Village authority and position in realizing village autonomy

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Abstract. Law No. 6 of 2014 concerning Villages, clarifies the position of one of the integral parts of the country that is specifically regulated in view of its cultural uniqueness. Village autonomy is no longer a part of regional autonomy given to villages, but the granting of inheritance rights inherent in villages as part of inherited rights. The position of the village is no longer under and in the regional government; rather, it is domiciled in regencies or cities. Article 5 and Article 4 of Law No. 6 of 2014 concerning Villages, outlining the purpose of the process referred to as village regulation. Research Objectives To Determine the Authority and Position of the Village in Realizing Village Autonomy. This research is a normative legal research method. Normative legal research is research conducted by reviewing the laws and regulations that apply or apply to a particular legal problem. The authority assigned by the Government, the Provincial Regional Government, or Regency/City Regional Government, village authority becomes an autonomous village of local self-government. Constitutionally, the village is an indigenous governing organization (a self-governing community), not a formal government organization that carries out administrative functions of the state (local state government). Village authority is based on the principle of recognition and subsidiarity, not on the principle of decentralization. Thus the position of the village must be emphasized first in the constitutional structure through the constitution, then followed by the transfer of authority to the village along with the allocation of funds directly from the state budget.

1. Introduction
Indonesia is a State in the form of a Republic of authority between the Government, regional and Village Governments in a System of the Unitary State of the Republic of Indonesia according to the Constitution of the Republic of Indonesia, which gives freedom to the regions to carry out regional autonomy with broad, real and responsible authority which is realized by regulating, sharing and utilizing equitable national resources, as well as central and regional financial balances. In addition, the implementation of regional autonomy is also carried out with the principles of democracy, the role of the community, equitable distribution of justice, and attention to the potential of regional diversity. The regency and municipality areas are autonomous regions that have the authority and discretion to form and implement policies according to the initiatives and aspirations of the people [1]. Law Number 22 of 1999 concerning Regional Government opened positive changes, but still gave birth to a number of issues, such as the design of decentralization, the government fully relegated village issues
to districts / cities was very inappropriate, because what did decentralization was the state rather than district / city the village's position was unclear, because confuse the principles of self-governing community (original autonomy) and local self-government (decentralization). Law No. 32/2004 concerning Regional Government has succeeded in perfecting various village regulations that were previously regulated in Law No. 22/1999 concerning Regional Government, but in its implementation, several problems emerged. Law No. 32/2004 concerning Regional Government has not clearly regulated the authority system between the Government, regional and village governments. Based on the principle of decentralization and broad autonomy adhered to Law Number 32 of 2004 concerning Regional Government, thus the basic concept embraced by autonomy stops in the district/city. Consequently, further regulation of the Village is carried out by the district/city, where the Village's authority is the authority of the district/city submitted to the village. The spirit of Law Number 32/2004 concerning Regional Government, which places the position of the Village under the Regency is not in accordance with other breaths in Law Number 32/2004 on Regional Government, which actually recognizes and respects the original authority derived from original rights.

Recognition of the authority of this origin shows that adheres to the principle of recognition (recognition). The consequence of the recognition of genuine autonomy is that the village has the right to regulate and manage its own households based on local origins and customs (self-governing community), and does not constitute an authority surrendered by the superior government to the village.

The village as the lowest government has the right to regulate its own household without leaving customs, based on original autonomy, means identical to the customary law community unit, but from the authority given shows the village as an administrative unit or administrative village that carries out Government administration.

The existence of two principles/principles in the regulation of the Village naturally raises ambivalence in placing the position and authority of the village. In the district/city-regional government a village government is formed consisting of the village government and the village consultative body, the village is a subsystem of the district/city government. There are no theories and principles that justify the transfer of authority/affairs from the regency/city government to the village. The constitution also does not stipulate the decentralization of village authority. Village authority is only based on the principle of recognition (recognition) and subsidiarity, not the principle of decentralization. The unclear status and authority of the Village in Law Number 32 of 2004 concerning Regional Government, has not been strong enough to lead to the achievement of the ideals of an independent, democratic and prosperous village. Law Number 23 of 2041 concerning Regional Government in Article 1 paragraph 43, a village is a village and a customary village or referred to by another name, hereinafter referred to as Village, is a legal community unit that has the territorial authority authorized to regulate and administer Government Affairs, interests local communities based on community initiatives, original rights, and / or traditional rights that are recognized and respected in the system of government of the Unitary Republic of Indonesia Article 371 paragraph (1) In a regency / city area a village can be formed.

