

The Implementation of Constitutional Court of Indonesia

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ABSTRACT

This study discusses The Implementation of Constitutional Court of Indonesia Decision No. 128/PUU XIII/2015 on the Elimination of Domicile Requirements for Village Apparatus Candidates in Pasar Batahan Village Batahan Sub-district Mandailing Natal District. This research was motivated by a decision of the Constitutional Court that removed the requirement of domicile for village apparatus candidates so village apparatus candidates could register anywhere without any regional restrictions. This type of research is field research with qualitative descriptive analysis methods. This method of data collection is by interview and documentation in accordance with the provisions in the constitutional court of Indonesia decision No. 128/PUU-XIII/2015 on the elimination of domicile requirements for village apparatus candidates in Pasar Batahan Village Batahan Sub-district Mandailing Natal District. The parties studied were the Head of Batahan Sub-district, Head of Pasar Batahan Village, Secretary of Pasar Batahan Village, Head of BPD of Pasar Batahan Village, Indigenous People of Pasar Batahan Village (Niniak Mamak) and Community Around Pasar Batahan Village as the voter of the place of implementation of the constitutional court decision related to the elimination of domicile requirements for village apparatus candidates. The results of the study mentioned that the implementation of constitutional court of Indonesia decision No. 128/PUU-XIII/2015 on the elimination of domicile requirements for village apparatus candidates in Pasar Batahan Village Batahan Sub-district Mandailing Natal District has been implemented this can be seen from the form of implementation that has been applied by the Village Head and Sub-District Head, namely by conducting socialization, networking, screening and appointment of village apparatus candidates conducted by the Village Head along with Sub-district Head. Then according to the view of Islamic Law has also been appropriate and there is no problem.

Key Word : Implementation, Constitutional , Village

A. Background of the Problem

The State of Indonesia is a legal country that prioritizes justice in every law enforcement action taken, as stated in the 1945 Constitution

Article 1 Paragraph 3 mentioned that "The State of Indonesia is the State of Law."¹

The principle of upholding a fair attitude is classified to an obligation for human beings, this is because the existence of justice of all community activities will be peaceful, united, in sync and hold each other to a harmonious series of lives.²

The regulation of village government is contained in Law No. 6 of 2014 on Villages. Village in Law No. 6 of 2014 is a unitary legal community that has territorial boundaries authorized to regulate and manage government affairs, the

¹ Undang-Undang Dasar 1945 Pasal 1 Ayat.

² Ummi Kalsum Hasibuan, *Keadilan Dalam Al-Qur'an*, jurnal Al-Fawatih: Jurnal Kajian Hadist dan AlQur'an, Vol. 1 , No. 2 (2020), Hal. 63.

interests of local communities based on community initiatives, rights of origin, and/traditional rights recognized and respected in the system of government.³

The establishment of this Village Law as a form of the creation of a strong, advanced, independent and democratic village so as to create a solid foundation in implementing government and development towards a fair, prosperous and prosperous society.

The regulation on the appointment of village devices is contained in Article 50 paragraph (1) of Law No. 6 of 2014, village devices from villagers who meet the requirements: The lowest educated public high school or equivalent; 20 (twenty) years old to 42 (forty-two) years old; Registered as a villager and residing in the village at least 1 (one) year prior to registration; and

³ UU No. 6 Tahun 2014

other Terms specified in the District/City Regulation.

Pasar Batahan Village is a village located in Batahan Sub-district, Mandailing Natal District, North Sumatra. Where the majority of the residents of Pasar Batahan Village have a livelihood as farmers, agricultural land is used by the residents of Batahan Market Village to meet their needs.

As for number of residents who live in the village of Pasar Batahan, there are 730 families (head of families) with the majority of Islam. And in the village of Pasar Batahan, there are 2 (two) tribes who live side by side, namely the Batak Mandailing and Minang tribes, while the majority of the tribes of the people in the village of Pasar Batahan are Minang because the village located on the border of the west coast of North Sumatra which is closer to west Sumatra with the Minang Kabau tribes.

