

Resolving Village Head Election Disputes: Legal Pathways in State Administrative Courts

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Abstract: *This research examines the legal certainty surrounding the time limits for resolving disputes over the results of Village Head elections through the State Administrative Court. The absence of clear regulations on the deadlines and mechanisms for addressing these disputes has led to various issues, including legal uncertainty, inequality in treatment, and perceptions of injustice among stakeholders. To address these concerns, this study adopts a normative juridical approach, relying on an extensive literature review of legal principles, norms, doctrines, and regulations. The findings reveal that disputes regarding Village Head election results must be submitted within three days of receiving notification or a formal decision from the Regent or Mayor. The State Administrative Court (PTUN) is then required to issue a ruling within 14 working days from the date the case is officially recorded in the case register. Moreover, the court's decisions are final and binding, meaning no further legal actions or appeals are permitted. This process ensures that disputes arising from Village Head elections are resolved definitively and conclusively, providing a legally certain outcome while upholding the principles of justice and fairness in election-related matters.*

Introduction

The governance of villages is guided by several fundamental principles, including diversity, participation, original autonomy, democratization, and community empowerment (O'Brien & Li, 2004). While villages are administratively positioned under the jurisdiction of the Regency or City Government (Regional Government), they hold an equal status and significance comparable to other governmental entities such as regencies and cities. This equality emphasizes that villages, as units of legal communities or entities recognized by other appropriate designations, are entitled to fair and equal treatment in accordance with prevailing laws and regulations (Anugrah & Gunarto, 2024; Hidayat et al., 2019).

In this context, diversity highlights the importance of acknowledging and respecting each village's distinct cultures, customs, and traditions, which must be preserved as part of its identity. Participation underscores the active involvement of the village community in decision-making processes that directly affect their lives (Isdiyanto, 2019; Maulidiah et al., 2023). Original autonomy refers to the village's right to self-regulate and manage its people's interests based on established customs and traditions. Democratization focuses on ensuring transparent and accountable governance within the village.

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Meanwhile, community empowerment aims to enhance the capacity and independence of villagers, enabling them to actively contribute to the development and management of their resources. Although villages operate under local government administration, they also hold equal authority and rights as governance entities, guaranteeing that all villagers receive just and equitable treatment in line with applicable laws and regulations (Apritania & Gunarto, n.d.; Da Silva et al., 2024).

Siregar and Firmansyah (2022) and Fauziyah and Praptianingsih (2017) suggest that a village, in an administrative sense, is a legal entity where its residents hold the authority to manage their own affairs. Paech (2016) outlines three perspectives on understanding villages. From a sociological viewpoint, a village is seen as a living community. Economically, it is described as a community that relies on natural resources to meet its daily needs. Politically, the village is viewed as a government structure with specific authority, functioning as part of the broader state governance system.

The main purpose of establishing villages is to improve governance efficiency and effectiveness while enhancing community services in accordance with their development and progress. Villages serve not only as administrative units but also as key players in social, economic, and political matters, all aimed at promoting the welfare and independence of their communities. This aligns with efforts to strengthen village autonomy, enabling them to manage and utilize their resources effectively for shared growth and advancement (Gogol, 2015; Totskyi, 2014).

The election of village heads marks the start of the democratic process and serves as a foundation for empowering village communities. This process is governed by Law Number 6 of 2014 on Villages, specifically Articles 26 to 47, which outline the authority, rights and responsibilities, election procedures, and conditions for the dismissal of village heads. Additionally, Government Regulation Number 11 of 2019, which amends Government Regulation Number 43 of 2014 on the implementation of the Village Law, also addresses these matters. For technical guidelines on village head elections, the government has issued Minister of Home Affairs Regulation Number 112 of 2014.

Government Regulation No. 43 of 2014 provides a detailed framework for the election of village heads, covering the stages, procedures, and implementation processes. This regulation demonstrates the government's commitment to enhancing transparency, accountability, and community involvement in the election process. Over time, this framework has evolved through various changes and regulatory updates to keep pace with societal and political developments. These adjustments also aim to strengthen village autonomy and ensure fair political participation at the local level (Faiz et al., 2023; Nugraha, 2023).