2. Methodology
To get data to describe the Politics of Legal Position of the Village Position in Realizing Village Autonomy, the type of research that the author uses in this paper is a normative legal research method. Research conducted by reviewing the laws and regulations that apply or apply to a particular legal problem. Normative legal research is often referred to as doctrinal research, that is, research whose object of study is legal documents and library materials [2,3]. Normative legal research [4] or literature includes Research on legal principles, legal systematics, vertical and horizontal synchronization rates, Comparison of law and legal history. Whereas according to Bagir Manan, normative research is research against the existing legal principles and principles [5].
3. Result and discussion
Constitutionally, the form of the Indonesian state is a unitary state. The consequence of the concept or legal idea is not only to provide decentralization of authority to the autonomous regions that gave birth to regional autonomy but more than that, namely the recognition or protection of village autonomy as the original autonomy of the Indonesian nation since before the arrival of the Dutch Colonial nation. Recognition of village authorities, especially original authority (original) that has been passed down from generation to generation, is known as village authority. In this case, what should be used as a benchmark is the recognition of diversity as a rationale in the design of village autonomy. As genuine autonomy, villages should not be seen as branches of regional autonomy.

Village autonomy is seen as an authority that already exists and grows rooted in customs and does not also mean giving or decentralization. Autonomy will be achieved if community participation is developed. The form of community participation must be in all stages of the decision-making process starting from the planning, implementation, development, utilization of results and evaluation. Community involvement must be realized as much as possible so that the potential contained in a village can function optimally [6].

The position of the village itself has been stated in Law Number 23 of 2014 concerning the Regional Government of the State Territory. (Division of State Territory) is stated, the Unitary State of the Republic of Indonesia is divided into provincial regions which are then divided into regency and city-regions. District and city areas are divided into sub-districts and sub-districts divided into regencies and/or villages. This clause actually emphasizes geographical division, not about the division of government.

3.1. Village authority and position according to law number 6 of 2014 concerning villages
Village authority is based on the principle of recruitment and subsidiarity. Elucidation of Law Number 6 of 2014 concerning villages states that village arrangements are based on: (1) recruitment, namely recognition of original rights; (2) subsidiarity, namely the determination of local scale authority and decision making locally for the interests of village communities; (3) diversity, namely the recognition and respect for the value system prevailing in society, but by continuing to heed the shared value system in the life of the nation and state; (4) togetherness, which is the spirit to play an active role and cooperate with the principle of mutual respect between institutions at the village level and elements of the village community in developing the village; (5) mutual cooperation, namely the ability to help each other to help build a village; (6) kinship, which is the custom of villagers as part of a large family unit in the village community; (7) deliberation, namely the decision making process that concerns the interests of the village community through discussions with various interested parties; (8) democracy, namely the system of organizing village communities in a system of government carried out by the village community or with the agreement of the village community and the dignity of human dignity as a creature of God Almighty recognized, arranged, and guaranteed; (9) independence, which is a process carried out by the Village and the village community to carry out an activity in order to meet the needs with their own abilities; (10) participation, which is taking an active role in an activity; (11) equality, namely equality in position and role; (12) empowerment, namely efforts to improve the living standards and welfare of village communities through the establishment of policies, and activities that are in accordance with the essence of the problems and priorities of the needs of the village community; and (13) sustainability, which is a process that is carried out in a coordinated, immigrated, and continuous manner in planning and implementing village development programs. Village authority includes authority in the field of village governance, implementation of village development, fostering village communities, and empowerment of village communities based on community initiatives, origin rights, and village customs.
Village Authorities is; (a) authority based on original rights; (b) Village-scale local authority; (c) authority assigned by the Government, Provincial Regional, or Regency/City Regional and; (d) other authorities assigned by the Government, Provincial, or Regency/City in accordance with statutory provisions. The exercise of authority based on the origin and local scale authority of the Village is regulated and managed by the Village, the exercise of the assigned authority and the exercise of the authority of other tasks of the Government, Provincial, or Regency/City is managed by the Village. Assignments from the Government and/or Regional to the Village include the implementation of the Village, the implementation of Village Development, Village Community, and empowerment. The assignment is accompanied by a fee.

The Village APBD funds the implementation of village authority based on original rights and local scale village authority. In addition to the village scale APB, the village scale local administration can also be funded by the APBN and APBD. The implementation of village authority assigned by the Government is funded by the APBN which is allocated in the budgetary portion of the ministry/agency and is channeled through the district/city regional work units. The Regional Budget funds the implementation of the village authority assigned by the Regional Government [7].

