

THE PROBLEM OF CONSTITUTIONALISM OF VILLAGE HEAD TENURE IN THE DIMENSION OF THE STATE OF LAW AND DEMOCRACY

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ABSTRACT

The research in this journal is entitled "The Problem of Constitutionalism of Village Head Tenure in the Dimension of the State of Law and Democracy". The request for an extension of the term of office of the village head is difficult because, although legally the problem is an open policy that can be used to make political laws, it is contrary to the ideals of Democracy which demands that power remain under control. The research conducted uses statutory (statute approach) and conceptual (conceptual approach) approach techniques as part of normative Law research methodology. The findings of this study show that, in contrast to the tenure of regional heads and presidents and vice presidents, the 1945 NRI Constitution does not specifically limit the term of village heads. This is one of the factors that contribute to this variation of regulation inseparable. In the view of the State, Law and Democracy both allude to aspects of abuse of power when there is a longer period of power in the government structure.

Keywords: *Democracy, Village Head, Tenure.*

INTRODUCTION

The Constitution of the Republic of Indonesia in its journey is called 1945 NRI Constitution. Expressing affirmation that, the Unitary State of the Republic of Indonesia (NKRI) is a Democratic State and the People exercise their sovereignty in according with the Constitution. As referred to in article one paragraph two, the naming of Democracy comes from the Greek terms demos which means people

and cratein which means government. The word Democracy, which comes from two Greek roots, refers to the form of government by the people put forward according to R.Kranenburg. Democracy can then be seen as, a society that gives its mandate to the government, that is, from the people, by the people, and for the people.¹

There is also an opinion view according to Moh Kusnardi and Harmeli Ibrahim, in the sense of people's sovereignty (democracy), the people are considered as the owners and managers of the highest power of the State. This means that the people are decisive. The determination in question is the model and method of governance, as well as the goals to be achieved by the government and its rulers.² The public also has the right to express their wishes and criticize the government. The purpose of a democratic system of government is to reduce the power of the government, so as not to obtain absolute power or dictatorship. Dictatorial power can be prevented by limiting the length of government. While the proposed extension of the term of office extends the limping row of Democracy.

The demonstration of thousands of village heads in front of the MPR or DPR building demanded the extension of the previous six-year term to nine years and asked the DPR-RI to revise the term of office. The formulation of norms governing the term of office of the Village Head is regulated in Article 39 of Law number 6 of 2014 concerning Villages, which reads:

1. The Village Head holds office for six years fro, the date of inaguration.
2. The Village Head as referred to in paragraph one may serve a maximum of three consecutive or non consercutive terms.

The Village Head's intention to extend his term of office is an unusual act in law enforcement and democratic democracy. Although it is legally and politically possible to extend the term of office of the Village Head based on the agreement of the rulers, this does not reflect the values of the Rule of Law or Democracy.

¹ Sarja, *State of Law Theory and Practice*, (Gowa: Thafa Media), 2016.

² Asshiddiqie, *Indonesian Constitution and Constitutionalism*, (Secretariat General and Registrar of the Constitutional Court R.I), 2006.

The Village Law of the Republic of Indonesia Number 6 of 2014 was revised to extend the term of office of the Village Head from six years to 9 (nine) years.³ The Village Head said that if the Village does not develop well after 6 (six) years, then another nomination will be made for the time being. The same thing was desired by the Village Chief. The village head also demanded the same rights as other agencies, when running for legislature to get the right to leave.

On Wednesday, January 25, 2023, a demonstration by the Indonesian Village Equipment Association (PPDI), there were five things that were specifically demanded in the Indonesian Village Equipment Association (PPDI) demonstration, namely the President was urged to issue a Village Device Master Number (NIAPD) to provide protection and certainty for Village officials throughout Indonesia, fixed income for Village equipment throughout Indonesia, Village officials throughout Indonesia are given benefits, employment welfare guarantees four programs with old age insurance (JHT).⁴

Therefore, since the reform, regulations related to villages have changed. This change is none other than the political interest, the need for change and independence to recognize and appreciate the Village that can bring its development. The village started the restructuring process through Law Number 22 of 1999 concerning Regional Government then Law Number 32 of 2004 concerning Regional Government (hereinafter referred to as Law No.32 of 2004 and Law Number 23 of 2014 concerning Regional Government. Moreover, the village is finally regulated separately in Law No. 6 of 2014.⁵

