

Reformulation of Village Head Election Regulations in the Perspective of Legislation

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Abstract

This research is motivated by the persistent disharmony and lack of vertical synchronization in the regulation of the Village Head Election (Pilkades) within the Indonesian legislative system. Currently, technical implementing regulations frequently deviate from the core spirit of village autonomy and the democratic principles mandated by Law Number 6 of 2014 concerning Villages. This study aims to analyze the current laws regarding Pilkades and formulate an ideal, democratic, and high-integrity regulatory reformulation concept. The method utilized is normative juridical legal research through library research, employing statute and conceptual approaches to evaluate the synchronization of legal norms. The analytical results demonstrate that current Pilkades regulations remain highly centralistic and trigger legal uncertainty. Fundamental problems include the Regent's absolute authority in resolving election disputes (which harms judicial impartiality), supra-village domination in additional candidate selections, undemocratic single-candidate deliberation mechanisms, and outdated central regulations hindering E-Voting innovations. Therefore, a comprehensive reformulation emphasizing village independence is urgently necessary. This reformulation proposes four main designs: transferring dispute resolution to the judicial domain, national legalization of E-Voting, rearranging and limiting supra-village authority, and establishing an independent, legally guaranteed supervisory institution (Panwas Pilkades).

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1. INTRODUCTION

The recognition of the existence of villages and their autonomy has a strong constitutional basis in Article 18B Paragraph (2) of the 1945 Constitution of the Republic of Indonesia, which explicitly affirms that the state recognizes and respects customary law community units along with their traditional rights. Village government is specifically part of the executive domain, specifically falling within the scope of local government power. This constitutional recognition provides strong legitimacy for the village to regulate and manage its own household, where one of the main manifestations is through a democratic leadership election process.

The Village Head Election (Pilkades) is the oldest instrument of direct democracy and the one most deeply felt by the grassroots community. This process serves as an arena for villagers to express their political rights in determining who will lead and manage the government and village resources for a specific period. The elected Village Head holds a strategic dual role: as an extension of the supra-village government (regency/city, province, and central) and simultaneously as a community leader who must absorb and advocate for the aspirations of the citizens.

The quality and integrity of a Village Head are heavily determined by the quality of the election process; therefore, Pilkades must be held based on the principles of Direct, General, Free, Secret, Honest, and Fair (LUBER JURDIL). A process that is procedurally or substantially flawed not only produces an illegitimate leader but also has the potential to cause social instability and hinder village development. Law Number 6 of 2014 concerning Villages (Village Law) became a historical milestone that shifted the paradigm of the village from an object to a subject of development based on the fundamental principles of recognition and subsidiarity.

However, in practice, Pilkades regulations still show legal disharmony and lack of synchronization, triggering legal uncertainty. Critical problems include simultaneous election rules that limit the independence of village autonomy in setting schedules according to local conditions. Furthermore, the enactment of Law Number 3 of 2024, which mandates the determination of a single candidate through deliberation for consensus, in principle reduces the essence of direct democracy for villagers and impacts the legitimacy of the elected leader. These issues are exacerbated by technical regulations that delegate absolute authority to the Regent/Mayor to resolve election disputes, harming the impartiality of the judiciary, as well as central regulations that lag in accommodating electronic voting (*E-Voting*) innovations already initiated by various Regional Regulations.

Previous studies have examined Pilkades issues from various perspectives. Research by Herman (2016) examined the need to revise the Village Law so that Pilkades disputes are resolved by the judiciary or a special court to ensure independent supervision. Additionally, Suleman (2020) specifically investigated the mechanism and position of the Dispute Resolution Council formed by the Regent in Bone Bolango. Another study by Zen (2024) highlighted the legal vacuum in technical regulations regarding the re-election of village heads resulting from Administrative Court decisions.

