

Analysis of the implementation of additional selection of village head candidates in bangkalan regency from a human rights perspective

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ABSTRACT

This research aims to analyze the implementation of additional selection of village head candidates in Bangkalan Regency based on Bangkalan Regent Regulation No. 89/2020 from a human rights perspective. The main focus of this research is to discuss the restrictions on village head candidates stipulated in the policy, as well as its implications for the right to be elected and participate in governance at the village level. In the context of local democracy, these restrictions raise questions about the compatibility of the selection rules with human rights principles, particularly the rights to equality and non-discrimination. This research uses a normative legal research method with a statute approach, examining various relevant regulations and assessing the extent to which this policy is in line with human rights provisions at both the national and international levels. The results show that this additional selection has the potential to limit individual political rights and needs to be reconsidered within a human rights framework.

Keywords: Additional selection, village head candidate, human rights, Bangkalan Regent Regulation, village head election.

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Introduction

Village head elections are a form of democracy that is very important at the local level. Villages have a very vital role in organizing community-related governance, so the quality of village leadership determines the success of development at the village level.(Tokan & Ola, 2020). The village head acts as a driving force for development, public services, and resource management in the village. Therefore, village head elections must be conducted democratically, based on the principles of fairness and transparency.

In Indonesia, village head elections are directly elected by the community. But, not all candidates can advance to direct elections, candidates for village heads must have integrity, be competent and able to carry out their duties properly.

to find out competent village head candidates, some regions in Indonesia apply additional selection to become candidates for village heads. (Yuliani et al., 2023). One of the regions that applies this additional selection is the Bangkalan district with its regulation of Bangkalan Regent Regulation number 89 of 2020.

In the third phase of village head elections in 2023 in Bangkalan Regency, there were 6 villages that had more than 5 candidates for village head, namely from Konang Village with 9 candidates for village head, Langkap Village with 10 candidates for village head, Bumi Anyar Village with 6 candidates for village head, Duwek Buter Village with 8 candidates for village head, Tolbuk Village with 7 candidates for village head, Bator Village with 6 candidates for village head (<https://taberita.com/ta/pilkades-tahap-iii-berikut-jumlah-bacakades-tiap-desa-di-kabupaten-bangkalan>, accessed on 18-11-2024).

In an effort to improve the quality of village heads, the bangkalan district government implemented Bangkalan Regent Regulation Number 89 of 2020 which contains additional selection provisions if the number of candidates for village heads exceeds 5 people, in article 43 regulates additional selection in several criteria, namely, work experience in government institutions, education level, age, and competency testing by independent institutions. Each criterion has a value of 25%, so that these criteria are assessed in a balanced manner.

General elections, including village head elections, must not be separated from the principles of human rights, where the implementation of village head elections must be carried out with the principles of justice, equality, and non-discrimination. (Umami et al., 2021). Every citizen has the right to elect and be elected in general elections, as regulated in Article 28D paragraph (1) and Article 28I paragraph (2) of the 1945 Constitution and Article 43 paragraph (1) of Law of the Republic of Indonesia number 39 of 1999 concerning Human Rights. In the context of village head elections, this right means that all citizens who meet the requirements should have the same opportunity to run for and be elected as village heads without discrimination. (Haq et al., 2020).

The principle of non-discrimination as one of the principles of human rights requires that every individual must be treated equally regardless of social background, economy, education, religion or other irrelevant factors (Kurniawan et al., 2023). However, in the implementation of the additional selection in Bangkalan Regency, there are aspects that have the potential to violate the principle of non-discrimination. Some examples of criteria that potentially violate the principle of non-discrimination are as follows:

1. Education, this criterion can discriminate against candidates who come from underprivileged backgrounds or who live in areas with limited access to formal education.
2. Work experience in government institutions, the criterion only benefits candidates who have previously worked or been associated with the village government,

while other candidates who may have the same or better leadership skills, but do not have experience in government are disadvantaged by this clause.

