



The Complexity of Village Democracy Problems in Law Number 6 of 2014 Concerning Village

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Abstract

The implementation and institutionalization of democracy with the absence of substantial democratization in the lower level of community does necessarily cause a problem. What it has been becoming a culture and being embraced by people for hundred or even thousand years, would be difficult to be transformed, even though its canalization is in the form of constitution. It may work in the conceptual level yet it may find obstacles in the implementation one. This condition influences the implementation of Village Constitution. The village democracy institutionalization is the focus of this study that covers three forms, they are: the election of village head, the village head election disputes, and term of office of village head. The research method of this study is normative-juridical. The writer initially studied the juridical provisions concerning the three main problems above, and then analyzed the implementation problems in the field. The result of this research showed that the direct election of village heads, village head election disputes done by the regional head, and term of office of the village head office for six (6) years in three periods as it is written on Laws Number. 6 of 2014, causes many problems theoretically as well as philosophically. The result of this study is described descriptively and analytically in the analysis part

Keywords: Village Head, Election Dispute and Term of Office

1. Introduction

The background of this article is caused by the factual reality of Law Number 6 of 2014 concerning village (Village Constitution). The democratization that shows more improvements in many areas of governance now is covering the village area as well. This attempt of democracy institutionalization in the village level of course shows some positive results so does the problems complexity.

It must be admitted that Village Constitution has created fundamental political breakthrough in the democracy relation of State-Village. Through the constitution, village is positioned as people's government that has wide covered authority to play the governance affairs and the society that is based on autonomous village called "desa" as well as the organization system called "desa adat". That huge authority of village is based on two main principles in the Village Constitution (which also makes it different from other previous regulation concerning the village governance), they are recognition (The principle of recognition is the recognition of the origin right.) and subsidiarity. The principle of subsidiarity is the determination of local-scale authority and local decision-making for

the benefit of the village community) principles. Recognition principle is defined as the confession of the origin, while subsidiarity is the authority determination in the local scale and the locally decision making for the needs of village society.

The implementation and institutionalization of democracy that is not accompanied substantial democracy in the lower level community does necessarily cause a problem (Despan Heryansyah, 2017). What it has been becoming a culture and being embraced by people for hundred or even thousand years, would be difficult to be transformed even though its canalization is in the form of constitution. It may work in the conceptual level yet it may find obstacles in the implementation level. This condition influences the implementation of Village Constitution.

The culture of Indonesian society in absorbing the fundamental principles of democracy is facing at least three problems. First, the strength of feudalism impact (especially in Java) in both the society and the governance resulted in the mindset that is to serve the ruler/the king/the superior. In this level, individual freedom is confronted by the superior's domination; usually the superior dominates morally stronger. Yet, the democracy essence is to protect all societies' freedom to make their own decisions. Second, the condition of religious society (abangan or santri) makes the command of a Kyai/Gus/Ustadz is an obligation to be obeyed. Practically, almost all those religious leaders are involved themselves as the contestants of general election. In fact, an organization leader who has set boundaries from the political importance practice, sometimes also play the roles well directly or indirectly. Third, the empirical reality of village society that is very genealogical where family bond both consanguinity as well as marital bond, forms the village society strongly. The implication is that it seems difficult for democracy to set its identity, especially when it comes to freedom and equality.

The past history of Indonesia, both under the oppression of the colonist for 350 years and also the confinement of local kingdoms that were feudal and authoritarian, made the culture of the society that was not really closed to democracy, especially to the democracy principles substantially such as equality, freedom, the people sovereignty. It is no surprise if the western democracy (with the local improvement) is facing many unsolved problems. To transform the culture is not as easy as to amend constitutions or to change the laws. The other countries' experiences showed that it takes long time and high costs to transform the culture. In the level of formal procedural, we are successful to create it, at least in the presence of the representative institutions, the periodical general election, and the existence of political parties. However, substantially, there are still lots of difficulties. Moreover, the implementation in the village society, undeniably the problems are becoming more complex when the democracy confronts the village culture that has been ingrained.