The novelty of this research lies in its far more holistic juridical-constructive approach, focusing on the analysis of vertical synchronization of the entire legislative system at the national level to build a comprehensive reformulation model for Pilkades. Based on the gap between constitutional mandates and regulatory disharmony, the research problem is how Pilkades is currently regulated and what the concept of its reformulation should be in the future. This study aims to analyze the existing regulatory problems and formulate an ideal reformulation concept so that the implementation of village leadership succession is truly aligned with democratic principles, possesses integrity, and is capable of answering contemporary challenges.

Furthermore, there is a distinct disharmony where technical regulations, specifically the Minister of Home Affairs Regulations, appear to exceed their delegative authority by granting excessive power to the local executive. This is evident in the formation of election committees at the regency level and the imposition of additional selection requirements for candidates determined by the Regent or Mayor rather than the village's own independent body. Such centralistic tendencies clearly contradict the spirit of decentralization and undermine the autonomy of the village as an independent legal community unit.

In the context of modernization, several regions have proactively initiated digital transformations by implementing electronic voting (*E-Voting*) through local regulations. However, these progressive steps are often obstructed by rigid central regulations that still mandate manual ballot punching, thereby creating a significant legal hurdle for technological innovation. This regulatory lag not only stifles efficiency and transparency but also generates legal uncertainty for regional administrators who wish to modernize their electoral systems.

The resulting chain of disharmony ultimately leads to a fundamental problem of legal uncertainty, which can be exploited by various parties. This condition often triggers social friction and horizontal conflict among villagers, as flawed procedural mechanisms such as the emergence of "dummy candidates" to satisfy administrative requirements erode the community's trust in the democratic process. Without a coherent and integrated regulatory framework, the implementation of Pilkades remains vulnerable to systematic manipulation and social disintegration.

Addressing these complex challenges requires more than partial revisions; it necessitates a comprehensive and fundamental restructuring referred to as "reformulation". Drawing from the perspective of legal scholars like Satjipto Rahardjo, reformulation involves a thorough review of the underlying philosophy, principles, and norms of Pilkades regulations. The ultimate goal is to establish an integrated regulatory system that is responsive to factual challenges, oriented toward strengthening substantive democracy, and capable of ensuring absolute legal certainty within the Indonesian constitutional framework.

2. METHOD

This study utilizes a normative juridical legal research method, focusing on library research that examines law as a system of norms. The primary focus is analyzing legal principles, systematic law, and the level of vertical and horizontal synchronization between lower regulations (PP and Permendagri) and higher ones (Village Law and the 1945 Constitution). The research employs two main approaches:

1. Statute Approach

Examining relevant legislation, specifically Law No. 6 of 2014, PP No. 43 of 2014, and various Permendagri regarding Pilkades, to understand the hierarchy and substance of norms.

2. Conceptual Approach

Utilizing legal doctrines and concepts such as democracy, rule of law, and election integrity to critically analyze existing regulations.

Data is collected from primary legal materials (e.g., the 1945 Constitution, Village Laws, PP, Permendagri, Perda), secondary legal materials (e.g., academic literature, expert opinions), and tertiary materials like legal dictionaries. The gathered legal materials are analyzed qualitatively through identification, systematization, interpretation, and evaluation.

3. RESULTS AND DISCUSSION

A. Analysis of the Current Village Head Election Regulations within the Legislative System

The regulation of Village Head Elections (Pilkades) in the current Indonesian legislative system is still characterized by significant legal disharmony. Although Law Number 6 of 2014 concerning Villages has established the principles of recognition and subsidiarity as the milestones of autonomy revival, the technical regulations beneath it frequently deviate from this spirit (Basuki, 2016, pp. 78-79). The fulfillment and legal certainty in Pilkades depend heavily on the extent to which legal principles and the implementation of LUBER JURDIL (direct, public, free, secret, honest, and fair elections) are upheld based on the constitution (Suhaeti, 2022, pp. 12-15). However, in reality, the essence of village independence is often eroded by the centralistic nature of a rigid supra-village governmental hierarchy.

