

Does the village community have autonomy? between constitutional recognition and international law

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Abstract

Introduction to the Problem: Although villages existed before the formation of the Unitary State of the Republic of Indonesia, constitutional provisions on village autonomy remain marginal and inconsistent after four amendments to the 1945 Constitution. This undercuts recognition of indigenous communities and meaningful participation, despite converging international doctrines that safeguard collective identity, self-governance, and local decision-making.

Purpose/Study Objectives: This study argues that any future constitutional amendment must explicitly recognize and accommodate the autonomy of village communities. It aims to articulate a paradigm of village autonomy embedded in a social-constitution framework that realizes just and equitable prosperity, aligns with international legal standards on indigenous peoples' rights and participatory governance, and provides clear guidance for normative and operational reform.

Design/Methodology/Approach: Using a normative juridical method with descriptive-analytic specification, the research combines statutory and legal-historical approaches with targeted comparative analysis of jurisdictions that constitutionally entrench local or indigenous self-governance. International legal principles are employed as evaluative benchmarks to assess Indonesian constitutional design choices and to distil transferable safeguards (recognition, participation, jurisdiction, and fiscal arrangements).

Findings: Future villages should be constitutionally recognized as autonomous and self-sufficient communities that preserve local wisdom, ensure economic stability, and foster locally rooted growth. A reform blueprint emerges: (i) explicit constitutional status for village communities; (ii) delineated competences and guaranteed participation procedures; (iii) stable fiscal architecture; and (iv) safeguards against re-centralization. These elements uphold citizen values and constitutional ethics while harmonizing Indonesian practice with international doctrines on indigenous rights and democratic participation, thus offering actionable pathways for amendment text and implementing legislation.

Paper Type: Research Article

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Introduction

Special autonomy in international law has been considered as one way to avoid the process of disintegration of a country (Cavandoli & Wilson, 2022). Therefore, international law respects the protection of a national or ethnic group to maintain its identity (Anghie, 2023; Eichler, 2021). For this reason, one of the advantages of implementing autonomy is that it is a means of resolving conflict (Germann & Sambanis, 2021). The development of these principles of autonomy is a result of the development of international law in general which is based on the protection of human rights which directly impacts the promotion of general standards due to belief in democracy (Fernando et al., 2022), equality and people's participation (Raday, 2018) in the economic, social, cultural, political and legal fields of a country (Aditya & Al-Fatih, 2021).

In constitutional studies and contemporary decentralization theory, autonomy is generally understood as the process of delegating authority from the central government to lower levels of government (delegation/devolution) with variations in administrative, fiscal, and political forms (Kelliher et al., 2019). This understanding emphasizes that autonomy is not a usurpation of power by the regions from the center, but rather a transfer of authority to adapt policies to local preferences and administrative conditions (Towadi et al., 2021). The theoretical framework that highlights the differences between decentralization, delegation (Ridlwan, 2015; Wijayanto, 2014), and devolution is important for distinguishing regional autonomy (provinces/districts/cities) from village autonomy (village/sub-district level government units), as the two have different legal bases, budgeting mechanisms, and political arenas (Abdullah, 2020; Sari, 2020).

The need for a more critical reading of village autonomy is urgent when linked to recent demographic and poverty dynamics: the proportion of people living in urban areas is increasing, so the relative composition of rural areas is declining compared to previous claims, while rural poverty rates still show higher vulnerability and require targeted local policies. The common narrative that “most of the population lives in villages (approximately 80%)” needs to be updated based on more recent census data and welfare indicators so that policy analysis does not subsume outdated statistical facts (Faisal, 1981).

Another undeniable fact is that villagers generally experience relatively low levels of prosperity, closely tied to the issue of poverty. Villages remain the primary pockets of poverty in Indonesia (Anwarudin, 2020; Herdiana, 2022). According to the Central

Bureau of Statistics, poverty is the inability to meet basic food needs from an economic perspective rather than food production. This persistent poverty in villages is largely due to the lack of government policies favouring rural community development in Indonesia ([Alawiyah & Setiawan, 2021](#); [Noorikhsan & Gunawan, 2022](#)).

Since the Proclamation of Independence of the Republic of Indonesia, regulations concerning local areas and villages have undergone numerous changes. However, each new regulation tends to be experimental, often failing to improve conditions and sometimes creating more complicated problems. For instance, Law No. 5 Year of 1970 concerning Local Government and Law No. 5 Year of 1979 concerning Village Government undermined local autonomies and disrupted traditional local government at the village level ([USAID, 2006](#)).

Village governance has entered a new phase with the enactment of Law No. 6 of 2014 concerning Village. This law embodies six key principles: respect for diversity, legal framework for village government, direct budget allocation to the village, participatory budgeting, creating business opportunities through village-owned enterprises, and promoting technology transfer ([Sudjatmiko, 2015](#)). However, there are quite anomalous and apprehensive tendencies since a perception arises that local and village autonomy becomes hindrances to economic development and impedes the central government's interest ([Maksum, 2022](#)). The issuance of the Job Creation Law ([Rafiqi, 2021](#)) may prove the existence of recentralisation waves, which certainly will have an impact on villages. Meanwhile, the village government system greatly determines the village's development or the improvement of the village community welfare. Therefore, it is necessary that the improvement of the village government system become a priority.

In this context, this study focuses its analysis on four interrelated dimensions: (a) constitutional recognition of villages and guarantees of collective rights (e.g., customary and ancestral rights), (b) institutional mechanisms and the division of powers between the central, regional, and village governments (delegation versus devolution), (c) fiscal architecture and budget accountability of villages, and (d) protection of indigenous peoples' rights in relation to relevant international legal instruments ([Wiryani et al., 2024](#)). This framework limits the scope so that the study does not merely describe 'autonomy' in general terms, but evaluates the legal aspects that determine the ability of villages to exercise autonomy in a substantive and equitable manner.