Law Number 6 of 2014 concerning Villages, clarifies the position of the village as one of the integral parts of the country that is specifically regulated in view of its cultural uniqueness. Village autonomy is no longer a part of regional autonomy given to villages, but the granting of inheritance rights inherent in villages as part of inherited rights. The position of the village is no longer under and in the regional government; rather, it is domiciled in regencies or cities, Article 5 and Article 4 of Law Number 6 of 2014 concerning Villages, outlining the purpose of the process referred to as village regulation. The main objectives of village regulation in the Village Law include: (a) Providing recognition and respect for existing Villages with their diversity, before and after the Unitary State of the Republic of Indonesia; (b) Provide clarity of status and legal certainty over the Village in the Republic of Indonesia constitutional system; (c) Preserve and promote the customs, traditions and culture of the village community; (d) Encourage community initiatives, movements and participation in the development of village potentials and assets for mutual prosperity; (e) To form a professional, efficient and effective, open and accountable village government; (f) Improve public services for villagers; (g) Increasing the socio-cultural resilience of rural communities; (h) Promoting the village economy and overcoming development gaps; (i) Strengthening villages as the subject of development.

Recruitment of the existence and authority of the village must be carried out by all parties.

3.2. Village authority based on origins

Law Number 6 of 2014 concerning Villages, a product of the reform era, has marked the start of an era towards village independence, both in administering a government and in managing village finances. The authority of the origin right Article 19 letter (a) of Law Number 6 of 2014 concerning Villages, includes the understanding; where the original rights of the past that existed before the birth of the Unitary State of the Republic of Indonesia in 1945 and continue to be carried and carried out by the Village after the birth of the Unitary State of the Republic of Indonesia until now. In addition, the original rights arising from the initiative of the village concerned and the initiative of the local community, as long as it does not conflict with the provisions of the applicable laws and regulations. The authority of origins recognized by the state includes management of natural resource assets, customary land, village treasury land within the village jurisdiction, the establishment of village governance structures by accommodating original arrangements, resolving disputes in adat and preserving local customs and culture.

The authority of original rights is often referred to as traditional rights, innate rights or original rights. All the terms have in common, which basically includes two meanings at once. First, the original rights of the past that existed before the birth of the Unitary State of the Republic of Indonesia in 1945 and continue to be carried and carried out by the village after the birth of the Unitary State of the Republic of Indonesia until now. Crooked land in Java and customary customary land outside Java are the most obvious examples of original rights, origin, that were owned by the village before the
birth of the Unitary State of the Republic of Indonesia and continue to be brought into the village after
the birth of the Unitary State of the Republic of Indonesia until now. Second, the original rights arising
from the initiative of the village concerned and the initiative of the local community, as long as it does
not conflict with the provisions of the applicable laws and regulations. Village markets, as well as boat
moorings built on village initiatives, are also referred to as village origin rights. Actual forms of action
that are classified in the authority or right of origin are indeed very diverse in the regions. But in
general, the village origin rights include: (1) Arranging and managing village land or customary
communal land of the village. (2) Apply the original arrangement in the village administration. (3)
Preserve local customs, institutions, institutions, and wisdom. (4) Resolve disputes with local adat
mechanisms [8].

Village land is the village's most vital right of the origin because the land is an asset (wealth) that is
the source of livelihood and life for the village and the community. The state gives recognition and
respect for the village's original rights [9]. The state may not intervene or take over the rights of the
origin of the village but can provide guidance on the regulation and management of the proposed
rights and provide protection (protection) to preserve and optimize utilization. As the right of origin is
the village land, where the village has full authority to regulate and manage it. Village assets in the
form of village land are not permitted for the transfer of ownership rights to other parties, unless
necessary for public use. This provision means protection and preservation. Village land can still be
released only for public use to build schools, hospitals, government offices, roads, places of worship
and others.

The Village Head has authority to issue a decision to release the village's land rights, but the
government provides limits and protection, by asserting that the Village Head's Decree can be issued
after obtaining approval from the BPD and village consultation and obtaining written permission from
the Regent / Mayor and Governor. This provision strengthens the role of government protection of the
village's original rights, to preserve sustainability while avoiding abuse of the authority of village
heads. If the land is an economic resource for the village, then local customs, institutions and local
wisdom are a socio-cultural resource for the village. It is this socio-cultural component that
distinguishes villages from regions, while at the same time forming the village as a "community
government" that integrates with the socio-cultural life of the local. Institutions, local wisdom are
indeed very diverse, but in general give priority to the principle of balance, adequacy, and
sustainability. The principle of balance teaches about balanced harmonization in the relationship
between humans and humans, humans with nature and humans with God. The principle of adequacy
and sustainability becomes a basic value in natural resource management. Local institutions teach that
each type of natural resource of the sea, rivers, water, forests and so on is managed together for the
common good, also regulating the community to utilize various natural resources sufficiently or
forbidding everyone from being greedy in taking over natural resources.

