulatory authority under Law Number 6 of 2014 on Villages, ambiguities remain regarding supervision and constitutionality testing of village regulations under Law Number 12 of 2011 and Law Number 23 of 2014. This research employs a socio-legal study design combining doctrinal legal analysis with empirical field investigation. Empirical data were gathered by document analysis, focus group discussions, and interviews involving village and local administrators in several regencies in East Java. The study analyzes three mechanisms of constitutional control: executive preview and executive review conducted by regency governments, legislative review carried out by village institutions, and judicial review practiced by the Supreme Court. The findings demonstrate that, despite the existence of multiple supervisory mechanisms, their practical implementation remains weak and fragmented. Executive supervision often operates informally, legislative deliberation in villages is frequently less substantive, and judicial review mechanisms are rarely utilized due to limited legal awareness. Consequently, the effectiveness of constitutionality testing of village regulations remains low. This study contributes to constitutional review and decentralization literature by identifying legal and institutional barriers to effective village regulatory oversight.

1. Introduction

The recognition of the villages as a unit of legal society is a fundamental part of the Indonesian constitutional system.¹ Article 18B paragraph (2) of the 1945 Indonesia Constitution affirms the state's recognition of custom law communities and their traditional rights, which was later strengthened through Law Number 6 of 2014 concerning Villages.² The regulation gives the authority to the village government to regulate government, development, and community empowerment affairs through legal instruments in the form of village regulations.³ Village regulations serve as a strategic legal instrument for ensuring responsiveness to community needs while reinforcing local autonomy.

The strengthening of the village position is further emphasized through Law Number 6 of 2014 regarding Villages which gives power for the village government to regulate the application of development, government, empowerment, and community development of village communities.⁴ One of the legal instruments used in this authority is exercised through village regulations, which is formulated by the Village Head in consultation with and upon approval of the Village Consultative Body.⁵ Village regulations function as a normative foundation in the application of village government and as a legal instrument for accommodating the interests, aspirations, and needs of village communities.

From a constitutional law perspective, constitutional review represents a fundamental mechanism to ensure that the exercise of public authority remains consistent with constitutional values, the principle of legality, and the protection of citizens' rights.⁶ In a decentralized state, constitutional review is not only limited to reviewing statutes but also functions as a control mechanism over subordinate regulations produced by autonomous governmental units. Therefore, the existence of an effective review mechanism for village regulations becomes essential to prevent regulatory conflicts, administrative abuse, and deviations from constitutional principles.⁷

¹ Muammar Alkadafi, Susanti Susanti, Sadu Wasistiono, and Mani Festati Broto., Hybrid and Collaborative Governance Model for Village Development in Indonesia, *Jurnal Administrasi Publik*, Vol.15, no.2, 2025, page.209.

² MPR-RI., TAP MPR No. III/MPR/2000 Tahun 2000 Tentang Sumber Hukum Dan Tata Urutan Peraturan Perundang-undangan, Pub. L. No. III/MPR/2000, 2000.

³ Sholahuddin Al-Fatih, Ali Roziqin, Muhammad Dahlan Asyari, and Souad Ezzerouali., Legal Reform in Village Law-Making Process Using Artificial Intelligence: Is It Necessary? *Journal of Law and Legal Reform*, Vol.6, no.2, 2025, page.757.

⁴ Muhammad Mutawalli Mukhlis, Maskun, Ahmad Masum, Muhammad Saleh Tajuddin, Wa Ode Intan Kurniawati, Yusuf Ibrahim Arowosaiye, and Naswar., Examining the Implementation of Participatory Village Autonomy: Models of Community Engagement and Application in Strengthening Inclusive Governance in Indonesia, *Indonesian Journal of Legal Community Engagement*, Vol.8, no.1, 2025, page.116.

⁵ Andi Tenri Yeyeng Hariyanto, Betsy Anggreni Kapugu, Yusuf Ibrahim Arowosaiye, and Muhammad Saleh Tajuddin., Democratization of Village Autonomy in the Construction of Indonesian Administrative Law: Is It Possible? *Jurnal Media Hukum*, Vol.32, no.2, 2025, page.192.

⁶ Himawan Estu Bagijo, Alfian Bramantya, Sonya Claudia Siwu, and Fitria Esfandiari., The Legal Framework and Enforcement Issues of Religious Holiday Allowances, *Legality: Jurnal Ilmiah Hukum*, Vol.34, no.1, 2026, page.254.

⁷ Ittai Bar-Siman-Tov., Semiprocedural Judicial Review, *Legisprudence*, Vol.6, no.3, 2012, page.277. See too, Tom Ginsburg, and Aziz Z Huq., *How to Save a Constitutional Democrac*,

Despite having strategic function, the legal position of village regulation in the Indonesia system of laws and regulation still raises various debates.⁸ Law Number 12 of 2011 does not explicitly place the village regulation in the formal hierarchy of laws and regulations, but nevertheless acknowledges its existence.⁹ This condition creates ambiguity regarding the institution that is authorized to test the constitutionality of the regulation when it conflicts with higher regulations or the public interest. Unlike regional regulations that are explicitly positioned within the statutory hierarchy, village regulations occupy a relatively unclear legal status, although they directly affect citizens' rights and public administration at the grassroots level. This ambiguity generates uncertainty regarding the appropriate institution responsible for reviewing their conformity with constitutional norms and higher regulations.¹⁰

Normatively (*das sollen*), Law Number 6 of 2014, Law Number 23 of 2014, and Minister of Home Affairs Regulation Number 111 of 2014 have regulated the mechanism of executive review, legislative review, and judicial review of the village regulation. However, empirically (*das sein*), these mechanisms have not been effective. Evaluations by local governments are often administrative, public participation in legislative review is low, and judicial review is almost never used due to unclear regulations and low legal awareness.

Although village autonomy and village regulation have received increasing scholarly attention, several important research gaps remain. Existing studies predominantly examine village autonomy from decentralization, governance, and customary law perspectives, focusing on the implementation challenges of Law Number 6 of 2014, such as bureaucratic limitations, dependency on higher governmental structures, and weak institutional capacity, rather than constitutional control mechanisms over village regulations.¹¹ Legal studies have

Chicago, University of Chicago Press, 2018, page.34; Hans Kelsen., *General Theory of Law and State*, Oxfordshire, Taylor and Francis, 2005, page.24.

⁸ Ilham Yuli Isdiyanto., Village Sovereignty in Dispute Resolution after Law No 6 of 2014 Concerning Village, *Jurnal Media Hukum*, Vol.26, no.2, 2019, page.223. See too, Lawrence M. Friedman., *The Legal System: A Social Science Perspective*, New York City, Russell Sage Foundation, 1975, page.232.

⁹ Dyto Arisjulyanto., The Position and Legal Authority of Village Regulations within the Hierarchy of National Legislation, *Journal of Social and Education Research*, Vol.3, no.3, 2025, page.118. See too, Wida Wirdaniati, Irman Firmansyah, Vidya Mar'atusholikha, and Siti Nurhajanah., Model Legalisasi Sertifikasi Tanah di Perdesaan dan Proyeksi terhadap Nilai Manfaat Kepemilikan, *Jurnal Hukum*, Vol.38, no.2, 2022, page.122.

¹⁰ Mohammad Ibrahim., Does the Indonesian judicial review system need reform? *Austl. J. Asian L.*, Vol.22, 2022, page.17.