According to Law No.22 of 1999, Village Heads can only apply for two separate time periods. Further protection is provided by a 10-year time limit on the duration of the agreement. Explanations and limitations are contained in Article 96 of Law No. 22 of 1999 "The term of office of the Village Head shall not exceed

³ House of Representatives. 2023. 'Kades Demo in DPR, Said Abdullah Appreciates the Demands of Village Leaders' (DPR RI)

⁴ Yanwardhana, Emir. 2023. 'Chronology of the Massive Demo of Kades Cs in Jakarta, *What's the Matter?*' (CNBC Indonesia)

⁵ Fanani et al, Village Law Analysis, 4.1, *Journal of Dialectics*, 2019, 116.

ten years or two terms of office from the date stipulated". Then Article 204 of Law No. 32 of 2004 changed the term of office of the Village Head. "The term of office of the Village Head is 6 (six) years and can be re-elected only for the next 1 (one) term". According to the description of Article 204 of Law No. 32 of 2004, his term of office was extended by 1 (one) year, but the term remained consistent. In addition, Law No. 6 of 2014 does not extend the period, the position of Village Head can be filled three times, either sequentially or sporadically. The Village Head can thus serve for a maximum of 18 years.⁶

The Law basically sets its own criteria with regard to how the norm The law is created and will determine the content of the norm. Since Legal norms are passed or have been validated by referring to other Legal norms, the validity of Legal norms must refer to existing Legal norms.⁷ The relationship is called Hans Kelsen as a superrelationship and subordination in a spatial context. The norm that will determine other norms is said to be superior and the norm that will be made as inferior. Article 7 and Article 8 of Law Number 12 of 2011 concerning the Formation of Legislative Regulations regulate the types and hierarchy of statutory regulations which are made in stages.⁸ Thus Legal norms should be based on hierarchies with different levels , hence lower norms will be determined by higher norms in their formation. The norm level aims to regulate the relationship between norms with one another so that they do not overlap. Overlapping circumstances will make a legal norm unclear or in other words there will be conflicts when applied or practiced in the life of a State.⁹

The term of office of the Village Head is not explicitly regulated in the 1945 NRI Constitution as well as the term of office of the President and Vice President

⁶ Maslul, Legal Construction of Village Head Term of Office After Constitutional Court Decision Number 42/Puu-Xix/2021. *Legal Literacy*, 6.2, 2022, 131-40.

⁷ Aslansyah, Study of Hans Kelsen's Teachings on Pure Theory of Law Reviewed from the Perspective of Justice, *Tomalebbi Journal*, 1.1, 2014, 63-82.

⁸ Irfani, *Lex Superior Principles, Lex Specialis, and Lex Posterior: Their Meaning, Problems, and use in Legal Reasoning and Argention*, 16.3, 2020.

⁹ Samekto, Tracing the Roots of Hans Kelsen's Thought on Stufenbeautheorie in a Normative Philosophical Approach, 7.1, *Journal of Progressive Law*, 2019.

and the term of office of the Regional Head, but is only regulated in Article 39 of Law No. 6 of 2014. The Constitutional Court (MK) in Case Decision Number 15/PUU-XXI/2023 stated that the dynamics of changes in the arrangements regarding the term of office of Village Heads are highly dependent on philosophical, juridical, and sociological factors that influence when the provision is made. In other words, if at any time the framer of the Law maintains that by taking into account the development of the community there is a need to limit the term of office of the Village Head, including by determining the periodization of the term of office which may be different from the previous provision, it cannot necessarily be interpreted as contrary to the 1945 NRI Constitution as long as the consideration of making such restrictions does not contain matters prohibited by the 1945 NRI Constitution. Including if there is a distinction regarding the term of office of the Village Head with other public tenures, it is an open legal policy that forms the Law.

Based on the description and explanation in the background of the problem above, there is an interesting legal issue to be examined, namely what is the view of the State of Law and Democracy towards the extension of the term of office of the Village Head?, if the framer of the Law accepts the proposal of the extension of the Village Heads to extend the term of office to 27 years or one period of nine years because the policy is included in the open legal policy hence too long a term of office is not in accordance with the principles of the State of Law and Democracy. Therefore, this research is very important because in the principle of Democracy, Democratic States require restrictions on power.