According to Article 41, paragraph (7) of Government Regulation No. 43 of 2014, which implements Law No. 6 of 2014, if a dispute arises over the results of a Village Head election, the Regent or Mayor is required to resolve it within 30 days. However, the regulation does not clarify that the resolution is final and binding, which creates the possibility for legal actions through filing a lawsuit with the State Administrative Court (PTUN) regarding the

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Regent/Mayor's decree on the appointment of the Village Head. This legal process can be time-consuming. The lack of clear deadlines and procedures for resolving election disputes leads to confusion, uncertainty, and a sense of injustice.

Shcherbanyuk et al. (2023) argue that the law is a tool for the government to build a national legal system that embodies the nation's values and the state's objectives. To ensure that the law effectively provides justice, certainty, and benefits for the village community, it is essential to improve the resolution of Village Head election disputes. A clearer and more efficient dispute resolution process is necessary to reduce uncertainty and enhance public trust in the democratic system at the village level.

Legal certainty is crucial for achieving justice, as it ensures that individuals comply with the applicable laws and helps guide the community toward order (Ficsor, 2021; Rdhi, 2019). When a village head is appointed and assumes office following a decision by the Regent, there remains the possibility for the opposing party to challenge the decision by filing a lawsuit with the State Administrative Court (PTUN). This situation undermines order and prevents the establishment of legal certainty, as the dispute continues unresolved.

Jeremy Bentham, a key advocate of utilitarianism, argues that the law is effective when it maximizes happiness and minimizes suffering. He believes that the law is a system designed to promote welfare and happiness (Andrusiv & Fedik, 2019; Oomen & Bedner, 2018). Similarly, Ogneviuk (2018) suggests that justice standards should be based on their benefits, meaning that the essence of justice encompasses all moral requirements necessary to achieve the welfare of society.

Justice is both a normative and constitutive element of the law. It holds a normative meaning because it forms the foundation of what is considered just, while positive law is static and constituted, meaning that justice must be an inherent part of the law. Without justice, a rule cannot be deemed a legitimate law (Asked et al., 2010). Justice should be aimed at dignified outcomes, which involves resolving conflicts as early as possible, especially conflicts within the legal system (Андрусів & Федик, 2019). This concept is particularly relevant when examining the legal certainty provided by the State Administrative Court Law.

Method

This study employs a normative juridical research method, focusing on legal research through a literature review that examines principles, norms, doctrines, and legal rules (Hanitijo S., 1990). The approach used is the statute approach, which aims to analyze all relevant normative laws related to the research topic, as well as the case approach, which involves reviewing cases related to the issue to explore the application of normative laws and other legal rules in achieving legal goals such as certainty, benefits, and justice. The study relies on secondary data sources, with data collection conducted through literature studies, and the analysis is carried out descriptively and qualitatively.

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Results and Discussion

Indonesian Law Politics in Realizing Legal Goals in Village Elections

R. Bintaro (1989) argues that, from a geographical standpoint, a village is an entity shaped by geographical, social, political, and cultural factors within a specific region, and it maintains a reciprocal relationship with neighboring areas. The underlying principles in village regulations include diversity, participation, autonomy, democratization, and community empowerment. Administratively, villages fall under the jurisdiction of the district or city government (local government).

Yulistyowati et al. (2017) outline three perspectives on the village. First, sociologically, the village is seen as a living community. Second, economically, it is viewed as a group that sustains its daily needs from the surrounding natural resources. Third, politically, the village is seen as a government organization or authority that holds certain powers as part of the state structure. The village is not just an administrative unit but also a social, economic, and political entity that plays a crucial role in the governance system. It serves as a space for diverse cultures and traditions, as well as a foundation for community participation in decision-making and resource management. Regulations concerning villages must respect diversity and empower the community to actively contribute to regional development. The original autonomy of the village should be preserved so it can manage its interests in line with local customs and laws. As a democratic rule of law, Indonesia emphasizes political participation, and the Village Head Election (Pilkades) is a key expression of democracy that highlights the political involvement of rural communities (Rahman, 2020; Satria, 2020).

Padmo Wahjono argues that legal politics plays a crucial role in shaping the direction, structure, and content of the laws that are developed (Wahyono, 1986). In contrast, Sunaryati Hartono views the politics of law as a tool used by the government to establish the desired national legal system, which ultimately helps achieve the nation's goals (Hartono, 1991). The establishment of villages aims to enhance the efficiency and effectiveness of governance and to improve community services in line with the progress of development. The transformation of village governance was triggered by the implementation of Law Number 32 of 2004 concerning Regional Government, which was later amended by Law Number 23 of 2014. Article 10 of Law Number 32 of 2004 stipulates that regional governments are responsible for managing government affairs within their authority, with the ability to delegate or assign certain government responsibilities to local or village governments.

