

# Authority of the Village Head in Appointing and Removing Village Equipment Based on Regulation of the Minister of Internal Affairs Number 67 of 2017

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#### Abstract

The administration of village government has an organizational structure for village governance led by a head who is appointed based on community agreement with an election mechanism regulated in laws and regulations, namely Law Number 6 of 2014 concerning Villages, the village head in running the wheels of government is assisted by a secretary village officials and village government officials, the existence of village officials is often a polemic against the process of appointing and dismissing village officials considering the limited number of village officials, while many local people want village officials as a form of community service, so problems arise with the interpretation of who has the authority to appoint and dismissed village officials.

**Keywords:** Authority of the Village Head, Appointment and Dismissal, Village Apparatus.



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#### **INTRODUCTION**

The village is a component of a legal community that has territorial boundaries and is authorized to regulate and manage all community interests based on local rights, origins and customs that are recognized and respected in the government system of the Unitary State of the Republic of Indonesia. The village has existed and existed before the Unitary State of the Republic of Indonesia was formed. The village is an important asset in the struggle for independence, in maintaining independence and filling Indonesia's independence (Marsono: 2005).

Villages are formed on the initiative of the community by taking into account the origin of the village and the socio-cultural conditions of the community. The village is not subordinate to the sub-district, because the sub-district is part of the district/city regional apparatus, and the village is not part of the regional apparatus. The village has its own government, to run the government of a village led by a village head (Dewi: 2008).

The enactment of Law Number 6 of 2014 concerning Villages is a form of recognition and guarantee of the sustainability of the Village by the State within the territory of the Unitary State of the Republic of Indonesia. the origin of the area (Sauki & Habibullah: 2016). The village government is the spearhead of the implementation of village autonomy so that for the improvement and development of the village it is expected to have the capacity of village government officials who have the ability and skills in implementing village government and community aspirations.

The village government has the authority based on the treasures of regional privileges it has, in addition, the village has a leader, namely the village head who is assisted by village officials to facilitate services for the community. The village apparatus consists of the Village Secretary, Regional Executive, and Technical Implementer (Yani: 2018). The Village apparatus as an element of the village administration is tasked with assisting the village head in carrying out the duties and authorities of the village head. The Village apparatus plays a role in assisting the village head in carrying out the duties of administering village government, carrying out village development, coaching, and empowering village communities.

Village apparatus are staff elements that assist the Village Head in policy formulation and coordination which are accommodated in the Village Secretariat, and elements that support the Village Head's duties in implementing policies that are accommodated in the form of technical implementation and regional elements. Appointment and Dismissal of Village Apparatuses should comply with the provisions stipulated in the Minister of Home Affairs Regulation Number 83 of 2015 concerning Appointment and Dismissal of Village Apparatuses as amended in the Regulation of the Minister of Home Affairs of the Republic of Indonesia Number 67 of 2017. This is to ensure the Appointment and Dismissal of Village Apparatuses tested and measurable.

The existence of village officials often becomes a polemic against the process of appointing and dismissing village officials considering the limited number of village officials, while many local people want village officials as a form of community service, so that problems arise with the interpretation of who has the authority to appoint and dismiss village officials. Issues like these become polemics that will not be answered if these issues are not explored in depth through a scientific study.

#### **RESEARCH METHOD**

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The research method used is juridical normative which is the main plan in the development of science. The research approach is a system or way of conducting research. The approach method used in the research is the library research approach, which is legal research conducted using library materials or secondary data consisting of primary legal materials, secondary legal materials, and tertiary legal materials.

#### **RESEARCH RESULTS AND DISCUSSION**

# Arrangements for the Appointment of Village Officials After the Constitutional Court Decision Number 128/PUU-XIII/2015

Parties who are bound to implement the Constitutional Court Decision Number 128/PUU-XIII/2015 are not only and do not always have to form laws, but all parties related to provisions decided by the Constitutional Court. Thus, the Constitutional Court Decision Number 128/PUU-XIII/2015 already has binding force since the decision was declared in the Plenary Session of the Constitutional Court on Tuesday, 23 August 2016, finished pronouncing at 10.29 WIB by nine Constitutional Justices. Meanwhile, the implementation is left to the parties concerned in accordance with the substance of the decision.

