

Village Head Election System Based on SBT Regency Regulation Number 5 of 2017

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Abstract: This study aims to analyze the implementation of village head elections in Lalasa Administrative Village, Pulau Panjang Subdistrict, East Seram Regency, by examining its compliance with legal provisions, particularly Law Number 6 of 2014, Minister of Home Affairs Regulation Number 112 of 2014, and Regional Regulation Number 5 of 2017. The research approach uses a qualitative method with primary data sources through field observations and in-sdepth interviews with relevant parties, as well as secondary data through literature review. The analysis is conducted using a descriptive-qualitative approach to describe the factual conditions and compare them with the applicable legal norms. The novelty of this research lies in its focus on the gap between formal legal procedures and customary practices in the election of village heads, which is rarely discussed specifically in the context of administrative villages in the Maluku region. The results show that although some formal stages, such as the formation of an election committee, have been carried out in accordance with the rules, the practice of appointing village heads in Lalasa Village is still dominated by customary mechanisms in the form of direct appointment based on lineage without voting. This has resulted in limited political participation of the community and the potential for a decline in the legitimacy of village leadership. In conclusion, harmonization between positive law and customary law is necessary so that village administration can be carried out democratically, transparently, and in accordance with regulations, while still respecting local wisdom.

Keywords: Village Head Election, Customary Law, Legislation, Community Participation

Abstrak: Penelitian ini bertujuan untuk menganalisis pelaksanaan pemilihan kepala desa di Desa Administratif Lalasa, Kecamatan Pulau Panjang, Kabupaten Seram Bagian Timur, dengan menelaah kesesuaiannya terhadap ketentuan perundang-undangan, khususnya Undang-Undang Nomor 6 Tahun 2014, Peraturan Menteri Dalam Negeri Nomor 112 Tahun 2014, dan Peraturan Daerah Nomor 5 Tahun 2017. Pendekatan penelitian menggunakan metode kualitatif dengan sumber data primer melalui



observasi lapangan dan wawancara mendalam dengan pihak terkait, serta data sekunder melalui studi kepustakaan. Analisis dilakukan secara deskriptif-kualitatif untuk menggambarkan kondisi faktual dan membandingkannya dengan norma hukum yang berlaku. **Kebaruan** penelitian ini terletak pada fokus kajian terhadap kesenjangan antara prosedur hukum formal dan praktik adat dalam pemilihan kepala desa, yang jarang dibahas secara spesifik pada konteks desa administratif di wilayah Maluku. Hasil penelitian menunjukkan bahwa meskipun sebagian tahapan formal seperti pembentukan panitia pemilihan telah dilaksanakan sesuai aturan, praktik pengangkatan kepala desa di Desa Lalasa masih didominasi oleh mekanisme adat berupa penunjukan langsung berdasarkan garis keturunan tanpa pemungutan suara. Hal ini berdampak pada terbatasnya partisipasi politik masyarakat dan potensi berkurangnya legitimasi kepemimpinan desa. Kesimpulannya diperlukan harmonisasi antara hukum positif dan hukum adat agar penyelenggaraan pemerintahan desa dapat berjalan demokratis, transparan, dan sesuai peraturan, sekaligus tetap menghargai nilai-nilai kearifan lokal. Kata Kunci: Pemilihan Kepala Desa, Hukum Adat, Peraturan Perundang-undangan, Partisipasi Masyarakat

1. INTRODUCTION

In a system of government, implementation is an integral part of any program. Implementation is the tangible form of public policy designed to have a direct impact on society.¹ At both the central and local government levels, policy implementation plays an important role in achieving development and public service objectives.

Community development efforts are carried out continuously, one of which is through increasing community capacity in facing social change. The village government has a strategic role in this process, both through strengthening village government institutions and empowering community organizations.² Therefore, the success of village development is highly dependent on effective governance that complies with laws and regulations.

The position of regional government is regulated in Article 18B paragraph (1) of the 1945 Constitution of the Republic of Indonesia, which states that the Unitary State of the Republic of Indonesia is divided into provinces, and provinces are divided into regencies/cities.³ Each region has a regional government regulated by law, which provides a legal basis for the administration of government at the local level.

