



## Obstacles to the Implementation of Community Rights in the Drafting of Democratic Village Regulations

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**ABSTRACT:** The community has the right to express its aspirations, suggestions, and opinions regarding the implementation of village government. The purpose of this study is to analyse the implementation of community rights and identify factors that hinder their implementation in village governance, particularly in the preparation of the Draft Village Regulation, to enhance the implementation of democracy in the Village. The research method employed is empirical legal research, utilising primary and secondary data collection methods through in-depth observations and interviews. The results are based on field studies and documents from the Gunungsari Village Government, Tajinan District, Malang Regency. A qualitative juridical analysis is then carried out. The results of the study indicate that the factors inhibiting the implementation of community rights in expressing aspirations, suggestions, and input in the preparation of the draft village regulation. First, there are still people who do not understand their rights. Second, there are still people who remain indifferent. Third: a lack of socialisation from the village government to the community about the plan to prepare the village regulation.

**Keywords:** Community Rights, Village Government, Democracy.



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### INTRODUCTION

The Village is made up of communities and their customs, or what is referred to as a village under another name. Public regulations unify it with recognized borders. The government of the Unitary State of the Republic of Indonesia recognizes public local governments for organizing and managing affairs based on the initiative of society, proposals for rights of origin, and/or traditional and acknowledged rights. As stated in Law Number 6 of 2014 regulating Villages, often known as Village Law, Article 1, Paragraph 1. (Arianto, 2018)

Government village implementation is carried out by the Village Consultative Body and the Village Head. The Village Government determines village regulations, holds regular meetings, and regulates the Village Head. Government villages aim to increase public welfare through the organization of government villages, development, coaching, and public empowerment.

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Public involvement in government village organizations is essential to democratic governance systems and the application of good governance (Good Governance). Village communities have the freedom to: express goals, ideas, and opinions verbally or in writing in a responsible manner about the organization of activities, Village administration, village development implementation, village community coaching, and village community empowerment (Andri et al., 2018).

According to Village Law, village communities are entitled to: a. request and obtain information from the Village Government and oversee activities of village organizations within Village Administration, including the implementation of Village Development, coaching of the village community, and empowerment of the village community; b. obtain equal and fair service; c. convey aspirations, suggestions, and opinions, oral or written, in a responsible manner about the activity organization Village Government, implementation of Village Development, coaching Village community, village community; and empowerment. d. choosing, being chosen, and/ or set become: 1. Village Head; 2. Village apparatus; 3. member of the Village Consultative Body; or 4. member institution Village community; e. get care and protection from disruptions to the Village's peace and order (Article 68 (1)). (Andri et al., 2018)

Village Deliberation is conducted by the Village Deliberative Body, which is assisted by the Village Government, according to Article 80 (1) of the Regulation Government regarding Regulation Executor Invite Number 6 of 2014 concerning Village. (2) The Village Government, Village Consultative Body, and other members of society adhere to Village Deliberation as mentioned in paragraph (1). (3) Public elements mentioned in paragraph 2 consist of the following: a. figure a. customs; b. religious figures; c. figures society; d. figures education; e. representation group farmer; f. representative group fishermen; g. Representatives: Group craftsman; H. Representative group of women; I. Representative group of observers and protectors of children, and J. Representative group of poor communities. (4) In addition to the elements public as referred to in paragraph (3), the Village deliberation can involve elements from other communities. (Subekti, n.d.)

Village communities have the right to give input on Design Village Regulations. Good in a way, as it directly provides feedback to the head village for compilation and design regulation, and indirectly through the Village Consultative Body (BPD), conveying aspirations and input.

