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Legal Review of Law Number 9 of 2016 Concerning the Election of Suco Council Candidates in Timor-Leste

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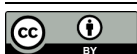
ABSTRACT

The importance regulations in Law Number 9 of 2016 with the principles of justice, democracy, and community participation is the main pillar in the national legal system that must be used as a reference in every public policy formulation, including in the arrangement of the Village Council elections. Therefore, a comprehensive analysis of the legal norms regulated in Law Number 9 of 2016 is needed, in order to identify existing weaknesses and formulate rational and applicable solutions to improve the Village Council election system in the future.

The method used is a normative juridical research method, with a statutory approach and a conceptual approach. The research data source consists of primary legal materials in the form of relevant laws and regulations, secondary legal materials in the form of literature and doctrines of experts, and tertiary legal materials as support for the analysis. The data obtained were then analyzed in a qualitative descriptive manner by examining the conformity of legal norms in Law Number 9 of 2016 to the principles of democratic and participatory law.

The results of the study show that the regulation in Law Number 9 of 2016 concerning the election of the Village Council still has normative weaknesses, especially in the aspect of transparency and community representation. The provisions regarding the use of ballot cards without a photo of the candidate and candidacy carried out on election day, the second round of elections held at midnight after the counting is completed, have the potential to reduce information disclosure for voters and do not fully reflect the principles of fairness and public participation. Therefore, it is necessary to revise and improve legal norms so that the arrangement of the Village Council election can better guarantee the principles of justice, inclusiveness, and democracy as mandated in the constitution and applicable laws and regulations.

This research contribute to the development of legal science, especially in the field of constitutional law and village government law, as well as provide constructive recommendations for policymakers in improving the village council election system in Timor-Leste. In addition, the results of this research are also expected to be a reference for the community and other stakeholders in understanding the importance of transparent, fair, and participatory Village Council election arrangements as part of efforts to realize democratic and socially just village governance.



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INTRODUCTION

The election of the Village Head and Village Council is one of the most important political events at the local level, especially in the context of a country that adheres to a democratic system such as Timor Leste. In various regions, these elections are not only a means to legitimize the authority of rural communities, but also a key instrument in the development of the basic structure of local government that aims to regulate the democratic participation of citizens in solving the specific problems facing their communities. Through a democratic election mechanism, village communities can make a significant contribution to the sustainable and harmonious development of the country. In this context, the election of the Village Head and the Village Council is of great importance to ensure the legitimacy of authority and the development of the basic structure of village government, as well as to organize the democratic participation of citizens in solving the problems of their communities.

The prevailing electoral law, by recognizing the existing organization of village institutions, allows its legitimacy through local elections held by secret, free, equitable, and direct votes of the population. This ensures the legitimacy necessary for its leaders in accordance with constitutional orders. However, in practice, Law Number 9 of 2016 concerning the Election of Village Council Candidates does not give the authority to the General Election Agency to hold the election. On the other hand, in Article 96 of the Law, the authority is given to the Technical Secretariat of Electoral Administration (STAE) and other Electoral Organs to only assist the Village Council and local teams in the Administristasau Postu in carrying out the village elections and their members.

The implementation of Village Council elections that are not fully transparent and participatory can have an impact on the decline of public trust in the democratic process at the village level. Limited access to information about the candidates to be elected, as well as the unusual timing of the election, has the potential to reduce the active participation of the community in determining their representatives in the Village Council. From the normative side, Law Number 9 of 2016 is also considered to still have weaknesses in regulating the mechanism for candidacy and election of inclusive and fair Village Councils. Provisions regarding candidacy carried out on election day, for example, can create legal uncertainty and open up opportunities for manipulation in the nomination process. Likewise, the implementation of the second round of elections was carried out at midnight, which logically could reduce the level of public participation due to time and accessibility limitations. This condition shows that there is a discrepancy between the legal norms regulated in Law Number 9 of 2016 and the principles of democratic and participatory law that are the foundation of the national legal system.

The election of village heads in Timor Leste is a very important election in a democratic system, as it gives citizens the free right to elect their leaders directly in their respective villages. The first government of Timor Leste (Premeiro Estado Konstitusion) began to take the initiative to make new laws regarding the holding of the elections of Village Heads and Village Councils in 2004. It is based on the constitution of the Democratic Republic of Timor-Leste, which affirms that sovereignty is in the hands of the people and is exercised in accordance with the constitution, and guarantees and promotes the fundamental rights and freedoms of citizens, including the right to participate in government directly or through freely elected representatives.

