

THE URGENCY OF THE HEAD OF VILLAGE'S EXTENSION FROM LEGAL PERSPECTIVE AND DEMOCRATIC THEORY

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Abstract

The Head of Village's office work of only six years is considered too short, so elected village heads often do not have enough time to complete development plans in their villages. It is hoped that extending the Village Head's term of office to 9 years will increase the effectiveness of development and community welfare. On the other hand, extending the term of office is considered inconsistent with the spirit of democracy and the principles of the rule of law. This research aims to find out the legal regulations related to the position of village head and the urgency of extending the work of village head from a legal perspective and democratic theory. The author utilizes qualitative research methods with a normative juridical approach to explain the questions asked. The development of policies governing the term of office of village heads in Indonesia reflects changes in the structure of the village government. The discourse on increasing the term of office of village heads to nine years raises profound questions about the balance between leadership stability and the essence of democracy in the context of village government in Indonesia. Extending the term of office of village heads is not in line with the spirit of democracy and can open up space for developing oligarchy at the village level. Limiting power and limiting terms of office are the main principles for preventing abuse and maintaining balance in government.

Keywords: Village; Extension of Position; Village Head.

INTRODUCTION

The village is the foremost part and, simultaneously, the lowest government unit in the Republic of Indonesia. In its time, there have been many successive arrangements governing the Village. During the colonial era, the treatment of villages tended to be adjusted to the interests of the colonialists, and changes in the system between centralized and autonomous appeared in the democratic period. Led, in the New Order era led to centralism, and then in the reform era with the various regulations of Law No. 22 of 1999 concerning Regional Government and Law No. 32 of 2004 concerning Regional Government, the

presence of villages was not supported as a center for community development, implementation of government autonomy and economic growth. (Isharyanto, 2016).

With the enactment of Law Number 6 of 2014, village management can be more empowered because it has received a legal umbrella compared to the previous law (Huda, 2016). Acting this Law in 2014 was an essential step for the Indonesian Government in improving village management and providing greater authority to villages in Indonesia. This marks a significant turning point in efforts to empower villages and achieve prosperity through providing greater autonomy.



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Previously, villages experienced limited autonomy and hampered local progress, especially during the New Order era, marked by Law Number 5 of 1979. This condition caused villages to lose autonomy and decreased socio-cultural values and welfare. However, with the advent of the reform era, Law Number 22 of 1999 concerning Villages re-recognized the diversity and uniqueness of villages as communities that take care of themselves. Furthermore, Law Number 32 of 2004 concerning Village Government provides autonomous authority for village governments, paving the way towards better local empowerment (Vivaldi Mahardika & Ummul Firdaus, 2022). Law Number 6 of 2014 creates a new spirit to realize independent local government and self-governing communities. Villages gain greater authority in managing local resources and development through this legal umbrella. This way, hopes for village prosperity will increasingly be realized through concrete steps towards *local self-government and self-governing communities*.

The Village Law has outlined changes in direction and roads towards new villages; the budget from the transfer of APBN and APBD funds originating from state money becomes the village's property. However, the issues in the Village Law do not only talk about money, but the problems in the Village Law cover many comprehensive things in which a series of changes to the village, starting from the mission, goals, values, capacity, funding, governance and community development are carried out as part of village change (Eko, 2015).

Law Number 6 of 2014 concerning Villages was promulgated on January 15, 2014, after being ratified on December 18, 2013, which is currently referred to as the Village Law. It is hoped that this new law will bring hope for village progress. This ratification seemed to end the struggle and long wait for all elements in the village. (Suharto, 2016) Almost eight years have passed since the implementation of the Village Law. Several people think that the performance of the Village Law is going well. Still, some believe there needs to be a revision to overcome various problems since its implementation. This revision aims to improve the arrangements and procedures for future village government and village development.

There are at least five crucial changes in the revision of the Village Law proposed by the DPR: *first*, it strengthens village authority; *second*, it reinforces village digitalization; *third*, it encourages elements of village government administration to receive legal protection; *fourth*, it integrates APBN, provincial and district funds, and *fifth*, village head election (Dua, 2023).

In the spirit of encouraging the revision of the Village Law, a proposal emerged regarding the extension of the village head's position, which was considered too short and therefore needed to be extended so that the elected village head could better complete the existing village development plan (Aha, 2023) if the term of office remained six years. This will increase political competition between Village Head candidates. However, extending the term of office to nine years will reduce political competition in the village between

Village Head candidates (Naufal, 2023); in other words, this is enough to consolidate resources and reduce conflicts due to differences in choices in the Village Head Election. (Ayu, 2023).