Some institutionalization democracy concepts through the village constitutions that are concerned by the writer cause several problems which cover three things: First, the direct village head election as concerned in Chapter 34 Verse (2) Number 6 of 2014 (That "*Village Head Elections are direct, general, free, confidential, honest and fair*"). Second, the Village Head Election Disputes as regulated in the Chapter 37 Verse (6) (That "*In the moment 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 (5)*"). Third, The Term of Office of The Village Head as regulated in the Chapter 36 Verse (1) dan Verse (2) (That: (1) The Village Head holds office for 6 (six) years from the date of inauguration. (2) The Village Head as referred to in paragraph (1) may serve a maximum of 3 (three) terms of office in a row or not in a row). Those mentioned points will be the main focus of this research in order to capture the reality and the problematics happening in the village society in institutionalization democracy of Village Constitutions.

Based on the previous background, the formulation of the problem that is proposed by the writer in this article is. How is the portrait of institutionalizing democracy in Laws Number 6 of 2014 concerning Village especially Village Head. How is the problematics of institutionalizing democracy in the election of village heads, village head election disputes, and the term of office of the village head based on Laws Number 6 of 2014.

2. Method

This research is in the form of normative-juridical. The writer will study the directions and provisions of the norm written in Laws Number 6 of 2014 concerning Village, especially about the village heads election, village heads election disputes, and the term of office of the village head. Those three points are believed by the writer as the transformation of the procedural democracy implementation in Indonesia. However, procedural democracy does not

solely mean negative, since it is still needed in the life of nation and state. Then, the provisions in the Laws that regulate these three institutionalization democracy will be the writer's contexts in the reality of Indonesian society as well as the existed legal theories. The writer realizes that legal substances in this research will be better if they are collected directly from the society, but due to time limitation and cost, the writer only used the collected references and also viewed empirical facts based on the writer's self-judgment. Therefore, the writer used the secondary data as the majority

3. Discussion

3.1 *The Existence of Villages in Indonesia*

Village or commonly called with the other name has been exist before the form of Negara Kesatuan Republik Indonesia. As the fact of its existence, the explanation of the Chapter 18 the 1945 Constitution of the Republic of Indonesia (before the amendments) says that "In the Indonesian territorial, there are more or less 250 "Zelfbesturende landschappen" and "Volksgemeenschappen", such as villages in Java and Bali, Nagari in Minangkabau, dusun and marga in Palembang and so on. Those areas have the original structure and so that they are regarded as privileged. The Republic of Indonesia respects the position of those privileged areas and all national regulations concerning those will consider the rights of the origins." Therefore, their existence must be recognized and given the life sustainability collateral in *Negara Kesatuan Republik Indonesia* ("Undang-Undang Dasar Negara Republik Indonesia Tahun 1945).

By mentioning village as its original structure, "it is a social, political, economy, and cultural alliance" that its nature is different from administrative alliance meant by the village governance in various existed legislation rules. Therefore, as the original structure, village often appears as what it is called as *Ter Haar* with *dorps republik* or a small country as the antonym of a big country that refers to the order of modern state (R. Yando and Zakaria,2005).

Related to the existence of the recognition of these autonomous villages, there are two (2) concepts in the discourse of legal politics based on its origins. Each right is different from one another. First, the right characterized by given (given right); and second, the right that is congenital that attached to the history of the unit origins which have that autonomy (congenital right). By using these two distinctions, regional autonomy that mostly categorized by people nowadays is actually given autonomy. Therefore, the discourse shifted from right to authority. The authority is always given so it must be a responsibility. Thus, the concept of regional household affairs is changed by public interests (Nimatul Huda, 2017) .

Different from given right, congenital right is the right that has been developed and maintained by an institution that manages its own household affairs. In the 1945 Constitution, this congenital right concept attaches to privileged regionals that have origins. Thereby, different from regional government, village as autonomy village appears as the effect of the origins and that special character has congenital right. The village congenital right as the original structure covers the right of region, which later on called as communal land rights, social organizational system in the concerned society, regulation and mechanism of rules making in the concerned region which manages the entire locals and immigrants covered in the region.

