

**LEGAL CERTAINTY SETTLEMENT OF THE VILLAGE HEAD ELECTION
DISPUTES BASED ON LEGISLATION
NUMBER 6 OF 2014 CONCERNING VILLAGES**

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ABSTRACT

The election of the Village Head is a reflection of the form of direct democracy in Indonesia, but there are many problems that arise when pre-election, during the election and post-election, but in the settlement of village head election disputes there is an uncertainty in the resolution, it can be seen from Legislation Number 6 of 2014 concerning Villages as well as seen from the Regent's Regulation Number 66 of 2020, regarding the deadline for completion, also in all regulations it is not clearly regulated on procedures for resolving village head election disputes, so the existing regulations are very ambiguous and seem forced and considered correct with procedures that do not reflect a sense of justice for justice seekers, dispute resolution which leads to the Regent as the Regional Head contrary to the main duties and functions of the Regent as a regional head who are not a judicial institution, even though the Village is very important in its existence in the Indonesian state administration. This type of research uses empirical juridical Legislation research methods by means of data collection methods by library research and field studies through interviews, the results of this study indicate that the mechanism or procedure for resolving disputes in accordance with existing rules does not reflect justice, the existence of a committee that should be the mediator in a dispute, as if to be an opponent for justice seekers.

Keywords: Absolute Competence, Ambiguous, Pilkades

ABSTRAK

Pemilihan Kepala Desa adalah suatu cerminan wujud sebuah demokrasi langsung di Indonesia, akan tetapi banyak sekali sebuah permasalahan yang muncul saat pra pemilihan, saat pemilihan dan pasca pemilihan, namun dalam penyelesaian sengketa pemilihan kepala desa ada sebuah ketidakpastian dalam penyelesaiannya, dapat dilihat dari Undang-Undang Nomor 6 Tahun 2014 Tentang Desa maupun dilihat dari Peraturan Bupati Nomor 66 tahun 2020, mengenai batas waktu penyelesaiannya, juga di semua regulasi tidak diatur secara jelas tentang tata cara penyelesaian sengketa pemilihan kepala desa, sehingga regulasi yang ada sangat ambigu dan terkesan dipaksakan dan dianggap benar dengan tata cara yang tidak mencerminkan rasa keadilan bagi para pencari keadilan, penyelesaian sengketa yang bermuara ke Bupati sebagai Kepala Daerah bertentangan dengan tugas pokok dan fungsi Bupati sebagai kepala daerah yang bukan sebagai lembaga peradilan, padahal Desa sangatlah penting eksistensinya dalam ketatanegaraan Indonesia. Jenis penelitian ini menggunakan metode penelitian hukum yuridis empiris dengan cara metode pengumpulan data secara studi kepustakaan dan studi lapangan melalui wawancara, hasil penelitian ini menunjukkan bahwa mekanisme atau tata cara penyelesaian sengketa sesuai dengan aturan yang ada dirasakan tidak mencerminkan keadilan, eksistensi panitia yang seharusnya menjadi penengah dalam sengketa, seakan-akan menjadi lawan bagi para pencari keadilan.

Kata Kunci : Kompetensi Absolut, Ambigu, Pilkades

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A. Introduction

The village is the smallest government in Indonesia, the village is the spearhead of the running of a government, almost all government programs for a policy are run by the village government, both economic, social and especially government administration, community data obtained by the central government is obtained from the village government, in running the village administration, the government regulates the rules regarding the village through a Legislation of the Republic of Indonesia Number 6 of 2014, in Article 1 (1) it is stated that:

Village is a village and traditional village or what is called by another name, hereinafter referred to as Village, is a legal community unit that has territorial boundaries that are authorized to regulate and manage government affairs, the interests of the local community based on community initiatives, origin rights, and/or traditional rights. recognized and respected in the system of government of the Unitary State of the Republic of Indonesia.

