

The Concept of Village Autonomy

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Review Article

The Concept of Village Autonomy in Indonesia (Indonesian Constitution Perspective)

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ABSTRACT

Indonesia was introduced to the term, “village autonomy” in 1970s; however, throughout the past years of establishing autonomous villages in Indonesia, the legislators have not been able to provide any clarity about this concept. Villages, as a legal entity, do not have enough independence to represent themselves as an autonomous unit of community in the state administration system of Indonesia. Article 18B and 28I of the second amendment of The 1945 Constitution of The State of Republic of Indonesia (UUD 45) state that the villages can have independent governments, by giving the alternative of village autonomy. Implementation of the Law No. 6 Year 2014 is a part of the effort to realize the message of constitution and hence conception of autonomous villages is expected to be the catalyst for this concept. The presence of this law had a considerable impact on the 2014 presidential elections. Because of this people are concerned that political interests may try to drive and turning the direction and purpose of the law. This study is a part of the research on the implementation of village autonomy policies in Indonesia, and is compiled by using statute and conceptual approach.

Keywords: village autonomy; constitutional framework; local self government.

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ABSTRAK

Istilah “otonomi desa” telah dikenal sejak tahun 1970an di Indonesia. Namun, sepanjang tahun pembentukan otonomi desa di Indonesia, para legislator belum mampu memberikan kejelasan tentang konsep ini. Desa-desanya sebagai badan hukum, tidak memiliki cukup kemerdekaan untuk mewakili diri mereka sebagai unit otonom komunitas di sistem administrasi negara Indonesia. Pasal 18B dan 28I amandemen kedua konstitusi negara Republik Indonesia Tahun 1945 (UUD 45) menyatakan bahwa desa-desa dapat memiliki pemerintahan yang independen, dengan memberikan alternatif otonomi desa. Implementasi UU No. 6 tahun 2014 adalah bagian dari usaha untuk mewujudkan pesan Konstitusi, dan karenanya konsepsi otonomi desa ini diharapkan menjadi katalis untuk konsep ini. Kehadiran Undang-undang ini memiliki dampak yang cukup besar pada pemilihan Presiden tahun 2014. Karena orang khawatir bahwa kepentingan politik mungkin mencoba untuk mendorong dan membelokkan arah dan tujuan hukum. Penelitian ini adalah bagian dari penelitian tentang pelaksanaan kebijakan otonomi desa di Indonesia, dan dikompilasi dengan menggunakan pendekatan undang-undang dan konseptual.

Kata kunci: otonomi desa; kerangka konstitusi; pemerintahan daerah.

1. Introduction

The concept and the position of the village and the village government institutions throughout the history of constitutional development in Indonesia has experienced ups and downs like a roller coaster. The village originally was one entity at a time of social

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institutions of culture and government were not at all tied to the structure of the country, later in the state era (from the Netherlands, Japan, to Indonesia) was withdrawn as an instrument of the state, therefore bound by the seal of power and regional programs, as well as liability to submit to the hierarchical system of state government. The withdrawal of the village into the structure of state power, forcing the village to be transformed from a self-governing community became a local self-government.

The transformation that occurred systemically in the village, very influence towards the birth of Autonomy Village Government concept. Autonomy as a consequence of the vertical distribution power of the State, not recognized on construction of village governance at first, given the village is a self governing community who are not on any Government hierarchy structure¹. In addition, autonomy of the village's existence is meant more as independence of an Government organization to manage his household. After the birth of the State concept and the entry of the village in the hierarchy of the State power, the concept of the autonomy of the village shifted into mere independence to manage household affairs of the village, as part of the governance of the countries in the region.

The enactment of Law No. 6 Year 2014 on Village as an effort to improve corporate governance (Government) of the village, is part of a process of ups and downs the democratization of State governance. in particular related to the effort to find the right formulation in ensuring the effectiveness and efficiency of State governance, equitable development and the result for the whole people of Indonesia. The Law No. 6 Year 2014 is the response of demands improvements to legislation and regulation during this countryside is not considered appropriate and equitable². But that needs to be noted that this law was born as part of the political process in the Parliament that seeks to seize the village of sympathy to win Elections by 2014³. The focus of the most significant changes ever present is on the Village Fund Allocation (ADD) with state budget as one of the source.