According to Attamimi, the state theory of Indonesia that is based on Indonesian goals as it is described in the government system "Village Republic", created by the Constitution creators in the modern Indonesian government system. Long before them, Tan Malaka, Soekarno, and M. Hatta, expected a republic, which had been exist in nagari and desa. By diverting the basics of the Indonesian government system and accompanied by the principles of a modern state, namely the state insights based on law (*rechtstaat*) and the government insights based on the constitutional system (constitutional system), Indonesia really has its own system and is a state that maintains its original characteristics but refining it with modern country elements (A. Hamid S. Attamimi, 1990).

As stated by Usep Ranawidjaja, that one of the sources of Indonesian constitutional law is customary constitutional law, namely the law that grows and develops in the daily life of the people which is recognized as valid by the state, both those originating from ancient times (colonial period and before) as well as those that arose and developed during the independence period (Usep Rana Widjaja, 1960). As an example, the constitutional law originating from antiquity is the legal provisions regarding self-government, the structure of government, and the organization of its positions. However, in the history of the nation's journey, the existence of village government has never escaped

state intervention. Historically, state intervention in village governance has occurred since the Dutch East Indies colonial period with the enactment of the Inlandse Gementee Ordonantie (IGO) (Soetardjo Kartohadikoesoemo, 1953, p.180). The ordinance is the implementer of the provisions of the Regering Regulation (RR) which gives recognition to the village as a community unit that is a legal entity (Bayu Surianingrat,1992). Therefore, in this regime, the village is confirmed as an autonomous entity to be able to take care of its own household affairs and can appoint village heads and officials based on local customs(The autonomy of the village that is to take care of its own household affairs is stated in Article 71 RR and Article 128 paragraph (3) IS. Meanwhile, the authority to be able to choose village heads based on local customs is regulated in the Staatsblad of 1907 Number 212).

After the independence of Indonesia, the position of the village as an autonomous entity was maintained. This can be seen by placing the position of the village as a level III region based on Law Number 22 of 1948 concerning the Stipulation of Basic Rules concerning Self-Government in Regions with the Right to Regulate and Manage Their Own Households. The legal policy of village government as a level III region was further strengthened by the government by issuing Law Number 19 of 1965 concerning Desapraja as a Transitional Form to Accelerate the Realization of Level III Regions throughout the Republic of Indonesia (UU Desapraja). The Village Law is intended to accelerate the process of transforming villages into desapraja before turning into level III regions. Even so, the legal politics to place the village as a level III region never happened (Rega Felix, 2013).

During the New Order era, the position of the village in the Indonesian constitutional structure underwent a significant change. Today, the village is no longer positioned as an autonomous entity, but is only given the status as a government administrative organ under the sub-district which is an apparatus of the central government in the region based on Law Number 5 of 1979 concerning Village Administration (Village Government Law). Based on the considerations of the Village Government Law, it can be seen that the legal politics of village government at that time was village uniformity in Indonesia. This condition resulted in the collapse of the original village structure based on local customs.

Based on what has been mentioned above, the existence of the village is very vital because the village has a contribution both economically, socially, and has large amounts of resources in the development of the country. In general, the village cannot only be defined as a legal community unit that has territorial boundaries and is authorized to regulate, manage all the needs and interests of the local community that is recognized and respected for its existence in the government system of the Negara Kesatuan Republik Indonesia (NKRI), but the village as the legal community unit provides an understanding that village institutions are not only administrative entities (administrative entities), but also as legal entities which indirectly must also be respected, privileged and protected in the government system in Indonesia (Ateng Syafrudin and Suprin Naa,2010).

3.2 Portrait of Village Democracy in The Village Law

In the history of Village regulation, several regulations regarding Villages have been stipulated, namely Law Number 22 of 1948 concerning Principles of Regional Government, Law Number 1 of 1957 concerning Principles of Regional Government, Law Number 18 of 1965 concerning Principles of Regional Government. Regional Government, Law Number 19 of 1965 concerning Praja Villages as a Form of Transition to Accelerate the Realization of Level III Regions throughout the Territory of the Republic of Indonesia, Law Number 5 of 1974 concerning Principles of Government in the Regions, Law Number 5 of 1979 concerning Village Administration, Law Number 22 of 1999 concerning Regional Government, and finally Law Number 32 of 2004 concerning Regional Government.