The role of village government is so important for administration and state administration that the role of village government cannot be underestimated in Indonesian constitutional Legislation, village government is led by the so-called village Head, village Head is a position that elected by the community, not a political position or an organic government position In the regions, the village Head is not paid by the government, either by the central government or local government, but the role of the village Head is vital.

The village head is directly elected by the local village community, who is directly elected and counted directly and the results of the election can be known on the same day, the village head election is a reflection of the democracy embraced by the Unitary State of the Republic of Indonesia as a democratic country. One of the characteristics of a democratic country is to carry out general elections (elections) to form a government or fill state or government positions.³⁷

Democracy is the main platform of practically all political parties even though they have different ideological foundations. Therefore, democracy is also one of the very important ideological foundations of the state. So, it is easy to understand why both constitutionally and institutionally, such as elected state officials, general elections, freedom of association, representative bodies, and so on, democracy is a real thing in political life in Indonesia.³⁸

³⁷ Widodo Ekadjahjana, *Bunga Rampai Masalah Hukum Pemilu di Indonesia*, Universitas Jember, Jember, 2009, hal 1.

³⁸ Taufik Abdullah, *Nasionalisme dan Sejarah*, Satya Historika, Bandung, 2001, hal 912.

The election of village heads is an original form of democracy in Indonesia, compared to elections in filling state positions, both legislative and executive, actually learning about democracy in Indonesian people's lives has existed since starting from the lowest order of life, democracy comes from the local to the national level. This can be seen from the implementation in the village as a starting point for the implementation of local democracy through the village head election process. Local democracy is part of the political subsystem of a country whose degree is in the corridor of regional government. In Indonesia, local democracy is a subsystem of democracy that provides opportunities for local governments to develop the relationship between local government and the people in their environment.

Since the Village Legislation was issued, the position of the village head has been assessed as a strategic position and a special position by comparing the position of the village head with a six-year term and can be elected three times in a row with a presidential term of office which is limited to five years and can only be elected twice. In addition to the village head's term of office being longer than that of the president or regional head, the current Village Legislation also mandates village funds to be sourced from the APBN and the allocation of village funds from district balancing funds which will be channeled directly to villages for accelerated development, democratic party elections for heads of state. Village elections (pilkades) in 2019 have been held in a number of regencies in West Java, one of which is in Bogor Regency.³⁹

Pilkades as the frontline of the democratic and political process in this country has now become a competitive arena for the strategies of the "village elites," it cannot be denied that one of the main causes of the high interest of village elites to fight is because of the abundance of funds that will be managed if later elected as Head of the Village. village. Moreover, the direct and simultaneous pilkades funding also comes from the Regional Revenue and Expenditure Budget and assistance funds from the Village Revenue and Expenditure Budget for the needs of the implementation of voting conducted by the village election committee.

As a result, the competition for village head candidates in the election is guaranteed to be fierce, tight, and full of intrigue and prone to conflicts between supporters and relatives. Various frauds, black campaigns, and money politics cannot be avoided because with these pragmatic methods the village head candidates will gain support even though not all voters will choose the village head candidate with the lure of the money.

³⁹ Rudini, H, *Atas Nama Demokrasi Indonesia*, Bina Cipta, Bandung, 2000, hal. 6-7

The phenomenon of money politics does not only occur in general elections at the central and regional levels but also occurs at the village head election. Looking at the historical aspect of village head elections in Indonesia, it has actually been around since the colonial period. Even since the VOC (Vereenigde Oostindische Compagnie) period in Java at that time, direct village head elections were held by the people, even though what voters meant at that time were only a limited group of people, such as the village elite or descendants of the previous village head.⁴⁰

Meanwhile, during the Japanese colonial period, the election of village heads was carried out directly by the community, represented by only one family head from a family.⁴¹ Apart from money politics, the potential for conflict as a result of the Pilkades is high, the Pilkades issue and its social impacts should not be underestimated. The thing is, the democratic need at the village level is very primordial and is also related to the emotions of its citizens, residents are very likely to know the candidate, track record, and even be related to him.

