

The Constitutionality of the Proposal to Extend the Term of Office of Village Heads in the Principles of Democracy

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Abstract. The extension of the village head's term of office emerged following numerous demonstrations by village heads. Article 39 of the Village Law stipulates that the Village Head holds office for six years from the date of inauguration. A Village Head may serve a maximum of three consecutive or non-consecutive terms. However, the Village Head rejected this provision and requested that Article 39 of the Village Law be revised, allowing the village head's term of office to be extended from six years to nine years. This is despite Constitutional Court Decision No. 42/PUU-XIX/2021 providing a constitutional interpretation of the term limit for Village Heads. This study aims to address the constitutionality of the Village Head's term limit following the Constitutional Court Decision and its impact on village law and governance. This research utilizes both a legislative and conceptual approach. The research findings indicate that the limitation on the term of office of Village Heads in Constitutional Court Decision No. 42/PUU-XIX/2021 was implemented based on democratic principles and the spirit of the limitations required by the 1945 Constitution, modeled on the positions of President and Regional Heads. Furthermore, the urgency of extending this term of office is based on the need to increase productivity, complete village development, and reduce post-election polarization. However, negative implications such as the potential for authoritarianism, abuse of power, and stagnation in leadership regeneration make this proposal controversial. Furthermore, excessively long term extensions can lead to political saturation and reduced community participation in village democracy.

Keywords: *Constitutionality; Term Of Office; Village Head.*

1. Introduction

Indonesia firmly establishes itself as a state of law, as stated in Article 1 paragraph (3) of the 1945 Constitution of the Republic of Indonesia which states that "The State of Indonesia is a state of law." In the concept of a state of law (rechtsstaat), all actions of the government and citizens must be subject to the law as an instrument regulating the life of the nation and state. Jimly Asshiddiqie stated that the principle of a state of law contains three main elements, namely the supremacy of law, equality before the law, and just law enforcement.¹ Thus, the existence of anti-corruption regulations is a concrete manifestation of the implementation of the rule of law, which must be upheld impartially as a manifestation of Indonesia's legal ideals, which uphold justice.

The Unitary State of the Republic of Indonesia was founded with the sole purpose of ensuring the prosperity and protection of all Indonesian citizens. This objective is stated in Article 33 of the Constitution of the Republic of Indonesia, which states that "the land, water, and the wealth contained therein shall be controlled by the state and used for the greatest prosperity of the people." Management of the land, water, and the wealth contained therein is carried out by specific positions established with the aim of managing and providing excellent services to the community, thereby achieving prosperity and well-being. One position directly related to and interacting with the local community is the position of Village Head. The position of Village Head was established to ensure that the diverse potential of rural areas can be managed with good governance and provide excellent services to the community.

A village is a legally recognized community entity, formed based on local origins and customs, in line with the national government system, and is an integral part of the district administrative area. Constitutionally, villages have the authority to regulate and manage local community affairs. The term "village" comes from the Sanskrit word "deca," which refers to the concept of birthplace, hometown, or customary land. The village head, in carrying out his administrative duties, is assisted by village officials and the Village Consultative Body (BPD). As autonomous entities with a strategic position within the government structure, villages require careful attention in the implementation of Regional Autonomy. This is because villages play a crucial role in overseeing and managing community affairs, taking into account local conditions and prevailing customs, which directly influence policies and decisions made for the welfare of village residents.²

¹ Jimly Asshiddiqie, *Konstitusi dan Konstitutionalisme Indonesia*, Jakarta: Konstitusi Press, 2005, p. 87.

² Ronny Wijayanto, Sri Anggraini Kusuma Dewi, dan Gesang Iswahyudi, "Pemerintahan Desa dalam Karakteristik Otonomi Desa di Sistem Negara Kesatuan Republik Indonesia" , AL-MANHAJ: Jurnal Hukum dan Pranata Sosial Islam 4, no. 2 (2022), p. 365–74

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The village head is a central figure in village government, playing a key role in the implementation of governance, development, and public services at the village level. The village head, also known as lurah, kades, or other terms in various regions of Indonesia, is the executive leader elected by the village residents to carry out important duties and responsibilities in managing village affairs. In a village government system, the village head is the government's representative closest to the community. Their duties include managing village administration, development planning, managing village finances, maintaining order, and providing public services. As local leaders, they are responsible for implementing central and regional government policies and making decisions relevant to the needs and aspirations of the village community. Therefore, the position of village head is a position that will determine the prosperity of rural communities. If the position of village head is filled by individuals who lack integrity, this will undoubtedly be detrimental to the community.