In implementing, the Unitary State Republic of Indonesia

recognizes and respects the unity customary law community, and it includes its rights in the nomination of village apparatus in general. The positions village apparatus has always been a matter for debate, especially among political elites. The village that has length lower hand of government functions is an interesting topic to debate. The positions village apparatus is expected to be able carry out its functions and objectives properly, especially among the political elite. In essence, the leadership of village head is an important factor in village government. The position village head does not only function as the length community's hands, but the presence village head here is a foundation and synergies with the community in the vision's and mission village so that the goals have been designed get the highest achievement, so that a prosperous village can be realized. Therefore, the existence of villages to realize national development cannot be

separated from the central government regulations and their existence is accommodated through existing Laws.⁴

The implementation of nominations by granting domicile requirements in essence will also result in conflict among the community because basically every citizen has the right to propose and proposed as a leader in the government system in accordance with the mandate contained in 1945 Constitution without any reduction of human rights and the sound of mandate contained in Pancasila ideology, namely social justice for all Indonesians, because the existence of domicile conditions proves that there will be restrictions on rights and justice for every individual. To overcome this problems, the abolition of this domicile requirement is necessary and in this case it has been cancelled by the stipulation of the constitutional

⁴ Putusan MK No. 128/PUU-XIII/2015

court of Indonesia decision No. 128/PUU-XIII/2015 as a manifestation of fulfilment in human rights and equality of justice for all Indonesians.

Human is one of the main actors in the Qur'an. Many verses of the Qur'an that discuss about human.⁵

However, man is part of the creation of God SWT. Besides the advantages that have, man also has a deficiency that exists in him. Most of them also have the same attributes as other beings and are created with elements that are also present in other creations.⁶

Justice is familiar to Indonesians so that the term can gain great attention in Islam. In Islam, justice is a foundation that must be followed. Even God himself

⁵ Desri Ari Enghariano, *Karakteristik Manusia Dalam Karakteristik Al-Qur'an*, Jurnal Al-Fawatih: Jurnal Kajian Al-Qur'an Dan Hadist, Vol. 1. No. 1 (2020), Hal. 2.

⁶ Ahmad Sainul, *Konsep Hak Milik Dalam Islam*, Jurnal Al-Maqasaid: Jurnal Ilmu-Ilmu Kesyarahan dan Keperdataan, Vol. 6, No. 2 (2020), Hal. 198.

has a fair attitude that should be exemplified by every one of His people. Increasing the number of factory workers employed in dangerous and unhealthy workplaces adds to the case of exploitation against them so that the safety and health of workers are neglected.⁷

Therefore, many people, especially the people of Pasar Batahan Village, questioned the decision of the Constitutional Court regarding the elimination of the domicile requirement for prospective village devices. Where the public is still confused about the intent of the verdict.

The difference in nature is not something that is fun either from a social, psychological, economic, worship, and ahlak point of view that is commendable. In this case, a

Muslim must prioritize equality rather than difference.⁸

B. Method

The type of research used is field or qualitative. The study was located in Pasar Batahan Village, Batahan Sub-district, Mandailing Natal District. The source of the data from this study is to use primary and secondary data holistically and by means of description in the form of words and languages, in a special context that alamiah and by utilizing various methods alamiah. Qualitative research type emphasizes its analysis on the process of deductive and inductive inference and on the analysis of the relationship dynamic between the observed phenomena, using natural logic. Data collection techniques using observation, live interviews. So this type of research is research

⁷ Muhammad Arsad Nasution, *Perlindungan Pekerja Menurut Hukum Islam*, Jurnal Yurisprudencia: Jurnal Hukum Ekonomi, Vol. 5, No. 2 (2019), Hal. 121.

