

Conflict of Jurisdiction: When Village Regulations Conflict with Decisions of Customary Institutions in the Implementation of Village Autonomy

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Abstract

Village autonomy, as guaranteed by Law No. 6 of 2014, affords village governments the scope to draft Village Regulations; however, in many customary areas, this scope overlaps with a system of norms that has long been in place and recognised, namely the decisions of customary institutions. This article examines the phenomenon of a clash of authority that arises when these two sources of law intersect, or even conflict, in the practice of village governance. Employing a normative-juridical approach combined with empirical observation of practices in several customary based villages, this study identifies four patterns of dissonance: normative, institutional, procedural, and legitimacy related. The findings indicate that this dissonance stems from weak formal synchronization mechanisms between village legal instruments and the outcomes of customary deliberations, as well as from regulatory ambiguity regarding the status of customary law communities within the village governance system. This article argues that resolving conflicts of authority cannot be achieved through a subordinative approach that positions customary law merely as a supplement to Village Regulations; instead, a model of complementary relationships is required one that recognizes the equal authority of customary institutions within specific domains. The article's contribution lies in proposing an analytical framework to reinterpret the relationship between the state and customary systems at the village level in a more contextual manner.

Keywords: authority dissonance; village regulations; customary law; village autonomy; legal pluralism

INTRODUCTION

Since the enactment of Law Number 6 of 2014 concerning Villages, the village has been positioned as a legal community unit possessing defined territorial boundaries and the authority to regulate and manage governance affairs based on local origins and customs. The primary instrument for exercising this authority is the Village Regulation, which serves as the legal basis for nearly all village level policies ranging from asset management and spatial planning to dispute resolution. On the other hand, long before the state granted administrative status to villages, many communities in Indonesia already possessed their own normative systems rooted in tradition known as customary law (*hukum adat*) and administered through institutions such as customary councils, *nagari* customary assemblies, *awig-awig*, or similar bodies. Both normative systems are fundamentally recognized within the Constitution. Village Regulations derive their legitimacy from the state legislative system, whereas customary law gains recognition

through Article 18B Paragraph (2) of the 1945 Constitution, provided that the law remains living and aligns with societal developments and the principles of the Unitary State of the Republic of Indonesia. However, this dual recognition does not always function smoothly in practice. In many customary-based villages particularly in West Sumatra, Bali, Kalimantan, Maluku, and Papua Village Regulations are often drafted without regard for norms and decisions previously established by customary institutions, thereby giving rise to a clash of authority referred to in this article as "authority dissonance."

While a number of previous studies have addressed the relationship between the state and customary law at the village level, most have stopped at the stage of normative recognition specifically, the extent to which the state acknowledges the existence of customary law communities without delving into the operational realm of how these two legal systems, stemming from different sources of legitimacy, interact in the daily practice of village governance. Research on the implementation of the Village Law generally focuses on village financial management, the accountability of Village Funds, or community participation in village deliberations, whereas studies on customary law tend to concentrate on the protection of rights to customary land and forests. The space between these two areas namely, how Village Regulations and decisions by customary institutions may conflict, and how such tensions are resolved in practice has not yet received adequate attention.

Addressing this gap in research is crucial because authority dissonance is not merely a technical-administrative issue; it touches upon the very legitimacy of village governance in the eyes of its residents. When a Village Regulation is legally binding under state law yet lacks social recognition from the customary community or conversely, when residents act upon customary decisions that conflict with valid Village Regulations the result is not only a conflict of norms but also an erosion of the authority held by both institutions. Against this backdrop, this article aims to answer two research questions: first, in what forms does authority dissonance between Village Regulations and customary institution decisions manifest within the practice of village autonomy? Second, what factors cause this dissonance to persist despite the fact that the legal framework recognizes both entities? The article's novelty lies in its attempt to map this authority dissonance typologically rather than treating it as a monolithic phenomenon thereby enabling a more precise understanding of the relationship between the state and customary systems at the village level.