¹¹ Enny Agustina., The implementation of Law Number 6-year 2014 on village government, *International Journal of Innovation, Creativity, And Change*, Vol.9, no.11, 2019, page.232. See too, Hans Antlöv., Village government and rural development in Indonesia: The new democratic framework, *Bulletin of Indonesian Economic Studies*, Vol.39, no.2, 2003, page.195; Rusli Kustiaman Iskandar, and Fabian Fadhly Jambak., Village Law in the Struggle of Indonesian Legal Policy, *PETITA*, Vol.10, 2025, page.384; Rizki Jayuska, I. Gusti Ayu Ketut Rachmi Handayani, Isharyanto Isharyanto, Ismail Marzuki, and Achmad Fawaid., The Ambiguous Authority of Provincial Governors in Customary Law Recognition: Regulatory Fragmentation in Indonesia's Decentralization Era, *Khazanah Hukum*, Vol.7, no.2, 2025, page.277; Martitah, Ristina Yudhanti, Slamet Sumarto, and Widiyanto Widiyanto., Pseudo-Kebijakan Otonomi Desa:

also discussed the normative legitimacy and position of village regulations within Indonesia's legal system; however, the institutional authority and framework for constitutional review of village-level regulations remain unclear, creating potential legal uncertainty.¹² Furthermore, previous research rarely examines the effectiveness of executive, legislative, and judicial review mechanisms as an integrated constitutional control system, as studies tend to focus separately on supervision, institutional capacity, or customary recognition.¹³ Studies on adat villages reveal tensions between constitutional recognition and state intervention, yet limited attention has been given to how review mechanisms protect village autonomy while ensuring legal consistency.¹⁴ Additionally, the link between participatory governance, village legislative processes, and constitutional quality control remains insufficiently explored.¹⁵

Considering these conditions, this research examines the mechanism for assessing the village regulation constitutionality in the system of regulations and laws in Indonesia and assess the effectiveness of its implementation in the practice of implementing village government.¹⁶ The analysis was carried out with an empirical juridical approach to examine the relationship between the normative provisions that govern the testing of village regulations and the reality of their implementation

Analisis Kritis Berdasarkan Praktek Di Lapangan, *Jurnal Pengabdian Hukum Indonesia*, Vol.4, no.1, 2021, page.11.

¹² Mohammad Ibrahim., Does the Indonesian judicial review system need reform? *Austl. J. Asian L.*, Vol.22, 2022, page.18. See too, Retno Saraswati, Aprista Ristyawati, and Rigan Sasunu Basworo., Recent developments and changes in the governance of regional legal products in Indonesia: Supervision, evaluation and clarification mechanisms, *International Journal of Innovation, Creativity and Change*, Vol.12, no.7, 2020, page.19.

¹³ Sri Nurhayati, Agus Riwanto, and Isharyanto., Faktor Pendukung Dan Penghambat Peran Badan Permusyawaratan Desa Tawengan Dalam Proses Penetapan Peraturan Desa, *Jurnal Hukum Dan Pembangunan Ekonomi*, Vol.6, no.2, 2018, page.323.

¹⁴ Tine Suartina., Between control and empowerment: Local government acknowledgment of adat communities and adat villages in Indonesia, *Indonesia Law Review*, Vol.10, no.3, 2020, page.340. See too, Tody Sasmitha Jiwa Utama., Impediments to establishing adat villages: a socio-legal examination of the Indonesian village law, *The Asia Pacific Journal of Anthropology*, Vol.21, no.1, 2020, page.19; Sri Wahyu Kridasakti, Mohamad Fadli, Abdul Madjid, and Chanif Nurcholis., Chronic Disease of State Corporatism in Indonesian Village Government, *Sriwijaya Law Review*, Vol.6, no.2, 2022, page.308; Noer Fauzi Rachman, and Hasriadi Masalam., The trajectory of indigeneity politics against land dispossession in Indonesia, *Sriwijaya Law Review*, Vol.1, no.2, 2017, page.129.

¹⁵ Nasrun Annahar, Ida Widianingsih, Entang Adhy Muhtar, and Caroline Paskarina., The Road to Inclusive Decentralized Village Governance in Indonesia, *Sustainability 2023*, Vol.15, no.11, 2023, page.34. See too, Christopher Ansell, Carey Doberstein, Hayley Henderson, Saba Siddiki, and Paul 't Hart., Understanding Inclusion in Collaborative Governance: A Mixed Methods Approach, *Policy and Society*, Vol.39, no.4, 2020, page.570; Muhammad Mutawalli Mukhlis, Maskun, Ahmad Masum, Muhammad Saleh Tajuddin, Wa Ode Intan Kurniawati, Yusuf Ibrahim Arowosaiye, and Naswar., Examining the Implementation of Participatory Village Autonomy: Models of Community Engagement and Application in Strengthening Inclusive Governance in Indonesia, *Indonesian Journal of Legal Community Engagement*, Vol.8, no.1, 2025, page.115.

¹⁶ Lita Tyesta Addy Listya Wardhani, Muhammad Dzikirullah H. Noho, and Aga Natalis., The Adoption of Various Legal Systems in Indonesia: An Effort to Initiate the Prismatic Mixed Legal Systems, *Cogent Social Sciences*, Vol.8, no.1, 2022, page.23.

in the field.¹⁷ Thus, this study is anticipated to give an academic contribution in enriching the study of the village regulation supervision system and provide recommendations for strengthening the mechanism for examining the regulation constitutionality in the framework of more effective and accountable village governance.¹⁸

The study examines the institutional and legal arrangements governing the constitutional review of village regulations in Indonesia and evaluate the effectiveness of the implementation of executive review, legislative review, and judicial review in village government practices. Based on the identified research gap, this study addresses the following research questions: (1) How is the constitutional review of village regulations legally structured through executive, legislative, and judicial review mechanisms within Indonesia's statutory framework? (2) To what extent are executive, legislative, and judicial review mechanisms effectively implemented in village governance, and (3) what reforms are necessary to improve the constitutional review of village regulations?

The urgency of this research is increasing as the fiscal and administrative authority of villages increases after the implementation of the village fund, which increases the potential for the emerging village regulation problem, conflicts of norms, and the risk of maladministration at the local government level. This research contributes to the development of constitutional law, administrative law, and decentralization studies by offering a perspective on how constitutional control works at the village government level. Practically, this study provides recommendations to strengthen the harmonization of regulations and village institutional capacity.

2. Research Methods

This study employed a socio-legal research approach combined with bibliometric analysis to examine the constitutional review mechanisms of village regulations in Indonesia.¹⁹ The socio-legal approach was applied to analyze the gap between legal norms (*das sollen*) and their implementation in practice (*das sein*), particularly regarding the effectiveness of executive review, legislative review, and judicial review mechanisms over village regulations. The research adopted statutory, conceptual, and empirical approaches by examining the legal framework governing village regulations, including Law Number 12 of 2011 concerning the

¹⁷ Amalia Diamantina, and Fajar Ahmad Setiawan., Village Dependency to Local Governments in the Village Head Position Filling According to Village Law, *Diponegoro Law Review*, Vol.8, no.1, 2023, page.96.

¹⁸ Nurten Derici Temel., Revisiting Good Governance: Good Enough Governance and Just Enough Governance Approaches as a Functional Framework for Developing Countries, *Journal of Management and Economics Research*, Vol.20, no.3, 2022, page.79.

¹⁹ César Alberto Correa-Martínez, Dacmar Andrea Báez Mesa, Ruth Carolina Blanco Alvarado, David Augusto Echeverry Botero, and Carolina Angulo-Name., Legal and Socio-Legal Research: New Epistemological Strategies for the Current Global Context, *Revista Científica General José María Córdova*, Vol.23, no.52, 2025, page.923. See too, Amy Kirby, and Lucy Welsh., Socio-Legal Studies and Criminal Justice: Reflections on Participation, *Journal of Law and Society*, Vol.52, no.1, 2025, page.14; Michal Ovádek, Phillip Schroeder, and Jan Zgliniski., Where Law Meets Data: A Practical Guide to Expert Coding in Legal Research, *European Law Open*, Vol.3, no.4, 2024, page.820.

Formation of Laws and Regulations, Law Number 23 of 2014 concerning Regional Government, Law Number 6 of 2014 concerning Villages, and their implementing regulations. These normative analyses were complemented by empirical investigation of how such mechanisms operate within village governance practices.

The empirical data were collected through interviews, observations, and Focus Group Discussions (FGDs) involving village heads, Village Consultative Bodies (Badan Permusyawaratan Desa), district government officials, and local government administrators from seven villages in East Java. Secondary data included statutory regulations, court decisions, government documents, academic publications, and relevant legal literature. Data collection techniques consisted of documentation studies, interviews, direct observation, FGDs, and literature review. The collected data were analyzed qualitatively through legal interpretation methods, including grammatical, teleological, and historical interpretation, supported by the application of legal principles such as *lex superior derogat legi inferiori*, *lex specialis derogat legi generali*, and *lex posterior derogat legi priori*.