RESEARCH METHODS

This research is a normative Law research that uses a literature study model by placing Law as a norm system building.¹² The research approach is carried out conceptually (conceptual approach), namely examining problems by seeing, analyzing and interpreting theoretical things. Legal principles in the form of

conception, synchronized with the statute approach, and views of legal doctrine regarding the term of office of Village Heads according to the principles of the Democratic State.¹⁰

RESULT AND DISCUSSION

Term of Office of Village Head Based on the Law and Constitutional Court Decision Number 42/PUU-XIX/2021 based on Article 22 of Law No.22 of 1999, the national government structure is centered in the district area. In this situation, the local government is responsible for everything related to the Village. The purpose of village development is to increase the potential for efficient growth at the village level. Because the village is the lowest level of government entity. With the formation of community villages at the smallest unit level, the government has a clear and focused growth path. Meanwhile, autonomy refers to a series of initiatives aimed at allowing regions to grow independently. Article 95 of Law Number 22 of 1999 reads:

The Village Government consists of “the Village Head or referred to by other names and Village officials. The Village Head is directly elected by the villagers from qualified candidates”. The candidate for Village Head who is elected with the majority of votes, as referred to in paragraph (2), is determined by the Village Representative Body and ratified by the Regent. The term of office of the Village Head is limited to a maximum of 10 years, or two terms, starting from the date stipulated, as referred to in Article 96 of the Statute a quo. Financial resources, physical assets, and human resources are provided to the Village on behalf of the government, provincial government and/or district government to assist in the settlement of responsibilities to the Village.

The Village Head is responsible for the following leading the administration of the Village government, fostering the life of the Village community, fostering the Village economy, maintaining the peace and order of the Village community

¹⁰ Ali, Zainuddin, *Legal Research Methods*, (Jakarta: Sinar Grafika), 2021, 65.

and reconciling community disputes in the Village and representing his Village in and out of court and may appoint his legal representative.

The Village Head through the Village Representative Body is responsible to his residents for the implementation of duties and obligations stipulated in Article 101 of Law No. 22 of 1999. Each village head must submit a report to the sub-district about the implementation plan. In addition, Law No.32 of 2004 provides an overview of the region as follows:

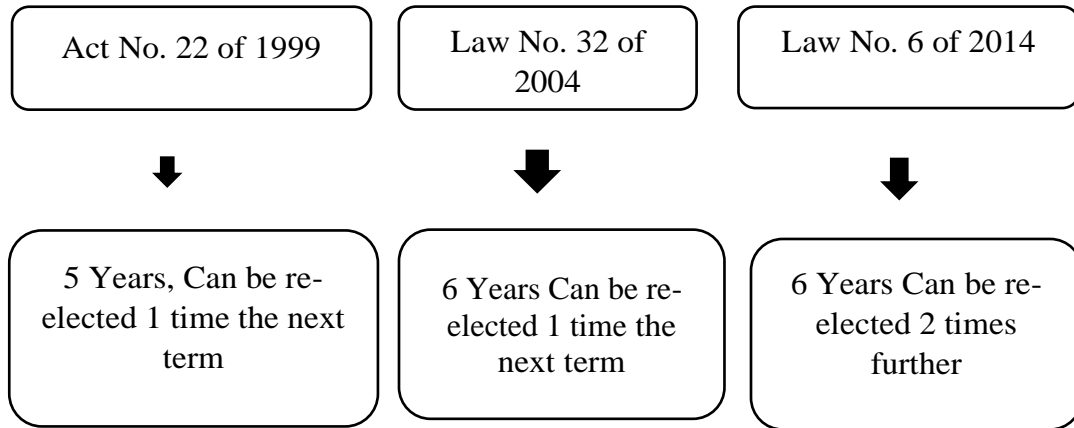
"A village is a specific geographical unit recognized by law, whose boundaries are used to control and protect local communities and the interests of the Unitary State of the Republic of Indonesia. A system of government that respects and protects the cultural heritage of its citizens."

