

# **Pros and Cons: Legal Status of Dispute in Election of Village Head in the Perspective of Indonesian Constitutional Law (A Case Study in Klaten District)**

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## **ABSTRACT**

This research dissects the pros and cons of electing a village head from the perspective of Indonesian constitutional law with a case study in the Klaten area. This research is a socio-legal study of legal analysis using primary data sources and secondary data sources. The results showed that the selection of villages in the Klaten area as a reflection of communities in Indonesia, there was a problem with the election of village heads. The problem with the election of village heads in the Klaten area requires a legal basis for dealing with the dispute. Still, the constitutional law in Indonesia has not yet explicitly regulated this. In this study, the author will explain the pros and cons of the legal status of the dispute resolution of village head elections in the perspective of constitutional law in Indonesia. Therefore, a study of the pros and cons of the legal status of village head election disputes in the Klaten Region is expected to be used as a role model for implementing the resolution to the legal disputes of village head election in Indonesia's perspective of constitutional law.

**Keywords:** *Pros and Cons, Legal Status, Election of Village Head, Administrative Law, Klaten.*

## **1. INTRODUCTION**

Democracy in the context of village head elections can be understood as recognizing the diversity and participatory political attitudes of the community in the frame of democratization at the village level. The collapse of the New Order regime in Indonesia and the presence of political liberalization brought changes to social and political conditions starting at the local level. Political liberalization opens space for each individual to participate in the political stage of government, both local and national. It is like an oasis in the middle of the sand for those marginalized because of social status [1].

The election of village heads is one of the political activities interesting to the village community. The election of village heads in Indonesia today is still full of irony. On the one hand, the people are very apathetic and do not care about it, so that the level of community participation in the village head election will decrease. A handful of people use this community's apathy to gain position and wealth by utilizing political power. They are the village elites who want to preserve wealth and power to continue to fall into the family line or someone who has blood relations. So, the facts show the existence of a prospective village head is still dominated by a handful of people in power in the village [2].

Some disputes that are often found in village head election conflicts include manipulation of recapitulation of vote counts, political relatives, and cases of imitation village head candidates, which are only used to fulfill administrative requirements. Other disputes highlight the problem of voter behavior. Both unregistered and claimed as potential voters, and accusations of money politics also become an issue that many successful teams have lost in competing [3].

Village Head Election is essentially an effort to accommodate the political aspirations of the community as well as a means of changing or continuing the village government. The village heads' election is expected to meet the desires and expectations of specific village communities to appoint a suitable candidate as the village head. The election of village heads is an instrument for the formation of a modern and democratic government. The democratic party held at the smallest level of the region is governed by government legislation regarding the procedures for holding village head elections [4].

The whole series of village head elections beginning with the village head election committee formation until the inauguration of the elected village head is expected to follow the stipulated provisions. Thus the village head election process will run well without affecting the integrity of the community. Community expectations can

be fulfilled for the election of a new village head and declared eligible to lead and to carry out village governance. Every village community expects this for the creation of conducive situation [5].

However, in practice, there are often various types of village head elections, which are fundamentally governed by legislation that is not under the facts on the ground, so that it is often difficult to find the smooth and quality implementation of village head elections. It is based on various political interest factors, the interest in fighting for power rather than nature desired when holding village head elections [6].

The organization of village head elections in Klaten Regency is inseparable from various socio-cultural aspects developed into cultures in the area. Where, the people of Klaten Regency are heterogeneous communities because there are a variety of tribes and followers of the religion, namely Islam, Catholic Christianity, and Protestant. However, despite the socio-cultural diversity, various social problems are often found. Unrest occurring in the simultaneous election of village heads causes serious conflicts.

The implementation of a democratic party in Klaten Regency still has a variety of problems and problems as an initial symptom of conflict colored with chaos and violence, which can damage the community's integrity and existence. The existence of definite indications of village head election conflicts in Klaten Regency is motivated by local officials' play, the authority abuse of the government apparatus used to strengthen support/networks at the village level.

The process of simultaneous village head elections in Klaten has been completed since 2019. Even some of the elected village heads have been appointed now. The democratic process in the village has a unique attraction for the village community in Klaten Regency. The reason is that the process has still left embers of conflict. Many problems remain and are feared to erupt into disputes between communities.

Based on the background description that has been described above, therefore, the author is interested in studying the problems of the pros and cons of electing a village head in the perspective of constitutional law studies in Indonesia with Klaten Regency as a pilot area to be studied. So, in the future, it is expected that the assessment of village head elections in Klaten can be used as a prototype to reform the organization of village head elections that are ideal and under the needs of the community in every region in Indonesia.

## **2. LITERATURE REVIEW**

Indonesia is a country adhering to a democratic system. It is clearly stated in the 1945 Constitution of the Republic of Indonesia Article 1 paragraph (2) that "sovereignty is in

the hands of the people and implemented according to the Basic Law," where democracy is a system a government that regulates the order of a country whose highest authority is in the hands of the people. The democratic state has a principle that makes it characteristic, that is, the government is formed from the people, by the people and for the people [7].