Regulation In 2018, the Regent of Malang declared: (1) The Village Head is responsible for leading the government village. (3) In carrying out the government village task-lead organization. The role of the village chief is: a. setting up village governments, like civil service governments, determining village regulations, land development problems, maintaining peace and order, carrying out efforts to protect society, administering population and village area planning and management (Bulqiyah et al., 2019)

Examine This differs from others, such as Rosidin's debt and the findings of his research: The public's involvement in the Village's formation and regulatory process is a component of village-level democracy. (I. P & M, 2024) Prayogi Pangestu et al, results research: Public participation through indicator assessment, the public is involved in giving values in development, as well as involved in stage planning, so that development is carried out in accordance with the potential of society. (T S R & S, 2017) Tesyalom Sembel, et al, research: results show that the level of

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community participation in the Village of Sinsingon Barat Dalam implementation development physique is still said to be low. This is reflected in the still-low enthusiasm for attending meetings in planning and development. (K. P & H, 2023)

Gunungsari Village, Tajinan District, Malang Regency, has been performing well in providing population services, as evidenced by the Gunungsari Village Government website, which displays the requirements for each population rights application. However, policy products, such as village regulations and village head regulations, have not been uploaded to the village government website, nor have the stages of planning, discussion, and determination of village government policies been fully communicated.

Implementing democratic, transparent governance requires stakeholders to involve the community in planning village government policies. Before being discussed in village deliberations, the planning must be informed and socialised to the community. The community has the right to convey their aspirations, suggestions, and opinions on the draft village government policies, in both draft village regulations and draft village head regulations.

Sudikno Mertokusumo stated that laws have requirements for validity or enforceability. There are three types of enforceability: juridical, sociological, and philosophical. (M et al., 2020)

### Legal force (*Juristische Geltung*)

Laws have juridical force if the formal requirements for their formation have been fulfilled.

HANS KELSEN asserts that if a law's determination is grounded in higher-level regulations, it has legitimate power. A hierarchical set of rules is called a legal code. The Grundnorm, or basic norm, provides a foundation for the implementation of all laws derived from a single legal system. Only the application of legal rules—not their content—can be explained by the Grundnorm. Das Sollen concerns how the law is applied, whereas Das Sein concerns what the law means (M, 2020; R D et al., 2024)

### Sociological Forces (*Soziologische Geltung*)

The usefulness or outcomes of applying legal regulations collectively are what matter here. This means that whether or not formal requirements are followed in the formation of legal rules has no bearing on the enactment or adoption of law in society. Therefore, the passage of regulations is a reality in this society.

There are two types of legal power in this society:

1. In accordance with the force theory (Machttheorie). Regardless of whether the community accepts the law, it has social force if the government upholds it.
2. In line with the recognition theory (Anerkennungstheorie). If people of society accept and acknowledge the law, it has social force.

### Philosophical Power of Action (*Filosofische Geltung*)

If these legal regulations align with the principles of law (*Rechtsidee*) as the highest positive value ("positiven Werte: Pancasila, a just and prosperous society), then law has philosophical force.

The legal principle must satisfy these three requirements for the law to operate: it must have legal, sociological, and philosophical validity.

Herbert C. Kelman distinguishes three categories of legal compliance, which are as follows:

1. Compliance: People follow the law because they are terrified of the consequences of disobeying it, not because it aligns with their preferences.
2. Identification: When someone has a positive relationship with the person who is the subject of the law, they obey or comply with the law. Therefore, simply maintaining a cordial connection with the person who is the subject of the law is respecting the law.
3. Internalisation: a person obeys the law or complies with it because the law aligns with the values the person desires and is suitable for their needs. (M, 2024)

According to the general explanation of the Law, Article 6 of 2014 on Villages, "participatory" refers to a village government organization comprising village institutions and village community components. (Andri et al., 2018)

According to Soetrisno, participation is the people's desire to support government initiatives that are decided upon and carried out by the government. Additionally, he stated that involvement entails collaboration between the public and the government in the design, execution, maintenance, and advancement of development outcomes. (P. S, 2017)

According to Conyers, community involvement is essential for the following reasons: 1. Public engagement serves as a means of gathering knowledge about the conditions, needs, and attitudes of the public, without which initiatives and development programs would fail. 2. If people participate in the planning and preparation process, they will have a greater sense of belonging to the project and will be more knowledgeable about its details, which will increase their trust in development initiatives or programs. 3. When the public participates in creating its own society, it is assumed that something is proper in a democracy. It is believed that the general people have a right to participate in choosing the kind of development that will take place in their community. (P. P et al., 2017)