Article 1, number 2 of Law No. 6 of 2014 concerning Villages defines Village Government as the execution of government duties and the fulfillment of the local community's needs within the framework of the governance system of the Unitary State of the Republic of Indonesia. The village government is led by the village head, who represents the village in governance. Villages are not only administrative units under local government but also possess the autonomy to regulate and manage the interests of their communities. This regulatory change has allowed villages to become more self-sufficient in carrying out governmental functions and delivering better services to their

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residents, aligning with legal political principles aimed at establishing a just and equitable legal system.

The universal aim of law is to promote prosperity in people's lives, maintain order, ensure peace, and protect against arbitrary actions (Prayogo, 2016). According to Kuswandi (2017), as a country with the ideology of Pancasila, Indonesia's legal goal focuses on human welfare. This encompasses both passive (negative) protection, which prevents arbitrary actions, and active (positive) protection, which fosters an environment where individuals can naturally and fairly develop, ensuring equal opportunities for all to reach their full potential. Passive protection involves safeguarding individual rights from unjust or arbitrary actions by any party, including the government. On the other hand, active protection entails the state's role in creating favorable conditions for citizens' self-development, particularly in areas such as education, health, and social welfare. By pursuing both forms of protection, Indonesian law strives to achieve social justice and ensure that every individual can fully participate in society.

These principles are in harmony with the values of Pancasila, which emphasize just and civilized humanity, as well as the unity of the Indonesian people. Therefore, the law in Indonesia is not merely a tool for regulation and control but also serves as a means to empower and protect every citizen, aiming to create a harmonious, just, and prosperous society (Ali et al., 2023). The legal purpose can be briefly divided into three core elements, as stated by Gustav Radbruch in his theory of legal priorities: certainty, justice, and benefits. According to Radbruch, a good law is one that harmonizes these three elements effectively, ensuring that legal outcomes align with the ideals of justice, certainty, and social utility (Umboh, 2020).

The village head election process is conducted simultaneously across all regency/city areas, in accordance with their respective regional regulations (Rauf & Maulidiah, 2015). The procedure for the election of the Village Head is regulated in Article 34 of Law Number 6 of 2014 concerning Villages, ensuring that the election is free, confidential, honest, and just, and outlining the various stages involved. One particularly crucial stage is the determination stage, where the Regent/Mayor issues provisions related to the election results. This stage is critical, as it is at this point that disputes over the results may arise. Resolving disputes in the Village Head election must reflect the legal objectives of benefit, justice, and certainty to maintain trust in the democratic process and ensure fair outcomes for the community.

Jeremy Bentham, a key figure in utilitarianism, argues that the law is useful when it maximizes happiness and minimizes suffering, asserting that law is a system designed to promote welfare and happiness (Umboh, 2020). Similarly, John Stuart Mill, as referenced in Satria (2020), contends that justice standards should be based on their benefits, where justice encompasses all the moral requirements necessary to achieve the welfare of society. In the context of the Village Head election process in Indonesia, while the procedure is regulated by positive law, the resolution of disputes before the determination of election results by the Regent/Mayor still presents significant weaknesses. Specifically, the lack of a clear and effective dispute resolution mechanism has led to uncertainty, inequality, and inconsistency in the process. Therefore, it is

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crucial to reform the dispute resolution process in Village Head elections. This reform would align the legal politics of Village Head elections with the legal objectives of achieving certainty, justice, and benefit, thus realizing the ideals of the Indonesian people.

Designing the Dispute Resolution Process for Village Head Election Results

Legal certainty is a core principle in any legal system, ensuring that laws are clear, consistent, and reliable. It means that laws should be precise and easily understood by the public, so everyone is aware of their rights and responsibilities. For a law to provide certainty, it must include clear and unequivocal rules that are applied fairly and without discrimination (Alugoro et al., n.d.; Antlöv et al., 2016).

Experts highlight several important aspects of legal certainty, including: a) Clarity of legal rules: Laws should be clear and free from ambiguity, avoiding multiple interpretations; b) Consistency in enforcement: Laws must be applied consistently, regardless of the individuals involved; c) Legal stability: Changes to the law should be made thoughtfully and infrequently to preserve public trust in the legal system; and d) Predictability: The public should be able to foresee the legal consequences of their actions (Lifante-Vidal, 2020; Portuese et al., 2017).

