



## SAFEGUARDING VILLAGE NEUTRALITY: A LEGAL ANALYSIS OF THE PROHIBITION ON VILLAGE HEADS JOINING POLITICAL PARTIES POST-CONSTITUTIONAL COURT DECISION 76/PUU-XXI/2023

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### **Abstract**

*The prohibition of village heads from joining political parties under Constitutional Court Decision No. 76/PUU-XXI/2023 sparks debate regarding political rights within village autonomy. This research aims to analyze the alignment of the decision's legal considerations within the Indonesian legal system and identify implementation challenges stemming from the extensive authority of village heads. The research method used is socio-legal. The results show that the judges' considerations in Decision No. 76/PUU-XXI/2023 are aligned with the hierarchy of laws and regulations, positioning the village head as a government administrator mandatory to maintain neutrality for impartial public service. However, implementing this decision faces significant challenges because village heads hold centralized power (executive and budget management) and are products of political elections (Pilkades) often tied to local interests. Such vast authority is prone to misuse for practical political purposes through mass mobilization. Therefore, the effectiveness of this prohibition cannot rely solely on legal norms; it requires strengthening village leadership ethics and strict supervision to ensure village authority does not become an instrument for specific political parties.*

**Keywords:** Village Head, Neutrality, Constitutional Court Decision.

### **I. INTRODUCTION**

The administration of villages has had a new autonomy system since the issuance of Law Number 6 of 2014 concerning Villages. The village autonomy system is primarily based on the principles of recognition and subsidiarity. Recognition refers to the acknowledgment of the original rights of villages, while subsidiarity refers to the existence of local authority and local decision-making for the benefit of the village community itself (Indonesia 2014b). Village authority under Law Number 6 of 2014 has formed the construct of a self-governing community and local self-government, so that the combination of these constructs accommodates and recognizes the value of local wisdom within the village and the role of the community in it as subjects of village development. This is viewed from the perspective of village administration and village development, because the recognition of villages means that they are local governments with their own autonomy (Afrizal and Nazaki 2017). Therefore, villages are no longer objects of development but have been positioned as subjects of development (Putri 2016).

The administration and authority of villages are regulated not only by Law Number 6 of 2014 but also by Government Regulations and Ministerial Regulations from three different agencies, namely the Ministry of Home Affairs, the Ministry of Villages, Disadvantaged Regions and Transmigration, and the Ministry of Finance. Government Regulation No. 43 of 2014 in conjunction with Government Regulation No. 76 of 2015 serves as the implementing regulation for Law No. 6 of 2014 on Villages, while the Ministerial Regulation from the Ministry of Home Affairs serves as a guideline for village institutional and governmental administration, the Ministerial Regulation from the Ministry of Villages, Disadvantaged Regions and Transmigration serves as a guideline for village administration and development, and finally, the Ministerial Regulation from the Ministry of Finance serves as a guideline for the implementation and use of the Village Revenue and Expenditure Budget (APBDes) which comes from the State Revenue and Expenditure Budget (APBN).

Government Regulation No. 43 of 2014 in conjunction with Government Regulation No. 76 of 2015 concerning the Implementing Regulations of Law No. 6 of 2014 concerning Villages is a further regulation in order to optimize the administration of village government, the implementation of village development, the fostering of village communities, and the empowerment of village communities. This is outlined in the Village Medium-Term Development Plan (RPJMDes) for a period of six (6) years, which is formulated through a Village Deliberation agreement. In addition, villages in this case have four (4) authorities, including authority based on original rights, local authority at the village level, authority assigned by the central government, regional government, city/regency, and other authority assigned by the central government, regional government, city/regency. Therefore, it is hoped that advanced, independent, and prosperous villages will be realized without losing their identity.