It is hoped that the extension of the position of village head to 9 years will provide several significant benefits for the village community. The Minister of Villages, Development of Disadvantaged Regions, and Transmigration said that by extending the term of office, the time spent on the development and welfare of citizens will be more effective and will not be disturbed by political dynamics caused by village elections. Citizens will no longer frequently face an unproductive atmosphere. (Ria, 2023). By extending the Village Head's term of office from 6 to 9 years, the elected Village Head will have more time to fulfill his campaign promises. Apart from that, by extending the term of office of village heads, regional governments will reduce their financial burden, considering that village elections also absorb quite a large amount of the APBD budget. (Dirgantara, 2023)

According to Article 39 of the Village Law, "The village head holds office for 6 years starting from the date of inauguration, and the village head can serve a maximum of 3 consecutive or non-consecutive terms." The explanation regarding "starting from the date of inauguration" is that a person appointed as Village Head and resigns before the stipulated term of office will be deemed to have served for 6 (six) years.

Village heads who hold office for one term through Law Number 32 of 2004 are allowed to run again for a maximum of 2 (two) terms of office. Furthermore, based on Law Number 32 of 2004, a Village

Head who has served one term of office is allowed to nominate again for a maximum of 2 (two) terms of office. However, if the Village Head has served 2 (two) terms of office, he is only allowed to run for re-election for 1 (one) additional time. The Village Law and its explanation open up significant opportunities for the Village Head in planning, running, and administering the Village during his term of office.

Suppose the extension of the position of Village Head is legalized. In that case, this will provide an opportunity and open up space for the village head to become a ruler and be able to act in matters of undesirable interests. So, the constitution functions to limit the authority of rulers so that they do not act arbitrarily. This is done so that the wishes of the people who are governed and those whom the government runs work together to maintain the integrity of the Republic of Indonesia. The constitution functions as a bridge to oversee the running of this implementation. Even though this is part of the proposed revision of the Village Law, this discourse is interesting to discuss how urgent it is to plan to extend the term of office of the village head. Therefore, the author is interested in the title **Urgency of Extension of the Position of Village Head from the Perspective of Law and Democratic Theory.**

RESEARCH METHODS

In carrying out this research, the author applied qualitative methods with a normative juridical approach to provide answers to the problem formulation. This method involves analyzing literature to explore concepts, views, and findings related to the research issue. This research

aims to describe legal procedures based on legal sources collected through literature studies, aiming to analyze, evaluate, and provide solutions regarding legal regulations related to village heads.

RESULTS AND DISCUSSION

1. Legal Regulations Regarding The Position Of Village Head

In the context of the Village Law, villages do not only include elements of village government, are not just village government entities, and do not only focus on the role of the village head alone. However, it must be emphasized that the village head plays a very central role in village management and life. The Village Head receives the mandate directly from the village residents in the Village Head Election process. In the spirit of Law No. 6/2014, this emphasizes that the village head should be considered an extension of the government and a community leader (Kurniawan, 2015).

The village head is a village government official with the authority, responsibility, duties, and functions to regulate village management affairs and lead the implementation of the village government. The Village Law provides

the basis for managing village government, along with regulations regarding the term of office of the Village Head. However, recently, there have been various movements in the community, including the Village Head Association, which is pushing for an extension of the Village Head's term of office to 9 years from the initial rule of 6 years (Warsudin & Hamid, 2023).

Regulations relating to the position of village head have undergone various changes through various laws. The changes are related to responses to current developments, constitutional needs, and the implementation of autonomy at the regional level. As part of the fundamental elements in the government structure of the Unitary State of the Republic of Indonesia (NKRI), village government arrangements throughout their journey since Indonesia's independence until the regulations in the current Village Law have undergone various changes, including filling the terms of office of village heads (mkri, 2023). Village head position arrangements, including duration and period, can be grouped; the information is as follows:

Table 1 Comparison
Village Head's Term of Office

No	Arrangement	Length of service	Period
1	Article 9 paragraph (2) Law No. 19 of 1965 about Desapraja	8 years	There is no periodization
2	Article 7 (Law No. 5 of 1979) regarding Village Government	8 years	2 period
3	Article 96 (Law No. 22 of 1999) on Regional Government	5 years	2 period