Since the enactment of Law No. 2/2004, which replaced the village leadership from the emergency government of the United Nations Transitional Administration East Timor (UNTAET), elections for Village Heads and Village Councils began to be held in stages in 2004 and 2005. This law defines

and regulates the limits of the actions of the community leadership structure, as well as the organization and implementation of the electoral process. Furthermore, this law has undergone two revisions, namely through Law Number 3/2009 and Law Number 9/2016.

The electoral system in Timor Leste currently consists of three types of elections, namely the election of the President of the Republic, the election of the Parliament or Legislature, and the election of the Village Head and Village Council. The Presidential election of the Republic uses a two-round system, where if no single winner in the first round obtains more than 50%+1 vote, then the second round is held a month after the first round with the top two candidates. The term of office of the President of the Republic is five years and can only be extended once. Meanwhile, the election of the Village Head uses a similar system, but with a different term of office, which is seven years and can be extended more than once.

The competence of the Village Head is very broad, ranging from representing the Village inside and outside the court, ensuring compliance with the constitution and laws and regulations, holding and chairing Village Council meetings, promoting consultation with the community, drafting and implementing Community Development Plans, to carrying out various social, economic, and environmental activities at the village level. Village heads also have an important role in increasing public awareness about the importance of education, health, hygiene, and participation in government programs.

The right to vote is a citizen's rights and obligations that are carried out directly, personally, and through the intermediary of the person who has the right to vote if the voter is visually impaired. Each voter is only allowed to vote once. Security forces, election monitors, civil servants, and media workers on duty on election day are also given the right to vote at the nearest polling station to their place of service.

The process of proposing candidates for Hamlet Heads, Delegates, and Delegates carried out on voting day is also a big obstacle for voters. Voters who do not participate in the process of proposing candidates cannot know who the candidate they will vote for, so it can hinder the democratic process itself. This shows the need to evaluate and harmonize the provisions in Law Number 9 of 2016 to better reflect the principles of justice, inclusivity, democracy, and community participation.

In 2016, Law Number 9 of 2016 came into force, which officially incorporated the implementation of the election of the Village Head into the electoral regime, so that the general election of Village Heads and Hamlet Heads has their own ballot cards. However, the difference in the system between the election of the Village Head and the election of the President of the Republic and the National Parliament, especially related to the term of office and the election mechanism, is an interesting factor to be studied juridically.

In the political system, as explained by Miriam Budiardjo, the general election system has various variations, but it generally revolves around two main principles, namely single-member constituency and multi-member constituency. In Timor Leste, the system used is proportional. Two-round majority voting is also applied in the election of the Village Head, where an absolute majority is required in the first round, and a relatively sufficient majority in the second round. The advantage of the two-round system is that it allows voters to express their preferences more freely and fairly.

The activities of electing the Village Head also cannot be separated from the political dynamics in the village, which often involve factors such as inheritance, descent, prestige, self-esteem, and honor. In some cases, this election process can even cause conflicts in society. Previous studies have also shown that social, economic, and leadership shifts in villages have affected the dynamics of democracy at the local level.

The importance of the village in the life of the nation and the state cannot be separated from its recognition and improvement through the development of a legal framework that allows community organizations to meet the expectations placed on them. The mechanism for electing Village Heads regulated in Law Number 9 of 2016 states that elections are carried out simultaneously in all districts/cities, with clear stages ranging from socialization, candidacy, administrative selection, campaigns, elections, to inauguration.

Most recently, in December 2024, the Council of Ministers issued a Government Decree to authorize the National Directorate of Tribal Administration (DNAS) in collaboration with STAE to hold the election of Village Heads in several municipalities. This activity is monitored by the Election Commission (CNE) and carried out by the village organizing body consisting of village officials, community institutions, and community leaders formed by the Head of the District and Regency as well as the Village Consultancy.

These problems become more complex when they are associated with the main goal of establishing the Village Council as a representative institution that is able to accommodate and fight for the aspirations of the village community. In this context, the existence of the Village Council should be able to strengthen the position of the community in the decision-making process at the village level, as well as encourage the creation of transparent, accountable, and democratic village governance. However, if the Village Council election mechanism is still colored by various normative weaknesses, then this goal is difficult to achieve optimally.

Based on the description above, this research is important to conduct a juridical review of the provisions in Law Number 9 of 2016 concerning the Election of Village Council Candidates, especially related to legal arrangements, term of office, election mechanisms, and community participation. This research is expected to contribute to the development of village laws and election systems at the local level, as well as provide input for the government in improving the village election process in the future.

a) Theoretical Framework & Concept

The main objective of this normative research is to understand and explain how the law should be applied in practice and how the legal system can be improved, especially towards the public's perception of the applicable law. Thus, this research is expected to make a significant contribution to efforts to improve the legal system for the election of village council candidates in Timor Leste, as well as encourage the creation of more democratic, inclusive, and fair elections.