To strengthen the theoretical positioning and identify research trends, this study incorporated bibliometric analysis using the Scopus database. The literature search applied the keywords: ("village regulation" OR "village law" OR "local regulation" OR "local ordinance") AND ("statutory regulation" OR "legislation" OR "law" OR "legal framework" OR "legal system") within the period 2000–2025. The bibliometric analysis identified 348 documents from 270 sources involving 842 authors, with an annual publication growth rate of 16.94%. The analysis was conducted to map publication trends, research development, and thematic attention related to local regulation and legal governance. Moreover, the effectiveness of constitutional review mechanisms was assessed using a legal effectiveness measurement approach based on institutional performance indicators. The assessment adopted the classification framework provided by the Minister of Home Affairs Regulation Number 34 of 2011, which categorizes implementation effectiveness based on percentage achievement levels. The indicators were developed from the normative requirements governing executive preview, executive review, legislative review, and judicial review of village regulations. The effectiveness score was determined by comparing the fulfillment of regulatory requirements with their actual implementation in the research locations.

3. Results and Discussion

3.1. Theoretical Foundation of Constitutional Review of Village Regulations

The constitutionality review of regulations and laws tends to confirm that a regulation does not dispute with higher legal norms, both those sourced from the 1945 Constitution and other laws and regulations. According to Bagir Manan, the testing mechanism can be carried out through three forms, namely judicial review, political review, and executive review.²⁰ Judicial review is carried out by judicial

²⁰ Bagir Manan., Nilai-Nilai Dasar Keindonesiaan Dan Negara Hukum, In *Memperkuat Peradaban Hukum Dan Ketatanegaraan Indonesia*, Sekretariat Jenderal Komisi Yudisial Republik Indonesia,

institutions, while political review and executive review are carried out by non-judicial institutions as part of the mechanism of supervision over the formation and implementation of regulations.²¹ In the theory of *toetsingsrecht*, legal testing is also distinguished into *materiale toetsing* which assesses the substance of legal norms and *formale toetsing* which assesses the procedure for the formation of a regulation.

Constitutional review of village regulations in Indonesia is primarily implemented through executive preview and executive review mechanisms conducted by district/city governments. This authority derives from Law Number 23 of 2014 concerning Regional Government and Law Number 6 of 2014 concerning Villages, which provide regents/mayors with supervisory authority over village regulations, including the evaluation and cancellation of regulations that conflict with higher legal norms or public interests. Unlike national legislation, village regulations operate within a decentralized governance framework where preventive and corrective supervision plays an important role in maintaining legal conformity. Executive review is particularly significant because village governments possess regulatory autonomy while simultaneously facing limitations in legal drafting capacity, institutional resources, and regulatory harmonization. Therefore, executive preview and executive review function not only as administrative control mechanisms but also as instruments of constitutional governance to ensure that village autonomy remains consistent with the principles of legality, hierarchy of laws, and public accountability.

However, understanding the constitutional review of village regulations requires not only an examination of its normative framework but also an assessment of how this issue has been positioned within academic debates. Therefore, this study conducted a bibliometric analysis to identify the development, concentration, and limitations of existing scholarly discussions concerning village regulations, local legal governance, and constitutional review mechanisms.

2019, page.14. See too, Herlambang P. Wiratraman, Constitutional Struggles and the Court in Indonesia's Turn to Authoritarian Politics, *Federal Law Review*, Vol.50, no.3, 2022, page.314.

²¹ Abdul Rahman Sabara., Regional Autonomy in the Political System and Authority in Indonesia, *Diponegoro Law Review*, Vol.7, no.2, 2022, page.297.

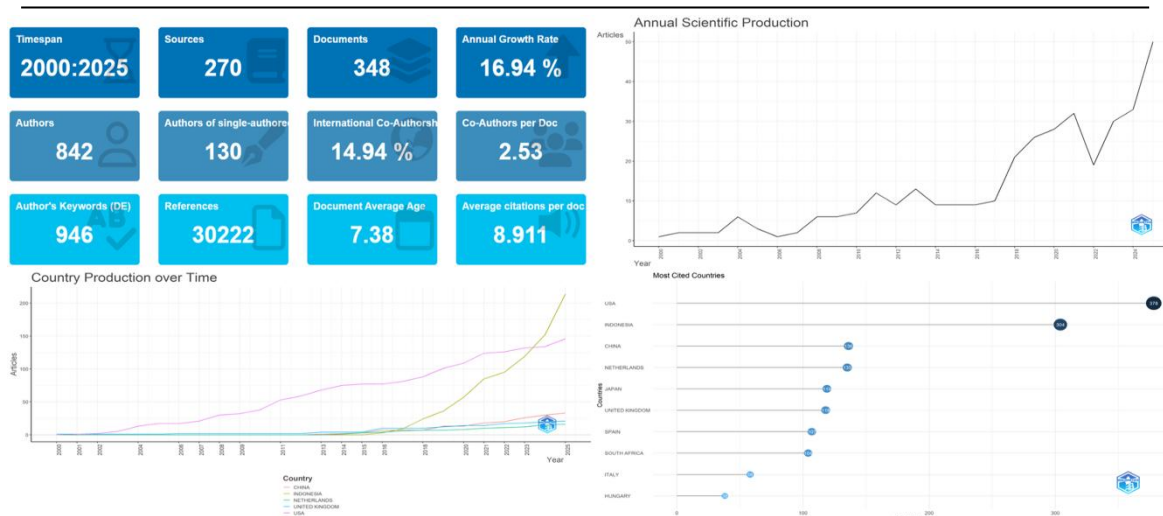


Figure 1. Bibliometric Mapping of Research on the Constitutionality of Village Regulations

The bibliometric mapping indicates that research on village regulations and constitutional review remains relatively fragmented. The keyword network demonstrates that existing literature is largely concentrated on broader themes, including law enforcement, legislation, local regulation, decentralization, and governance. These themes have been extensively developed in international legal and governance studies, particularly in countries with established traditions of constitutional review and local regulatory systems. Meanwhile, keywords related to village governance, local government, and Indonesia appear as emerging or basic themes, indicating that although these topics have high relevance, they remain insufficiently developed within the international research landscape.

The publication distribution further reveals that research contributions are dominated by countries such as China and the United States, reflecting stronger academic attention toward local regulatory authority, constitutional control, and legal governance in those contexts. In contrast, Indonesia's contribution remains relatively limited, although the increasing publication trend after 2018 indicates growing scholarly interest in village governance and decentralization. This finding suggests that the Indonesian village regulation system represents an underexplored area, particularly concerning how constitutional review mechanisms operate within a decentralized village governance structure.

The bibliometric findings are consistent with the empirical and normative literature, which demonstrates that previous studies have primarily focused on village autonomy, decentralization, customary village recognition, and institutional aspects of village governance. Although these studies provide important insights into the legal position and administrative authority of villages, limited attention has been given to the effectiveness of constitutional review mechanisms applicable to village regulations. Existing research has predominantly employed doctrinal legal approaches, while constitutional review studies generally focus on judicial review of national legislation rather than regulatory control at the village level. Consequently, the interaction between executive review, legislative review, and judicial review as a multi-level constitutional control mechanism within village governance remains insufficiently examined, particularly in developing countries such as Indonesia.

Testing the constitutionality of village regulation is accomplished by the executive

preview and review mechanism by the district/city local government. This supervision pattern is regulated in Law Number 23 of 2014 regarding Regional Government and Law Number 6 of 2014 regarding Villages which gives authority to the central government, provincial governments, and city/district governments to give supervision and guidance over the application of village government. In particular, the Mayor/Regent has the authority to evaluate and cancel village regulation if they are antithetical to the higher regulations and laws or public interest.

The supervision is accomplished by 2 main mechanisms, such as evaluation (executive preview) and clarification (executive review) as specified several government regulations regarding Technical Guidelines for Village Regulations. An evaluation of the village regulation bill is accomplished before it is enacted, especially related to the expenditure budget and village revenue, village levies, village government organization, and spatial planning, to ensure its conformity with the higher regulations and public interest. Meanwhile, clarification is a form of repressive supervision carried out against village regulations that have been established to assess their conformity with applicable legal provisions. If the results of the evaluation or clarification show that there is a dispute with the public interest or higher regulations and laws, the Regent/Mayor has the authority to cancel the village regulation.

Although executive review represents an important mechanism of governmental supervision, the constitutional quality of village regulations is also influenced by the internal legislative process within village governance. Legislative review functions as a mechanism to ensure that village regulations are not only legally compliant but also reflect democratic participation and community interests during the formation process.

Legislative review and executive review are the changing or forming regulations process through legislative and executive institutions along with the legislative functions owned by the House of Representatives and the President.²² The concept of legislative review also applies "*mutatis mutandis*" in the formation of provincial, regency/city regulations, and village regulations, both to form new regulations and make changes to existing regulations.