Remembering the birth of this law that are procedurally and substantially located at the vortex of national interests and political struggles ahead of the 2014 election, would be interesting to see whether the construction of Village Autonomy in Law No. 6 Year 2014 is in harmony with the construction of Village Autonomy in Article 18B and Article 28 of The 1945 Constitution of The State of Republic of Indonesia (UD 45). The study of the

¹ Soetardjo Kartohadikoesomo, *Desa*, 1st ed. (Jakarta: Balai Pustaka, 1984). p. 202. [View Item](#).

² Andin Sofyanoor, "Pengaturan Desa Dalam Perspektif Law As an Allocative System," *Fiat Justitia Jurnal Ilmiah Hukum* 8, no. 2 (2014): 221-41. [View Item](#).

³ Ni'matul Huda, *Hukum Pemerintahan Desa Dalam Konstitusi Indonesia Sejak Kemerdekaan Hingga Era Reformasi*, 1st ed. (Malang: Setara Press, 2015). p. 206-207. [View Item](#).

constitutionality of legislation, especially products that are directly related to the existence of the village and the government in this area is important, because the results of this study can serve as a basic framework for relevant stakeholders to determine the next steps to provide legal protection for the people. The bias of interest in making the legislation essentially legitimate, given the legislative Product is a product of politics, as long as the interests of bias products still in the corridors of the Constitution.

2. Discussion

2.1 Construction of Article 18B UUD 45.

Article 18B of the UUD 45 is the product of the second amendment which was published in 2002. The clause of Article 18B which recognizes the existence of unity of the legal community who rely on the customs and/or local wisdom⁴, is a reconstruction of the explanation of Article 18 prior to the second paragraph as well give recognition to the unity of indigenous peoples. If the construction of customary law community unit in Article 18B placed in the context of the explanation of Article 18 (old/original), it can be stated that the customary law community unit contemplated by Article 18B is the village, because this explanation made it clear that *"In Indonesian stateterritoir are approximately 250 zelfbesturendelandchappen and volksgemeenschappen, such as villages in Java and Bali, ... areas that have the original order, and can therefore be considered as areas that are special"*⁵.

Moving on from the explanation of Article 18, the position of the village in the provisions of Article 18B can be seen in the two approaches. First, the village as a *zelfbesturendelandschappen* as the territorial unity which has its own government, has the authority attached to the people (government formed in it) to organize and manage household affairs independently, and has an inherent right to autonomy as a rule. Second, as a *volksgemeenschappen* the village as a unit of the local community mores as an existential framework in the organization of everyday life as a community⁶.

Understanding of the meaning and purpose of Article 18B we can also dig in construction drafting history of the provision. Given the court proceedings related to the discussion of Article 18, one of the issues that arise as a matter of urgency for the holding of

⁴ Indonesia, *Undang-Undang Dasar Negara Kesatuan Republik Indonesia Tahun 1945* (The 1945 Constitution of the State of Republic of Indonesia, 1945). Article 18 B paragraph (2). [View Item](#).

⁵ Indonesia, *Undang-Undang Dasar Negara Kesatuan Republik Indonesia Tahun 1945 Sebelum Amandemen* (The 1945 Constitution of The State of Republic of Indonesia Before Amandment, 1945). Elucidation. [View Item](#).

⁶ Ibid.

the changes to Article 18 is because the concept is considered too simple, thus allowing a variety of interpretations in the form of policies and regulations are biased interests⁷. Forum also agreed the need for confirmation by the Article space of regional autonomy that therein lay the construction of the governance of regional autonomy within the framework of a unitary state, with also provide confirmation of the existence of the unity of people that are original to give space recognition and respect for the rights of the origin of the community units.

Tracing the history of the formulation, the position of Article 18B Paragraph (1) and Article 18B (2) are substantially used to explain two things (institutions) are different, but the spirit and thinking the same construction. Article 18B Paragraph (1) is intended as a form of recognition and respect for the country on the existence of regional and local government institutions are due to its historical factors may be included in the construction of special areas and special autonomy. As for Article 18B Paragraph (2) is intended for the legal community unit attached to it right to the origin as well as village or community unit equals that with other designations⁸.

