



The Constitutional Law Implications and Polemics of Extending the Village Head's Term of Office: A Critical Analysis

Anang Dony Irawan¹, Ida Ayu Rosida², Ega Permatadani³

¹University of Muhammadiyah Surabaya, Indonesia. Email: anangdonyirawan@um-surabaya.ac.id

²University of Muhammadiyah Surabaya, Indonesia. Email: ida.ayu.rosida-2019@fh.um-surabaya.ac.id

³University of Muhammadiyah Surabaya, Indonesia. Email: ega.permatadani-2019@fh.um-surabaya.ac.id

Sent: June 01, 2023; Reviewed: July 21, 2023; Accepted: August 31, 2023

Article Information

Keywords:

Polemic; Position; Village head

DOIs:

<https://doi.org/10.25041/plr.v4i2.3034>

Abstract

Village administration is pivotal to national economic development and resilience, a role formally recognized with the enactment of Law Number 6 of 2014 concerning Villages. Prior to this legislation, the recognition of village governance was primarily based on Article 18B paragraph (2) of the 1945 Constitution of the Republic of Indonesia. This article investigates the mechanisms for community participation in the amendment of laws and regulations concerning villages and scrutinizes the controversy over extending the village head's term of office from the perspective of Indonesian constitutional law. Utilizing a normative juridical approach combined with statute and library research methods, this research involves the systematic collection, review, and analysis of relevant data and sources. This research aims to contribute to the understanding of village governance within Indonesia's democratic framework, contrasting it with the more authoritarian systems seen in communist regimes, and highlights the implications of the Village Law on village authority and the tenure of village heads.



A. Introduction

Indonesia is a unitary state in the form of a republic, which organizes authority between the central government and regional governments.¹ According to Article 2 of Law Number 23 of 2014 concerning Regional Government, regional government is classified into provincial, regency, and city levels. These regional governments operate under the principle of de-concentration, while also adhering to the principles of autonomy and co-administration.² The fundamental principle guiding this implementation is the widest possible autonomy, as stipulated in the 1945 Constitution. In exercising this autonomy, regional governments are required to respect local wisdom, including historical aspects, customs, and the intrinsic characteristics of their regions. The smallest administrative unit within regional government is the village.

The position of the village within Indonesia's unitary state is established by Article 18B, paragraph (2) of the 1945 Constitution, which recognizes the existence of customary law communities and their traditional rights. Adat occupies the lowest hierarchy within the Indonesian government system. The village, being the smallest administrative unit after the sub-district, is led by a village head elected by the local community. In managing village affairs, the village head is assisted by village officials, as stipulated by Law Number 6 of 2014 on Villages (Village Law). This law defines the village as a legal community unit with territorial boundaries and authority to regulate and manage its own governmental affairs, recognized and respected as part of the Unitary State of the Republic of Indonesia. Thus, villages have the right to organize and manage the interests of their communities.

The authority of village governments is regulated by the Village Law and Government Regulation Number 43 of 2014, which covers village administration, development, community empowerment, and initiatives based on community rights, origin rights, local authorities, and customs. The Village Law serves as the legal framework for its implementation. The preamble of the law outlines its purpose, which includes recognizing and safeguarding the traditional rights and authority of villages in managing community interests, supporting national independence, and creating a strong foundation for governance and development towards a just, prosperous, and equitable society. Consequently, the Government of Indonesia is committed to realizing village autonomy by endowing these authorities within a comprehensive framework for village governance.

In administering Village Government, the Village Head is supported by Village Apparatuses, as outlined in Law Number 6 of 2014 concerning Villages (Village Law). This legislation defines the village as a legal community unit with distinct territorial boundaries and grants it authority to regulate and manage its own affairs, recognizing and respecting its role within the Unitary State of the Republic of Indonesia. Consequently, villages possess the right to manage and address the interests of their residents. As an administrative unit within the regional government, specifically at the regency level, villages are tasked with governance, development, and community management.³

¹ Yusnani Hasjimzoem, "Dinamika Hukum Pemerintahan Desa," *Fiat Justisia Jurnal Hukum* 8, no. 3 (2014): 463–76.

² Elisabeth Lenny Marit et al., *Penegakan Otonomi Daerah Dan Desa* (Yayasan Kita Menulis, 2021).

³ Khaidir Ali and Agung Saputra, "Tata Kelola Pemerintahan Desa Terhadap Peningkatan Pelayanan Publik Di Desa Pematang Johar," *Warta Dharmawangsa* 14, no. 4 (2020): 602–14.

The village government system, far from being a mere abstraction, has become increasingly significant and sought after, as evidenced by the high level of interest from both senior and younger generations eager to assume these positions. This system, however, is the result of a long historical evolution, with earlier forms differing significantly from the regulated structure seen today. The presence and functioning of village governments exemplify Indonesia's commitment to democratic governance.

According to Law Number 6 of 2014, villages are categorized into general villages and traditional villages. The definition of a general village is specified in Article 1, point 1 of the Village Law, while the definition of traditional villages is detailed in the general elucidation of the same law. The responsibilities of both types of villages are similar, though traditional villages have specific provisions related to the implementation of origin rights.⁴ These include the preservation of social customs, regulation and management of customary territories, handling of customary disputes, maintaining peace and order within customary law communities, and organizing government arrangements based on traditional structures.

With the legal framework provided by Village Law Number 6 of 2014, which governs and protects village administration, the role and authority of village governments have become more defined. The principles of subsidiarity and decentralization guide the operation of village governments, aiming to enhance village autonomy. This framework supports the formation of self-reliant and prosperous village administrations, aligned with the unique vision and mission of each village.