Village regulation set by the village regulator after being disputed and concurred with the Village Consultative Bodies are the legal framework governing village development and village governance. Village regulation as a legal product has to be in harmony with higher laws and regulations and not at odds with the public interest. In the perspective of the law that lives in society, as stated by Roscoe Pound, the law has to be capable to accommodate social interests and encourage the creation of community welfare.²³

²² Sri Warjiyati, Safrin Salam, Jan Alizea Sybelle, Imaduddin Abil Fida, and Ridwan., The Legalization and Application of Osing Indigenous People's Customary Law Model in the Legal System, *Lex Localis - Journal of Local Self-Government*, Vol.21, no.4, 2023, page.853.

²³ Alex Jeffrey., Legal Geography III: Evidence, *Progress in Human Geography*, Vol.45, no.4, 2021, page.902. See too, Surip Salahuddin, and Muhamadong., Proses Penyusunan Peraturan Desa (Perdes) Inisiatif Badan Permusyawaratan Desa Di Desa Monta Baru Kecamatan Lambu Kabupaten Bima, *Jurnal Komunikasi Dan Kebudayaan*, Vol.7, no.1, 2020, page.113.

The village regulation formation also has to be accomplished democratically and participially by including the village community in the formulation process. Public participation is reflected in the community's right to contribute to the formulation of village regulations through input submitted to the village regulator as part of the public control mechanism.²⁴

Therefore, the bill needs to be discussed with the community and related parties, including the sub-district government, in order to obtain relevant input on the substance of the regulation. The legislative review mechanism is presented in Figure 3.

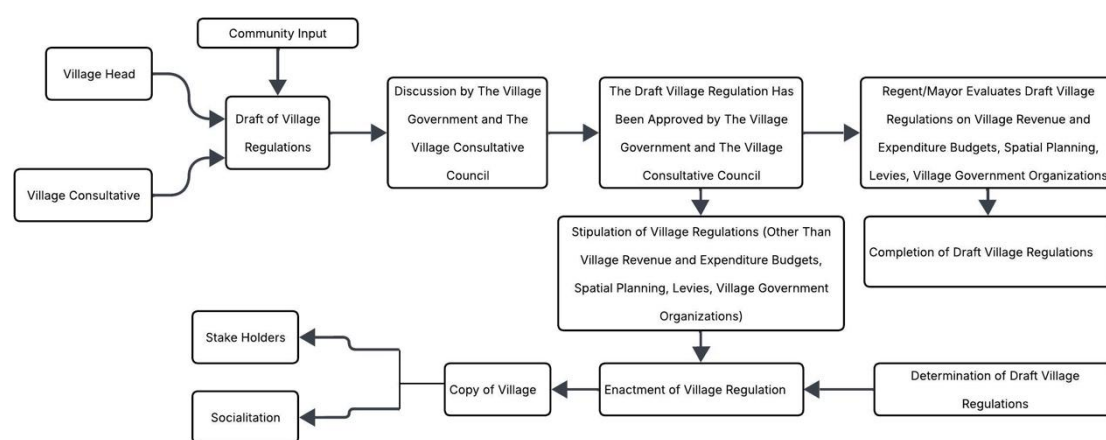


Figure 1. legislative review mechanism by the Village Consultative Council and the Village Head

The forming village regulation progress in principle involves the stages of planning, drafting, consulting, examining, and promulgating as specified in the Regulation of the Minister of Home Affairs Number 111 of 2014 regarding Technical Guidelines for Village Regulations.²⁵ Following approval by the village government, the draft regulation is enacted and promulgated, making it legally binding.²⁶ In this process, community contribution is an important factor to ensure that the resulting village regulations can encounter the community's needs and are in line with the goals of their formation.²⁷ The enactment and effectiveness of village regulations are also determined by the fulfillment of the basis for the enactment of the law, namely

²⁴ Nasrun Annahar, Ida Widianingsih, Entang Adhy Muhtar, and Caroline Paskarina., The Road to Inclusive Decentralized Village Governance in Indonesia, *Sustainability* 2023, Vol.15, no.11, 2023, page.31.

²⁵ Ni Luh Gede Astariyani, I. Gede Yusa, Bagus Hermanto, and Rosino da Cruz., Legal Hermeneutics in Reforming Preparation of Village Regulation: Case of Indonesia and Timor Leste, *Al-Risalah: Forum Kajian Hukum Dan Sosial Kemasyarakatan*, Vol.25, no.1, 2025, page.136. See too, Franciscus Xaverius Wartoyo, and Dinda Triwijanarko., Legal reconstruction of mediation in village conflict resolution based on dignified justice, *Jurnal Hukum Unissula*, Vol.41, no.3, 2025, page.725.

²⁶ Zefrizal Nurdin., Legal Protection of Customary Rights under Legal Pluralism and Its Impact on the Minangkabau Society: An Empirical Study in the District of Lima Puluh Kota, West Sumatra, *Cogent Social Sciences*, Vol.8, no.1, 2022, page.230.

²⁷ Naser Shafiei Sabet, and Sogand Khaksar., The Performance of Local Government, Social Capital and Participation of Villagers in Sustainable Rural Development, *The Social Science Journal*, Vol.61, no.1, 2024, page.21.

philosophical, juridical, and sociological. Philosophically, village regulations must reflect the basic values of the community and are in harmony with Pancasila and the constitution.²⁸

Beyond executive supervision and legislative participation, judicial review provides an external legal control mechanism to ensure that village regulations remain consistent with higher legal norms. Unlike executive and legislative mechanisms that operate during or after the formation process of village regulations, judicial review functions as an independent legal safeguard when regulatory conflicts arise.

Article 24A paragraph (1) of the 1945 Constitution authorizes the Supreme Court to hear at the cassation level, analyze statutory regulations according to the law, and has other authorities accorded by law. The Supreme Court's authority was originally born from Law Number 14 of 1970 and Law Number 14 of 1985 alongside with Law Number 5 of 2004 alongside with Law Number 3 of 2009. The supreme court has the authority to conduct judicial review of regulations subordinate to statutes to ensure their conformity with higher-level laws.

The village regulation existence as one of the statutory regulations as declared in Article 8 of Law Number 12 of 2011 makes it very possible for a material review to be carried out at the Supreme Court. Article 31 paragraph (2) of Law Number 5 of 2004 explains that the supreme court has the authority to conduct judicial review of statutory regulations regulations under the law and declares that the regulation is invalid if it contradicts or is not in accordance with the regulations above. The review carried out by the competent authority, in this case the Supreme Court, is final and binding.²⁹ The Supreme Court Regulation Number 1 of 2011 regarding the Right to Judicial Materials technically confirms that the Supreme Court has the capability to manage scrutinizes and conclude on the examination of regulations and laws that are under the law based on a lawsuit or application.

The institution authorized to examine village regulations that allegedly dispute with higher regulations or the public interest either formally or materially is the Supreme Court.³⁰ This is based on the same meaning from the provisions of Article 8 paragraph (1) and Article 9 paragraph (2) of Law Number 12 of 2011. Regency/City Governments do not have the authority to carry out executive reviews through repressive supervision of village regulations to assess whether the regulation conflicts with higher regulations or the public interest.

Derived from the provisions of Law Number 12 of 2011, Law Number 5 of 2004,

²⁸ Ittai Bar-Siman-Tov., Semiprocedural Judicial Review, *Legisprudence*, Vol.6, no.3, 2012, page.277.

²⁹ Mardian Wibowo, I. Nyoman Nurjaya, Muchammad Ali Safaat, and Jazim Hamidi., The Criticism on the Meaning of 'Open Legal Policy' in Verdicts of Judicial Review at the Constitutional Court Mardian Wibowo, *Constitutional Review*, Vol.3, no.2, 2017, page.262.

