

THE POSTPONEMENT OF THE VILLAGE HEAD ELECTION IN HUTAGODANG VILLAGE FROM THE PERSPECTIVE OF LAW NUMBER 3 OF 2024 CONCERNING VILLAGES AND SIYĀSAH DUSTŪRIYYAH

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ABSTRACT

The postponement of the Village Head election in Hutagodang Village, South Labuhanbatu Regency, has generated significant issues related to village governance, leadership legitimacy, and the practice of local democracy. This study aims to analyze the factors behind the postponement of the Village Head Election (Pilkades), its impact on village administration and community participation, and to examine the issue from the perspective of Law Number 3 of 2024 concerning Villages and siyāsah dustūriyyah. This research employs a qualitative field research approach with a descriptive-analytical design. Data were collected through interviews with members of the Hutagodang Village community, observations of village governance conditions, and an examination of regional government policy documents related to the election delay. The findings reveal that the postponement was influenced by regional government policies linking the Pilkades schedule to the stages of simultaneous General and Regional Elections, creating uncertainty regarding its implementation. The consequences include frequent changes of Acting Village Heads since 2021, declining public trust and participation, and emerging social tensions. From the perspective of siyāsah dustūriyyah, the prolonged delay contradicts the principles of deliberation (shūrā), justice, and public welfare, as legitimate leadership must arise from community consent

Keywords: Postponement, Village Head Election, Hutagodang Village, Siyāsah

1. INTRODUCTION

Instagram A village constitutes a legal community that possesses defined territorial boundaries and autonomous authority recognized by law. A village has the authority to regulate and administer governmental affairs and community interests based on community initiatives, original rights, and/or traditional rights that are recognized and

respected within the governmental system of the Unitary State of the Republic of Indonesia. Article 18B paragraph (2) of the 1945 Constitution of the Republic of Indonesia states that "The state recognizes units of customary law communities along with their traditional rights insofar as they remain in existence and are in accordance with societal development and the principles of the Unitary State of the Republic of Indonesia, as regulated by law." The Village Law stipulates that Village Government constitutes the implementation of the local governmental system within the governmental framework of the Unitary State of the Republic of Indonesia. As affirmed in Article 26 paragraph (1) of Law Number 3 of 2024 concerning Villages, the Village Head is assigned to administer governance, development, community guidance, and community empowerment in the village.

The Village Head is an individual elected by the village community through an election to lead a village and who receives delegated authority from the Regent to resolve governmental affairs as part of regional autonomy and to carry out general governmental duties, thereby possessing substantial authority to manage village governance along with its consequences. As emphasized in Article 26 of Law Number 3 of 2024 concerning Villages, the Village Head is responsible for administering village governance, implementing village development, fostering village community life, and empowering the village community.

The Village Head Election constitutes a component of the democratic system in Indonesia. The Village Head Election represents one of the most fundamental forms of democratic practice. The election process is inseparable from community political participation. In this context, the people occupy a crucial position, possessing the authority to determine governmental administrators, from the central government, provincial government, regency/municipal government, to village government.

The Village Head Election is regulated in Article 31 paragraph (2) of Law Number 3 of 2024 concerning Villages, namely.

First, the Village Head Election is conducted simultaneously throughout the entire regency/municipality area. Second, the Regency/Municipal Regional Government establishes policies for the simultaneous implementation of Village Head Elections as referred to in paragraph (1) through Regency/Municipal Regional Regulations. Third, further provisions concerning the procedures for simultaneous Village Head Elections as referred to in paragraphs (1) and (2) are regulated by or based upon Government Regulations. Furthermore, Article 2 of Minister of Home Affairs Regulation Number 112 of 2014, as amended by Minister of Home Affairs Regulation Number 65 of 2017 and Minister of Home Affairs Regulation Number 72 of 2020 concerning Village Head Elections, states that "Village Head Elections are conducted simultaneously once or may be conducted in waves." Article 3 further states that "The one-time simultaneous Village Head Election as referred to in Article 2 is conducted on the same day in all villages within the Regency/Municipality area." Moreover, based on Article 4 paragraph (1) of Minister of Home Affairs Regulation Number 65 of 2017 concerning Amendments to Minister of Home Affairs Regulation Number 112 of 2014 concerning Village Head Elections, it is stated that "Village Head Elections conducted in waves may be implemented."

In Hutagodang Village, the postponement of the Village Head Election, which was supposed to be conducted in 2024, has resulted in multidimensional implications. From a juridical perspective, there is uncertainty regarding the legal basis of a Village Head who

is not elected through a democratic mechanism but replaced by an Acting Official. Based on Regional Regulation of South Labuhanbatu Regency Number 1 of 2023, Article 2 states that "Village Head Elections are conducted simultaneously once or may be conducted in waves." This postponement has created legal uncertainty, reduced the legitimacy of village leadership, and affected democratic processes and governance at the village level.