Previous research's, stated that village autonomy must be deal with globalization aspect ([Kokotiasa, 2021](#)). Village autonomy must be emphasized on fulfilling village authority in the areas of village governance, implementation of village development, development of village community, and empowerment of village communities based on community initiatives, rights of origin and customs ([Niga, 2023](#)). Moreover, the

village autonomy could reach success because of synergy between village government and the villagers ([Hardiyanti & Diamantina, 2022](#)). There has been no previous research that emphasizes the urgency of village autonomy from the perspective of international law, which emphasizes that village autonomy is part of fulfilling community rights (especially indigenous communities), providing full authority and efforts to reduce conflict.

In the comparative section, this study takes selected cross-jurisprudential case studies based on representative institutional traditions: (i) the European commune/*kommune* model represented by an analysis of German and French practices; (ii) the village/municipality institute in the United States, which showcases practices of recognizing local entities and constitutionalizing community life (including the experience of indigenous community constitutions in the US); and (iii) examples from Asia-Oceania countries relevant to the dynamics of devolution and socio-political plurality, including the Philippines.

Case selection is theory-driven and functional — not a quantitative representation of all countries. The study utilizes examples from diverse legal traditions to extract transferable institutional principles (e.g., legal basis for community recognition; direct fiscal mechanisms; institutional design to prevent elite capture; protection of collective customary rights) that are relevant to the context of the Republic of Indonesia and the drafting of constitutional amendments related to villages.

Developing an ideal institutional model for village governance is essential, ensuring that its core principles are enshrined in constitutional amendments. As the country's founding father, M. Hatta, stated, decentralisation is inherently the autonomy of a community ([Suharto & Desa, 2016](#)). This means the community can create and implement policies based on its aspirations, conditions, and potential. Harnessing community potential will facilitate the creation of a government rooted in local voice and local choice. Thus, village decentralisation should be inherently autonomous

With these limitations and focus, the main research questions posed are: (1) to what extent are the current constitutional framework and legislation in Indonesia (including Law No. 6/2014) adequate to realize substantive village autonomy; (2) what institutional practices and fiscal mechanisms from comparative countries can be used as adaptive models; and (3) what constitutional and policy designs are plausible and operational to balance the recognition of local rights with the prevention of elite capture and the fulfillment of equitable development goals.

This research would help scholars to find out the concept of autonomy at the village/community level, which is contested and varies across contexts (legal, political, cultural). In another hand, comparative research could enrich academic debates in political science, law, and sociology by examining how different countries or regions define and practice village autonomy with the point of view on international law aspects. By placing village autonomy in a comparative perspective,

the research provides cross-national/cross-regional benchmarks, advancing knowledge about decentralization, local governance, and participatory democracy. It would like to invite more reader across the world. Then, much research often emphasizes national or urban governance, while rural and village-level governance remains under-explored. This study fills that gap by foregrounding grassroots governance. This research connects law, governance studies, anthropology, and development studies-making it urgent for scholars looking for interdisciplinary models of autonomy. For practitioners, the urgency for this research is rooted in improving policy design, ensuring effective decentralization, empowering communities, and resolving governance conflicts.

Methodology

This article proposes an alternative thought in designing the arrangements and warranties of protection in the constitution for village community autonomy by tracing and diagnosing the portrait of the implementation of village autonomy in the state administration system and comparing it with the international law doctrine among several scholars or countries. The research method adopted is a normative juridical (Negara, 2023) with descriptive analytic specification based on statutory and legal-historical approaches (Al-Fatih, 2023). The statutory approach examines various current regulations concerning village autonomy. In contrast, the historical approach explores the background and evolution of these regulations to understand the values underpinning village community autonomy. The legal data obtained through these two approaches were analysed using a prescriptive analytical method.

For the comparative section, this study applies a qualitative comparison method of most-similar/most-different systems design selected based on the following criteria: (a) the existence of formal or semi-formal local entities/communal bases in national law; (b) experience in legislation or constitutionalization of the recognition of local communities; (c) direct financing mechanisms for local entities; and (d) documentation of accountability practices and mechanisms to prevent elite capture. The variables analyzed include: constitutional legitimacy/legal status of local entities, forms of devolution/delegation of authority, fiscal architecture (sources & transfer mechanisms), and accountability mechanisms (institutional and participatory). Comparisons were made by examining constitutional/legal texts, case studies of implementation cited in the literature, and examples of relevant decisions or policies.

Results and Discussion

Problems of Village Autonomy in State Dynamic

The term “desa” in the linguistic tradition of the Indonesian archipelago has complex and multi-sourced historical roots; etymologically, it is often traced back to Sanskrit roots such as swadesi, which means “place of origin” or “local area.” However, an etymological approach alone is insufficient to define the legal status of villages within the modern state system. In constitutional law studies, the etymological aspect is only



relevant to the extent that the term influences the legal legitimacy and normative narrative of indigenous rights. Therefore, when historical perspective, note the variety of local terms (e.g., village, hamlet, nagari, and other regional variants), what is important is not merely lexical similarity, but how these terms have undergone functional transformation: from cultural labels to legal categories that gain or lose normative status within the hierarchy of national regulations. (Syafudin & Na'a, 2010).

In a more analytical conceptual approach, the term 'village' can be viewed through three interdisciplinary lenses that are relevant to this study. First, sociologically, 'village' refers to a form of community characterized by personal ties between members, relative homogeneity in cultural norms, and dependence on local natural resources—attributes that influence the collective capacity to make decisions and maintain practices of mutual cooperation. Second, economically, a village is an arena for the production and reproduction of livelihoods—generally agrarian—where the utilization of local resources, land ownership structures, and market access determine levels of well-being. Third, politically, villages are units of government or legal entities that can be given the authority to manage local affairs; from this perspective, villages become objects and subjects of law whose position must be formulated normatively in order to ensure legal certainty and accountability. This lens serves as an analytical tool to filter descriptive narratives so that they focus on legal and governance issues that can be tested and evaluated.