2. Research Methods

In accordance with the title and the issues to be discussed in this research and to provide useful results, this research was conducted using normative legal research (normative legal research method). The normative legal research method is a legal literature research conducted by examining library materials or secondary data alone. This research was conducted in order to obtain materials in the form of: theories, concepts, legal principles, and legal regulations related to the subject matter.³

3. Results and Discussion

3.1. Constitutionality of the Proposal to Increase the Term of Office of Village Heads to Three Years in Terms of the Principles of Democracy and the Limitation of Power in the 1945 Constitution of the Republic of Indonesia

Essentially, the constitution was created with the aim of limiting the government's ability to protect constitutional rights and establish the implementation of sovereign power. This constitutional purpose can be divided into three main objectives: limiting and monitoring political power; removing control of power from the rulers themselves; and providing limits on the provisions for the rulers in exercising their power.⁴ Connecting the constitution with law in general, it can be understood that the purpose of law is to ensure that the interests, order, justice, peace, and welfare of everyone are balanced. Based on this purpose, the main function of law can be explained, namely creating order and regularity in society, helping to

³ Soerjono Soekanto dan Sri Mahmudji, *Penelitian Hukum Normatif, Suatu Tinjauan Singkat*, (Jakarta: Raja Grafindo Persada, 2003), p. 13.

⁴ Mohamad Hidayat Muhtar, Abdul Kahar Maranjaya, Nur Arfiani, Erman Rahim, *Teori & Hukum Konstitusi : Dasar Pengetahuan dan Pemahaman Serta Wawasan Pemberlakuan Hukum Konstitusi di Indonesia*, Penerbit PT Sonpedia Publishing Indonesia, 2023.

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realize social justice externally, and encouraging development. Maurice Hauriou said that the purpose of the constitution is to maintain a balance between order, power, and freedom⁵.

The Village Head holds office for six (6) years starting from the date of inauguration (2) The Village Head as referred to in paragraph one (1) can serve a maximum of three (3) terms of office, either consecutively or non-consecutive. In his aspirations, the Village Head urges that the law regulating the term of office of the Village Head, which was originally 6 years for 3 periods, be increased to 9 years for 2 periods, meaning the Village Head can be number 1 in the village for 9 years in 1 period.⁶

In this case, the Government must consider the inspiration of the Village Heads who have carried out the demonstration. The Government is authorized to form, amend, and stipulate laws, namely the President and the House of Representatives (DPR). It is not easy for the Government to immediately change the applicable laws, there are several mechanisms for changing a law, one of which is the Government must first review the law that will be planned to replace the current law.⁷

The term of office is nine years, but the maximum is two terms, or 18 years. This is the same as six years with a maximum of three terms. So, in this case, it's not really about extending the village head's term. For the community, what matters most is not how long the village head serves, but how the village head, with a substantial budget, can manage it well (without corruption) and improve the welfare of the village community.⁸

Many have questioned the basis for the village heads' threats against political parties in their campaign for the revision of the law. Village heads do possess grassroots influence to mobilize political support. However, the political courage of these village heads demonstrates a scenario of reciprocal political interests between village heads and political parties regarding the 2024 elections.

It appears that the desire to extend the village heads' terms is merely a political justification for the village heads' hidden agenda, citing the vulnerability to post-village head election social conflict as the rationale, thus appearing to generalize the problem.⁹ Moreover, in the context of democratic precedent, the impact of strained socio-political relations after village

⁵ Andri Yanto, *Mazhab-Mazhab Hukum: Suatu Pengantar Memahami Dimensi Pemikiran Hukum*, SEGAP Pustaka, Yogyakarta, 2021.

⁶ Ahmad Syaiful Maarif, Abd. Hadi, dan Moh Sa'diyin, *Fenomena Periodesasi Masa Jabatan Kepala Desa Perspektif Fiqh Siyasah Dan Undang-Undang Nomor 6 Tahun 2014 Tentang Desa (Studi Di Desa Payaman Kecamatan Solokuro Kabupaten Lamongan)*, JOSH: Journal of Sharia, Vol.3, No.01 (28 Januari 2024): 29–39.