In Pilkades conditions, emotions play more when people make choices or support certain candidates, as a result, dissatisfaction with the results can trigger a more violent conflict than the pilleg, presidential or post-conflict local elections, because of kinship and emotional closeness with the candidate. The shift in the perspective of the younger generation or millennials in the village due to the flow of information and technology so that the Guyub/Deliberation tradition is no longer a solution, including the cultural approach is no longer important, then the Village Head Election Committee formed by the BPD is not neutral and transparent, there is no The burden of responsibility for the Pilkades supervisory committee so that it cannot function, including village implementing officials appointed by the Regent are not liked by the community, all adding to the long series of ripples of potential disputes and disputes that will color the simultaneous Pilkades.

While the Pilkades regulations in Legislation Number 6 of 2014 concerning Villages contain regulations regarding the election of village heads as contained in articles 26 to 47 which in essence only explain the authority, rights and obligations, election procedures, dismissal of the village head. Likewise, in Government Regulation Number 43 of 2014 concerning Implementing Regulations of Legislation Number 6 of 2014 concerning Villages, there are regulations regarding village heads starting from Articles 40 to 60 which essentially

⁴⁰ Mashuri Maschab, *Politik pemerintahan desa di Indonesia*, Research Center for Politics and Government (Pol Gov) Universitas Gajahmada, Yogyakarta, 2013, hal 28

⁴¹ *Ibid.* hal.75

regulates the authority, rights and obligations, election procedures, and the dismissal of village heads including Permendagri number 65 of 2017 amendments to Permendagri Number 112 of 2014 concerning village elections and their derivative regulations through local regulations and Regents Regulations regarding village elections, all of which are only technical in nature, only regulations for implementing village elections, not detailed in regulating if there is a dispute or dispute over the village head election.

Indeed, there is an article in Legislation Number 6 of 2014 which regulates which institution or institution is authorized to resolve disputes over the results of the Village Head election, namely Article 37 paragraph (6) which reads: "In the event of a dispute over the results of the Village Head election, the Regent/Mayor shall settle the dispute within the period as referred to in paragraph." The period referred to in the article is a maximum of 30 (thirty) days from the date of receipt of the submission of election results from the Village Head election committee. However, these provisions are not regulated in detail how the mechanism is. The unclear arrangement and the inaccuracy of the competent institutions in resolving disputes over the results of the Village Head election raises various problems. The regent's involvement is not in accordance with the original autonomy principle of the village. The parties are compelled to resolve the dispute to the regent because it has been regulated by Legislation. Whereas the independence of the regent is questionable and the parties do not necessarily agree to resolve the dispute before the regent.

As the administrator of the government promoted by political parties, the role of the regent in resolving disputes over the results of the village head election is feared to be of interest, namely the candidate who is won is a candidate who has connections with the regent with the hope of political reciprocation. influential people, both outside and within government organizations or institutions.

This is the point of ambiguity in the regulation of dispute resolution and disputes over the simultaneous Pilkades outside the judiciary or alternative institutions that must be carried out by a regent or better known as alternative dispute resolution. In Indonesia, the term ADR (alternative dispute resolution) is relatively new, that apart from going to court (litigation), dispute resolution can also be resolved out of court (non-litigation), which is commonly known as alternative dispute resolution (ADR) or alternative dispute resolution.⁴² In fact, consensus resolution of disputes has long been carried out by the community, which essentially emphasizes efforts to reach consensus, kinship, peace, and so on.

⁴² Rachmadi Usman, *Mediasi di Pengadilan*, Sinar Grafika, Jakarta, 2012, hal 8.

In article 1 number 10 of Legislation Number 30 of 1999 concerning Arbitration and Alternative Dispute Resolution defines:

"Alternative Dispute Resolution is a dispute resolution institution or difference of opinion through a procedure agreed upon by the parties, namely an out-of-court settlement by means of consultation, negotiation, mediation, conciliation, or expert judgment."

