

Assessing The Authority Of The Village Head Of Buba'a District Of Boalemo Regency Beach District In The Appointment And Dismissal Of Village Devices

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ARTICLE INFO	ABSTRACT
<p>Keywords :</p> <p>Authority; Supervision; Stops..</p> <p>How To Cite : Harun, I., Junus, N., Tome, A. H. (2019). Assessing The Authority Of The Village Head Of Buba'a District Of Boalemo Regency Beach District In The Appointment And Dismissal Of Village Devices. <i>Estudiante Law Journal</i>. Vol. 1 (2): 891-904</p> <p>DOI :</p>	<p>The purpose of this study is to find out how the role of the Village Consultative Agency in supervising the performance of the village head in Buba'a village of Paguyaman Pantai Subdistrict and knowing what factors hinder the supervision of village performance in Buba'a village of Paguyaman Pantai Subdistrict. This research uses normative-empirical research methods with descriptive data analysis techniques with more descriptions of interview results, observations, and documentation studies. The results of this study show that first, the authority of the head of Buba'a Village, Boalemo District Beach District in the appointment and dismissal of village devices has not been by the applicable rules, where for almost three years running in the appointment of village devices recruiting outside communities. This is certainly not by what is mandated by Law No. 6 of 2014 concerning villages. In addition, in the appointment or dismissal of Buba'a Village devices, there is no communication between the village head or the local cat. Second, the factors that hinder the performance of the head of Buba'a Village in the appointment and dismissal of village devices are (1) Factors from within the head of Buba'a Village itself because he ignores the applicable rules; (2) The outside factor as a supporter of the performance of the village head is the function of BPD in monitoring the performance of the village head has not been effective; (3) There is no good 2-way communication between the village chief of Buba'a and the local cat in terms of the appointment and dismissal of village devices.</p>

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I. INTRODUCTION

The Unitary State of the Republic of Indonesia implements a decentralized system in organizing the government. Decentralization policy gave birth to local governments that have a *political variety* to channel local *voices* and local *choices*.

Decentralization is intended as an instrument that can accommodate the aspirations of people who are classified as a compound with diverse conditions and potentials.¹ In line with the changes in the reform, one of the important elements that always accompanies the implementation of decentralization is the establishment of local regulations. The authority to establish local regulations is one form of regional independence in regulating local government affairs.²

The centralistic pattern of development in its history has proven to have failed and a new paradigm of development is developed, namely, the development paradigm that involves the participation of society at large through the improvement of *civil society*,³ So that the development goal is from the community by the community and for the community can be achieved. After the collapse of the new order power, Indonesia experienced many changes in its state system, not least reforms in the field of local government systems. Regional autonomy has provided ample wiggle room for the community to be active and participate in development.

Currently, there has been a change in patterns in political life and statehood in Indonesia, namely from the authoritarian system to the democratic system, and from the centralistic system to the autonomous system. The paradigm shift has certainly had an impact on the legal system embraced so far which focuses on legal products that are more in favor of the interests of the ruler than the interests of the people, and legal products that prioritize the dominance of the interests of the Central Government rather than the interests of local governments.⁴

As a consequence of these reforms, the implementation of regional autonomy and decentralization is a program that must be realized to create democracy and equitable development in the region by the ideals of the 1945 Constitution. By the provisions of Article 18 of the Constitution of the Republic of Indonesia of 1945, the State of Indonesia is divided into several large and small regions with the form of its governance structure

¹ Benyamin Hoessein. Dalam Pengantar Buku Peta Konsep Desentralisasi dan Pemerintahan Daerah. Karya Khairul Muluk. ITS Press. Surabaya. 2009. Hal iii.

² Reny Rawasita, et al. Menilai Tanggung jawab Sosial Peraturan Daerah. Jakarta : Pusat Studi Hukum dan Kebijakan Indonesia (PSHK), 2009. Hal 60

³ Rozi, S., Noor, F., Gayatri, I. H., & Pabottingi, M. (2021). *Politik Identitas: Problematika dan Paradigma Solusi Keetnisan Versus Keindonesiaan di Aceh, Riau, Bali dan Papua*. Bumi Aksara.

