

Constitutionalism Review of the Extension of the Term of Office of the Village Head in Law Number 3 of 2024

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Abstract

This article aims to examine how the extension of the term of office of village heads in Law Number 3 of 2024 raises debates related to democracy and constitutionalism. This policy extends the term of office from six to eight years with a maximum of two terms, potentially inhibiting leadership regeneration and community political participation. From the perspective of constitutionalism, this policy can weaken checks and balances and increase the risk of abuse of authority. This research uses a normative juridical method by analyzing related regulations and a historical approach to trace the evolution of regulations. Data is obtained through document studies with descriptive-analytical analysis to assess the alignment of this policy with democratic principles. The results show that extending the term of office of the village head can reduce the accountability and transparency of the village government. A strict monitoring mechanism is needed so that this policy does not open a gap for abuse of power, as well as harmonization of regulations to ensure that village governance remains democratic and accountable.

Keywords: *Village Head Term of Office, Democracy, Constitutionalism, Limitation of Power.*



A. INTRODUCTION

The extension of the term of office for village heads as stipulated in Article 39 of Law Number 3 Year 2024 has caused debate in the community. This policy is considered not only to have an impact on the stability of village governance, but also touches on fundamental aspects of democracy, constitutionalism, and the principle of limiting power. The main criticism of this policy is that the extension of the village head term benefits certain groups without considering the political rights of the community at large (Saragih, 2024).

In a democratic system based on the rule of law, village head elections are an important mechanism in ensuring community political participation and periodic leadership turnover. The right of citizens to elect and be elected as guaranteed in the 1945 Constitution of the Republic of Indonesia (UUD 1945) should be maintained to remain relevant to sound democratic principles. However, the extension of the village head term from six years to nine years with a maximum of two terms has the effect of limiting opportunities for new candidates to compete in the village head election (Ziruddin, Rahman & Maulidi, 2023).

Historically, the regulation of the term of office of village heads in Indonesia has undergone various changes. During the enactment of Law No. 5/1979 and Law No. 22/1999, the term of office for village heads was set at 8 years. However, Law No.

32/2004 changed it to 6 years with a maximum of two terms. This change was aimed at adjusting to a more democratic regional government system. Subsequently, Law No. 6/2014 again set the term of office for village heads at 6 years with a maximum of three terms. Now, through Law Number 3 Year 2024, the term of office has been extended to 8 years with a maximum of two terms, either consecutively or not (Suhamartha, Syamsir, & Eriton, 2023).

From a constitutional perspective, extending the term of office of the village head has the potential to weaken the principle of checks and balances and increase the risk of abuse of authority. This principle ensures that there is oversight from the BPD, the community, and relevant institutions so that power is not centralized in the village head, so that policies remain in accordance with the law and the public interest. Without periodic elections, the balance of power is weakened, opening up opportunities for abuse of authority, and reducing transparency and accountability in village governance. Constitutionalism emphasizes limiting power to prevent authoritarianism. If the term of office of the village head is extended without a regular election mechanism, the community's control over the village leadership will be weakened, which in turn reduces the accountability of the village head in carrying out their duties (Rajagukguk, 2023).

From a constitutional perspective, allowing a person to serve up to 16 years as a village head can be criticized as a form of restriction on political participation that is not in line with modern democratic principles. Limiting power in a government aims to prevent the emergence of absolute leadership and ensure healthy leadership regeneration. In addition, the extension of the term of office of the village head may also have implications for the social and economic aspects of the village, including the management of village funds and the sustainability of development policies (Irtiqai, 2023).

Based on these thoughts, the extension of the term of office of the village head as stipulated in Law Number 3 Year 2024 needs to be reviewed in order to remain in line with the principles of constitutionalism and democracy. Harmonizing the norms in this law with the 1945 Constitution is an important step to ensure that village government policies continue to prioritize accountability, transparency, and community participation in the political process. In addition, it is necessary to consider stricter monitoring mechanisms so that the extension of the term of office of the village head does not become a loophole for the practice of abuse of power that can hinder the development of villages in a democratic and sustainable manner.

Based on the above background, this research seeks to answer the following main questions: 1. What are the implications of the extension of the term of office of the village head in Law Number 3 Year 2024 on the principle of democracy at the village government level. 2. What are the implications of the extension of the term of office of the village head on the principle of limitation of power.

B. METHOD

This research uses normative juridical methods by analyzing laws and regulations governing the term of office of village heads as well as the principles of democracy and constitutionalism in the 1945 Constitution. The regulations that are the main objects of study include the 1945 Constitution of the Republic of Indonesia, Law Number 6 of 2014 concerning Villages, as well as changes stipulated in Law Number 3 of 2024. In addition, this research also considers Law No. 5 of 1979, Law No. 22 of 1999, and Law No. 32 of 2004 to trace the historical development of regulations on the tenure of village heads.