⁷ Laurensius S. dan Laurensius Arliman S., *Partisipasi Masyarakat dalam Pembentukan PerundangUndangan untuk Mewujudkan Negara Kesejahteraan Indonesia*, Jurnal Politik Pemerintahan Dharma Praja, Vol.10, No.1 (16 Agustus 2017): 59–72.

⁸ Achmadudin Rajab, *Changing The Term of Office of The Village Head From 6 Years to 9 Years: Its Impact on State Finances and Village Fund Management*, Jurnal Budget : Isu Dan Masalah Keuangan Negara, Vol.8, No.2 (29 November 2023): 196–211.

⁹ Kebijakan Masa Jabatan Kepala Desa Dalam Tinjauan Pembatasan Kekuasaan Ismi Rusyanti, Aji Pangestu, and Baynal Hubi, "Problematika Kebijakan Masa Jabatan Kepala Desa Dalam Tinjauan Pembatasan Kekuasaan."

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head elections is a typical problem of electoral contestation that can be encountered at any level. It would seem to simplify the root of the problem if the solution lies entirely in the policy of extending the term of office. Even based on academic studies, there is no strong guarantee that extending the term of office correlates with the effectiveness of the village head's performance¹⁰.

The 1945 Constitution clearly stipulates how power is managed, guided by national ideals based on justice. The founding fathers believed that power is a domain for the application of leadership, which can be reduced to merely running state organs, while rejecting constitutional perspectives. This is what is known as constitutionalism, where limitations on power are encouraged as part of the spirit of the constitution to prevent arbitrariness and abuse of power.¹¹

3.2. Implications of the Proposal to Extend the Term of Village Heads to Three Years for Indonesian Democratic Practices

According to Ramlah Surbakti, if someone holds office for too long, they will gain greater power. Greater power increases the potential for abuse of power that harms society and undermines the state order as stipulated in the constitution. This also relates to Lord Acton's argument that "Power tends to corrupt, and absolute power corrupts absolutely." According to Aristotle, those in power should not last forever and there must be a shift between the ruler and the ruled. According to the aforementioned expert opinion, excessively long-term power also violates the constitution. The fundamental purpose of the constitution is to limit and control political power.¹²

The proposal to extend the village head's term of office stems from the argument (later suspected of being merely an apology) that friction or conflict always occurs after village head elections (pilkades) as a residue of contestation between political rivals that divides the community socially. This is considered to have implications for disrupting sociopolitical stability and creating obstacles to the continuity of village development. Under these conditions, six years in office is considered difficult for village heads to effectively implement their leadership, especially in implementing programs related to improving community welfare in the village.¹³ This reasoning sounds rational. However, it doesn't hide the suspicion of political interests behind the law changes. The revision, initiated by Commission II of the House of Representatives (DPR), surprisingly appeared on the list of Open Cumulative Bills in the lead-up to the 2024 elections, even though the previous revision initiative had never appeared in the 2023 Priority National Legislation Program (Prolegnas).¹⁴ In this case, it's necessary to examine in depth the urgency and future implications of extending the Village

¹⁰ Umbu Pariangu & La Ode Muhammad Elwan, *Ancaman terhadap Demokratisasi Desa di Balik Perpanjangan Masa Jabatan Kepala Desa*, Journal Publicuho, Vol.6, No.3 (2023): 851–66.

¹¹ Irfan Islamy, *Prinsip-Prinsip Perumusan Kebijaksanaan Negara* (Jakarta: Bina Aksara, 2003).

¹² Riza Multazam Luthfy, *Masa Jabatan Kepala Desa dalam Perspektif Konstitusi*, Masalah-Masalah Hukum, Vol.48, No.4 (Oktober 2019): 319–30.

¹³ Riza Multazam Luthfy, *Ibid*

¹⁴ Umbu Pariangu dan La Ode Muhammad Elwan, *Ibid*.

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Head's term of office. Urgency implies that all parties must first assess the importance and crucial aspects of the issue, including whether not extending the term will have significant impacts or whether it merely serves the interests of a select few.