Law Number 32 of 2004 brought major changes in the administration of local government, one of which was the extension of the term of office of the Village Head for one year. In Law Number 22 of 1999, the term of office lasts for 5 (five) years. Meanwhile, based on Law No. 32 of 2004, the term of office of the Village Head is 6 (six) years, as referred to in Article 204 of Law No. 32 of 2004, and the Village Head can be re-elected only for one term or 1 additional term. According to Article 26 of Law Number 6 of 2014, the Village Head is tasked with supervising the implementation of village government, planning village development, advancing the village community, and giving more authority to the community.¹¹

The Village Head has a variable duration of office and tenure at the time of reform, here is a map of the Village Head's tenure:

¹¹ Maslul, *Legal Construction of Village Head Term of Office After Constitutional Court Decision Number 42/Puu-Xix/2021*, 6.2, Legal Literacy, 2022, 131.

Table Map of Village Head Term of Office



Article 39 of Law No. 6 of 2014 was previously clarified as follows, Village Heads who have served one term in accordance with Law No. 32 of 2004 are given the opportunity to run again for a maximum of 2 terms of office, so that Village Heads who have served 1 term, both based on Law No. 6 of 2014 and based on previous laws are still given the opportunity to serve 2 terms. Similarly, Village Heads who have served 2 terms, both based on Law No. 6 of 2014 and based on previous laws are still given the opportunity to serve 1 term.

Constitutional Judge Enny Nurbaningsih in Constitutional Court Decision Number 42/PUU-XIX/2021 read out the legal considerations for Article 39 of Law No. 6 of 2014 to establish a protocol for extending the term of office of Village Heads a maximum of 3 times. The appointment of Village Heads who want more than three terms is the main reason for the end of the position based on Law No. 6 of 2014. Therefore, before the enactment of Law No. 32 of 2004, this practice needs to be analyzed based on applicable laws and regulations. Problems arise when the Village Chief makes choices at will or when there are other unforeseen circumstances. To avoid this problem, the term of office of the Village Head is not only determined by Law No. 32 of 2004.¹²

¹² The Constitutional Court, *the Constitutional Court partially granted the test of the Periodization of Village Head Term of Office (MKRI) rules*, 2021.

In other words, although it depends on several laws, including those in force before Law Number 6 of 2014, Village Heads who have served three consecutive terms are still considered to have served three terms. In other words, Article 39 Paragraph 2 of Law No. 6 of 2014 is counted three times in a row or not counted at all, depending on how many times someone is elected as Village Head. Whether split into the same or different villages, the divided village heads are still subject to a three-term limit.

The explanation of Article 39 of Law Number 6 of 2014 must be adjusted to avoid multiple interpretations and legal uncertainty, and must be declared contrary to Article 28D paragraph (1) of the Constitution of the Republic of Indonesia of 1945, as long as it conflicts with Article 39 of Law Number 6 of 2014. is not interpreted as a Village Head who has served for one term, either according to Law Number 6 of 2014 or based on the previous Law, is still given the opportunity to serve two terms of office. Then, Village Heads who have served two terms, both based on Law Number 6 of 2014 and previous laws, can still serve one term.

The dynamics of changes in laws and regulations governing the term of office of the Village Head are strongly influenced by the philosophical, legal, and social conditions that prevail at the time the provision is promulgated. If the framer of the Law at any time decides that, in view of community development, it is necessary to limit the term of office of the Village Head, including determining the periodization of tenure that may differ from the previous provisions, this cannot be interpreted as a violation of the laws and regulations. The State Constitution of the Republic of Indonesia Year 1945.

Therefore, constitutionally the demand for extension of the term of office of the Village Head does not violate the 1945 NRI Constitution, The state constitution does not explicitly regulate the term of office for villages. These provisions are regulated in law. Regulations regarding the position of village head are based on the characteristics of each region based on the diverse social life of Indonesian society. This is different from term limits for several other public offices, such as President and Vice President, as well as regional heads. Therefore, the term of office of the Village Head and how many periods the Village Head can serve, it is an open legal

policy that formed the Law to regulate it, the change in term of office and periodization of the Village Head is strongly influenced by the sociological, juridical, and philosophical conditions when the regulation was made.