¹ et al Suaib, Hermanto, *Pengantar Kebijakan Publik* (Humanities Genius, 2022).

² Oscar Radyan Danar et al., "Penguatan Kapasitas Kelembagaan Dalam Perencanaan Pembangunan Desa," *Jurnal Ilmiah Administrasi Publik* 7, no. 2 (2021): 200–209.

³ Leonita Siwiyanti, Muhammad Khairul Amal, and Nurni Arrina Lestari, "Peningkatan Kapasitas Lembaga Kemasyarakatan Desa Dalam Meningkatkan Kesejahteraan Ekonomi Masyarakat," *Jurnal Masyarakat Mandiri* 5, no. 3 (2021): 890–900, https://journal.ummat.ac.id/index.php/jmm/article/view/4990.



One of the regulations governing village administration is Law No. 6 of 2014 on Villages. Article 31 stipulates that village head elections shall be held simultaneously throughout the entire district/city. The local government shall establish policies for the implementation of these elections through local regulations, with further provisions regulated by or based on government regulations.

This law also stipulates the role of the Village Consultative Body (BPD) in the village head election process. The BPD is obliged to announce the end of the village head's term of office six months in advance, form an independent and impartial election committee, and ensure that all stages are carried out in accordance with democratic principles. The village head holds office for a term of six years and may serve a maximum of three terms, either consecutively or not.⁴

In East Seram Regency (SBT), the provisions for the election of village heads are regulated in detail in Local Regulation No. 5 of 2017 concerning the Election of Village Heads/Administrative Village Heads. Article 2(1) of the regulation states that elections shall be held simultaneously throughout the regency, with the provision that they may be conducted in waves, up to a maximum of three times within a six-year period. Article 4 outlines the election stages, namely preparation, nomination, voting, and determination, which must be conducted directly, universally, freely, secretly, honestly, and fairly. However, the practice in Lalasa Administrative Village, Pulau Panjang Subdistrict, differs from this provision. The village head is appointed directly by the regent without going through a general election, campaign, or public outreach process. This process eliminates community participation in choosing their leader, thereby violating the democratic principles enshrined in the law.

The tradition of directly electing village heads in Lalasa Village has been going on for a long time. Village heads are appointed based on lineage, and their term only ends when they pass away. This creates a hereditary village government system that closes opportunities for other potential leaders who may be more competent.

Since officially becoming an administrative village in 2010 through a decree by Regent Abdullah Vanat, S.Sos, Lalasa Village has never held village head elections in accordance with the procedures stipulated in Law No. 6 of 2014 or Regional Regulation No. 5 of 2017. The village head appointed at that time is still in office today, without any replacement through democratic mechanisms.

This phenomenon is interesting to study because it shows a gap between the

⁴ Moch Yusuf Syaifudin and Muhammad Farid Ma'ruf, "Peran Pemerintah Desa Dalam Pengembangan Dan Pemberdayaan Masyarakat Melalui Desa Wisata (Studi Di Desa Jurug Kabupaten Ponorogo)," *Publika*, 2022, 365–80, https://doi.org/10.26740/publika.v10n2.p365-380.

⁵ Suharto Suharto, "Kelembagaan Pemerintahan Desa Dan Pemberdayaan Masyarakat Dalam Implementasi Undang-Undang Desa," *Jurnal Ilmu Administrasi Negara (JUAN)* 9, no. 1 (2021): 38–48, https://doi.org/10.31629/juan.v9i1.3223.



applicable regulations and actual governance practices. This discrepancy can impact the legitimacy of leadership, public political participation, and the quality of village governance. Therefore, an in-depth study of the village head election system in Lalasa Village is essential to understand the underlying causes, implications, and potential solutions to ensure that village governance aligns with democratic principles and legal regulations.