4	Article 204 (Law No. 32 of 2004) on Regional Government	6 years	2 period
5	Article 39, paragraph (2) Law No. 6 of 2014 about the Village	6 years	3 period
6	MK Decision Number 42/PUU- XIX/2021	6 years	3 period
7	Discussion of the Revision of the Village Law	9 years	2 period

Of the various policies that regulate villages about the position of village head, which often changes, for example, Law No. 19 of 1965 concerning Villages does not restrict or limit the periodization of the work of village head, meaning that the position of village head can last for life. Law No. 5 of 1979 concerning Village Government provides for terms of office and periodization for 8 years and can be advanced up to 2 times, in contrast to Law No. 22 of 1999 concerning Regional Government, which provides village heads with a 5-year term of office and can serve up to 2 periods. It could be said that this rule means that the village head's period and term of office interpret the principles of the constitution. In other words, this rule reflects the spirit of the norms contained in the body, especially Article 7 of the 1945 Constitution, which regulates term limits for the president and vice president as a guideline for all term limits. Executive positions, both at the central and regional levels, will harmonize justice in the Indonesian state structure (Argawati Utami, 2023). Apart from that, there are efforts to accommodate democratic principles through leadership rotation and public participation. Democratic principles are reflected in giving village heads the right to be re-elected, while the 5-year and 2-

term terms of office reflect leadership rotation. However, another change occurred when the term of office of the village head became 6 years, with the opportunity to serve up to 2 periods. This is contained in Law Number 32 of 2004 concerning Regional Government.

Meanwhile, the latest Law on Villages currently in effect regulates the term of office of the village head for 6 years, with the possibility of serving up to 3 periods (Tune Antu et al., 2023). The latest regulation is in Constitutional Court Decision Number 42/PUU-XIX/2021, which states that the term of office of a village head is 6 years with 3 times. This means village heads who have served for one time, by Law Number 6 of 2014 concerning Villages or previous regulations, still have the opportunity to serve for two additional terms. Likewise, village heads who have served for two terms, either based on the Law of the Republic of Indonesia Number 6 of 2014 concerning Villages or previous laws, are still allowed to serve one additional period. Furthermore, within the framework of the revision of Law of the Republic of Indonesia Number 6 of 2014 concerning Villages, the term of office of village heads is planned to be increased from 6 years to 9 years, with the possibility of serving two times.

2. The Urgency Of Extending The Village Head's Term Of Office Is Seen From The Perspective Of Law And Democratic Theory

Until now, discussions about villages are still interesting to study and analyze further by village dynamics and society. Of course, arguments about villages cannot be separated from discussions about the position of villages in government (Rauf & Maulidiah, 2015). Recently, it has become a hot topic of discussion regarding the extension of the village head's term of office from six years to nine years at the pressure of various parties, even though only yesterday the Constitutional Court gave a decision regarding the decision regarding the term of office and period of the village head.

While discussing the revision of the Village Law, the DPR agreed to extend the term of service for village heads, which was initially only six years, to nine years. The DPR RI Legislative Body approved extending the term of office of village heads to nine years and who can be elected twice, on the grounds of maintaining village stability by emphasizing considerations to avoid friction due to village head elections, which often disrupt village stability and can hamper economic growth in the village. The main goal is to prevent conflict between communities, which can harm village stability and economic development (Nur Hayati Dwi, 2023). This spirit and movement should be rejected and is not relevant and urgent in strengthening the village government; this is based on the fact that it will open up space to foster oligarchy in the village. The stability of the democratic climate

and village government has the potential to be disrupted by extending the term of office of the village head, which also has the impact of an oligarchy at the village level. This potentially goes against the spirit of constitutional reforms and amendments aimed at limiting power in the executive branch. (Hidayat, 2023) Huntington stated that a democratic country is a country that regularly and periodically holds general elections to elect leaders. (Marweny et al., 2023)

If the extension of the village head's term of office from 6 years to 9 years is implemented, this will cause the democratic process to take place over a more extended period; if a leader with integrity elects the leadership, village management will run well, but if the opposite is true, then the village will not develop and increases the possibility of corruption. If we compare the terms of office of village heads and presidents in Indonesia, we can see that the duration of their terms of office is very different. This is considered an anomaly because it extends the village head's term of office to a very long time, and there are disproportionate changes to the previous regulations, which limited office to 2 (two) terms. The village head's office duration should be consistent with the term of office of the President and Regional Head, namely two periods because their philosophies and principles are similar to those of other executive officials. Therefore, if the village head serves too long, this is not in line with and contrary to constitutional principles and is not by the political and legal basis contained in the 1945 Constitution .suf, 2023)