The Village Head is responsible for administering the Village Government for a term of six years, as stipulated by Article 39 of the Village Law. This term is renewable, allowing for a maximum of three terms in office. The duties and powers of the Village Head are outlined in Article 26 of the Village Law. As villages experience growth, emerging challenges will inevitably impact the broader community, particularly at the village level. The performance of the Village Head influences various aspects of village administration, including social conditions, population dynamics, livelihoods, and financial management. The Village Head is tasked with overseeing village infrastructure development, utilizing the Village Revenue and Expenditure Budget (*APBDes*) for such projects.

Zulman Barniat (2019) argues that villages are self-governing entities, reflecting their socio-cultural conditions. In this context, village governments play a crucial role in community service and empowerment due to their proximity to residents.⁵ Despite their small size, village governments are integral to local governance and are guided by local customs and traditions within the framework of the Unitary State of the Republic of Indonesia (*NRI*). The village office, typically located centrally within the village, serves as the administrative hub, led by the Village Head.

However, the effectiveness of the Village Head in promoting village development is often questioned. Instances of misappropriation of village funds have been reported, with Village Heads in various regions implicated in corruption. Herdiana (2019)⁶ highlights that corruption

⁴ Ramlan and Eka NAM Sihombing, *Hukum Pemerintahan Desa* (Medan: Enam Media, 2021).

⁵ Isharyanto and Dila Eka Juli Prasetya, *Hukum Pemerintahan Desa (Prespektif, Konseptualisasi Dan Konteks Yuridis)* (Yogyakarta: CV. Absolute Media, 2016).

⁶ Dian Herdiana, "Kecenderungan Perilaku Koruptif Kepala Desa Dalam Pembangunan Desa," *Mantra Pembaruan: Jurnal Inovasi Kebijakan* 3, no. 1 (2019): 1–11, <https://doi.org/10.21787/mp.3.1.2019.1-11>.

has pervaded village government, which is a critical component of Indonesia's administrative framework. Data from 2012 to 2021 show that the Corruption Eradication Commission (*KPK*) recorded at least 600 cases of village fund embezzlement involving 686 Village Heads,⁷ resulting in state losses amounting to IDR. 233,000,000,000⁸ (two hundred thirty-three billion rupiah) in 2021 alone. This represents a significant scandal with severe implications for public trust and governance.

Recently, controversy has arisen concerning a proposed extension of the Village Head's term from six years (three terms) to nine years (two terms). This proposal, advocated by a group of Village Heads, has been criticized as unconstitutional, especially given the history of fund misappropriation. The debate raises concerns about whether the extension is intended to benefit the village community or merely serve the interests of current village officials.

This paper addresses the debate surrounding the proposed extension of the Village Head's term from six years to nine years, specifically in the context of the amendment to Law Number 6 of 2014 concerning Villages. It will explore this issue within the framework of constitutional law and examine the role of community participation in the legislative amendment process.

The research employs a normative legal method, utilizing a statute approach and library research. Primary legal sources include Law Number 6 of 2014 concerning Villages and Government Regulation Number 43 of 2014 concerning the Implementation of Law Number 6 of 2014. Secondary sources consist of legal doctrine, scholarly journals, and books.⁹ These sources will be analyzed to address the core issues: the implications of extending the Village Head's term from three terms of six years each to two terms of nine years each within the context of Indonesian constitutional law, and the nature of community involvement in the proposed amendments to the Village Law.

The novelty of this research lies in its analysis of the debate over the Village Head's term extension within the constitutional framework and the examination of community participation in the amendment process. According to Dwipayana (2003), democratic village governance requires legitimacy, effectiveness, equity, and trust. The current controversy, with Village Heads advocating for a term extension to address perceived issues such as community division and the allocation of election funds towards village development, highlights the underlying motivations and concerns driving this debate. This research aims to provide insights into these issues and their implications for village governance and community engagement.

B. Discussion

1. The Polemic of Adding the Term of Office for the Village Head in the Village Law Viewed from the Perspective of Constitutional Law

The role of the Village Head is increasingly regarded as a prestigious and sought-after position in Indonesian communities, attracting significant interest from both older and

⁷ Pijar Anugerah, "Kalau Masa Jabatan Kepala Desa Sembilan Tahun, Akan Lebih Lihai Melakukan Korupsi," BBC News Indonesia, 2023, <https://www.bbc.com/indonesia/articles/c88p4ekkm85o>.

⁸ Vika Azkiya Dhini, "ICW: Kasus Korupsi Terbanyak Terjadi Di Sektor Anggaran Dana Desa Pada 2021," databoks, 2022, <https://databoks.katadata.co.id/datapublish/2022/04/19/icw-kasus-korupsi-terbanyak-terjadi-di-sektor-anggaran-dana-desa-pada-2021>.

⁹ Anang Dony Irawan, "Status Hukum Outsourcing Pasca Pemutusan Mahkamah Konstitusi Perkara Nomor 27/PUU-IX/2011," *ARENA HUKUM* 12, no. 2 (2019): 253–73.

younger generations. This role is highly valued due to the power and status it confers, allowing the Village Head to oversee village management and development across various sectors, including education, technology, and the economy.¹⁰ As a result, the position of Village Head is considered a desirable career aspiration.