In this case, villages are given the authority to manage their own affairs through the potential of human and natural resources within the village for the welfare of the community (Afrizal and Nazaki 2017). Based on the Regulation of the Minister of Villages, Disadvantaged Regions, and Transmigration Number 1 of 2015 concerning Guidelines for Authority Based on Original Rights and Local Authority at the Village Level, it is explained that village authority includes: (1) authority based on original rights in the sense of inheritance and village/community initiatives that are still alive following the development of community life, (2) village-scale local authority in the sense of the authority to regulate and manage the interests of the village community by taking into account the capabilities and development of the village community itself. Both of these authorities are stipulated through Village Regulations which serve as guidelines for policies, programs, and administration in the independent management of village affairs.

Minister of Home Affairs Regulation No. 44 of 2016 concerning Village Authority explains that there are concurrent government affairs, namely government affairs that are divided between the central government, regional governments, and city/regency governments, as well as general government affairs and assistance tasks that can be given or assigned to village governments. This serves as a guideline for the delegation of tasks from the central government, regional governments, and city/regency governments to village governments. The administration of village government is led by a village head, assisted by a village

secretary and other village officials. Therefore, the village head, as the leader of the village administration, has duties, authorities, rights, and obligations that are comprehensively regulated in Law No. 6 of 2004 on Villages.

In addition, the village head is required to be accountable for the following duties, authorities, rights, and obligations (Pambudhi 2023): 1) submit a report on the administration of village government at the end of each fiscal year to the regent/mayor; 2) submit a report on the administration of village government at the end of their term of office to the regent/mayor; 3) provide a written report on the administration of village government to the village consultative body at the end of each fiscal year; and 4) provide and/or disseminate written information on the administration of village government to the village community at the end of each fiscal year.

Seeing how closely the leadership duties of village heads are related to the administration of village governance, the Constitutional Court, through Decision No. 76/PUU-XXI/2023, gave its consideration that village heads are leaders in the administration of the subsystem of regional government. Furthermore, in the aforementioned Constitutional Court Decision, the panel of constitutional judges also considered that village heads are prohibited from joining or becoming members of political parties. This was considered by the constitutional judges in accordance with Law No. 6 of 2014 on Villages, which is a *lex specialis* that regulates that there are restrictions/prohibitions on village heads, village officials, and village consultative bodies from becoming political party administrators in the aforementioned decision.

This also relates to the neutrality of village officials as stipulated in Articles 280, 282, and 494 of Law No. 7 of 2017 on Elections, which states that village heads and village officials are prohibited from engaging in practical politics (Wahyuni 2023). Village officials, especially village heads, have a role as neutral entities who are not permitted to be involved in the management or membership of political parties, nor may they be part of the campaign team or supporters of election or regional election participants. Thus, the Constitutional Court's decision, as explained above, also outlines the principles of independence, professionalism, and neutrality that must be upheld by all village officials in running the village administration. Therefore, all village officials, especially the village head as the leader of the village administration, can provide public services to the village community with full confidence that the administration is not carried out on behalf of a political party or based on partisanship, but rather for the benefit and welfare of the village community.

However, the author realizes that village heads are also part of the local government subsystem, elected through the *Pilkades* (village head election) mechanism, which in this case can be equated with the election of provincial and city/regency heads, so that the position of governor/mayor/regent is different from that of the State Civil Apparatus. It is also undeniable that *Pilkades* contests are a process of democratization at the village level (Hidayat, Prasetyo, and Yuwana 2019). *Pilkades* can also be said to be part of political contestation in the village area, which cannot be separated from the sources of political power within it. Policies related to politics in the implementation of *Pilkades* are regulated in Law Number 6 of 2014 concerning Villages, so that the expected election practices do

not solely use an oligarchic power base with the economic strength of the contestants. (Hidayat, Prasetyo, and Yuwana 2019)

Thus, village development that preserves and accommodates local wisdom, which is expected to be a bottom-up aspect of national progress, is also determined entirely by the leadership of the village head. Robison explains that the emergence of a capitalist class in rural areas will have a significant impact on rural political dynamics and the relationship between villages and the state. This indicates that there is an interest by prospective village heads that influences the dynamics of the village community, which in turn affects the sustainability of village development itself. Therefore, through this study, the author will conduct a review of Constitutional Court Decision No. 76/PUU-XXI/2023 regarding the prohibition of village heads from joining or becoming administrators of political parties. The position and authority of village heads need to be viewed from a normative legal perspective and an explanation of these challenges through a review of the political governance resulting from the position and authority of village heads in leading and developing a village.