In this regard, Ahsan Yunus argued that the Constitutional Court Decision which is final and binding contains 4 (four) juridical philosophical meanings, namely: 1). realizing legal certainty as soon as possible for the parties to the dispute; 2). the existence of the Constitutional Court as a constitutional court; 3). Constitutional Court as a tool of social control; 4). The Constitutional Court is the sole guardian and interpreter of the constitution. The four philosophical meanings are essentially contained in the Constitutional Court Decision Number 128/PPU-XIII/2015.

Based on the arrangements for the appointment of apparatus after the Constitutional Court Decision Number 128/PUU-XIII/2015, the Village Government is the Village Head or what is called by another name assisted by Village apparatus or what is called by another name as an element of Village Administration. In carrying out his duties, the Village Head has the authority to appoint and dismiss Village officials.

The democratic appointment of village officials promises the establishment of a strong, advanced, independent and democratic village government. Regulations that are mentioned at a higher order mean that they have a stronger position and must be the source of the regulations below them, and so on. In view of this, there may not be a single law whose contents, either in whole or in part, conflict with higher laws and regulations. If there is a conflict with higher regulations, it will be declared null and void (extunc) or canceled (exnunc). (Khanif: 2017) The paradigm (point of view) mentioned above is what the researcher uses in this study.

The Village Government is the Village Head or what is referred to by another name assisted by village officials or what is referred to by another name as an element of the Village Administration. In carrying out his duties, the Village Head is authorized to appoint and dismiss Village officials. Village officials are not chosen by the village head (Trisnawati: 2016), but are appointed by the village head on the recommendation of the Camat by considering the test scores and interviews of prospective village officials in the village apparatus selection mechanism. The diction between "elected" and "appointed" by the Village Head is very different. The Village Head does not have the authority to choose village officials, his authority is to appoint village officials based on the results of the selection of village officials.

Village apparatus is a staff element that assists the Village head in policy formulation and coordination which is accommodated in the Village secretariat, and elements that support the duties of the Village head in implementing policies that are accommodated in the form of technical implementers and regional elements. The Village apparatus consists of the Village secretariat, regional implementers, and technical implementers. The Village apparatus is located as an assistant element to the Village head. The Village apparatus is tasked with assisting the Village Head in carrying out his duties and authorities, appointed by the Village Head after consultation with the Camat on behalf of the Regent/Mayor, and is responsible to the Village Head. Based on the Village Law, Village officials are appointed from Village residents who meet the following requirements:

- 1. Have a minimum education of general high school or its equivalent;
- 2. Aged 20 (twenty) years to 42 (forty two) years;
- 3. Registered as a resident of the Village and residing in the Village at least 1 (one) year prior to registration (after the Decision of the Constitutional Court in case Number 128/PUU-XIII/2015. The provisions of Article 50 letter c of this Village Law are declared contrary to the Law the 1945 Constitution of the Republic of Indonesia and has no binding legal force); and
- 4. Other conditions specified in the regency/city regional regulations.

If the Camat recommendation is in the form of approval from the Village Head, it will be followed up in the form of a Village Head Decree concerning the Determination and Appointment of Village Apparatus. In the event that the Camat's recommendation is in the form of a refusal by the Village Head, follow up by conducting a screening and screening of candidates for Village Apparatus again. If the Camat recommendation contains rejection while the Village Head continues to issue a Village Head Decree regarding the determination and appointment of Village Apparatus, the Village Head's decision is declared null and void.

# Process and Procedure for Appointment and Dismissal of Village Officials Based on Minister of Home Affairs Regulation Number 67 of 2017

The process of recruiting village officials is considered important in the effort to support the running of effective village administration, so the village head needs to appoint performance-oriented village officials. Conceptually, performance is the level of achievement of results on the implementation of certain tasks. Thus, more intensive and optimal performance is needed for the sake of optimizing the tasks assigned to him.

The village government is the smallest government bureaucratic entity that has a crucial role in providing public services. In supporting the implementation of development as well as public services at the village level, of course the village government requires human resources who have certain skills and abilities (Nugraha: 2019). In carrying out its duties and functions, it must be able to show optimal capacity as a public servant and a servant of the state. Arrangements regarding village administration aim to make villages more independent, without having to always depend on the government above them. Besides that, the purpose of village administration is to become the basic foundation in every decision-making by the government regarding national development.