3. Competency tests conducted by independent institutions may also raise questions about the transparency and independence of the selection process. If the competency test is not conducted with clear and transparent standards, then there is a risk that the selection results are influenced by several other factors that should not be such as personal relationships, political preferences, or the interests of certain groups.

According to Dini Yuiani et al, the additional selection process in the village head election conducted by academics is a definite step to ensure the election of a qualified village head to lead the village. From a governmental science perspective, the application of appropriate selection criteria, an open process, and strong accountability are the main factors to maintain honesty and credibility in the selection process. This approach is expected to produce competent village heads who are able to bring progress to the village and fulfill the aspirations of the community (Yuliani et al., 2023).

Because there has been no research related to the above study, the researcher is interested in examining the implementation of additional selection regulated in bangkalan regent regulation number 89 of 2020 needs to be studied from a human rights perspective because it ensures that the rights of prospective village head candidates are not violated. Because in the human rights framework, elections, including village head elections, must be carried out with due regard to basic principles, such as equality, justice, non-discrimination, and transparency (Rohman, 2020).

Based on the above problems, the researcher examines what forms of restrictions are regulated in the additional selection of candidates for village heads based on Bangkalan Regent Regulation Number 89 of 2020 and what are the implications of the restrictions on additional selection criteria listed in Bangkalan Regent Regulation Number 89 of 2020 on human rights.

METHODS

This research uses normative legal research methods, which aim to analyze and interpret applicable legal norms, especially those related to the implementation of additional selection of Village Head candidates in Bangkalan Regency based on Bangkalan Regent Regulation Number 89 of 2020 from a Human Rights perspective (Hariri, 2020). This research uses a statutory approach. This approach is used to examine in depth the regulations relating to Village Head elections and additional selection in Bangkalan Regency. This research will examine the provisions of Bangkalan Regent Regulation Number 89 of 2020, especially Article 43 which regulates the additional selection mechanism.

Data collection in this normative research is done through library research.(Setiyawan & Wicaksana Prakasa, 2021). The researcher will collect relevant legal documents, scientific literature, and studies that discuss village head elections and the application of human rights. The researcher will examine whether the implementation of additional selection as stipulated in Bangkalan Regent Regulation Number 89 of 2020 is in accordance with human rights standards, especially the principles of equality and non-discrimination.(Agustina et al., 2021). In addition, this research will also highlight the potential problems that arise if additional selection is applied in a way that is not transparent or discriminatory towards certain candidates.

DISCUSSION AND RESULT

A. Forms of Restrictions Regulated in the Additional Selection of Village Head Candidates Based on Bangkalan Regent Regulation Number 89 of 2020.

Indonesia, as a country based on law, has a legal system that regulates all aspects of the life of the nation and state. In the Indonesian legal system, the 1945 Constitution (UUD 1945) plays a role as the main source of law that serves as the constitutional basis for all laws and regulations in the country. As part of a state of law, citizens' rights are protected and guaranteed by the 1945 Constitution, including the right to participate in political processes, such as general elections and village head elections(Hariri, 2018).

The basic principles contained in the 1945 Constitution provide a foundation for citizens to participate in political life and government without discrimination(Sofyan, 2021). This is reflected in Article 28D paragraph 1, which affirms that every citizen is entitled to fair and equal treatment before the law. In the context of village head elections, this provision guarantees that every citizen, regardless of background, can participate in elections with the same rights to nominate or elect candidates for village head.

In addition, Article 28I paragraph 2 of the 1945 Constitution affirms that everyone has the right to freedom and protection of the law, which includes the right to elect and be elected in village head elections. These principles confirm that village head elections are part of the political rights of every citizen that must be carried out with the principles of democracy, openness, and fairness(Yusuf et al., 2024).

In this context, village head elections are further regulated by Law No. 6/2014 on Villages, which serves as the legal basis for village governance. Village head elections are conducted to elect a leader who will organize and lead the government at the village level(Hasugian, 2022). As part of a democratic system, village head elections allow every villager who meets the requirements to participate in the political process, both as a voter and as a candidate for village head.