In its implementation, the regulation regarding the Village has not been able to accommodate all the interests and needs of the Village community, which until now has numbered around 73,000 (seventy three thousand) villages and around 8,000 (eight thousand) sub-districts. In addition, the implementation of village regulations that have been applied so far are no longer in accordance with the times, especially regarding the position of customary law communities, democratization, diversity, community participation, as well as progress and equitable development, resulting in regional disparities, poverty, and socio-cultural problems which may disturb the integrity of the Negara Kesatuan Republik Indonesia.

Starting from that problem, in 2014, Law Number 6 of 2014 concerning Villages was issued. This law was drafted in the spirit of implementing the constitutional mandate, namely the regulation of customary law communities in accordance with the provisions of Article 18B paragraph (2). However, the authority of the customary law community unit regarding the regulation of customary rights refers to the provisions of the relevant sectoral laws and regulations.

By the construction of combining the functions of the self-governing community with local self-government, it is expected that the customary law community unit, which has been part of the village area, is organized in such a way as to become a village and a traditional village. Traditional Villages and Villages basically perform almost the same tasks. Meanwhile, the difference is only in the implementation of the rights of origin, especially regarding the social preservation of the Traditional Village, the regulation and management of the customary area, the customary peace session, the maintenance of peace and order for the customary law community, as well as the implementation of government arrangements based on the original structure.

Traditional Villages have government functions, Village finances, Village development, and receive facilitations and guidance from the Regency/City government. In a position like this, Villages and Traditional Villages receive the same treatment from the Government and Regional Governments. Therefore, in the future Villages and Traditional Villages can make changes to the face of the Village and effective governance, implementation of efficient development, as well as community development and community empowerment in their area. As for the administration of village government, there must be active participation from the community, so that the needs of the community can be properly accommodated by the village government. This is in line with the existence of villages as self-governing communities that are autonomous and independent (Jimly Ashhiddiqie, 2011).

As the writer explained earlier in the background, what the writer means as the institutionalization of democracy in this context is limited to three areas, namely the election of village heads, village head election disputes, and the term of office of the village head. The three topics above will be the main study in this paper.

3.3 The Election of Village Heads

In general provisions, what is meant by *the Village Government is the Village Head or what is called by another name assisted by the Village apparatus as an element of the Village Government implementer*. (General Elucidation of the Republic of Indonesia Law Number 6 of 2014 concerning Villages).

The village head functions as the highest executive at the village level, with considerable authority. Article 26 paragraph (1) states that the Village Head is in charge of administering Village Government, implementing Village Development, developing Village community, and empowering Village communities. In fact, in the financial aspect, the village head is also the main person in charge. The amount of authority possessed by the village head changes the interest or level of interest of the community to become the village head. Moreover, this great authority is also supported by the allocation of fairly large village funds from the central and regional governments. Thus, the public's interest in becoming village heads after the issuance of this law is increasing. This means that the competition to become a village head is now getting higher.

Provisions regarding the election of village heads are regulated in Article 34 paragraphs (1) to (6). Paragraphs (1) and (2) state that the Village Head is directly elected by the Village residents, and paragraph (2) reads, The Village Head Election shall be direct, general, free, confidential, honest and fair.

The nature of the election of village heads in this case is the same as the nature of other general elections. It is carried out directly and publicly on the principles of being free, confidential, honest and fair.

It is quite interesting that the provisions regarding the mechanism for selecting village heads are also carried out simultaneously in one district. Article 31 paragraph (1) states, Village Head Elections are carried out simultaneously in all Regency/City areas, meaning that the village government development model is carried out with a modern model imitating the system prevailing in the Republic of Indonesia. Of course, this can leave positive and negative impacts on the implementation of village government. The positive aspect is that at least the village can be an initial political education for someone before entering the world of higher politics at the sub-district or district level.

3.4 Village Head Election Dispute

Because the village head election is conducted directly, the potential for village head election disputes or village head election disputes is very likely to occur. However, Law No. 6 of 2014 concerning Villages in Article general provisions does not explain what is meant by village head election disputes. In simple terms, it can be interpreted as differences of opinion between election participants and the election committee regarding the results of the village head election.