The definition above contains the most important element is the procedure agreed upon by the parties. In the settlement of disputes over the results of the village head election, the parties are really forced to settle the dispute with the regent because it has been regulated in Legislation. Even though the independence of the regent is questionable and the parties do not necessarily agree to resolve the dispute before the regent, the dispute or dispute over the village head election is resolved by the regent whose decision must be by issuing a Decree concerning the Ratification of the Elected Village Head Candidates.

As a result, the decision letter goes through a long process and must be sued by the losing candidate to the State Administrative Court (PTUN). there is no court decision that has obtained permanent legal force, it can cause a vacancy in the position of the village head and eventually become a new problem, in resolving disputes over the results of the village head election it should be obligated to appoint which institution has the authority to settle it, not in intervention or interference with the district government as an institution. which completes. This is certainly not in accordance with the original autonomy principle as stated in the Constitution of the Republic of Indonesia where the state respects and recognizes the origin rights of indigenous peoples in this case the village.

The presence of the state against the village should not be an intervention, intervention, even coercion of will that will weaken the original autonomy of the village. But if the state is not present it is also not the right thing. The state in interpreting the village should provide facilities such as in the constitution, namely respect and recognition.

B. Focus of Problems

From this description, the following problems are formulated:

1. How is legal certainty in resolving village head election disputes based on Legislation No. 6 of 2014 concerning Villages?
2. What is the competence of the judiciary that is authorized to handle village head election disputes?

C. Research Methodology

1. Type of Research

This type of research is empirical normative legal research, which seeks to see the Legislation in a real sense or can be said to see, examines how the Legislation works in society, using a qualitative research approach. To strengthen where the error lies or the empty space that results in inequality in the implementation or enforcement as well as the implementation of Legislation enforcement in a state of Legislation in the context of Legislation enforcement related to the settlement of pilkades disputes based on statutory regulations.

2. Research Data

In general, research in the field of Legislation that is complete always requires secondary data and primary data. Sources of data needed in this study obtained from libraries and official documents. The types of data used in this study are secondary data obtained from primary, secondary, and tertiary legal materials.⁴³

3. Data Collection Techniques

The data collection technique used in this research is through library research to obtain theoretical conceptions or doctrines, conceptual opinions or thoughts and previous research related to the object of this research which can be in the form of Legislations and regulations, books, scientific writings, and other scientific works.

D. Finding&Discussions

1. Legal Certainty of Village Head Dispute Resolution

a. Forms of Village Head Election Violations.

Polemics for the election of village heads in Bogor Regency are still happening everywhere. Different interpretations mainly occur in prospective village head candidates, the village head election committee (Panitia Pilkades) and the community in general. The difference in understanding stems from the issuance of Regent Regulation (Perbup) Number 66 of 2020 concerning Procedures for the Election and Dismissal of Village Heads issued by Bogor Regent Ade Yasin on September 15, 2020, along with explanatory attachments that serve as technical instructions for the implementation of Simultaneous Pilkades. Although the selection of Candidates for Village Heads (Bacades) and the simultaneous pilkades stages in

⁴³ Oloan Sitorus dan Darwinsyah Minin, 2006, *Cara Penyelesaian Karya Ilmiah di Bidang Hukum, Mitra Kebajikan Tanah Indonesia*, Yogyakarta, Cetakan 2, hal.37

a number of areas have been carried out based on the regent's regulations, a number of village heads have died before fighting because of the selection mechanism.