In classical sociological literature, villages are often viewed as homogeneous communities with close social ties, agriculture-based economies, and low levels of mobility. While this perspective is useful for understanding the social context, within the framework of constitutional legal analysis we need to interpret these characteristics as factors that influence the form of autonomy that should be regulated normatively. For example, dependence on land and kinship-based social relations imply the need for legal guarantees of communal rights, while relatively low levels of education and access to information necessitate the design of more participatory accountability mechanisms. Thus, sociological descriptions are only relevant to the extent that they are variables that influence the effectiveness of legal recognition of village autonomy, not as the purpose of the description itself.

The economic approach views villages as units of production and consumption that utilize local resources to meet basic needs. Within the framework of constitutional law, this perspective raises questions about the extent to which the legislative and constitutional framework allows villages to manage these resources independently. From a political perspective, the definition of a village as a legal community with the authority to regulate and manage its own interests requires us to distinguish between original autonomy (which has existed since the village was established) and delegated autonomy (which is granted by the central government). This distinction has direct normative consequences: without explicit constitutional recognition, village



autonomy is vulnerable to being reduced to a mere administrative delegation that can be revoked at any time through regulations under the law ([Pranoto, 2001](#)).

Characteristics of villages such as their attachment to agricultural centers, the dominance of the agrarian sector, land ownership as the basis of social identity, and demographic stability, must be interpreted within the framework of legal design that affirms local authority over spatial planning, natural resource management, and budget formulation. The characteristics of personal social interaction and informal social control require regulatory design that combines formal mechanisms (village regulations, village head regulations) with informal mechanisms (deliberation, customary consensus) to achieve substantive accountability. This is where it is important to ensure that the applicable legal framework does not merely replicate the formal forms of participation from city or district governance, but is adapted to existing deliberative traditions ([Huda, 2015](#)).

Law No. 6 of 2014 concerning Village defines a village as a legal community with territorial boundaries that has the authority to regulate and manage local government affairs and community interests based on initiative, original rights, and/or traditional rights. This definition explicitly includes elements of self-governance that do not depend on the delegation of authority from the center, but rather on the recognition of entities that existed before the state was formed. In the context of state administration, this means that the source of the legitimacy of village authority does not solely rely on the Village Law, but on customary rights that are ideally recognized in the constitution. Without such recognition, the position of villages will always be subordinate to sectoral policies that may ignore local interests.

The egalitarian character of the village social structure, collective ownership of resources, and the tradition of deliberation to reach consensus are social capital that can serve as a normative basis for strengthening village autonomy in the constitution. The ability of villages to develop a consensus-based decision-making system reflects the strength of local traditions and social capital, where collective dialogue and agreement are prioritized over hierarchical authority. ([Zhao et al., 2024](#)) This system ensures that community members feel represented and fosters social cohesion. Alongside this, the existence of community mediation in many regions plays a crucial role in resolving disputes informally, reducing reliance on formal legal mechanisms, and maintaining harmony. Together, these practices demonstrate the resilience of local governance structures that balance autonomy, inclusivity, and conflict resolution.

The tiered decision-making process from the family level to village meetings demonstrates a model of deliberation that is in line with the principles of participatory democracy. However, the reviewer reminds us that this historical narrative must be linked to legal analysis: are these traditions accommodated within the formal framework of legislation? If not, there is a risk that these traditions will

become mere symbols without binding force in village governance ([Azhari, 2014](#)). The 1945 Constitution prior to amendment through Article 18 did recognize the existence of territories with special rights and characteristics, including villages, regions, and clans. However, this recognition was implicit in the norms and explicit only in the explanatory notes. From a constitutional law perspective, this is a weakness because the explanatory notes do not have the same normative force as articles. The loss of this provision following the RIS Constitution and the UUDS, and its failure to be reinstated in the four amendments, indicates a degradation of normative recognition of villages. This analysis raises a key research question: how can constitutional recognition be redesigned to be not only declarative but also operational?

Article 18B of the amended constitution does recognize and respect the unity of indigenous peoples and their rights ([Aditya & Al-Fatih, 2023](#)), but with the restrictive clause “as long as they remain alive and in accordance with the development of society and the principles of the Unitary State of the Republic of Indonesia.” In legal analysis, this clause opens up broad room for interpretation by the government in determining the eligibility of an indigenous community. This has the potential to lead to marginalization if development or investment interests are considered more important. Within the framework of international law, such restrictions must be tested against the principle of non-derogability of the rights of indigenous peoples as recognized in instruments such as the UNDRIP ([Ismail et al., 2023](#)).

In the second amendment of the 1945 Constitution, Article 18 was expanded with seven additional paragraphs, and two new articles, 18A and 18B, were introduced. Article 18, from paragraphs (1) to (7), addresses the division of provincial areas into regencies and cities, granting them permanent autonomy and certain delegated tasks. Article 18A outlines the relationship between the central government and the provincial, regency, and city governments, covering authority, financial relations, public services, and resource utilisation. Article 18B focuses on the state's recognition of government units with special and unique characteristics and customary law communities. Article 18B closely relates to the governance of villages.

Article 18B does not explicitly mention villages, but a careful examination of paragraph (2) reveals its relevance to village governance through its recognition and respect for “legal community units and their traditional rights.” This is crucial and should be explicitly stated in the Constitution. Such recognition ensures consistency across all levels of regulation, from laws to the lowest delegated regulations. If inconsistencies arise, these laws can be subject to judicial review by the Constitutional Court. Regulations lower than government ones can be evaluated by the Supreme Court ([Widiyanto & Syafaat, 2006](#)).

However, the subsequent clause introduces ambiguity for decision-makers and can potentially be used to marginalise customary law communities. The clause in question



is “as long as it is still alive and relevant to the development of society and the principles of the Unitary State of the Republic of Indonesia.” This becomes particularly problematic when communities seek their rights to manage natural resources such as forests and seas, especially if decision-makers have already planned or granted permissions to other entities. Therefore, it is crucial to uphold the initial clause—“recognition and respect for the rights of indigenous peoples”—explicitly in regulations to ensure these communities are protected ([Widiyanto & Syafaat, 2006](#)).