The provisions in the Village Law that require the election of village heads to be conducted directly, also require a minimum of two village head candidates. If there is only one candidate, the Village Law does not accommodate the acclamation so that the election cannot be held. Therefore, in many areas to respond to this provision, many candidates for village heads have nominated other candidates from their relatives or even their own wives. This is done to fulfill the quota of at least two candidates.

In the context of a democratic country that accommodates direct elections, the existence of an election dispute resolution mechanism is absolute. This is important so that the local community does not get involved in a prolonged conflict. In addition, to protect the values of justice if there are candidates who play dirty or cheat. In the context of disputes over the results of general elections and regional head elections, the Constitutional Court (MK) is given the authority to resolve them. Meanwhile, the dispute process is carried out by the State Administrative Court (PTUN) and the Election Supervisory Body (Bawaslu).

The provisions regarding village head election disputes are regulated in Article 37 paragraph (6) which reads, 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 (5). While paragraph (5) itself reads, the Regent/Mayor ratifies the elected Village Head candidate as referred to in paragraph (3) to become the Village Head no later than 30 (thirty) days from the date of receipt of the submission of the election results from the Village Head election committee in the form of a Regent/Regent's decision.

The provisions contained in Article 37 paragraphs (5) and (6) above are: First, disputes over the results of village head elections are resolved by the Regent/Mayor and the Regent/Mayor is obliged to settle them. Second, the period of time that the Regent/Mayor has to settle the dispute is a maximum of thirty days after receiving the submission of the results of the village head election from the committee. Third, the results of the village head dispute shall be stated by the Regent/Mayor in the form of a Regent/Mayor Decree.

3.5 Term of Office of the Village Head

In the past, the term of office of the village head was not limited. A person can be a village head as long as he wants and is able to live it, so it is not surprising that in villages someone can become a village head for the rest of his life. In fact, the position can later be passed on to their children from generation to generation. In the context of modern society, this is no longer possible. The term of office must be limited to avoid various irregularities, including in the context of the term of office of the village head.

The term of office of the village head is regulated in Article 39 paragraphs (1) and (2) which reads, the Village Head holds a position for 6 (six) years from the date of inauguration, and the Village Head as referred to in paragraph (1) can serve a maximum of 3 (three) consecutive or not consecutive terms of office. This means that a person can become a village head for three times either in a row or not in a row, so the position of a village head can be held by someone for 18 years. This provision is different from what is regulated in Law Number 32 of 2004 concerning Regional Government which only gives two terms of office.

In the provisions of the explanation it is stated that, what is meant by "from the date of inauguration" is a person who has been inaugurated as a Village Head, then if the person concerned resigns before the end of his term of office, he is considered to have served one term of office of 6 (six) years. Village heads who have served one term of office based on Law Number 32 of 2004 are given the opportunity to re-nominate for a maximum of 2 (two) terms of office. Meanwhile, Village Heads who have served 2 (two) terms of office based on Law No. 32 of 2004 are given the opportunity to re-nominate for only 1 (one) term of office.

4. The Problems of Institutionalizing Village Democracy

4.1 Village Democracy and Genuine Indonesian Democracy

In the context of implementation, the Village Law will face various challenges related to the readiness of the village in carrying out its authorities, to the local government's perception of the position of the village. The failure of local and village governments to manage these challenges will result in the legal politics of village government as the original holder of autonomy cannot be realized. In addition, the psychological situation and culture of rural communities are also a big challenge. The dwarfing characters by the colonialists and the New Order government in the name of stabilization must be recognized as having a very negative impact. The institutionalization of democracy, as the writer means in the sub-chapter of this paper, is interesting to be initially studied further back. For the people of Indonesia, the term democracy in its modern sense as it is today, is a new term that is unknown in the history of the nation.

Talking about the term democracy, Bung Hatta's writings in his book "Our Democracy" may be worthy of being used as a reference. Without denying the silver of other Founding Fathers, Bung Hatta was the founder of genuine Indonesian democracy who remained consistent until the end of his life (Despan Heryansyah, 2017). On July 15, 1945, the Investigative Agency for Preparatory Work for Independence (BPUPK), convened in Pejambon, was involved in a hot debate: should democratic freedoms – the right to express thoughts and opinions orally and in writing, the right to assemble and associate – be stipulated in the Constitution or not? Soekarno (and Supomo) steadfastly refused, while Hatta (Muhammad Yamin, and others) supported it (For full description Read *Risalah Sidang BPUPKI, Set. Neg. RI. 1992*).