⁴ Romli Atmasasmita, "Menata Kembali Masa Depan Pembangunan Hukum Nasional," Seminar Pembangunan Hukum Nasional VIII yang diselenggarakan oleh Badan Pembinaan Hukum Nasional, Departemen Kehakiman dan Hak Asasi Manusia RI, Denpasar, 14-18 Juli 2003, hlm.1

stipulated by law by considering and remembering the basis of consultative in the state government system and the rights of origin in areas of a special nature. Therefore, the State of Indonesia is an *eeheidsstaat* then Indonesia will not have an area in its environment that is *staat as well*.

The area in Indonesia will be divided into provincial areas will also be divided into smaller areas. In areas that are autonomous or mere administrative areas, all according to the rules that will be stipulated by law, in areas that are autonomous will be held regional representative bodies because in the regions the government will be alone based on consultative. The Republic of Indonesia respects the position of special regions and all State regulations regarding those areas will remember the rights of the origin of the area. Indonesia as a welfare law state as referred to in the sense of *Welfare State*, which is stated in the fourth Alenia of the opening of the Constitution of the Republic of Indonesia in 1945 which under the provisions then the state is tasked to realize the duty of the state, namely the welfare of its citizens. For the implementation of government, where this is regulated in the provisions of article 2 paragraph (1) and (2) of Law No. 23 of 2014 on Local Government that the Unitary State of the Republic of Indonesia is divided over provincial areas and provincial areas are divided over districts or cities and districts or cities divided over sub-districts and sub-districts divided over villages or villages.

Then in the general provisions of article 1, number 43 of Law No. 23 of 2014 on Local Government mentioned that the understanding of village is the unity of legal communities that have territorial boundaries that are authorized to regulate and take care of the interests of the local community, based on the origins and local customs recognized and respected in the system of government of the Unitary State of the Republic of Indonesia. Based on this understanding, it will provide the basis towards a *Self Governing Community* which is a community that regulates itself.⁵ With the understanding of the village has the authority to organize and take care of the interests of the community by local socio-cultural conditions.

The perspective of legal reform in Indonesia should be based on several things, among others, *restorative justice approach*, medium ultimatum approach, institutional reform of law enforcement agencies.⁶

So the position of the village has a very strategic original autonomy that requires balanced attention to the implementation of regional autonomy because with autonomy, the village is very strong will significantly affect the realization of regional autonomy. Whenever there is harmony between peace and order, peace will be achieved in society.

⁵ Rizani, M. D., Rahayu, T. I., & Permana, I. (2021). Implementasi Kebijakan Sanitasi Saluran Air Di Desa Wonosari Kecamatan Bonang Kabupaten Demak. *Public Service and Governance Journal*, 2(01), 12-20.

⁶ Kasim, R. (2020). Dehumanisasi Pada Penerapan Hukum Pidana Secara Berlebihan (Overspanning van het Straftrecht). *Jambura Law Review*, 2(1), 1-29.

Thus, it is expected that the village heads can build peace; It means that there is no restraint on freedom and no disturbance to order.

Peace is the purpose of the law that is intended through legal certainty and legal intercession. Thus the function of the village head is to apply the law as a means to control and renew the community so that the field of law occupies a central point in people's lives.

The head of the village in carrying out the task of development and the implementation of services to the community must pay attention to the relationship of working partnerships in the implementation of their government. Partnership in the implementation of village government is intended to help carry out development tasks and provide services to the community. In article 26 paragraph 2 letter (b) of Law No. 6 of 2014 on Villages, the village head is authorized to appoint and dismiss village devices, therefore the village head must be selective in the appointment and dismissal of village devices that are by the needs of the village in running the village government. Where the requirements for the appointment of village devices are stipulated in Article 50 of Law No. 6 of 2014 concerning Villages:

- a. The village device as referred to in Article 48 is lifted from residents who meet the requirements:
 1. The lowest educated public high school or equivalent.
 2. 20 (twenty) years old to 42 (forty-two) years old.
 3. registered as a resident of the Village and residing in the Village at least 1 (one) year before registration.
 4. other conditions specified in the District/City Regional Regulation.
- b. Further provisions regarding village devices as referred to in Article 48, Article 49, and Article 50 paragraph (1) are regulated in the District/City Regional Regulation based on Government Regulations.