Significant differences emerge when we look back at the village governance system during the Dutch Indies, Old Order, and New Order eras. During the Dutch Indies era, the diversity of local conditions was somewhat accommodated by acknowledging preexisting local customs. Distinct village government laws applied differently to Java and Madura villages than those outside these regions. In Java and Madura, the *Inlandsche Gemente Ordonantie Java end Madoera* (Stbl. 1938 No. 490 jo. Stbl. 1938 No. 681) was enforced. The enforcement of these different laws allowed for the regulation of village conditions through appropriate legislation. This meant villages with unique conditions had the right to different treatments or arrangements based on their specific needs ([Soetoprawiro, 1994](#); [Wijaya, 2000](#)).

After Indonesia's independence and the enactment of the 1945 Constitution, the next significant regulation regarding villages was Law No. 19 of 1965, which concerned the establishment of Desa Praja or customary autonomous areas at a uniform level across Indonesia. However, this law did not align with the content and spirit of Article 18, Elucidation II of the 1945 Constitution, as it introduced the idea of standardizing the term “village.” Ultimately, this regulation was never implemented due to various reasons prevailing at the time.

In the Old Order era, the village government was managed because of the existence of direct control from the people and of access from the people to express their aspirations. Village meetings (*rembug desa*) were an institution facilitating the articulation of the people’s political interest in village government ([Apriliana, 2017](#)). Law No. 19 of 1965 concerning Desa Praja, proposed the establishment of People’s Representatives at the village level.

Historical experience from the Dutch East Indies era to the New Order era shows a drastic change in the legal position of villages. While the colonial era recognized limited variations in local laws, the New Order era marked extreme centralization through Law No. 5/1979, which standardized the form of village government. From a constitutional law perspective, this was a shift from recognition of indigenous rights to administrative subordination. This centralization also eroded substantive participation mechanisms and replaced them with superficial participation, which research by IRE Yogyakarta identified as factors in the failure of village policy: paradigm errors, orientation, centralization, and a non-integrative sectoral approach.



Village regulations during the New Order era through Law No. 5 of 1979 introduced three fundamental characteristics: centralization of power, structural dependence, and anti-substantive participation. From a constitutional law perspective, this centralization positioned the village head as a single figure who held all control over local government, rather than as a leader accountable to the citizens. Institutional constructs such as the Village Consultative Body (LMD) and the Village Community Resilience Body (LKMD) are more cosmetic in nature, as they are structurally subordinate to the village head who also leads these bodies. This raises serious questions about the principle of checks and balances at the local level: if the supervisory body is under the control of the body being supervised, then the principle of accountability becomes an illusion. This situation is consistent with recent findings on elite capture in villages, which show that without legal separation of functions, village authority tends to be centralized in the hands of a small group of local elites.

Minister of Home Affairs Decree No. 27 of 1984 reinforces the centralistic model by making the village head (*lurah*) chair of the LKMD, assisted by subordinates and community figures tied to him. This arrangement institutionalizes a conflict of interest, as the authority distributing resources also leads the oversight body. Over time, it has eroded the village's legal autonomy and shifted local governance from responding to citizens toward obeying central directives, reducing villages to extensions of the central bureaucracy.

The characteristic of dependence on the central government not only weakens the planning capacity of villages but also creates a political culture in which local initiatives are considered invalid without the approval of the administrative hierarchy. From a constitutional law perspective, this condition violates the principle of decentralization as stipulated in Article 18 of the 1945 Constitution after amendment, which affirms regional autonomy as a right, not a privilege. The anti-participatory characteristic, where citizen participation is reduced to mobilization for the legitimacy of central policies, contradicts the principle of meaningful participation recognized in international law (Wijaya, 2000), including the International Covenant on Civil and Political Rights (ICCPR) Article 25. This phenomenon underscores the need for a redesign of village institutions that ensures substantive citizen participation, not only administrative formalities.

An empirical study by the IRE Yogyakarta team identified a number of factors contributing to the failure of village policies during the New Order era: paradigm errors (positioning villages as objects of development rather than subjects), orientation errors (prioritizing central political stability over the welfare of citizens), policy centralization, unsustainable program design, and a fragmented sectoral approach. From a legal policy analysis perspective, these factors indicate a policy-legal gap between the normative objectives of regulations and their implementation in the field. Within the framework of legal reform, it is necessary to formulate

indicators of successful village autonomy: alignment between legal norms, institutional capacity, and the realization of villagers' rights (Rozaki & Eko, 2005).

Lessons learned from the New Order era provide a strong argument for the need for constitutional reconstruction that explicitly recognizes villages as autonomous entities with inherent rights that cannot be removed through sectoral regulations. This recognition must be accompanied by compulsory provisions to ensure that all sectoral policies comply with the principles of recognition and protection of village rights. Without a strong constitutional foundation, village policies are vulnerable to waves of centralization, as occurred during the New Order era, or through new legal instruments that disregard village autonomy in the name of development efficiency.

The Design of Village Community Autonomy in the Further Indonesian Constitution

In the framework of constitutional democracy, the Constitution functions not only as the supreme legal norm limiting governmental power but also as the principal guarantor of community self-governance, including village autonomy (Muhtar et al., 2023). Contemporary constitutional theory (Albert & Roznai, 2021; Ginsburg et al., 2021) emphasizes that without clear constitutional entrenchment, local autonomy—particularly of rural communities—remains vulnerable to policy shifts and political expediency. In Indonesia, the absence of a definitive constitutional articulation of village autonomy has resulted in fluctuating legal recognition, oscillating between accommodation and suppression, depending on the prevailing political regime. Therefore, a future constitutional design must begin with an explicit normative definition of *village autonomy* that distinguishes its legal dimension (as a recognized juridical status under national law), sociological dimension (as an organic community with customary governance), and administrative dimension (as an operational arm of the state apparatus at the local level).

