

# Analysis of the Status of Village Apparatus Personnel in the Village Government System Reviewed from Law Number 3 of 2024 concerning the Second Amendment to Law Number 6 of 2014 concerning Villages

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## Abstract

This study analyzes the status of village apparatus personnel in the village government system in Indonesia, especially from the perspective of legal certainty and state administrative law. Although village officials play an important role in public services at the village government level, uncertainty regarding the status of village officials, especially whether village officials are recognized as State Civil Apparatus (ASN) or Government Employees with Employment Agreements (PPPK), pose problems in aspects of welfare, career stability, and service professionalism. This study uses a normative juridical analysis method, this study examines the role of the state in providing clear legal guarantees for village officials through the formation of specific regulations with an approach to analysis, legislation and case studies. Based on the findings of the research, the need for the formulation of policies that recognize village apparatus as part of ASN or PPPK, as well as the regulation of welfare and work capacity of village apparatus, is an important recommendation to increase the effectiveness of village government based on the principle of legal certainty and state administrative law. The conclusions and suggestions from this study are expected to create a more transparent, accountable, and professional village government, in accordance with the goal of village autonomy mandated by Law Number 6 of 2014 concerning Villages and its latest changes.

**Keywords:** *Personnel status, Village Apparatus, Legal Certainty, State Administrative Law, Village Government, ASN, PPPK.*



## A. INTRODUCTION

Village government as the smallest government entity in Indonesia has a strategic role in national development, functioning as a leading government unit that interacts directly with the community (Fatah et al., 2019). The village government is the Village Head or what is called by another name assisted by village officials as an element of organizing the Village Government (Article 1 paragraph (3) of Government Regulation No. 43 of 2014 concerning the Implementation Regulation of Law Number 6 of 2014 concerning Villages). The village apparatus is a staff element that assists the village head in the preparation of policies and coordination that is accommodated in the village secretariat, and an element that supports the duties of the village head in the implementation of policies that are accommodated in the form of technical implementation and regional elements.

Village officials function as assistants to the Village Head, playing a key role in ensuring that village government policies run well. Village officials are not only involved in the management of village administration, but also provide public services, foster village communities and empower local potential. The success of village development is greatly influenced by the performance of village officials. However, the status of village apparatus personnel is still a problem that has not found legal clarity.

This problem results in village officials being vulnerable to arbitrary actions, both from within the village government itself and from outside parties. For example, the dismissal of village officials is carried out without a clear reason or through a fair legal process. The unclear status of personnel also makes village officials vulnerable to nepotism and politicization practices at the village level, where village heads can appoint and dismiss village officials based on unprofessional considerations. In fact, the appointment and dismissal of village officials have been regulated by Law Number 6 of 2014 concerning Villages (Village Law).

Law Number 6 of 2014 concerning Villages (Village Law), which was later revised into Law Number 3 of 2024 concerning Villages, brings great hope for village officials throughout Indonesia to obtain clarity on the status of employment. However, even though it has been revised, the Village Law only adds several provisions related to duties, rights, prohibitions, and mechanisms for the appointment and dismissal of village apparatus and has not touched on important substance related to the employment status of village apparatus, whether the village apparatus will be recognized as part of the State Civil Apparatus (ASN) or remain as a separate entity that is different.

The village apparatus does not have certainty about the future of the personnel career, even though the village apparatus carries out tasks and functions that are very similar to ASN. Physically, the village apparatus uses uniforms and attributes similar to ASN. In fact, village officials, especially Village Secretaries, were given status as ASN based on Government Regulation Number 45 of 2007 concerning Requirements and Procedures for the Appointment of Village Secretaries to Civil Servants (PNS), before this policy was stopped after the issuance of the Village Law in 2014.

In the context of the status of village apparatus personnel, there is a discrepancy between what is regulated in the theory of state administrative law and what happens in practice. The theory of state administrative law emphasizes that every government employee must have a legally and formally recognized employment status or have legal certainty and protection (Anggara, 2018). Personnel status provides certainty in terms of responsibilities, rights, obligations, and legal protection for the employee concerned. However, the observed fact is that there are often unilateral dismissals of village officials which can hinder the government's efforts to increase the capacity of village government as one of the pillars of national development.

The purpose of this study is to analyze the employee status of village apparatus in the village government system reviewed from Law Number 3 of 2024 concerning the Second Amendment to Law Number 6 of 2014 concerning Villages.