In conducting a juridical study on Law Number 9 of 2016, this study uses several relevant theoretical foundations, including the theory of the state of law, the theory of village government, the theory of general elections, and the theory of constitutional law. Theories of the state of law, such as the theory of legal positivism and the theory of natural law, are used to analyze formal, procedural, and the principles of justice and morality in the formation and application of law. Village government theories, such as decentralization theory and community participation theory, are used to understand the granting of authority and responsibility to village government, as well as the importance of community participation in decision-making related to the public interest and village development. Electoral theory, such as democracy theory and representation theory, are used to analyze the principles of democracy in elections, as well as the role of people's representatives in representing the interests of the people. Meanwhile, constitutional law theories, such as regional autonomy theory and village government theory, are

used to analyze the structure and function of village government, as well as the relationship between village government and the community.

Using the relevant theoretical foundation, a juridical study of Law Number 9 of 2016 concerning the Election of Village Council Candidates can be carried out comprehensively and in-depth. This research is expected to provide a clear picture of the effectiveness and relevance of the law in ensuring the implementation of democratic, inclusive, and fair village council candidates in Timor Leste.

The election of village council candidates is one of the important events in the dynamics of village government in Timor Leste. In practice, the implementation of the election of village council candidates often faces various challenges, both from legal aspects, governance, community participation, to the implementation of the principles of democracy and transparency. One of the concrete examples that often occur in the field is the emergence of election disputes, low public participation, and alleged violations of the principles of legality and gender equality in the election process. This phenomenon raises fundamental questions about the effectiveness and fairness of the implementation of Law Number 9 of 2016 concerning the Election of Village Council Candidates, especially in ensuring the creation of democratic, participatory, and accountable village government.

These factual conditions show that there is a gap between the normative expectations regulated in laws and regulations and the reality that occurs in society. In some cases, the implementation of the election of village council candidates has not fully reflected democratic principles, such as the principles of direct, public, free, secret, honesty, and fairness. In addition, there are still practices that are contrary to the principle of legality, where the applicable regulations are not fully used as guidelines in each stage of the election. This is exacerbated by the lack of participation of the community, especially women's groups, in the decision-making process at the village level. In fact, citizen political participation is the essence of democracy and is the main indicator in assessing the quality of village government administration (Miriam Budiarmo, 1998: 73).

The ideal condition expected from the implementation of Law Number 9 of 2016 is the creation of a democratic, transparent, accountable village council election system, and ensuring equality and justice for all villagers without discrimination. In the context of the state of law, every government action, including in the implementation of village council elections, must be based on clear and firm rules of law (Jimly Asshiddiqie, 2004: 15). The state of law requires legal certainty, protection of human rights, and the rule of law in every aspect of state life. Therefore, the implementation of the election of village council candidates must refer to the principles of the state of law, where every election process and results can be judicially accounted for.

b) From the perspective of the theory of the state of law

There are two main approaches that are relevant in reviewing the implementation of Law Number 9 of 2016, namely the theory of legal positivism and the theory of natural law. The theory of legal positivism emphasizes formal and procedural aspects in the formation and application of law, so that each stage of the election must be in accordance with the provisions that have been stipulated in laws and regulations. Meanwhile, the theory of natural law emphasizes the principles of justice and morality, so that the implementation of elections does not only fulfill formal aspects, but must also uphold the values of justice and morality in society (Najih, 2008: 15).

In addition to the theory of the state of law, the theory of village government is also an important foundation in analyzing the implementation of the election of village council candidates. Decentralization theory emphasizes on giving

authority and responsibility to village governments to manage government and development affairs. In this context, village council elections are a form of implementation of political decentralization at the local level. However, decentralization that is not balanced with effective community participation can give rise to new problems, such as the emergence of local elitism and abuse of power. Therefore, the theory of community participation becomes very relevant, where the success of village council elections is largely determined by the extent to which the community is actively involved in each stage of the election process (Rahman, 2002: 47).

c) General election theory

General election theory also makes an important contribution to understanding the dynamics of the election of village council candidates. Democracy theory emphasizes the principles of democracy in elections, such as the principles of direct, public, free, secret, honesty, and fairness. In the context of village council elections, these principles must be used as the main guideline so that the election results truly reflect the will of the people. Representation theory emphasizes the role of the people's representatives in representing the interests of the community and making decisions that benefit the general public. Thus, the elected village council must be able to carry out its representation function optimally, so that the aspirations and interests of the village community can be well accommodated (Robert A. Dahl, 1985: 112).