2. METHOD

In general, types and sources of data are defined as broad classifications of various documents obtained in field research. According to Suharsini Ari Kunto, types and sources of data are "classifications of documents to be studied in research, which are in the form of primary data and supporting or additional (secondary) data."6 Referring to this theoretical description and opinion, the data sources that will be used in this study consist of two categories, namely primary data (basic data) and secondary data (supporting or additional data). In general, data collection techniques in research are methods implemented in a research action to obtain the information and documents needed to achieve the research objectives. According to Djaman Satori and Aan Komariah, "data collection techniques in scientific research are systematic procedures for obtaining the necessary data." Literature research can be defined as "research aimed at collecting data and information through various materials found in a library, such as books, magazines, documents, notes, and historical accounts." In addition to collecting data through library research, in this study the author also collected data using field research techniques. Field research is a method of collecting data accurately so that its accuracy can be scientifically justified. The research actions carried out by the researcher in the field used three types of data collection techniques, namely: observation, which was conducted by visiting the research location and then observing the research object directly and carefully to determine the role of the village government in the implementation of Regional Regulation No. 5 of 2017 concerning the election of the head of the village/administrative village. Interviews are a data collection technique where the researcher conducts direct question-and-answer sessions with respondents selected as samples in the study. This study employs data analysis techniques by processing the research data and analyzing it qualitatively, which involves analyzing the data based on its quality and then describing it using words so that it can be understood, followed by drawing conclusions.

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⁶ Suharsini Ari Kunto, *Prosedur Penelitian Suatu Pendekatan Praktek*, Edisi revi (Rineka cipta Jakarta, 2010).

⁷ Aan komariah Djaman satori, *Metode Penelitian Kualitatif* (Jakarta: Kencana Prenada Media Group, 2011).



3. DISCUSSION

3.1. Regulations on the Election of Village Heads Based on Laws and Regulations

The election of a village head or district head is one of the tangible manifestations of democracy at the lowest level of government. This process provides an opportunity for village communities to select their leaders who will govern them for a specific period of time. Legally, the conduct of village head elections is governed by Minister of Home Affairs Regulation No. 112 of 2014 on the Election of Village Heads, which clearly outlines the fundamental principles governing the conduct of such elections.

Law Number 6 of 2014 concerning Villages, specifically Articles 31 and 34, stipulates that village head elections must be held simultaneously throughout the entire regency or city. These elections are held directly by the villagers based on the principles of direct, general, free, confidential, honest, and fair elections.⁸ These provisions form the fundamental basis for the implementation of village head elections throughout Indonesia.

In East Seram Regency, this regulation is implemented through Regional Regulation No. 5 of 2017 concerning the Election of Village Heads/Administrative Village Heads. This regulation was drafted as a follow-up to PERMENDAGRI No. 112 of 2014, and serves as the legal basis for the implementation of village head elections in the region. With this regulation in place, the local government now has a clear legal framework to regulate the entire election process at the village level.

The existence of a permanent and democratically elected village head is crucial to the success of village administration. The village head plays a strategic role in advancing the village, both in terms of physical development, community empowerment, and strengthening village institutions.⁹ Therefore, an election mechanism that complies with the laws and regulations is an absolute requirement for effective village administration.

The process of electing a village head basically involves a long and interrelated series of stages, starting from the registration of prospective candidates, administrative selection, determination of candidates, to the implementation of voting. Each of these stages must be carried out transparently and involve the active participation of the village community.¹⁰ Thus, the election results can be widely accepted and have strong legitimacy.

⁸ Abdul Hamid Tome, Moh. Zachary Rusman, and Moh Sigit Ibrahim, "Kebijakan Pemerintah Daerah Dalam Pelaksanaan Pemilihan Kepala Desa," *Al-Adalah: Jurnal Hukum Dan Politik Islam* 6, no. 1 (2021): 37–50, https://doi.org/10.35673/ajmpi.v6i1.1103.

⁹ Imanuel N. Tadanugi, "Volume: 10 Nomor: 1 Edisi: Maret 2018," *Jurnal Ilmiah Administratie* 10, no. 1 (2018): 69, https://doi.org/10.71127/2722-8185.234.

¹⁰ Erna Hendrawati and Mira Pramudianti, "Partisipasi, Transparansi Dan Akuntabilitas Perencanaan Dan Penganggaran Dana Desa," *Jrak* 12, no. 2 (2020): 100–108, https://doi.org/10.23969/jrak.v12i2.3113.



https://doi.org/10.33506/jlj.v3i2.3441

A village is a legal community that has the authority to regulate and manage the interests of the community based on local origins and customs. In the national government structure, villages are under the authority of the regency and are led by a village head. The village head cannot work alone, but must obtain support from the community and the Village Consultative Body or, in the context of Lalasa Village, the Administrative Consultative Body (BPNA).