Involving the community in the budgeting process is crucial for both the government and society (M A et al., 2022). Because their involvement will contribute to the quality of village program planning and provide an opportunity for them to voice their needs, the government village must be proactive in involving the public to ensure receptive participation in every planning, implementation, and evaluation of village programs. Giving awareness to the community, including youth groups, women, and society, is both necessary and an obligation for the government, particularly in involving the public village element. (*Peraturan Pemerintah Nomor 43 Tahun 2014 Tentang Peraturan Pelaksanaan Undang-Undang Nomor 6 Tahun 2014 Tentang Desa*, 2014)

A participatory society in the process of forming a regulated village is part of implementing democracy at the village level, while also implementing the principle of transparency in village

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formation regulation. This is expected to result in a regulation-driven, aspirational village, serving as a runway organisation for the government in accordance with the will and desires of the local public. (LAW OF THE REPUBLIC OF INDONESIA NUMBER 6 OF 2014 CONCERNING VILLAGES. ([“Law of the Republic of Indonesia Number 6 of 2014 Concerning Villages,”](#) 2016)

Based on technique involvement, Sundariningrum divides participation into two categories, specifically: 1. Direct Participation: Participation that takes place when a person engages in specific activities during the participation process. When everyone has the opportunity to express their opinions, discuss the primary issue, and share their ideas in response to others' wants or their own voice, this involvement occurs. 2. Indirect participation: When someone assigns another person the right to participate. (R. A, 2018)

Political and legal experts differ on the concept of democracy. Etymologically, Rod Hague and Martin Harrop state that: "Democracy comes from the Greek word 'demokratia,' meaning power or government (kratos) by the people (demos). Therefore, democracy in this sense has many meanings, not only the election of leaders by the people but also the denial of the separation of the two." (U, 2019a).

The concept of democracy dates back to 508 BC. As stated in Article 18 of the 1945 Constitution (2nd Amendment), regional governance and regional autonomy in Indonesia are founded on democratic ideals, according to I Dewa Gede Atmadja. The English-Latin Law Dictionary claims that, "Black's Law Dictionary," the definition of "democracy" is: "A form of government in which sovereign power resides and is exercised by all free citizens, directly or indirectly, through a representative system, as distinguished from monarchy, aristocracy, or oligarchy." (U, 2019a)

According to Moh Fadli et al., public involvement in a democratic state primarily serves to prevent the abuse of power, channel public aspirations to the government, involve citizens in public decision-making, and preserve popular sovereignty. Citizens have a duty and a right to participate in (Soleh et al., 2020)

Robert A. Dahl stated that democracy is a system that is absolutely accountable to its citizens. From an empirical perspective, Joseph Schumpeter indicated that democracy is a system for selecting decision-makers through periodic elections. (U, 2019b)

Hidajat stated: "The importance of public participation in a democratic country is crucial to the survival of a nation. Therefore, the people have the power to make decisions in the political and governmental spheres, through representation or directly, and through the expression of opinions, both verbally and in writing, which are constitutionally protected." (U, 2019b)

Soleh argues that whatever form of government claims to be democratic, the essence is that before establishing policy, the government invites the public to provide input, responses, and opinions on the proposed policy. (M, 2022) Based on the background stated above, this research aims to analyse and identify the factors that hinder the community's ability to convey their aspirations, suggestions, and opinions in the preparation of draft regulations. Village.

### METHOD

This study's research methodology is empirical legal research, also known as field research, which entails analyzing relevant legal provisions and their real-world applications. (Hadi & Komarudin, 2023). This study employs a sociological juridical method. Identifying and conceptualizing law as an actual, functional social institution inside the real-life system is the goal of the sociological juridical method. Both primary and secondary data were employed in this investigation. Based on respondents and sources, the main data used in this research methodology were collected directly from the field. At the same time, secondary or indirect data are obtained from literature reviews. The data sources used in this study comprise both secondary and primary data. Secondary data collection through library studies at Wisnuwardhana University and the Gunungsari village library, while primary data for this study was collected through interviews with sources or informants, namely: **Rukadi** (Head of Gunungsari Village); **Bambang Setyo Budi** (Secretary of Gunungsari Village); **Sukadi** (Head of the Village Community Empowerment Institute / LPMD); **Nachrowi** (Head of Baran Hamlet, Gunungsari Village); **Senawan** (Head of Krajan Hamlet, Gunungsari Village). The data collected from observations, interviews, and documentation were then processed and analysed. Miles and Huberman (R. A, 2018) created the qualitative data analysis approach for empirical legal research, which includes data presentation, data reduction, and conclusion. The village office in Gunungsari Village, Tajinan District, Malang Regency, is the study site.

