



# Dispute on the Number of Votes in the Election of Head of Tabuyung Village, Muara Batang Girls District, Mandailing Natal Regency from Siyasa Fiqh Perspective (Decision Analysis Study Number: 80/G/2023/Ptun.Medan)

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**Abstract:** This research aims to understand the dispute resolution mechanism resulting from the election of the Head of Tabuyung Village, Kec. Muara Batang Gadis, Kab. Mandailing Natal, focusing on the suitability of legal considerations in the Medan PTUN decision Number: 80/G/2020/PTUN.MEDAN with applicable laws and regulations. And also this writing aims to analyze the basis of the judge's considerations in the Medan PTUN decisions in case Number: 80/G/2020/PTUN.MEDAN. The Author uses normative research methods with a library approach to collect the necessary legal materials, including sources from experts, perspectives from the perspective of Siyasa Fiqh, research results, and journals related to dispute resolution mechanisms based on statutory regulation.

**Keywords:** Decision; Law; Village Head.

## 1. Introduction

The basis for village regulation is the 1945 Constitution of the Republic of Indonesia, hereinafter referred to as the Constitution (Afif, 2018). The Constitution stipulates that the state recognizes and respects customary law community units and their traditional rights as long as they are still alive and in accordance with development of society, does not conflict with state ideology and is in accordance with the principles of the Unitary State of the Republic of Indonesia and mandates this, to be regulated in law (Ilyasa, 2020) (Salinding, 2019).

The village head election is a democratic party intended to replace the reins of leadership which cannot be free from disputes (Tahir et al., 2016). The legal basis that forms the basis for resolving village head election disputes is specifically regulated in Law no. 6 of 2014 concerning Villages ("Village Law") and Government Regulation no. 43 of 2014 concerning Implementing Regulations of Law no. 6 of 2014 concerning Villages as amended by Government Regulation no. 11 of 2019 concerning Implementing Regulations of Law no. 6 of 2014 concerning Villages (Hasiah et al., 2021). In this case, if there is a dispute over the results of the election for the Head of Tabuyung Village, the Regent/Mayor is obliged to resolve the dispute within a period of 30 (thirty) days (Maemunah, 2018)(Prasetyo et al., 2015)(Ali et al., 2023). The mechanism for resolving disputes over the results of village head elections is further outlined in regional regulations (Triwidaryanta et al., 2022). Regional governments, both districts/cities, determine policies for selecting village heads simultaneously using regional regulations (Perda) (Ali et al., 2023). The series of processes for implementing the Village Head Election are in accordance with the instructions contained in the

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Village Law (Satriajaya et al., 2017). However, when problems arise during the implementation of the Village Head Election, the Village Law and its Implementing Regulations cannot provide a solution. The Village Law does not provide an explanation regarding how to resolve disputes originating from the village head election process (Sudirman, 2023).

In the Tabuyung Village Head election process, there were many allegations of violations committed by the Tabuyung Village Head Election Committee, such as siding with one of the village head candidates, including people who did not live in Tabuyung Village on the Permanent Voter List (DPT) and also alleged violations. Another where the violation has caused losses to the Plaintiff, namely Siti Berliana as one of the village head candidates. For this reason, the Plaintiff has made a report regarding the alleged violation in question, even though the Plaintiff has reported the alleged violation as referred to above, the Defendant, namely Ziaul Haq, did not carry out a resolution and instead issued a Dispute Object which appointed the Head of Tabuyung Village. Thus, it is clear that the interests of the Plaintiff are greatly harmed by the publication of the Object of Dispute by the Defendant. That from the process of selecting the Head of Tabuyung Village until the publication of the Object of Dispute by the Defendant, the Plaintiff has caused losses, both material losses in the form of registration fees and campaign costs, as well as moral losses among the people of Tabuyung Village, Muara Batang Girls District, Mandailing Natal Regency.