The arrangements contained in the Village Law, there is only an explanation of the authority of the Village Head to appoint and dismiss Village apparatus, In appointing Village apparatus by the Village Head it is not an absolute inherent authority for the Village Head with his own will without having to consider the conditions in the appointment of village apparatus. The village and the mechanism for appointing village officials, the screening and screening process is carried out of course with the aim of getting good results, namely the appointed village officials have a good work ethic and are professional.

Arrangements regarding the appointment and dismissal of village officials are regulated in Permendagri Number 67 of 2017. The Permendagri was issued with the consideration of implementing the Constitutional Court Decision in case Number 128/PUU-XIII/2015, provisions of Article 50 letter c Law Number 6 of 2014 concerning The village was declared contrary to the 1945 Constitution of the Republic of Indonesia and did not have binding legal force so that it had legal implications for the appointment and dismissal of village officials. In addition, the provisions in the Minister of Home Affairs Regulation Number 83 of 2015 concerning the Appointment and Dismissal of Village Heads are still lacking and have not been able to accommodate the needs that occur in the appointment and dismissal of Village Officials.

Therefore, Permendagri Number 67 of 2017 concerning Amendments to the Minister of Home Affairs Regulation Number 83 of 2015 concerning Appointment and Dismissal of Village Officials was issued. The appointment and dismissal of regional apparatus in Permendagri Number 67 of 2017 concerning Amendments to the Minister of Home Affairs Regulation Number 83 of 2015, is explained as follows:

#### Pointment of Village Devices Pointment requirements

International Journal of Religion Education and Law

Village officials are appointed by the Village Head from Village residents who have met general and special requirements. The general requirements consist of a minimum education of a general high school, or its equivalent; aged 20 (twenty) years to 42 (forty two) years old meet the complete administrative requirements. Special requirements are special requirements by taking into account the rights of origin and socio-cultural values of the local community and other requirements. Specific requirements are set out in local regulations.

# **Ifting Mechanism**

Appointment of Village Devices is carried out through the following mechanism:

- 1. The Village Head can form a Team consisting of a chairman, a secretary and at least one member;
- 2. The Village Head conducts screening and screening of Village Apparatus candidates conducted by the Team;



- 3. The screening and screening of potential Village Apparatus candidates is carried out no later than 2 (two) months after the village apparatus position becomes vacant or dismissed;
- 4. The results of screening and screening of prospective Village Apparatus candidates for at least two candidates are consulted by the Village Head to the Camat;
- 5. The Camat shall provide a written recommendation to the candidate for Village Apparatus no later than seven working days;
- 6. Recommendations given by the Camat in the form of approval or rejection based on the specified requirements;
- 7. In the event that the Camat gives approval, the Village Head issues a Village Head Decree regarding the Appointment of Village Officials; and
- 8. In the event that the Camat's recommendation contains a rejection, the Village Head conducts screening and re-screening of Village Apparatus candidates.

# Village Apparatus Dismissal

# Termination

The dismissal of village officials is carried out by the village head after consulting with the sub-district head. Village officials can be dismissed for 3 (three) reasons, namely death, self-request and dismissal, categories with reasons for dismissal, namely including the age of over 60 (sixty) years, declared as a convict based on a court decision that has permanent legal force, permanent absence, No longer fulfilling the requirements as a village apparatus and violating the prohibition as a village apparatus. Dismissal of Village Officials with the reason of death and the request itself is determined by the decision of the Village Head and submitted to the Camat or other designations no later than 14 (fourteen) days after being stipulated. Meanwhile, the dismissal of a village official with the reason of being terminated must first be consulted with the sub-district head or other designation.

# **Temporary Suspension**

The Village apparatus is temporarily dismissed by the Village Head after consulting with the Camat. The purpose of temporary suspension is dismissal because it is determined as a suspect and detained, determined as a defendant, caught red-handed and detained, and violates the prohibition as a village apparatus which is regulated in accordance with the provisions of the legislation. The purpose of the Village apparatus is to be suspended temporarily because it is determined as a suspect and detained, determined as a defendant and then acquitted or not proven guilty by the Court and has permanent legal force, then it is returned to its original position.