### RESULT AND DISCUSSION

Interview results: 1) RUKADI. Head of Gunungsari Village, Tajinan District, Malang Regency. Interview on September 12, 2025. Preparation of draft village regulations drafting of village regulations; Inhibiting factors for the implementation of the rights of village communities to convey input, suggestions, and opinions both verbally and in writing in the preparation of draft village regulations, namely, there are still participants in the Deliberation who do not understand their rights regarding the plan to prepare village regulations by the village government. 2). Bambang Setyo Budi; Bambang Setyo Budi; Secretary of Gunungsari Village, Tajinan District, Malang Regency. Interview on August 2, 2025. At the Gunungsari Village office. Inhibiting factors in the implementation of village communities' rights to convey aspirations, suggestions, and opinions, both verbally and in writing, during the drafting of village regulations, include the following: There are still people who do not understand the plan to draft village regulations based on the Village Revenue and Expenditure Budget, which is informed by the results of hamlet deliberations. 3) Sukadi. Chairperson of the Village Community Empowerment Institution (LPMD) of Gunungsari Village, Tajinan District, Malang Regency. July 15, 2025. Inhibiting factors in the implementation of the rights of village communities to convey input, suggestions and opinions both verbally and in writing in drafting village regulations are; There are still people who do not understand the plan to draft village regulations on the Village Revenue and Expenditure Budget and the right of the community to convey aspirations or input, suggestions and opinions on draft village regulations before being discussed in village deliberations. 4). 4. Senawan. Head of Krajan Hamlet, Gunungsari Village, Tajinan District,

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Malang Regency. Interview, July 22, 2025. Who provided the following information: Factors inhibiting the implementation of the rights of village communities in conveying input, suggestions and opinions both verbally and in writing in drafting village regulations, namely; the existence of low human resources/community resources, There are still people who do not understand the plan to compile village regulations regarding the Village Revenue and Expenditure Budget and the right of the community to convey aspirations or input, suggestions and opinions on the draft village regulations before being discussed in the village meeting. 5) Nachrowi. Head of Baran Hamlet, Gunungsari Village, Tajinan District, Malang Regency. Interview, July 23, 2025. (J, 2019) Who provided the following information: Factors inhibiting the implementation of the rights of village communities in conveying input, suggestions and opinions both verbally and in writing in drafting village regulations, namely; There are still people who do not understand the plan to draft village regulations regarding the Village Revenue and Expenditure Budget and the right of the community to convey aspirations or input, suggestions and opinions regarding the draft village regulations before they are discussed in village meetings and there are people who are indifferent and do not care about village development plans.

According to Herbert. C. Kelman: A person will obey the law due to three things, namely: 1). because the law has severe sanctions / Compliance; 2). To maintain harmonious relationships with fellow people who are the objects of the law / Identification; 3) (S. N, 2025). Because the law aligns with the values desired by the person and is suitable for the person's needs / Internalization, the draft village regulations, in Gunungsari Village, Tajinan District, Malang Regency, received less attention from the community not because the draft village regulations were not in accordance with the wishes of the community, but more because of the lack of socialization to the community and the community's knowledge that is still lacking, regarding the existence of the draft village regulations.

Community participation in the process of forming village regulations is part of the implementation of democracy at the village level, as well as the application of the principle of transparency in the formation of village regulations, so that it is hoped that aspirational village regulations will be born as a basis for organizing government in accordance with the wishes and desires of the local community (P. S, 2017). (U, 2019b). Whatever form of government is said to be democratic, the essence is that, before establishing policies, the government invites the public to provide input, responses, and opinions on the policy plans to be established. (M, 2022). The more community involvement in conveying suggestions, advice, and opinions regarding the village government's policy plans or the existence of plans to prepare draft village regulations, the higher the degree of democracy in the Village.