As a result, many potential village head candidates in a number of villages in Bogor Regency feel disappointed and consider the regent's regulation to be biased and detrimental to potential village head candidates. The problem of selecting a village head that the writer will examine is a problem that occurs in the Ciampea sub-district, Bogor Regency. In connection with the implementation of the Simultaneous Village Head Elections in Wave 1 (one) in Ciampea District, Bogor Regency on Sunday, December 20, 2020. The names of the candidates for village head candidates in Ciampea District, Cibadak Village:

1. H. Engus Kusmayadi (candidate number 1) = 527 votes
2. Ahmad Bhadawi (candidate number 2) = 727 votes
3. Liya Muliya, S.Pdi. M.Pd (candidate number 3) = 2579 votes
4. Maryono, SE (candidate number 4) = 538 votes
5. Karyama, SE (candidate number 5) = 2098 votes

Of the 5 candidates for village head above, it can be seen that the candidate who received the most votes was candidate No. sequence 3, namely Liya Muliya, S.Pdi. M.Pd. but many parties feel that the results of the vote count were fraudulent.

b. Settlement of Village Head Election Disputes.

A village head election dispute is a dispute that occurs because of an unLegislationful act committed by one party, which makes the other party feel aggrieved. The emergence of prolonged village head election conflicts due to fanaticism and the harsh confrontation of supporters of the village head candidates who face to face fight for the victory of their respective candidates.

Sometimes they even forget the value of democracy and undermine the ethical values that have been embedded in village communities. The conflict began with dissatisfaction, various suspicions over the victory of the elected candidate due to fraud and manipulation as a result of the very tight vote, and the reactions of a number of interested parties in this case tended to be excessive.

The fanaticism of the population groups blaspheming each other, suspicious, the loss of mutual respect and appreciation for the superiority of the opponent are not commendable attitudes which in turn lead to conflict. The rise of disputes over the election of village heads

to gain power is not willing to accept defeat by committing disgraceful acts such as sealing the village office, paralyzing the government, and harming people's rights in obtaining services only because of the interests and egos of a few people.⁴⁴ Legislation No. 6 of 2014 Clang Desa, Article 37 paragraph 6 states:

"That in the event of a dispute over the results of the Village Head election, the Regent/Mayor is obliged to settle the dispute within the period as referred to in paragraph 6. Government Regulation Number 47 of 2015 Article 41 paragraph 7 states that in the event of a village head dispute, the regent/mayor shall be obliged to resolve the dispute within 30 (thirty) days."⁴⁵

Complaint mechanism and problem solving in village head elections no later than 3 days after the vote count to be followed up on the truth. As stated in Bogor Regent Regulation Number 66 of 2020 as follows:

Article 108

- 1) In the event of an objection/dispute on the results of the village head election, no later than 7 (seven) days the Village Head Election Committee and the BPD must settle the objection/dispute, by doing:
 - a. A meeting with the village head candidate who filed an objection to discuss the resolution of the objection/dispute by presenting the village head, the village head candidate who filed an objection, witnesses for the village head candidate, the Village Head Election Committee at the District Level, the results of which are stated in the official report; and
 - b. Report in writing to the Camat as Chair of the Village Head Election Committee at the District Level.
- 2) The objection as referred to in paragraph (1) can only be made by the candidate for the village head or his proxies to the Village Head Election Committee and/or BPD no later than 7 (seven) days from the day of voting and vote counting;
- 3) Submission of objections that are not in accordance with the provisions as referred to in paragraph (2) cannot be followed up by the Village Level Election Committee, BPD,

⁴⁴ Pusat Penelitian Dan Pengembangan Sistem Hukum Nasional Badan Pembinaan Hukum Nasional Kementerian Hukum Dan Ham Ri, Laporan, *Pengkajian Hukum Tentang Penyelesaian Sengketa Pemilihan Kepala Desa*, 2011, hal 6

⁴⁵ Adon Nasrullah Jamaludin, *Sosiologi Perdesaan*, Pustaka Setia, Bandung 2015, hal. 109-110

District Level Village Head Election Committee, and Regency Level Village Head Election Committee.