The competition for the role of Village Head is intense, driven by the considerable influence and recognition it provides within the village. The position is associated with a high level of authority and visibility, as the Village Head is responsible for leading the community and implementing developmental initiatives. This authority and prominence contribute to the position's allure and the strong competition among candidates.¹¹

However, the role of Village Head is challenging and complex. Managing a village requires balancing budgetary constraints with the need for development and empowerment. The effectiveness of a Village Head can be assessed based on the facilities and services provided to the community and the extent of successful implementation of work programs. Accountability is a critical aspect of this role; Village Heads are expected to deliver on their promises and meet community expectations. Failure to fulfill commitments, such as only implementing a portion (30-40%)¹² of planned programs, can lead to criticism and public scrutiny, affecting the Village Head's reputation and effectiveness.

The position of Village Head in Indonesia is governed by juridical provisions stipulating a six-year term of office, as outlined in Article 39 of the Village Law and Article 47 of Government Regulation Number 43 of 2014, which pertains to the implementation of the Village Law. This regulation specifies that the Village Head serves for six years from the date of inauguration and may hold office for up to three consecutive terms or non-consecutive terms. In alignment with Indonesia's democratic principles, Village Heads are elected through Village Consultations, as described in Article 47(4) of Government Regulation Number 43 of 2014. The election process is characterized by direct, public, free, confidential, honest, and fair voting conducted by the village community.

Currently, social media reports indicate that several Village Heads are participating in demonstrations advocating for an extension of their term of office to nine years. The demonstrators argue that extending the term would help mitigate divisions within the village community resulting from the election process and provide additional time for development initiatives. They also contend that funds allocated for village head elections would be better spent on village development projects.¹³

However, such proposals appear to lack sufficient rationale and logic. The debate should focus on the effectiveness and quality of implementing the promised work programs rather than extending the term of office. Demonstrations typically aim to address significant issues with compelling justifications and adherence to legal frameworks. In contrast, the demand

¹⁰ Muhamad Mu'iz Raharjo, "Tata Kelola Pemerintahan Desa" (Jakarta: Sinar Grafika, 2021).

¹¹ Hario Danang Pambudhi, "Tinjauan Diskursus Perpanjangan Masa Jabatan Kepala Desa Berdasarkan Ajaran Konstitusionalisme Review of the Discourse on Extending the Term of Office of the Village Head Based on Constitutionalism Doctrine," *Wijaya Putra Law Review* 2, no. 1 (2023): 25–46.

¹² Chintiya Citra Purnama, Dadan Kurnia, and Arlan Siddha, "Kepemimpinan Kepala Desa Dalam Mewujudkan Desa Mandiri Di Desa Bojongmalaka Kecamatan Baleendah Kabupaten Bandung," *Jurnal Caraka Prabu* 03, no. 02 (2019): 152–68.

¹³ Fatolosa Hulu and Rida Rahim, "Pengaruh Kepemimpinan Kepala Desa, Kompetensi Aparat Desa Dan Partisipasi Masyarakat Terhadap Pengelolaan Dana Desa Di Desa Hilina'an Kecamatan Gunungsitoli," *Fair Value: Jurnal Ilmiah Akuntansi Dan Keuangan* 4, no. 6 (2022): 2312–20.

for a nine-year term lacks strong, concrete reasons and does not align with the intended purpose of demonstrations.

When protests occur, many participants have likely already made their decisions. However, it is crucial to question whether those advocating for a nine-year term have actively engaged in efforts to involve the public in all aspects of their governance. It appears that such proposals may infringe upon human rights and create obstacles for officials in executing their duties and responsibilities.¹⁴ If work programs have not been fully implemented—often achieving only 30-40% of their goals—this should prompt reflection among officials before making such demands.¹⁵

If an individual is unable to effectively propose and implement leadership strategies, it would be more prudent to forgo leadership roles and adhere to the responsibilities of a regular citizen. Striving for leadership involves substantial duties and responsibilities, and if a leader fails to meet their objectives within a six-year term, attributing the lack of progress to the length of the term is a superficial argument. A six-year term should be sufficient to make significant progress if the leader is competent and committed to their responsibilities.

The debate over the adequacy of the village head's term often arises from individuals who, upon completing their term, argue that the duration was insufficient. Such claims—particularly when advocated through demonstrations aiming to extend the term from six to nine years—contradict the principles outlined in Law Number 6 of 2014. This law emphasizes the necessity of adhering to established term limits and undermines attempts to extend them based on inadequate performance or unfulfilled promises.

If a village head is capable of serving a six-year term but fails to produce results, it suggests a deficiency in their ability to fulfill the responsibilities entrusted to them by the community. Such failures may indicate a lack of knowledge or competence in implementing work programs effectively. Extending the term to nine years without addressing these underlying issues is unlikely to resolve the problems and could potentially exacerbate them.

Leadership positions, including that of a village head, require readiness to accept the associated consequences and responsibilities. If an individual is unprepared or unable to fulfill these duties, it is unreasonable to extend their term based on unsatisfactory or flawed justifications. Effective leadership involves not only holding office but also demonstrating the capacity to advance the village's development, maintain peace, and promote prosperity. If the village head's performance is inadequate during a six-year term, extending the term will likely yield no significant improvement.

Dwipayana (2003)¹⁶ argues that a democratic village government with good legitimacy should operate effectively through equity, balance, and trust. The proposal to extend the term of office lacks reasonable justification. If village officials cannot perform effectively within six years, extending the term to nine years will not necessarily resolve the issues. Leadership should involve applying knowledge to enhance village development and ensure the well-

¹⁴ Achmad Hariri, "The Politics of Law Concerning the Tenure of Village Head Reviewed From the Constitutional Perspective," *PETITA: Jurnal Kajian Ilmu Hukum Dan Syariah* 5, no. 1 (2020): 59–69.