According to (F M, 2024; S. N et al., n.d.), there are four (four) components to community participation or citizen involvement in development: 1. The assessment component is completed by determining the issues and resources at hand. Because of this, the community actively participates in identifying the issues at hand; therefore, these are their personal opinions. 2. To implement alternate program or activity aspects, residents are asked to consider several alternative programs as a means of addressing the issues they encounter. 3. The program or activity's implementation component. Carried out by putting into practice a well-planned program to ensure that it doesn't stray from its field implementation. 4. Evaluation component

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(covering input, process, and outcome evaluation) conducted under community and ongoing program officers' oversight. (T S R & S, 2017)

(T. S & I G N, 2020) stated that factors inhibiting policy implementation include: First, different interpretations of policies by village communities. Second, there is a lack of community participation in community empowerment programs. Third, incomplete equipment resources and under-optimised non-physical infrastructure. Fourth, the less prosperous economic conditions of Tambakboyo village. Fifth, a lack of clarity, accuracy, and consistency in communication between organisations. (M, 2022)

Suroso Hadi stated that the factors inhibiting community participation are: a. Internal Factors: 1) Age, Community participation, and Age. People over 40 are considered to have a higher level of participation than young people because young people are reluctant to engage with older people. 2) Level of education, the higher the level of education, the higher the level of community participation in village development. The level of community knowledge influences the input provided during development discussions; a person's level of expertise is significantly influenced by their education. 3) Type of community work, in certain types of work, the level of participation in village development will be higher because they will take the time to participate. The community's work sectors that require time are the agricultural industry, while the work sector that cannot take the time is industrial work. 4) Level of income of the population, the higher the income, the higher the participation in development. (Lecturer of Wisnuwardhana University Malang. et al., 2020) The assumption is that they are no longer looking for additional income. In terms of participating in a material form. 5) Period of residence in the area, the longer a person lives in an area, the higher the level of participation in village development will be, because they feel ownership or a sense of ownership of the environment is very high. Therefore, they are more actively involved in development to promote the progress of their area. b. External Factors 1) (N. N, 2022) Communication, because intensive communication between citizens and the government, between the community system and the external social system, shows that intensive communication greatly influences community involvement in development. 2) Leadership, a leader must influence and encourage subordinates, be open to new views, respond to the needs of their subordinates, and support the innovations conveyed. Additionally, the learning process and the impact of activities related to community members' duties are considered. The presence of a guidebook is significant in encouraging the community to participate in the development of their Village. (M, 2022)

AN (A A, 2023). Community participation is said to indicate that the community is paying attention to planning, execution, monitoring, and assessment. To properly engage, communities typically need continual support, awareness, and supplementary funding for rehabilitation (M A et al., 2022). The project-based rehabilitation concept's failure led to stagnation and diminished local community authority. The limitations of top-down patterns resulted in a sharp decline in participatory maneuvers. As a result, integrated management across the public and private sectors was implemented to drive change. More importantly, because communities are distinct and unique and have given rise to a variety of social institutions, they must be handled within an empowered framework. (Holzhacker et al., 2016; M, 2024)

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The low level of community participation in development activities organised by village governments is generally caused by: *First*, a lack of community awareness of village government activities. *Second*, a low level of community independence and understanding of participation in village development. *Third*, a lack of attention from village governments to the minimal community participation in village development. (M et al., 2020)

Motivation and encouragement from the village government are needed to prevent community weaknesses. In participating, the village government must monitor ongoing activities, provide outreach and encouragement, and evaluate each completed activity. Understanding from the government will motivate the community. (D O et al., 2021)

In line with the results of the interviews and the opinions of the experts above, the factors inhibiting the implementation of the community's rights to convey aspirations, (I. N, 2025) suggestions and opinions in the preparation of village regulation plans in Gunungsari Village, Tajinan District, Malang Regency are: First; there are still people who do not understand the community's right to convey aspirations, suggestions and opinions in the preparation of draft village regulations and the importance of community aspirations, suggestions and opinions in the preparation of draft village regulations. Second, there are still people who are indifferent to the village government's plan to draft village regulations. Third: a lack of socialisation from the village government to the community about the plan to prepare the village regulations.