It is interesting to see each other's arguments. Soekarno underpinned his refusal on two arguments. First, stating that individual Indonesian citizens have certain basic rights is the same as opening the door to individualism: "*we draft the Constitution with people's sovereignty and not individual sovereignty.*" Second, according to Soekarno, the people need social justice, even though these freedoms "cannot fill the stomachs of people who die of hunger".

Mohammad Hatta also rejected liberalism. Yet he raised a concern that was apparently beyond Soekarno's imagination. According to Bung Hatta, "*Let us not give unlimited power to the state to make above the new state a state of power*". Hatta was worried about the emergence of a state of power. According to him, social justice is not contradictory with democracy, in a speech in Aceh 25 years later, he wrote "*what is a righteous Indonesia? A righteous Indonesia means nothing more than giving a feeling to all the people that they are treated fairly in all aspects of their life without discrimination as citizens. This will be valid if the state government from top to bottom is based on people's sovereignty*" (Frans Magnis Suseno, 2010).

Regarding Indonesian democracy, Bung Hatta had an interesting opinion. According to him, we must be careful with the term Original Indonesian democracy. In the past, before the lands fell under the rule of foreign nations, there was democracy only in the village government, which hinged on the meeting. So there is village democracy, but there is no Indonesian democracy (Even in Minangkabau it is unknown, according to Bung Hatta, the Minangkabau proverb which reads, "Nephew is king of mamak, Mamak is king to penghulu, penghulu is king to consensus". Whose consensus? Not the consensus of the people, but only the consensus of the leaders. Even in Minangkabau itself this principle has been rejected, people want anyone who has reached Baligh to be given the right to join consensus).

Indonesia was generally ruled by kings with autocratic and feudal rules, so was the case in western lands at that time (Bung Hatta really disliked feudalism, perhaps that is the reason he did not really agree with the form of a unitary state because it would have great potential to give birth to feudalism, and it was proven. See Despan Heryansyah, *Autonomy Crisis, In the Analysis of the People's Sovereignty Column*, April 2017). People were only used as tools to refine their pleasures and needs. Wayang stories and Malay saga prove this point. This king, for example, wants to take another king's daughter to be his consort. If it cannot be reached by consensus, it will be taken by force. And the people were ordered to fight for the sake of the king, who thought he was God's representative in this world.

This state of feudalism harmed the Indonesian people until they were ruled by foreign nations. Village democracy, which has a good foundation, could not develop and remained unstable, since there is a mere autocracy to be responsible for. So in the original Indonesian society, democracy only exists at the bottom. The government above is

based solely on autocracy. Above the head of village autonomy stands Daulat Tuanku, who acts arbitrarily, which is not controlled by the people.

Therefore, if Indonesia receives a government based on democracy, we must not look back. We must continue the original democracy into people's sovereignty, so that there is a people's government regulation for Indonesia as a whole. In short, the Sovereignty of my lord must be replaced with the Sovereign of the People, no longer a noble, nor a master, but the people themselves who are kings over himself.

Bung Hatta used the term village democracy and rejected Indonesia's original democracy and considered it an empty slogan without content. Distinction is important, the term of genuine democracy can give the impression as if in the archipelago there has always been a democratic government system. But the traditional power structure in the archipelago was of course always feudal and autocratic, and the people were only used for the benefit of the king. Hatta was very anti-feudal. He blamed the aristocrats for the enforcement of colonial rule. And he was very worried that Indonesia's power would not fall into the hands of the aristocrats, because such an independent Indonesia does not mean their people. The implication: talking about genuine democracy can legitimize a form of popular sovereignty in which the people are again not sovereign.