The historical conceptualization of constitutionalism in Indonesia has largely drawn on mid-20th-century interpretations (Wignyosoebroto, 2002), which remain foundational but insufficient to address modern challenges. Current global debates (Landau & Dixon, 2023; Tushnet, 2021) have shifted towards *transformative constitutionalism* and *legal pluralism*, recognizing that constitutional orders must actively integrate diverse normative systems, including indigenous governance structures. For Indonesia, this means that the design of village autonomy in future constitutional amendments must not be confined to abstract guarantees but should be operationalised through enforceable legal mechanisms, clear division of powers, and mandatory respect for customary law where applicable. Without such integration, constitutional recognition risks being merely symbolic, lacking enforceability when challenged in courts or overridden by statutory law.

Modern comparative constitutional law reveals that effective village autonomy is built upon three interlocking pillars: constitutional entrenchment, statutory



coherence, and institutional capacity (OECD, 2022). Constitutional entrenchment ensures that no lower-level legislation can undermine autonomy; statutory coherence aligns sectoral laws with constitutional principles; and institutional capacity enables villages to exercise their autonomy effectively. In Indonesia, while Law No. 6 of 2014 on Villages provides an extensive framework, inconsistencies with sectoral regulations on forestry, mining, and land administration have diluted its effectiveness. Recent reports (Badan Pusat Statistik Indonesia, 2023) show that 68% of villages face legal barriers in exercising control over natural resources, indicating that autonomy is constrained not by the absence of legal recognition but by the lack of normative supremacy and enforcement consistency.

A particularly urgent constitutional and governance challenge in the discourse on village autonomy lies in the persistent duality between the political structure of villages and the structure of natural resource control. Drawing on Vanhanen (1989), the correlation is clear: the concentration of economic resources—especially land and other natural assets—almost invariably results in the concentration of political power in the hands of a few. In rural Indonesia, this correlation is not merely theoretical but empirically demonstrable (Ramadhan et al., 2024). The villages with a more equitable distribution of agricultural land and forest access consistently demonstrate higher levels of deliberative democracy, inclusive decision-making, and transparency in fiscal governance. In contrast, where resource control is monopolized by local elites, external investors, or state-owned enterprises, political participation tends to become exclusionary, with decision-making captured by narrow interests and accountability mechanisms weakened or bypassed entirely.

From a constitutional design perspective, this dyadic relationship demands explicit attention. Village autonomy cannot be constitutionally meaningful if it is confined to procedural self-administration—that is, the ability to elect leaders, form village councils, and manage budgetary processes—without substantive control over local resources (Putri et al., 2024). The absence of constitutional safeguards over land tenure, forest stewardship, and water rights risks reducing autonomy to a hollow formalism, vulnerable to co-optation by more powerful economic and political actors. In this sense, constitutional guarantees of village autonomy must be multidimensional: ensuring *political sovereignty* in governance arrangements while simultaneously embedding *economic sovereignty* through secure, community-based control of key productive resources. This approach aligns with contemporary constitutional theory on material constitutionalism, which posits that the distribution of power is inseparable from the distribution of resources (Hirschl, 2024).

A dyadic relationship exists between political structure (village) and natural resource mastery structure. The change in the political structure may affect the change of political structure. The agenda of democratisation of the relationship between state and village citizens should continue into internal democratisation among citizens through agrarian/natural resources democratisation. In a community where the



important resources are concentrated in the hands of some persons, the political power is also concentrated on a few persons. Whereas, in a society of which its important resources are widely distributed, the political power is also extensively distributed (Vanhanen, 1997).

Villages are also encountering crises related to regeneration and agricultural reproduction. The regeneration crisis raises concerns about the future of agriculture, with statistics showing a troubling trend year after year (Arif et al., 2020). The normative and empirical dimensions of this duality can be summarised in the following table, which illustrates the interplay between political structure and resource control, and their respective implications for democratic vitality at the village level:

Table 1. The Perspective of Village Position

Dimension	Current Common Pattern	Empirical Impact	Constitutional Design Implication
Political Structure	Often formalised through uniform statutory models imposed by national legislation, with limited scope for locally specific arrangements.	Villages with rigid, centralised political structures experience lower citizen participation and weaker local accountability.	Embed the principle of <i>subsidiarity</i> in the Constitution, allowing villages to design governance structures that reflect local norms and socio-cultural realities.
Natural Resource Control	Land and resource ownership frequently concentrated in elites or external investors, often legitimised by state-issued permits.	Resource monopolization correlates with elite political capture and reduced inclusivity in decision-making.	Recognise community-based tenure systems in the Constitution, ensuring that resource governance is integral to village autonomy.
Inter-relationship	Political power follows economic control, with resource-rich elites dominating formal governance structures.	Equitable resource distribution is strongly associated with participatory and deliberative governance.	Link constitutional recognition of village autonomy to both governance rights and resource rights, preventing procedural autonomy from being undermined by economic dependency.

Source: Authors Analysis, 2025



By integrating these dimensions into constitutional text, Indonesia can move beyond a merely symbolic recognition of village autonomy toward a substantive autonomy model that secures both the decision-making authority and the material resource base necessary for self-determination. This dual guarantee would not only strengthen rural democracy but also insulate village governance from the destabilising effects of resource-based elite capture. In the context of future constitutional amendments, explicitly defining village autonomy to include control over *tangible assets*—land, forests, fisheries, and water—would align Indonesia with global best practices in protecting local self-government under conditions of economic pluralism and legal diversity.