Chronology of the discussion related to village in the MPR associated with the spirit of recognition and respect for the rights of origin attached to village-level government unit, even at first village concept attached to the rights of origins proposal⁹, and therefore regional autonomy arrangements geared to accommodate the village as a unit of society "should" not be dragged in the hierarchy of power (government) countries. Village autonomy understood as the right and authority of origin rely on the construction history of the birth of the village, so that in such a context of village autonomy is not the rights and customary authority that grows from the formation of the village administration in the future, but that there are accompanying or attached on the birth of the village itself.

Village autonomy in the context of Article 18B by looking at existing historical basis, put on the scope of the right, authority and responsibility for an affair that emerged from local knowledge (customs) and the right of the origin of the village community. Village autonomy in this context is the original and therefore put the state in a position to admit and respect, not to regulate, let alone set a limit of space or scope of authority of village autonomy that is

⁷Tim Penyusun, *Naskah Komprehensif Perubahan Undang-Undang Dasar Negara Republik Indonesia Tahun 1945: Latar Belakang, Proses, Dan Hasil Pembahasan, 1999-2002 (Buku IV Kekuasaan Pemerintahan Negara Jilid 2)*, ed. Meyrinda R. Hilipito P and Lulu Anjarsari, 2nd ed. (Jakarta: Sekretariat Jenderal dan Kepaniteraan Mahkamah Konstitusi, 2010). pp. 1125-1170. [View Item](#).

⁸Ibid. pp. 1239-1248.

⁹Ibid.

original¹⁰. An understanding of the construction of village autonomy in Article 18B cannot be separated from an understanding of the construction of Social and Cultural Rights in Article 28, given that both born during the trial and product same amendment (amendment 2).

The provisions of Article 28 Paragraph (3) which states that "The cultural identity and the rights of traditional communities be respected in line with the times and civilizations", a conceptual frame for the recognition of village autonomy contained in Article 18B Paragraph (2) as part of Human Rights. In the context of Article 28 Paragraph (3), which is owned by the village autonomy as an institution of government as well as sozio-cultural entities, can be seen as part of a cultural identity whose existence should get protection from the state. That protection should be given the time it can be proved that the autonomy inherent in the village is a right inherent in the nature of the origin and become part of the identity that marks the existence of society and / or the village government entities and other institutions¹¹.

Clause "in tune with the times and civilization" contained in Article 28I Paragraph (3) makes the customs inherent as the right of the origin, are not automatically recognized and is entitled to protection from the state. customs as the origin of the rights inherent cultural identification is only recognized to the extent corresponds to the construction of civilization that will be built by the state. In the context of this village autonomy, civilization and parameter values are supposed to Pancasila, which is a fundamental norm states at once *philosophische grondslag* for the Unitary Republic of Indonesia¹². As for the construction of the times in question should be is conformity with the development of science and technology, in this case the customs are recognized as the origin of the village is only customs that promote the progress of the village and its people.

Moving from the implementation of Article 18B and Article 28 of 1945 Constitution, the autonomy of the village can be understood as the rights, powers, duties and obligations attached to the village independently manage and take care of household villages along in tune with the demands of the times and in accordance with the value -the value of Pancasila. Village autonomy in this context is not independence and freedom, but freedom, a concept

¹⁰ You can confirm this proposition with the other analysis on: Afriniko, "Politik Hukum Otonomi Desa Berdasarkan Undang-Undang Nomor 6 Tahun 2014 Tentang Desa," *JOM Fakultas Hukum* 2, no. 2 (2015): 1–15. [View Item](#).

¹¹ Compare with analysis on: Anang Sya'rony, "Otonomi Desa Dalam Sistem Pemerintahan Daerah Pasca Amandemen UUD 1945," *Jurnal Konstitusi* 2, no. 2 (2009). [View Item](#). [Google Scholar](#).

¹² In BPUPKI Conference Sukarno stated Pancasila as *philosophische grondslag*, is interpreted as: "... *pundamen, filsafat, pikiran yang sedalam-dalamnya, jiwa, hasrat, yang sedalam-dalamnya untuk di atasnya didirikan gedung Indonesia yang kekal dan abadi*". Saifroedin Bahar, *Risalah Sidang Badan Penyelidik Usaha-Usaha Persiapan Kemerdekaan Indonesia (BPUPKI), Panitia Persiapan Kemerdekaan Indonesia (PPKI) 28 Mei 1945-22 Agustus 1945* (Jakarta: Sekretariat Negara Republik Indonesia, 1995). p. 65. [View Item](#).

that is completely different to the implications (consequence) systemic also different. Autonomy in the context of a unitary state which calls for the unity of the state governance¹³.