This choice also contradicts the principles of the Indonesian rule of law, which emphasizes limitations on power. Suppose we refer to the Indonesian government system, which is mandated by the provisions of the Constitution of the Republic of Indonesia in the 1945 Constitution. In that case, there is a declaration that "Indonesia is a country based on law." This statement indicates that the Indonesian State is based on law, not solely based on power (*machtstaat*). (Soemantri, 2014)

In the rule of law, the law functions as a "leader," and every government institution or state administrator must obey and comply with applicable laws; there is no power beyond the law's control. Therefore, there is no room for abuse of power or arbitrary actions. (Fatihatul, 2018). There is a logical necessity to limit the ability of the government and its administrators; as a country that adheres to constitutional democracy, the 1945 Constitution functions as a constitution that represents the sovereignty of the people and limits the power of the state, where the people have freedom. The Constitution regulates its implementation. (Rahadiyanti, 2022)

According to Stahl, the concept of a state of law called "*rechtstaat*" involves four key points, which include:

1. Protection of human rights.
2. Division of power
3. Legal provisions carry out government policies
4. There is an Administrative Court f

From the four main elements of the rule of law, it can be concluded that the essence of the state of law is to protect the human rights of its population by

monitoring and limiting the exercise of state power. (Widayati, 2016)

Apart from that, anyone who has had power for too long tends to act dominantly, controlling and influencing to strengthen and protect their position of power. Therefore, the role of law is vital in limiting state power (Fatihatul, 2018). In this context, the rule of law limits governments' authority so they cannot abuse their power to oppress citizens. To produce order, the law must regulate human life. Limitations of power are based on fundamental values to protect human dignity and prevent state administrators from dominating their power. Thus, the practical end of power leads to the welfare of society. (Alfauzi & Effendi, 2020). This reflects or is in line with democratic principles, limitations on power, and the importance of law to maintain balance, avoid abuse, and protect people's rights from potential abuse of power.

Jimly Ashidique stated that the principles of popular sovereignty are a concept of democracy, while the principles of the rule of law are the concept of the rule of law. This theory of the rule of law is known as "democratic rule of law" (*demokratische rechtsstaat*) or "democratic rule of law" in constitutional form. This term is used because it combines the principles of democracy and the rule of law, including power limitations. The power of the state and its organs is limited through the regulation of vertical or horizontal division of power. This power limitation aims to establish a check and balance mechanism between the branches of management to ensure that power is not abused. (Constitutional Court, 2016)

Conversely, limiting the term of office of village heads directly has positive implications for accelerating leadership changes. By implementing term limits, more significant and equal opportunities will be created for each individual to hold the position of village head. (Al Kautsar & Kurniawan, 2019) . The aim of regulating the position of village head is to prevent the person who occupies the position from becoming authoritarian and to provide opportunities for the new generation to occupy the position democratically. (Gusman & Syofyan, 2023)

By regularly changing leadership, the implementation of village government can run more optimally so that it can avoid the birth of a single ruler who dominates the administration of village government; besides that, it can encourage the delivery of regeneration for local leadership and reach out to anyone who can be competent in developing villages which in the end can realize leadership. Local needs of the community. (Multazam Luthfy, 2019)

In the historical development of village policy, there have been five changes to village regulations, starting with Law No. 19 of 1965 concerning Villages as the initial law regulating village government, then Law No. 5 of 1979 concerning Village Government, which focuses on increasing village autonomy. Furthermore, Law Number 22 of 1999 concerning Regional Government, as a response to reform, established a framework for regional government, including villages. Law No. 32 of 2004 concerning Regional Government continues to strengthen regional autonomy, emphasizing

sustainable development and giving towns the status of government units with their authority. Finally, Law No. 6 of 2014 concerning Villages provides legal recognition to villages as legal entities, emphasizing community empowerment, participation, and sustainable management of natural resources. This means that we can say that policy changes related to villages reflect changes in the village governance structure and are a response to social, political, economic, and cultural dynamics in society.