The post-1999 constitutional amendments indeed delivered notable advances in human rights protection, democratic governance, and decentralisation. Nevertheless, the constitutional position of village autonomy remains highly ambiguous, resulting in its treatment as a derivative matter of statutory law rather than as a constitutionally entrenched right ([Ramadhan et al., 2025](#)). This normative gap leaves rural communities vulnerable to policy reversals, fiscal dependency, and the encroachment of centralised administrative control. Strengthening democracy at the village level, therefore, cannot depend solely on legislative goodwill or temporary fiscal transfers such as the *Dana Desa* scheme. Instead, it requires explicit constitutional recognition that places village autonomy within the highest normative hierarchy, ensuring that no ordinary law or administrative regulation can dilute it. This recognition should be operationalised through three interdependent and foundational elements, each carrying both normative and practical imperatives

First, the recognition of villages as autonomous legal communities within the broader framework of civil society must be clearly stated in the Constitution. This recognition goes beyond symbolic acknowledgement; it affirms villages as self-governing entities with distinct social, economic, and cultural organisational roles, aligned with the principles of subsidiarity, accountability, ecological stewardship, and respect for indigenous traditions. While [Asshiddiqie \(2015\)](#) laid the normative groundwork for viewing villages as part of civil society rather than as mere administrative units, emphasizes that constitutional embedding would provide stronger legal safeguards against the erosion of customary land rights, elite capture, and exploitative resource extraction. International practice, such as the constitutional protection of *comunidades autónomas* in Spain and *First Nations self-government* provisions in Canada, shows that when local communities are explicitly constitutionally recognised, their institutional endurance and bargaining power with the central state improve significantly.

Second, the sovereignty of village institutional organs, meaning the authority to determine internal governance structures, should rest squarely in the hands of the village community, constrained only by fundamental constitutional rights and duties. This entails the ability to design governance bodies, decision-making processes, and

accountability mechanisms that reflect local values and socio-political realities. Empirical findings from the [World Bank \(2023\)](#), reveal that villages with self-determined institutional arrangements consistently outperform centrally standardised ones in public service delivery, citizen participation, and fiscal transparency. From a constitutional law perspective, this sovereignty must be protected against statutory overreach, ensuring that laws and regulations cannot unilaterally impose uniform models that ignore the diversity of Indonesia's rural governance traditions. This approach aligns with modern constitutionalism's respect for *legal pluralism*, recognising multiple governance systems within a single constitutional order

Third, the integration of village head elections into the general electoral system, adjudicated by a specialized electoral court division, is essential for ensuring electoral integrity and democratic legitimacy. Placing village head elections under the same constitutional framework that governs national and regional elections would promote procedural uniformity, harmonize electoral dispute resolution, and prevent the manipulation of electoral processes for partisan or elite interests. A specialized electoral court division—ad hoc but embedded within the High Court structure under the Supreme Court—would ensure that disputes are handled by judges with expertise in both electoral law and local governance. Comparative experience, such as the *Tribunal Electoral* in Mexico and specialized local election tribunals in the Philippines, demonstrates that dedicated judicial oversight can significantly reduce election-related violence, fraud, and politicization at the local level. Furthermore, integrating village elections into the national electoral regime symbolically affirms the political equality of rural citizens within the broader constitutional polity

Embedding these three elements in the forthcoming constitutional amendment would serve several strategic functions. It would rectify the historical omission of explicit village autonomy, elevate rural governance to a constitutional priority, and insulate it from the volatility of ordinary politics. Normatively, it would reaffirm Indonesia's commitment to a form of constitutional democracy that is not merely centralized and urban-centric, but truly inclusive of rural and indigenous communities. Practically, it would strengthen the resilience of villages against external economic pressures, enable them to negotiate more equitably with higher levels of government, and align Indonesia's constitutional architecture with global trends in protecting subnational autonomy. In the long term, this constitutional embedding could serve as a blueprint for balancing unity and diversity in governance, ensuring that the rural majority's voice is neither marginalized nor conditional upon the changing tides of statutory politics.

Village Autonomy & Government in Different Countries: A Comparative Perspective

To complete the study of the future of autonomy and village government in constitutional changes in Indonesia, in this section the author needs to provide a

comparative study in several countries which implemented international doctrines. As we realize that in today's modern era, getting along and interacting with other people and nations is a necessity. Global village is a term that describes the close relationship between the world's parts of the world which is shrinking due to the advancement of science and technology (Lukito, 2022). In line with this dynamic, legal expert are increasingly aware that conducting legal comparisons will bring benefits, including: helping efforts to improve the quality of law, reforming constitutional law, understanding the development of legal theory, facilitating the unification and harmonization of international law, and so on.

A comparative study of village autonomy cannot be conducted in an encyclopedic or historical manner alone, but must be based on a systematic comparative legal approach. In this context, the theory of functionalism in comparative law becomes relevant, where the focus of the study is directed at identifying similarities in function and differences in institutional structure between the comparative country systems and Indonesia. The selection of comparative countries should not be random; rather, it must be based on the proximity of the issues or constitutional relevance. Based on these criteria, France and the United States are two examples that are worthy of in-depth analysis. France represents the Continental European tradition with a long history of centralization and decentralization strictly regulated through positive law, while the United States represents the common law tradition with strong recognition of self-government, including for indigenous communities, through their written constitution. These two countries offer a different spectrum, yet they have direct relevance for examining the challenges of village autonomy reform in Indonesia, which is based on legal pluralism and the existence of customary law communities (Sarundajang, 2002).

France was chosen as a comparative study not only because of the similarities in the Continental European legal tradition that influenced the Indonesian legal system, but also because of the major decentralization reforms that began in 1982 under President François Mitterrand. Prior to this reform, local government structures in France were highly centralized, with the roles of mayors (*maires*) and local councils (*conseils municipaux*) strictly controlled by prefects acting as extensions of the central government (Ramadhan & Rafiqi, 2021). This reform expanded the authority of local governments, including communes as the smallest administrative units, to manage their domestic affairs. Its relevance to Indonesia lies in the model of authority transfer regulated within the national legal framework, so that autonomy is not full sovereignty but rather the result of delegation. This model can provide important lessons for Indonesia, particularly in integrating village autonomy into the constitutional design without creating jurisdictional conflicts with local or central governments.

Meanwhile, the United States offers a different perspective through the recognition of self-government for indigenous communities regulated by the constitution and

federal law, such as the Indian Reorganization Act of 1934. The most prominent example is the Cherokee Nation, which has had a written constitution since 1827 and is recognized by the federal government. This recognition includes internal legislative, executive, and judicial authority, albeit within the limits recognized by federal law (Risky et al., 2025). For Indonesia, this model is relevant in the context of recognizing indigenous villages as regulated in the 2014 Village Law, but it has not yet been explicitly accommodated in the 1945 Constitution. The lesson to be learned is that the constitution can contain clear provisions regarding the special legal status of indigenous communities, including indigenous villages, without compromising the integrity of the state.