Whereas in the process of selecting the Head of Tabuyung Village, there were many allegations of violations committed by the Tabuyung Village Head Election Committee, such as siding with one of the village head candidates. The total voter list is 3,425 people and there is a difference in votes in that village head candidate Ziaul Haq received 803 votes and Siti Berlian Sari 719, the difference was 84 people and in this election people who do not live in Tabuyung Village were included in the Voter List. Permanent (DPT) and also other alleged violations where these violations have caused losses to the Plaintiff as one of the candidates for Head of Tabuyung Village. Even though the Plaintiff had reported the alleged violation as referred to above, the Defendant did not carry out a settlement and instead issued a Dispute Object appointing Ziaul Haq as Head of Tabuyung Village. Thus, it is clear that the interests of the Plaintiff are greatly harmed by the publication of the Object of Dispute by the Defendant.

The implementation of simultaneous and uniform village elections in accordance with existing regulations is not free from serious problems. Because in fact, the election of a village head is not just about transferring the reins of power or how to obtain it, but also sometimes concerns prestige, self-esteem and honor.

Money politics games that are rife in villages leading up to the choice actually obscure the essence of democracy itself, because the results of the choice are no longer authentic from conscience (Sutopo, 2020). Apart from that, it will reproduce leaders who are prone to not being trustworthy (accountable), because the sacrifice of becoming a village head is not empty-handed, but must be paid for at high costs. This issue is of concern to this research considering that village elections are usually democratic parties, and should actually be a source of political education that is clean, polite, frugal, full of family, intelligent and joyful for the community. This is because the village elections are

an exploration event for choosing leaders who are qualified and understand the dynamics of village life (Fikri, 2021).

Islam as a perfect religion emphasizes benefit in every matter, especially policies related to the interests of the wider community, as in the principles of *تصرف الائمة بالمنوط بمصلحة الرعية* that the implementation of state policies must be based on the benefit of the people/society. So from the description above, the author is interested in mela. The purpose of research on this matter is to be used as a study in this research with the following problem formulation: First, what is the mechanism for resolving disputes over the results of the village head election in Batang Girls Regency? And What are the judge's considerations in the PTUN decision number: 80/G/2023/PTUN.MEDAN from the perspective of *Siyasah Fiqh*?

## 2. Materials and Methods

This study is normative research, involving an approach based on the use of legal literature, or in other terms, library-based research (Library Research). The study was carried out by compiling secondary, primary and tertiary legal materials through research and books, papers and other works related to the research topic, as well as the PTUN judge's decision regarding the results of the Tabuyung Village Head Election. The central point of this research is a legal analysis of the PTUN judges' considerations in the results of the Tabuyung Village Head Election. This research applies three diverse approach methods. The first method is the statutory approach, which involves studying all laws and regulations related to the issue being addressed. The second approach is the conceptual approach, which involves examining the points of view and concepts of experts related to the issue. The final approach is the case approach, which requires analysis of cases that have been decided by the court and have final legal force.

There are three types of legal materials that can be distinguished, namely: primary legal materials, secondary legal materials, and tertiary legal materials. In this research, the author uses the following legal material sources: First, primary legal material sources consisting of statutory regulations, official records, minutes in the process of making legislation, and judges' decisions. Second, the main secondary legal material is textbooks, because textbooks contain the basic principles of legal science and classical views. Third, sources of tertiary legal materials are materials that provide instructions and explanations for primary and secondary legal materials.

The method for collecting legal materials used is documentation study, which involves recording information from legal materials related to dispute resolution mechanisms based on statutory regulations, both normatively and in the form of ideas or thoughts. The recording process is carried out selectively to support and complement legal material obtained from other sources, including expert opinions, research results and journals. All legal materials collected through library research will be analyzed descriptively-qualitatively using deductive thinking logic. In the descriptive-qualitative method, researchers will present, describe and relate systematically, comprehensively and accurately three relevant analyzes of all legal materials that have been obtained through library research. Apart from that, the author also interprets the legal material to get accurate and comprehensive answers to the problems faced (Diana et al., 2021).