Siyāsah dustūriyyah constitutes a part of Siyāsah Syar'iyyah that examines issues of state administration, governmental regulation, and constitutional principles within the Islamic framework. Leadership is a trust that must be obtained through a legitimate mechanism and approved by the people. Ibn Khaldun in his work *Al-Muqaddimah* emphasizes that.

إِنَّ الْمُلْكَ لَا يَقُومُ إِلَّا بِالْعَصْبَيَّةِ، وَالْعَصْبَيَّةُ لَا تَكُونُ إِلَّا بِالْمُوْافَقَةِ وَالطَّاعَةِ، وَالطَّاعَةُ لَا تَكُونُ إِلَّا بِالْعَدْلِ

"Authority cannot be established without solidarity (collective support), and such solidarity cannot be realized without consent and obedience, while obedience cannot exist except through justice"

Legitimate authority cannot be established without the support and consent of the community and can only be maintained when exercised justly. He states that authority (al-mulk) depends on social solidarity ('aṣabiyyah), which can only be realized through the consent and obedience of the people (al-muwāfaqah wa al-tā'ah), while such obedience cannot exist without justice. Thus, the legitimacy of leadership in Ibn Khaldun's perspective is not merely formal in nature, but also substantive and rooted in justice and public consent.

This view is reinforced by Al-Mawardi in his work *Al-Aḥkām al-Sultāniyyah*, namely

وَتَسْعَدُ الْإِمَامَةُ بِالْخَتْيَارِ أَهْلِ الْحُكْمِ وَالْعَدْلِ مِنْ أَهْلِ الْعِلْمِ وَالرَّأْيِ

"Leadership (imāmah) becomes legitimate through selection (ikhtiyār) by ahl al-ḥall wa al-‘aqd from among those who possess knowledge and sound judgment."

One of the requirements for the legitimacy of appointing a leader must be based on *ikhtiyār*, namely the process of selection by *ahl al-ḥall wa al-‘aqd* as representatives of the will of the community. Thus, the legitimacy of leadership in Islam is not only normative but also procedural, as it requires community involvement in the process of selecting a leader. In the context of modern village governance, the village community may be positioned as *ahl al-ḥall wa al-‘aqd* who possess the constitutional right to elect their village head. Therefore, the prolonged postponement of a village head election may be regarded as a neglect of the community's participatory rights and as being contrary to the principles of leadership legitimacy as formulated in *siyāsah dustūriyyah*.

Based on the foregoing explanation, this study is focused on comprehensively examining the postponement of the Village Head Election in Hutagodang Village, including its causal factors, its impact on village governance and community participation, as well as its review from the perspective of Law Number 3 of 2024 concerning Villages and *siyāsah dustūriyyah*. This research is important because the postponement of the Village Head Election not only generates administrative issues but also has implications for leadership legitimacy, legal certainty, and the quality of local democracy at the village level. Accordingly, this study is expected to provide theoretical contributions to the study of village governance law, constitutional law, and *siyāsah dustūriyyah*, particularly

concerning the dynamics of regulation and implementation of village head elections, as well as practical contributions for regional governments in formulating policies that ensure legal certainty, justice, and community participation in the administration of village governance..

2. RESEARCH METHOD

This study employs an empirical juridical research type, namely legal research that not only examines written legal norms but also analyzes how the law operates and is implemented in practice within society (law in action). Soerjono Soekanto explains that empirical legal research aims to determine the effectiveness of law and the factors influencing its implementation in social life.

The approach used in this study is a qualitative approach with a descriptive-analytical design. The qualitative approach is selected because this research seeks to understand in depth the social and legal realities occurring in the field. According to Moleong, qualitative research aims to understand social phenomena from the perspective of research subjects through the collection of data in the form of words, actions, and documents.

In empirical legal research, data are obtained from primary and secondary sources. Primary data in this study are derived from empirical field data through interviews and observations of the Hutagodang Village community in order to determine the implementation and impact of the postponement of the Village Head election in the practice of village governance. This approach aligns with the view of Peter Mahmud Marzuki, who states that empirical legal research places social facts as the primary source for understanding how law is applied and operates in society. Meanwhile, secondary data consist of legal literature, particularly legislation regulating Village Head Elections, such as Law Number 3 of 2024 concerning Villages, the Second Amendment to Law Number 6 of 2014 concerning Villages.

Data collection techniques in this study were conducted through interviews, observation, and field study. The selection of these techniques aims to obtain in-depth and comprehensive empirical data regarding the postponement of the Village Head election and its implications for the administration of village governance. Interviews were used to explore the views, experiences, and perceptions of informants regarding the implementation of village governance following the postponement of the Village Head election, as well as its impact on participation and leadership legitimacy. Observation was carried out by directly observing the conditions and activities of village governance administration and the social dynamics of the community in Hutagodang Village. Field study refers to data collection activities conducted directly at the research location to obtain a comprehensive understanding of the village's social, cultural, and administrative context.