Adequacy is the basis for sustainability, meaning that the available natural resources must not be
spent greedily for today, but must also be passed on continuously to future generations. In the realm of
authority of origin, conservation and revitalization of local wisdom carried out by the village is the
most prominent thing. Local wisdom contains local institutions or systems of norms, values,
principles, structures, institutions, mechanisms, and religions that grow, develop and are adhered to by
local communities, in their function as instruments to maintain orderly interactions between citizens
(social orders) [8]. The authority that is owned by the village is based on the right of origin as
recognition rather than giving the authority of the central government and the regional government to
the existence of the village. Village authority is based on the self-governing community.

3.3. Village-scale local authority
The local authority on a village scale, local authority related to the interests of the local community
that has been exercised by the village or able to be carried out by the village, because it emerged from
community initiatives. The local authority is the authority that was born because the initiative of the
village is in accordance with the abilities, needs and local conditions of the village. The authority
related to community interests has a relatively small scope within the scope of the village, which is very closely related to the daily needs of villagers and has no external impact and broad policies. This type of local-scale local authority is derived from the concept of subsidiarity, which means that both problems and local-scale affairs that are very close to the community are best decided and resolved by local organizations (in this case, villages), without having to be handled by higher organizations. Demanding the concept of subsidiarity, a matter related to the interests of the local community on the initiative of the village and the local community is referred to as local-scale village authority. [8]

Elucidation of Law Number 6 of 2014 concerning Villages, emphasizes the local scale authority of the Village is the authority to regulate and manage the interests of the Village community that has been carried out by the Village or is able and effectively carried out by the Village or which arises due to the development of the Village and the community's practices, among others boat moorings, village markets, public bathing places, irrigation channels, environmental sanitation, integrated service posts, art and learning studios, as well as village libraries, village reservoirs, and village roads. These various types of local authority are concrete forms. However, the local authority is not limited to that, but it is very open and can develop more in accordance with the local context and community initiatives.

Village authority can also be spelled out sectorally. Village local authority by sector includes the institutional, infrastructure, commodity, capital and development dimensions. In the agricultural sector, villages have the authority to develop and foster farmer groups, training for farmers, providing village-scale agricultural infrastructure, providing budgets for capital, seed development, land consolidation, selection of superior seeds, planting systems, development of appropriate technology, and diversification of farming. The exercise of the local authority has an impact on the entry of government programs into the village realm. Article 20 of Law Number 6 of 2014 concerning Villages, confirms that the exercise of authority based on origin rights and local scale village authorities as referred to in Article 19 letter a and letter b is regulated and administered by the Village. This article is related to Article 81 paragraph (4): "Implementation of the sectoral programs that enter the informed to the Village Government to be integrated with the Village Development.

Law Number 6 of 2014 concerning Villages Article 19, authority based on village origin rights and village-scale local authority. [10] The village is given the trust to manage and manage its own village independently without the need to be burdened by the duties and governmental affairs of the superiors who burden the village. In fact, villages also exercise authority assigned by the government and other authorities assigned by the government, provincial, or district/city.

4. Conclusion
Village Authority and Position in Law Number 6 of 2014 Concerning Villages, Article 5 stipulates that the position the village is not within the district/city government subsystem, but is within the district/city area, as the district/city is within the province, and the province is in territory of the Republic of Indonesia. Village Authority is based on the Self Governing Community and Local Self Government, there is a new paradigm of fiscal decentralization in village autonomy. the constitution does not stipulate the decentralization of village authority. Thus the 1945 Constitution only recognizes the existence of villages but does not provide decentralized authority to villages. in fact in Law Number 6 of 2014 concerning Villages there was financial decentralization to the village so that the village law was substantially contradictory to the 1945 Constitution because it did not have a constitutional basis, it should be regulated first in the constitution then followed by the transfer of authority to the village along with the allocation of funds directly from the State Budget. The Village Law is separate from the Regional Government Law, which reinforces and clarifies the position and authority of the meaning of village autonomy.

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