The approach used includes normative studies on the principles of democracy, constitutionalism, and limitation of power in village governance. Historical studies were conducted to understand policy changes related to the tenure of village heads and their impact on democratic village governance systems.

Data in this study were obtained from primary legal sources, such as laws, as well as secondary legal sources in the form of scientific journals, legal literature, and other academic studies. Data collection techniques were conducted through document studies, while the analysis used was descriptive-analytical in nature to evaluate the extent to which the extension of the term of office of the village head is in line with the principles of democracy, accountability, and constitutionalism in the Indonesian government system.

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C. RESULTS AND DISCUSSION

1. Implications of the extension of the term of office of the village head in Law Number 3 Year 2024 on the principles of democracy at the village government level.

The policy change in Law No. 3 of 2024 that extends the term of office for village heads from six years to eight years with a maximum of two terms has serious implications for the village governance system. Whereas previously village heads could serve up to 18 years in three terms, the maximum duration is now 16 years in two terms. This change raises fundamental questions regarding the sustainability of democracy at the village level, community political participation, accountability of village leaders, and the dynamics of the relationship between villages and the central government (Dahl, 2008).

With a longer term of office, the political participation of villagers in village head elections is reduced, while political competition is also reduced as opportunities for new leadership candidates become more limited. By extending the

term of office of the village head, the number of village head elections (Pilkades) in a generation of villagers will be drastically reduced. As a result, the frequency with which people exercise their right to vote to elect village leaders will decrease, potentially weakening the spirit of democracy at the grassroots level (Marhamah et al., 2024).

This policy change also has an impact on the leadership regeneration system in the village. In a healthy democratic system, periodic leadership changes serve as the main mechanism to prevent excessive consolidation of power in the hands of certain individuals. With a longer term of office, the opportunity for new leaders to emerge and compete in village politics becomes more limited. If the frequency of Pilkades is reduced, village political dynamics may stagnate, ultimately undermining the principles of local democracy and community participation as mandated in Law No. 6/2014 on Villages (Duryatm, 2024).

In terms of accountability, the extension of the term of office of the village head also presents new challenges. The village head has great authority in managing the Village Fund, which is sourced from the State Budget (APBN). The practice of misuse of funds at the village level has been a concern in village financial management since the introduction of the Village Fund. In an ideal government structure, the periodic election of leaders serves as one of the control mechanisms against potential abuse of authority.

This is in line with Larry Diamond's opinion in his book *Developing Democracy Toward Consolidation*, where he explains that quality democracy is not only determined by electoral procedures, but also by transparency and accountability mechanisms. With longer terms of office, village heads run the risk of establishing patronage that inhibits transparency and weakens oversight from the community and the Village Consultative Body (BPD). If a village head serves for too long without a rigorous evaluation process through Pilkades, the risk of misuse of village funds may increase, especially if the oversight system from the village council (Badan Permusyawaratan Desa, BPD) is not effective (Mayasari et al., 2022).

It is important to note that in Law Number 10/2016 on Pilkada, the term of office for regional heads, whether governors, regents, or mayors, is limited to a maximum of two terms with each term lasting for five years. With this striking difference in term limits, the question arises as to why village heads are given longer terms of office than regional heads. In fact, regional heads have a broader scope of responsibilities and a stricter supervisory system than village heads. This imbalance indicates an inconsistency in the application of democratic principles in the Indonesian government system (Wardani, Indra & Zulwisman, 2024).

In addition, the implications of this policy also touch on the relationship between the village government and the central government. Village heads who serve longer terms will have stronger political networks, both at the local and national levels. In various elections, village heads are often one of the elements that can be mobilized by political elites to gain support in the regions. With a longer tenure, the potential for politicization of village heads in national political

contestation is greater, which can lead to the non-neutrality of village government officials in elections. This is contrary to the spirit of neutrality of the village apparatus as stipulated in Article 280 paragraph (2) of Law Number 7/2017 on Elections, which explicitly prohibits the involvement of village heads in practical politics (Hidayat, 2020).

Not only that, the extension of the term of office also risks weakening the role of the Village Consultative Body (BPD) as a supervisory institution of the village government. Under ideal conditions, the BPD functions as a community representative that can control the policies of the village head. However, with a longer tenure of the village head, the relationship between the village head and BPD members may turn into a patronage relationship, where the village head has great influence over the BPD. This has the potential to reduce the independence of the BPD in carrying out its function as a supervisory institution, thus weakening the checks and balances mechanism in village governance.

Extending the term of office of the village head can also have an impact on the quality of public services at the village level. In a healthy democratic system, periodic Pilkadaes provide an incentive for village heads to continuously improve their performance in order to be re-elected in the next election. However, if the term of office is extended to eight years, the incentive is reduced because the village head does not need to face the election process in a relatively short period of time. Consequently, the motivation to improve public services may decrease, which has an impact on the quality of services received by the village community (Sasongko, 2022).