³⁰ Ni Luh Gede Astariyani, Mariko Hattori, and Willy Naresta Hanum., The Validity of Sanctions Arrangements in Regional Regulations, *Journal of Human Rights, Culture and Legal System*, Vol.4, no.3, 2024, page.685. See too, Mexsasai Indra, Geofani Milthree Saragih, Dessy Artina, Mohd. Yusuf DM, Ahmad Gelora Mahardika., The Idea of the Bottom-Up Paradigm to Top-Down in Regional Arrangement in Indonesia, *Jurnal Hukum Unissula*, Vol.40, no.2, 2024, page.434.

and supreme court regulations Number 1 of 2011 it is very possible if a village regulation can be tested materially, if the substance or material of the village regulation conflicts with the legislation higher level, especially if the regulation is contrary to the substance of the law in question. Law Number 6 of 2014 positions village administrations to be no longer part of the regional government regime and places village regulations by increasing the power of which the law is tested. The position of village regulations gives rise to multiple interpretations of the products of legislation before Law Number 6 of 2014 was adapted.

Article 31 and Article 31A of Law Number 3 Year 2009 as well as Minister Regulation Number 1 of 2011 explains that the Supreme Court is the external supervisor of regulations; judicial review under the law, while those who actively supervise the regulations under the law are the people who are harmed by capitulating a judicial review to the Supreme Court. The large number of villages and it is predicted that there will be many cases of village regulation judicial review to the Supreme Court as a Court of Law will not occur because Law Number 6 of 2014 adheres to the focus of supervision of regional regulations from repressive to preventive nature. To date, no village regulation has been formally challenged through judicial review before the Supreme Court. If such cases emerge, judicial assessment should consider the distinctive nature of village regulations, particularly their connection to local autonomy, customary norms, and living legal values within village communities.³¹

3.2. Implementation and Challenges in Village Regulatory Oversight

Legal effectiveness is basically related to legal validity, namely the binding power of legal norms to people to act in accordance with legal norms, comply with legal norms, and apply legal norms. Determination of legal effectiveness focuses on the subject and sanctions.³² The subject is a legal entity or person that have to perform the law in correspondence with the legal norms' sound, for those who are subject to sanctions, the legal sanctions are applicated properly or not. The laws effectiveness is examined by three things, including the failure in its implementation, the success in implementing the law, and the factors that affect it.

The success in implementing the law is that the law that has been made has its purpose to regulate human interests.³³ The law's implementation is stated to be effective if in its application, the legal norms are implemented and obeyed by the law enforcers or community. Failure in the law's implementation is when the legal provisions that have been set do not attain their objectives or are not successful

³¹ Sri Wahyu Kridasakti, Rina Elsa Rizkiana, Purwaningdyah Murti Wahyuni, Ni Made Jaya Senastri, and Henny Yuningsih., The legitimacy crisis of Customary Villages under Indonesia's village La, *Sriwijaya Law Review*, Vol.2, no.2, 2025, page.437.

³² Julia Schmidt., The Legality of Unilateral Extra-Territorial Sanctions under International Law, *Journal of Conflict and Security Law*, Vol.27, no.1, 2022, page.59. See too, Sholahuddin Al-Fatih., Does the village community have autonomy? between constitutional recognition and international law. *Jurnal Hukum Novelty* Vol.16, no.2, 2025, page.1412.

³³ Tom Ginsburg, and Aziz Z Huq., *How to Save a Constitutional Democrac*, Chicago, University of Chicago Press, 2018, page.37.

in their implementation.³⁴ Affecting factors are things that impact or cause the law's application and implementation based on aspects of failure and success.

Prawirosentono argues that effectiveness is related to the achievement of predetermined goals, while efficiency concerns the fulfillment of the motives or purposes behind an action, irrespective of its effectiveness.³⁵ It is efficient if it satisfies the motives of the aim, whatever it is effective or not". This opinion shows that an activity is said to be effective if it has achieved a predetermined goal, meaning that something can be said to be effective if it is in accordance with the will. Effectiveness can be interpreted as a process of achieving a predetermined goal. The Regulation of the Minister of Home Affairs Number 34 of 2011 regarding Guidelines for Evaluation of Performance Accountability Reports of Government Agencies within the Ministry of Home Affairs explains that there are six indicators of effectiveness that show success, such as the time, right amount, price, target, quality, and administration. The calculation of the effectiveness percentage is classified as effective if it reaches a minimum of 1% and a maximum of 100%. The category for calculating the percentage of government agency performance effectiveness is presented in Table 1.

Table 1. Scale and classification of performance effectiveness measurement of government agencies

Measurement Accuracy (%)	Effectiveness Criteria
≤ 20%	Very ineffective
21% - 40%	Ineffective
41% - 60%	Effective enough
61% - 80%	Effective
81% - 100%	Very effective

Source: Minister of Home Affairs Regulation Number 34 of 2011

An effective government model has high motivation amid its members which involves mission motivation, public service motivation, and task motivation.³⁶ It is necessary to differentiate between efforts to increase work motivation between employees in the private and public sectors. Managers of public sector organizations should not directly adopt motivational theories, the majority of which are built on a private sector background.

Derived from the outcomes of observations, interviews and documentation in several districts of East Java, located in Malang, Pasuruan, Blitar, Tulungagung, Trenggalek, Kediri and Nganjuk Regencies, regarding the implementation of the evaluation of the bill and the clarification of the bill by the Regent/Mayor can be described in the following Figure 4:

³⁴ Rosalind Dixon, and David Landau., 1989–2019: From Democratic to Abusive Constitutional Borrowing, *International Journal of Constitutional Law*, Vol.17, no.2, 2019, 489.

³⁵ Suyadi Prawirosentono., *Manajemen Sumberdaya Manusia Dengan Kebijakan Kinerja Karyawan*, Yogyakarta, BPFE, 1999, page.34.

³⁶ Aisha Azhar, and Trui Steen., Underlying Assumptions of Public Service Motivation: A View from the Developing World, *Asia Pacific Journal of Public Administration*, Vol.45, no.3, 2023, page.274.

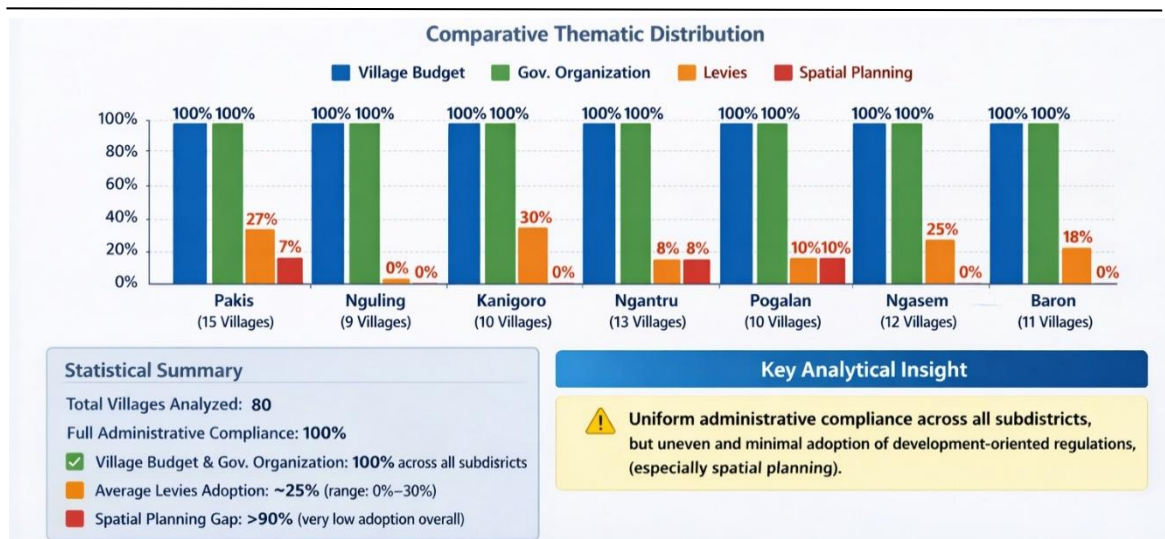


Figure 2. Distribution of village regulatory frameworks across 80 villages in seven subdistricts of East Java (Source: Internal data of the research team, processed by the authors 2020–2021)

Derived from the evaluation's outcomes of the village regulation bill evaluation mechanism and the clarification of the regulation, it was found that administratively all Village Heads have submitted a draft to the Mayor/Regent by the Sub-district Head for evaluation, especially in the bill related to the Regional Budget and village government organizations, while the bill regarding levies were only submitted by some villages and there were no bill submissions related to spatial planning. However, there is not a single regulation submitted for clarification. The implementation of the village bill evaluation is generally assigned by the Regent/Mayor to the Sub-district Head or the Village Community Empowerment Office (*DPMD*) using an administrative assessment instrument in the form of a feasibility verification checklist. However, all research areas show that the mechanism for clarifying the regulation is not implemented at all.