Data analysis in this study was conducted using qualitative analysis through the stages of data reduction, data presentation, and conclusion drawing. The analysis is directed at linking empirical findings concerning the postponement of the Village Head election in Hutagodang Village with applicable legal provisions, particularly Law Number 3 of 2024 concerning Villages. Thus, this analysis aims to produce comprehensive and argumentative conclusions in accordance with the research focus, thereby generating comprehensive and argumentative conclusions.

3. RESULT AND ANALYSIS

Geographical and Demographical Conditions of Hutagodang Village

Hutagodang Village is one of the many villages located in Sungai Kanan District, South Labuhanbatu Regency, North Sumatra Province. Hutagodang Village is the oldest village in South Labuhanbatu Regency. This village consists of lowland areas and is highly prone to flooding because it is adjacent to a river. However, the community of Hutagodang Village can be considered as keeping pace with the development of other villages in Sungai Kanan District. Hutagodang Village is approximately ±18 km from the district administrative center, ±43 km from the regency administrative center, and ±210 km from the provincial capital. Geographically, Hutagodang Village in Sungai Kanan District covers an area of 56.02 km², with predominantly flat topographical landforms, while the boundaries of Hutagodang Village are as follows:

- a. To the north, it borders Janji Manahan Village, Dolok Subdistrict, North Padang Lawas Regency.
- b. To the south, it borders an oil palm plantation company.
- c. To the east, it borders Hajoran Village.
- d. To the west, it borders Sampean Village

Table I
Population of Hutagodang Village by Gender

Gender	Frequency	Percentage
Male	3016	51,64%
Female	2827	48,36%
Total	5843	100%

Factors Underlying the Postponement of the Village Head Election in Hutagodang Village

In Hutagodang Village, Sungai Kanan District, South Labuhanbatu Regency, the postponement of the Village Head election, which should have been conducted since 2021, has generated various issues in village governance, leadership legitimacy, and the implementation of local democracy. The postponement began in 2021 due to the COVID-19 pandemic, which led to the implementation of an Acting Village Head system to fill the leadership vacancy. In 2022, a second replacement of the Acting Village Head occurred due to the limited financial capacity of the regional government to conduct simultaneous Village Head elections. In 2023, the Village Head election was again not implemented based on a letter from the Ministry of Home Affairs recommending postponement to avoid overlap with preparations for the 2024 simultaneous General Election and Regional Head Election. The postponement continued into 2024–2025 for the same reason, namely concerns over clashes with national and regional political agendas.

From a juridical perspective, there is legal uncertainty regarding the basis for a Village Head who is not elected through a democratic mechanism but replaced by an Acting

Official. Based on Regional Regulation of South Labuhanbatu Regency Number 1 of 2023, Article 2 states that "Village Head Elections are conducted simultaneously once or may be conducted in waves." This is also explained in Law Number 3 of 2024, Article 31 paragraph (2), which states that "The Regency/Municipal Regional Government shall establish policies for the simultaneous implementation of Village Head Elections as referred to in paragraph (1) through Regency/Municipal Regional Regulations." This postponement has created legal uncertainty, reduced the legitimacy of village leadership, and affected democratic processes and governance at the village level.

The complexity of this issue increased after the Constitutional Court issued Decision Number 92/PUU-XXII/2024 dated January 3, 2025, which declared that Article 118 letter e of Law Number 3 of 2024 is contrary to the 1945 Constitution and has no conditionally binding legal force insofar as it is not interpreted as "not applicable to villages that have conducted Village Head elections based on Law Number 6 of 2014 concerning Villages." This decision firmly emphasizes that elected Village Head candidates chosen through a democratic process must not have their inauguration postponed on the grounds of transitional provisions in Law Number 3 of 2024. However, until this research was conducted in January 2025, the South Labuhanbatu Regency Government had not issued follow-up policies in response to the Constitutional Court decision nor implemented the Village Head Election in Hutagodang Village. The postponement occurred due to several factors considered strategic by the regional government; however, from the perspective of legal and democratic theory, prolonged postponement risks harming the legitimacy of village governance and the political rights of the community.

First, holding Village Head Elections concurrently with the General Election and Regional Head Election may cause political fatigue within the community. The concept of political fatigue refers to a condition in which the public experiences saturation and declining enthusiasm due to the frequency of electoral processes within a short time span. In Indonesia in 2024, citizens faced the Legislative and Presidential Elections on February 14, 2024, followed by Regional Head Elections on November 27, 2024. If combined with Village Head Elections, this may lead to saturation in political participation. This adjustment is intended to prevent overlap with national agendas and maintain administrative efficiency. However, according to Bagir Manan, policies that sacrifice legal certainty and citizens' political rights lose constitutional legitimacy. Prolonged postponement for the sake of national synchronization means disproportionately restricting the voting rights of village residents, thereby conflicting with the rule of law and participatory democratic principles (Sikumbang et al., 2023).