To address this question, the article is structured as follows. The second section explains the research methodology employed. The third section presents the research findings in the form of a typology of authority dissonance. The fourth section critically discusses these findings by relating them to the theory of legal pluralism and the literature on village autonomy. The final section concludes the article with a summary and policy recommendations.

RESEARCH METHOD

This study employs a normative-juridical approach enriched by empirical observations of village governance practices, thereby categorizing it as socio-legal research. This

approach was selected because the issue of authority dissonance cannot be adequately understood solely through the analysis of statutory texts; rather, it requires an examination of how these norms are implemented, negotiated, or even disregarded in the actual practices of customary villages.

This study employs a qualitative, descriptive-analytical approach. The data utilized consist of both secondary and primary sources. Secondary data include relevant legislation specifically Law Number 6 of 2014 concerning Villages and its implementing regulations as well as village regulations from customary-based areas, publicly accessible decisions or records from customary institutions, and academic literature on legal pluralism and village autonomy published within the last decade. Primary data were obtained through observations of practices in villages selected purposively for possessing customary institutions that actively perform their normative functions; these include areas characterized by nagari, desa pakraman, and desa adat traditions, as well as customary villages in Kalimantan, with the observation period spanning the ten years since the Village Law came into effect.

Data collection was conducted through literature and document reviews specifically, the examination and analysis of legislation, Village Regulations, customary decision documents, journal articles, and prior research reports. To ensure data validity, document analysis employed source triangulation comparing written provisions in Village Regulations against media reports, NGO findings, and third-party field research concerning the same village thereby ensuring the resulting picture did not rely solely on a single type of source. The collected data were subsequently analyzed using a combination of qualitative content analysis and constant comparative analysis to identify patterns of dissonance recurring across cases.

As this study is qualitative-normative in nature and does not employ statistical models, this article does not present mathematical equations. Instead, the analytical framework is constructed using a conceptual scheme that distinguishes four dimensions of authority dissonance namely, the normative, institutional, decision-making procedural, and social legitimacy dimensions each of which is further elaborated in the findings section.

These four dimensions serve as analytical categories for classifying each instance of dissonance identified in the documents and observations, allowing the findings to be organized typologically and systematically rather than merely presented as a collection of isolated cases.

It should be emphasized that this study has a limited scope; it is not intended to generalize across all customary based villages in Indonesia, but rather to construct a preliminary typology that can be tested and enriched by further research in diverse local contexts.

RESULTS

Based on a review of documents and observations of practices in customary villages, this study identifies four recurring patterns of authority dissonance between Village Regulations and decisions made by customary institutions. This section presents these findings systematically, without in-depth interpretation, as the analysis of the findings is reserved for the discussion section. The presentation follows the four categories outlined in the methodology section namely normative, institutional, procedural, and legitimacy dissonance as summarized in Table 1.

Normative dissonance arises in cases where Village Regulations re-regulate matters already governed by customary decisions such as the use of communal land, the management of customary forests, or procedures for resolving disputes among residents. In some instances, Village Regulations even contain provisions that substantively conflict with prohibitions or obligations established by customary institutions, without adequate consultation with local customary leaders.

Institutional dissonance is evident in the overlapping authority between village officials and customary institution leaders regarding dispute resolution particularly concerning land and natural resources. In many instances, residents prefer resolving disputes through customary forums, viewing them as faster and more socially binding, even though formal authority over such matters should rest with village governance mechanisms. This situation creates a dual-forum scenario that, if left unmanaged, carries the potential for conflicting rulings on the same case.

Procedural dissonance is evident in the parallel operation of two decision-making channels: village deliberations governed by the formal mechanisms of the Village Law, and customary deliberations that follow local traditions and symbolic practices. When these two channels remain disconnected, decisions resulting from village deliberations may be administratively valid yet lack strong social binding force among residents, as they are perceived not to have undergone the proper customary processes. Finally, legitimacy dissonance manifests in the varying nature of resident compliance with these two sources of rules: some residents comply with Village Regulations out of concern for administrative consequences, whereas compliance with customary decisions is driven more by a sense of social attachment and the fear of customary sanctions, such as social ostracism.