In line with the implementation of elections and dismissal of village devices, the village head is authorized to appoint and dismiss village devices by procedures stipulated in Law No. 6 of 2014 on Villages and Government Regulation No. 43 of 2014 on Regulation of Implementation Regulation of Law No. 6 of 2014 on Villages and continued District Regulation on Village Devices. However, in fact, by the provisions of Article 22 paragraph (1) letter c of Boalemo Regency Regional Regulation No. 2 of 2018 on The Implementation of Village Government, there is a violation of the provision by one of the bubba's village device, where the village device is not from the village where he works even until elected as a buba'a village device he still lives in his home village. Based on the provisions of Article 22 paragraph (1) letter c of Boalemo Regency Regional Regulation No. 2 of 2018 concerning the Implementation of Village Government states:

"the village *Device is lifted from villagers who meet the requirements of being registered as villagers and residing in the village at least 1 year before registration.*"⁷

The existence of village devices is often a polemic to the process of lifting and stopping village devices given the limited number of village devices, while many local people want village devices as a form of community service, so the problem arises with the interpretation of who is authorized to lift and dismiss village devices.

Based on the background above, the problems in this study are as follows: How to evaluate the authority of the head of Buba'a Village District of Boalemo Regency Beach District in the appointment and dismissal of village devices? And what hinders the head of Buba'a Village Of Boalemo Regency Beach District In the removal and dismissal of village devices?

II. RESEARCH METHODS

This research is a type of empirical normative research, meaning that this research is based on the merger of normative legal approaches with the addition of various empirical elements, and the approaches used are the statutory approach and the case approach. The analytical technique used is descriptive analysis, where the data analysis used is a qualitative approach to primary and secondary data.

III. ANALYSIS AND DISCUSSION

3.1 Evaluation of the Authority of the Village Head of Buba'a District of Boalemo Regency Beach Paguyaman district in the Appointment and Dismissal of Village Devices

The village is not just his government or just the Village Chief who is always seen. But the village head does occupy the highest position in community life in the village. Law No.6/2014 has placed the village head not only as an extension of the government but as a community leader. The meaning that can be taken here the village head must take root close to the community, while protecting, protecting, and serving the local community.⁷

The scope of the village head's leadership style can be used as a benchmark against the direction of the village's objectives. Within the scope of village leadership, the village head's leadership style is directed to improve the achievement of the village government organization's objectives.⁸ The leadership style of a village chief is responsible for

⁷ Haerah, K., & Argarini, Z. (2017). Peran Pemerintah Desa Dalam Melestarikan Budaya Tari Seblang (Study Kasus Di Desa Olehsari Kecamatan Glagah, Kabupaten Banyuwangi). *Politico*, 17(1).

⁸ Ahmad, A., & Nggilu, N. M. (2020). Denyut Nadi Amandemen Kelima UUD 1945 melalui Pelibatan Mahkamah Konstitusi sebagai Prinsip the Guardian of the Constitution. *Jurnal Konstitusi*, 16(4), 785-808.

carrying out the basic duties of government. In carrying out these tasks must be carried out evenly to provide quality public services. Leadership style in the public service bureaucracy is very influential in determining the results of work performance in performing public services, the emergence of various cases of conflict in the countryside such as structural conflicts, conflicts of interest, conflicts of value, and data conflicts where the problem can be overcome depending on the performance of the leadership style work owned by the village head.

In the implementation of village government, something is interesting from Buba'a Village District Of Boalemo Beach District When compared to villages in other Boalemo Regency, where the problem by the community is the appointment of village devices that are not by applicable regulations, where village devices raised do not come from the local Buba'a Village even though in Buba'a Village itself many human resources can be raised as devices. village.

When analyzed, the head of Buba'a Village has a fairly *Paternalistic* leadership style. Where *paternalistic* leaders are generally found in traditional societies, paternalistic leaders can be seen from family relationships and/or primordial bonds, very large customs on behavior, personal relationships that still stand out, and prominent personal relationships result in the mechanism of appointment of bubba's village devices in question. In terms of the size of Buba'a Village related to the leadership style of the village head is more influential on the figure of respected people, so this also affects the governance of the village.

The leadership style that occurs in Buba'a Village also directly affects changes in community behavior, whereas, for the people of Buba'a Village, the figure of the village head has always been a barometer of the activities in the village. The community has become dependent on all its activities related to the village so that the village head has always been a role model for the community, it can be said that the village head of Buba'a has become a unifying citizen or local community, but has not been able to shift dependency and change the community's erosion not to rely only on the village head for *social control* in governance in particular.