State of Law's View on the Extension of the Village Head's Term of Office

The founding fathers placed Indonesia as a State of Law. The determination is contained in Article 1 paragraph (3) of the Constitution of the Republic of Indonesia Year 1945. The heads of government of the State, regions, and villages are constitutionally bound to exercise their powers in accordance with the constitution of the State. According to the NRI Constitution, which is further regulated in the laws and regulations below, the term of office of the Head of State, Regional Heads, MPR, DPR, DPD, and DPRD is a maximum of 5 (five) years, while the term of office of Village Heads as stipulated in the formulation of Article 39 paragraph (1) of Law of the Republic of Indonesia number 6 of 2014 concerning Villages is 6 (six) years. The paragraph reads "The Village Head shall hold office for 6 (six) years from the date of inauguration". Then a problem arises, when man is so engrossed in his seat of power. Holding power for too long causes humans to fall into abuse of power and tend to be corrupt in running their government.

In a constitutional democracy, the constitution serves as a watchdog of government authority, ensuring that that authority is not exercised arbitrarily and people's rights are protected.¹³ This ideology is known as constitutionalism and is supported by the Indonesian government as stated in the 1945 Constitution.¹⁴ Limitation of power is a constitutional requirement in the 1945 Constitution of the Republic of Indonesia, which is based on the philosophy of Pancasila Democracy. The extension of the term of office of the Head of Village Government is an anti-democratic and anti-rule of law act, carried out by a group of village leaders. The Indonesian state has village government which is essentially based on the rule of law. So it must obey the normatively applicable law that regulates the term of office of the Village Head.

¹³ Suny, *The Shift of Executive Power: An inquiry into Constitutional Law*. New Script, 1977.

¹⁴ Dahlan Thaib, *Constitutional theory and law*. Raja Grafindo Persada, 2005.

Jimly Asshiddiqie said, “that as a consequence of the adoption of the concept of the State of Law, in every State of Law regardless of the type it adheres to, Law must be the basis for every action of its rulers and people. Law has the highest position in the State, while in the understanding of people's sovereignty, it is the people who are considered sovereign above all, which then gives birth to the Democratic system. The principle of the State of Law prioritizes norms reflected in laws and regulations, while the principle of Democracy prioritizes the participation of the community in the administration of government”.¹⁵

The provisions regarding the term of office of the Village Head have been determined to be 6 years for one period. This means that referring to the principle of legality in a State of Law, the position is the political position held the longest held by the Village Head, compared to the term of office of the President and Vice President and the positions of the Heads and deputy Heads of regions. The determination of the term of office of the Village Head of 6 years for one period is a decision of the State institution, namely the DPR with the President. The DPR in making decisions, in the context of the term of office of a leader or head must represent the people as an exercise of people's sovereignty. No one wants an extension of the term of office of the Village Head, except the Village Head himself. The extension of the term of office of the Village Head, as well as clogging the flow of Democracy, so that political battles in the election of Village Heads take a long time.

In a State of Law, the use of authority or power by the State ruler or government authority cannot be separated from the restrictions set forth in the Law, because the use of authority departs from the concept of division of powers which is a characteristic or character of the State of Law. Conventionally, the concept of the State of Law is always associated with the principles of government that must be based on laws and constitutions, as well as the division or separation of State powers into different functions.¹⁶ The limitation of the term of office of the Village Head has been stipulated

¹⁵ Jaidun, Extension of Village Head Term in the Perspective of the State of Law and Democracy, 1.02, Wara Sains Journal of Law and Human Rights, 2023, 200.

¹⁶ Jaidun, Extension of Village Head Term in the Perspective of the State of Law and Democracy, 1.02, Wara Ilmu Journal of Law and Human Rights, 2023, 199.

by law, so that the extension of the term of office of the Village Head is contrary to the principles of the State of Law and Democracy. The principle of democracy is that power must be rotated. This is to prevent too long power in the order of Law and Democracy, because too long power opens up opportunities for the formation of an authoritarian State, where the authoritarian State does not know Law and Democracy, but power uses an iron fist and justifies all kinds of means.