## **II. PROBLEM FORMULATIONS**

The major objective of the study is

1. To find out the nature and present situation of plastic factory workers.
2. To find out the nature and patterns of labour rights violation in plastic sector.
3. To find out the causes of labour rights violation in plastic sector.

## **III. RESEARCH METHODS**

This study employs a socio-legal research approach, which integrates doctrinal legal analysis with social science perspectives to examine law as both a normative system and a social phenomenon. The research begins with an inventory and examination of positive law, including statutory regulations and other authoritative legal instruments, alongside relevant facts and contextual information that function as explanatory variables in assessing legal coherence and synchronization. (Tahir et al. 2023) Legal materials are primarily obtained through library-based research, encompassing legislation, court decisions, academic literature, and policy documents. These materials are systematically analyzed to identify patterns, normative structures, and inconsistencies within the hierarchy of laws and regulations. The doctrinal analysis focuses on the vertical and horizontal alignment of legal norms within the legislative framework, ensuring a comprehensive understanding of legal synchronization.

Subsequently, the findings from the legal analysis are contextualized and interpreted using theoretical frameworks drawn from social and political sciences, particularly theories of power, leadership ethics, and good governance. This interdisciplinary approach enables the study to move beyond a purely textual interpretation of law by situating legal norms within broader social, political, and governance dynamics. The socio-legal character of this research is further reflected in its textual and interpretative analysis of positive legal products across different levels of the legislative hierarchy. These legal texts are examined in depth to uncover their underlying meanings, normative assumptions, and practical

implications for legal subjects, particularly the community affected by the implementation of such regulations.

#### **IV. RESULT AND DISCUSSIONS**

##### **1. Legal Considerations of Constitutional Court Decision No. 76/PUU-XXI/2023 on the Prohibition of Village Heads from Joining Political Parties in the Indonesian Legal System**

In Constitutional Court Decision No. 76/PUU-XXI/2023, the reason for the petition based on the petitioner's brief is that the petitioner is a village official who has constitutional rights guaranteed in Article 28 of the 1945 Constitution (UUD 1945), which are derived from Law No. 2 of 2008 on Political Parties (Parpol Law), but the normative content of Article 51 letter (g) of Law No. 6 of 2014 on Villages (Village Law) states that village officials are prohibited from becoming political party administrators, so the petitioner argued that becoming a political party official is a right guaranteed and derived from the constitution in the Political Parties Law, therefore the normative content in the Village Law a quo which states that village officials are prohibited from joining political parties is contrary to the 1945 Constitution.(Arifin 2020)

The petition was initially only argued by the petitioner whose constitutional rights were violated while serving as a village official. However, through the consideration of the Constitutional Court judges, the village head was involved as an entity whose position is also equated with village officials as administrators of village government, so that the prohibition on joining or becoming an official of a political party applies to the village head. In the petition, the Constitutional Court judges outlined their considerations, which were essentially as follows:

"In running village administration, neutral officials who are free from the influence of certain political interests are needed, so there must be separate regulations limiting the political involvement of village heads and village officials to the extent of involvement in a political party so that in carrying out their duties and authorities, they remain focused on public service for the benefit and welfare of the village community. This cannot be interpreted as a form of deprivation of the freedom of association and assembly in a political party for village heads, village officials, or members of the village consultative body, but rather the restriction is due to the greater public interest in its implementation.(Arifin 2021) However, these restrictions are not absolute, as village heads, village officials, and members of the village consultative body can still exercise their political rights to vote in elections. In addition, normatively, in accordance with the principles of law, Law No. 6/2014 is *lex specialis*, while the Political Parties Law is *lex generalis*. Therefore, special provisions override general provisions (*lex specialis derogate legi generalis*), so that the restrictions/prohibitions on village heads, village officials, and members of the village consultative body becoming political party administrators do not constitute discrimination against these positions."