The comparative method used in analyzing these two countries is based on the theory of legal transplantation combined with a contextual approach (Frankenberg, 2018). This means that institutional elements from the comparative country are not adopted wholesale, but rather analyzed based on their compatibility with social, political, and legal conditions in Indonesia. In the French context, the relatively homogeneous commune institution is difficult to fully implement in Indonesia, which has a high level of heterogeneity between villages. Conversely, in the US context, formal recognition of customary government can be an inspiration for strengthening customary villages, but it must be considered within the framework of legal pluralism and a clear division of authority between village, regional, and central governments.

The main challenge in adopting lessons from France is preventing covert re-centralization. Although the 1982 reforms in France provided greater autonomy, Guéranger Desage (2011), shows a trend toward the return of central control through financial mechanisms and national administrative standards. Indonesia, with its Village Law allocating village funds from the national budget, risks experiencing a similar phenomenon if there are no constitutional mechanisms to guarantee villages' freedom to manage these funds according to local priorities. Therefore, lessons from France need to be adapted with a proportional oversight design that does not erode the essence of autonomy (Prasojo, 2018).

Meanwhile, the main lesson from the US relates to the distinction between the authorities of customary villages and administrative villages. The US model shows that recognition of customary government can coexist with general local government structures, as long as there is clarity regarding jurisdiction and sources of authority. A study by Cornell and Kalt (2020) found that indigenous communities in the US that have clear internal legislative authority tend to have better government performance. For Indonesia, this underscores the importance of providing a strong constitutional basis for customary villages to manage their own affairs, so that they are not dependent on administrative policies that are subject to change.

A comparison between the two countries shows that the success of village autonomy design depends not only on the transfer of authority, but also on legal certainty,



political legitimacy, and institutional support. In the Indonesian context, strengthening village autonomy must be accompanied by constitutional revisions that explicitly regulate the basic principles of villages, both administrative and customary. The following table summarizes the differences and potential for adopting elements from both countries into the Indonesian constitutional framework.

Table 2. Comparative Features of Village Autonomy

Aspect	France	United States	Potential Adaptation for Indonesia
Legal Basis	National law & 1982 decentralization reforms	Federally recognized indigenous constitutions	Constitutionalization of villages & indigenous villages
Autonomy Model	Delegation of administrative authority	Community-based self-government rooted in indigenous rights	Combination of delegated authority & recognition of indigenous rights
Relationship with Government	Supervised by prefect (central representative)	Direct relationship with federal government	Coordination mechanisms without full subordination
Source of Authority	Delegation from central government	Inherent rights of the community	Recognition of inherent rights and limited delegation
Challenges	Risk of re-centralization	Potential jurisdictional conflicts	Clear jurisdictional design & legal safeguards

Source: Authors Analysis, 2025

The comparative table above distills the key legal and institutional attributes of two distinct models of village autonomy—the *French Commune* and the *Cherokee Nation and other federally recognized indigenous villages in the United States*—and their potential adaptation for Indonesia’s constitutional framework. The French model demonstrates the viability of administrative autonomy within a highly centralized legal system, where the prefect serves as a supervisory link between central and local governance. In contrast, the United States’ indigenous governance model prioritizes inherent sovereignty, recognizing communities as self-governing polities with their own constitutions. This divergence reflects two different pathways toward autonomy: one based on *delegation from a higher authority* and the other grounded in *pre-existing, inherent rights*. For Indonesia, the comparative insight suggests the potential for a hybrid model that integrates *constitutional recognition of origin rights* (for customary villages) with *delegated administrative powers* (for non-customary

villages), thereby respecting both historical traditions and contemporary governance needs.

Furthermore, the French and American experiences underscore that legal design alone is insufficient; the sustainability of autonomy depends on the *clarity of jurisdictional boundaries*, the robustness of dispute resolution mechanisms, and the alignment of fiscal resources with assigned responsibilities. The French commune's vulnerability to re-centralization highlights the risk of autonomy erosion in the absence of constitutional safeguards, while the Cherokee Nation's occasional jurisdictional disputes with state and federal authorities demonstrate the necessity of well-defined legal interfaces. For Indonesia, integrating these lessons into the next constitutional amendment cycle could mean embedding clear, non-derogable clauses on village autonomy, coupled with independent adjudicatory bodies to resolve jurisdictional disputes. This would not only fortify legal certainty but also protect villages—especially indigenous ones—from political and administrative encroachment, thus ensuring that autonomy becomes an enduring pillar of rural governance.

Applying lessons learned from France to Indonesia requires careful consideration of the nature of the relationship between the central government and communes. Communes in France are granted broad administrative authority, but they still operate under a strict national legal framework. This mechanism ensures minimum standards of public service across the country, but it also creates the risk of homogenizing policies that are less sensitive to local needs. In the Indonesian context, the application of this model needs to take into account the geographical, demographic, and cultural variations of villages, so that national regulations do not hinder local innovation. Constitutional changes can be designed to establish the principle of “national minimum standards” while providing ample room for villages to adapt policies in accordance with local wisdom.

Conversely, the experience of the United States, particularly in indigenous communities such as the Cherokee Nation, teaches the importance of inherent rights in the design of local government. These rights are not merely delegated by the central government, but are recognized as part of the sovereignty of communities that existed before the formation of the modern state. In the Indonesian context, this recognition is implicitly contained in Article 18B paragraph (2) of the 1945 Constitution, which states that “the state recognizes and respects customary law communities and their traditional rights,” but has not been elaborated operationally in the constitution. The US model shows that without explicit recognition at the constitutional level, the status of customary villages will always depend on executive policy or ordinary legislation, which is prone to change.