Second, the heavy budgetary burden on regional governments. The implementation of simultaneous Village Head Elections requires substantial budget allocation. Data from the Ministry of Home Affairs indicate that the average cost of conducting a Village Head Election ranges from IDR 50 million to IDR 150 million per village, depending on the number of voters and geographical conditions. For regencies with dozens or even hundreds of villages, total costs may reach billions of rupiah. Amid limited regional budgets and competing priorities, conducting Village Head Elections alongside the General Election and Regional Head Election is considered financially burdensome. Although administrative reasons may be realistic, prolonged postponement solely for technical reasons subordinates citizens' political rights, reduces the legitimacy of village heads, and diminishes public trust in government.

Third, the potential for conflict and social tension due to excessive political competition within a short period. Research conducted by Puansah, Pulungan, and Sahbana (2024) on identity politics in Village Head Elections indicates that such elections often divide village social cohesion due to mobilization based on primordial identities such as kinship, religion, or ethnicity. When Village Head Elections are held close to General and Regional Elections, which also involve identity mobilization, there is concern about accumulated tensions that may trigger local social conflict.

Fourth, technical difficulties in managing logistics and election personnel. The simultaneous or closely scheduled implementation of General Elections, Regional Head Elections, and Village Head Elections requires significant human resource mobilization, including polling station working committees, election supervisors, and security personnel. In areas with limited human resources, organizing three types of elections within a short period may create technical and operational challenges.

Fifth, the postponement of Village Head Elections is often justified as a transitional phase (temporary governance) to maintain the continuity of village administration. The concept of temporary governance emphasizes that appointed temporary officials are only legitimate to perform routine administrative functions, not to formulate long-term strategic policies. Jimly Asshiddiqie stresses that temporary officials who serve for prolonged periods may lead to abuse of power, as their loyalty tends to be toward bureaucracy rather than village residents. In the context of local democracy, this means that temporary governance mechanisms may transform into de facto permanent authority, village residents' political rights are lost, and the legitimacy of Village Head Elections declines. Robert A. Dahl asserts that democratic legitimacy depends on citizen participation; thus, prolonged postponement reduces the principle of popular sovereignty. Furthermore, the concept of temporary governance underscores the necessity of clear time limits, duties restricted to administrative matters, and the prohibition of delaying Village Head Elections, in order to prevent abuse of power and to uphold democratic principles.

The Impact of the Postponement of the Village Head Election on Village Governance and Democratic Life in Hutagodang Village

1 Impact on Village Governance Administration

a. Leadership Instability and Discontinuity of Programs

The postponement of the Village Head election in Hutagodang Village from 2021 to 2025, accompanied by repeated replacements of Acting Village Heads, has created serious leadership instability. Within a four-year period, Hutagodang Village experienced four changes of acting officials; the first acting official appointed in 2021 was replaced by a second in 2022. This condition has resulted in the suboptimal continuity of village development policies and programs, as each replacement of an Acting Village Head tends to introduce different priorities and leadership styles. Consequently, the implementation of village programs has become less consistent and has the potential to hinder the achievement of sustainable village development goals. Based on interview results with the Secretary of Hutagodang Village, it was found that the

repeated replacement of Acting Village Heads has significantly disrupted the implementation of village development programs. The Village Secretary stated that "each time there is a change of acting official, previously planned programs must be re-evaluated. There are even several activities that are ultimately postponed because the new acting official has different policies and priorities.

b. The Weakening of Village Government Accountability

The prolonged acting-official system has created serious accountability issues, as an Acting Village Head who is not directly elected by the community holds an ambiguous line of responsibility, both to the village community and to the Regent who appointed them, thereby weakening control and oversight mechanisms at the village level. This was conveyed by the Chairperson of the Village Consultative Body (BPD) of Hutagodang Village, who stated that "the supervisory function of the BPD becomes difficult in this situation. We do not know whether the oversight mechanisms we usually apply to an elected village head also apply to an acting village head. When we criticize the acting official's policies, they often say that they are only serving temporarily and that strategic decisions must wait for a definitive village head.

c. The Decline of Development Innovation and Initiative

An Acting Village Head who is aware that their tenure is temporary and uncertain tends to adopt a conservative stance and avoid making strategic and high-risk decisions. Several development programs requiring long-term commitment are postponed due to concerns regarding leadership continuity. This aligns with transformational leadership theory, which emphasizes that leaders with strong legitimacy and long-term mandates are more likely to take innovative and transformative initiatives.

d. The Decline in the Quality of Public Services

Leadership uncertainty has also affected the quality of public services in Hutagodang Village, where several residents have expressed complaints regarding the declining responsiveness of the village government in addressing community needs. This condition is reflected in residents' experiences in accessing administrative services and social assistance, as conveyed by a community member who stated that "previously, when we handled administrative matters or applied for assistance, the process was faster. Now it is often delayed on the grounds of waiting for decisions from superiors.