A form of democratic state implementation is a general election or more commonly known as elections. Elections are a means for people to participate in determining the direction of governance. In essence, the election of village heads is also a form of regional autonomy at the village level. The election of village heads is a place to accommodate the political aspirations of the community as well as a means of changing or continuing the village administration and is expected to be able to meet the desires and expectations of specific village communities, to appoint a suitable candidate as village head [8].

The village head election's implementation as an extension of Law Number 6 of 2014 concerning Villages has given the broadest possible opportunity for villagers to contest in the simultaneous village head election. It provides an opportunity for the emergence of ruling village oligarchs through the democratization of village head elections. The election of village heads is an instrument in the formation of a modern and democratic government. The democratic party is held at the smallest level, and it is regulated by government legislation on how to hold village head elections so that the entire set of stages from the formation of the committee to the inauguration of the elected village head are expected to be under statutory provisions in force in Indonesia [9].

However, in the process of implementing village head elections often there are disputes caused by several factors such as the interests of the political elite, the attention to want to fight for power rather than the nature that is desired from the implementation of village head elections namely village government that is legitimate. Besides, the organization of village head elections is also touched and inseparable from the influence of rural community culture, so that culture often plays a role in it [10].

Kroef (1960) argue that the administration of village governance and the election of village heads are not democratic practices that are more likely to be oligarchic. It is because the village head is not elected but is determined based on heredity, or if chosen only from a limited circle, especially the economic elite who have assets in the form of vast land. Village meeting as a means of delivering bottom- up feedback aspirations should be attended by limited groups only [11].

Disputes often occur in village head elections are preceded by dissatisfaction, a variety of suspicions or victories of elected candidates for fraud and vote manipulation, and some reactions by interested parties tend

to be excessive.

Several things are often combined due to community dissatisfaction, such as sealing the village office. The process of resolving village head election disputes is usually carried out through the General Court. In this case, the general court can only review whether or not there are elements of criminal or civil cases in the village head election process [12].

From some of the existing literature, although there have been many scientific papers discussing the problem of the election of village heads, the majority of writings focus on the discussion of several conflict disputes in the election of village heads. The debate on head village election conflicts generally lies on the assessment of village head election conflicts based on the characteristics of each region that is the object of research.

Here are some studies related to the author's theme. First, the research conducted by Marno Wance and Abdul Halil Hi Ibrahim entitled "Factors Causing the Conflict of the Election of Simultaneous Village Heads in South Halmahera Regency." This article is contained in the *Journal of Governance and Local Politics* Volume 1 Number 2 November 2019, published by Panca Sakti University Makassar. In this paper, Marno and Ibrahim explained that generally, the election of village heads in South Halmahera Regency in 2016 was constrained by a variety of conflicts (intervention of village head elections, elite political games of the government apparatus, and less transparent elections) [13].

Second, a study conducted by Marno Wance and Raoda M. Djae entitled "Domination of Authority in the Election of Simultaneous Village Heads in Halmahera Selatan Regency, North Maluku Province." This article is contained in *ARISTO Journal of Social Politics, Humanities* Volume 7 Number 2 March 2019, published by Muhammadiyah University, Ponorogo. In this paper, Marno and Raoda explained that, in general, the election of village heads in South Halmahera Regency in 2016 triggered conflicts between communities consisting of various bases of political support for each village head candidate in the village head election contestation. Village head election contestation is supposed to be carried out according to statutory provisions, but there are many deviations in its implementation, such as political elites' involvement and abuse of authority of the relevant government apparatus [14].

Meanwhile, the novelty proposed by the writer lies on the study of the pros and cons of the implementation of village head elections in Klaten Regency as the area that was made the object of research. Various pro and contra problems of village head elections will be examined based on the legal perspective of the state administration projected as a role model for the completion of the village head election in Indonesia.

### 3. METHODS

This research is a socio-legal study legal study using primary data sources and secondary data sources. The socio-legal reviews legal research method is an interdisciplinary approach through the study of literature or the collection of licensed material (law-making) with the application of the law, which is concretely found (implementation of statute) [15]. The instrument used by the author was various scientific publications that are relevant to the research being studied. The data analysis technique used was prescriptive one. The method used in this research is expected to reveal the phenomenon of factual events that occur in the field and even be able to present and explain the hidden values of this research. The object of study examined was the pros and cons of implementing village head elections in Klaten Regency based on the perspective of Indonesian constitutional law.

### 4. RESULTS AND DISCUSSIONS

The government system in Indonesia, related to the village government is the lowest government unit directly related to people's lives. The village head is a person who has been democratically elected through direct election by local people who have voting rights based on existing regulations. The village head has excellent authority in administering village governance. In its implementation, a village head is assisted by several village officials such as the head of affairs, the head of the village, and the village consultative body to establish relationships with one another [16].

Political power is a relationship that is established by someone with someone else or someone with an institution. In every political power have a relationship that is well established and dominates each other in the struggle for public authority under the interests of groups/ethnicity/ethnicity as an entity represented by the village head. For example, in a village administration, a village head also has a specific term of office. It will cease to occupy a position usually referred to as a former village head [17].

