

**THE CONCEPT OF DOMICILE IN FILLING  
GOVERNMENT POSITIONS IN THE REGIONS****Anggi Fitratama Rianto Putra<sup>1</sup>, Rifqi Ridlo Phahlevy<sup>2</sup>**<sup>1,2</sup> Law Study Program, Muhammadiyah University of Sidoarjo, Indonesia[qq\\_levy@umsida.ac.id](mailto:qq_levy@umsida.ac.id)*Received: Feb 22, 2024; Accepted: Mar 29, 2024; Published: Apr 22, 2024;*

**Abstract:** This article discusses the concept of domicile in filling government positions in the regions and discusses how the public can understand the theories of domicile in filling government positions in the regions and discusses the effectiveness of government performance in the regions on the concept of domicile. The research method used is the Normative Method with a legislative approach (Statue Approach) and a conceptual approach, and uses qualitative descriptive analysis to analyze the data. The results of this study show that there are several concepts of domicile in the black law dictionary and there is no specific explanation of the definition of domicile in laws and regulations both at the central and regional levels. As well as the concept of domicile that is relevant for the application of the system or requirements for filling government positions in the Sidoarjo area.

**Keywords:** Concept, Domicile, Government

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The election process for filling positions is often carried out by residents in a settlement or every village and region in Indonesia. Basically, the election to fill the position is chosen through consensus deliberation or the most votes where it is done democratically. In the election requirements regarding domicile, a person must meet the special requirements that the person is a local resident. These requirements are often or even widely listed in village regulations (perdes), regional regulations and regulations or even the Law and the Minister of Home Affairs itself. Many regions or regions include requirements regarding local residents, which causes speculation among the community or even village government officials regarding the requirements of local residents, which means that the person must have a local ID card or domicile.

In domicile there are theories that involve an understanding of where a person lives or resides or a legal entity and how it can affect in various aspects of a person's life. In the theory of legal domicile, it is often used to determine the jurisdiction of the court or legal authority that applies to a person or legal entity. The theory in law regarding domicile explains the criteria for determining domicile, change of domicile, as well as the legal implications and domicile status of a person. Furthermore, there is the theory of residential mobility, in this theory explains the understanding of the movement of people from one place to another. The theory discusses the motives behind migration, such as job search, education, and a better environment [1].

As for the theory of domicile in human geography, this theory explains that domicile is studied as part of the analysis of settlement structure, population distribution, and urbanization dynamics. It also discusses the role of geographical, social, economic, and political factors in the formation and change of human habitation. Then there is also the theory of the influence of the residential environment, in which the theory explains how the residential environment affects the

behavior, social patterns, and well-being of individuals and communities. It can be seen that the theory includes an understanding of the influence of the physical, social, and cultural environment on the daily lives of residents [2].

In addition to permanent residence, the meaning and interpretation of domicile is also found in the determination of law, in the context of law this meaning is used to determine on the jurisdiction of the court, tax obligations, and other legal rights. Then there is also the meaning of domicile, namely regarding citizenship status, where domicile affects citizenship status which requires a person or individual to reside in a place for a certain period of time before they are eligible to obtain citizenship or other rights. Furthermore, domicile also has significant social and economic implications where a person's place of residence can affect access to public services, employment, education and other economic opportunities. Domicile can be an important part of a person's cultural identity, residence is a form of part of an individual's identity and can provide insight into their cultural background and values, values, and experiences. Not only that, domicile is also an important factor in politics, especially in the case of general elections (elections). Domicile often reflects a person's relationship with the community and environment in which a person lives, this includes relationships with neighbors, participation in local activities, and social influence in the local environment [3].

A person's domicile is not just a reflection of where they live, but the domicile also represents the relationships that bind them socially, legally, and personally. A person's domicile impacts his or her access to public services, educational opportunities, and job prospects. In a legal context, domicile determines court jurisdiction and tax liability. Domicile also plays an important role in shaping a person's identity and life experience. Domicile also reflects a person's political and cultural identity and influences their participation in politics and local communities. Therefore, domicile is more than just a physical place, domicile also captures the nuanced interactions that exist between people, communities, and their environment. There are still many people who still do not understand the concept of domicile, where the concept of domicile has a difference in the address on the ID card [4].