In the context of selecting solutions and their implementation, Herbert A. Simon's rationality theory provides an interesting perspective on the government's decision to extend the Village Head's term of office to 8 years for two terms. Simon, known as a pioneer of rational decision-making theory, acknowledged that human rationality is often limited by various factors, such as limited information, time, and computing power. Therefore, in the decision-making process, decision-makers tend to seek satisfactory solutions rather than optimal ones.¹⁵

In the case of the government's decision to extend the village head's term of office, it can be seen that the government faces limitations in its rational decision-making process. First, the government may have limited information regarding the impacts and consequences of extending the village head's term, both in the short and long term. This information is crucial for assessing the effectiveness and sustainability of the proposed solution. Second, the government faces a time limit to revise Law No. 6 of 2014 before the 2024 elections, which may influence the decision-making process more deeply.¹⁶

Considering these limitations of rationality, the government's decision to extend the term of office of village heads to 8 years for 2 terms can be considered a satisfactory solution that satisfies various interests. The government is trying to find a solution that is acceptable to various parties, such as the association of village heads who are demanding an extension of the term of office, as well as the community who needs the continuity of village development.¹⁷

A satisfactory solution is not necessarily an optimal solution. Extending the Village Head's term of office may have unintended consequences, such as the potential for monopolization of power or a lack of leadership regeneration at the village level. Therefore, in implementing this decision, the government needs to consider various environmental factors that could influence the solution's success. One environmental factor that needs to be considered is the socio-political dynamics at the village level. Extending the Village Head's term of office could trigger conflicts of interest or community polarization if not properly managed.¹⁸

The government needs to ensure transparent and participatory mechanisms in the decision-making process at the village level, while maintaining a balance between leadership

¹⁵ Analisis Pandangan dkk., *Analisis Pandangan Rasional Herbert Alexander Simon Terhadap Pengesahan RUU Atas Perubahan Kedua UU Nomor 6/2014 Pasal 39 Tentang Penambahan Masa Jabatan Kepala Desa*, JMA, Vol.2, No.4 (20 April 2024): 3031–5220.

¹⁶ Info Artikel Abstrak, *Dana Desa dan Demokrasi dalam Perspektif Desentralisasi Fiskal*, Politik Indonesia: Indonesian Political Science Review, Vol.2, No.1 (Januari 2017): 65–85.

¹⁷ Ahmad Mustanir dkk., *Dinamika Administrasi Publik Indonesia*, diakses dari <https://publisp.getpress.co.id/dinamika-administrasi-publik-indonesia/>, diakses pada 20 November 2025.

¹⁸ Analisis Pandangan dkk., *Analisis Pandangan Rasional Herbert Alexander Simon Terhadap Pengesahan RUU Atas Perubahan Kedua UU Nomor 6/2014 Pasal 39 Tentang Penambahan Masa Jabatan Kepala Desa*, JMA, Vol.2, No.4 (19 November 2025): 3031–5220.

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continuity and healthy leadership regeneration. Furthermore, human resource capacity at the village government level is also an important factor to consider. Extension of the Village Head's term of office must be accompanied by improvements in the Village Head's competence and capabilities in carrying out his duties and responsibilities. The government needs to provide adequate capacity building programs to ensure that Village Heads have the skills and knowledge needed to manage village development effectively.¹⁹

4. Conclusion

Extending the Village Head's term of office is in stark contrast to the constitution and democratic principles, as the core of the constitution and democratic principles is to limit the term of office for state administrative officials to prevent arbitrariness and abuse of office. Although the change was implemented in accordance with applicable legal procedures, many believe this step is inconsistent with the spirit of constitutional democracy and the legal ideals that emphasize the importance of balance and limitations of power within the government system. The urgency of extending the term of office is based on the need to increase productivity, complete village development, and reduce post-election polarization. However, negative implications such as the potential for authoritarianism, abuse of power, and stagnation in leadership regeneration make this proposal controversial. Furthermore, excessively long term extensions can lead to political saturation and reduced community participation in village democracy.

5. References

Journals:

Achmadudin Rajab, Changing The Term of Office of The Village Head From 6 Years to 9 Years: Its Impact on State Finances and Village Fund Management, *Jurnal Budget : Isu Dan Masalah Keuangan Negara*, Vol.8, No.2 (29 November 2023): 196–211.

Ahmad Syaiful Maarif, Abd. Hadi, dan Moh Sa'diyin, Fenomena Periodesasi Masa Jabatan Kepala Desa Perspektif Fiqh Siyasah Dan Undang-Undang Nomor 6 Tahun 2014 Tentang Desa (Studi Di Desa Payaman Kecamatan Solokuro Kabupaten Lamongan), *JOSH: Journal of Sharia*, Vol.3, No.01 (28 Januari 2024): 29–39.