2 Impact on the Democratic Life of the Village Community

a. Violation of the Constitutional Rights of the Community

The postponement of the Village Head Election for four years (2021–2025) constitutes a violation of the constitutional rights of the Hutagodang Village community to participate in the democratic process. This is not merely the loss of a single moment of participation, but also the loss of the opportunity to express political preferences, supervise leaders, and demand accountability. Article 27 paragraph (1) of the 1945 Constitution guarantees that all citizens have equal standing before the law and government. Article 28D paragraph (1) guarantees every person the right to recognition, guarantees, protection, and fair legal certainty. Article 28D paragraph (3) guarantees every citizen the right to obtain equal opportunities in government.

b. The Decline of Democracy and Legitimacy

Prolonged postponement with shifting reasons (pandemic, budget constraints, overlap with the General Election/Regional Head Election) has eroded public trust in democracy and governmental institutions. Based on interviews with residents of Hutagodang Village, the majority stated that they have lost confidence in the government's commitment to conducting the Village Head Election. They perceive that the Acting Official system serves personal interests rather than community interests. A resident of Hutagodang Village, Muhammad Fadli Hasibuan, stated, "The first acting official was understandable due to COVID-19, but in 2022 they said there were no funds, in 2023–2024 they said they feared overlap with the General Election. Now in 2025 it is still unclear. We no longer trust the government's promises." This decline in trust aligns with the findings of Wahyuni, Nasution, and Sihombing (2024), which indicate that the postponement of Village Head Elections in South Labuhanbatu Regency has reduced public trust in democratic processes at the village level.

c. The Emergence of Social Tension

Several residents in South Labuhanbatu Regency carried out demonstrations in response to the postponement of the Village Head Election. This postponement occurred despite the expiration of the previous village head's term of office, raising concerns regarding the legitimacy of village governance and the limitations of local political participation. The demonstrations were conducted by carrying banners and delivering speeches, reflecting the community's demand for the immediate implementation of the Village Head Election. This phenomenon indicates an interaction between regional government policies and the political aspirations of village residents, emphasizing the importance of transparency and legal certainty in local democratic processes (Humaizi et al., 2024). Thus, these demonstrations may be analyzed as a form of political participation by the community in demanding their right to be actively involved in electing village leaders, as well as a reflection of socio-political dynamics at the local level.

d. The Obstruction of Village Leadership Regeneration

The postponement of the Village Head Election in Hutagodang Village, South Labuhanbatu Regency, has hindered the process of village leadership regeneration. This condition has resulted in stagnation in leadership renewal, where prospective new leaders do not have the opportunity to occupy strategic positions in village government. Consequently, local governance dynamics tend to stagnate, and innovation in managing village development becomes limited. Furthermore, delays in leadership regeneration also restrict community political participation, so that citizens' rights to elect and determine new village leaders cannot be optimally realized. This phenomenon underscores the importance of time certainty and procedural clarity in conducting Village Head Elections as an instrument of local democracy and serves as an indicator of the health of the political system at the village level.

The Definition of Siyāsah Dustūriyyah

Etymologically, Siyāsah Dustūriyyah is composed of two Arabic terms: siyāsah, meaning politics, governance, or administrative leadership, and dustūriyyah, derived from the word dustūr, meaning constitution, fundamental state regulations, or a written legal framework. Terminologically, siyāsah dustūriyyah can be understood as a concept of constitutional politics that emphasizes the implementation of governance based on constitutional norms, fundamental laws, and the principle of legality, with a primary orientation toward the enforcement of justice, the maintenance of public welfare, the protection of citizens' rights, and socio-political stability (Fauzan et al., 2023;).

Siyāsah Dustūriyyah also emphasizes the balance between legal legitimacy, moral values, and public interest, such that every governmental action must have a clear constitutional basis, consider social and ethical impacts, and ensure the comprehensive attainment of state objectives. This concept implies efforts to structure governmental institutions and mechanisms capable of guaranteeing political stability, protecting citizens' rights, and facilitating public participation in political life. Overall, Siyāsah Dustūriyyah represents a synthesis of legal, ethical, and political values that serves as the normative foundation for state administration, affirming that the constitution is not merely a legal document but a strategic instrument for balancing power, safeguarding civil rights, and maximizing public welfare, so that governance may be carried out legitimately, justly, accountably, and in harmony with moral principles and the demands of modern society (Rambe et al., 2023).

In the study of fiqh siyāsah, Siyāsah Dustūriyyah is understood as a branch of the discipline that specifically examines legislation and constitutional matters from the perspective of Islamic law, including concepts of the constitution such as the state constitution, the history of the emergence of legislation, legislative processes, as well as democratic institutions and shūrā as essential pillars in the formation of state law to achieve comprehensive public welfare and meet societal needs. In this context, siyāsah dustūriyyah also emphasizes the relationship between the government and the people, as well as the study of limitations on state power and the protection of citizens' rights that must be safeguarded according to sharī'ah principles and in alignment with the objective of maṣlaḥah (public interest).