3.1.1 Authority of the Village Head in Appointing and Dismissing Village Devices Based on Law No. 6 of 2014 on Villages

1. Village device removal

Furthermore, it is mentioned in Article 49 Undang-Undang No. 6 of 2014 that the village device is tasked with assisting the village head in carrying out his duties and authority, and in the case of the appointment of village devices by the village head mentioned in paragraph (2) that the Village Head in lifting the village device first consults the Camat on behalf of the regent/mayor and against the village device that is appointed fully responsible to the village head,

Before the village device is determined to be a village device based on the decree of the village head must fulfill the conditions as a village device mentioned in Article 50, namely:

1. The lowest educated public high school or equivalent
2. Aged 20 (twenty) years to 42 (forty-two) years
3. Registered as a villager and residing in the village at least 1 (one) year before registration
4. Other conditions specified in the District/City Regional Regulation.

Against further arrangements on village communities are regulated in Government Regulation No. 43 of 2014 on The Implementation Regulation of Law No. 6 of 2014 on Villages and Regulation of the Minister of Home Affairs No. 83 of 2015 on The Appointment and Dismissal of Village Devices there are additional conditions specifically given authority to the region about the origin of the local village, The condition of the village device also based on Permendagri 83 the year 2015 mentions the existence of administrative requirements in Article 3 mentioned including:

1. Identity Card or Certificate of residence at least 1 (one) Year before registration from The Neighboring Pillar or Rukun Local Residents.
2. Affidavit of fear to God Almighty made by the concerned on stamped paper.
3. The Statement Letter upholds and practices Pancasila, the Constitution of the Republic of Indonesia of 1945, maintaining and maintaining the integrity of the Unitary State of the Republic of Indonesia and Bhinneka Tunggal Ika, made by the concerned on seal paper or sufficiently stamped.
4. Diploma of education from the elementary level up to the last diploma legalized by the competent authority or affidavit from the competent official.
5. Birth Certificate or Certificate of Birth.
6. Certificate of able-bodied from Puskesmas or authorized health officials.
7. Application Letter to Be a Village Device made by the concerned on seal paper or stamped sufficiently.

The appointment of village devices in addition to having conditions that must be met also has a mechanism mentioned in Article 66 of Government Regulation No. 43 of 2014 concerning the Implementation Regulation of Law No. 6 of 2014 concerning Villages, that meantime the appointment of village officials is with the following mechanism:

1. The village head conducts the networking and screening or selection of prospective village devices.
2. The village head consults with the cat or other designation regarding the appointment of village devices.
3. Camat or other designation provides written recommendations that contain prospective village devices that have been consulted with the village head.
4. Written recommendations came or other designations are used as the basis by the village head in the appointment of village devices by the decision of the village head.

In the Regulation of the Minister of Home Affairs No. 83 on the Appointment and Dismissal of Village Devices mentioned in more detail technically on the implementation of the appointment of village devices mentioned in Article 4, namely:

1. The village chief can form a team consisting of a chairman, a secretary, and at least one member.
2. The village head conducted the networking and screening of prospective village devices conducted by the Team.
3. The implementation of networking and screening of prospective village devices is carried out no later than 2 (two) months after the position of the Village device is empty or dismissed.
4. The results of networking and screening of prospective village devices at least 2 (two) candidates are consulted by the village head to the cat.
5. Camat provides written recommendations to prospective village devices no later than 7 working days.
6. Recommendations given in the form of approval or rejection based on the specified terms.
7. If the cat approves, the village head issues the village chief's decision on the Appointment of Village Devices.
8. In case the cat recommendation contains rejection, the village head conducts networking and re-screening of prospective village devices.

Against the team referred to at point (a) given to the village to regulate the stated in the village regulations as mentioned in Article 4 paragraph (2) of Permendagri Number 83 of 2015.

In the appointment of village devices by the village head is not an absolute inherent authority against the village head of his own accord without having to consider the conditions as a village lift and the mechanism of lifting village devices, purposes networking and filtering carried out of the course to get good results, namely village devices that are appointed in a good work ethic and professionalism.