¹⁵ Edward Aspinall and Noor Rohman, "Village Head Elections in Java: Money Politics and Brokerage in the Remaking of Indonesia's Rural Elite," *Journal of Southeast Asian Studies* 48, no. 1 (2017): 31–52, <https://doi.org/10.1017/S0022463416000461>.

¹⁶ Ari Dwipayana and Sutoro Eko, *Membangun Good Governance Di Desa* (Yogyakarta: IRE Press, 2003).

being of the community.¹⁷ Regarding the argument that funds for village head elections would be better spent on village development, this reasoning is not substantial. Village head elections differ from other official elections, as they are not conducted simultaneously across Indonesia and do not significantly impact the State Revenue and Expenditure Budget (APBN). Thus, concerns about election costs disrupting the APBN are minimal and do not justify extending the term of office.

The Village Law and Government Regulation Number 43 of 2014¹⁸ stipulate that Village Head Elections occur every six years, with each term lasting six years. These regulations are well-established, reflecting the democratic principles of Indonesia and providing a robust legal framework for village governance. If the six-year term is perceived as insufficient, the appropriate course of action would be to pursue legal reforms or amendments to the relevant regulations. Given that this law was enacted in 2014 and it is now 2023, the current debate on the term length is notably delayed.

The fact that this issue has only recently become contentious, with protests emerging around 2022-2023, raises questions. It is unusual that such a debate would arise almost nine years after the law's implementation.¹⁹ If the term of office was deemed inadequate, it is puzzling that similar demonstrations did not occur earlier. The timing of these protests suggests that the problem may not lie with the length of the term but rather with the effectiveness and capabilities of the village heads themselves.

A six-year term provides ample time for a village head to implement programs and address community needs. The challenge may instead be related to the execution of leadership responsibilities and problem-solving abilities during this period. Effective leadership requires both skills and an open mindset to address the complexities of managing a village. If a village head cannot achieve satisfactory outcomes within a six-year term, extending the term to nine years is unlikely to rectify the issues.

Leading a village, while perhaps less complex than managing larger administrative regions, remains a significant responsibility. It involves navigating numerous challenges and crucial issues. If an individual is unwilling or unable to meet these challenges, they should reconsider their suitability for the role of village head. Instead, they might better serve as a regular citizen who adheres to the established laws and regulations.²⁰

Instead of merely defending oneself when a planned performance or work program is not executed effectively²¹, or if the plan itself was inadequately developed, it is crucial to engage in a comprehensive re-evaluation after the six-year term. Six years, although not a short period, is significant for leading numerous individuals and should not be compared to the

¹⁷ Lutfi Rumkel, Belinda Sam, and M Chairul Basrun Umanailo, "Village Head Partnership, Village Consultative Body and Customary Institution in Village Development," *International Journal of Scientific & Technology Research* 8, no. 08 (2019): 1058–63.

¹⁸ Slamet Suhartono et al., "Implementation of Law Number 6 of 2014 Concerning Village for Budgeting Plan in Sidoarjo Regency," *ATLANTIS PRESS* 121, no. 6 (2020): 204–9.

¹⁹ Ward Berenschot, Wigke Capri, and Devy Dhian, "A Quiet Revolution? Village Head Elections and the Democratization of Rural Indonesia," *Critical Asian Studies* 53, no. 1 (2021): 126–46, <https://doi.org/10.1080/14672715.2021.1871852>.

²⁰ Bukhari, Ernani Hadiyati, and Sugeng Mulyono, "Kepemimpinan Kepala Desa Dalam Mewujudkan Desa Yang Maju Dan Mandiri (Studi Multisitus Pada Desa Di Kecamatan Dringu Kabupaten Probolinggo)," *Ar-Ribhu: Jurnal Manajemen Dan Keuangan Syariah* 1, no. 1 (2020): 34–43.

²¹ Yanto Heryanto, "Kepemimpinan Kepala Desa Dalam Menjalakan Fungsi Administratif Pemerintahan Desa," *Syntax Literate: Jurnal Ilmiah Indonesia* 6, no. 9 (2021): 4789–4804.

responsibilities assigned to the House of People's Representatives (*DPR*) or the President, who lead the entire Indonesian population and are elected by the public. A six-year term, which can be extended to a maximum of three terms, should be sufficient to achieve the common goal of serving and advancing the community, particularly when effectively utilizing the available budget (e.g., *APBDes/ADD*) without corruption.

Proposals to extend the term of office for village heads from six to nine years may weaken democratic principles. Such changes could undermine democracy, as evidenced by the fact that similar extensions have not been seen with other leaders in the village.²² Different leaders have varying mindsets and approaches to village development. If a village head fails to make satisfactory progress within nine years, it essentially equates to a six-year term. The rationale behind these proposals lacks substantive justification and fails to account for democratic rotation principles, which are crucial to preventing authoritarianism and corruption.

The Village Law and Government Regulation Number 43 of 2014 reflect the democratic values of Indonesia, ensuring that terms of office are rotational to maintain transparency and accountability. Extending the term beyond six years could potentially conflict with the juridical foundations of these regulations. Given Indonesia's democratic nature, a six-year term is appropriate and allows for opportunities for younger generations to contribute to village development, ensuring the implementation of progressive ideas and preventing potential issues such as corruption and mismanagement.

2. Community Participation related to Amendments to Law Number 6 of 2014 Concerning Villages

The discussions surrounding the amendment of the Village Law have sparked significant controversy among legal activists, interest groups, and the general public. As noted from previous discussions, amendments to a law should be grounded in well-reasoned justifications to ensure that changes genuinely benefit the public. Recent demonstrations, led by groups of village heads from across the archipelago, have called for an extension of the village head's term from the current six years to nine years per term. This proposal has been criticized as unconstitutional and undemocratic.