⁸ Dame Siregar, *Analisis Hadist-Hadist Tentang Solusi Perbedaan Pendapat*, Jurnal El-Qanuniy: Jurnal Ilmu-Ilmu Kesayahaan dan Pranata Sosial, Vol. 6 No. 2 (2020), Hal. 219.

with a form of field study or field research.⁹

The data source is observation, asking or reading about matters related to variables studied while the data collection techniques are interviews with the community in Pasar Batahan Village, as well as documentation in the form of images together with the community in Pasar Batahan Village related to the Constitutional Court of Indonesia decision on the elimination of domicile requirements for village apparatus candidates.

C. Discussion and Research Results

Implementation is an action or implementation of a plan that has been arranged in detail and mature. Based on the results of an interview with the Head of Pasar Batahan Village, Batahan Sub-district, Mandailing Natal District. form of implementation, namely, Socialization directly, the Head of

⁹ Sugiyono, *Metodologi Penelitian Kualitatif*, (Bandung : Alfabeta, 2010), hal. 25.

Village in this case conducts socialization directly to the community related to the elimination of domicile requirements to be implemented in Pasar Batahan village in accordance with the regulations that have been regulated by the Constitutional Court which according to the regulation village apparatus candidates are not burdened with domicile requirements that means it can be from outside the local village domicile.

Capital markets are an important instrument of the world economy today. Public investment in the capital market is a source of corporate financing. Capital market is a medium that bridges many economic actors who are over-capital and who need capital by crossing state boundaries.¹⁰

¹⁰ Sawaluddin Siregar, *Perspektif Hukum Islam Mengenai Mekanisme Manipulasi Pasar Dalam Transaksi Saham Di Pasar Modal*, Jurnal Yurisprudencia : Jurnal Hukum Ekonomi , Vol. 3, No. 2 (2017), Hal. 70.

Everything on earth belongs to Allah SWT, according to Islamic teachings that Allah SWT is the true and absolute owner of the universe. It is God who gives mankind countless gifts and sustenance. The people with their possessions are the trustees and the caliphs. So all wealth and property belongs to God, man has it only temporarily, solely as a trust or gift from God.

After the implementation of the next socialization, the Village Head together with the Implementing Team conducted a network and screening to select village device candidates in accordance with the characteristics set by the government.¹¹

After the implementation of networking and filtering, then the Head of Village asked for consultation with the Sub-District to obtain recommendations for approval of prospective village

¹¹ Syafar alim Siregar, *Pengedar Narkoba Dalam Hukum Islam*, Jurnal Al-Maqasid: Jurnal Kesyariahan dan Keperdataan, Vol. 5. No. 1 (2019), Hal. 111.

devices. After being given approval by the Camat through a letter of recommendation, the Head of Village together with the Sub-District made the appointment of the selected village device candidate.¹²

The factors in the implementation of the Constitutional Court of Indonesia Decision No. 128/PUU-XIII/2015 on the elimination of domicile requirements for village apparatus acandidates in Pasar Batahan Village, Batahan Sub-district, Mandailing Natal District, namely the Education Factor in which the community asks that the candidate of the selected village apparatus actually has the capacity to serve as a village apparatus, because later the village apparatus will answer any challenges or problems in the community.¹³

¹² Interview with The Head of Pasar Batahan Village Mr. Asbul at his Residence on April 2021

¹³ Interview with Secretary of Pasar Batahan Village, March 17, 2021, at Pasar Batahan Village.

The educational background strongly supports the quality of performance of the village apparatus, so that the objectives of the village can be carried out properly and achieved in accordance with the vision and mission of the village itself. In addition, Education can also provide factors whether a person has the capacity or not because in the world of work experience is not enough, must have extensive knowledge in order to solve problems in the village.

Pasar Batahan Village is one of the villages whose education level is still sufficient, considering the high population of people who do not attend school is 308 out of 1,596 so we need a village apparatus candidates that is able to give a positive impact to the village community.

In the implementation of Constitutional Court of Indonesia decision related to the elimination of domicile requirement for village apparatus candidates there are still

many who do not understand how it is implementation, because of the educational factors of those who still do not believe and are confident in the decision will be allowed candidates of village apparatus from outside the domicile so that this makes the Village Head and Team difficult in explaining the intent of the verdict.