Research on the lawsuit against the regent over the appointment of the village head from the perspective of Fiqh Siyasah (decision analysis study  
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Settlement of disputes over village head election results from the perspective of Siyasah Fiqh (case study of the 2019 Suranenggala Kulon Village head election) (Cahyanudin, 2022), IAIN student Syekh Nurjati Cirebon, Faculty of Sharia and Islamic Economics, majoring in Islamic Constitutional Law. The results of this research explain that the form of dispute that occurred in the village head election in Suranenggala Kulon Village in 2019 was in the form of a dispute over the results of the village head election at that time, which in this dispute was the result of the vote with a difference of 60 votes, which was In the election process, it was indicated that there was fraud and non-neutrality of the committee in the election, then there were ballots that were not distributed. The view of Siyasah Fiqh in resolving disputes over the results of the 2019 Suranenggala Kulon Village Head election is in accordance with Siyasah dusturiyah because in the Al-Shura concept, when a dispute occurs, it must be resolved by deliberation as regulated in the Ali-Imron letter paragraph 159 which contains about instructions for deliberation when a dispute occurs, this is in accordance with what was done in resolving disputes over election results in Suranenggala Kulon village, which prioritizes deliberation and consensus in a decision issued by the State Administrative Court. The view of sharia principles in resolving disputes over the results of the 2019 Suranenggala Kulon Village Head election.

In the context of the dispute that occurred, it was in accordance with the provisions that were already in force, as in this case the laws that regulate the interests of the state and organize the affairs of the people in line with the spirit of the Shari'a, which in the case that occurred was based on social objectives which prioritized the benefit rather than the debate that will arise over a decision, this is in line with what was done in resolving the village head election dispute that occurred in Suraneggala Kulon village, which guarantees that a solution will be made that is accepted by both parties which prioritizes deliberation and consensus as in state administrative justice that has been carried out. What these two studies have in common is that they both raise disputes regarding fraud during village head elections (Cahyanudin, 2022).

Siyasah Fiqh review of village head dispute resolution regarding the practice of money pyrolysis (Study in Negeri Sakti Village, West Sungkai District, North Lampung Regency) (ANIA, 2023). The results of the research stated that the resolution of village head disputes related to the practice of money politics in Negeri Sakti village, West Sungkai District, North Lampung, was not much different from the election of other village heads, in fact the election was carried out in accordance with village head election regulations in general. However, what influences the encouragement of the practice of money politics in the village of Negri Sakti, West Sungkai District, North Lampung Regency is the low level of public knowledge regarding the practice of money politics, which makes them not think critically and are easily influenced. Apart from that, the low level of the community's economy also greatly influences the practice of money politics. has become a tradition that is very difficult to let go of in society, coupled with the lack of

attention from law enforcers regarding this problem and awareness of the perpetrators of money politics practices.

The view of *Siyasah Fiqh* regarding the resolution of Village Head disputes related to Money politics in the village of Negeri Sakti, West Sungkai District, North Lampung, is in practice invalid because it is a *risywah* that makes several parties feel cheated. The prohibition of money politics is very useful and brings benefits in preventing the loss of assets for individual candidates and preventing harm due to corruption arising from efforts to return capital by candidates when they are elected and occupy office. The similarity between Ania Oktaviani Sari's writing and this article is that they both discuss the dispute over the appointment of village heads, while the difference between Ania Oktaviani Sari's article and this article is that this article analyzes the PTUN decision, while Ania Oktaviani Sari's article only takes it from the perspective of *Siyasah Fiqh*, and this article disputes the bias towards village head candidates, while Ania Oktaviani Sari's article discusses the money politics dispute (ANIA, 2023).

*Siyasah Fiqh* Analysis of Village Head Election Dispute Resolution According to Regulations Gresik Regency Area in 2013 in Lowayu Village, Dukun District, Gresik Regency the focus of the study in this research is the resolution of the 2013 Village Head election dispute in Lowayu Village, Dukun District, Gresik Regency with a review of *Siyasah Fiqh*. This research uses empirical juridical research. Research data was collected using documentation techniques and interviews with village heads, village officials, the community and the parties involved in the dispute. Data is processed and analyzed using descriptive analysis and deductive thinking. The results of the research revealed that the resolution of the dispute over the election of the Village Head in Lowayu village, Dukun District, Gresik Regency according to the Regional Regulations of Gresik Regency was carried out by mediation because it had not been regulated in the Regional Regulations of Gresik Regency (GRESIK, n.d.).

### **3. Results and Discussion**

#### **3.1 Village Overview**

Village in sub-district Estuary Batang Girls, regency Mandailing Christmas, province North Sumatra, Indonesia this is very old. The village, which is an antique and classic lowest level government institution, was first mentioned in the first Law of the Dutch East Indies, known as the *Reglement op het beleid der Regering van Nederlands Indie* (Regulation on the policies of the Dutch East Indies government), "*Regeringsreglement*" or more abbreviated again "*R,R*" which means (Government Regulations).