According to *Kabar6.com*²³, National Secretary *FITRA* has argued that the amendment of the Village Law is not currently urgent. Instead, *FITRA* advocates for the government to focus on enhancing the quality and implementation of the existing Village Law. This includes addressing mandatory spending requirements to strengthen fiscal space in villages and resolving issues related to overlapping regulations that have diluted the Village Law's effectiveness. Misbah Hasan, Secretary General of *FITRA*, emphasized that the challenges faced in the implementation of the Village Law are not due to its content but rather to conflicting regulations that undermine village authority. Furthermore, he highlighted that low community participation in village governance results in supra-village matters being unfairly transferred to the Village, thus placing an undue burden on village heads.

²² R Setiawan and E Melinda, "Optimization of the Implementation of Village Government in Indonesia," *RUDN Journal of Public Administration* 7, no. 4 (2020): 352–60.

²³ "FITRA Soroti Urgensi Masa Jabatan Kepala Desa Dan Revisi UU Desa," *Kabar 6.com*, 2023, <https://kabar6.com/fitra-soroti-urgensi-masa-jabatan-kepala-des-dan-revisi-uu-des/>.

On the contrary, Minister of Villages, Development of Disadvantaged Regions and Transmigration (*Mendes PDTT*), Abdul Halim Iskandar, has supported the proposed extension of the village head's term to nine years. As reported by CNNIndonesia.com²⁴, Abdul Halim argued that extending the term would address the perceived ineffectiveness of village heads, who are often preoccupied with resolving conflicts arising from frequent elections. Indonesian President Joko Widodo has also expressed support for this proposed change, citing it as a measure to prevent social conflicts that could hinder village development.

Nur Kholis, Head of the Jember Village Heads Association, has asserted that extending the village head's term is intended not for personal gain but for the betterment of the community. Given the longstanding issues with village governance and the misuse of *APDes* funds, many villages have experienced stagnated development. Kholis argues that if the proposal to extend the term is approved and discussed in the *DPR*, it could potentially enhance village governance. However, he cautions that extending the term might also increase the risk of corruption and abuse of power, as longer tenures could exacerbate issues of corruption, collusion, and nepotism (*KKN*), undermining the welfare of the community.

The 1945 Constitution of Indonesia, which is the highest legal authority in the country, enshrines principles of democratization, transparency, and accountability in village development. The proposed extension of the village head's term could be seen as conflicting with these constitutional principles, as it might contradict the values of democratization and accountability embedded in the Constitution.²⁵

Regarding public participation in legislative changes, it is crucial to adhere to the provisions outlined in Law Number 12 of 2011 concerning the Formation of Legislation. Chapter XI, Article 96 of this law specifies that individuals with an interest in the substance of laws and/or draft laws have the right to provide input, both orally and in writing, through various means such as community hearings, visits, outreach, seminars, workshops, and discussions. The legislature must consider these forms of participation in the law-making process.

Syarief Basir (2022)²⁶ emphasizes that public participation should be given significant weight in the legislative process. In a democratic country, where the principle of "*Vox Populi, Vox Dei*" (the voice of the people is the voice of God) applies, it is essential for the voices of the people to be heard and considered. Ignoring public input can lead to discrepancies between the intended (*das sollen*) and actual (*das sein*) outcomes of legislation, potentially causing societal unrest and dissatisfaction.

The Constitutional Court, as a judicial authority with the power to review laws, serves as a protector of public participation in the legislative process. This role ensures that individuals

²⁴ "Mendes Dukung Masa Jabatan Kades Diperpanjang Jadi 9 Tahun," CNN Indonesia, 2023, <https://www.cnnindonesia.com/nasional/20230118092142-20-901840/mendes-dukung-masa-jabatan-kades-diperpanjang-jadi-9-tahun>.

²⁵ Zumrotun Solichah, "Efektifkah Perpanjangan Masa Jabatan Kades Untuk Kemakmuran Rakyat," Antaranews.com, 2023, <https://jatim.antaranews.com/berita/674265/efektifkah-perpanjangan-masa-jabatan-kades-untuk-kemakmuran-rakyat>.

²⁶ Syarief Basir, "Memaknai Meaningful Participation Dalam Pembentukan Perundang-Undangan," Indonews.id, 2022, <https://indonews.id/artikel/323586/Memaknai-Meaningful-Participation-dalam-Pembentukan-Perundang-undangan/>.

who believe their interests have been adversely affected or overlooked have the opportunity to challenge and review legislation.²⁷ According to the Constitutional Court, public participation is constitutionally guaranteed under Article 27 paragraph (1) and Article 28C paragraph (2) of the 1945 Constitution, which affirm citizens' rights to engage in governance and contribute to the development of society, the nation, and the state.²⁸ This guarantee includes open access to academic papers and draft laws, both online and offline, allowing for meaningful engagement.²⁹

Public participation in lawmaking and review is a core element of good governance³⁰, which emphasizes accountability, transparency, and community involvement. It ensures that citizens have the opportunity to engage in state administration and access public policies transparently and freely. As a principle of good governance and a reflection of popular sovereignty, detailed procedures and mechanisms for public involvement in the legislative process must be enshrined in the constitution or statutory regulations.³¹ The presence of public participation is a critical aspect of a democratic government.³² Without it, the principles of good governance adopted by the Indonesian state would not be effectively realized.³³

In a democratic country like Indonesia, community participation is crucial for ensuring transparency and accountability, particularly in combating corruption, collusion, and nepotism (KKN) among village officials. The potential for abuse of power increases with the length of time officials hold their positions, as highlighted by Lord Acton's observation: "Power tends to corrupt, but absolute power corrupts absolutely."³⁴ This principle underscores the importance of regular community engagement and scrutiny to prevent the consolidation of power and to hold officials accountable.