2.2 Village Autonomy in Law No. 6 Year 2014 Perspective Article 18B Paragraph (2) UUD 45.

Assessing the degree of suitability of the concept of village autonomy between the Law No. 6 2014 with Paragraph 2 of Article 18B 1945 Constitution, there're two parameters can be submitted to assess, firstly related to conceptual building, and second related to autonomous scope or broadness Village.

Related to conceptual building, that Law of No. 6 Year 2014 expressly do not give one pukka definition to concept of autonomy of Village, even so, from construction of arrangement contained in Law of The Village, autonomy of Village can be meant as a set right, obligation and responsibility to housewifery management of Village (including in it business of government and social community) by structure of Village government or that is owned by Village as autonomous area. Concept of the autonomy covers also right, obligation and responsibility based on tradition and the origin of Village as an unity of public who having the character of genealogical and the territorials.

The concept is substantially actually is not against mean and desire of Article 18B paragraph (2), because the concept is actually had expressed the confession and respect to the existence of rights the origin of and customs that sticking in the Village. Issues possible arises from the conceptual building autonomy of the Village is on strict nation in putting down the formula inside the Law of No. 6 Year 2014, because by he confessed two classifications of Village (Indegenous Village and Territorial Village) and possible it of transformation between both the classifications, then assertively the formula will trigger the issues related to autonomous scope and pattern of relationship of between structure of government.

The change from the usual indogenous village to village (territorial) presumably will not have a significant impact, because the concept of village autonomy of the bridge to the addition of administrative authority delegated authority derived from the structure above. Problems arising from the change in status of Indigenous village is located at the level of sozio-cultural community and administrative habits, which require a lot of adjustment, and thus potentially cause social friction that slows the performance of governance and development in the village.

¹³ Comparing to *Prinsip Negara Kesatuan* in M. Arief Muljadi, *Landasan Dan Prinsip Hukum Otonomi Daerah Dalam Negara Kesatuan RI* (Jakarta: Prestasi Pustaka, 2005). p. 86-89. [View Item](#).

The potential presence of legal problem is if there is a change the status of the village into the Village People, because of this change in status would affect the scope of the matters that it is possible there and recognized by the state. The village turned the Indigenous village, run the rights, duties and authority based on the principle of recognition, allowing for the expansion of the scope of village autonomy, primarily related to the dispute that is possible comes from the redefinition of indigenous territories and indigenous peoples that became the locus and subject to regulation and governance of government Indigenous villages¹⁴. Separation of villages and indigenous villages in the Village Law in Article 18B perspective presumably is not appropriate, as it would reduce the existence of villages that were originally inseparable from customs as his identity. Equal treatment between the village and the indigenous villages as explained in the UUD 45 (old) elucidation also confirms the paradigmatic confusion in the separation of the conception of the village and indigenous villages¹⁵.

Related parameters of breadth of coverage village autonomy, the outline can be seen that the breadth of village autonomy in Law No. 6 Year 2014 was adjusting to the conception of Article 18B paragraph (2), which requires the village became a legal community unit, or according Asshiddiqie, village is a legal entity¹⁶. As a legal entity, the Village has historically demanded a space of autonomy and to encourage the independence of the village in the activity as a legal subject. The formulation of Article 3 which stipulates that one of the principles in the governance of the village is the principle of recognition as well as the formulation of Article 4 related to the purpose of setting the village as a framework to ensure the village as an institution and the legal community unit that is genuine to the customs attached to him is reflection from spirit of autonomous confession of village in constitution of nation.

Judging by the instrument of authority attached to the village as stipulated in Chapter IV of the Authority of the Village, presumably village authority already reflects the concept of the village as an autonomous region and the unity of the traditional society, because under Article 18 stated that the broad autonomy of the village include "authority in the field of organizing the Village Administration, implementation of Rural Development, Rural community development, and community empowerment village based community initiatives,

¹⁴ Indonesia, UU Nomor 6 Tahun 2014 Tentang Desa (Law Number 6: SG No. 7, 2014). Elucidation. [View Item](#).

¹⁵ Ibid.