The simultaneous implementation of Pilkades, as mandated in Article 31 paragraph (1) of the Village Law and Article 40 of Government Regulation (PP) Number 43 of 2014, paradoxically undermines village autonomy itself. This policy compels village institutions to submit to the central regency schedule, thereby disregarding the geographical, social, and cultural conditions, as well as the readiness of the local community's governance (Multazam, 2014, p. 15). Similar to macro-scale regional elections, the administration of simultaneous voting amidst limitations consistently gives rise to complex technical and bureaucratic constraints, particularly when confronted with emergency situations or pandemics (Utami, 2021, pp. 13-26). Philosophically, this centralized scheduling constraint contradicts the constitutional mandate of village independence in freely managing its governmental affairs.

Regulatory dynamics have become increasingly complex with the enactment of Law Number 3 of 2024 concerning the Second Amendment to the Village Law. Article 34A paragraph (4) legalizes the determination of a sole candidate through deliberation for consensus (*musyawarah*

mufakat) when the extended registration period has ended. Although intended as an administrative breakthrough to prevent election delays, the absence of direct competition in the voting booth significantly reduces the purity of the voters' sovereign mandate (Rakan, 2025, p. 71). Consequently, the absence of a popular voting process risks producing a leadership figure who experiences a moral legitimacy crisis in the eyes of their own citizens.

This disharmony problem also stems from the Ministry of Home Affairs Regulation (Permendagri) Number 112 of 2014, which juridically provides excessively broad loopholes for intervention by regency-level regional governments. The centralistic nature of this technical regulation frequently creates dominance, psychological pressure, and covert intimidation that impair the freedom of citizens' voting rights in independently determining their leadership candidates (Puansah et al., 2022, p. 4). This technical electoral construction, which is overly controlled by higher authorities, degrades the authority of village apparatuses, reducing their function to mere bureaucratic execution machines rather than independent sociological subjects.

The intervention of supra-village authorities is most prominent during the additional selection stage if the number of prospective candidate registrants exceeds the maximum quota limit of five individuals. The absolute authority of the regent in determining the parameters for academic passing criteria and additional administrative requirements frequently opens loopholes for conflicts of interest (Fauzan, Pelita, & Rizal, 2025, p. 4). The delegation of this screening authority is highly vulnerable to infiltration by pragmatic motives to eliminate political opponents, which ultimately harms the political rights of citizens to participate equally in the governmental arena.

The most fatal weakness of the current Pilkades legislative system also lies in the scope of the dispute resolution scheme for election results. The regulatory provisions in Article 37 paragraph (6) of the Village Law grant an absolute mandate for dispute resolution to the executive element, namely the Regent/Mayor. This quasi-judicial mechanism conducted by political officials severely violates the principle of separation of state powers and creates broad room for subjective rulings that are far from objective (Herman, 2016, p. 78). Considering the significant threat of incumbent intervention, the adjudication of electoral disputes should be entirely transferred to the jurisdiction of the judicial power.

The absence of a specific, independent judicial institution to adjudicate electoral disputes at the village level remains the root of distrust among grassroots communities. The academic proposition to formulate and establish a dispute resolution court for Regional Head Elections (Pilkada) and Pilkades in every region is a highly relevant and urgent legal breakthrough (Irham & Sauala, 2022, pp. 228-234). A judicial institution fortified by high integrity is believed to be rationally capable of mitigating anarchic post-election social unrest through rulings that are strictly founded on objective legal facts.

Amidst the rapid current of digitalization transformation in the modern government sector, the formulation of technical election rules from the central government has proven to be in an embarrassing state of stagnation. Initiatives from several innovative regional governments, such as Sleman and Batang Hari Regencies, which have pioneered the legality of electronic voting (E-Voting) via Regional Regulations, often wither before developing as they clash with the Permendagri. The backwardness of ministerial regulations that insist on mandating conventional paper-punching mechanisms creates a void of legal certainty while simultaneously shackling the pace of efficiency in village elections, which should ideally be more transparent.