If a village head becomes arrogant or resistant to criticism, it is imperative for the community to actively engage in evaluating the head's performance. This evaluation should encompass both qualitative and quantitative aspects of their governance. The role of community participation is to facilitate decision-making processes that reflect the will and

²⁷ Saifudin, "Proses Pembentukan UU: Studi Tentang Partisipasi Masyarakat Dalam Proses Pembentukan UU," *Jurnal Hukum* 16, no. Edisi Khusus (2009): 95–117.

²⁸ Fiqih Rizki Artioko, "Pengadopsian Partisipasi Masyarakat Yang Bermakna (Meaningful Participation) Dalam Undang-Undang Nomor 13 Tahun 2022 Tentang Perubahan Kedua Undang-Undang Nomor 12 Tahun 2011 Tentang Pembentukan Peraturan Perundang-Undangan," *Al-Qisth Law Review* 6, no. 1 (2022): 52–83.

²⁹ Fitriani Ahlan Sjarif, "Arti Meaningful Participation Dalam Penyusunan Peraturan," *HukumOnline.com*, 2022, <https://www.hukumonline.com/klinik/a/arti-imeaningful-participation-i-dalam-penyusunan-peraturan-lt62ceb46fa62c0>.

³⁰ Callycha Juanitha Raisha Tuhumena, Jemmy Jefry Pietersz, and Victor Juzuf Sedubun, "Partisipasi Masyarakat Dalam Pembentukan Undang-Undang," *TATOHI: Jurnal Ilmu Hukum* 1, no. 3 (2021): 248–56.

³¹ Artioko, "Pengadopsian Partisipasi Masyarakat Yang Bermakna (Meaningful Participation) Dalam Undang-Undang Nomor 13 Tahun 2022 Tentang Perubahan Kedua Undang-Undang Nomor 12 Tahun 2011 Tentang Pembentukan Peraturan Perundang-Undangan."

³² Joko Riskiyono, "Partisipasi Masyarakat Dalam Pembentukan Peraturan-Undangan Untuk Mewujudkan Kesejahteraan," *Aspirasi: Jurnal Masalah-Masalah Sosial* 6, no. 2 (2015): 159–76.

³³ Bambang Karsono and Amalia Syauket, "Meaningful Participation Dalam Pembentukan Peraturan-Undangan Sebagai Upaya Membangun Open Governance," *Syntax Literate : Jurnal Ilmiah Indonesia* 8, no. 3 (2023): 1860–70.

³⁴ Anang Dony Irawan, "Polemik Perpanjangan Masa Jabatan Kades," *BhirawaOnline*, 2023, <https://www.harianbhirawa.co.id/polemik-perpanjangan-masa-jabatan-kades/>.

needs of the community, thereby ensuring that policies and actions are aligned with public interests.

Ignoring or sidelining community participation undermines democratic values and human rights, which are foundational to Indonesia's republican democracy. Decisions made without community input are not only unjust but also contravene established rights. It is essential that village heads adhere to principles of transparency and inclusion, ensuring that any demonstrations or policy changes are preceded by meaningful community engagement and participation.

According to Solly Lubis (2009),³⁵ the regulation is considered perfect if it fulfills the following conditions:

- 1) This regulation provides justice for those with an interest. For example, workers, farmers, fishermen, street vendors, women, teachers, and lecturers feel that with this regional regulation their interests are protected;
- 2) These legal regulations provide certainty in the sense that with the enactment of these regulations, the boundaries of the rights (*rechts, rights*) and obligations (*plicht, duties*) of all parties involved in a legal relationship (*rechtsbetrekkingen*), for example, in work relations, marriage, job fairs, and etc.
- 3) The regulation provides clear benefits for those who have an interest in the presence of the regulation. Generally, if the previous two conditions have been met, this third condition will also be met.

C. Conclusion

The debate over extending the tenure of village heads from six to nine years fundamentally challenges democratic principles. In a democratic country like Indonesia, such a proposal is problematic because extended terms can increase the potential for corruption. The concentration of power over a longer period often leads to greater opportunities for corrupt practices.

Good governance relies heavily on community involvement, which is crucial for effective legislative review. Engaging the community in the formation, preparation, and evaluation of statutory regulations ensures that legislation reflects public interests and promotes transparency. By actively participating in these processes, the community can influence decision-making, thereby facilitating significant progress and ensuring that regulations are approved by those affected. This approach fosters a more equitable and responsive governance system, ultimately supporting the development of welfare-oriented legislation.

References

Books:

Dwipayana, Ari, dan Sutoro Eko. *Membangun Tata Kelola Pemerintahan yang Baik Di Desa*. Yogyakarta: IRE Pers, 2003.

³⁵ M. Solly Lubis, *Ilmu Pengetahuan Perundang-Undangan* (Bandung: Mandar Maju, 2009).