The implementation of the evaluation and clarification did not run in accordance with the applicable normative provisions, especially related to deadlines and administrative procedures. The mayor does not undertake the evaluation within the legally prescribed period, so the draft takes effect automatically without the results of the official evaluation. In addition, no evaluation or clarification documents were found that should be the basis for improving the draft by the village government. The absence of the formation of an evaluation team and a clarification team through the Regent/Mayor's decision also shows the weak implementation of the supervision mechanism. These findings indicate that the implementation of executive preview and review of village regulations is still an administrative formality and has not been effective in ensuring the quality and conformity of with existing laws and regulations at higher levels together with the public interest.

The application of the village regulation bill evaluation mechanism and the clarification of the regulation by the mayor have not been carried out optimally, and even tends not to be carried out as mandated in Law Number 6 of 2014 and Regulation of the Minister of Home Affairs Number 111 of 2014. This can be seen

from the limited types of Regulations submitted by the village government—which generally only include the Regional Budget and village government organizations—as well as the absence of the submission of Regulations for the clarification process. In addition, there was no formation of an evaluation team or a clarification team through the Regent/Mayor's decision, so the mechanism for correction, improvement, or cancellation of village regulations did not run as it should. This condition shows the weak supervisory function in the framework of executive preview and executive review of village regulations.³⁷

This ineffectiveness indicates that the ideal goal of village regulation as mandated in the 1945 Constitution and Law Number 6 of 2014, namely to realize a strong, independent, and democratic village has not been achieved. Theoretically, this condition reflects the effective malfunction of legal norms in practice, as put forward in the perspective of legal effectiveness that emphasizes compliance and institutional performance. Based on the measurement of the effectiveness of the performance of government agencies, the application of evaluation and clarification of regulation is in the ineffective category (21%–40%), which shows a significant gap between norms and implementation in the field.

This is influenced by several structural and administrative factors, including the delay or non-issuance of the Regent/Mayor Regulation which has implications for legal uncertainty, as well as irregularities in the law making process (law making process problem).³⁸ In addition, the limited number and competence of the State Civil Apparatus (ASN), especially in the legal field at the district/city and sub-district levels, also hinders the implementation of substantive evaluations.³⁹ In practice, the evaluation of the village regulation bill is often carried out informally and administratively, and there is even a perception that village regulations can run without going through a formal evaluation process.⁴⁰ This condition confirms that the mechanism for monitoring village regulations has not been effective in ensuring the quality and conformity of regulations with the national legal system.⁴¹

The progress of implementing the planning and drafting of village regulations as outlined in the Village Government Work Plan and initiated by the Village Head. The village regulation bill that has been prepared by the Village Head and the village consultative body are not consulted with the community, in this case traditional community, and other village institutions. The bill is not discussed with the community groups or community that are in line with the substance of the

³⁷ Hans Kelsen., *General Theory of Law and State*, Oxfordshire, Taylor and Francis, 2005, page.22.

³⁸ Hal G. Rainey, and Paula Steinbauer., Galloping Elephants: Developing Elements of a Theory of Effective Government Organizations, *Journal of Public Administration Research and Theory*, Vol.9, no.1, 1999, page.12.

³⁹ Fatemeh Jahani Chehrehbargh, Abbas Rajabifard, Behnam Atazadeh, and Daniel Steudler., Current Challenges and Strategic Directions for Land Administration System Modernisation in Indonesia, *Journal of Spatial Science*, Vol.69, no.4, 2024, page.1099.

⁴⁰ Quinton Mayne, Jorrit De Jong, and Fernando Fernandez-Monge., State Capabilities for Problem-Oriented Governance, *Perspectives on Public Management and Governance*, Vol.3, no.1, 2020, page.35.

⁴¹ Saif Albreiki, Ali Ameen, and Amiya Bhaumik., Impact of Internal Government Efficiency and Service Delivery Infrastructure on the Smart Government Effectiveness in UAE, *International Journal on Emerging Technologies*, Vol.10, no.1a, 2019, page.124.

regulatory material directly as regulated in Article 5 and Article 6 of the Ministry of home affair regulation Number 111 of 2014. The village regulation bill is derived from the initiative of the village consultative body and the Village Head starting from the content material, title/name, and registration number of village regulations are more exemplified from other bills.

The implementation of legislative review remains ineffective due to the limited legal drafting capacity of village regulator, particularly in understanding procedural requirements for drafting village regulations under Ministry of Home Affairs Regulation Number 111 of 2014. Empirical findings show that village bill is rarely discussed with local communities or sub-district authorities as required by law, resulting in minimal public participation. In many cases, deliberation between the village consultative body and village heads is conducted merely as an administrative formality, and some draft regulations are enacted without meaningful discussion. Similarly, the evaluation and clarification processes conducted by regency governments through sub-district authorities often remain procedural rather than substantive. Table 2 presents the implementation of legislative review mechanisms in several villages in East Java.

Table 2. Implementation of Legislative Review by the village consultative body and Village Head (2020/2021)

No	Description	Regent/ Mayor		Village Head		Village Consultat ive Body		Subdistri ct Head	
		Yes	No	Yes	No	Yes	No	Yes	No
1	The village consultative body and Village Head carry out planning for the drafting of the Village Regulation Bill			V		V			
2	Initiation of the Village Regulation Bill			V			V		
3	The village consultative body and Village Head involve the community in the process of drafting the Village Regulation Bill				V		V		
4	There is discussion and agreement on the Village Regulation Bill between the and Village Head				V		V		
5	Consultation institution/process for the Village Regulation		V					V	

	Bill by the and Village Head								
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Source: Internal data of the research team

The findings indicate that the legislative review mechanism of village regulations has not been implemented effectively, despite being formally regulated under Articles 5–13 of Ministry of Home Affairs Regulation Number 111 of 2014. The stages of planning, drafting, deliberation, enactment, and dissemination are often carried out only procedurally without meaningful deliberation. Based on the effectiveness measurement of government institutional performance, the implementation of legislative review falls within the 21%–40% range, indicating an ineffective category. This demonstrates a significant gap between the formal legal framework governing village legislation and its practical implementation at the local level.⁴²

Several structural and institutional factors contribute to this ineffectiveness. Internally, village heads and members of the Village Consultative Body often have limited legal drafting capacity, inadequate legislative experience, and low institutional commitment, partly due to minimal financial incentives.⁴³ Externally, weak public participation, limited budget allocation for village legislative activities, and insufficient support from district-level institutions further undermine the quality of village law-making.⁴⁴ These findings suggest that the weakness of legislative review is rooted in legal compliance issues and broader governance and institutional capacity constraints.⁴⁵

Moreover, Regulation of the Supreme Court Number 1 of 2011 about the Right to Material Test explains that the Supreme Court has the capability to manage examinations and conclude on the examination of regulations and laws that are under the law based on a lawsuit or application.⁴⁶ The data on the implementation of village regulation judicial review at the Supreme Court able to be discovered from the table 3:

Table 3. Implementation of Judicial Review by the Supreme Court (2020/2021)

No	Description	Community		Village Head		District Court		Supreme Court	
		Yes	No	Yes	No	Yes	No	Yes	No

⁴² Rasmus Øjvind Nielsen, Eva Sørensen, and Jacob Torfing., Drivers of Collaborative Governance for the Green Transition, *Public Management Review*, Vol.26, no.12, 2024, page.3715.

⁴³ Yola Cindyta Sakila, and Maria Madalina., Peranan Badan Permusyawaratan Desa Dalam Pembentukan Peraturan Desa Di Desa Brahu Kecamatan Siman Kabupaten Ponorogo, *Res Publica: Jurnal Hukum Kebijakan Publik*, Vol.4, no.2, 2020, page.233.

⁴⁴ Sri Nurhayati, Agus Riwanto, and Isharyanto., Faktor Pendukung Dan Penghambat Peran Badan Permusyawaratan Desa Tawengan Dalam Proses Penetapan Peraturan Desa, *Jurnal Hukum Dan Pembangunan Ekonomi*, Vol.6, no.2, 2018, page.326.

⁴⁵ Panagiotis E. Petrakis, The Legislative Process and Regulatory Interventions in the Greek Democracy: Deep-Rooted Weaknesses and Recommendations for Improvement, *Statute Law Review*, Vol.45, no.1, 2024, page.320.