From the point of view of constitutional law, the theory of regional autonomy and the theory of village government are also very relevant in reviewing the implementation of Law Number 9 of 2016. The theory of regional autonomy emphasizes on giving authority and responsibility to local governments to manage local government affairs and development. In this case, the village as part of the local government has the autonomy to regulate and take care of the interests of the local community. However, village autonomy must be carried out within a clear legal framework and not in conflict with higher laws and regulations. Meanwhile, the theory of village government emphasizes the structure and function of village government, as well as the relationship between village government and the community. A harmonious relationship between the village government and the community is the key to success in the implementation of democratic and participatory village government.

The principle of legality is a fundamental principle in every government action, including in the implementation of the election of village council candidates. The principle of legality emphasizes that no act can be punished except for the criminal provisions in the laws that existed before the act was committed. In the context of village council elections, each stage and mechanism of elections must be based on the prevailing laws and regulations, so as to prevent abuse of authority and violations of the law (Von Feuerbach, 1775-1833).

In addition to the principle of legality, the principle of equality is also an important principle that must be upheld in the implementation of the election of village council candidates. Legal equality demands that every citizen has equal rights in every aspect of life, including in terms of voting and being elected as a member of the village council. However, in practice, gender discrimination and marginalization of certain groups are still found in the electoral process. Therefore, there is a need for efforts to realize gender equality and justice in every stage of elections, so that every villager, both male and female, has an equal opportunity to participate in village government (Jary and Jary, 2002: 89).

The principles of transparency and accountability are also key factors in realizing democratic and integrity village council elections. Transparency requires information disclosure and wide access for the public to know every

stage and election results. With transparency, the public can supervise and control the course of the election, so that it can prevent fraud and abuse of authority. Accountability requires that every election organizer be responsible for every action and decision taken, so as to increase public trust in the election results (Andrianto, 2007: 54).

METHODOLOGY

The election of village council candidates is one of the important events in the dynamics of village government in Timor Leste. In practice, the implementation of the election of village council candidates often raises various legal problems, both related to procedures, community participation, and the protection of the rights of voters and candidates. These problems often arise due to the incompatibility between the applicable legal norms and the implementation in the field, as well as the lack of public understanding of the election mechanism regulated in laws and regulations, in some cases, there are election disputes that lead to horizontal conflicts in the village community, which can ultimately disrupt social stability and the village government itself.

Factual conditions on the ground show that the implementation of the election of village council candidates in several regions in Timor Leste still faces serious challenges, such as low levels of community participation, indications of fraudulent practices, and weak supervision of the election process. This is exacerbated by the limited understanding of the village community regarding their rights and obligations in the election process, as well as the suboptimal role of election supervisory institutions in upholding the principles of justice, democracy, and inclusivity. It is not uncommon to find interventions from certain parties that have the potential to hurt the principles of honest and fair elections. These problems raise fundamental questions about the effectiveness and relevance of Law Number 9 of 2016 as a legal basis in the implementation of the election of village council candidates in Timor Leste.

Law Number 9 of 2016 concerning the Election of Village Council Candidates is expected to be able to become a legal instrument that ensures the implementation of democratic, inclusive, and fair elections. However, in reality, the implementation of the law still faces various obstacles, both in terms of legal substance, institutional structure, and community legal culture. The legal substance regulated in this law often does not fully reflect the needs and aspirations of the village community, especially in terms of the protection of citizens' political rights at the village level. The institutional structure in charge of organizing and supervising the election of village council candidates is still not optimal in carrying out its functions, so it is prone to violations and irregularities in the election process. The weak legal culture of the community is also an inhibiting factor in realizing elections that are in accordance with the principles of democracy and justice.

In this context, normative juridical research is very relevant to be conducted in order to examine in depth how Law Number 9 of 2016 is implemented in the practice of selecting village council candidates in Timor Leste. This research uses a normative juridical method, namely literature law research conducted by examining literature materials or secondary data. Using the deductive thinking method, this study seeks to draw conclusions from something that is general that has been proven to be true, to be applied to cases that are specific in the context of the election of village council candidates. The object analyzed in this study is the legal norms contained in laws and regulations, especially those related to the election of village council candidates.

The specification of this research is descriptive analytical, which aims to systematically describe the facts or characteristics of a particular population or a particular field factually and carefully. This study aims to describe how the legal protection received by the research object, namely whether so far

Law Number 9 of 2016 has reflected the principles of justice, inclusiveness, democracy, and community or voter participation. Thus, this research not only focuses on normative analysis of the applicable legal provisions, but also seeks to identify problems that arise in the implementation of these laws in the field.