- 4) In the event that the Village Head Election Committee and the BPD are unable to resolve the dispute, the Head of the Village Level Village Head Election Committee and the BPD shall report in writing to the Camat as the Chair of the District Level Village Head Election Committee.
- 5) Based on the written report as referred to in paragraph (4), the Village Head Election Committee at the District Level is required to settle the dispute no later than 7 (seven) days after receiving the report from the BPD, by performing:
 - a. meeting to discuss the resolution of objections/
 - b. dispute by presenting a candidate for the village head who
 - c. raise objections, witness candidates for village head, committee
 - d. Election of Village Heads at the Village Level, BPD, village heads,
 - e. the results of which are stated in the minutes; and
 - f. report in writing to the Regional Secretary
 - g. as Chairman of the Village Head Election Committee
 - h. Regency with a copy to the Head of DPMD.
- 6) In the event that the District Level Village Head Election Committee is unable to resolve the objection/dispute as referred to in paragraph (5), then the Camat as the District Level Village Head Election Committee reports the results to the Regional Secretary as the Head of the Regency Level Village Head Election Committee with a copy to the Head of District. DPMD.
- 7) The Village Head Election Committee at the Regency Level is obliged to settle the objections/disputes as referred to in paragraph (6) no later than 23 (twenty three) days after receiving the report from the Camat, by doing:
 - a. recapitulate the types of complaints regarding village head elections by using a matrix in the form of columns containing:
 - 1) the basis of the complaint letter;
 - 2) indication of the problem/content of the complaint letter;
 - 3) provisions of Legislations and regulations;
 - 4) settlement at the village/sub-district level;
 - 5) the response of the Regency Level Village Head Election Committee; and
 - 6) conclusion.

- b. Discussion of the resolution of objections/disputes by presenting the Village Head Election Committee, Village Head, BPD and the Village Head Election Committee at the District Level, the results of which are stated in the official report; and report in writing the results of the settlement discussion
- c. Legal Certainty in the Settlement of Disputes on the Results of the Village Head Election

Village autonomy is genuine, unanimous, and complete autonomy and is not a gift from the government. On the other hand, the government is obliged to respect the original autonomy of the village. As a legal community unit that has an original structure based on privileges, the village can carry out legal actions, both public Legislation and civil Legislation, own wealth, property and can be prosecuted and sued in court.⁴⁶

In dealing with the problems that exist in the village head election or post village head elections (disputes over the results of the village head election), it is important to define where the Village Head election is included in the electoral legal regime or not. The determination of the Village Head Election regime will have an impact on the village head election organizer and which institution is authorized to resolve disputes over the results of the Village Head election. Based on Legislation no. 6 of 2014 concerning Villages, this Village Head Election belongs to the village legal regime, not the election Legislation regime. This can be seen from the village head election organizers are not the general election commission and the dispute resolution agency is not the Constitutional Court.⁴⁷

The Indonesian Constitution, namely the 1945 Constitution of the Republic of Indonesia, states limitatively what elections are included in the General Election regime, namely Article 22E paragraph (2) states:

"General elections are held to elect members of the People's Representative Council, Regional Representative Council, President and Vice President and Regional People's Representative Council."

There is no phrase for the election of a village head in the general election as regulated in the 1945 Constitution of the Republic of Indonesia.

⁴⁶ Johnny Ibrahim, *Teori dan Metodologi Penelitian Hukum Normatif*, Bayumedia Publishing, Malang, 2001, hal. 318

⁴⁷ *Ibid*, hal. 318

Village arrangements are regulated separately in Chapter VI of the 1945 Constitution of the Republic of Indonesia, namely concerning Governance Regions are not in Chapter VII B on General Elections. The Constitutional Court emphasizes that in interpreting the formulation of the 1945 Constitution of the Republic of Indonesia, one must look at the meaning of the text, the original intent, and the comprehensive grammatical meaning. Therefore Article 22E of the 1945 Constitution of 1945 must be interpreted in a limited way that the general election held is to elect members of the DPR, DPD, President and Vice President as well as DPRD and is held every five years.