In accordance with the applicable mechanism, the appointment of new village officials is required to obtain a letter of recommendation from the local Camat. The provisions of paragraph (3) letter b Article 5 of the Regulation of the Minister of Home Affairs Number 67 of 2017 concerning Amendments to the Regulation of the Minister of Home Affairs Number 83 of 2015 concerning the Appointment and Dismissal of Village Apparatus reads as follows:

- 1. The village head dismisses the village apparatus after consulting the camat.
- 2. Village apparatus terminated due to: death; own request; and dismissed.
- 3. The Village apparatus is dismissed as referred to in paragraph (1) letter c because:
- 4. The age has reached 60 (sixty) years;
- 5. Declared as a convict who is threatened with imprisonment for a minimum of 5 (five) years based on a court decision that has permanent legal force;
- 6. Permanent absence;



7. No longer fulfills the requirements as a Village apparatus; and

8. Violating the prohibition as a Village apparatus.

Dismissal of Village apparatus as referred to in paragraph (1) letter a, and letter b, Regulation of the Minister of Home Affairs Number 67 of 2017 concerning Amendments to Regulation of the Minister of Home Affairs Number 83 of 2015 concerning Appointment and Dismissal of Village Apparatus shall be stipulated by a decision of the Village head and submitted to sub-district head or other designations no later than 14 (fourteen) days after being determined.

The dismissal of the Village apparatus as referred to in paragraph (1) letter c must first be consulted with the sub-district head or other designations. The written recommendation for the sub-district head or other designation as referred to in paragraph (4) is based on the requirements for dismissal of Village officials. The provisions of paragraph (2) letter a, letter b and letter d of Article 6 are amended, so that Article 6, Minister of Home Affairs Regulation Number 67 of 2017 concerning Amendments to Minister of Home Affairs Regulation Number 83 of 2015 concerning Appointment and Dismissal of Village Officials reads as follows:

- 1. The village apparatus is temporarily dismissed by the village head after consulting with the sub-district head (Colisao, 2023d);
- 2. Temporary dismissal of Village officials as referred to in paragraph (1) due to: being named a suspect in a criminal act of corruption, terrorism, treason, and or a crime against state security; declared as a defendant who is threatened with imprisonment for a maximum of 5 (five) years based on the case register at the court; caught red-handed and detained; and violates the prohibition as a Village Apparatus which is regulated in accordance with the provisions of laws and regulations.
- 3. Village officials who were temporarily dismissed as referred to in paragraph (2) letters a and b, acquitted or not proven guilty based on a court decision that has permanent legal force, are returned to their original position.

The provisions of paragraph (1) of Article 7 are amended, so that Article 7, Regulation of the Minister of Home Affairs Number 67 of 2017 concerning Amendments to Regulation of the Minister of Home Affairs Number 83 of 2015 concerning Appointment and Dismissal of Village Officials reads as follows:

- 1. In the event that there is a vacancy in the position of a Village apparatus, the vacant Village apparatus shall be carried out by the task executor who is concurrently held by other available Village apparatus.
- 2. The executor of the task as referred to in paragraph (1) is determined by the Village head with an assignment order, a copy of which is submitted to the bupati/mayor through the sub-district head no later than 7 (seven) days from the date of assignment.
- 3. Filling of vacant Village apparatus positions no later than 2 (two) months after the relevant Village apparatus ceases (Colisao, 2023a).

Filling in the positions of Village apparatus as referred to in paragraph (3) can be done by:

- 1. Mutation of positions between Village apparatus within the Village Government;
- 2. Screening and screening of Village apparatus candidates.
- 3. Fill in the Village apparatus as referred to in paragraph (4) in consultation with the camat.

The provisions of paragraph (2) of Article 10 are amended, so that Article 10, Regulation of the Minister of Home Affairs Number 67 of 2017 concerning Amendments to Regulation of the Minister of Home Affairs Number 83 of 2015 concerning Appointment and Dismissal of Village Officials reads as follows:

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International Journal of Religion Education and Law

- 1. In addition to regular income, Village officials receive health insurance and may receive additional income allowances and other legal receipts taking into account the length of service and position of Village apparatus.
- 2. The health insurance as referred to in paragraph (1) is in accordance with the provisions of the laws and regulations.