This research differs from the findings of previous studies, notably Utang Rosidin's, which suggest that community participation in the process of drafting village regulations is integral to the implementation of democracy at the village level. (I. P & M, 2024) report that community participation, as indicated by community assessment indicators, is involved in providing values in development and is integrated into the planning stage, ensuring that the development carried out aligns with the community's potential. (T S R & S, 2017) found that the study's results indicate a relatively low level of community participation in the implementation of physical development in West Sinsingon Village, as evidenced by the community's low enthusiasm for attending development planning meetings. (K. P & H, 2023)

In Indonesia's village governance context, the aspiration for democratic regulation through the involvement of local residents remains challenged by multiple interlocking obstacles (R et al., 2016). First, although the formal legal framework under Law No. 6 of 2014 on Villages mandates public participation in the drafting of village regulations, research shows that the process is often "formal and less substantive" local elites and village government officials dominate the deliberation processes, while women, youth and low-income residents remain marginalised. (I. N, 2025). Secondly, in concrete village settings such as Ngroto Village (Malang), critical technical impediments appear: inadequate identification of the regulatory substance, minimal direct community input into draft regulations, and weak dissemination of regulatory drafts before enactment. (M. A et al., 2022; Antlöv et al., 2016). Thirdly, the normative ideal of inclusive participation is hindered by low levels of civic and legal literacy among community members, as well as insufficient facilitative capacity within village consultative bodies (BPDs) to conduct genuinely open deliberations and ensure transparency. (A A, 2023). Collectively, these barriers

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dilute the potential of village regulations to reflect community aspirations, undermining their legitimacy and effectiveness as tools for local governance (K, 2021; R et al., 2016)

In many Indonesian villages the statutory right of community participation in drafting village (A. N et al., 2023) regulations (Peraturan Desa) remains more formal than substantive. Structural weaknesses — especially limited capacity and budget for village consultative bodies (BPD), incomplete or skipped stages in the drafting process, and unclear vertical regulatory harmonisation — frequently prevent ordinary villagers from shaping policy meaningfully (A A, 2023; R et al., 2016). Cultural and social barriers compound these institutional gaps: low legal and civic literacy, deference to village elites or the village head, and the routine exclusion of women, the poor, and other marginalized groups keep deliberation narrow and unrepresentative (M. A et al., 2022) (A. N et al., 2023) Procedural and technical constraints — poor dissemination of draft texts, limited use of inclusive meeting formats (musrenbangdes) or e-participation, and lack of data transparency — further turn participatory mandates into token consultations rather than genuine co-production of rules (A. A, 2020; M A et al., 2022) Addressing these obstacles therefore requires combined reforms: (1) strengthening BPD and local facilitation capacity and financing; (2) investing in legal/civic literacy and targeted outreach to marginalized groups; (3) institutionalising open, well-timed publication of drafts and inclusive deliberation mechanisms (including appropriate digital platforms); and (4) independent monitoring of adherence to legally required drafting stages — steps that evidence shows improve the inclusivity and legitimacy of village law-making (A A, 2023; M A et al., 2022)

### Recommendations for Future Research

Future research should (F M, 2024) focus on addressing factors that hinder the implementation of community rights to express aspirations, suggestions, and opinions regarding the preparation of draft village regulations (J, 2019).

## CONCLUSION

Factors that hinder the implementation of the community's right to convey aspirations, suggestions and opinions in the preparation of draft village regulations in Gunungsari Village, Tajinan District, Malang Regency are: First; there are still people who do not understand the community's right to convey aspirations, suggestions and opinions in the preparation of draft village regulations and the importance of community aspirations, suggestions and opinions in the preparation of draft village regulations. Second, there are still people who are indifferent to the village government's plan to draft village regulations. Third: a lack of socialisation from the village government to the community about the plan to prepare the village regulations.

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