In this case, the author explains that there are two main considerations used by the Constitutional Court judges in the Constitutional Court Decision a quo, namely, first, village officials (including the village head) are administrators of village government, so neutrality is required by prohibiting village officials from joining political parties for the sake of the public interest in the village. second, in this case, village officials (including the village head) still have constitutional rights

in accordance with Article 28 of the 1945 Constitution to vote in elections, but this is restricted by the prohibition on joining political parties as part of the implementation of village administration, whereby the *lex specialis* of the Village Law overrides the *lex generalis* of the Political Party Law regarding the right to join political parties. Based on these two main considerations, village officials (including village heads) remain restricted in their rights by being prohibited from joining political parties because they are classified as government administrators. Village officials (including village heads) are different from ordinary citizens because, as village officials (including village heads), they are bound by the obligation to carry out village administration as mandated by the Village Law.

It should be noted that there is a question regarding where the binding provisions related to village heads in accepting the task of administering government are located, as also mentioned in the considerations in the Constitutional Court's decision *a quo*. If we look at the provisions of Article 26 Paragraphs (1) and (2) of Law Number 3 of 2024 concerning the second amendment to the Village Law (Village Law 2024), it explains that the village head leads and is tasked with administering the government in the village. In addition, Article 29 of the Village Law states that village heads are prohibited from becoming political party officials. In this case, a normative explanation and description is needed regarding the extent to which the public interest in the administration of government in the village by the village head is such that his or her right to join a political party is restricted. As an element of village government, the Village Law explains that the village head administers government affairs and the interests of the local community within the system of government of the Republic of Indonesia. If the provisions regarding the meaning of governmental affairs are not found in the Village Law, they are explained in Law Number 23 of 2014 concerning Regional Government (Regional Government Law).

Government affairs, according to Article 1 of the Local Government Law, are governmental powers that fall under the authority of the President, which are carried out by state ministries and local government administrators to protect, serve, empower, and improve the welfare of the community. The distribution of government affairs in Indonesia is divided into three categories, namely decentralization, deconcentration, and assistance tasks. It is clear that within the framework of the distribution of government affairs as formulated in the Local Government Law, it is very possible for village governments to only receive "assistance tasks." However, village governments have not yet received strong legitimacy as entities that can receive the distribution of "assistance tasks" and cannot be assigned tasks by provincial and district/city governments because there is still a disharmony in the laws and regulations regarding the scope of authority in the administration of village government (D. A. Wicaksono and Mulyani 2023).

This issue warrants further attention, because in this case, the distribution of governmental affairs to village heads as leaders of village administration is still unclear, and it is unclear what governmental affairs will be assigned to them. Therefore, the reduction of rights granted to village heads, namely the prohibition of joining political parties based on the consideration of the Constitutional Court judge in the *a quo* Constitutional Court decision, which is based on broader public interests because village heads administer village administration, is actually accompanied by weak legitimacy regarding what kind of distribution and form of

government affairs village heads receive in administering village administration. Even so, if village heads are prohibited from becoming political party officials for the sake of the public interest in terms of village administration, this prohibition should be preceded by the requirement that they are not registered as members of political parties when registering as candidates for village head. However, Article 33 of the 2024 Village Law does not stipulate the requirement that village head candidates must not be registered as political party officials. In fact, such a provision has been accommodated by Bulukumba Regency Regulation Number 6 of 2021, which stipulates that village head candidates must not be political party officials or members at the time of registration.