The BPNA plays an important role as a representative body that protects customs and traditions, formulates village regulations, accommodates and channels community aspirations, and supervises the administration of the village. The working relationship between the village head and the BPNA is one of the determining factors in the success of village development, as both parties complement each other in carrying out their administrative and supervisory functions.

The year 2014 was a dynamic political period in Indonesia. In addition to legislative and presidential elections, many regions were forced to postpone village head elections due to the heated national political situation. However, in many villages, including those in East Seram, the spirit of democracy at the local level remained strong.

The enthusiasm of residents to run for village head is high. This phenomenon shows that the position of village head has great political appeal, not only as an administrative position, but also as a symbol of leadership and social influence at the local level. In this context, PERMENDAGRI Number 112 of 2014 is an important reference that guarantees the implementation of elections in accordance with the rules.¹¹

In addition, PERMENDAGRI No. 111 of 2014 concerning Technical Guidelines for Regulations in Villages is also closely related to the implementation of village head elections.¹² This regulation governs the relationship between village heads and regents or mayors in the evaluation and clarification of draft village regulations. This relationship is important to ensure that village policies are in line with higher regulations.¹³

Ministry of Home Affairs Regulation No. 112 of 2014 provides an overview of the stages of village head elections, from the preparatory stage, nomination, voting, to the determination of results.¹⁴ Each stage must be carried out openly, democratically, and in accordance with the principles established by law.

¹² Peraturan Menteri Dalam Negeri Nomor 112 Tahun 2014, "Peraturan Menteri Dalam Negeri Nomor 112 Tahun 2014 Tentang Pemilihan Kepala Daerah," *Procedia Manufacturing* 1, no. 22 Jan (2014): 1–17.

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¹¹ Rudiadi and Ratna Herawati, "PEMILIHAN KEPALA DESA SERENTAK DALAM PERSPEKTIF OTONOMI DESA (Studi Kasus Pelaksanaan Pemilihan Kepala Desa Serentak Tahun 2016 Di Kabupaten Rokan Hilir, Provinsi Riau)," *Law Reform* 13, no. 1 (2017): 132, https://doi.org/10.14710/lr.v13i1.15956.

¹³ Shazlin Fazhira and Irwansyah Irwansyah, "Implementasi Permendagri No. 112/2014 Terhadap Pelaksanaan Pemilihan Kepala Desa Dalam Perspektif Siyasah Tanfidziyah," *Jurnal EDUCATIO: Jurnal Pendidikan Indonesia* 9, no. 1 (2023): 558, https://doi.org/10.29210/1202323080.

¹⁴ Peraturan Menteri Dalam Negeri Nomor 112 Tahun2014, "Peraturan Menteri Dalam Negeri Nomor 112 Tahun 2014 Tentang Pemilihan Kepala Daerah."



The election of the village head in Lalasa Village itself has the main objective of ensuring the continuity of legitimate leadership. With a village head elected through a democratic process, the village administration is expected to run smoothly and empower all elements of society optimally. Financing is one aspect that cannot be ignored in the implementation of village head elections. Each stage requires clear budget planning so that the process runs smoothly without compromising the quality of the implementation.

The initial stage of the election begins with the formation of an election committee by the BPNA. This committee consists of village officials, community organization administrators, and village community leaders. Committee members are selected based on their neutrality and integrity to ensure that the entire process is impartial. The committee's responsibilities encompass the entire election process, from preparation, registration of candidates, verification of eligibility, to the conduct of voting and the announcement of results. Each activity must be carefully planned and involve coordination with relevant parties, including the district and regency governments.

In Lalasa Village, the election committee is formed immediately after the end of the previous village head's term of office. This is done to maintain the smooth running of the government and avoid a leadership vacuum at the village level. Local Regulation No. 5 of 2017 Article 8 paragraph (1) stipulates that the BPNA must form an election committee within ten days after the final notification of the village head's term of office. This provision serves as an important guideline to ensure that the election process is conducted on time.