¹⁶ Jimly Asshiddiqie, "Konstitusi Masyarakat Desa (Piagam Tanggung Jawab Dan Hak Asasi Warga Desa)" (Jakarta, 2015). [View Item](#).

the right of origin, and customs of the village". Thus the authority of village autonomy is fairly spacious and has a genuine character because the implementation of such authorities must respect the right of the origin and customs (indigenous) villages.

Apart from conceptual improvements that have been done with the presence of laws Village, there are some critical notes can be filed. First, it is not appropriate conceptual distinction between the village and the villagers regarding the rights and obligations attached to both (Chapter VI), because in historical perspective, the village and the people are one of organic unity in which the existence of rights and obligations cannot be separated¹⁷. The obligation are attached to the village substantially is the obligations and rights of the people, nor the right of the village is also the obligations and rights of its people.

Another criticism that may be issued for the construction of village autonomy in Law No. 6 of 2014 is related to the regulation of the rights and authority of indigenous villages. In-construction drafting history of Article 18B Paragraph (2), there was an understanding that the lives of indigenous peoples, the policy pursued in character recognition and respect and not setting, given indigenous villages are genuine and therefore has a diversity between one and the other¹⁸. Separate regulation of the Village People in Chapter XIII we believe a substantial have entered the realm of state intervention on the existence of the unity of indigenous peoples, and historical philosophies promoted contrary to the spirit of Article 18B Paragraph (2) 1945 Constitution.

2.2 The Village Autonomy in Law No. 6 Year 2014 perspective Article 28I UUD 45.

Measuring the constitutionality of autonomous village in perspective of Article 28I UUD 1945, we must see the autonomy of village from Human Right perspective, because framework of thought from Article 28I paragraph (3) is Covenant on Economic Social and Cultural Right (CESCR). The characteristics of the Economic Social and Cultural Right (ESCR) in current of HAM is having the character of positive right, existence of the right do not only become the domain of private that must free of intervention of whichever side including the nation, but giving the responsibility to the state to do the protection, guarantee and even effort for its accomplishment¹⁹. ESCR also has the dimension that having the

¹⁷ Sofyanoor, "Pengaturan Desa Dalam Perspektif Law As an Allocative System."

¹⁸ Read history of the making Article 18B in Penyusun, *Naskah Komprehensif Perubahan Undang-Undang Dasar Negara Republik Indonesia Tahun 1945: Latar Belakang, Proses, Dan Hasil Pembahasan, 1999-2002 (Buku IV Kekuasaan Pemerintahan Negara Jilid 2)*.

¹⁹ Pusat Studi dan Hak Asasi Manusia Universitas Surabaya, *Wacana Hak Ekonomi, Sosial, Dan Budaya. Pemikiran Beberapa Dosen Universitas Surabaya* (Surabaya: Pusat Studi dan Hak Asasi Manusia Universitas Surabaya, 2008). p. 83. [View Item](#).

character of negativity to realize accessibility and accomplishment of the right, nation in a state of certain prohibited to take the action and act can cause to injured it of the right²⁰.

Article 28I paragraph (3) in CESCR's perspective can be meant as recourse of law of the state to various cultural identities and customs there and develop in Indonesia along with all consequences of systemizes that background and brought by various the at length of in harmony with standing and prestige of people of Indonesia that have Pancasila. Word in harmony with development of age and civilization of clause Article 28I paragraph (3) it cannot interpret as constrain of confession to an ESCR only at culture that in harmony with development of global culture (modernism) and disregard and refuse the existence and runs the tradition which originally sticks as identity of local public with reason and not follow the modernism.

Understanding Article 18B paragraph (2) diametrically cannot be discharged from the construction Article 28I paragraph (3), is because essence of base of Article 18B is confession and respect to the unity of public of is distinguished customary law by social variance culture as its identity. In context is then construction Article 18B paragraph (2) bound to Declaration of UN about The Rights of Indigenous Peoples, admitted existence of 6 (six) right of public of custom who substantially claim active role of nation in protection and its accomplishment, namely²¹:

- 1) *Rights to determine the fate itself;*
- 2) *rights to represent ownself in the negotiations with the other party through the stewardship of institutional/custom;*
- 3) *rights to run their customary law;*
- 4) *rights to have, master, and manage soil;land;ground of its natural resources;*
- 5) *rights to identify himself as public of custom; and*
- 6) *Intellectual property rights.*