If it is ultimately agreed to extend the village head's term of office from 6 years to 9 years, this could have several impacts and implications, both positive and negative. Benefits of stability: Extended periods of office can provide leadership stability, allowing leaders to pursue long-term policies and development plans, but can be detrimental to democratic processes and inhibit the emergence of new leaders with perspective ideas and innovation. Strengthening proven leadership: if a leader has proven expertise and performance, an extension of tenure can be seen as recognition of their contribution; however, the risk of over-reliance on one individual could hinder leadership regeneration and limit opportunities for young or talented leaders to emerge. Continuity of development and long-term projects, development plans that require a long time, and extension of the term of office can ensure continuity and continuity of implementation. Still, dependence on one leader can hinder necessary changes and make the government too focused on one vision or strategy. Democracy leadership regeneration and extended terms of office

can provide stability and opportunities for leaders to gain legitimacy through more extended elections. Still, a healthy democracy requires leadership rotation and opportunities for the community to elect new representatives. If the extension of the term of office is based on community consultation and support, community involvement can be seen as an expression of the community's wishes. Still, on the other hand, minimal community involvement or lack of consultation can cause dissatisfaction and harm the leader's legitimacy. Security and continuity in situations of emergency or uncertainty, extending the term of office can be considered a measure that ensures the safety and continuity of government. However, the risk of abuse of power or lack of accountability can increase corrupt behavior. Increased cost efficiency: extending the term of office can reduce political campaign costs, but re-election or succession campaigns can increase political and social costs, especially if there is intense competition, in addition to increasing the efficiency of the APBD in the village head election process.

This enthusiasm for limiting terms of office is manifested to prevent continued control, authoritarian behavior, and abuse of power. This is because every individual who holds power has the potential to fall into acts of corruption (Jaidun, 2022). Lord Acton stated, "*Power tends to corrupt, but absolute power corrupts absolutely.*" From 2015 to 2021, *Indonesia Corruption Watch* (ICW) presents data showing an increasing trend of corruption at the village level, which is at the top of the ranking in corruption cases. In the last seven years, there have been around 592 corrupt practices at the

village level, resulting in the state experiencing losses of IDR 433.8 billion. This means that this provides a picture that the length of the village head's position will provide opportunities and opportunity to abuse power to commit criminal acts of corruption and lead the village head to commit corrupt practices. (Noble Arhdan, 2023).

The importance of efforts to limit the term of office of village heads, the spirit that underlies the policy of limiting terms of office to prevent continued control, authoritarian behavior, and abuse of power. This reflects concerns about the risk of abuse of power that could occur if someone holds office for too long. Not to mention the potential for abuse of power and acts of corruption. Lord Acton's statement emphasized that management has the potential to corrupt, and absolute power can lead to corruption. Data from *Indonesia Corruption Watch* (ICW) provides empirical confirmation regarding the trend of increasing corruption at the village level, that term limits at the village level can be linked to efforts to prevent corruption and abuse of power. Apart from that, the economic impact and state losses through corrupt practices at the village level show significant state losses. This indicates that abuse of power at the village level impacts the local government structure and creates substantial economic losses for the state. Specifically, the corruption problem at the village level provides a basis for the importance of supervision, accountability, and term limits at the village level to prevent abuse of power and, of course, to maintain the integrity of local government in Indonesia.

CONCLUSION

1. The development of policies governing the term of office of village heads in Indonesia reflects changes in the structure of village governance in line with changes in the constitution and demands for democracy. In different periods, various laws have regulated how long a village head can serve and how many terms he can serve. Despite differences in these regulations, efforts have been made to balance leadership stability and democratic participation in line with constitutional principles. However, the discourse about increasing the term of office of village heads to nine years raises profound questions about the balance between leadership stability and the essence of democracy in the context of village government in Indonesia.
2. The discussion about extending the term of office of village heads from six to nine years raises complex debates and reflects the dynamics of village government and democratic values. The decision to extend the term of office drew criticism because it was deemed inconsistent with the spirit of democracy and could open up space for developing oligarchy at the village level. A village head's excessively long term of office, especially compared to other executive officials, creates inconsistencies with constitutional principles and political legal foundations. In the context of the rule of law, limiting the power and the term of office are the central tenets of preventing abuse and maintaining

balance in government, providing opportunities for new generations, preventing leadership domination and supporting regeneration, and strengthening the capacity to develop villages democratically.

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