Legal certainty plays a vital role in the Indonesian legal system for several important reasons, primarily by ensuring the protection of citizens' rights and obligations. Clear legal rules help individuals understand their rights and responsibilities, safeguarding them from arbitrary actions by both private entities and the government. Additionally, legal certainty is essential for fostering trust in the legal system. When laws are applied consistently and impartially, society is more likely to follow the rules and have confidence in legal institutions. Moreover, social and economic stability hinges on legal certainty, as entrepreneurs and investors require stable legal frameworks to plan and operate their businesses without fear of sudden regulatory changes or biased law enforcement (Alexy, 2015; Fenwick & Wrška, 2016).

Legal certainty plays a crucial role in preventing the abuse of power by public officials. By ensuring that laws are applied clearly and consistently, it protects against the misuse of authority for personal or group gain. In Indonesia, the principle of the rule of law is also realized through legal certainty, which ensures that both government actions and citizen behavior are grounded in clear and fairly applied laws. This helps maintain a balance of power and justice within society (Anwar et al., 2022; Butt, 2015). Moreover, legal certainty supports effective dispute resolution by ensuring that legal proceedings are conducted smoothly, fairly, and without bias. Without legal certainty, the dispute resolution process can be ineffective and lead to dissatisfaction among the parties involved. In this way, legal certainty serves as an essential foundation for the development of a fair and just legal system in Indonesia.

Legal certainty is essential for achieving justice, as it ensures individuals act in accordance with the law and helps guide society toward order (Faiz et al., 2023). In the case of a village head appointment, once the Regent has made the determination, the individual who is appointed assumes the

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position. However, if another party disagrees with the decision, they still have the right to challenge it in the State Administrative Court (PTUN), which can result in situations of injustice, inequality, and the failure to properly implement the law, as was seen in a village in Central Java Province.

Filing a lawsuit with the State Administrative Court (PTUN) is based on the decision made by the Regent/Mayor regarding the Village Head Election results. This decision is considered a written, individual, concrete, and final determination, classified as a State Administration Decree (KTUN). However, issues arise due to the Supreme Court Jurisprudence Number 482K.TUN/2003 dated August 18, 2004, which has led to the establishment of the following legal rules:

“The Village Head Election (Pilkades) is a legal act within the political realm, based on the political views of both the voters and the chosen candidates. The results of the Pilkades are also the result of a general election in the village environment concerned, therefore the decision of the results of the Pilkades does not include the understanding of KTUN according to Law Number 5 of 1986 (vide Article 2 letter g).”

The jurisprudence was later incorporated into the Supreme Court Circular Letter No. 8 of 2005. However, both the jurisprudence and the circular led to increased legal uncertainty. On one hand, the State Administrative Court (PTUN) would reject disputes over the village head election results, while on the other hand, it would accept such disputes. The development of positive law in Indonesia clarifies that disputes regarding the results of the village head election, which are determined by the Regent/Mayor, must be resolved within 30 days, as stated in Article 41, paragraph (7) of Government Regulation No. 43 of 2014 concerning the Implementation of Law No. 6 of 2014 on Villages. However, this article does not specify that the settlement decision is final and binding, which opens the possibility for legal action through a lawsuit to the State Administrative Court (PTUN). This inconsistency in the application of the law leads to injustice. Justice should be oriented toward achieving dignified justice, which aims to resolve conflicts early within the framework of the law (Antlöv et al., 2016; Butt, 2015).

The Supreme Court Jurisprudence No. 482K.TUN/2003 and the Supreme Court Circular No. 8 of 2005 indicated that the State Administrative Court (PTUN) was not the appropriate institution to resolve disputes regarding the Village Head election. This is because the results of the Village Head election were considered a State Administrative Decree (KTUN), which is excluded from the provisions under Article 2 letter g of Law No. 5 of 1986 concerning State Administrative Courts.