Other factors are the customary factors, where the community still maintains local wisdom so that the implementation of the constitutional court ruling related to the elimination of domicile requirements for village apparatus candidates is a little difficult because the community still maintains the village apparatus candidates that come from the village area itself to maintain the local wisdom of the community that has been maintained and implemented by the community.

In the selection of village apparatus candidates, the Village Head and the Implementing Team

must ask permission, advice and input to indigenous leaders (Niniak Mamak) on the candidates who will be received as village apparatus in Pasar Batahan Village. The Indigenous People (Niniak Mamak) requested that the candidate who later became a village apparatus in Pasar Batahan Village must have knowledge of the customs prevailing in the village so that in carrying out their duties do not violate the local customs rules.

In the customary rules in Pasar Batahan Village, village apparatus would be good to come from the village itself that understands and knows the customary regulations in the Pasar Batahan Village, to facilitate indigenous figures in conveying input without having to explain in detail to the village apparatus later and know the cultural conditions of the surrounding community.

In addition, social factors are also a very influential factor in the implementation of this

constitutional court ruling related to the elimination of domicile requirements for village apparatus candidates in Pasar Batahan Village. The community requested that the village apparatus candidates are people who understand the social situation and problems that can occur in Pasar Batahan Village so that the purpose of the village can be carried out properly and facilitate the community in conveying their aspirations without having to explain the purpose widely.¹⁴

Public relations in Pasar Batahan Village are very strong so that their local wisdom is still maintained this is seen when there is an activity then the community will work together to complete the activity. This has a very strong influence for the implementation of constitutional court of Indonesia decision regarding the elimination of domicile requirement for village

¹⁴ Interview with Mr. Irsal Pariadi (Sub-district of Batahan) and Asbul (Head of Pasar Batahan Village) at Their Residence on April 2021

apparatus candidates in Pasar Batahan Village.

Social is a factor that includes family relationships, worker views, political freedom and public relations. Against the implementation of constitutional court of Indonesia decision related to the elimination of domicile for village apparatus candidates, especially in the Pasar Batahan Village, social factors greatly influence the implementation of the verdict, considering the community of Pasar Batahan Village is a community whose natives are from the region and have a social where they are slightly closed to the social culture outside area.

Social villagers of Pasar Batahan Village wants a village apparatus that will be in charge in the Pasar Batahan Village should actually be people who have a high social spirit in order to facilitate the community in establishing cooperation relationships in terms of conveying their suggestions or

aspirations related to the development of local villages. Because when the village device lacks social soul, it will make it difficult for the community in sharing affairs related to the surrounding community.

D. Conclusions

The implementation of Constitutional Court of Indonesia decision No.128/PUU-VIII/2015 on the elimination of domicile requirements for village apparatus candidates has been implemented, where on November 30, 2016 a networking and screening of candidates for village apparatus was carried out, previously candidates from outside the domicile who were not local residents were not accepted by the Constitutional Court decision, candidates from outside the domicile were accepted and there were candidates for village apparatus who came from outside Pasar Batahan Village who registers as village officials by taking a written test conducted by the examiner team.

In its implementation, the community, especially the Pasar Batahan Village community, is still very sensitive to this situation and some of the community leaders do not understand and are pleased with

the decision and the implementation of constitutional court of Indonesia decision on the elimination of domicile requirement for village apparatus candidates actually has several inhibiting factors, namely education, social, customs and some who want village apparatus candidates to come from their own villages to maintain and understand village local wisdom and facilitate the community in various affairs. However, they remain obedient to the decisions that have been set by the Constitutional Court as a reference in the selection of candidates for village officials regardless of domicile status.

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influence the implementation of the verdict, considering the community of Pasar Batahan Village is a community whose natives are from the region and have a social where they are slightly closed to the social culture outside area.

In Islamic law there is no law that prohibits, selecting candidates from outside any domicile as long as they are not from the infidel group, and having high integrity and capacity in their work, as well as finding a good personal attitude in becoming a leader.

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