This series of disharmonies in the hierarchy of norms and the lack of synchronization in vertical regulations ultimately result in the proliferation of legal loopholes that are constantly manipulated by rural elite figures. Rigid administrative restriction rules are not infrequently circumvented using dirty political tricks, such as deploying a "puppet candidate" strategy to fulfill a fictitious quota without violating written regulatory limits. Furthermore, the inability of regulatory instruments to eradicate the practice of vote-buying makes the moral integrity of Pilkades highly

susceptible to hijacking by local capitalist groups. The failure of these legal products often triggers escalating friction that erupts into communal horizontal conflicts among grassroots citizens.

Observing the multidimensional scale of these problems, efforts to rehabilitate the legal complexities of Pilkades implementation can clearly no longer rely merely on stopgap measures. There is a critical need for a comprehensive overhaul and reformulation of legislation entirely oriented toward restoring the dignity of the village citizens' original autonomous sovereignty. Future legislation must possess the audacity to curtail the hegemonic bureaucratic practices of the regent elites, provide guaranteed certainty for the adaptation of e-voting, and shift the domain of disputes entirely to the judicial sphere. Only by relying on a coherent and dignified regulatory system can the Pilkades instrument eventually fulfill its inherent nature of producing leadership figures characterized by integrity and democratic values.

B. Reformulation of Village Head Election Regulations to Strengthen Village Independence

The fundamental philosophy of the reformulation of Village Head Election (Pilkades) regulations must be firmly rooted in the strengthening of the principles of recognition and subsidiarity (Ra'is, 2018). Strengthening these fundamental principles is not mere legal rhetoric, but an urgent necessity to shift the centralistic paradigm that has dominated derivative regulations below the law (Basuki, 2016). Without a comprehensive understanding of these two principles, regional regulations will continue to lose the spirit of empowering rural communities (Timotius, 2018).

Philosophically, the principle of recognition requires the state to fully acknowledge, respect, and protect the origin rights of the village as a socio-cultural institution that has existed long before the formation of the modern state (Arifin, 2024). The village is not merely an administrative entity subordinate to the bureaucracy, but a community with its own regulatory mechanisms (Eko, 2015). Therefore, the state's legal instruments must be present to protect this existence and diversity, rather than homogenizing it into a rigid bureaucratic structure (Nurcholis, 2011). This serves as the moral foundation for the village to have full sovereignty in organizing its leadership succession.

Meanwhile, the principle of subsidiarity provides a rational foundation that all forms of local-scale authority capable of being resolved by the village must be fully handed over to the village's own authority (Yusriana & Lestari, 2019). This principle affirms that political and administrative decision-making must be placed at the level of government closest to the grassroots community (Nasroen, 1959). In the context of village governance, this aims to create efficiency in public services and increase the responsiveness of the apparatus to the real needs of its citizens (Kushandajani, n.d.).

The first design in this reformulation effort is the transfer of the election dispute resolution mechanism from the executive domain to the judicial domain. The current regulation, which grants a sole mandate to the Regent or Mayor to resolve disputes, is considered not to reflect the principle of separation of powers (Herman, 2016). The absence of an independent judicial institution makes the dispute resolution process highly vulnerable to political intervention and conflicts of interest (Lagalante, Mau, & Ismail, 2024).

The Regent's position as a political official heavily influences the objectivity of the dispute rulings they handle, because in the local political constellation, village heads are often positioned as a vote logistics machine for incumbents in the future (Averus & Alfina, 2020). Therefore, the delegation of authority to a judicial power institution such as the State Administrative Court (PTUN) or the establishment of a special electoral court in the regions is a progressive leap to guarantee an impartial legal process (Irham & Sauala, 2022; Sani, 2024). The presence of an independent judicial space is highly crucial so that electoral disputes are completely free from the grip of regional executive power.