⁴⁶ Neil Walker., Populism and Constitutional Tension, *International Journal of Constitutional Law*, Vol.17, no.2, 2019, page.515.

1	There are objections from the community regarding the Village Regulation		V						
2	The institution authorized to review the Village Regulation						V	V	
3	There is an application for judicial review of the Village Regulation								V
4	Lawsuit documents regarding the issuance of the Village Regulation submitted to the Supreme Court								V
5	Lawsuit documents regarding the issuance of the Village Regulation submitted to the District Court						V		
6	Supreme Court decision documents declaring the Village Regulation invalid and not legally binding								V

Source: Internal data of the research team

The application of the judicial review of village regulation by the Supreme Court was not accomplished effectively in correspondence with the provisions of Article 24A paragraph (1) of the 1945 Constitution, Law Number 5 of 2004 alongside with Law Number 3 of 2009, Decree of the Consultative Assembly The People's Court Number III/MPR/2000, and Supreme Court Regulation Number 1 of 2011.⁴⁷ The implementation of judicial review of village regulations by the Supreme Court is based on percentages with the scale and classification of measuring the effectiveness of government agency performance at the level of 20% or in the very ineffective category.⁴⁸

⁴⁷ MPR-RI., TAP MPR No. III/MPR/2000 Tahun 2000 Tentang Sumber Hukum Dan Tata Urutan Peraturan Perundang-undangan, Pub. L. No. III/MPR/2000, 2000.

⁴⁸ Andrés Rodríguez-Pose, and Miquel Vidal-Bover., Unfunded Mandates and the Economic Impact of Decentralisation. When Finance Does Not Follow Function, *Political Studies*, Vol.72, no.2, 2024, page.652.

Factors which cause the ineffectiveness of the application concerning the judicial review of a village regulation bill by the Supreme Court, namely the disharmony and synchronization of legislative regulations and the testing of the village bill through judicial review by the Supreme Court which has not been regulated explicitly.⁴⁹ The disharmony and synchronization of legislative regulations able to be discovered the absence of a judicial review mechanism for decisions issued by authorized officials to revoke regional regulations, regional head regulations, and village regulations as stipulated in Law Number 32 of 2004, Law Number 23 of 2014, and Law Number 6 of 2014. Law Number 23 of 2014 and Law Number 6 of 2014 adhere to the same form and pattern in the mechanism for monitoring legal products issued by regions and villages, namely both adopting the executive preview and executive review models (preventive and repressive supervision) without regulating the mechanism for capitulating a judicial review to the Supreme Court.⁵⁰

The competence of a judiciary is said to be legal as long as an object of dispute (*objectum litis*) has met the legal criteria (*juridische criteria*) of absolute authority within the judiciary to try and decide.⁵¹ This shows that as long as a legal dispute meets the criteria for absolute authority within the judiciary and is not excluded by applicable laws and regulations, certain judicial circles are authorized to analyze, hear, and determine on a dispute or legal dispute.⁵² The Supreme Court's authority in the judiciary is to determine at the cassation's level against decisions stated by the courts at the last level in all judicial circles under the Supreme Court, except the law gives otherwise, analyze the statutory regulations according to the law and has other powers accorded by law.⁵³

District and sub-district governments should provide guidance, education, and technical training to the Village Head, village consultative body, village officials, and the community regarding the village government system, how to formulate and design village regulations. These reforms are necessary to ensure that judicial review functions as an effective constitutional safeguard within village governance and strengthens legal certainty in decentralized governance systems.⁵⁴

3.3. Reconstruction of Constitutional Review Mechanisms for Village Regulations

The findings demonstrate that the ineffectiveness of constitutional review of village regulations is primarily caused by regulatory fragmentation and institutional

⁴⁹ Andrew Jordan, and Dave Huitema., Polycentric Governance, In *Routledge Handbook of Environmental Policy*, Oxfordshire, Taylor and Francis, 2023, page.57.

⁵⁰ Liesbet Hooghe, and Gary Marks., A Postfunctionalist Theory of Multilevel Governance, *British Journal of Politics and International Relations*, Vol.22, no.4, 2020, page.822.

⁵¹ Julian N. Eule., Judicial Review of Direct Democracy, *The Yale Law Journal*, Vol.99, no.7, 1990, page.1503.

⁵² Tom Christensen, and Per Lægreid., Future challenges of public administration, *Public Performance & Management Review*, Vol.2, nol.1, 2025, page.12.

⁵³ Christopher Ansell, Carey Doberstein, Hayley Henderson, Saba Siddiki, and Paul 't Hart., Understanding Inclusion in Collaborative Governance: A Mixed Methods Approach, *Policy and Society*, Vol.39, no.4, 2020, page.575.

⁵⁴ Jon Pierre, and Guy B Peter., *Governance, Politics and the State*, London, Red Globe, 2020, page.328.

ambiguity. Law Number 6 of 2014 concerning Villages, Law Number 12 of 2011 on Law-Making, Law Number 23 of 2014 on Regional Government, and Supreme Court regulations provide overlapping and inconsistent arrangements regarding supervisory authority over village regulations. Specifically, the empirical findings demonstrate that the ineffectiveness of constitutional review mechanisms for village regulations does not merely result from weak implementation at the village level, but also reflects structural problems within Indonesia's multi-level legal governance system. The previous analysis of executive review, legislative review, and judicial review indicates that each mechanism operates separately without an integrated constitutional control framework. Executive review by regents/mayors tends to function as an administrative verification process, legislative review remains limited by the capacity of village institutions, while judicial review through the Supreme Court provides only limited corrective mechanisms after legal disputes emerge. This fragmented arrangement creates a gap between the normative objective of village autonomy under Law Number 6 of 2014 and the constitutional requirement that all regulations must comply with higher legal norms.⁵⁵

The first reconstruction agenda is regulatory harmonization to establish a clearer hierarchy and authority for reviewing village regulations. Current arrangements under Law Number 6 of 2014 concerning Villages, Law Number 12 of 2011 concerning the Formation of Legislation, and Law Number 23 of 2014 concerning Regional Government provide different perspectives regarding the position and supervision of village regulations. Village regulations are recognized as legal products of autonomous village governance, yet their supervision remains strongly influenced by district governments. This situation produces ambiguity regarding whether village regulations should be treated primarily as autonomous village legal products or as subordinate regulations within the administrative hierarchy of government. Previous studies have highlighted that inconsistencies between village legislation and broader administrative regulations contribute to uncertainty regarding village authority and legal autonomy.⁵⁶

Therefore, reconstruction requires the establishment of an integrated multi-level review model consisting of preventive review, participatory legislative review, and corrective judicial review. Preventive review should not be limited to administrative checking but should function as substantive constitutional screening before village regulations are enacted. The authority of regents/mayors should be strengthened through standardized evaluation procedures, expert involvement, and transparent assessment indicators. Comparative governance perspectives demonstrate that effective decentralization requires not only autonomous authority but also institutional mechanisms that maintain accountability between different levels of

⁵⁵ Mohammad Ibrahim., Does the Indonesian judicial review system need reform? *Austl. J. Asian L.*, Vol.22, 2022, page.19. See too, Retno Saraswati, Aprista Ristyawati, and Rigan Sasunu Basworo., Recent developments and changes in the governance of regional legal products in Indonesia: Supervision, evaluation and clarification mechanisms, *International Journal of Innovation, Creativity and Change*, Vol.12, no.7, 2020, page.21.

⁵⁶ Sri Wahyu Kridasakti, Rina Elsa Rizkiana, Purwaningdyah Murti Wahyuni, Ni Made Jaya Senastri, and Henny Yuningsih., The legitimacy crisis of Customary Villages under Indonesia's village La, *Sriwijaya Law Review*, Vol.2, no.2, 2025, page.435.

government.⁵⁷

The second reconstruction concerns strengthening village legislative capacity. The empirical findings reveal that the weakness of legislative review originates from limited understanding of regulatory drafting procedures, insufficient community participation, and the tendency to reproduce existing regulations without contextual adaptation. Village Consultative Bodies and village heads often perform legislative functions formally rather than substantively. This condition weakens the democratic legitimacy of village regulations because participation is a fundamental element of effective decentralized governance.⁵⁸

Accordingly, institutional strengthening should include continuous legal drafting training, technical assistance from district governments and universities, and the development of participatory regulatory procedures. The reconstruction of village legislative mechanisms should move beyond administrative compliance toward collaborative governance, where communities become active participants in defining regulatory objectives and evaluating regulatory impacts. Recent studies emphasize that inclusive participation strengthens institutional legitimacy and improves the responsiveness of decentralized governance systems.⁵⁹

The third reconstruction relates to judicial review reform. The current authority of the Supreme Court to examine regulations below statutes provides an important legal safeguard; however, it remains limited because it primarily assesses conformity with statutory regulations rather than broader constitutional principles. The absence of a specific constitutional review mechanism for village regulations creates uncertainty, particularly when village regulations intersect with constitutional rights, indigenous community rights, or principles of democratic governance.⁶⁰ Therefore, strengthening judicial review requires clearer procedural mechanisms that enable communities to challenge village regulations that potentially violate constitutional values.