The type of data used in this study is secondary data, obtained from laws, books, or legal journals that contain basic principles (legal principles), the views of legal experts (doctrine), the results of legal research, legal dictionaries, and legal encyclopedias. Supporting data is obtained from events in the field, which can enrich the analysis of the implementation of Law Number 9 of 2016. Thus, this study relies on data obtained from libraries through searching for literature books, documents, and other written sources that are relevant to the research topic.

The data analysis method used is a descriptive-analytical approach, which is a data analysis technique that helps in depicting, demonstrating, or summarizing data points so that patterns can develop that meet all data conditions. This descriptive analysis aims to identify patterns and links by utilizing current and historical data, so that patterns and relationships relevant to the problem being studied can be found. The stages of data analysis include data recording, collection, sorting, classification, synthesis, overview, and indexing, as well as searching for meanings and patterns in the data that has been collected.

RESULTS, ANALYSIS, DISCUSSION, FINDING

1) Legal Arrangements Related to Village Elections and Term of Office

The development of the village government system in Timor Leste has experienced very complex dynamics, both in terms of structure, election mechanism, and the term of office of village heads and village councils. In the historical context, before the Portuguese colonial period, the village government system in Timor Leste was very thick with traditional nuances and customs. The election of the village head or liurai at that time was based on lineage and inheritance, but leadership ability was also an important factor in determining who would lead. The mandate of the village head at that time was for life or until there were inhibiting factors that caused the change of leader. Customs and traditions play a central role in the election process, where the community participates through deliberations or customary rituals, so as to create social balance in the lives of the village community. However, the entry of Portuguese colonialism brought significant changes to the local government system, including in terms of the election of village heads. The Portuguese colonial government placed traditional leaders under their control, so the elected village chief had to submit to colonial policies. Nevertheless, the role of liurai as a political, spiritual, and traditional leader was maintained, even though it had to adapt to pressure from the colonial government.

Since independence, Timor Leste has implemented a democratic system of village head elections, in which village heads and village councils are directly elected by the community through universal, free, direct, secret, private, and periodic elections. The election system used is The Round System-Two Round System (TRS), where the second stage of elections will be held if in the first stage no candidate obtains a majority of votes (50%+1). The laws governing village elections in Timor Leste have undergone several changes, ranging from Law No. 2 of 2004, Law No. 3 of 2009, to the latest Law No. 9 of 2016. Every change in the law has implications for the term of office of the village head and the structure of the village council. In Law Number 2 of 2004, the term of office of the village head is four years and can be renewed once. Then, Law Number 3 of 2009 extended the term of office to six years with one re-election. Finally, Law Number 9 of 2016 stipulates the term of office of the village head for seven years and can be extended once.

The structure of the village council has also undergone significant changes. In Law Number 2 of 2004, the village council consists of the village head, the hamlet heads, two women, two young men (one of each gender), and one elder. Meanwhile, Law Number 9 of 2016 expands the composition of the village council by adding one delegate and one delegate from each hamlet, one representative of youth and village women, and one lian-na'in. This change reflects the government's efforts to increase community participation, especially women and youth, in the village governance process.

In the context of international comparison, the village head election system in Timor Leste bears a resemblance to Timor-Leste, where the village head is directly elected by the community through a local democratic process. In Timor-Leste, the election of village heads is regulated in Law Number 6 of 2014 on Villages, with a term of office of the village head for six years. The process of electing village heads in Timor-Leste is also carried out simultaneously or in waves, with stages that include preparation, nomination, voting, and appointment. Meanwhile, in Portugal, the local government system places more emphasis on the election of city and parish councillors, where the head of local government is elected by elected councillors. The main difference between these three countries lies in the structure of local government and the mechanism of electing village heads or local governments.

Regulatory changes related to the election of village heads and their term of office in Timor Leste are inseparable from the government's goal to strengthen the role of villages in national development. Villages are considered entities that have an important role in preserving cultural identity, mobilizing local communities, maintaining peace and social stability, and mediating disputes and conflicts at the community level. Therefore, the development of a clear and comprehensive legal framework is very important so that village community organizations can meet community expectations and contribute to the socio-economic progress of the country. Revisions to the law are also carried out to clarify the responsibilities and capacity of village administration, strengthen the legitimacy and authority of village heads, and increase transparency in the election process and implementation of village government tasks.

Despite various regulatory changes, the implementation of village head elections in Timor Leste still faces a number of challenges, including community participation, transparency, and accountability in the election process, as well as the effectiveness of the term of office of village heads in carrying out their duties and responsibilities. Changes in the structure of the village council and the addition of the term of office of the village head also have various implications, both in terms of local political dynamics and the effectiveness of the village government in carrying out its functions. Therefore, a study of the legal arrangements related to village elections and their term of office is very relevant to be carried out, in order to provide a comprehensive understanding of the dynamics of regulation, implementation, and challenges faced in the context of village government in Timor Leste.