The village head in lifting the village device must comply with the provisions on the mechanism of lifting village devices, the authority in issuing and establishing village devices is very disputed with the terms and meantime one of the most obvious is with the involvement of the cam to give recommendations in writing to the village head to lift the village device thus the village head against the authority to lift village devices there is involvement. Camat as the main policyholder, the village head is only limited to issuing a decree on the appointment of village devices but greater authority is given to the regent represented by the cat as the executor of the task.

The authority of the village head in lifting village devices obtained attribute all with the authority to issue a decree on the appointment of village devices must not act on personal and class interests but must still be preceded by the mechanisms in the laws and regulations.

2. Village device stop

It is stated in Article 53 concerning the termination of village devices where village devices stop due to:

1. Die.
2. Request itself or.
3. Dismissed.

Against the reason for the dismissal of the village device above which further needs to be discussed is the village device that was dismissed, in this case, dismissed by the village head based on his authority to issue a decree based on Article 52 paragraph (2) mentioned that the village device was dismissed because:

1. The age is sixty years old.
2. It's not fixed.
3. It no longer qualifies as a village device.
4. Violating the ban as a village device.

Because the dismissal of the village device above is based on the decision letter of the village head with the mechanism mentioned in Article 53 paragraph (3) which states that the village device that was dismissed based on the decision of the village head first consulted the cat on behalf of the regent/mayor. This means that the village head has no right to stop the village device for no apparent reason.

One of the reasons mentioned above as the basis for the dismissal of village devices is that village devices violate the ban as village devices, prohibition as village devices are mentioned in Article 51 of Law No. 6 of 2014 concerning villages, namely:

1. Harming the public interest.

2. Make decisions that benefit yourself, family members, others, and/or certain groups.
3. Abuse of its authority, duties, rights, and/or obligations.
4. Discriminatory acts against certain citizens and/or groups of society.
5. Doing an act unsettling a group of villagers.
6. Collusion, corruption, and nepotism, receiving money, goods, and/or services from others that may influence the decisions or actions they will take.
7. Become a political party administrator.
8. Become a member and/or administrator of a prohibited organization.

The dismissal of village devices is not only done at permanent dismissal as a village device but can also be dismissed which is temporary as mentioned in detail in Article 6 of Regulation No. 83 of 2015, namely:

1. The village device was temporarily dismissed by the Village Chief after consulting with the Camat
2. Temporary dismissal of village devices as referred to in paragraph (1) because:
 - 1) Designated as a suspect and detained
 - 2) Designated as a defendant
 - 3) Caught in the hand and detained

The village device that is temporarily dismissed as referred to in paragraph (2) is free or not found guilty by the Court and has permanent legal force or craft returned to its original position. The dismissal of village devices by the village head who is the authority must also still refer to the mechanism of dismissal of village devices that have been arranged so that the authority can only be attached to the village head if the conditions of dismissal and the termination mechanism are appropriate in their application.

The reason for dismissal must be by the conditions set by the rules not based on the political interests of the village head and personal judgment, thus will be able to create harmony in community life with a spirit of unity and brotherhood. Professional village devices are the main key to village development with satisfactory quality of service for all communities, the existence of less professional village devices must still be fostered and trained in carrying out their duties and functions so that dismissal based on the will of the village head's assessment is not a solution but will be the beginning of unstable community conditions and trigger conflict.

If there is harmony between peace and order, peace will be achieved in society. Thus, it is expected that the village heads can build peace, meaning that there is no restraint to freedom and no disturbance to order. Peace is the purpose of the law that is intended through legal certainty and legal intercession. Thus the function of

the village head is to apply the law as a means to control and renew the community so that the field of law occupies a central point in people's lives.

The head of the village in carrying out the task of development and the implementation of services to the community must pay attention to the relationship of working partnerships in the implementation of their government. Partnership in the implementation of village government is intended to help carry out development tasks and provide services to the community. In article 26 paragraph 2 letter (b) of Law No. 6 of 2014 on Villages, the village head is authorized to appoint and dismiss village devices, therefore the village head must be selective in the appointment and dismissal of village devices that are by the needs of the village in running the village government.

In line with the implementation of elections and dismissal of village devices, the village head is authorized to appoint and dismiss village devices by procedures stipulated in Law No. 6 of 2014 on Villages and Government Regulation No. 43 of 2014 on Regulation of Implementation Regulation no. 6 of 2014 on Villages and continued District Regulation on village devices.