Regardless the debate about understanding of indigenous of society in Indonesia, are is only limited to Indigenous Village that referring at term of local public? Or surrounding the whole context of public of custom in the indonesia in general?²² The conclusion is that character of norm related to Government of Village and Autonomous Village based on provision of Article 28I paragraph (3) righteously more have the character of confession compared to arrangement. Arrangement can be done limited to protect existence and

²⁰ Majda El Muhtaj, *Dimensi-Dimensi HAM, Mengurai Hak Ekonomi, Sosial Dan Budaya*, 3rd ed. (Jakarta: Raja Grafindo Persada, 2013), pp. xxix-xxxii. [View Item](#).

²¹ Surabaya, *Wacana Hak Ekonomi, Sosial, Dan Budaya. Pemikiran Beberapa Dosen Universitas Surabaya*. p. 101.

²² Muhtaj, *Dimensi-Dimensi HAM, Mengurai Hak Ekonomi, Sosial Dan Budaya*.

guarantee harmony between autonomy of village with principle of unity state, it not to limit or lessen blush of the autonomy.

Starting from the understanding of the Article 28I UUD 45 can do an assessment of the degree of the constitutionality of the village autonomy concept present in Law No. 6 Year 2014. First we can see from the formulation of the unity of the community's customary law in Law No. 6 Year 2014. the concept of the unity of community law within the legislation represented by the term village and Indigenouss village, uniformly defined in Article 1 Number 1. This definition provides a guarantee that the village and the village of custom is just the same, because both are attached to the same identity and scope of authority, within their territory.

The context of the definition in Article 1 number 1 has been aligned in harmony with the construction Article 28I paragraph (3), because in the definition of the village and the village customary law community unity seated as customs have leeway in setting the Affairs of governance bylaws based on the initiative and customs that are adhered to. As for the recognition of rights and the authority based on the principle of the unity of the Country is part of the shared identity of the nation that constitutionally framing the overall corporate governance of State power in Indonesia. The principle of unitary State not to limit the diversity of form and structure, but rather to give the assurance of diversity that has one submission on the same common interests as a nation..

The second relates to the pattern and nature of the granting of autonomous villages. As has been reviewed previously, that the style and nature of the granting of autonomy to the village in perspective Article 28I more Recognition compared to the Regulation. If the view on some of the provisions contained in Article 3 and Article 4 of Law No. 6 Year 2014 which put "*rekognisi*" as one of the principle in the setting of the village and the recognition, respect and preservation of customs and cultural identity as a destination for local enactment, then it can be said that the construction of village autonomy in legislation has been harmonised with the Constitution. However, if seen from the existence of a distinction setting that led to the existence of different treatment towards the Village and the Indegenous Village as set forth in chapter III and the next, it can be seen as a form of inconsistency in the law setting.

The equation of definition of Indigenous Villages and villages are systemic in section 1 point 1 must bring consequences that equally against the construction of autonomy for both. Autonomous village and the construction of the village setting in the law is indeed already shows the spirit of the democratization of governance to realize the village-based

participatory governance, but on the other hand the pattern settings made through Law No. 6 Year 2014 shows the distrust of the State on the processes that are running in the village. The settings are so rigid about the process and procedures of governance and development, of the obligations and duties of the head of the village, as well as the structural layout of the Government, and even showed a culture village, and made efforts to appeal to the Government of the village into the nets of the bureaucracy of the State.

The provisions of Article 95 which became the basis for the existence of Indigenous Villages in the center of the village, no more only served as an organization set up by the village to keep the historical romance side of the upper village customs. The institution is not an element of the organizers of the village Government has the authority to impose the introduction of customs and local wisdom in the village. The principle of "*rekognisi*" in the Law No. 6 Year 2014 nothing more just meaningful for Indigenous Village of settings in chapter XIII, because only Indigenous Village which enables the implementation of customs and local wisdom as part of the governance.

3. Conclusions

The village autonomy in law No. 6 Year 2014 can be conceptualised as a set of rights, obligations and responsibility for the management of household affairs of the village (including the Affairs of Government and social development) by the governmental structure of the village or that is owned by the village as an autonomous region.