Based on the analysis above, it can be concluded that the extension of the term of office of the village head in Law Number 3 Year 2024 has complex implications for village democracy, government accountability, and the relationship between the village government and the central government. While the purpose of this policy may be to create stability in village governance, the negative consequences cannot be ignored, particularly in terms of decreased community political participation, weakened accountability of village heads, and increased risk of politicization of village heads in national elections (Stambo, 2024).

To ensure that this policy is not detrimental to village democracy, it is necessary to strengthen oversight mechanisms over village heads, both through a more active role of the BPD, increased transparency in the use of village funds, and strengthening regulations that prevent village heads from engaging in practical politics. Without adequate oversight mechanisms, the extension of the village head's term of office could actually lead to a weakening of democracy at the village level and potentially increase the risk of abuse of power (Roza & Arliman, 2017).

2. Implications of extending the term of office of the village head on the principle of limitation of power.

Limitation of power is a key principle in a democratic system of government to prevent excessive concentration of power and ensure the circulation of leadership.

This principle aims to prevent power from being concentrated in certain individuals or groups for too long, so that there remains a mechanism of control and balance in government.

In the village context, the extension of the term of office of the village head has the potential to reduce the dynamics of democracy by extending power without a routine election mechanism. If the village head serves for too long, there is a risk of establishing an authoritarian leadership pattern, where community participation in decision-making is reduced, and the democratization process at the village level is weakened. In addition, limited access for new leaders can also lead to policy stagnation and a lack of innovation in village development (Saldi, Fahman & Bima, 2024).

The absence of periodic elections can hinder leadership regeneration and limit opportunities for other individuals to contribute to village governance. In addition, the longer a person holds office, the greater the potential for patronage networks to form that reinforce the political dominance of the village head, which can weaken oversight from the community and the Village Consultative Body (BPD). In the long run, concentration of power without adequate oversight can increase the risk of abuse of power, such as nepotism, corruption, and decisions that favor certain groups over the interests of the wider community. Therefore, limiting power through periodic elections is an important instrument in maintaining a balance of power and accountability in village governance.

According to Montesquieu's Trias Politica theory, power must be limited so that it is not concentrated in one individual or group for a long period of time. In addition, in the principle of checks and balances, the periodic change of leadership is an important instrument in maintaining government accountability. Therefore, the extension of the term of office of the village head must be accompanied by a stronger supervisory mechanism so as not to contradict the basic principle of limiting power (Saldi, Fahman & Bima, 2024).

In addition to the aspect of limiting power, the extension of the term of office of the village head also has an impact on supervision and accountability mechanisms. The village head has great authority in managing the village budget, including the Village Fund, which is sourced from the State Budget (APBN). Therefore, an effective supervisory system is crucial to ensure transparency and prevent abuse of authority (Sauyai, Rakia & Purnama, 2024).

Law No. 6/2014 on Villages stipulates that the village head is accountable to the village community through the Village Consultative Body (BPD) and the district/city government. However, in practice, this oversight mechanism often experiences obstacles, especially related to the limited capacity of the BPD in carrying out the control function. Data from the Corruption Eradication Commission (KPK) shows that cases of misuse of Village Funds by village heads are still common, both in the form of budget embezzlement and fictitious projects (Setiawan & Hariri, 2024).

With the extended term of office for village heads, the risk of abuse increases, especially if there is no strengthening of the supervisory system. The longer a village head is in office, the greater the opportunity for a network of power that is difficult to monitor. Some further implications of extending the tenure of village heads on accountability and oversight include an increased risk of corruption and collusion. Longer-serving village heads are more likely to build patronage networks with certain parties, hindering transparency in village governance. In addition, the extension of the term of office may also weaken the effectiveness of the Village Consultative Body (BPD) in conducting oversight. If the BPD is not strengthened both in terms of regulation and capacity, its oversight of village heads who are in power for longer periods of time will become weaker and more vulnerable to political intervention.

On the other hand, this policy also has the potential to create inequalities in community participation. With longer terms of office, there is less opportunity for new figures in the village to participate in leadership, leading to stagnation in village policies. Lack of policy renewal is also a problem that arises from too long a leadership period. Under these conditions, there is a risk that village policies become less innovative and unable to adapt to social and economic changes in the community.

D. CONCLUSION

Extending the term of office of village heads has significant implications for democratic principles and governance. From a democratic perspective, this policy risks reducing leadership circulation, weakening community participation, and opening up opportunities for abuse of power. In terms of accountability, term extensions without strict oversight mechanisms can reduce the transparency and effectiveness of village governance. In addition, the relationship between the village government and the central government is also affected, especially in the context of village autonomy. This policy may strengthen central intervention in village governance, reducing the independence of village heads in carrying out their duties. Therefore, a balance between village government stability and democratic principles is needed to ensure more accountable and pro-people policies.

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