The same article also stipulates that the election committee must consist of members from the local government, community organizations, and independent community leaders who are impartial. The neutrality of the committee is key to ensuring public trust in the election results. Additionally, members of the election committee must not be registered as members or officials of political parties. This provision aims to prevent the politicization of the village head election process, which could disrupt social stability at the local level.

The decision to form the election committee is made by the BPNA and communicated in writing to the regent through the local sub-district head. This step marks the beginning of the official village head election process in accordance with applicable laws and regulations.

3.2. Implementation of Village Head Elections in Lalasa Based on Legal Provisions

In Pulau Panjang Subdistrict, East Seram Regency, there are several villages, each led by a village head, or in local terms known as kepala negeri/negeri administratif. The election of village heads in this region is carried out in accordance with positive law while also taking into consideration the customary laws that apply in the community.



The main legal basis for the election is Regional Regulation No. 5 of 2017 concerning the Election of the Head of the Village/Administrative Village. 15 Article 4 paragraph (1) of this regulation stipulates that the election of the head of a region/administrative region shall be carried out in four stages, namely preparation, nomination, voting, and determination.

During the preparatory stage, Article 5 of the Regional Regulation stipulates that the election process involves two levels of committees, namely the regional election committee and the provincial/administrative election committee. These committees play a central role in ensuring that each stage proceeds in accordance with the provisions. The preparatory stage begins with a notification from the BPNA to the relevant village head regarding the end of their term of office. Upon receiving this notification, the village head is required to submit a written report on the administration of the village to the BPNA and the regent no later than thirty days. This report is an administrative requirement for village heads who wish to run for re-election.

According to customary law, before submitting the report, the village head must first notify the maturamah to hold a meeting at the village hall. The purpose of this meeting is to determine who will run for office, and the results then become the basis for the village head to submit his final term of office report to the regent.

The formation of the village head election committee is regulated in Article 6 of Regional Regulation No. 5 of 2017, which states that the regent forms a regional election committee through an official decree. At the village level, the BPNA is responsible for forming the election committee through a meeting and submitting the list of members to the regent. Based on an interview with Sarajudin Loklomin, Administrative Secretary of Lalasa Village, the process of forming the election committee begins with a BPNA meeting. The results of this meeting are then submitted to the regent for official approval. The village-level committee is appointed no later than ten days after the final notification of the village head's term of office.

The membership of the village-level election committee consists of village officials, community organization administrators, and local community leaders. The minimum structure consists of a chairperson, secretary, treasurer, and several members, with a total of between five and seven people.

¹⁵ Bringelia Jeanerry Muriany, Hendrik Salmon, and Julista Mustamu, "Legalitas Pelantikan Kepala Pemerintah Negeri Berdasarkan Peraturan Daerah Kota Ambon Nomor 10 Tahun 2017 Tentang Pengangkatan, Pemilihan , Pelantikan Dan Pemberhentian Kepala Pemerintah Negeri," UNES Law Review 6, no. 3 (2024): 9096-9103, https://doi.org/10.31933/unesrev.v6i3.



If elections are held, the village-level election committee is authorized to appoint the chairperson and polling station officers. ¹⁶ This appointment is stipulated in a decree and reported to the regent through the sub-district head no later than seven days after the decision. All committee members are required to sign an integrity statement. BPNA regulations also require committee members who have blood relations with village head candidates to be dismissed and replaced in order to maintain neutrality. This provision strengthens the principle of independence of the committee in carrying out its duties.

The committee's duties include announcing the election schedule, planning, coordinating, supervising, and controlling all stages. They are also responsible for organizing the registration of prospective candidates, conducting screening and selection, determining the procedures for implementation, organizing campaigns, conducting voting, and determining the election results. In practice, the formation of the committee in Lalasa Village was carried out through a meeting initiated by the BPNA and involving village officials and community leaders. The purpose of this meeting was to ensure that the selected committee members were neutral and worked in accordance with the provisions of Regional Regulation No. 5 of 2017.