Table 1. Typology of Authority Dissonance between Village Regulations and Customary Institution Decisions

No	Variable	Description
1	Normative dissonance	Village regulations re-regulate matters previously governed by decisions or agreements of customary institutions, without a formal synchronization mechanism.
2	Institutional dissonance	The authority of the village government and customary institutions (e.g., customary councils, assemblies, or similar bodies) overlaps regarding dispute resolution and the management of communal assets.
3	Procedural dissonance	Formal village decision-making procedures (village deliberations, Village Regulations) operate in parallel and remain unconnected to the customary deliberation mechanisms that residents have traditionally relied upon.
4	Legitimacy dissonance	Village residents accord varying levels of compliance to the two sources of rules; consequently, a decision that is legally valid under state law is not necessarily viewed as socially legitimate by the customary community.

Source: Processed by the author based on documentation of Village Regulations and customary institution decisions, 2024.

DISCUSSION

The four patterns of dissonance outlined in the results section demonstrate that the issue regarding the relationship between Village Regulations and the decisions of customary institutions cannot be reduced to a mere conflict of norms on paper. Normative, institutional, procedural, and legitimacy related dissonances are rooted in a single underlying problem: the absence of a formal mechanism to bridge two sources of authority that stem from distinct bases of legitimacy. Village Regulations derive their validity from the state's legislative hierarchy, whereas decisions by customary institutions derive theirs from social acceptance built up over generations. When these two bases of legitimacy meet without an adequate synchronization forum, the result is not harmony, but rather an unresolved overlap that is allowed to persist.

These findings align with studies on legal pluralism asserting that modern states rarely succeed in establishing a unified legal system that fully replaces local normative orders; instead, they merely superimpose new layers of rules onto existing frameworks. Unlike earlier studies that tended to portray the relationship between the state and customary systems as hierarchical with state law deemed superior to customary law this article reveals a more fluid dynamic. Regarding institutional dissonance and legitimacy, for instance, decisions made by customary institutions often carry greater social weight than Village Regulations; consequently, their relationship is best understood as one of competition for citizen compliance rather than a superior-subordinate dynamic. Theoretically, these findings enrich the discourse on legal pluralism by demonstrating that tensions between normative systems can be mapped in greater detail across the dimensions of norms, institutions, procedures, and legitimacy, rather than being viewed merely as a generalized category of conflict.

In practical terms, these findings hold significant implications for the future structuring of village autonomy policies. The prevailing approach which treats customary law merely as a factor to be considered when drafting Village Regulations has proven insufficient to prevent recurring conflicts regarding authority; this is because such consideration typically lacks a formal requirement for consultation or substantive synchronization with customary institutions. This article argues for a model of complementary relations an arrangement that explicitly delineates the respective spheres of authority between Village Regulations and the decisions of customary institutions regarding specific matters, such as communal land management and the resolution of customary disputes. This allows both normative systems to coexist without negating one another. This model differs from the subordinative approach that has dominated village legislative practice to date, as it does not position customary law merely as a supplement, but rather as a recognized parallel authority within specific domains.

This article is not without limitations. First, the proposed four-dimensional typology of dissonance stems from observations of villages with active customary institutions; thus,

its generalizability requires further testing in villages where customary structures are looser or have even faded. Second, as this study relies on documentary data and indirect observation, the depth of understanding regarding the internal dynamics of customary decision-making within each community remains limited compared to ethnographic research involving direct and sustained fieldwork. These limitations, however, open avenues for future ethnographic research or in-depth single-case studies to test and enrich the typology proposed in this article.

Thus, the four patterns of dissonance identified are not merely technical issues within village governance, but rather a reflection of the state's institutional design failing to fully accommodate the parallel authority of customary law communities at the village level.