Another problem that arises is related to the mechanism of candidacy and campaigns in the election of village heads. Law Number 2 of 2004 and Law Number 3 of 2009 provide space for individuals and political parties to submit candidates for village heads, with certain requirements such as the number of signatures of support from voters. Meanwhile, Law Number 9 of 2016 emphasizes the importance of women's representation in the candidacy of hamlet heads, as well as tightening the administrative requirements for candidacy. The duration of the campaign has also changed, from a minimum of one week in Law Number 2 of 2004, seven days in Law Number 3 of 2009, to only fifteen minutes in Law Number 9 of 2016. These changes reflect the government's efforts to improve the efficiency and effectiveness of the election process, but also raise questions about the extent to which village

head candidates can socialize their vision and mission to the community in a very limited time.

Changes in the election organizing body are also an important concern. In Law No. 2 of 2004 and Law No. 3 of 2009, the implementation of village general elections is under the authority of the Electoral Administration Technical Secretariat (STAE) which is supervised by the National Election Commission (CNE). However, Law Number 9 of 2016 places the election organizing body under the Village Assembly and Village Council, with the aim of strengthening community participation in the election process and increasing the accountability of the implementation of elections at the village level.

Taking into account the various dynamics and changes in regulations, the legal arrangements related to village elections and their term of office in Timor Leste are very important issues to be studied in depth. This study is expected to contribute to improving the village head election system, strengthening the role of villages in national development, and improving the quality of democracy at the local level.

2) Arrangement of Village Head Elections Based on Democracy, Inclusiveness, and Justice in Village Head Elections in Timor Leste

The election of village heads is one of the main pillars of the democratic local government system in Timor Leste. In practice, the process of electing village heads is not only a place for political contestation at the village level, but also a reflection of the application of the principles of democracy, inclusivity, and justice in community life. However, in its implementation, there are various challenges and dynamics that show that the ideals of democracy, inclusivity, and justice have not been fully realized optimally at the village level.

At the factual level, the implementation of village head elections in Timor Leste still faces a number of problems, such as low participation of marginalized groups, limited access for women and persons with disabilities, and the tendency to discriminate in the nomination and voting process. For example, although the law has regulated the representation of women and vulnerable groups in the structure of the Village Council, the reality is that there are still cultural and structural barriers that hinder the active participation of these groups.

This condition is exacerbated by the existence of social exclusionary practices that cause certain groups, such as women, people with disabilities, and the poor, to not get equal opportunities to participate in the village political process. As election monitors have revealed, elections without women's involvement are not an inclusive democracy. In the context of Timor Leste, the participation of women and marginalized groups must still be encouraged so that the process of selecting village heads truly reflects the principle of inclusivity, where every citizen has equal rights and opportunities to participate without discrimination (Source: Law Number 9 of 2016).

Justice in the election of village heads is also a central issue that needs serious attention. Justice in this context is not only interpreted as conformity with the law, but also includes distributive, procedural, and retributive justice. In practice, distributive justice is concerned with the distribution of resources, benefits, and burdens in a fair and proportionate manner among villagers. Meanwhile, procedural justice requires fair, transparent, and impartial processes and procedures in every stage of village head election. Retributive justice, on the other hand, is related to the provision of sanctions or proportionate punishments for violations that occur during the election process (Source: Prof. Miriam Budiardjo, 2008).

The concept of justice put forward by classical philosophers such as Plato, Aristotle, Thomas Aquinas, and modern thinkers such as John Rawls, provides a strong philosophical foundation for the regulation of fair village head

elections. Plato emphasized the importance of harmony and balance in society, where each individual performs his or her role according to his talents and abilities. Aristotle highlighted the importance of numerical and proportional equality in the division of rights and obligations, while Thomas Aquinas emphasized the need for distributive, legal, and commutative justice in social life. John Rawls, with his theory of substantive justice, emphasized the importance of the principle of equal freedom and the principle of difference to ensure that social and economic inequality can only be justified if it provides the greatest benefit to the most disadvantaged (Source: Plato, Aristotle, Thomas Aquinas, John Rawls).

In the context of positive law in Timor Leste, the principles of justice have been accommodated in the Constitution of RDTL of 2002 and Law Number 9 of 2016 concerning Village Council Elections. The Constitution expressly guarantees equality before the law, the protection of human rights, and the right to participate in political life without discrimination. The village election law regulates in detail the mechanism of candidacy, women's representation, youth participation, and transparent and accountable election procedures. However, the implementation of these principles in the field still faces challenges, especially in terms of the enforcement of procedural and distributive justice, as well as the empowerment of marginalized groups (Source: RDTL Constitution of 2002; Law Number 9 of 2016).