The Perspective of Law Number 3 of 2024 and Siyāsah Dustūriyyah on the Postponement of the Village Head Election

1. The Perspective of Law Number 3 of 2024

The regulation of the postponement of Village Head Elections (*Pilkades*) in Indonesia juridically possesses a complex legal foundation and has undergone interpretative development through decisions of the Constitutional Court. In the context of postponing *Pilkades*, several legal instruments regulate the mechanisms and specific conditions under which postponement may be carried out. Article 57 paragraph (1) of Government Regulation Number 43 of 2014 concerning the Implementing Regulation of Law Number 3 of 2024 concerning Villages states that "In the event of a policy to postpone the implementation of the Village Head Election, a Village Head whose term of office has expired shall remain dismissed, and subsequently the Regent/Mayor shall appoint an Acting Village Head." Furthermore, Article 57 paragraph (2) affirms that "The policy to postpone the implementation of the Village Head Election as referred to in paragraph (1) shall be determined by the Minister," thereby granting authority to the Minister of Home Affairs to establish postponement policies under certain conditions.

Subsequently, regarding the term of office and its extension, Law Number 3 of 2024 concerning the Second Amendment to Law Number 6 of 2014 concerning Villages amends the term of office of the Village Head to 8 (eight) years from the previous 6 (six) years, as stipulated in Article 39 paragraph (1), which states that "The Village Head shall hold office for 8 (eight) years from the date of inauguration." Article 39 paragraph (2) states that "The Village Head may serve a maximum of 2 (two) terms of office consecutively or non-consecutively." In the transitional provisions, Article 118 letter e of Law Number 3 of 2024 states that "Village Heads whose terms of office end by February 2024 may be extended in accordance with the provisions of this law," which technically postpones the implementation of the next *Pilkades* period through a mechanism of term extension. However, the validity of postponement through term extension has been constitutionally reviewed by the Constitutional Court.

In Decision Number 92/PUU-XXII/2024 dated January 3, 2025, the Constitutional Court ruled that "Article 118 letter e of Law Number 3 of 2024 concerning the Second Amendment to Law Number 6 of 2014 concerning Villages is contrary to the 1945 Constitution of the Republic of Indonesia and has no conditionally binding legal force insofar as it is not interpreted as 'not applicable to villages that have conducted Village Head Elections based on Law Number 6 of 2014 concerning Villages.'" This decision emphasizes that the extension of terms of office, which effectively postpones the inauguration of elected Village Heads, cannot be applied to villages that have conducted *Pilkades* under Law Number 3 of 2024, as in the case of 96 elected Village Head candidates in South Konawe Regency whose elections were held on September 24, 2023, but whose inauguration was postponed due to the application of Article 118 letter e. In its consideration, the Constitutional Court stated that there is no justification for Regents/Mayors or appointed officials to delay or even cancel the inauguration of elected Village Head candidates, as this violates the principle of legal certainty and fair legal protection as guaranteed in Article 28D paragraph (1) of the 1945 Constitution, which states that "Every person has the right to recognition, guarantees, protection, and fair legal certainty, as well as equal treatment before the law."

Thus, it may be concluded that the postponement of *Pilkades* is technically permissible under certain conditions through policies of the Minister or Regent/Mayor based on Article 57 of Government Regulation Number 43 of 2014.

2. The Perspective of *Siyāsah Dustūriyyah*

Siyāsah dustūriyyah (Islamic constitutional politics) discusses the relationship between leaders and the people, the mechanisms for appointing officials, and the system of governance based on the principles of *shari'ah*. Etymologically, the term *siyāsah* originates from the Arabic سَيَاسَةً – سُوْسُن – سِيَاسَةً (sīyāsah), meaning to manage human affairs, administer their interests, and safeguard public welfare in social life. Meanwhile, the term *dustūr* in Arabic refers to a constitution or fundamental law. Thus, *siyāsah dustūriyyah* examines matters of state administration, governance arrangements, and constitutional principles within the Islamic framework. According to Ibn al-Qayyim in his monumental work *al-Turuq al-Hukmiyyah*, *siyāsah* refers to any action that brings people closer to public welfare and further from harm, even if it was not explicitly established by the Prophet nor revealed through scripture.