This issue becomes particularly significant in the context of customary villages

⁵⁷ Liesbet Hooghe, and Gary Marks., A Postfunctionalist Theory of Multilevel Governance, *British Journal of Politics and International Relations*, Vol.22, no.4, 2020, page.820. See too, Jon Pierre, and Guy B Peter., *Governance, Politics and the State*, London, Red Globe, 2020, page.327.

⁵⁸ Nasrun Annahar, Ida Widianingsih, Entang Adhy Muhtar, and Caroline Paskarina., The Road to Inclusive Decentralized Village Governance in Indonesia, *Sustainability 2023*, Vol.15, no.11, 2023, page.36. See too, Christopher Ansell, Carey Doberstein, Hayley Henderson, Saba Siddiki, and Paul 't Hart., Understanding Inclusion in Collaborative Governance: A Mixed Methods Approach, *Policy and Society*, Vol.39, no.4, 2020, page.572.

⁵⁹ Muhammad Mutawalli Mukhlis, Maskun, Ahmad Masum, Muhammad Saleh Tajuddin, Wa Ode Intan Kurniawati, Yusuf Ibrahim Arowosaiye, and Naswar., Examining the Implementation of Participatory Village Autonomy: Models of Community Engagement and Application in Strengthening Inclusive Governance in Indonesia, *Indonesian Journal of Legal Community Engagement*, Vol.8, no.1, 2025, page.118. See too, Naser Shafiei Sabet, and Sogand Khaksar., The Performance of Local Government, Social Capital and Participation of Villagers in Sustainable Rural Development, *The Social Science Journal*, Vol.61, no.1, 2024, page.19.

⁶⁰ Mohammad Ibrahim., Does the Indonesian judicial review system need reform? *Austl. J. Asian L.*, Vol.22, 2022, page.21. See too, Retno Saraswati, Aprista Ristyawati, and Rigan Sasunu Basworo., Recent developments and changes in the governance of regional legal products in Indonesia: Supervision, evaluation and clarification mechanisms, *International Journal of Innovation, Creativity and Change*, Vol.12, no.7, 2020, page.22.

(*desa adat*), where the relationship between state authority and indigenous autonomy continues to generate legal and institutional debates.⁶¹ Although Article 18B paragraph (2) of the 1945 Constitution recognizes and respects indigenous communities and their traditional rights, the implementation of village governance regulation often creates tension between the administrative standardization imposed by the state and the preservation of customary governance systems. Previous studies demonstrate that the recognition of *desa adat* under the Village Law has not fully resolved questions concerning institutional authority, legal recognition procedures, and the extent of state intervention in customary governance.⁶² Therefore, a reconstructed review mechanism should adopt a constitutional approach that goes beyond ensuring formal conformity with statutory hierarchy and also evaluates the substantive protection of indigenous rights, community participation, and local legal values. The review process should recognize that village regulations are not merely administrative instruments but also expressions of local democratic practices and social identity. Accordingly, constitutional control over village regulations must balance legal uniformity with legal pluralism by ensuring that state supervision does not weaken village autonomy but instead strengthens the constitutional protection of diverse village communities.⁶³

Based on these findings, the reconstruction model proposed in this study positions constitutional review of village regulations as a continuous and integrated governance process involving preventive, participatory, and corrective mechanisms. This model departs from the current fragmented approach, where executive supervision, village legislative processes, and judicial review operate separately with limited coordination. Under the reconstructed framework, executive review functions as a preventive constitutional safeguard by ensuring that village regulations are substantively aligned with higher legal norms, constitutional values, and public interests before they are enacted. Legislative review, meanwhile, should be strengthened as a democratic mechanism that guarantees meaningful participation of Village Consultative Bodies, community groups, and local stakeholders in the formulation of village regulations. Such participation is essential because village regulations are not merely administrative products but legal instruments that directly affect community rights, development

⁶¹ Gamal Abdul Nasir, Khudzaifah Dimyati, and Absori Absori., Jaminan Hukum atas Pengakuan dan Eksistensi Hak Ulayat pada Masyarakat Hukum Adat, *Lex Publica*, Vol.6, no.1, 2019, page.35. See too, Bambang Supriyanto, and A. F. Azhari., Village financial and asset management based on village autonomy principles towards self-village (Case study in Central Java Province, Indonesia), *International Journal of Advanced Science and Technology*, Vol.29, no.3, 2020, page.1268.

⁶² Tine Suartina., Between control and empowerment: Local government acknowledgment of adat communities and adat villages in Indonesia, *Indonesia Law Review*, Vol.10, no.3, 2020, page.342. See too, Sri Wahyu Kridasakti, Rina Elsa Rizkiana, Purwaningdyah Murti Wahyuni, Ni Made Jaya Senastri, and Henny Yuningsih., The Legitimacy Crisis of Customary Villages Under Indonesia's Village Law, *Sriwijaya Law Review*, Vol.9, no.2, 2025, page.432.

⁶³ Tody Sasmitha Jiwa Utama., Impediments to establishing adat villages: a socio-legal examination of the Indonesian village law, *The Asia Pacific Journal of Anthropology*, Vol.21, no.1, 2020, page.21. See too, Noer Fauzi Rachman, and Hasriadi Masalam., The trajectory of indigeneity politics against land dispossession in Indonesia, *Sriwijaya Law Review*, Vol.1, no.2, 2017, page.130.

priorities, and local governance practices.

Furthermore, judicial review should serve as a corrective mechanism that provides legal protection when village regulations conflict with statutory provisions or constitutional principles. The integration of these three mechanisms creates a comprehensive system of legal control that balances village autonomy with the requirements of constitutional governance. This approach is consistent with the principles of good governance, where legality, accountability, participation, transparency, and institutional effectiveness must function simultaneously rather than independently.⁶⁴

Accordingly, strengthening constitutional review mechanisms for village regulations requires more than merely revising existing regulations; it requires institutional transformation involving capacity building, clearer authority distribution, and stronger coordination among village, district, and judicial institutions. The reconstruction model emphasizes that village autonomy should not be understood as absolute regulatory independence but as constitutionally bounded autonomy that operates within the framework of the rule of law. Through this approach, village regulations can become legitimate, responsive, and legally consistent instruments for realizing democratic and accountable village governance in Indonesia.

4. Conclusion

This study concludes that the constitutional review of village regulations in Indonesia formally operates through executive, legislative, and judicial mechanisms; however, their implementation remains largely ineffective. Executive review tends to function as an administrative formality, legislative review is weakened by limited deliberation and public participation, while judicial review remains rarely utilized due to legal ambiguity and procedural uncertainty. These findings indicate a substantial discrepancy between the normative framework of constitutional oversight and its actual implementation in village governance.

The ineffectiveness of these mechanisms is primarily caused by regulatory disharmony, limited institutional capacity, and weak legal culture in village law-making processes. Therefore, legal reform is required to harmonize overlapping regulations, clarify institutional authority, and strengthen the legal capacity of village governments and Village Consultative Bodies. Future studies may further examine comparative models of local regulatory oversight in other decentralized legal systems to develop more effective constitutional safeguards for village governance.

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⁶⁴ Quinton Mayne, Jorrit De Jong, and Fernando Fernandez-Monge., State Capabilities for Problem-Oriented Governance, *Perspectives on Public Management and Governance*, Vol.3, no.1, 2020, page.34. See too, Nurten Derici Temel., Revisiting Good Governance: Good Enough Governance and Just Enough Governance Approaches as a Functional Framework for Developing Countries, *Journal of Management and Economics Research*, Vol.20, no.3, 2022, page.78.

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