The issue at hand is whether the Village Head election can be classified as a general election. Historically, the regulation of general elections in Indonesia has been governed by various laws, including Law No. 3 of 1999, Law No. 4 of 2000, Law No. 12 of 2003, Law No. 20 of 2004, Law No. 10 of 2006, Law No. 10 of 2008, Law No. 8 of 2012, Law No. 7 of 2017, and up to Law No. 7 of 2023. However, none of these laws explicitly define "elections" as a category that includes village head elections. In contrast, the State Administrative Decree (KTUN) exclusions in Article 2 letter g of Law No. 5 of 1986 concerning

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State Administrative Courts, specifies that KTUN excludes decisions by election committees, both at the central and regional levels, regarding the results of general elections. Therefore, this legal framework does not categorize village head elections within the broader scope of general elections governed by these laws.

Granting the authority to resolve disputes arising from the Village Head election to the Regent/Mayor contradicts the principle of *Trias Politica*, a fundamental concept in Indonesia's rule of law. *Trias Politica* is a normative principle that advocates for the separation of powers to prevent the concentration of authority in one individual, thereby reducing the risk of abuse of power (Budihardjo, 1998). Montesquieu, the originator of the *Trias Politica*, argued that the state should operate through a separation of powers to ensure checks and balances. This structure is designed to limit power and prevent arbitrary actions (Yulistyowati et al., 2016).

Indonesia upholds the principle of the separation of powers, which divides state authority into three branches: legislative, executive, and judicial (Junita Umboh, 2020). Ismail Suny emphasizes that the constitution of the Unitary State of the Republic of Indonesia firmly implements the separation and distribution of power (Alexy, 2015). Furthermore, granting the authority to resolve disputes over the results of the Village Head election to the Regent/Mayor contradicts Article 1, paragraph (3) of the 1945 Constitution of the Republic of Indonesia, which declares Indonesia as a state governed by law. One of the key characteristics of a rule of law state is the proper distribution of power among different branches of government.

The resolution of disputes over the results of the Village Head election by the Regent/Mayor, as part of the executive branch, undermines the principle of the rule of law and the separation of powers, since law enforcement should ideally be carried out by the judiciary (Satria, 2020). In the context of administrative disputes, there are procedures such as administrative objections (*bezwaarscriff beroep*) and administrative appeals (*administrative beroep*). To ensure that law enforcement aligns with the State Constitution, the process carried out by the Regent/Mayor can be seen as an administrative appeal. Before the participants in the village head election can submit their dispute to the Regent/Mayor, they must first file an objection to the Village Head Election Committee, which would qualify as an administrative objection (*bezwaarscriff beroep*). This implies that the determination made by the Regent/Mayor is not final or binding, and therefore, the dispute can be escalated to litigation through the State Administrative Court (PTUN), as it falls under the realm of state administrative disputes.

The State Administrative Court (PTUN) holds a critical function in addressing administrative disputes in Indonesia. Its primary responsibility is to review, adjudicate, and issue rulings on cases involving disputes between individuals or legal entities and the government or other state institutions. PTUN's authority encompasses assessing the legality and validity of laws, regulations, and administrative decisions made by government bodies or institutions. In the case of resolving disputes regarding the election of village heads, PTUN is tasked with examining and deciding on objections or lawsuits filed against village head election results that are believed to have violated

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established procedures or regulations. PTUN ensures that these administrative disputes are resolved impartially, transparently, and in accordance with the law. Moreover, PTUN plays an essential role in safeguarding legal sovereignty and protecting citizens' rights in the resolution of administrative issues at the local level.

The State Administrative Court (PTUN) also holds the authority to issue final and binding decisions for the parties involved in administrative disputes. Its rulings carry the same legal force as those made by other courts and must be implemented by the concerned parties. This ensures legal certainty and supports the enforcement of laws and justice within government administration. Beyond resolving disputes, PTUN plays a key role in providing interpretative guidelines for complex legal regulations, helping to prevent ambiguity or varied interpretations of existing laws. As such, PTUN is vital in upholding the rule of law, promoting government accountability, and protecting citizens' rights within the government administration framework.

Conclusion

The existence of disputes over the results of the Village Head election in the State Administrative Court (PTUN) raises concerns about potential delays. Therefore, the process for resolving Village Head election disputes could follow procedures similar to those used for Presidential Election result disputes. A request for dispute resolution must be submitted within three (3) days from the notification or receipt of the determination regarding the settlement of the Village Head election dispute by the Regent/Mayor. The PTUN panel of judges is required to issue a decision no later than fourteen (14) working days from the date the case is registered. The PTUN's decision is final and binding, with no further legal actions allowed. This approach ensures that the process for resolving Village Head election disputes provides greater legal certainty, benefits, and fairness for all parties involved.

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