## **B. METHOD**

This study uses a normative juridical analysis method, which focuses on the study of legal documents and legal principles relevant to the employment status of village apparatus in the village government system. This method is carried out through an approach to analyzing laws and regulations and case studies (Zainudin & Karina, 2023). The approach to laws and regulations is carried out by reviewing various relevant regulations, such as Law Number 6 of 2014 concerning Villages, changes regulated in Law Number 3 of 2024, and other supporting regulations. This approach aims to examine the legal certainty and regulatory coherence related to the employment status of village apparatus.

The case study approach is used to explore factual problems related to the status of village apparatus implementation in the field. This case study includes an analysis of cases of unilateral dismissal of village officials by village heads, unclear status as ASN or PPPK, and the impact of regulatory orders on professionalism and welfare. Through the combination of these approaches, the research is expected to provide a comprehensive understanding of the urgency of improving the status of village apparatus personnel in order to strengthen village government based on the principles of legal certainty and state administrative law.

## **C. RESULTS AND DISCUSSION**

### **1. Legal Rules Related to the Employment Status of Village Apparatus**

Villages are part of the smallest government unit that has special autonomy to regulate and manage government affairs and community interests independently (Pancawati, 2023). Village recognition is regulated in article 1 paragraph (1) of Law Number 6 of 2014 concerning villages (Village Law), which states, "*A village is a village and a customary village or what is called by another name, hereinafter referred to as a village, is a legal community unit that has territorial boundaries that have the authority to regulate and manage government affairs, the interests of the local community based on community initiatives, rights of origin, and/or traditional rights that are recognized and respected in the system of government of the Unitary State of the Republic of Indonesia*".

The village government is led by the Village Head, where the village head is elected directly by the community. To organize the village government, the Village Head is assisted by village officials. The village apparatus is a staff element that assists the village head in the preparation of policies and coordination that is accommodated in the village secretariat, and an element that supports the duties of the village head in the implementation of policies that are accommodated in the form of technical implementation and regional elements.

Village officials function as assistants to the Village Head, playing a key role in ensuring that village government policies run well. Village officials are not only

involved in the management of village administration, but also provide public services, manage village finances, foster village communities and empower local potential. The success of village development is greatly influenced by the performance of village officials. Legal rules related to the staffing of village apparatus were previously regulated in Government Regulation Number 45 of 2007 (PP No.45 of 2007) concerning Requirements and Procedures for the Appointment of Village Secretaries to Civil Servants (PNS).

Government Regulation No. 45 of 2007 provides legal certainty about the status of village apparatus personnel, especially village secretaries as a form of recognition of the strategic role of village apparatus in village government and public services. However, after the Village Law was passed in 2014, the government revoked the provisions in Government Regulation No. 45 of 2007. The Village Law and its implementing regulations, such as Government Regulation (PP) Number 11 of 2019 concerning the Second Amendment to Government Regulation Number 43 of 2014 concerning Implementation Regulations of Law Number 6 of 2014 concerning Villages (PP No. 11 of 2019), do not explain the status of village apparatus personnel and only regulate the rights, obligations, prohibitions and mechanisms for the appointment and dismissal of village apparatus. In fact, since the existence of the Village Law, the duties and workload of village officials have increased, especially the workload of village secretaries.

The village secretary has a position as an element of the village secretariat leadership who is tasked with assisting the village head in the field of government administration which functions as the executor of administrative affairs, general affairs, financial affairs and planning (Article 8 of West Bangka Regency Regional Regulation Number 3 of 2021). The strategic role of the village secretary in helping the village head carry out government duties is not supported by a clear personnel status. The difference in status between the previous village secretary and the current village secretary has created inequality and injustice even though the role carried out by the village secretary, both before and after the change in regulations, remains similar, namely assisting the village head in administration, public services, and the implementation of village policies. In state administrative law, every employee who performs government functions must have a clear and recognized legal status. The employment status of the village apparatus is needed to provide legal certainty, including the protection of the rights, obligations, and responsibilities inherent in the position (Damanik, Nugraha & Nur, 2024).

The unclear status of village officials is further exacerbated by the arbitrary dismissal of village officials. Although the Village Law gives the authority to the village head to appoint and dismiss village officials, the Village Law explicitly regulates the procedure for the appointment and dismissal of village officials, which requires that every act of appointment and dismissal be carried out in a transparent, accountable, and based on legitimate reasons as the mechanism for dismissing village officials is regulated in the provisions of article 5 paragraph (2) and paragraph (3) of the Minister of Home Affairs Regulation Number 83 of 2015 about the Appointment

and Dismissal of Village Apparatus which reads *"Village apparatus dismissed due to death, self-requested and dismissed because they have reached the age of 60 years, declared as a convict based on a court decision that has permanent legal force, has permanent obstacles, no longer meets the requirements as a village apparatus, and violates the prohibition as a village apparatus"*.