The village autonomy concept in Law No. 6 Year 2014 are essentially has been in accordance with the construction of village autonomy in article 18B paragraph (2), but in the perspective of the Article 28I paragraph (3) there are some disharmony related to the existence of traditional rights, because the basic essential *rekognisi* in the law can only be applied to governance of Indigenous Villages, and not to the Government of the village. The village does indeed get the certainty of an increasingly broad autonomous spaces as well as an additional source of revenue of the State Budget, but at the same time the village charged with a variety of administrative procedures that are incriminating and alien to the Government of the village. The construction of the existing settings even impressive presence of "*negaraisasi*" and "*birokratisasi*" villages, and the extent of the autonomy of the village will look not freedom in its limitations.

Bibliography

Journals:

- Afriniko. "Politik Hukum Otonomi Desa Berdasarkan Undang-Undang Nomor 6 Tahun 2014 Tentang Desa." *JOM Fakultas Hukum* 2, no. 2 (2015): 1–15. [View Item](#).
- Sofyanoor, Andin. "Pengaturan Desa Dalam Perspektif Law As an Allocative System." *Fiat Justisia Jurnal Ilmu Hukum* 8, no. 2 (2014): 221–41. [View Item](#).
- Sya'rony, Anang. "Otonomi Desa Dalam Sistem Pemerintahan Daerah Pasca Amandemen UUD 1945." *Jurnal Konstitusi* 2, no. 2 (2009). [View Item](#). [Google Scholar](#).

Books:

- Asshiddiqie, Jimly. "Konstitusi Masyarakat Desa (Piagam Tanggung Jawab Dan Hak Asasi Warga Desa)." Jakarta, 2015. [View Item](#).
- Bahar, Saifroedin. *Risalah Sidang Badan Penyelidik Usaha-Usaha Persiapan Kemerdekaan Indonesia (BPUPKI), Panitia Persiapan Kemerdekaan Indonesia (PPKI) 28 Mei 1945-22 Agustus 1945*. Jakarta: Sekretariat Negara Republik Indonesia, 1995. [View Item](#).
- Huda, Ni'matul. *Hukum Pemerintahan Desa Dalam Konstitusi Indonesia Sejak Kemerdekaan Hingga Era Reformasi*. 1st ed. Malang: Setara Press, 2015. [View Item](#).
- Kartohadikoesoemo, Soetardjo. *Desa*. 1st ed. Jakarta: Balai Pustaka, 1984. [View Item](#).
- Muhtaj, Majda El. *Dimensi-Dimensi HAM, Mengurai Hak Ekonomi, Sosial Dan Budaya*. 3rd ed. Jakarta: Raja Grafindo Persada, 2013. [View Item](#).
- Muljadi, M. Arief. *Landasan Dan Prinsip Hukum Otonomi Daerah Dalam Negara Kesatuan RI*. Jakarta: Prestasi Pustaka, 2005. [View Item](#).
- Penyusun, Tim. *Naskah Komprehensif Perubahan Undang-Undang Dasar Negara Republik Indonesia Tahun 1945: Latar Belakang, Proses, Dan Hasil Pembahasan, 1999-2002 (Buku IV Kekuasaan Pemerintahan Negara Jilid 2)*. Edited by Meyrinda R. Hilipito P and Lulu Anjarsari. 2nd ed. Jakarta: Sekretariat Jenderal dan Kepaniteraan Mahkamah Konstitusi, 2010. [View Item](#).
- Surabaya, Pusat Studi dan Hak Asasi Manusia Universitas. *Wacana Hak Ekonomi, Sosial, Dan Budaya. Pemikiran Beberapa Dosen Universitas Surabaya*. Surabaya: Pusat Studi dan Hak Asasi Manusia Universitas Surabaya, 2008. [View Item](#).

Legal Documents:

- Indonesia. *Undang-Undang Dasar Negara Kesatuan Republik Indonesia Tahun 1945*. The 1945 Constitution of The State of Republic of Indonesia, 1945. [View Item](#).
- . *Undang-Undang Dasar Negara Kesatuan Republik Indonesia Tahun 1945 Sebelum Amandemen*. The 1945 Constitution of The State of Republic of Indonesia Before Amendment, 1945. [View Item](#).

———. *UU Nomor 6 Tahun 2014 Tentang Desa*. Law Number 6: SG No. 7, 2014. [View Item](#).

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