The second design encompasses the national legalization and accommodation of the electronic voting (E-Voting) method through the revision of central-level regulations. This step is necessary to respond to the current of digitalization and to suppress the potential for logistical fraud in manual balloting (Sadam, Al Araafi, & Arafah, 2024). Although several regions have initiated this innovation through Regional Regulations, the regulatory lag at the central level, which still mandates manual ballot punching, often hampers efficiency and creates legal uncertainty (Anggun, 2025; Fauzani, Banowati, & Lisadi, 2023).

The third design emphasizes the restructuring and limitation of "supra-village" or regency government authority by returning their function strictly to that of a regulatory facilitator. The regional government must not usurp the technical authority of candidate selection from the village committee, but must instead provide adequate room for innovation and discretion for the village (Tome, 2021). The return of this substantial authority is believed to stimulate the return of the community's sense of belonging toward the political succession process in their own territory (Sofyan, 2021).

Returning substantial authority to the village also means providing broad room for customary law and various forms of local wisdom to operate in every stage of the democratic process. In certain customary villages, succession mechanisms often have ritual prerequisites or social consensus that are highly respected by the citizens (Wisadnya, 2018). Formally accommodating this wealth of local wisdom will increase the level of community acceptability toward the elected leader figure (Rahmawati et al., 2025). However, the integration of these local values must remain aligned with universal and imperative Human Rights principles (Putra, 2015).

The fourth design is the establishment of an independent supervisory institution (Panwas Pilkades) whose position is strongly guaranteed by law to detect and prevent violations. Strengthening the supervisory system is a crucial instrument to prevent the practices of money politics and intimidation that often erode the pillars of democracy in rural areas (Rizqianah, 2019). With independent supervisors, the integrity of the election process can be protected from the hijacking of the people's votes by local oligarchic powers (Ward Berenschot, Capri, & Dhian, 2021).

Ultimately, the culmination of this entire reformulation dialectic is a shift from procedural democracy towards substantive democracy to produce leadership with integrity and full legitimacy. Democracy at the village level must not be diminished into a mere routine agenda of casting ballots, but must facilitate citizen involvement based on pure political consciousness (Roziqin, Susiswo, & Rusdianto, 2023). A leader figure born from a fair process will possess the firm moral authority to realize the social welfare of the village community (Zuhro, 2021).

4. CONCLUSION

Based on the analysis of the current legislative system, the regulation of Village Head Elections (Pilkades) is heavily characterized by legal disharmony, uncertainty, and a centralistic approach that severely undermines village autonomy. Juridically, subordinate regulations such as Government Regulations and Ministry of Home Affairs Regulations frequently overstep their delegated authority, stifling the principles of recognition and subsidiarity mandated by the Village Law. These fundamental issues manifest in several critical areas, notably the absolute authority of the Regent or Mayor in adjudicating election disputes, which is highly vulnerable to conflicts of interest and violates the principle of judicial impartiality. Furthermore, the system is hindered by the regency committee's dominance in the additional selection of candidates, a problematic consensus-based resolution mechanism for sole candidates under Law No. 3 of 2024 that diminishes the legitimacy of direct democracy, and outdated central regulations that rigidly mandate manual voting, thereby obstructing electronic voting (e-voting) innovations already initiated at the regional level.

To address these challenges, the future reformulation of Pilkades regulations must be fundamentally deconstructed to emphasize the strengthening of village independence, thereby fostering a substantive and high integrity democratic climate. This directional reformulation should be implemented through four primary harmonization models: first, transferring the authority for dispute resolution from the executive domain (the Regent) to the judiciary, either through the establishment of specialized regional electoral courts or by delegating authority to the State Administrative Court (PTUN). Second, the government must accommodate and nationally legalize e-voting methods through regulatory revisions to embrace digitalization and mitigate logistical fraud. Third, there must be a restructuring and limitation of "supra-village" (Regency Government) authority, restoring its role to a mere regulatory facilitator rather than an entity that usurps the village committee's technical duties in candidate selection. Finally, establishing an independent supervisory institution (Pilkades Supervisory Committee) with strong statutory backing is imperative to effectively detect, prevent, and penalize both administrative violations and grassroots money politics.

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