The authority of village heads in the appointment and dismissal of village officials is often used disproportionately and violates the principle of system merit. The appointment and dismissal of village officials should be carried out with recruitment and assessment in accordance with competencies and standards of needs. Not the other way around, based on family relationships, friendships, and political affiliations (Setyobakti & Murniati, 2018). The act of nepotism does not guarantee that the appointed village apparatus has adequate competence. This will result in the quality of public services and village government management being less than optimal.

Village apparatus that acts as government policy makers and service providers for the community needs clarity regarding their employment status. The clarity of the personnel status is one of the important factors in improving the performance of village government implementation. This employment status is a form of guarantee of protection for the rights of village officials as part of the government administration. Management for village officials needs to be changed and equalized to avoid the existence of politics of interests and abuse of power by the Village Head.

The government needs to take concrete steps to implement the merit system in village staffing. One of these steps is to prepare more specific regulations related to the staffing of village apparatus, including the regulation of personnel status such as appointing village secretaries as ASN or PPPK in accordance with the provisions of the previous regulations. This regulation also needs to include the provision of legal assistance in carrying out duties, the regulation of the rights and obligations of village officials, as well as a performance-based work evaluation mechanism. In addition, supervision of the authority of village heads must be strengthened to ensure that the process of appointing and dismissing village officials is carried out in accordance with the principles of the merit system. The application of technology in the village apparatus recruitment process can also be a solution to increase transparency and accountability while reducing the potential for nepotism.

## **2. Administrative Steps Towards the Staffing Status of Village Apparatus**

Village apparatus has almost the same workload as ASN. As a state apparatus, village apparatus uses attributes and symbols given by the state, such as official clothes, official vehicles and various office facilities from the state. The obligation of the village apparatus to carry out the tasks given by the state, such as taking care of administration, collecting taxes, taking care of official papers, collecting population data, village development, empowering village communities, financial management and the implementation of village government. On the other hand, as a community servant, the village apparatus is tasked with serving residents 24 hours a day, from

administrative services to social services (taking care of deaths, celebrations, sick people, married couples who want to divorce, conflicts between residents, and so on) (Turmudi, 2021). However, the similarity of the workload of village officials and ASN is not balanced with a clear staffing status. The unclear status of village officials' employment status threatens the sustainability of the village officials' careers. In addition, legal aid protection for village officials is minimal. For example, legal protection regarding unilateral dismissal.

Reporting from the Supreme Court Directory data, there are 995 decisions related to the dismissal of village officials. Some cases of dismissal occur because they are dismissed or forced to resign. This kind of case often occurs, especially during the change of village head in the new period. In addition, the weak supervision of the Regency/City Regional Government through the Social Service, Community Empowerment, and Village (Dinsos PMD) as the institution that oversees the village government is one of the main factors that allow arbitrary actions by village heads against village officials. The Social Service, PMD is responsible for ensuring that the entire process of appointing and dismissing village officials is carried out in accordance with the provisions stipulated in the Village Law and its derivative regulations.

The village head easily gets a recommendation from the sub-district head regarding the dismissal of the village apparatus only with the formality of completing the dismissal administrative file. In principle, before the sub-district head issues a letter of recommendation for the dismissal of the village apparatus, the sub-district head as a representative of the Regent can first facilitate the resolution of the problem that is the reason for the dismissal of the village apparatus. This step needs to be taken as confirmation so that the dismissal of village officials is not carried out arbitrarily. Not only that, the Social Service and PMD must be mediators in conflicts between village heads and village officials. In this case, the Social Service and PMD can facilitate deliberations between the parties to the dispute, so that the decisions taken can reflect justice and the interests of the village community as a whole.

If the mediation carried out does not obtain a settlement in accordance with the laws and regulations, then the village apparatus can make administrative efforts. Administrative efforts are dispute resolution processes carried out within the government administration environment as a result of the issuance of adverse decisions and/or actions. Administrative efforts consist of two stages, namely objections, submitted directly to those who make TUN decisions, and administrative appeals are submitted to the superior agency or other agency that issued the TUN.