Analisis Pandangan dkk., Analisis Pandangan Rasional Herbert Alexander Simon Terhadap Pengesahan RUU Atas Perubahan Kedua UU Nomor 6/2014 Pasal 39 Tentang Penambahan Masa Jabatan Kepala Desa, *JMA*, Vol.2, No.4 (20 April 2024): 3031–5220.

Analisis Pandangan dkk., Analisis Pandangan Rasional Herbert Alexander Simon Terhadap Pengesahan RUU Atas Perubahan Kedua UU Nomor 6/2014 Pasal 39 Tentang Penambahan Masa Jabatan Kepala Desa, *JMA*, Vol.2, No.4 (19 November 2025): 3031–5220.

¹⁹ M Jeffri Arlinandes Chandra, Bayu Dwi Anggono, dan Febrian Febrian, *Rekonstruksi Tahapan Pembentukan Perundang-Undangan: Urgensi Re-Harmonisasi dan Evaluasi Sebagai Siklus Pembentukan Undang-Undangan Yang Berkualitas*, *Jurnal Legislasi Indonesia*, Vol.19, No.4 (2022).

Master of Law, UNISSULA

Info Artikel Abstrak, Dana Desa dan Demokrasi dalam Perspektif Desentralisasi Fiskal, *Politik Indonesia: Indonesian Political Science Review*, Vol.2, No.1 (Januari 2017): 65–85.

Laurensius S. dan Laurensius Arliman S., Partisipasi Masyarakat dalam Pembentukan Perundang-Undangan untuk Mewujudkan Negara Kesejahteraan Indonesia, *Jurnal Politik Pemerintahan Dharma Praja*, Vol.10, No.1 (16 Agustus 2017): 59–72.

M Jeffri Arlinandes Chandra, Bayu Dwi Anggono, dan Febrian Febrian, Rekonsruksi Tahapan Pembentukan Perundang-Undangan: Urgensi Re-Harmonisasi dan Evaluasi Sebagai Siklus Pembentukan Undang-Undangan Yang Berkualitas, *Jurnal Legislasi Indonesia*, Vol.19, No.4 (2022).

Riza Multazam Luthfy, Masa Jabatan Kepala Desa dalam Perspektif Konstitusi, *Masalah-Masalah Hukum*, Vol.48, No.4 (Oktober 2019): 319–30.

Ronny Wijayanto, Sri Anggraini Kusuma Dewi, dan Gesang Iswahyudi, "Pemerintahan Desa dalam Karakteristik Otonomi Desa di Sistem Negara Kesatuan Republik Indonesia", *AL-MANHAJ: Jurnal Hukum dan Pranata Sosial Islam* 4, no. 2 (2022)

Umbu Pariangu & La Ode Muhammad Elwan, Ancaman terhadap Demokratisasi Desa di Balik Perpanjangan Masa Jabatan Kepala Desa, *Journal Publicuho*, Vol.6, No.3 (2023): 851–66.

Books:

Andri Yanto, *Mazhab-Mazhab Hukum: Suatu Pengantar Memahami Dimensi Pemikiran Hukum*, Yogyakarta : SEGAP Pustaka; 2021.

Irfan Islamy, *Prinsip-Prinsip Perumusan Kebijaksanaan Negara* (Jakarta: Bina Aksara, 2003).

Jimly Asshiddiqie, *Konstitusi dan Konstitutionalisme Indonesia*, Jakarta: Konstitusi Press, 2005

Kebijakan Masa Jabatan Kepala Desa Dalam Tinjauan Pembatasan Kekuasaan Ismi Rusyanti, Aji Pangestu, and Baynal Hubi, "Problematika Kebijakan Masa Jabatan Kepala Desa Dalam Tinjauan Pembatasan Kekuasaan."

Mohamad Hidayat Muhtar, Abdul Kahar Maranjaya, Nur Arfiani, Erman Rahim, *Teori & Hukum Konstitusi : Dasar Pengetahuan dan Pemahaman Serta Wawasan Pemberlakuan Hukum Konstitusi di Indonesia*, Penerbit PT Sonpedia Publishing Indonesia, 2023.

Soerjono Soekanto dan Sri Mahmudji, *Penelitian Hukum Normatif, Suatu Tinjauan Singkat*, (Jakarta: Raja Grafindo Persada, 2003)

Internet:

Ahmad Mustanir dkk., *Dinamika Administrasi Publik Indonesia*, accessed from <https://publish.getpress.co.id/dinamika-administrasi-publik-indonesia/>, accessed on 20 November 2025.