Article 1 point 3 of Law No. 6/2014 explains that the administration of the village is carried out by the village head who is assisted by village officials as the village government. As a democracy, everyone has the right to run for office without discrimination(Basuki, 2020). The freedom of every person to nominate themselves to participate in the village head election if they meet the predetermined requirements have the same rights to become a candidate for village head.

The village head election has a mechanism for its implementation through Government Regulation No. 43 of 2014 concerning the Implementation Regulations of Law Number 6 of 2014 concerning Villages. The implementation of village head elections based on Article 41 of Government Regulation No. 43/2014 has several stages, namely preparation, nomination, voting, and determination.

In terms of nomination, as explained in Article 41 paragraph 3 of Government Regulation No. 43 of 2014 in conjunction with Article 23 of Permendagri of 2014, the determination of candidates for village heads consists of 2 people and a maximum of 5 people. The minimum and maximum number of candidates ensures that the dynamics of democracy continue. Meanwhile, the administrative verification process ensures that only qualified and competent candidates can be designated as participants in the election. Thus, this process is expected to produce a village head who is able to lead the village well and promote the welfare of the community (Nirawati et al., 2023).

Article 25 of the 2014 Minister of Home Affairs Regulation stipulates that additional selection is required to ensure that candidates for village head exceeding five people can be screened based on objective and relevant criteria. These criteria include work experience in government, education level, age, and local requirements determined by regent or mayor regulations. This process aims to produce candidates who are competent and suited to the needs of the village, so that the elected village head is able to carry out his/her duties properly and effectively.

Regent Regulation No. 89 of 2020 aims to ensure that village head elections are conducted democratically, transparently, and fairly, by providing equal opportunities for every citizen who meets the administrative requirements to participate in the election. Article 43 of Regent Regulation No. 89 of 2020 adds additional selection for the village head election if the candidates who register and meet the requirements exceed 5 people. Additional selection consists of:

1. Work Experience in Government Institutions

Work experience in government, both at the village level and at higher levels, provides more value in this selection. Experience as a village head, member of the Village Consultative Body (BPD), or village secretary, for example, is given the highest score. This experience is expected to improve the candidate's ability to better manage the village administration. This criterion gives higher scores to candidates who have experience in government institutions, with details of the score weights:

- a. Village head: 100 points
- b. Member of the Village Consultative Body (BPD): 80 points
- c. Village secretary: 80 points
- d. Head of section/head of affairs/head of dusun: 70 points
- e. Other experience in government institutions: 60 points

Work experience must be proven by a decision letter or official statement from an authorized official.

2. Education

Higher education reflects a better understanding of the technical and administrative aspects of government. Therefore, candidates with a higher level of

education receive more marks. Education relevant to government management, such as Public Administration, is an added advantage. Candidates with higher levels of education are given greater weighting. Details of the highest education scores are:

- a. Master's Degree (Doctorate): 100 points
- b. Strata 2 (Master): 90 points
- c. Strata 1 (Bachelor/Diploma IV): 80 points
- d. Diploma III: 70 points
- e. High school or equivalent: 50 points

3. Age

Age is an important indicator of maturity and life experience for a leader. The age of village head candidates is also a determining factor in additional selection. Candidates with a productive and mature age range, for example between 35 to 44 years old, are considered better prepared to carry out their duties as village heads. Details of age scores:

- a. 35-44 years old: 80 points
- b. 25-34 years old: 70 points
- c. 45-54 years old: 75 points
- d. 55-64 years old: 65 points

4. Competency Test by Independent Institution

Candidates undergo a competency test which includes a written test with a maximum score of 100 points. This test is conducted by an independent institution with expertise in competency assessment and facilitated by the Village Head Election Facilitation Team (TFPKD). The competency test includes a written test that focuses on the candidate's knowledge in managing village governance and leadership skills. This test aims to measure the extent to which the village head candidates can carry out their duties effectively and efficiently.

The restrictions in the additional selection have a clear purpose, which is to ensure that only village head candidates who truly have the necessary abilities and qualifications to lead the village can qualify for the election stage. This additional selection process is intended to avoid the existence of unqualified candidates who are only running because of the imbalance factor in the large number of candidates. (Wijayanti et al., 2022). With these restrictions in place, only candidates with experience, education, and competence can become village leaders.