4.2 The Problems of Institutional Democracy in the Village Law

Democratization at the village level which will be discussed in this subchapter refers to the formulation of the problem covering three things: First, the election of village heads. The election of the village head adopts the presidential and regional head election model, which is carried out directly. In this context, it implies that the president, governor, regent/mayor, and village head have the same legitimacy, which is directly elected by the people. It is simply that, the scope of his power is different; the village head only has power in the territorial area of his own village. From the aspect of the formation of regulations, it is also not much different. At the central level, laws are formed by the president and the DPR, at the regional level by the regional head and DPRD, while at the village level, it is also formed by the village head and the Village Consultative Body (BPD) which is essentially the same as the legislature at the village level. The difference is, if the products of local laws and regulations are canceled with a judicial review mechanism at the Constitutional Court and the Supreme Court (The previous Regional Regulation review also used the executive review and judicial review mechanisms at the same time, but was canceled by the Constitutional Court through Decisions Number 137/PUU-XIII/2015 and Number 56/PUU-XIV/2016.), while the cancellation of village regulations is only through an executive review mechanism by the regent/mayor (Putera Astomo,2018).

The problems that arise through the direct election mechanism include at least two things. First, the political education of rural communities is still very low, so that political choices are always intertwined with the interaction model that is built. Differences are considered unusual, so that in a family usually, family members must follow or at least agree with the father's choice. This condition also causes the village community to be easily provoked by emotions, so that it is not uncommon to cause horizontal conflicts and even bloodshed. (The election of village heads in several places in Sumatra led to fights between supporters of each candidate for village head). Both situations are exacerbated by the relationship between rural communities which are still familial, either because of blood or marital relations, which in sociological terms are called genealogical. This condition has an impact on healthy or unhealthy democratic competition, because there is a feeling of "eweh pekeuwah" when choosing a different candidate.

The next problem is the settlement of village head election disputes. As the writer has explained in the previous subchapter, village head election disputes in Law Number 6 of 2014 are resolved by the Regent/Mayor. This creates unhealthy competition between the candidates, because they are actually competing to win the heart of the regent in various ways. Not by fair competition to win the hearts of the people in the local village. In addition, there are serious legal problems. The determination of the results of the village head election is circulated by the election executive committee, meaning that because the form is a stipulation, it is included as beshicking. Beshicking is a legal product, as is the case with the determination of election results by the General Elections Commission (KPU), then how it can be possible that a lawsuit against the position of the winner of the village head election is submitted to the Regent, not through a proper legal mechanism in court. The Regent's decision, of course, will be very subjective and has a great chance of damaging the values of justice in society.

Another problem is related to the term of office of the village head which reaches 6 years and can be re-elected for the same three terms. So that almost someone will be a village head for 18 years. From this aspect of democracy, it becomes unfair, because it indirectly closes the opportunity for someone to be elected and occupy certain positions. In addition, with the client-patron model that is still deeply rooted in rural communities, it is not difficult for someone who is already considered a figure by the village community to win the village head election contestation. That is a piece of the problem left by the institutionalization of village democracy, so it is only natural that to this day, the implementation of the Village Law is still limping even though it has been supported by very large funding.

5. Conclusion

Based on the analysis of the discussion above, it can be concluded as follows. First, village regulations in Indonesia have a long history. The current Village Law emphasizes that village institutions are administrative entities (administrative entities) and legal entities (legal entities) that must be respected, privileged and protected in the government system in Indonesia. There are three main issues related to the institutionalization of democracy in the Village Law, namely the election of village heads is carried out directly by the village community, village head election disputes are resolved by the regional head, and the term of office of the village head is 6 years for three terms of office, meaning that a person can become village head for 18 years.

Second, although the institutionalization of village democracy has appeared in the Village Law, its regulation still causes problems. In the case of village head elections, direct elections are faced with the condition of the low political education of rural communities and the pattern of rural community relations that are still familial, either because of blood relations or marital relations which in sociological terms are called genealogical so that it creates a feeling of "eweh pekeuwah" when choosing a candidate who different. In the village head election dispute which is resolved by the Regent/Mayor, it has the potential to give birth to unfair competition between the candidates, because the candidates are competing to win the Regent's heart in various ways. In the event that the term of office of the village head reaches 6 years and thereafter can be re-elected for the same two terms of office, it has the potential to cause negative effects because the very long time closes the opportunity for someone to advance as a candidate for village head.

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