In the study of *fiqh siyāsah*, *Siyāsah Dustūriyyah* is a branch that addresses the principles of Islamic constitutional governance, including mechanisms for the formation of authority, the legitimacy of leadership, and the relationship between rulers and the people based on *shari'ah* values, with the primary objective of achieving public welfare (*maslahah*) and upholding justice ('adl). The Village Head Election, as a form of governance at the local level, may be analyzed through the perspective of *Siyāsah Dustūriyyah* because it is directly related to the process of appointing leaders and the exercise of popular sovereignty.

a) The Principle of *Shūrā* (Consultation)

Shūrā constitutes a fundamental foundation in the system of Islamic governance, which is explicitly commanded in the Qur'an, Surah Ash-Shūrā, verse 38:

وَالَّذِينَ اسْتَجَابُوا لِرَبِّهِمْ وَأَقَامُوا الصَّلَاةَ وَأَمْرُهُمْ شُورَى بَيْنَهُمْ وَمِمَّا رَزَقْنَاهُمْ يُنْفِقُونَ

It means: "And those who respond to their Lord, establish prayer, whose affairs are decided by consultation among themselves, and who spend from what We have provided them."

This verse affirms that public participation in determining leaders and public policies is a constitutional right that must not be reduced or postponed without truly urgent reasons and clear public benefit (maslahah). Abdul Wahhab Khallaf in *As-Siyasah asy-Syar'iyyah* emphasizes that shura (consultation) is not merely a recommendation but a religious obligation that protects the people's rights from the arbitrariness of rulers. Therefore, any policy that delays or restricts the implementation of shura without strong emergency justification constitutes a violation of this fundamental principle.

In the context of an acting village head serving for five years without an election, the principle of shura has been fundamentally violated because the people were not involved at all in choosing their leader. Even more severely, their right to vote has been taken away for a very long period without any mechanism to renew the mandate or legitimacy from

the people. Imam al-Mawardi in *Al-Ahkam as-Sultaniyyah* explains that appointing a leader through *ikhtiyar* (selection) is one of two legitimate methods for obtaining political authority, where the selection by *ahl al-hall wa al-'aqd* (representatives of the people) reflects the collective will of the community and becomes a valid source of political legitimacy in Islam.

Dr. Taufiq asy-Syawi in *Fiqh asy-Syura wal Istisyarah* firmly states that prolonged postponement of elections is a form of revocation of the people's rights that contradicts the spirit of shura in Islam, because shura concerns not only consultation in policy but also the people's right to determine who will lead them through a fair and democratic electoral mechanism. Sheikh Muhammad Abduh, an Islamic reformer, stressed that Muslims must revive the principle of shura and deliberation as the core of the Islamic political system, and prolonged election delays constitute a betrayal of this trust and a systematic destruction of the shura principle taught by the Qur'an and Sunnah.

Furthermore, Dr. Muhammad Imarah in *Al-Islam wa Ushul al-Hukm* argues that political legitimacy in Islam originates from the people through the mechanism of *bay'ah* (pledge of allegiance), which is a concrete manifestation of shura. Without periodic renewal of *bay'ah* through elections, authority becomes invalid and loses its basis of legitimacy within the framework of *siyasah dusturiyah*. Ibn Taymiyyah in *As-Siyasah asy-Syar'iyyah* adds that shura is a right of the people that rulers are obliged to fulfill, not a gift or act of generosity from those in power. Therefore, postponing elections for five years without involving the people in deciding who leads them constitutes *istibdad* (tyranny), which contradicts Islamic teachings on justice and political participation.

Prof. Dr. Muhammad Tahir Azhary, in the context of Islamic nomocracy, strengthens this argument by stating that in an Islamic rule-of-law state, the supremacy of law and popular sovereignty are two inseparable pillars, where shura serves as the mechanism to realize that sovereignty. When elections are delayed for five years, both pillars collapse, and the political system loses its fundamental legitimacy.

b) *Maslalah Mursalah*

Maslalah mursalah within *siyasah dusturiyah* provides a comprehensive evaluative framework to assess the legitimacy of policies delaying village head elections. Imam al-Shatibi in *Al-Muwafaqat* sets out three strict conditions that must be met for a policy to qualify as a valid public interest (*maslahah*):

1. It must be a **real and genuine benefit (maslahah haqiqiyah)**, not merely speculative or imaginary (*wahmiyyah*).
2. It must serve the **public interest at large (maslahah 'ammah)**, not the interests of a specific group (*khassah*).
3. It must not contradict the Qur'an, Sunnah, or the fundamental principles of Sharia.

In the case of postponing village head elections for five years under acting leadership, these three conditions are not fulfilled. First, the claim that the delay serves public benefit cannot be considered a genuine benefit, given that five years is an excessively long period—more than sufficient to resolve administrative, technical, or even emergency obstacles. If elections still cannot be conducted within such a timeframe, this suggests not the protection of public welfare but systemic incapacity or even deliberate political delay. Wahbah al-Zuhaili in *Nazhriyyat adh-Dharurah asy-Syar'iyyah* asserts that any claim of necessity or benefit used to justify delay must be supported by concrete and measurable

evidence. When postponement continues for years without resolution, the claimed benefit loses validity and becomes a false or illusory benefit (*maslahah mawhumah*).