Village head elections are held to elect village heads, while regional head elections are held to elect regional heads. To determine whether the village head is included in the regional head election or not, what needs to be analyzed is whether the position of the village can be referred to or included in the region or not. Article 1 point 1 of Legislation Number 6 of 2014 concerning Villages mentions the meaning of village:

"Village is a village and traditional village or what is called by another name, hereinafter referred to as Village, is a legal community unit that has territorial boundaries that are authorized to regulate and manage government affairs, the interests of the local community based on community initiatives, origin rights, and/or recognized and respected in the system of government of the Unitary State of the Republic of Indonesia."

Meanwhile, the definition of a region that can be referred to as an autonomous region is explained in Article 1 number 12 of Legislation Number 23 of 2014 concerning Regional Government as follows:

"Autonomous Regions, hereinafter referred to as Regions, are legal community units that have territorial boundaries that are authorized to regulate and manage Government Affairs and the interests of local communities according to their own initiatives based on the aspirations of the people in the system of the Unitary State of the Republic of Indonesia."

From the definition of village and area above, we can see the difference between the two. Villages and regions are both legal community units. The legal community unit is a power organization or government organization. However, autonomous regions as legal community units take the form of regional governments consisting of regional heads and the

Regional People's Representative Council (DPRD). If you look at the constitution, namely the 1945 Constitution of the Republic of Indonesia, which is the highest statutory regulation in the hierarchy of Legislations and regulations, it is limitedly categorized as a region. Article 18 paragraph (1) states:

"The Unitary State of the Republic of Indonesia is divided into provincial regions and the provincial regions are divided into regencies and cities, each of which has a regional government, which is regulated by Legislation."

Furthermore, Article 18 paragraph (1) states that:

"Provincial, district, and city regional governments regulate and manage their own government affairs according to the principle of autonomy and co-administration."

From the formulation of the articles in the 1945 Constitution of the Republic of Indonesia above, if you look at the meaning of the text, original intent, and comprehensive grammatical meaning, the Constitution in a limited manner states that what can be called a region in the system of the unitary state of the Republic of Indonesia only provinces, districts and cities. And Article 18 paragraph (2) states:

"That the provincial, district and city administrations regulate and manage government affairs according to the principles of autonomy and co-administration."

This is clearly different from village government which contains elements of community initiatives, origin rights, and/or traditional rights. In the history of the regulation of dispute resolution on the results of village head elections in Indonesia, there is no Legislation that explicitly regulates the mechanism for resolving disputes over election results. village head. Only when Legislation No. 32/2004 on Regional Government comes into effect.

The implementing regulation, namely Government Regulation Number 72 of 2005 concerning Villages mandates that the resolution of problems related to village head elections is regulated by regional regulations. Article 53 paragraph (1) stipulates:

"That further provisions regarding Procedures for Election, Nomination, Appointment, Inauguration, and Dismissal of Village Heads are regulated by Regency/City Regional Regulations."

2. Competence of the Village Head Dispute Resolution Judiciary

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⁴⁸ Sutoro Eko, *Kedudukan dan Kewenangan Desa, Forum Pengembangan Pembaharuan Desa (FPPD)*, Yogyakarta, 2014, hal. 81

⁴⁹ *Op.Cit.* Johnny Ibrahim, hal. 318

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"Autonomous Regions, hereinafter referred to as Regions, are legal community units that have territorial boundaries that are authorized to regulate and manage Government Affairs and the interests of local communities according to their own initiatives based on the aspirations of the people in the system of the Unitary State of the Republic of Indonesia."

From the definition of village and area above, we can see the difference between the two. Villages and regions are both legal community units. The legal community unit is a power organization or government organization. However, autonomous regions as legal community units take the form of regional governments consisting of regional heads and the Regional People's Representative Council (DPRD). If you look at the constitution, namely the 1945 Constitution of the Republic of Indonesia, which is the highest statutory regulation in the hierarchy of Legislations and regulations, it is limitedly categorized as a region. Article 18 paragraph (1) states:

⁵⁰ Mahkamah Konstitusi Nomor 97/PUU-XI/2013 Perihal Uji Materiil Pasal 236C Undang-Undang No. 12 Tahun 2008 tentang Perubahan Kedua atas Undang-Undang No. 32 Tahun 2004 tentang Pemerintahan Daerah dan Pasal 29 ayat (1) huruf e Undang-Undang Nomor 48 Tahun 2009 tentang Kekuasaan Kehakiman.