In addition to justice, the principle of inclusivity is also a crucial aspect in the arrangement of village head elections in Timor Leste. Inclusivity in this context refers to the involvement of all parties without discrimination in the village political process. Robert Dahl emphasized that one of the main criteria of democracy is inclusivity of participation, where all eligible citizens must be involved in the political decision-making process. The World Bank also emphasizes the importance of social inclusion as an effort to increase the participation of individuals and groups in community life, as well as as a key principle for ending extreme poverty (Source: Robert Dahl; World Bank).

The principle of inclusivity has been accommodated in Law Number 9 of 2016, among others, through provisions on the representation of women and youth in the Village Council, as well as the minimum requirement for female candidates in each village head election. However, in practice, there are still obstacles in realizing inclusivity, such as low participation of marginalized groups, lack of accessibility for people with disabilities, and cultural barriers that limit the role of women in village politics. This shows the need for further efforts to strengthen inclusive mechanisms in every stage of village head elections, starting from socialization, candidacy, voting, to supervision and dispute resolution (Source: Law Number 9 of 2016).

In Law Number 9 of 2016, the principles of democracy are implemented through the mechanism of direct, public, free, secret, honest, and fair elections; community participation; accountability of elected village heads; and transparent supervision and dispute resolution. The Constitution of the RDTL also affirms that sovereignty is in the hands of the people, who exercise their political power through free, direct, secret, and periodic elections. However, in practice, there are still challenges in ensuring that the entire electoral process is truly democratic, inclusive, and fair, especially in terms of the participation of marginalized groups and the protection of minority rights (Source: Law Number 9 of 2016; Constitution of RDTL in 2002).

3) Study of the results of the analysis based on Law Number 9 of 2016; Constitution of RDTL in 2002

The results of the research that have been carried out show that the regulation in Law Number 9 of 2016 concerning the election of the Village Council still has normative weaknesses, especially in the aspect of transparency and community representation. One of the problems found is the provision

regarding the use of ballot cards without a photo of the candidate. This provision has the potential to cause confusion among voters, especially for people who have a low literacy level or for those who do not know all candidates personally. In addition, candidacy carried out on election day also raises its own problems, because it can reduce the time available for the public to get to know and assess the candidates to be elected. This of course has an impact on the quality of public participation in the election process, because voters do not have enough time to carefully consider their choices.

The mechanism of the second round of elections which was held at midnight after the vote counting was completed was also in the spotlight. This process is considered less transparent and has the potential to raise suspicion among the public about the integrity of the election process. Holding elections at unusual times can reduce the level of community participation, especially for vulnerable groups such as women, the elderly, and people with disabilities who may not be able to attend at that time. In addition, the implementation of elections at night also has the potential to cause security and order problems, which can ultimately affect the legitimacy of election results.

The provisions in Law Number 9 of 2016 are still not fully able to guarantee the principles of justice, inclusiveness, and democracy as mandated in the constitution and applicable laws and regulations. In this context, the principle of justice demands that every citizen has an equal opportunity to participate in the electoral process, without any discrimination or unnecessary barriers. The principle of inclusivity requires that all groups of people, including minority and vulnerable groups, can be actively involved in the electoral process. Meanwhile, the principle of democracy requires information openness, transparency, and accountability in every stage of elections.

The normative problems found in Law Number 9 of 2016 not only have an impact on the technical aspects of the implementation of elections, but also have implications for the legitimacy and acceptability of election results in the eyes of the public. The lack of clarity in the rules regarding the use of ballot cards without a photo of the candidate, candidacy on election day, and the implementation of the second round at midnight, can cause a negative perception among the public of the integrity and credibility of the election process. If this condition is allowed to drag on, it is feared that it will reduce the level of public trust in the Village Council institution, which can ultimately hinder efforts to realize democratic and socially just village government.

From a legal philosophical point of view, the arrangement regarding the election of the Village Council should be based on the values of justice, humanity, and democracy. The law not only functions as an instrument of social control, but also as a means to realize the ideals of social justice for all people. Therefore, every legal norm that regulates the election of the Village Council must be able to reflect these values, both in terms of substance and procedure. In this case, revision and improvement of legal norms is a necessity so that the arrangement of the Village Council elections can better guarantee the principles of justice, inclusiveness, and democracy.

Many people feel that they do not get enough information about the candidates to be elected, so their participation in the election process is less than optimal. In addition, the implementation of elections at night also raises various problems, ranging from low participation rates to potential violations of the law. This shows that there is still a gap between the expected ideal conditions and the factual conditions that occur in the field.