Furthermore, in the context of government leadership, the village head is the highest leader in the village administration. In the consideration of the Constitutional Court's decision *a quo*, the Constitutional Court judge explained as follows:

"That village administration is the administration of government affairs and the interests of the local community within the system of government of the Unitary State of the Republic of Indonesia [see Article 1 point 2 of Law 6/2014]. Village administration is a subsystem of the regional administration system. The village head, as the leader of the village administration, has the highest authority at the village level and plays an important role in the running of the village administration towards the welfare of the community. The village head is a highly respected position among the village community because, apart from being the leader of the village, the village head is also a local elite who has a great influence in the village community. Therefore, the village head is a strategic position as a driver of community politics."

Based on the Constitutional Court judges' considerations, the author concludes that neutrality is required of village heads because they play a central role in the life of the village community. The Constitutional Court judges further explained that:

"... in assisting the village head in carrying out these duties and authorities, independence, professionalism, and impartiality (neutrality) are required of village officials, especially in providing public services ..."

It is clear here that the implementation of duties and authorities in village administration led by the village head must be carried out with political neutrality without mobilization and accommodating the interests of any political party. The question arises, is neutrality actually intended for government officials, in this case village officials who assist the village head, or does neutrality also include the village head as a village government official? Neutrality is regulated in Law Number 5 of 2014 concerning the State Civil Apparatus (ASN Law) and Law Number 7 of 2017 concerning General Elections (Election Law).

Article 2 letter (f) of the ASN Law explains that neutrality is one of the principles of ASN policy and management (Indonesia 2014a). However, the Village Law does not actually contain any provisions explaining that the status of the village head is that of a State Civil Apparatus (ASN). This is because the construction of the Village Law actually gives the village head a dual role as a public servant and as a government official (MULTAZAM LUTHFY 2022). The substance of the governmental functions carried out by village heads can be equated with the duties of regional government leaders such as governors/mayors/regents (Aritonang 2016).

The policy direction following the enactment of the Village Law in 2014 has granted villages the freedom to manage and administer their own governance as a subsystem of regional government.

The village administration can be equated with regional government subsystems such as provincial and district/municipal governments, because village institutions and authorities are required to develop themselves (bottom-up development) based on the definition of “village” in the Village Law and the Local Government Law. In addition, village heads in carrying out their positions and authorities are supervised by the Village Consultative Body (BPD). The framework established in the Village Law positions the BPD as a check and balance for the village head, village legislation, and a forum for the aspirations of the village community. However, in matters of village administration, the village head can issue village head regulations for the technical implementation of village regulations. The election of the village head is also carried out through a Pilkades mechanism that is not much different from the mechanism for electing provincial and regency/city leaders. Pilkades is regulated in the provisions of Part Three of Article 31 of the Village Law and its mechanism is also regulated in the Minister of Home Affairs Regulation Number 65 of 2017 concerning Amendments to the Minister of Home Affairs Regulation Number 112 of 2014 concerning Village Head Elections (Permendagri Pilkades).

In line with the description of village head leadership in the administration of village government above, the Election Law clearly contains normative provisions regarding neutrality, in this case prohibiting practical politics by decision-makers or policymakers at the government level. Article 282 of the Election Law explains that state officials, structural officials, and functional officials in government positions, as well as village heads, are prohibited from making decisions and/or taking actions that benefit or harm any of the election participants during the campaign period. Through this norm, the ratio legis is that the village head is a government official who must be neutral and not take sides with any political party. However, Article 281 of the Election Law states that the president, vice president, ministers, governors, deputy governors, regents, deputy regents, mayors, and deputy mayors, who are state officials, may campaign on the condition that they do not use the facilities of their office and must take leave without pay.