Basically when the village head performs the lifting and dismissal of village devices must refer to some of the rules described above. In addition, explicitly for Gorontalo, Boalemo Regency itself refers to Article 22 paragraph (1) letter c of Boalemo Regency Regulation No. 2 of 2018 concerning the implementation of village government.⁹

However, in this case, there was a mistake in the removal of village devices, based on some of the above regulations, one of the village devices appointed by the village chief Buba'a did not comply with the applicable rules. Where according to Regulation No. 2 of 2018 Article 22 paragraph 1 letter c states:

"The village device is lifted from villagers who meet the requirements of being registered as villagers and residing at least 1-year before registration".

The thing at issue by the community is the appointment of village devices that are not by applicable regulations, where the village devices raised do not come from bubba's village itself even though in Buba'a village itself many human resources can be appointed into village devices.¹⁰

During his tenure, the head of Buba'a Village very rarely stopped village devices, but he often rotated or added village devices, for example in this case initially Tasrik Dunggio, S.H. was a village treasurer then resigned, after that because the village device experienced a vacancy, eventually, the head of Buba'a Village held the recruitment of a new village apparatus, assisted by the P3D Team (Jusman Marjun,

⁹ Hasil penelitian di Desa Buba'a tanggal 7 Juni 2021

¹⁰ *Ibid*

Haman Harun, Ramla Ibrahim) opened vacancies for Kaur Keuangan and Kaur Planning, while for the position of Village Treasurer has been replaced with Kaur Keuangan. This is where the problem occurs, in the process of adding this village apparatus Tasrik Dunggio back to be a village device in the position of Kaur Planning and Kaur Finance where initially was the treasurer that everyone knows that it is a very strategic position now filled by people who are not from Bubaa Village, so this is a matter that has been debated until now.¹¹

In the laws and regulations described above, no law contains about double positions or *double jobs* even the removal of village devices outside of the village community itself.

3.2 Factors that hamper the performance of the head of Buba'a Village District Paguyaman District Boalemo Regency in the lifting and dismissal of village devices

Looking at the case that occurred in Buba'a Village, here are some things that hinder the head of Buba'a Village in terms of the removal and dismissal of village devices:¹²

1. Factor from within the head of Buba'a Village itself because he ignores the rules that apply in terms of the appointment and dismissal of village officials. This should also be the responsibility of the district/district government to further socialize the rules that apply to the village government in carrying out the appointment and dismissal of village officials.
2. The outside factor as a supporter of the village head in terms of the appointment and dismissal of village devices is BPD which should carry out the function of supervision of the governance of the village head to let this happen just like that. Field facts show that it has been almost 3 years of the term of the village chief bubba's and this is still not resolved. In the case of the appointment of BPD, members should also be more filtered so that the village government in carrying out its duties can cooperate well with each other.
3. The appointment and dismissal of village devices is the authority of the village head, but the authority is not absolute but there is the involvement of the cam in approving the appointment and dismissal of village devices, the Camat will consider the reasons for the dismissal and appointment of village devices submitted by the village head by looking at the terms of dismissal and settlement and reviewing the community impact, but in the case of Buba'a Village There is no openness between the cam and the head of Buba'a Village itself in terms of the appointment or dismissal of village devices.

¹¹ *Ibid*

¹² *Ibid*

IV. CONCLUSION

Based on research and discussion, researchers concluded that:

Related to the authority of the head of Buba'a Village, Boalemo District Beach Paguyaman District in the appointment and dismissal of village devices has not been by the applicable rules, where for almost three years running in the appointment of village devices recruiting outside communities. This is certainly not by what is mandated by Law No. 6 of 2014 concerning villages. In addition, in the appointment or dismissal of Buba'a Village devices, there is no communication between the village head or the local cat.

Factors that hinder the performance of the head of Buba'a Village in the appointment and dismissal of village devices are: (a) Factors from within the head of Buba'a Village itself because he ignores the applicable rules; (b) The outside factor as a supporter of the performance of the village head is the function of BPD in monitoring the performance of the village head has not been effective; (c) There is no good 2-way communication between the village chief of Buba'a and the local cat in terms of the appointment and dismissal of village devices.

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