In 2004 Law Number 22 of 1999 concerning Regional Government was replaced with Law Number 32 of 2004 concerning Regional Government. Law Number 22 of 1999 and Law Number 32 of 2004 both adhere to the principles of democracy, community participation, equality, justice and diversity (Indonesia, 1999). Based on these principles, the village is regulated as follows: the status of the village is returned as a customary legal community unit which has the authority to regulate and manage local community affairs based on its origins and customs, the village nomenclature can use another name in accordance with the customs that apply in the local community in the village a people's representative institution was formed which functions as a protector of customs,

legislation and supervision (Siagian et al., 2023). Apart from that, according to Law Number 5 of 1979, according to Law Number 5 of 1979, the village was under the sub-district government, according to Law Number 32 of 2004 it was under the district/city government. Organizational Structure of Tabuyung Village, Kec. Muara Batang Kuis and Kab. Mandailing Christmas 2024:

Village head : Ziaul Haq  
Person in charge : Rohima Yusnida Hasibuan  
Secretary : Marsidah  
religious section : Noval  
protection section : Andika Putra  
treasurer : Marinawat  
socialization section : Iswani (Saputra, 2023)

### ***3.2 Dispute Resolution Mechanism for Village Election Process in Tabuyung Village, District. Batang Girls, Kab. Mandailing Christmas.***

Election of Village Heads or what is often abbreviated as Pilkades is a forum for community members to implement democratic government, in this case in the village (Fikri, 2021). Regulations regarding the mechanism for selecting Village Heads are regulated in one chapter in the Village Law, which consists of five articles and are regulated in Permendagri Number 112 of 2014 concerning Election of Village Heads. Article 1 Number 5 Permendagri No. 112 of 2014 concerning Election of Village Heads states: Election of village heads is the implementation of people's sovereignty in villages in order to elect village heads in a direct, general, free, secret, honest and fair manner. The existence of regulations explaining the election of Village Heads further strengthens the enthusiasm for implementing democratization in all regions in Indonesia and also the enthusiasm for perfecting regional autonomy. In the Village Law, regulations regarding the Election of Village Heads are part of the Implementation of Village Government as regulated in Articles 31-39. Based on the construction of the Village Law, the Village Head is elected in an election, not appointed by a specific official, as formulated in Articles 31-39. The selection process can be divided into stages: (a) Preparation, (b) Nomination, (c) Voting and (d) termination (Saputra, 2023).

Simultaneous Village Head Election for Mandailing Natal Regency, March 27 2023, in this voting there were many allegations of violations committed by the Tabuyung Village Head election committee, such as siding with one of the village head candidates, when the stages of the Tabuyung Village Head election were not carried out. transparent, especially in voter data collection. Based on these allegations, the plaintiff raised objections to the process and stages of the results of the election for the head of Tabuyung village, especially regarding voters who wanted to exercise their voting rights, but the committee ignored them and did not respond and furthermore there were members of the committee who openly supported and invited the community to vote for the candidate. village head number 1 (Ziaul Haq) by uploading it on social media, namely Facebook, which violates article 11 paragraph (5) letter (a) of the Mandailing Natal Regional Regulation No. 2 of 2016 concerning the method of nomination, selection for appointment, inauguration and dismissal village head who said; "The election

committee is obliged to nominate village head candidates fairly and equally, be neutral and not take sides with any of the candidates...etc." Furthermore, the election committee also did not send a notification letter to the village residents regarding the voting and there was also no official report on the recapitulation of the vote count results at each polling place.

Whereas regarding the vote obtained above, the Plaintiff has submitted an objection to the Election Committee for the Head of Tabuyung Village on the day of the election/voting for the Head of Tabuyung Village, Muara Batang Girls District, Mandailing Natal Regency 2023 but there was no response from the committee regarding the objection submitted. . Furthermore, the Election Committee also did not send notification letters to the village residents regarding the collection of letters. Where this happened, the Plaintiff's supporters were unable to exercise their right to vote because they did not know when the election would be held by the committee. This violates Article 35 paragraphs (1) and (2) Perbub Number 62 of 2022 concerning Guidelines for Implementing Village Head Elections which reads: Article 35 Paragraph (1): "No later than 7 (seven) days before the election is held, the Election Committee shall provide notification to village residents who have the right to vote and make announcements in open and strategic places regarding the Village Head Election voting." Article 35 Paragraph (2): "Notification to village residents who have the right to vote at the polling place as intended in paragraph (1) is carried out by means of a notification letter to the voter or his family with proof of receipt."