The implementation of additional selection that requires objective criteria-based assessment requires strict supervision. The election committee must ensure that the entire selection process takes place fairly and in accordance with existing rules. In addition, the institution that conducts the competency test must also be independent, free from external influences, and recognized for its competence in assessing village head candidates. Thus, additional selection not only ensures that the elected leader is competent, but also maintains public trust in the integrity of the election.

B. Implications of Restrictions on Additional Selection Criteria Included in Bangkalan Regent Regulation Number 89 of 2020 on Human Rights.

Village head elections are one of the important elements in a village government system that prioritizes democratic principles. As part of the democratic system in Indonesia, village head elections aim to elect leaders who will lead and manage the village government. This election gives every village citizen the right to choose a candidate for village head who they consider most capable of realizing the welfare and progress of the village.(Ahzam & Hariri, 2024).

Human rights are a set of basic rights inherent in every individual as part of human nature, which cannot be ignored or violated by any party. These rights are universal, meaning they apply to all people without exception, all over the world, regardless of cultural, political or social background. Human rights are also inalienable, which means that a person cannot lose their rights simply because of their social status or certain legal actions, except in certain circumstances regulated by law, such as in criminal cases.

Pilkades is closely related to human rights principles, as the process involves basic rights guaranteed to every individual, such as the right to participate in government, the right to vote and be elected, and the right to freedom of opinion and expression. In the context of human rights, Pilkades must be implemented by upholding the principles of democracy, openness, and justice. Every eligible villager has the same right to nominate and vote without discrimination. A transparent and accountable Pilkades process reflects respect for the political and civil rights of the community, and ensures that every vote is respected and protected in accordance with the law.

However, in practice, the selection process for village head candidates does not always go without challenges. One of the challenges that arises is the additional selection of candidates for village head whose number exceeds five people. Bangkalan Regent Regulation No. 89/2020 regulates the limitation of additional selection criteria to ensure that only candidates who meet the qualifications and competencies can proceed to the election stage. This restriction aims to maintain the quality of the village head candidates who will be elected and lead the village.

On the other hand, while these restrictions are intended to create competent leaders, there are implications for human rights, particularly the right to participate in political and governance processes. Excessive restrictions may limit individuals' access to run for village head, especially for those who may not meet one or more of the set criteria, such as education level or work experience in government institutions.(Wahyuni et al., 2022).

In this context, it is important to take a closer look at the implications of the restrictions on additional selection criteria contained in Bangkalan Regent Regulation Number 89 of 2020 on human rights. This involves analyzing whether the restrictions are in line with the basic principles of human rights guaranteed by the 1945 Constitution, the International Covenant on Civil and Political Rights (ICCPR), and Law No. 39/1999 on Human Rights. Thus, the restrictions in this selection need to be analyzed from the perspective of protecting the basic rights of every citizen to participate in village head elections without discrimination(Hariri et al., 2022).

The right to participate in elections is a fundamental right guaranteed in various international and national legal instruments. One of the international legal bases governing this is Article 25 of the International Covenant on Civil and Political Rights (ICCPR). This article states that everyone has the right to participate in government, either directly or through freely elected representatives, without discrimination. In the context of village head elections, this right includes the right to elect and be elected, i.e. the right of citizens to elect candidates for village head and also to run for village head. (Hariri & Arifin, 2023).

Bangkalan Regent Regulation Number 89 of 2020 places restrictions such as certain education or experience requirements, which can lead to potential discrimination against individuals who do not meet these criteria, for example candidates who have limited educational backgrounds or who do not have work experience in government institutions. This may contradict Article 28D Paragraph 1 of the 1945 Constitution, which guarantees fair and equal treatment before the law, as well as the principle of non-discrimination which is also contained in Article 2 of the ICCPR.