The head of the BPNA, Mohammad Taif Hulihulis, in an interview on April 25, 2023, emphasized that the committee in Lalasa Village was formed from representatives of village elements in accordance with regional criteria. He also stressed the importance of the committee's neutrality in carrying out its duties. The next stage is the nomination. According to Article 29 of Regional Regulation No. 5 of 2017, the screening of potential candidates will take place over nine days, including the announcement and registration period. Registration must be accompanied by the submission of all required administrative documents.

Candidate requirements include Indonesian citizenship, devotion to God Almighty, loyalty to Pancasila and the 1945 Constitution, a minimum education level of junior high school, being at least 25 years old, residing in the local village for at least one year, and not currently serving a criminal sentence. Additionally, candidates must never have been sentenced to five years or more in prison, unless five years have passed since the completion of the sentence with public announcement. Candidates must also be physically and mentally healthy, have never served as village head three times, not be members of a political party, and meet additional requirements as stipulated by village regulations.

The registration process requires candidates to submit four handwritten applications with a stamp, accompanied by the required documents. If there are any

¹⁶ Jufriyeki, Nafritman, and Dian Fajri, "Analisis Proses Pemelihan Kepala Desa Desa Siulak Gedang Kecamatan Siulak, Kabupaten Kerinci: Jufriyeki, S. AP," *Jurnal Administrasi Nusantara MAHA* 2, no. 6 (2020): 81–99, https://lppmstianusa.com/ejurnal/index.php/janmaha/article/view/323.



deficiencies, candidates are given three days to complete them. Registration may be delegated by a power of attorney. The screening of prospective candidates includes research, verification, and clarification of administrative documents within a maximum of twenty days. If the number of candidates is less than two, registration is extended for another twenty days. If there are still fewer than two candidates, the election is postponed until the next round. Candidates who meet the requirements are then selected, with a minimum of two and a maximum of five candidates. The order of the candidates is determined by lottery no later than two days before the campaign and announced publicly.

Voter registration is based on the criteria of Indonesian citizens who have resided in the village for at least six years, are at least 17 years old or married, and have not lost their right to vote.

The Provisional Voter List is announced for three days to receive input for improvements. Additional voters can be registered within three days after the announcement of the DPS ends. After improvements, the DPT is finalized and announced. Voter notification letters are given to voters no later than one day before the election. Candidate campaigns are conducted with the principles of honesty, openness, and responsibility, for three days, ending before the quiet period.

Campaigns include limited meetings, face-to-face meetings, dialogues, distribution of campaign materials, and installation of campaign materials. Prohibited campaign activities include questioning Pancasila, insulting others, inciting unrest, disturbing public order, damaging campaign materials, using government facilities, or promising rewards to voters. Village heads and their staff are prohibited from participating in campaigns.

The quiet period lasts for three days before the vote. During this period, all forms of campaigning are prohibited. Voting takes place on the date set by the regent, from 7:00 a.m. to 1:00 p.m. WIT, at polling stations located in strategic locations in the village.

The committee prepares the voting equipment before the day of the election. During the voting, candidates have the right to be present or represented by their photo and serial number if they are unable to attend. Candidate witnesses may attend with a letter of authorization to supervise the process. Before voting begins, the committee invites witnesses, checks the ballot boxes, counts the equipment, provides an explanation of the procedures, and seals the empty ballot boxes.

4. CONCLUSION

Based on the provisions of the law, the election of village heads or district heads is a form of democracy at the lowest level of government, conducted directly, generally, freely, secretly, honestly, and fairly in accordance with Law Number 6 of 2014, Ministerial Regulation Number 112 of 2014, and the Regional Regulation of East Seram Regency



Number 5 of 2017. These regulations govern the stages of the election, from preparation, nomination, campaigning, voting, to the announcement of results, with the Administrative Village Consultative Body (BPNA) as the organizer at the village level, which must remain neutral. In practice in Lalasa Village, these stages have been partially implemented in accordance with procedures; however, customary law still exerts a strong influence, with the selection of the village head often determined by acclamation by the customary government. Despite this, community participation remains a crucial element reflecting democratic principles and strengthening the legitimacy of the elected village head, while also encouraging active citizen involvement in village development.

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