"The Unitary State of the Republic of Indonesia is divided into provincial regions and the provincial regions are divided into regencies and cities, each of which has a regional government, which is regulated by Legislation."

Furthermore, Article 18 paragraph (1) states that:

"Provincial, district, and city regional governments regulate and manage their own government affairs according to the principles of autonomy and co-administration."

From the formulation of the article in the 1945 Constitution of the Republic of Indonesia above, if you look at the meaning of the text, original intent, and comprehensive grammatical meaning, the Constitution in a limited manner states that what can be called a region in the system of the unitary state of the Republic of Indonesia only provinces, districts and cities.

Article 18 paragraph (2) states:

"That the provincial, district and city administrations regulate and manage government affairs according to the principles of autonomy and co-administration."

This is clearly different from village government which contains elements of community initiative, origin rights, and/or traditional rights.⁵¹ In the history of regulating village head election dispute resolution in Indonesia, there is no Legislation that explicitly regulates the mechanism for resolving village head election disputes. Only when Legislation No. 32/2004 on Regional Government comes into effect.

The implementing regulation, namely Government Regulation Number 72 of 2005 concerning Villages mandates that the resolution of problems related to village head elections is regulated by regional regulations. Article 53 paragraph (1) stipulates:

"That further provisions regarding Procedures for Election, Nomination, Appointment, Inauguration, and Dismissal of Village Heads are regulated by Regency/City Regional Regulations."⁵²

In paragraph (2) it is stated that the Regency/City Regional Regulation as referred to in paragraph (1), at least contains various things, one of which is a complaint mechanism and problem solving.⁵³

E. Conclusion

⁵¹ Pasal 18B ayat (1) dan (2) Undang-Undang Dasar Negara Republik Indonesia Tahun 1945.

⁵² Pasal 53 ayat (1) Peraturan Pemerintah Nomor 72 Tahun 2005 tentang Desa (Lembaran Negara Tahun 2005 No. 158, Tambahan Lembaran Negara Nomor 4587).

⁵³ Pasal 53 ayat (2) Peraturan Pemerintah Nomor 72 Tahun 2005 tentang Desa (Lembaran Negara Tahun 2005 No. 158, Tambahan Lembaran Negara Nomor 4587)

1. Legal certainty in the settlement of village head election disputes based on Legislation No. 6 of 2014 concerning Villages, coupled with Bogor Regent Regulation No. 66 of 2020, there are differences in the settlement time, the existence of a Perbup that is contrary to the Legislation has violated the hierarchy of legislation - Legislations as contained in Legislation Number 15 of 2019 concerning Amendments to Legislation 12 of 2011 concerning the Establishment of Legislation, so which Legislations and regulations are used in the event of a village head election dispute, and according to the author it is not appropriate to resolve the village election dispute settlement by the Regent, because the Regent is not a judicial institution that can decide a dispute case as the main task and function of the Regent.
2. The existence of a General Court and a State Administrative Court that has handled disputes over the results of the Village Head Elections, has resulted in the absence of certainty of absolute competence of the judiciary in the application of the Legislation in handling cases of village head election disputes.

F. Recommendation

1. The Regent should revise Perbup Number 66 of 2020 so that it does not conflict with Legislation Number 6 of 2014.
2. Legislation Number 6 of 2014 will soon be amended regarding the settlement of disputes over the election of village heads, so that there is legal certainty regarding the absolute competence of the judiciary in resolving disputes over the village head elections, or an ad hoc trial or a kind of simple Legislationsuit under the general court can also be made so that disputes Pilkadaes can be completed in the area where the general court is located.

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