

Strengthening the Institutional Capacity and Authority of Neighborhoods, Communities, and Village Hamlets in Indonesia

I Gede Waha Sabudi Perdana^{1*}, I Wayan Parsa², I Gusti Ngurah Parikesit Widiatedja³, Ni Gusti Ayu Dyah Satyawati⁴
University of Udayana

Corresponding Author: Gede Waha Sabudi Perdana wahasabudi@gmail.com

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ABSTRACT

This study examines the institutional strengthening and the nature of authority held by neighborhood associations (Rukun Warga), environments (Lingkungan), and hamlets (Dusun) within the Indonesian regional government system. Despite their pivotal role in community empowerment and public service, these institutions face philosophical, juridical, and sociological challenges due to their limited formal recognition in Law Number 23 of 2014 concerning Regional Government. This research employs a juridical-normative method with statutory, historical, comparative, and conceptual approaches. The results indicate that the authority of these local leaders is derivative, obtained through delegation or mandate from the Lurah or Village Head, rather than through original attribution. Consequently, this study argues for the necessity of formalizing this authority through specific regional regulations (Perda) to ensure legal certainty, uphold the principles of good governance, and prevent the abuse of power. The institutional strengthening of these grassroots units is essential to bridge the gap between formal bureaucracy and community needs, thereby accelerating the realization of public welfare.

INTRODUCTION

The administration of government in each region is expected to accelerate the realization of community welfare through improved services, empowerment, and community participation, as well as enhancing regional competitiveness by considering the principles of democracy, equity, justice, and the uniqueness of a region within the Unitary State of the Republic of Indonesia. This aligns with the principles applied in regional government administration according to Law Number 23 of 2014 concerning Regional Government, including the Principles of Decentralization, the Principle of Deconcentration, and the Principle of Co-administration. The principles applied in government administration will result in regional autonomy, which forms autonomous regions and the creation of administrative areas divided into work areas of regional governments. In carrying out government administration in each region, the regent/mayor is assisted in performing general governmental affairs by being supported by Districts and sub-districts along with their apparatus. The administration of government is inseparable from public services as a tangible manifestation of the government's presence within the community. Community empowerment is necessary to enhance public participation in various sectors, thereby fostering societal welfare. At the district and sub-district levels, there exists an institution that plays an active role in community empowerment, known as the LPM (Community Empowerment Institution). In addition to the LPM, sub-districts or villages have other entities such as neighborhood associations, community units, or hamlets, each led by a chairman or head whose role is to assist the sub-district head or village chief in conducting governmental affairs.

The presence of neighborhood association chairmen, community unit heads, and hamlet leaders assisting the sub-district head or village chief represents a form of delegation of governmental authority. This phenomenon gives rise to various issues, both philosophical and legal as well as sociological problems arising from the delegation of authority, including 1) Philosophical Problems, namely that the success of the government cannot be separated from the participation of citizens. Article 27 of the 1945 Constitution states that all citizens have equal standing before the law and government and are obligated to uphold the law and government without exception. 2) Juridical Problems, namely the form of delegation and organizational structure under the village head/ sub-district head includes the neighborhood association head/ community head/ hamlet head or regional head, where such delegation raises juridical issues as to why the neighborhood/ community/ hamlet heads are not included in the Regional Government Law, considering these authorities originate from the executive's attributive powers that are delegated. 3) Sociological Problems, where in the effort to maximize the main duties and functions of the village head/ sub-district head, aside from being assisted by village/ sub-district staff, taking into account that the working area of the village it is sufficiently extensive that the roles of neighborhood association chairpersons, community unit leaders, or hamlet heads are highly necessary to assist the Village Head in the administration of governance, public services, and community empowerment. The tasks assigned to neighborhood association

chairpersons, community unit leaders, and hamlet heads are a form of delegated authority from the Village Head or village chief. Careless delegation of authority constitutes an abuse of power. Based on the background above, the central issue to be further examined is the strengthening of the institutions and authority of neighborhood associations, community units, and hamlets in Indonesia.

THEORETICAL REVIEW

This research explores the formation of legislation as the primary foundation of a legal system. According to Burkhardt Krems, legislative science (*Gesetzgebungswissenschaft*) is understood as an interdisciplinary field concerning the establishment of state regulations. In the drafting process, clear guidelines are required in the form of principles for proper law-making. Paul Scholten emphasizes that a legal principle (*rechtsbeginsel*) possesses distinct characteristics and is not merely a legal rule (*rechtsregel*).