Article 28I Paragraph 2 of the 1945 Constitution affirms that everyone has the right to freedom and protection of the law, which includes the right to be elected and to vote in village head elections. Therefore, while additional selection aims to produce more qualified candidates, it should be done in a way that does not discriminate against villagers based on factors that are irrelevant to their ability to lead the village. (Nirawati et al., 2023).

Law No. 39/1999 regulates human rights in Indonesia, including the right to participate in political life. Article 21 of Law No. 39/1999 affirms that the right to participate in political life is a basic right of every citizen that cannot be unlawfully restricted. Restrictions in additional selection that only allow candidates who have work experience in government institutions or who have a certain level of education can limit the rights of citizens to participate in village head elections, especially for those who have life experience or skills outside the world of formal government. While such criteria aim to select competent candidates, this must be balanced with the recognition of an individual's right to participate in the political process without irrelevant or excessive restrictions. (Wiratraman & Prakasa, 2024).

Additional selection may have a greater impact on certain groups that are already marginalized, such as those who come from low educational backgrounds or lack experience in government institutions. Therefore, Article 28H Paragraph 2 of the 1945 Constitution, which guarantees the right to work and a decent livelihood, must be observed, so that no group is marginalized in village head elections. This is also related to the state's obligation to protect the rights of minorities and vulnerable groups.

Restrictions on criteria in the additional selection of village head candidates, which require certain work experience, a certain level of education, and meeting competency tests, can have a negative impact on marginalized groups or those who are marginalized, especially for candidates who have limitations in meeting the set administrative criteria. For example, candidates who come from lower economic

backgrounds or who do not have access to higher formal education may not meet the education requirements, even though they may have relevant experience and abilities. (Prakasa, 2023).

The restrictions set out in Bangkalan Regent Regulation Number 89 of 2020 must be carefully implemented to ensure that the selection remains fair and does not impede the basic right of every villager to participate in village head elections. Such restrictions should be rational and not disadvantage candidates who have the ability to lead but do not meet any of the administrative criteria that are irrelevant to their leadership qualities.

Finally, the right to participate in elections must always be safeguarded so that every individual, without exception, can exercise their right to vote or be elected in accordance with the applicable provisions, as long as these provisions do not conflict with the higher human rights principles of equality, freedom, and non-discrimination.

CONCLUSION

The restrictions that exist in the additional selection for prospective village head candidates in Bangkalan Regency include several criteria, such as work experience in government institutions, education level, age, and competency tests by independent institutions regulated in article 43 of Bangkalan Regent Regulation Number 89 of 2020. Each criterion is given a certain weight, with the aim of objectively assessing candidates and producing a village head who is able to lead the village effectively. Criteria such as education level may marginalize candidates from low socio-economic backgrounds, who may not have access to high formal education. In addition, work experience in government institutions gives an advantage to individuals who already have a relationship with the government system, so candidates from other sectors who may have a strong leadership vision can be overlooked. Competency tests, while aimed at objectively assessing candidates' abilities, can be problematic if they are not conducted in a transparent and bias-free manner. Although aimed at ensuring competent and qualified candidates, this criterion has the potential to be discriminatory, especially for candidates with limited educational background or work experience. This threatens the principles of non-discrimination and equality enshrined in human rights.

Additional selection restrictions violate individuals' political rights to participate in elections, which are guaranteed in Article 28D paragraph 3 of the 1945 Constitution and Article 25 of the International Covenant on Civil and Political Rights (ICCPR). Regulations that set certain criteria, such as level of education and work experience, tend to overlook candidates from low socio-economic backgrounds who may have leadership skills but lack academic degrees. Similarly, work experience in government institutions gives an edge to individuals already involved in the bureaucracy, while potential candidates from other sectors are marginalized. These restrictions contradict human rights principles, such as equality and non-discrimination. The provisions in Bangkalan Regent Regulation Number 89 of 2020 do

not provide equal opportunities to all citizens, which is contrary to Article 21 of Law No. 39/1999 on Human Rights. Therefore, the restrictions in this additional selection should be redesigned to be more inclusive. The policy revision must ensure that the selection process still respects the principles of equality and non-discrimination without compromising the main objective, which is to select qualified village leaders..

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