## **2. Challenge to Constitutional Court Decision No. 76/PUU-XXI/2023 on the Prohibition of Village Heads from Joining Political Parties Due to the Position and Authority of Village Heads**

In this case, the author analyzes the challenges regarding the prohibition of village heads from joining political parties in Constitutional Court Decision No. 76/PUU-XXI/2023 due to the position and authority of village heads in normative descriptions and discourses on social politics and governance. One of the considerations made by the Constitutional Court judges in the a quo Constitutional Court Decision was that the village head is a central and influential figure, meaning that the village head has the highest authority in the village area. Robert Dahl explains that power is the ability to make others do what they would not do otherwise, as well as to move things and change events (Hawkesworth and Kogan 2004). Therefore, on the basis of ensuring good governance, the power of the village



head as the leader of the village administration must be used for the public interest of the village administration. Thus, the prohibition on village heads joining or becoming administrators of political parties is to avoid the ability to coercively mobilize the village community for the benefit of political parties.

The position of village head as the lowest level of government leader means that the village head has full authority over the village he leads. According to the considerations of the Constitutional Court judges in the Constitutional Court Decision a quo, the village head is not only the leader of the village government but also a local elite, so that his position plays a strategic role as a political driver of the community. In this case, the awareness that the position of village head as a formal and informal leader has consequences that cannot be denied, namely that his position can be exploited by the interests of higher-ranking state officials, thus posing a challenge to the position of village head. According to Breton, this is because every politician, state administrator, and bureaucrat is a political actor who pursues his own interests.(Breton 2022)

In implementing village autonomy established under the Village Law, there is a clear difference in status between village heads and sub-district heads (lurah), both of whom are leaders of the lowest level of government in Indonesia. Normatively, it is clear that the sub-district head (lurah) is a civil servant (PNS) and therefore falls under the classification of ASN as a government assistant assigned by the district/city apparatus, whereas the village head is a leader who is directly elected by the community based on the principles of elections (direct, public, free, confidential, honest, and fair) and is not classified at all as a civil servant in the Village Law. Therefore, the position of village head cannot be considered as a local elite with full authority in a certain area like the village head, because the position of village head (lurah) is appointed and assigned directly by the district/city government apparatus. In addition, they are different from village heads who are directly elected by the village community through a participatory process and are desired by the community.

Upon further examination of the previous discussion, it is clear that the position of village head can and is very likely to be exploited by higher-level government leaders through the normative description of Article 281 of the Election Law, which allows state officials to campaign or engage in practical politics under certain conditions. If we look at the position of the village head in the policy of village administration, the village head is placed as the lowest level of government and is under the authority of the higher government. This is because village autonomy is not widely applied in practice and the position of the village is only as an administrative government, with the result that the village does not function as a subject, but rather as an object of the bureaucratic thinking of the higher government(Isto Widodo 2017). Thus, under certain conditions, even though the village head has full power and autonomy in the village, he or she cannot be separated from the demands of the authorities above. This is reinforced by Wertheim's opinion that the village head has a position that is more than what is outlined by customary law, thus having authority and acting as an instrument of the central government(Pattinasarany I. R. I. 2016).

Therefore, there are many issues related to the pattern of vote mobilization carried out by village heads in election contests or regional elections in Indonesia, because the normative law accommodates such potential mobilization. Thus, the

manifestation of the Constitutional Court judges' considerations in the a quo Constitutional Court Decision regarding the neutrality of village heads actually encounters the political-legal challenge of the position of village heads in the Indonesian legal system, which places them as rulers in the village as well as executors of government authority over it. The provision of norms for state officials who can campaign in the context of their authority can also affect the neutrality of village heads as a result of their position as the lowest level of government and their position as influential rulers in the village.

In addition to the position of village heads, the authority of village heads in this case needs to be explained normatively and to what extent the challenge to the neutrality of village heads is manifested by the Constitutional Court judges in the a quo Constitutional Court Decision. According to Ridwan, the government's authority is legally derived from the mandate of laws and regulations, and the authority derived from these laws and regulations is obtained through three (3) means, namely attribution, delegation, and mandate (Gandara 2020). In this case, the authority of the village head is mentioned in the Village Law, so it can be understood that the village head obtains his authority through the legislation in the form of absolute attribution because his authorities are explicitly mentioned.