Furthermore, there are two primary perspectives regarding the proper principles of state regulation formation. I.C. van der Vlies categorizes these into formal and material principles. Meanwhile, A. Hamid S. Attamimi asserts that the formation of regulations must be grounded in the Indonesian Legal Ideal (*Cita Hukum Indonesia*), the Principle of a State Based on Law, and the Principle of Government Based on a Constitutional System. In Indonesia, the hierarchy of legislation is strictly governed by Article 7 of Law Number 12 of 2011, which positions the 1945 Constitution at the highest level, followed by MPR Decrees, Laws/Government Regulations in Lieu of Laws, and Regional Regulations.

The concept of the rule of law (*Rechtsstaat*) is a vital pillar in the administration of government in Indonesia. Wiryono Projodikoro defines a rule of law state as one where the rulers or government are bound by applicable legal regulations in executing state duties. Jimly Asshiddiqie elaborates on this concept by identifying twelve fundamental principles of a modern *Rechtsstaat*, including the supremacy of law, equality before the law, the principle of legality, the limitation of power, human rights protection, and transparency. Additionally, R. Djokosutomo states that according to the 1945 Constitution, the law is sovereign; thus, the state as a legal subject can be prosecuted for any legal violations.

In a regional context, the administration of government must refer to the principles stipulated in Law Number 23 of 2014. These principles encompass legal certainty, public interest, openness, accountability, efficiency, and justice. All these principles are encapsulated within the framework of regional autonomy, wherein regions are granted the rights and obligations to regulate and manage their own governmental affairs and local community interests within the system of the Unitary State of the Republic of Indonesia. This provides legitimacy for regional governments to exercise authority for the welfare of the community.

Regarding authority, Peter Cane explains that legal authority serves as the basis for a government body to perform specific actions, which essentially constitutes discretion or choice. Indroharto argues that such authority can be acquired through three mechanisms: attribution (the granting of new authority via legislation), delegation (the transfer of existing authority), and mandate. In this study, the tasks performed by the chairpersons of neighborhood associations

(RW), heads of environments, and heads of hamlets are categorized as forms of delegated authority from the *Lurah* or Village Head.

The theories of popular sovereignty and the social contract also provide a robust theoretical foundation. Rousseau, in his work *Le Contrat Social*, states that the state and all regulations therein are the embodiment of the people's will. Individuals obey the law because of a promise to comply, and the people hold the ultimate sovereignty, delegating power to the state. Consequently, if the government fails to execute its mandate in accordance with the people's will, the public reserves the right to take action to replace said government.

Finally, the execution of governmental affairs must adhere to the principles of good governance. Philipus M. Hadjon views this concept from the perspective of administrative law as an effort to organize public interests and ensure community security. The National Institute of Public Administration (LAN) has formulated nine fundamental aspects of good governance: participation, rule of law, transparency, responsiveness, consensus orientation, equity, effectiveness and efficiency, accountability, and strategic vision. These theories collectively serve to examine the institutional strengthening of neighborhood associations, environments, and hamlets to prevent the abuse of power.

METHODOLOGY

This study employs a juridical-normative research method, which serves as a legal analysis utilizing analytical techniques within the dogmatic discipline of legal science. To address the research problems, a multifaceted approach is adopted, encompassing legislative, historical, comparative, and conceptual perspectives. Data collection is conducted through a literature study of secondary data, which includes primary, secondary, and tertiary legal materials sourced from statutory regulations, academic textbooks, scholarly journals, and relevant research findings. These materials are systematically recorded and evaluated using descriptive, analytical, and argumentative techniques to provide a comprehensive legal synthesis of the institutional strengthening and authority of neighborhood associations, environments, and hamlets in Indonesia.

RESULTS AND DISCUSSION

The existence of Neighborhood Associations (*Rukun Warga*), Environments (*Lingkungan*), and Hamlets (*Dusun*) in Indonesia occupies a unique position within the national legal framework. Based on Law Number 23 of 2014 concerning Regional Government, the administration of government is divided into decentralization, deconcentration, and co-administration tasks (Republic of Indonesia, 2014). However, these local institutions are not explicitly detailed as autonomous government tiers in this primary regulation. Instead, they function as helper organs, led by a chairperson, whose task is to assist the Urban Village Head (*Lurah*) or Village Head (*Kepala Desa*) in organizing government affairs.

The position of these institutions is legally grounded in the need to assist the *Lurah* or Village Head in government administration, public service, and community empowerment. The existence of the RW chairperson, head of

environment, and head of hamlet constitutes a form of delegation of government authority. This structural arrangement aligns with the principle that the executive branch requires an extended hierarchy to reach the grassroots level to accelerate the realization of community welfare (Boedianto, 2010).