This comparative legal framework also highlights the fundamental differences between administrative autonomy (France) and autonomy based on collective



identity (US). Administrative autonomy tends to focus on the distribution of government functions, while autonomy based on identity emphasizes the protection of the existence of communities and their own legal systems. For Indonesia, combining the two poses a unique challenge because villages not only function as administrative units but also as living spaces for indigenous communities that uphold distinctive value systems, legal frameworks, and governance structures. Therefore, constitutional reform must include a clear categorization of villages and its implications for sources of authority, funding, and relations with the central government.

From the perspective of asymmetric decentralization theory, both models demonstrate how the distribution of authority can be adapted to specific regional conditions. France relatively applies a symmetrical decentralization model, in which communes have equal authority despite differences in fiscal capacity. Conversely, the US applies asymmetric decentralization through the recognition of indigenous communities, as each community can have a different constitution, authority, and institutions. In Indonesia, asymmetric decentralization has been implemented in special regions such as Aceh, Papua, and Yogyakarta, but has not yet been optimized at the village level. Applying this principle to indigenous villages can strengthen their capacity to preserve local wisdom without neglecting national integration.

In addition to institutional aspects, both countries provide lessons on funding mechanisms that support village autonomy. In France, communes receive funding from local taxes and fiscal transfers from the central government, which are regulated by law to ensure equal public services. In the US, indigenous communities such as the Cherokee Nation have sources of income from internal taxes, economic enterprises, and federal grants that are managed independently. Indonesia can learn from this combination by stipulating in the constitution that villages have the right to independent sources of funding outside of the Village Fund, including through the management of village assets and economic cooperation between villages, to avoid complete dependence on the state budget.

Another relevant lesson concerns accountability mechanisms. In France, prefectural control and public audits ensure that commune budgets are used in accordance with regulations, while in the US, indigenous communities have internal judicial systems and state-recognized indigenous accountability mechanisms. Indonesia can combine these two approaches: establishing a dual accountability mechanism that combines the principles of state accountability and customary accountability. This is important to avoid conflicts between state law and customary law, while maintaining the legitimacy of village administration in the eyes of its citizens.

Thus, the relevance of this comparative study for Indonesia lies in its ability to identify elements that can be selectively transplanted. From France, Indonesia can adopt the principle of clear delegation of authority in national law accompanied by minimum

service standards. From the US, it can adopt the principle of recognizing the rights of indigenous communities and their legislative authority. The combination of the two can produce a more robust model of village autonomy, which is not only administrative but also recognizes and protects the collective identity of the village.

This comparative analysis confirms that the success of village autonomy reforms in Indonesia cannot rely solely on ordinary legislative changes, but requires measured constitutional revisions. These revisions must affirm the status of villages as autonomous entities with dual authority: delegated authority from the state and constitutionally recognized inherent rights. In this way, Indonesia can avoid the pitfalls of a centralistic model that often weakens local government, while also avoiding legal fragmentation that could threaten national integration. Comparative studies of France and the US provide a theoretical and practical framework for designing a village autonomy system that is relevant, sustainable, and in line with the reality of Indonesia's legal pluralism.

Finally, an in-depth comparison between the French and US models shows that effective village autonomy designs must combine clarity of norms, protection of indigenous rights, and institutional flexibility. There is no complete similarity between France and the United States in terms of fulfilling effective village autonomy. Therefore, the author considers both countries to be good factors to be assimilated into the Indonesian context. The context of legal pluralism in Indonesia requires a constitution that not only regulates state-village relations vertically, but also provides space for villages to regulate themselves horizontally through inter-village cooperation and direct relations with non-state actors. By selectively drawing on international lessons, coupled with empirical analysis of village conditions in Indonesia, constitutional reform can be directed toward creating a more adaptive, equitable, and sustainable model of village autonomy, thereby ensuring that villages truly become the foundation of popular sovereignty within the framework of the Unitary State of the Republic of Indonesia.

Conclusion

The necessity for further amendment of the 1945 Constitution of the Republic of Indonesia in the context of village autonomy must be examined through a multidimensional lens that goes beyond the purely constitutional framework. While constitutional provisions play a pivotal role in recognising and safeguarding village autonomy, the persistent marginalisation of rural communities cannot be attributed solely to textual or structural weaknesses in the Constitution. Factors such as entrenched patronage networks, the persistence of oligarchic local politics, endemic corruption in local administration, and the lack of robust institutional capacity at the village level have substantially eroded the realisation of autonomy in practice. These structural and socio-economic dynamics often undermine even the most well-crafted legal provisions. Without addressing these non-constitutional impediments—through institutional strengthening, anti-corruption reforms, and capacity-building

for local governance—any constitutional guarantee risks becoming a symbolic gesture rather than a transformative force.

In framing the future of village autonomy within constitutional reform, it is essential to adopt a clearer and more operational conceptual foundation than the ambiguous notion of a “social constitution” presented in earlier discussions. Such a framework must be grounded in recognised constitutional theories—such as democratic constitutionalism, legal pluralism, and subsidiarity—that are capable of reconciling national governance structures with the diversity of local legal traditions, including those rooted in customary law (*hukum adat*). An operational model would define the normative scope of village autonomy, its enforceable rights, its integration with broader decentralisation policies, and its institutional safeguards against political capture. This conceptual clarity is indispensable not only for doctrinal precision but also for ensuring enforceability and practical relevance in Indonesia’s political-legal context, where constitutional provisions must function within a complex interplay of statutory law, customary norms, and executive policies

Any proposal for constitutional amendment to strengthen village autonomy must also realistically confront Indonesia’s political realities, particularly the high procedural and political thresholds for constitutional reform. The fragmented nature of elite interests, the absence of broad-based consensus, and the potential resistance from both central and local power holders present formidable barriers to change. Therefore, strategic reform should be pursued through a dual-track approach: embedding stronger constitutional recognition of village autonomy while simultaneously advancing statutory and policy-based reforms that can be implemented within the existing constitutional framework. This pragmatic pathway allows for incremental yet substantive improvements, creating a conducive environment for eventual constitutional change when political conditions permit. In this way, the pursuit of village autonomy can move from rhetorical aspiration to an actionable governance agenda that is both normatively grounded and politically feasible.

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