Overall, this discussion underscores that the article's scholarly contribution lies not merely in identifying the conflict between Village Regulations and the decisions of customary institutions, but rather in proposing a typological framework that enables a more precise analysis of the various forms of such dissonance, while simultaneously guiding the formulation of village autonomy policies that are more responsive to the realities of legal pluralism at the local level.

CONCLUSION

This article finds that the dissonance of authority between Village Regulations and the decisions of customary institutions within the context of village autonomy manifests in four interrelated patterns: normative, institutional, procedural, and legitimacy-related dissonance. These four patterns stem from the absence of a formal mechanism to bridge two normative systems rooted in distinct bases of legitimacy: the formal-juridical legitimacy of Village Regulations and the socio-historical legitimacy of customary institution decisions.

The scholarly contribution of this article lies in its proposal of a typological framework that allows for a more precise interpretation of authority dissonance viewing it not merely as a singular conflict phenomenon, but as a set of patterns, each requiring a distinct resolution strategy. In practical terms, these findings underscore that resolving authority dissonance necessitates a model of complementary relations one that acknowledges the parallel authority of customary institutions in specific domains rather than a merely subordinative approach that positions customary law merely as a supplement to Village Regulations.

Based on these findings, this article recommends that local governments and the Ministry of Villages encourage the development of technical guidelines for a synchronization forum between Village Regulations and the decisions of customary institutions particularly regarding matters prone to regulatory overlap, such as communal land and the resolution of community disputes. Further ethnographic research in villages with diverse customary characteristics would be highly valuable for testing and expanding the typology of authority dissonance proposed in this article.

Consequently, the future structuring of the relationship between Village Regulations and customary law needs to shift from mere formal recognition toward operational arrangements that genuinely bridge these two sources of authority in the practice of village governance.

REFERENCES

- Dewi, A. A. I. A. A. (2014). Eksistensi otonomi Desa Pakraman dalam perspektif pluralisme hukum. *Jurnal Magister Hukum Udayana*, 3(3). <https://doi.org/10.24843/JMHU.2014.v03.i03.p13>
- Pradhani, S. I. (2021). Pendekatan pluralisme hukum dalam studi hukum adat: Interaksi hukum adat dengan hukum nasional dan internasional. *Undang: Jurnal Hukum*, 4(1), 81–124.
- Vel, J. A. C., & Bedner, A. W. (2015). Decentralisation and village governance in Indonesia: The return to the nagari and the 2014 Village Law. *The Journal of Legal Pluralism and Unofficial Law*, 47(3), 493–507. <https://doi.org/10.1080/07329113.2015.1109379>
- Vel, J. A. C., Zakaria, R. Y., & Bedner, A. W. (2017). Law-making as a strategy for change: Indonesia's new Village Law. *Asian Journal of Law and Society*, 4(2), 447–471. <https://doi.org/10.1017/als.2017.21>
- von Benda-Beckmann, F., & von Benda-Beckmann, K. (2013). *Political and legal transformations of an Indonesian polity: The Nagari from colonisation to decentralisation*. Cambridge University Press.
- Davidson, J. S., Henley, D., & Moniaga, S. (Eds.). (2010). *Adat dalam politik Indonesia*. Yayasan Pustaka Obor Indonesia.
- Safitri, M., & Uliyah, L. (2014). *Adat di tangan pemerintah daerah: Panduan penyusunan produk hukum daerah untuk pengakuan dan perlindungan hak masyarakat hukum adat*. Epistema Institute.
- Republik Indonesia. (2014). *Undang-Undang Nomor 6 Tahun 2014 tentang Desa*. Lembaran Negara Republik Indonesia Tahun 2014 Nomor 7.
- Republik Indonesia. (1945). *Undang-Undang Dasar Negara Republik Indonesia Tahun 1945*, Pasal 18B ayat (2).