Procedure for Issuing TUN Decisions: From the explanation regarding the administration of government affairs, regional heads actually have internal duties and authority carrying out government affairs throughout the region, down to the villages, in the region he leads, the issuance of the Regent's Decree is a form of manifestation of the administration of government affairs which falls under his authority in carrying out government affairs which fall under the authority of the Regional Head and DPRD assisted by the Regional Apparatus.( Article 1 number 23, Article 57, and Article 208 of Law Number 23 of 2014 concerning Regional Government). Based on the provisions of article 209 paragraph (2) of Law 23/2014, the types of Regency/City Regional Apparatus include: (a) Regional Secretary, (b) Setwan, (b) regional inspectorate, (c) Service, (d) Body, and (f) Subdistrict (Nugrahanto et al., 2017).

These regional officials, respectively, as well as together, carry out their duties and functions to assist regional heads in carrying out their authority. A series of stages and processes of facilitation, guidance and supervision of the problems that occurred in Tabuyung carried out by the Regional Apparatus shows that the regent before making a decision has gone through a series of procedures based on statutory regulations and the AUPB (Fikri, 2021).

### ***3.3 Mechanism for Resolving Disputes in the Village Election Process from a Siyasaah Perspective***

Siyasaah Fiqh is a science that discusses the procedures for managing a country by making arrangements for issues such as legislation and various other regulations that are in accordance with Islamic principles, although regarding the arrangement of all these

problems there are no specific arguments that regulate it. Ahmad Fathi Bahansi, as quoted by Djazuli, is of the opinion that *Siyasah Fiqh* is the regulation of human benefit based on sharia. *Siyasah Fiqh* occupies a very important role in the application of Islamic law in Indonesia. If there is no State and Government, it is difficult for laws to be enforced in society. Islam, through *Fiqh Siyasah*, regulates its followers to remain within the corridors of Islamic law (*Shariah*). In the management of constitutional law, which regulates applicable legal regulations, including the election of a leader. Existing legal rules or regulations are expected to bring closer to the goodness and benefit of the people, not just a mutual agreement or based solely on decisions (Diana et al., 2021).

*Siyasah dusturiyah* means that the basis for all regulations of a State, whether laws or statutory regulations, must be extracted from the *Al-Qur'an* and *Sunnah* as the main sources of Islamic law. In other words, all forms of state regulations are determined based on Sharia laws extracted from Islamic creed by placing *ijma* and *qiyas* as supporters. So that in the future, by implementing these regulations, it will be able to provide prosperity in the social order. Villages are the lowest form of government in Indonesia. Villages have the authority to regulate and manage community interests based on the rights of origin, customs and socio-cultural values of the community in carrying out parts of government affairs delegated by the district/city government. In organizing and managing the needs of the community, of course a leader is needed who is able to lead the running of a government, including village government. The leader in the village government is called the Village Head whose election is directly elected by the village community. *Siyasah dusturiyah* holds the view that the basis for a State's regulations, both laws and statutory regulations, must be extracted from the *Al-Qur'an* and *Sunnah*. Islam teaches us to act honestly and fairly and respect decisions that have been mutually agreed upon.

When a problem occurs in selecting a leader, in this case the village head. When a problem occurs in selecting a leader, in this case the Village Head. The Executive Committee as the implementer of the Village Head Election held a deliberation, discussing together what was behind the community action which rejected the determination of the results of the vote recapitulation. The committee holds deliberations to reach a common consensus. As the words of Rasulullah SAW. Meaning: "Whoever intends something, from deliberating with a Muslim, Allah will give him guidance so that the problem will be successful."

When a village election problem occurred in Tabuyung Village in 2023, the Village Election committee gathered the village community for deliberation to resolve the problem. However, the deliberation did not resolve the dispute in Tabuyung village, the Election Committee ignored the problem. So what made the plaintiff in the decision in this case file a lawsuit and it was settled by PTUN MEDAN. In implementing laws or regulations, the state has executive power (*Al-Sulthah Al-Tanfidziyah*). The state has the authority to actualize and elaborate the laws or regulations that have been formulated. To create and implement a law or regulation, *siyasa dusturiyah* must provide a sense of benefit in society.