In the context of the village head's authority, Article 26 Paragraph (2) of the Village Law states that the village head has 15 (fifteen) inherent powers, which essentially constitute the village head's responsibilities as the leader in exercising village authority, including authority in the areas of governance, development, community development, and empowerment of the village community. Therefore, in order to exercise various authorities effectively and in accordance with the law, the village head may assign tasks and mandates to village officials as assistants in the exercise of village administration authorities. These authorities are exercised by the village head, who serves for a term of 8 (eight) years with a maximum of 2 (two) terms, based on Article 39 of the Village Law of 2024.

The extent of the village head's authority described above gives the village head full power in the village for a considerable period of time, namely eight (8) years, so it is not surprising that many people aspire to become or run for village head. In order to win the village head position, both material and non-material capital are needed to win the Pilkades contest (Hidayat, Prasetyo, and Yuwana 2019). This means that villages are actually political arenas whose members are the village communities (Nain 2023). Political behavior in Pilkades contests cannot be separated from the village community, because political behavior is the basis for the village community's decision-making in determining or selecting village leader candidates. The political process in village head elections cannot be separated from the participation of political parties. For example, empirical practices in Pilkades contests in Kawang Rejo Village, Sruni Village, and Selodakon Village, all of which are located in Jember Regency, have shown that political parties play an important role in Pilkades contests in these three villages (I. Wicaksono 2017). Pilkades contests also have higher participation rates among village communities than general elections or regional elections, because the candidates are better known to the village communities (I. Wicaksono 2017).

Village communities and political parties are aware that the extent of authority granted to village heads by positive law in Indonesia to independently develop their villages will have a direct impact on them, especially on village

communities in terms of their social and political lives, rather than the impact of national/regional government, which is larger in scale and does not directly touch the village community level. Meanwhile, political parties that play a full role in village head elections in terms of winning one of the village head candidates will see opportunities to utilize the authority of the village head as an elite in the village for their own interests in the future. In practice, this can occur through village funds being used as capital to exercise the authority of the village head in the administration of village government, which cannot be separated from the intervention of political parties. This happens because today it is evident that political parties have the instruments to penetrate the village level to influence village policy-making through village elites, with the sole initial aim of influencing the electability of the party and election candidates, and then continuing to participate in formulating village policy (Isto Widodo 2017).

The challenge is that the implementation of village head authority, which is so closely linked to the needs and dynamics of the village community in the field, cannot be separated from the aspirations and opinions of various actors in the village. From the village head election process to the elected village head taking office, aspirations and opinions will continue to interact and be packaged in the form of democracy in the village, so that practical politics in democracy automatically becomes part of it. This practice is known as village democratization, where there is political community involvement in its participation in realizing village development as a form of self-governing community as provided for in the Village Law (Pariangu 2023).

Political party actors, through opportunities for democratization in villages to assist in village administration, have brought with them the necessary knowledge and capital to engage with village communities and take on roles there. This is also based on the fact that the quality of human resources in villages is limited, and they do not yet have the necessary knowledge and capital in the areas of organization, financial budgeting, and institutions. The significant authority granted to village heads cannot be supported by community and institutional elements in villages that have limited human resources, so that this authority is not commensurate with adequate human resources. Ultimately, political party actors take on a full role in the village democratization process, which has greater capacity, and establish political elite relations in the village with the village head to help realize village development goals based on their authority.

The political elite relationship in the village between the village head and the political party has been strengthened by the fact that the village head's term of office has been extended from six (6) years to eight (8) years in the 2024 revision of the Village Law. The reason for the extension is that the short 6 (six) year term hinders the implementation of the village head's authority in village development based on his vision and mission. In fact, the academic draft of the amendment to the law does not provide strong evidence of a correlation between the term of office and the effectiveness of the village head's performance. Nevertheless, this political transaction is also illustrated by the pattern of the village head's potential power to mobilize political support, which is needed by the House of Representatives, while the potential extension of the village head's term of office can only be done through a change in the law by the House of Representatives. (Pariangu 2023)

Therefore, village heads who exercise their authority automatically intersect directly with the process of village democratization, posing a unique challenge to the neutrality of village heads as manifested in the Constitutional Court's decision a quo. Through the village democratization process, the relationship between political parties and village heads is mutually beneficial. In particular, the involvement of political party actors in the village democratization process is inevitable, as village administration also requires them due to the inadequate quality of human resources in the village. Therefore, it is undeniable that village heads, in exercising their considerable authority as a result of the new village autonomy, may require the role of political parties in their regions.