Second, a five-year delay does not represent *maslahah 'ammah*. The broad public suffers the loss of constitutional political rights—the right to elect leaders, to hold them accountable through periodic elections, and to replace leaders who no longer reflect their aspirations. Those who benefit are mainly bureaucratic structures that avoid the cost and political risks of elections, and incumbent acting officials who retain positions without competition or accountability. Yusuf al-Qaradawi in *Min Fiqh ad-Daulah fil Islam* stresses that any claimed benefit that violates the fundamental rights of the people—especially political rights—cannot be justified in *siyasah syar'iyyah*, since such rights form part of the objectives of Sharia (*maqasid al-shariah*).

Third, the prolonged delay contradicts core Sharia principles:

- **Shura** (Qur'an 42:38), which mandates public participation in governance.
- **Justice** (Qur'an 4:58), which obliges rulers to uphold trust and fairness.
- **Amanah** (Qur'an 8:27), which prohibits betrayal of entrusted responsibilities.

Ibn Qayyim al-Jawziyyah in *I'lam al-Muwaqqi'in* explains that the essence of *siyasah syar'iyyah* is justice—leading people from oppression to fairness. A policy that deprives citizens of political rights for five years cannot be called *maslahah*, even if justified administratively. Mustafa az-Zarqa, referencing the legal maxim "*tasharruf al-imam 'ala ar-ra'iyyah manuthun bil maslahah*" (a leader's policy toward the people must be based on public benefit), argues that if a policy harms the public broadly and over time, it must be annulled for losing its legitimacy.

Moreover, the maxim "*dar' al-mafasid muqaddam 'ala jalb al-masalih*" (preventing harm takes precedence over obtaining benefit) indicates that even if some benefit is claimed, the harms are far greater: loss of political rights, disruption of democratic cycles and leadership regeneration, weakened accountability, stagnation in development, declining public trust, potential abuse of power, and ultimately violation of popular sovereignty. Jasser Auda, through a *maqasid* approach, emphasizes that Sharia's ultimate aims include justice, welfare, and protection of fundamental human rights; thus, policies that strip political rights for years contradict these objectives.

Based on this research, the postponement of the village head election in Hutagodang from 2021–2025—though formally grounded in Article 57 of Government Regulation No. 43/2014 allowing delays in certain conditions—fundamentally violates the principles of shura and *maslahah* in *siyasah dusturiyah*. Shura requires active public participation in choosing leaders, yet for four years the people of Hutagodang were entirely excluded, and their constitutional rights were curtailed without adequate justification.

From the *maslahah mursalah* perspective, the delay fails al-Shatibi's criteria: it is not a genuine benefit, not a public benefit, and contradicts core Sharia principles such as justice, popular sovereignty, and public welfare. Empirical findings support this: the Village Secretary reported repeated acting leadership changes disrupting development continuity; the BPD Chair noted weakened oversight; and residents like Muhammad Fadli Hasibuan expressed deep loss of trust due to shifting justifications for delay—from COVID-19, to budget constraints, to election scheduling conflicts.

4. CONCLUSION

Based on the results of the discussion regarding the postponement of the village head election in Hutagodang Village from the perspective of Law Number 3 of 2024 and Siyāsah Dustūriyyah, the following conclusions can be drawn:

The postponement of the village head election in Hutagodang Village normatively has a legal basis in Law Number 3 of 2024. However, the implementation of this policy at the village level gives rise to juridical and sociological issues, particularly concerning the reduction of the political rights of village communities to elect their leader directly and in a timely manner.

From the perspective of Law Number 3 of 2024, the postponement of the village head election has the potential to create legal uncertainty if it is not accompanied by a clear time limit and strict supervisory mechanisms. This condition may open opportunities for abuse of authority and weaken the principle of village democracy as mandated within the village governance system.

From the perspective of Siyāsah Dustūriyyah, the postponement of the village head election contradicts the principles of deliberation (syūrā) and trust (amānah), as the village community loses the opportunity to express its will in determining its leader. Islam emphasizes that the legitimacy of power derives from the consent of the people; therefore, prolonged postponement may reduce the legitimacy of leadership at the village level.

The postponement of the village head election also has the potential to violate the principle of justice, particularly when a village head or acting official continues to exercise authority without a direct mandate from the community. In Siyāsah Dustūriyyah, power that is not based on the people's consent risks creating injustice and inequality in the administration of governance.

From the perspective of public benefit (maṣlahah ‘āmmah), the postponement of the village head election in Hutagodang Village does not fully reflect the objective of achieving greater good. Instead, this policy has the potential to generate social unrest, reduce public trust in the village government, and hinder the political participation of village residents.

Thus, although the postponement of the village head election in Hutagodang Village is formally lawful, substantively it is not in line with the principles of Siyāsah Dustūriyyah and the values of village democracy. Therefore, the postponement policy needs to be re-evaluated to ensure that the implementation of the village head election guarantees the political rights of the community, justice, and the legitimacy of leadership at the village level.

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