In the theory of justice, according to *Al-Mawardi*, appointing a head of state to lead the people is mandatory based on *ijma'*, *Al-Mawardi* said that leadership is held as a



substitute for the prophetic function in maintaining religion and governing the world, and his appointment to establish the ummah is mandatory based on *ijma'* and when you are doubtful about them then keep quiet. The word *khilafah* thus refers to a series of actions carried out by someone, namely someone who is called a caliph (Hanif, 2019). Therefore, there will be no caliphate without a caliph. Facts about the history of Islamic politics prove that the process of appointing the head of state after the death of the Prophet Muhammad, starting with Abu Bakr as the first caliph, experienced changes from time to time. This can be seen from the process of selecting and swearing in Abu Bakr as a successor to the Prophet Muhammad through deliberation, even though there was a fierce debate between the Muhajirin group and the Anshor group. Then Umar Ibn Khathab was elected as *emirul mukminin* after Abu Bakr through the mandate given by Abu Bakar to Umar Ibn Khathab. Meanwhile, the election of Usman Ibn Affan as a replacement for Umar Ibn Khathab was through deliberation of the *ahlul halli wal aqdi* (electoral board) appointed by Umar.

Al-Mawardi is of the opinion that in the process of selecting the head of state there must be two elements, namely *Ahl al-Imāmah* (people who have the right to be elected) and *Ahl al-Ikhtiyār* (people who have the right to choose). Not everyone can nominate themselves as a priest, there are several requirements that must be met. There are around seven conditions that must exist for *Ahl al-Imāmah*, including: (a) Fair attitude and all its requirements (*al-'adālah li shurūtihā*); (b) Have sufficient ability (knowledge) to carry out *ijtihad* on various issues and laws; (c) Healthy hearing, eyes and speech; (d) Intact body parts, so that they can be active in carrying out all tasks and activities; (e) Have sufficient insight to organize and manage people's lives and fight enemies; (f) Be brave and firm in defending your people and facing the country's enemies; (f) Descendant of the Quraysh.

This last condition is based on the texts and *ijma'* of the friends at the *Tsaqifah Bani Sa'idah* meeting, precisely on Abū Bakar's statement. So he was elected caliph by consensus and also based on the words of the Prophet Muhammad. No one doubted Nash and no one disputed it. All of these requirements must be possessed by the person chosen or given the mandate to serve as leader or head of state and the most important thing to have is the requirement of *ahl alijtihād* (the ability to perform *ijtihad*) because knowledge is the key to a leader's success in determining his policies (Hanif, 2019).

#### 4. Conclusions

The juridical basis for dispute resolution in the Village Head election process has not been regulated in the Village Law, Regional Regulations or other Implementing Regulations. Meanwhile, when a Village Election dispute occurs, the step that can be taken is deliberation between the Village Election committee and village community representatives. In *siyasah dusturiyah*, rules are made so that society is orderly and can provide comfort and prosperity. Dispute resolution in the Village Election process is not yet regulated in the Village Law or other regulations. In the Election Law, disputes can be resolved by Bawaslu and PTUN. The absence of regulations regarding process disputes in the Village Head Election means that when there is a dispute in the Village Head Election, the Village Head Election committee has difficulty in handling the resolution of

the process dispute. The absence of these regulations will create legal uncertainty and harm.

The mechanism for resolving disputes in village elections has not been regulated in Regency Regent Regulation No. 21 Mandailing Natal 2018. With the case that occurred in Tabuyung Village, Muara Batang Girls District, Mandailing Natal, this has become a reference for the Mandailing Natal Regency government in particular, generally for the central government to make rules governing dispute resolution mechanisms in village elections. So that there is no recurrence of riots until there is a lawsuit in court by the community as happened in Tabuyung Village, Muara Batang Girls District, Mandailing Natal Regency. It is hoped that the Pilkades committee will carry out maximum outreach regarding the process of implementing the Village Election. Transparency must also be carried out by the committee, so that there are no disputes/disputes when the results of the vote recapitulation have been announced.

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