Regarding the meaning of the State based on Law, Mohtar Kusumaatmadja stated, the deepest meaning of the State based on Law is the power subject to the Law and all people are equal in the Law.¹⁷ The term of office of the Village Head is the same as the period of power, where the power must be subject to the Law, therefore, it is unreasonable for the Law that the term of office of the Village Head must be extended. In fact, the term of office of the Village Head should be limited to only 5 years for one period. This means that the Village Head in exercising power must obey the Law and not violate the Law in terms of exercising power, especially in requesting an extension of their term of office.

as a rule of law as regulated in the Indonesian constitution, the concept of limitation or separation of powers must be the basis of the nation's ideals in the constitutional system as stated in the characteristics of a rule of law state by A.V. Dicey in the rule of law and Julius Stahl in *Reichsstaat*, which requires limitations and separation of powers in a legal state. These limitations and separation of powers are regulated in the state constitution as part of the concept of modern constitutionalism. so that the main part of the concept of the rule of law is the existence of limitations on power through the provisions of statutory regulations. Therefore, the concept of the rule of law is also called the rule of law, namely a state that is limited by the constitution.¹⁸

¹⁷ Kusumaatmadja, *Legal Concepts in Development*, Bandung Alumni, 2002.

¹⁸ Jaidun, Extension of Village Head Term in the Perspective of the State of Law and Democracy, 1.02, *Wara Ilmu Journal of Law and Human Rights*, 2023, 199.

Democratic Views on the Extension of the Village Head's Term of Office

The concept of the State of Law and Democracy has a close relationship, with the understanding of the State of Law within the State covering the terms and components of the Democratic system, such as the need for limitations through the Basic Law, including the constitution. In order for Democracy not to cause unlimited freedom and independence, laws and regulations are needed as guidelines for a Democratic State. Although a State that upholds the rule of Law is a State whose actions of the executive branch and its population are guided by applicable Law.¹⁹

In a State with a Democratic system, Law, power, and Democracy are all interrelated. Instead, the Law is used to limit power so as not to clash with Democracy. Laws are used to legitimize power so that authority can be recognized. In Indonesia using Pancasila democracy, which is very different from western democracy, has existed in Indonesia for a long time.²⁰

Of course, in a democratic democracy, the limits of power are closely related to the presence of a constitution. In his book *Constitutional Law and the Constitutional Court*, Abdul Mukhtie Fadjar underlines that the rule of law which is also supported by a solid constitution is the most appropriate and solid foundation for a democratic state. A strong constitution is the only constitution that understands constitutionalism, which accurately establishes the limits of executive, legislative, and judicial powers and powers fairly and effectively.²¹

Constitutionalism holds that government is a series of decisions made by and on behalf of the people, but subject to some coercion intended to prevent those with legal authority to rule from abuse of power. The principle of modern constitutionalism actually concerns the regulation and limitation of State power, so that the dynamics of power in the government process can be limited and controlled

¹⁹ Alfons, *Law Versus Power in a Pancasila Democratic State*, (Faculty of Law Pattimura University) 2018.

²⁰ Mahfud MD, *Legal Politics in Indonesia*, (Jakarta: Raja Grafindo Persada) 2009.

²¹ Alfauzi, *Limitation of Power Based on Constitutionalism in Democracies*, 7.2, *Politica*, 2020, 111.

as appropriate.¹⁸ According to Adnan Buyung Nasution that constitutionalism is not just a constitutional state government but a government whose power is limited (limited by law) and is responsible to the people. Therefore it is said that, constitutionalism is said to be an institutional system of effective and orderly limitation of governmental power.²²

In relation to the discussion of the constitution above, the State of Indonesia itself uses the concept of democracy in the provisions of the existing constitution. Therefore, Democracy was incorporated into the constitution. When the power of the people significantly affects the daily lives of citizens or public policy making, Democracy itself can be considered as the basis of the State. The ability of State policy to accommodate all the interests of the people is a positive constitutional value in a State that upholds the ideals of Democracy, because in Democracy the people are the most powerful. Thus, it is not impossible that the limitation of power in State policy departs from the interests of the people, such is the true value of a good constitution in a State that adheres to the concept of Democracy.