After taking administrative efforts but there is no solution, then they will fight legally by suing the village head's decision on the dismissal of village officials to the State Administrative Court (PTUN) (Hevriansyah, Erliyana, & Tangkudung, 2021). The State Administrative Court, in accordance with the purpose of its formation, functions to resolve disputes between the government and citizens or legal entities, namely in the form of disputes arising from the actions of the government as State Administrative Officials that are considered to violate the rights and interests of

citizens or legal entities themselves. This is part of the formal requirements that must be met to file a lawsuit at the State Administrative Court before testing the substance of the dispute (Safitri & Sa'adah, 2021). The PTUN dispute resolution process has the duty and authority to examine, decide and resolve state administrative disputes at the first level (Triwulan, 2016). The PTUN will examine decisions that are contrary to the general principles of good governance or not in accordance with the basic principles of good administration.

Then, structural, comprehensive, and administrative steps based on the principles of justice and legal certainty are urgently needed to clarify and strengthen the status of village apparatus personnel. On the principle of legal certainty, there needs to be a more comprehensive and fair regulation that covers all village apparatus. The first step that must be taken is to develop clearer and firmer regulations. The revision of the Village Law is one of the main solutions to strengthen the legitimacy of the employment status of village officials. The revision of the Village Law must include provisions that regulate in detail the process of appointment and dismissal of village officials, including requirements, selection mechanisms, term of office, sanctions for arbitrary dismissal, as well as legal protection for village officials who are illegally terminated. The central government, through the Ministry of Home Affairs (Kemendagri), also needs to issue more specific implementing regulations as a derivative of the Village Law. This regulation must provide technical guidelines for the village government in exercising the authority and dismissal of village officials. With clear rules, the potential for conflict due to unilateral decisions of village heads can be minimized.

In addition, the implementation of the merit system in the management of village apparatus must be a priority. The merit system emphasizes that the appointment of village officials must be based on competence, professionalism, and objectivity, through an open selection mechanism involving independent third parties, such as district government agencies or other professional institutions. Thus, the elected village apparatus is the village apparatus that truly has the capacity and integrity to carry out its duties and responsibilities.

The next step is to strengthen the status of village apparatus. One option that can be considered is to provide the status of village apparatus as ASN with a special pattern. Although this requires additional regulations and adequate budget allocation, this step is believed to provide better legal protection for village officials. Status as an ASN will provide village officials with clear rights, such as protection from unilateral dismissal, a fair payroll system, and access to training and competency development. In addition, village officials can also enjoy social security and decent benefits, so that the motivation of village officials in serving the community will increase.

#### **D. CONCLUSION**

The conclusion of this study highlights the importance of the existence of village apparatus as an integral part of village government has a very strategic role in supporting the implementation of public policies and services. Based on the Village

Law, the village apparatus functions as the main support for the village head in administrative management, development, community empowerment, and village financial management. Despite having a significant workload, the village apparatus has not obtained a clear employment status since the abolition of the provisions in Government Regulation No. 45 of 2007. This ambiguity creates inequality, especially related to the position of village secretary who previously had the status of a civil servant, but is currently only regulated in a limited manner through the appointment and dismissal mechanism. As a result, village officials often experience dismissals that are not in accordance with the sense of justice and transparency. Therefore, more comprehensive and specific regulations are needed to ensure legal protection for village officials, including affirmation of the status of village officials as ASN or PPPK.

Comprehensive administrative measures are needed to strengthen the legal certainty of the village apparatus, including the revision of the Village Law and the implementation of the merit system in the appointment and dismissal process. The revision of the Village Law must include stricter rules related to the selection of competency-based village apparatus, evaluation performance mechanisms, and legal protection from unilateral termination actions. The implementation of the merit system can be done through an open selection involving independent institutions to ensure that the selected village officials have competence and integrity. In addition, supervision of the authority of village heads needs to be strengthened by involving the Social Service, Community Empowerment, and Village (Dinsos PMD) as a mediator in resolving conflicts between village heads and village officials. A further step is to grant village apparatus status as ASN or PPPK with a special pattern, which will provide legal protection, clearer rights, a fair payroll system, and access to training. With the strengthening of this status, village officials will be more motivated in carrying out their duties and responsibilities, so that the quality of public services and village governance can improve significantly. If there is a dismissal of the village apparatus that is not in accordance with the laws and regulations and the resolution of the problem that is the reason for the dismissal of the village apparatus has been mediated, then in the mediation carried out does not obtain a settlement in accordance with the laws and regulations, then the village apparatus can make administrative efforts in the form of objections and administrative appeals. After taking administrative efforts but there is no solution, then they will fight legally by suing the village head's decision on the dismissal of village officials to the State Administrative Court (PTUN).

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