- Huda, Ni'matul. *"Hukum Pemerintahan Daerah."* Bandung: Nusa Media, 2019.
- Isharyanto, dan Dila Eka Juli Prasetya. *Hukum Pemerintahan Desa (Prespektif, Konseptualisasi Dan Konteks Yuridis).* Yogyakarta: CV. Mutlak Media, 2016.
- Lubis, M. Solly. *Ilmu Pengetahuan Perundang-Undangan.* Bandung: Mandar Maju, 2009.
- Marit, Elisabeth Lenny, Erika Revida, Nur Zaman, Muhammad Nurjaya, Simson Werimon, Muhammad Fitri Rahmadana, Marto Silalahi, dkk. *Penegakan Otonomi Daerah Dan Desa.* Yayasan Kita Menulis, 2021.
- Marzuki, Peter Mahmud. *Penelitian Hukum.* Jakarta: Grup Media Rencana Prenada, 2010.
- Raharjo, Muhamad Mu'iz. *"Tata Kelola Pemerintahan Desa."* Jakarta: Sinar Grafika, 2021.
- Ramlan, dan Eka NAM Sihombing. *Hukum Pemerintahan Desa.* Medan: Enam Media, 2021.
- Suprpto, Riant Nugroho Firre An. *Kepemimpinan Pemerintahan Desa.* Jakarta: Elex Media Komputindo, 2021.

Article Journal:

- Ali, Khaidir, and Agung Saputra. "Tata Kelola Pemerintahan Desa Terhadap Peningkatan Pelayanan Publik Di Desa Pematang Johar." *Warta Dharmawangsa* 14, no. 4 (2020): 602–14.
- Artioko, Fiqih Rizki. "Pengadopsian Partisipasi Masyarakat Yang Bermakna (Meaningful Participation) Dalam Undang-Undang Nomor 13 Tahun 2022 Tentang Perubahan Kedua Undang-Undang Nomor 12 Tahun 2011 Tentang Pembentukan Peraturan Perundang-Undangan." *Al-Qisth Law Review* 6, no. 1 (2022): 52–83.
- Aspinall, Edward, and Noor Rohman. "Village Head Elections in Java : Money Politics and Brokerage in the Remaking of Indonesia ' s Rural Elite." *Journal of Southeast Asian Studies* 48, no. 1 (2017): 31–52. <https://doi.org/10.1017/S0022463416000461>.
- Barniat, Zulman. "Otonomi Desa: Konsepsi Teoritis Dan Legal." *Jurnal Analisis Sosial Politik* 5, no. 1 (2019): 20–33.
- Berenschot, Ward, Wigke Capri, and Devy Dhian. "A Quiet Revolution? Village Head Elections and the Democratization of Rural Indonesia." *Critical Asian Studies* 53, no. 1 (2021): 126–46. <https://doi.org/10.1080/14672715.2021.1871852>.
- Bukhari, Ernani Hadiyati, and Sugeng Mulyono. "Kepemimpinan Kepala Desa Dalam Mewujudkan Desa Yang Maju Dan Mandiri (Studi Multisitus Pada Desa Di Kecamatan Dringu Kabupaten Probolinggo)." *Ar-Ribhu: Jurnal Manajemen Dan Keuangan Syariah* 1, no. 1 (2020): 34–43.
- Hariri, Achmad. "Eksistensi Pemerintahan Desa Ditinjau Dari Perspektif Asas Subsidiaritas Dalam Undang-Undang Nomor 6 Tahun 2014 Tentang Desa." *Legality* 26, no. 6 (2014): 253–66.
- . "The Politics of Law Concerning the Tenure of Village Head Reviewed From the Constitutional Perspective." *PETITA: Jurnal Kajian Ilmu Hukum Dan Syariah* 5, no. 1 (2020): 59–69.
- Hasjimzoem, Yusnani. "Dinamika Hukum Pemerintahan Desa." *Fiat Justisia Jurnal Hukum* 8, no. 3 (2014): 463–76.
- Herdiana, Dian. "Kecenderungan Perilaku Koruptif Kepala Desa Dalam Pembangunan Desa." *Mantra Pembaruan: Jurnal Inovasi Kebijakan* 3, no. 1 (2019): 1–11. <https://doi.org/10.21787/mp.3.1.2019.1-11>.
- Heryanto, Yanto. "Kepemimpinan Kepala Desa Dalam Menjalakan Fungsi Administratif