4) Impact of Research Results

a) The arrangement of village head elections in Timor Leste based on the principles of democracy, inclusiveness, and justice is a necessity to realize participatory, transparent, and accountable village governance. However, to achieve this goal, continuous efforts are needed to improve

regulations, strengthen institutional capacity, and increase awareness and participation of the community, especially marginalized groups, in every stage of the election of village heads. Thus, the election of village heads in Timor Leste is expected to become a model of inclusive and equitable local democracy, and be able to make a real contribution to the realization of prosperous and socially just village communities.

- b) In the legal framework, Law Number 9 of 2016 concerning Villages emphasizes the importance of democratic and transparent village head elections as an effort to obtain a credible village government. The village head who is directly elected by the community will gain strong legitimacy and be recognized by the community, so that they are able to run the village government in accordance with the aspirations that develop in the community. The election of the village head is also a form of community participation in determining leaders in villages and hamlets, as well as involving the community in the overall village development process.
- c) The implementation of village head elections in Timor Leste still faces challenges in realizing an inclusive and fair democracy. One aspect that needs attention is the submission of effective and transparent candidacy. The process of submitting candidates for village heads must be carried out by ensuring that all candidates meet the specified requirements and are given sufficient candidacy time so that the community can get to know the candidates better. Village institutions such as the Tribal Council, the Tribal Assembly Table Member (MMAS), and the Aldeia Assembly Table Member (MMAA) must really carry out village election activities in accordance with the provisions of the applicable law, including in carrying out village leadership relay through general elections that are in accordance with the wishes of the community as a whole.
- d) The synchronization of the term of office of the village head and the head of state is also an important factor in ensuring the stability of the government and the effectiveness of development in the village. An insynchronous term of office can cause uncertainty in the implementation of village development programs, so efforts are needed to harmonize the term of office of the village head with the head of state. The participation of village communities in village development must also be increased, especially in the implementation of general elections to elect village leaders or heads and other tribal councils. Thus, the implementation of leadership succession in the village can run in accordance with the applicable laws and regulations and the community can participate directly in village development.
- e) In an effort to improve the quality of the election of village heads, the use of ballot cards with photos of candidates for village heads and delegates or delegates is one of the solutions that can be implemented. The use of a ballot card with a candidate's photo can help prevent fraud and ensure that voters can choose the right candidate according to their wishes. The second round of elections must also be held in an effective, accumulative, and inclusive manner by ensuring that the voters' choice and vote counting process are conducted transparently.

5) Finding

Law No. 9/2016 on the election of the Village Council contains normative weaknesses that undermine transparency, representation, and inclusivity. Ballots without candidate photos and last-minute candidacies limit voter comprehension, especially among populations with low literacy levels. The second round of midnight voting was not transparent, hindered participation, especially for women, the elderly, and people with disabilities, and raised security concerns. This lack reduces public trust, legitimacy, and acceptance of results, threatening democratic governance at the village level. The norms fail to fully uphold justice, inclusivity, and the democratic principles mandated by law. The philosophy of law demands revisions based on justice, humanity, and openness to ensure informed participation and strengthen institutional legitimacy.

CONCLUSIONS AND RECOMMENDATION

Conclusion

Village head elections in Timor-Leste must follow democratic, inclusive, and fair principles to ensure participatory, transparent, and accountable local governance. Law No. 9/2016 mandates democratic and transparent elections that give legitimacy to leaders elected by the people. The remaining challenges are: transparent candidate nomination, adequate nomination time, and appropriate roles for village bodies such as the Tribal Council, MMAS, and MMAA. Aligning the term of office of the village head with the national term of office can increase the stability of the program. Public participation, especially by marginalized groups, must be enhanced. Practical measures such as photo voting and effective second-round voting can reduce fraud and make the results more transparent and trustworthy.

Recommendations

- a) Improvements to the village head election system in Timor Leste also include improving the system for using photos on ballot cards, strengthening electoral institutions, increasing community participation, and synchronizing the term of office of village heads and village councils with heads of state.
- b) The government, especially the authorities, needs to take the initiative to revise the articles that do not regulate the use of photos on voting cards and provide a report that this system needs to be improved.
- c) Electoral institutions also need to be strengthened to ensure that the election process runs transparently and effectively.
- d) The government needs to increase community participation in the election process through socialization and voter education, as well as synchronize the term of office of village heads and village councils with heads of state to ensure government stability and development effectiveness.
- e) Improving the village head election system in Timor Leste is essential to ensure the legitimacy of village governments and public trust in village government.

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