Therefore, the issue of the 6 (six) year term of office of the Village Head that does not provide sufficient time to carry out the vision and mission of the Village Head should not be a question of constitutionality of the norm, especially when compared to other political terms that are directly elected, such as the office of president who is elected only 5 (five) years and can be re-elected for one term, This means that if the term of office is increased 2 (two) times, it will be a maximum of 10 (ten) years. While the Village Head can serve for 18 (eighteen) years. Thus, the Village Head should be able to maximize the implementation of his vision and mission if re-elected.

Optimization of village government, among others, is carried out by rotating leadership periodically. This action is intended to introduce a new generation of local leadership relay bearers while preventing the formation of a single ruler who controls many aspects of people's lives. Therein lies the need and

²² Siahaan, Maruarar. 2015. 'Constitution and Limitation of State Power' (Pusdik MKRI)

importance of renewal. However, competition at the local level aims to match anyone with the skills needed to sustain local leadership while developing communities.

Theoretically, power that lasts too long tends to be corrupted or potentially corrupted, as *Lord Acton put it, "Power trends to corrupt, and absolute power corrupts absolutely "* meaning (power tends to corrupt, and absolute power tends to corrupt absolutely).²³ In a sociological view, the possibility of other people running for Village Head will certainly decrease with the longer the term of office of the Village Head.

On the other hand, the extension of the term of office of the Village Head can occur *abuse of power*. The majority of these acts of abuse of power have a significant effect on the trend of corruption, collusion, and nepotism (KKN).²⁴ It can be seen from the eradication of corruption inventoried by Indonesia Corruption Watch (ICW) every year. From 2015 to 2021, corruption at the village level topped the list as the sector with the most corruption cases acted upon by law enforcement officials. There have been 592 cases of village corruption over the past seven years that cost the State a total of Rp 433.8 billion.²²

Authority given as a means to carry out a task, is seen as personal power. Because it can be used for personal gain, as a result the Village Head who occupies an important position in a government at the bottom feels that he has the right to use the authority assigned to him freely, the higher his position, the greater his authority. Sometimes the abuse of office authority is caused by public policy which is only seen as a procedural and administrative error, but if it is done with the aim of benefiting oneself or other people or corporations which results in economic and financial losses of the State, then it is actually a criminal offense.

Thus, cases of corruption with the mode of abuse of office authority are multidimensional and complex. Although corruption is multidimensional and

²³ Saraswati, Retno. The Political Direction of Village Regulation Law Forward, *Ius Constituendum*.

²⁴ Safitri, Rantika. Analysis of Misuse of Village Fund Allocation by Village Head (Case Study in Taman Jaya Village, 2.1, *Petitum Journal*, 2022, 45-55.

complex, there is one thing that is the main cause of corruption, especially in the bureaucracy, namely opportunity and position or power. A person will tend to abuse his position or power to enrich himself or others or corporations, if that power has opportunity and is not restricted.

Therefore, the problem of extending the term of office of the Village Head becomes dilemmatic, as a rule, the authority to extend the term of office of the Village Head is an open *legal policy* that forms laws that are political, but other *disi* according to the principle of Democracy that wants a limitation of power will have the potential for *abuse of power*, because in principle Democracy aims to limit government power so as not to cause absolute power or dictatorship, so that abuse of power such as corruption at the village level does not occur again.

CONCLUSION

Three laws have been passed since the Reformation era, namely Law Number 22 of 1999, Law Number 32 of 2004, and Law Number 6 of 2014. As well as the Constitutional Court decision (Number 42/PUU-XIX/2021) which regulates the term of office regarding Village Heads. In Law and Democracy, the standart length of office of the Heas of government has been stipulated in the Laws and Regulations. Term limits for Village Heads are part of the realization of democratic life at the grassroots political level. The Central Government and Local Government have determined the term of office which is 5 (five) years for one period, the term of office is final and will not be changed to above 5 (five) years, because it is a democratic political decision.

Thus, it is the same as the term of office of the Village Head, because it is to prevent the formation of a dictator government. The demand for an extension of the term of office of the Village Head raises a puzzle, because although legally, the ability to do so is an *open legal policy* that shapes the law from the political side, but the principle of Democracy states that the application of restrictions on power risks encouraging *abuse of power*. This view is because corruption cases at the village level are the most common sector. Seeing the reality of the many cases of

corruption, the extension of the term of office of the Village Head should not be approved because it is feared that it will add to the bad image of rasuh towards the village apparatus.

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