In the context of the "State of Law" (*Rechtsstaat*), every government action must be based on prevailing laws to ensure legal certainty. According to Wiryono Projodikoro, a rule of law state is one where the rulers or government are bound by applicable legal regulations in executing state duties (Nasution, 2014). The current regulatory framework presents a juridical problem, as the form of delegation and organizational structure of these neighborhood heads raises the issue of why they are not comprehensively included in the Regional Government Law.

The core analysis of this study focuses on the nature of authority held by these local leaders. Referring to the theory propounded by Indroharto, authority in administrative law is obtained through attribution, delegation, or mandate (Sudrajat, 2017). Understanding this categorization is essential to evaluating the legal standing of RW and Hamlet heads in executing their daily administrative duties.

The authority of the RW, Environment, and Hamlet heads is not attributive. As defined in administrative law, authority obtained through attribution is the granting of new government authority by a provision in the legislation (Sudrajat, 2017). Since the prevailing regional government laws do not attribute independent original power to these specific neighborhood bodies, their legitimacy is fundamentally derivative rather than primary.

Instead, the authority exercised by these institutions is classified strictly as delegated authority. Delegation involves the transfer of authority, which must always be preceded by an attribution of authority to the delegator (Sudrajat, 2017). In this structural relationship, the *Lurah* or Village Head who possesses the attributive authority delegates specific operational tasks to the Hamlet or RW heads to facilitate community governance.

In certain administrative functions, this relationship may also strictly resemble a mandate. In a mandate, there is no granting of new authority or transfer of authority from one state administrative body to another (Sudrajat, 2017). When an RW head acts purely on behalf of the *Lurah* without assuming the legal liability of the action, they are operating under a mandate framework rather than full delegation.

The concept of discretion is also highly relevant to this dynamic. Peter Cane argues that authority means a government body has the legal authority to do an act, and the essence of this authority is discretion or choice (Efendi & Poernomo, 2017). The discretion possessed by RW and Hamlet heads is generally limited, confirming that their institutional design is strictly executive and operational to assist the primary village administrators.

Beyond the rigid legal analysis, the existence of these institutions is deeply rooted in the sociological reality of Indonesia. Rousseau's Social Contract theory suggests that the state rests on the will of the people, and all legislation is an embodiment of that will (Mardani, 2024). RW and Hamlets act as the primary

interface for this social contract at the micro-level, bridging the state and its citizens.

According to this theory, people obey the law because they have promised to do so, and the people hold the ultimate sovereignty (Mardani, 2024). If the government fails to execute its duties in accordance with the people's will, the public reserves the right to act. Therefore, the successful implementation of government policies relies heavily on the active participation of citizens at the neighborhood level.

This highlights the "Sociological Problem" identified in local governance. In an effort to maximize main tasks and functions, the *Lurah* requires the active role of RW and Hamlet heads because the vast working area of a Kelurahan makes it impossible to manage affairs solely with village staff. The law must recognize this sociological reality to prevent administrative bottlenecks.

The institutional strengthening of RW, Environments, and Hamlets must be aligned with the principles of Good Governance. According to Philipus M. Hadjon, from an administrative law perspective, the concept of good governance relates to the activities of performing functions to organize the public interest. These local units are instrumental in translating these macro-level governance principles into micro-level realities.

Good governance concerns the implementation of fundamental government tasks, including ensuring the safety of every person, managing an effective structure for the public sector, and advancing socioeconomic targets based on the people's will. The RW and Hamlet heads are consistently at the forefront of executing these exact fundamental tasks within their specific jurisdictions.

The National Institute of Public Administration (LAN) has concluded nine fundamental aspects of good governance, which include participation, rule of law, transparency, and responsiveness. The RW and Hamlet levels serve as the most effective channels for fostering participation, allowing citizens to engage directly with state administrative processes.

Furthermore, delegating adequate authority to these units is a clear manifestation of the Good Governance principles of effectiveness and efficiency. By decentralizing minor administrative and community tasks to the RW and Hamlet level, the higher bureaucracy operates more efficiently.

However, the principle of accountability poses a significant regulatory challenge. Haphazard delegation of authority without strict accountability measures constitutes an act of abuse of power. To formalize their authority properly, clear legal boundaries and reporting mechanisms must be established.

In the concept of the Rule of Law (*Rechtsstaat*), the limitation of power is a fundamental principle, as outlined by Jimly Asshiddiqie. The strengthening of these local institutions must be accompanied by strict limitations to ensure they do not exceed their delegated authority, thereby protecting the principle of equality before the law and human rights (Nasution, 2014).

To address the juridical problems and guide future regulation, policymakers must rely on the principles of forming good legislation. According to A. Hamid S. Attamimi, legislation must be based on the Indonesian Legal Ideal

and the constitutional system. Future regional regulations should explicitly codify the delegation of authority to these heads.