The implementation of the village administration in Klaten Regency, the last official period, occurred before 2019. It was evidenced with the implementation the village head election in 2019, followed by 220 candidates competing for 77 village head positions in Klaten Regency [18]. During the transition of village head turnover, there was the domination of power in replacing the village government apparatus to maintain political power at the lowest level. The village government is also a stronghold in the arena of regional contestation. The legislative power of the village government can determine the victory of the contestation going forward.

The simultaneous village head election in 2019 conducted in Klaten District was identical with the formula

proposed by Lasswell in the form of who gets, what, when, how [19]. The nuanced pragmatic definition is inherent to the awareness, both at the elite level and among the masses. As a result, the political processes occurring always lead to the material compensation transactions, that is, material (money). Even it becomes more explicit when looking at the usual practice of buying and selling votes during the inevitable election of village heads. Also, notwithstanding, the election of village heads is a minimum entrance to measure how much the quality of democracy can be implemented.

It measures the quality of democracy as an effort to shift the spirit of political power that is repressive and dominative in perpetuating higher power. Political domination should be purified into efforts to create power authority at the lower level, namely villages. How? Of course, it is not enough to shout out an attempt to dominate power, by building political power relations right from the start, so that simultaneous elections are momentum to build networks, structural connections at the village government level. Politics is no longer sufficient when it is only distorted into a struggle for material power because it will only reproduce a series of problems that have a domino effect.

It means that every political process that goes from upstream (village head election) to downstream (implementation and evaluation of village apparatus policies) in Klaten Regency is expected to be based on rational considerations that can benefit the community. Reasonable factors, according to J. Turner, generally refer to utilitarian philosophy (adherents of the principle of the law's usefulness to the people governed by it) as maximizing profits and minimizing risks for the broadest community [20].

Meanwhile, if it is related to the historical perspective of Indonesian state administration, the dispute over the election of village heads is a concrete manifestation of the non-optimal rights of the people in Klaten Regency to vote or be elected in the contestation of village head elections under the needs of the community. The tendency to implement village head elections in Klaten Regency in 2019 has been a struggle for competing for power in a dilemma position. Power domination must choose between obtaining many people as relations and strengthening the institutions of power networks.

The implementation of village head elections in Klaten is principally intended to find an ideal and capable village head candidates in dealing with the problems of each village that has its characteristics. The elected village head is expected to be able to handle community problems led by the village head, and each region has its features that require special treatment as well. The political contestation in the constitutional law in Indonesia, which has a broad scope, is illustrated in the implementation of village head elections in Klaten Regency. The application of the village head election in Klaten Regency is projected to be able to produce an ideal candidate for the village

head should be carried out as it should, provided that there are no factors that cause conflict in the continuation of the election of the village head.

The conflict over the village head election that occurred in Klaten Regency in 2019 triggered various battles from the community because there were indications that the distribution of village head elections was unfair and not legal. Resistance was then carried out by the people in Klaten District, through demonstrations in the district head's office, occupying government offices in 77, until even a fight broke out between the demonstrators and the authorities who secured the event. Most of the Klaten Regency people's actions were done to break the domination of government power over the process of electing village heads, which was not under the provisions of the legislation, to realize justice, certainty, and real legal benefits.

Based on the field data obtained from research sourced from primary data, several factors were found to cause simultaneous village head election conflicts in Klaten in 2019:

1. It was found that there was a lack of transparency during village head elections. It is proven by the number of double voters detected during the vote-counting process.
2. It was found that there were a handful of village head candidates who came from outside the electoral area but had strong support from the political elite of the government. Hence, they had the confidence to participate in the contestation of the village head election in Klaten Regency.
3. There are indications that the game of political elites influencing candidates for village heads is a more dominant factor than the quality of candidates proposed in the village head election in Klaten District.

The village head election in Klaten Regency is a concrete manifestation of a democratic party based on the perspective of constitutional law. The pros and cons of implementing village head elections in Klaten Regency can be analogized as a double-edged sword. The good and bad sides of the implementation will take place in the implementation of village head elections in Klaten Regency. Therefore, the positive side of the application of village head elections can be improved through the optimization of each stage to minimize the negative side of the various conflict triggering factors, so that the essence of the implementation of an ideal village head election according to community needs can be carried out correctly and produce the elected village leaders. They prioritize the interests of the society he leads.

## **5. CONCLUSION**

The election of village heads in Klaten Regency has a high degree of complexity. It can be proven by the variety of

pros and cons of the political contestation process. The purpose of village head elections in Klaten Regency to create ideal dreams and have a tendency to prioritize the interests of the community is often constrained by a variety of factors triggering conflict, which are primarily motivated to succeed one of the village head candidates. A balance is needed between optimizing the positive side and minimizing the negative side of the implementation of village head elections in Klaten Regency, so that it can be used as a role model for the application of village head elections in Indonesia based on the perspective of constitutional law.

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