However, the challenges of exercising the authority of village heads have been minimized by restrictions in the Village Law, which prohibits them from becoming members or administrators of political parties, and reinforced by the Constitutional Court judges in their considerations in the Constitutional Court Decision a quo. In addition, the exercise of village head authority is closely related to how village heads implement leadership ethics. Leadership ethics are implemented in the context of good governance based on four types of leadership ethics according to Sujatno, namely organizational ethics, institutional ethics, power ethics, and wisdom ethics. Therefore, the implementation of good governance must be initiated and carried out by a government leader so that there is no abuse of authority from the highest level of the system.

One form of restriction to prevent village heads from abusing their authority in the context of neutrality as stipulated in Article 29 of the Village Law and also elaborated in the considerations of the Constitutional Court decision a quo is that they are prohibited from harming the public interest, prohibited from making decisions that benefit themselves/other parties/certain groups, prohibited from becoming political party officials, and prohibited from participating in/being involved in election/regional election campaigns. If they violate the provisions of Article 29 of the Village Law, then according to Article 30 of the Village Law, village heads can be subject to administrative sanctions, temporary dismissal, or permanent dismissal (Raharjo 2021). This is also a form of encouragement for village heads, particularly in the context of neutrality, to apply the leadership ethics outlined by Sujatno as follows:

1. Organizational ethics: village heads must act and understand that their authority is formed within the structure of government organizations in accordance with laws and regulations, so village heads must comply with these organizational ethical guidelines. Therefore, in the context of village head neutrality, as government administrators, they must comply with the prohibition on joining political parties as administrators or members.
2. Institutional ethics: that the village head, as the leader of a village government institution, must carry out their duties solely to accommodate and serve the public interest rather than their own interests or those of another party who stands to benefit. Therefore, in the context of the neutrality of the village head, it is not permissible to place the interests of a political party above the public interests of the village community.
3. Ethics of power: that the village head, as the leader of the government and an elite in the village who has power, must comply with the restrictions stipulated in the laws and regulations. Therefore, in the context of the neutrality of the

village head, his power must not be used to mobilize the votes of the villagers to win a particular political party.

4. Ethical wisdom: that the village head, as the leader in the administration of village government, must act fairly, accountably, and contribute to the interests of the village people. Therefore, in the context of the neutrality of the village head, priority must be given to ensuring that the democratic process in the village runs smoothly without coercion and in accordance with the principles of general elections.

## V. CONCLUSION

The judge's consideration in Constitutional Court Decision Number 76/PUU-XXI/2023 explains that village heads are leaders and officials in the administration of village government who are prohibited from joining political parties or becoming party officials. This prohibition is based on the Constitutional Court judges' view that village heads must apply neutrality in the public interest. From a normative perspective, this consideration is consistent with the position and authority conferred upon village heads as leaders of village administration who must be neutral in the public interest of the village. However, the author still finds normative descriptions that could hinder and prevent village heads from fully exercising their neutrality.

In addition, the position and authority of village heads as described normatively and analyzed using political science discourse actually pose a significant challenge to the neutrality of village heads as manifested by the judges in the Constitutional Court's decision *a quo*. Although there are restrictions on the authority of village heads as stipulated in laws and regulations, the position of village head still provides power that can be used for political support. Therefore, in order for village heads to remain neutral despite these enormous challenges, it is not enough to simply impose normative restrictions on their authority. However, it is also necessary for village heads to have ethical awareness in leading their village administration in order to realize the principle of good governance.

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