The strategic vision aspect of Good Governance suggests that these institutions should be integrated into the long-term planning of the region. They should be recognized not merely as informal community leaders but as formalized partners in regional development, necessitating a robust legal framework that clarifies their tasks.

In conclusion, the authority of RW, Environment, and Hamlet heads is currently a derivative form of delegated authority. The concept of this delegation needs to be strengthened and further developed so that government can run well and effectively. By formalizing their role and establishing clear legislative boundaries, the state can prevent the abuse of power while simultaneously empowering the community.

CONCLUSIONS AND RECOMMENDATIONS

Based on the research and legal analysis conducted, several key conclusions can be drawn regarding the institutional strengthening and authority of neighborhood associations (*Rukun Warga*), environments (*Lingkungan*), and hamlets (*Dusun*) in Indonesia:

1. **Nature of Authority:** The authority held by the chairpersons of RW, environments, and hamlets is not original or attributive in nature. Instead, it is a derivative authority obtained through **delegation** or **mandate** from the *Lurah* or Village Head. This means their legal power is contingent upon the higher administrative office, which often leads to juridical ambiguity regarding their independent standing in the regional government hierarchy.
2. **Institutional Status:** Although these institutions are sociologically indispensable as the primary interface between the state and the community, they lack a strong legislative foundation in Law Number 23 of 2014 concerning Regional Government. This creates a gap between their heavy social responsibility and their limited formal legal recognition.
3. **Good Governance Alignment:** The strengthening of these local units is a prerequisite for achieving the principles of **Good Governance**, particularly in terms of community participation, responsiveness, and administrative efficiency. However, without clear codification, there remains a persistent risk of the abuse of power or legal uncertainty in their administrative actions.

Recommendation

To address the findings of this study, the following recommendations are proposed:

1. **Legislative Reform:** It is recommended that the central government or regional legislatures (*DPRD*) formulate more explicit regulations, such as Regional Regulations (*Peraturan Daerah/Perda*), that specifically codify the delegation of authority to neighborhood and hamlet heads. This

codification should clearly define their scope of work, appointment procedures, and legal protections to ensure **legal certainty**.

2. **Formalization of Accountability:** To prevent the abuse of power, a formal accountability mechanism should be established. Neighborhood and hamlet heads should be provided with standardized performance indicators and transparent reporting lines to the Village or *Kelurahan* office, transforming social accountability into formal administrative accountability.
3. **Institutional Capacity Building:** Regional governments should invest in the institutional capacity of these grassroots units through regular legal and administrative training. Strengthening their understanding of the rule of law and administrative procedures will ensure that public services at the neighborhood level are delivered effectively and in accordance with the principles of the Unitary State of the Republic of Indonesia.
4. **Integration into Strategic Planning:** Future governance policies should transition from viewing these institutions as mere "helpers" to recognizing them as strategic partners in regional development. Their roles should be formally integrated into the long-term strategic planning of local governments to foster a more participatory and democratic governance model.

FURTHER STUDY

While this research provides a comprehensive juridical analysis of the institutional framework and delegated authority of neighborhood-level governance, several avenues remain for future academic inquiry:

1. **Empirical Legal Research on Implementation:** Future studies could employ a socio-legal or empirical approach to examine how these delegated authorities are exercised in practice across different regions in Indonesia. This would provide insight into the consistency—or lack thereof—between provincial regulations and the actual administrative actions taken by RW and Hamlet heads.
2. **Comparative Analysis of Customary Governance:** A comparative study between the "Environment" (*Lingkungan*) in urban areas and "Customary Hamlets" (*Banjar* in Bali or *Nagari* in West Sumatra) would be valuable. Understanding how modern administrative law integrates with traditional customary authority could offer a more nuanced model for institutional strengthening.
3. **Digital Governance and Local Administration:** As Indonesia moves toward "Smart Villages" and digital public services, further research is needed to explore the legal implications of digitalizing the duties of RW and Hamlet heads. This includes issues of data privacy, the legality of digital signatures, and the electronic delegation of authority within the grassroots bureaucracy.
4. **Fiscal Independence and Financial Accountability:** This study primarily focuses on administrative authority; however, future research should investigate the financial aspects of these institutions. Analyzing the

feasibility of providing direct operational budgets to RWs or Hamlets versus the risks of financial mismanagement would contribute significantly to the discourse on local government autonomy.

5. **Conflict of Norms in Multi-level Governance:** Further inquiry is required to analyze potential conflicts between Ministerial Regulations (*Permendagri*) and Regional Regulations (*Perda*) regarding the technical guidelines for community institutions. A synchronization study could help harmonize the vertical hierarchy of regulations to ensure better legal certainty.

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