Between Article 10 and Article 11 is inserted 1 (one) article namely Article 10A which reads as follows:

- 1. Civil Servants who are elected and appointed as Village apparatus, are temporarily released from their position as Village Head without losing their rights as civil servants.
- 2. Civil Servants who are elected and appointed as Village apparatus as referred to in paragraph (1) are entitled to receive their rights as civil servants, receive Village apparatus allowances and other legitimate income sourced from the Village Revenue and Expenditure Budget (Colisao, 2023c).

The provisions of Article 12 are amended and one paragraph is added, namely paragraph (2a) so that Article 12, Regulation of the Minister of Home Affairs Number 67 of 2017 concerning Amendments to Regulation of the Minister of Home Affairs Number 83 of 2015 concerning Appointment and Dismissal of Village Officials reads as follows: Village officials who were appointed before the enactment of this Ministerial Regulation will continue to carry out their duties until the end of their term of office based on the appointment letter. a. Devices as referred to in paragraph (1) that are appointed periodically and whose term of office has expired and are less than 60 (sixty) years of age can be appointed up to the age of 60 (sixty) years.

According to the author's analysis, the Village Apparatus Appointment Process is carried out through the following mechanism:

- 1. The Village Head can form a Team consisting of a chairman, a secretary and at least one member.
- 2. The Village Head conducts screening and screening of Village Apparatus candidates conducted by the Team.
- 3. The screening and screening of potential Village Apparatus candidates is carried out no later than 2 (two) months after the village apparatus position becomes vacant or dismissed;
- 4. The results of screening and screening of prospective Village Apparatus candidates for at least two candidates are consulted by the Village Head to the Camat;
- 5. The sub-district head shall provide a written recommendation to the candidate for Village Apparatus no later than seven working days;
- 6. Recommendations given by the Camat are in the form of approval or rejection based on the specified requirements;
- 7. In the event that the Camat gives approval, the Village Head issues a Village Head Decree regarding the Appointment of Village Officials; and
- 8. In the event that the Camat's recommendation contains a rejection, the Village Head conducts screening and re-screening of Village Apparatus candidates (Colisao, 2023b).

The appointment procedure must meet the initial requirements and be carried out in accordance with the existing mechanism. While the process of dismissing the Village Apparatus Based on Permendagri Number 67 of 2017 is carried out if it occurs for three reasons, namely death, own request and being dismissed. Dismissal of Village Apparatus is carried out by the Village Head after consulting with the Camat. categories with reasons for dismissal, namely includes the age of 60 (sixty) years, declared as a convict based on a court decision that has permanent legal force, is permanently absent, no longer meets the requirements as a village apparatus and violates the prohibition as a village apparatus. The process of Dismissing a Village Apparatus on the grounds of death and the request itself is determined by a decision of the Village Head and submitted to the Camat or other designation no later than 14 (fourteen) days after being determined. Meanwhile, the dismissal of the Village Apparatus on the grounds of being dismissed must first be consulted with the Camat or other designations.

# CONCLUSION

After conducting a discussion and analysis by paying attention to the subject matter, the following conclusions can be drawn: The village head and sub-district head as law enforcement officers for the appointment of village officials must act to control thoughts and steps so that they are always maintained from committing acts that violate the law, as the legal function is as a tool of social control, so that the legal function is realized as a tool of social control. a tool of social engineering, which is to become a force to change society ("change agent"), which creates new social conditions, namely with legal regulations created and implemented, social engineering occurs, there is social towards better living conditions. The village head and sub-district head as law enforcement officers for the appointment of village officials cannot do anything outside of what has been outlined in the statutory provisions (ultra vires). The process of dismissing the Village Apparatus Based on Permendagri Number 67 of 2017 is carried out if it occurs for 3 (three) reasons, namely death, own request and dismissal. Dismissal of Village Apparatus is carried out by the Village Head after consulting with the Camat. categories with reasons for dismissal which include the age of 60 (sixty) years, declared as a convict based on a court decision that has permanent legal force, permanent absence, no longer meets the requirements as a village apparatus and violates the prohibition as a village apparatus.

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