- Pemerintahan Desa.” *Syntax Literate: Jurnal Ilmiah Indonesia* 6, no. 9 (2021): 4789–4804.
- Hulu, Fatolosa, and Rida Rahim. “Pengaruh Kepemimpinan Kepala Desa, Kompetensi Aparat Desa Dan Partisipasi Masyarakat Terhadap Pengelolaan Dana Desa Di Desa Hilina’an Kecamatan Gunungsitoli.” *Fair Value: Jurnal Ilmiah Akuntansi Dan Keuangan* 4, no. 6 (2022): 2312–20.
- Irawan, Anang Dony. “Status Hukum Outsourcing Pasca Keputusan Mahkamah Konstitusi Perkara Nomor 27/PUU-IX/2011.” *ARENA HUKUM* 12, no. 2 (2019): 253–73.
- Isharyanto, and Dila Eka Juli Prasetya. *Hukum Pemerintahan Desa (Prespektif, Konseptualisasi Dan Konteks Yuridis)*. Yogyakarta: CV. Absolute Media, 2016.
- Karsono, Bambang, and Amalia Syauket. “Meaningful Participation Dalam Pembentukan Perundang-Undangan Sebagai Upaya Membangun Open Governance.” *Syntax Literate : Jurnal Ilmiah Indonesia* 8, no. 3 (2023): 1860–70.
- Marit, Elisabeth Lenny, Erika Revida, Nur Zaman, Muhammad Nurjaya, Simson Werimon, Muhammad Fitri Rahmadana, Marto Silalahi, et al. *Penegakan Otonomi Daerah Dan Desa*. Yayasan Kita Menulis, 2021.
- Ni’am, Ahmad Khoirun, Anang Dony Irawan, and Chaeruli Anugrah Dewanto. “Upaya Mewujudkan Pemulihan Profesi Satuan Pengamanan Ditinjau Dari Peraturan Kepolisian Nomor 4 Tahun 2020.” *Media of Law and Sharia* 2, no. 3 (2021): 254–71.
- Pambudhi, Hario Danang. “Tinjauan Diskursus Perpanjangan Masa Jabatan Kepala Desa Berdasarkan Ajaran Konstitusionalisme Review of the Discourse on Extending the Term of Office of the Village Head Based on Constitutionalism Doctrine.” *Wijaya Putra Law Review* 2, no. 1 (2023): 25–46.
- Purnama, Chintiya Citra, Dadan Kurnia, and Arlan Siddha. “Kepemimpinan Kepala Desa Dalam Mewujudkan Desa Mandiri Di Desa Bojongmalaka Kecamatan Baleendah Kabupaten Bandung.” *Jurnal Caraka Prabhu* 03, no. 02 (2019): 152–68.
- Riskiyono, Joko. “Partisipasi Masyarakat Dalam Pembentukan Perundang-Undangan Untuk Mewujudkan Kesejahteraan.” *Aspirasi: Jurnal Masalah-Masalah Sosial* 6, no. 2 (2015): 159–76.
- Rumkel, Lutfi, Belinda Sam, and M Chairul Basrun Umanailo. “Village Head Partnership , Village Consultative Body and Customary Institution in Village Development.” *Internatioal Journal of Scientific & Technology Research* 8, no. 08 (2019): 1058–63.
- Saifudin. “Proses Pembentukan UU: Studi Tentang Partisipasi Masyarakat Dalam Proses Pembentukan UU.” *Jurnal Hukum* 16, no. Edisi Khusus (2009): 95–117.
- Setiawan, R, and E Melinda. “Optimization Of The Implementation Of Village Government in Indonesia.” *RUDN Journal of Public Administration* 7, no. 29 (2020): 352–60.
- Sholahudin, Umar, M. Hari Wahyudi, and Achmad Hariri. “Pemerintah Desa Pasca UU No. 6 Tahun 2014 (Studi Tentang Implementasi Otonomi Desa Di Desa Paciran Kabupaten Lamongan).” *Jurnal Cakrawala* 11, no. 2 (2017): 145–55.
- Suhartono, Slamet, Ahmad Mahyani, Wiwik Afifah, Dwi Putri Sartika, and Risya Tatamara. “Implementation of Law Number 6 of 2014 Concerning Village for Budgeting Plan in Sidoarjo Regency.” *ATLANTIS PRESS* 121, no. 6 (2020): 204–9.
- Tuhumena, Callycha Juanitha Raisha, Jemmy Jefry Pietersz, and Victor Juzuf Sedubun. “Partisipasi Masyarakat Dalam Pembentukan Undang-Undang.” *TATOHI: Jurnal Ilmu Hukum* 1, no. 3 (2021): 248–56.

Internet :

- Anugerah, Pijar. “Kalau Masa Jabatan Kepala Desa Sembilan Tahun, Akan Lebih Lihai Melakukan Korupsi.” BBC News Indonesia, 2023.
<https://www.bbc.com/indonesia/articles/c88p4ekkm85o>.

- Basir, Syarief. “Memaknai Meaningful Participation Dalam Pembentukan Perundang-Undangan.” *Indonews.id*, 2022. <https://indonews.id/artikel/323586/Memaknai-Meaningful-Participation-dalam-Pembentukan-Perundang-undangan/>.
- Dhini, Vika Azkiya. “ICW: Kasus Korupsi Terbanyak Terjadi Di Sektor Anggaran Dana Desa Pada 2021.” *databoks*, 2022. <https://databoks.katadata.co.id/datapublish/2022/04/19/icw-kasus-korupsi-terbanyak-terjadi-di-sektor-anggaran-dana-desa-pada-2021>.
- Kabar 6.com. “FITRA Soroti Urgensi Masa Jabatan Kepala Desa Dan Revisi UU Desa,” 2023. <https://kabar6.com/fitra-soroti-urgensi-masa-jabatan-kepala-des-dan-revisi-uu-des/>.
- Irawan, Anang Dony. “Polemik Perpanjangan Masa Jabatan Kades.” *BhirawaOnline*, 2023. <https://www.harianbhirawa.co.id/polemik-perpanjangan-masa-jabatan-kades/>.
- CNN Indonesia. “Mendes Dukung Masa Jabatan Kades Diperpanjang Jadi 9 Tahun,” 2023. <https://www.cnnindonesia.com/nasional/20230118092142-20-901840/mendes-dukung-masa-jabatan-kades-diperpanjang-jadi-9-tahun>.
- Sjarif, Fitriani Ahlan. “Arti Meaningful Participation Dalam Penyusunan Peraturan.” *HukumOnline.com*, 2022. <https://www.hukumonline.com/klinik/a/arti-imeaningful-participation-i-dalam-penyusunan-peraturan-lt62ceb46fa62c0>.
- Solichah, Zumrotun. “Efektifkah Perpanjangan Masa Jabatan Kades Untuk Kemakmuran Rakyat.” *Antaranews.com*, 2023. <https://jatim.antaranews.com/berita/674265/efektifkah-perpanjangan-masa-jabatan-kades-untuk-kemakmuran-rakyat>.