Regulations regarding the filling of positions have been regulated in several Laws and Regional Regulations themselves, this has been regulated in Law Number 6 of 2014 concerning Villages, Law Number 24 of 2013 concerning Amendments to Law Number 23 of 2006 concerning Population Administration, Permendagri Number 112 of 2014 concerning the Election of Village Heads and Village Customary Institutions, Regional Regulation of Sidoarjo Regency Number 8 of 2015 concerning the Election of Village Heads, and Perbup Sidoarjo Number 5 of 2020 concerning Regulations for the Implementation of Regional Regulations of Sidoarjo Regency Number 8 of 2015 concerning the Election of Village Heads. This can be the basis for rules for someone who wants to fill a position in his area.

There are several concepts about domicile that are problematic in the interpretation of the concept of domicile in the process of filling positions. This is because there are many concepts that cause differences of opinion between communities, namely the existence of a debate about the concept of local residents in the regulations for the election of the position which is ambiguous and there is no significant explanation. The concept of local residents in the context of office election regulations in general is so that there can be active involvement in carrying out their duties as regional officials and in order to better understand and represent the aspirations of residents or communities in the local area.

There are theories about domicile in elections for office filling in Indonesia. These theories include four parts where the four theories are very important to discuss about domicile in filling the position. This is so that the public can know the true meaning or concept of domsili. Through these theories, it can prevent a problem in the process of filling the position. Because the problem arises due to ambiguity in the concept of domicile where each person or society interprets the domicile differently, thus triggering problems in it.

Filling positions is very important for the government system to ensure that the area around the area can develop and open opportunities for citizens to actively participate in the development or development of their area and be able to understand the needs of the community and accommodate

their aspirations. Regarding the concept of local residents in the regulations for filling positions, there are many problems that may arise in every village or region. The problematic is that there will be discriminatory actions with newcomers. Because with this action, it will be detrimental to newcomers who have this positive contribution but do not yet have a domicile ID card. Because with these provisions, there will be discriminatory actions where newcomers or residents who have not lived for a long time cannot run for RT because there are regulations regarding the obligation of domicile ID cards even though the residents have made many positive contributions to the surrounding residents or even to the village government itself.

The interpretation and meaning of domicile vary, basically the domicile refers to the residence or residence of a person or legal entity. There are several interpretations and meanings of domicile, including permanent residence, legal determination, citizenship status, social and economic interests, cultural and individual identities, political interests, and relationships with communities and the environment. The meaning of the domicile context is so broad that it cannot be just one indicator, but it has profound implications in terms of law, citizenship, identity and participation in society and politics. So that with this in the concept of domicile cannot only be considered mandatory to have a domicile ID card.

In the concept of domicile in filling government positions in the area, the concept is generally used in the requirements of a person who is domiciled on the KTP, with this, a person who wants to run for the position of village head or others, the person must be domiciled on the KTP which is in accordance with the place where he currently lives. For example, if the person runs for the position of head of the RT in Village A, then the domicile requirement is a person who is required to have an ID card domicile in Village A. This poses a problem, namely the existence of an undemocratic election. As once viral about the RT election in Utan Panjang Village, Kemayoran District, Central Jakarta which ended in chaos. This is due to an undemocratic election because there are two candidates but only one is approved, because one of the RT candidates who was not selected is in the area outside the domicile where initially the RT candidate has served as the chairman of the RT for 3 periods, but in this case the RT candidate cannot run again because it is in the area outside the domicile. This has led to the ineffectiveness of domicile requirements that require domicile according to the ID card.

In the concept of domicile in the candidacy of the village head or others, it also has an impact on effectiveness at work. In the concept of domicile requirements that have been explained earlier, namely the concept of domicile according to the ID card where a person or candidate is asked to show proof of domicile on the ID card. Most of the time a person does not always occupy their actual place of residence, with these requirements, a person who has been elected to become a government official where the person's actual place of residence is different from the domicile on the ID card becomes ineffective while working. Because basically their physical presence is not always in the area at the domicile address of their ID card.

Previous research was found by Delilah Kania, Deni Zein Tarsidi, T Heru Nurgiansah with the title The Importance of Legal Domicile Knowledge for Students in Higher Education with the results of research on domicile in Indonesia where the term domicile comes from the Dutch language, namely domicile or woonplaats which means permanent residence. The Indonesian legal dictionary has explained that domicile is a place of residence related to a person who is responsible for himself or herself regarding society and the government, so clearly the domicile must be in accordance with what has been stipulated on the ID card and driver's license and other identification cards.

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Finally, by Alia Harumdani Widjaja with the title Implications of the Constitutionality of the Regulation of the Domicile Requirements for Village Head Candidates with the results of research on the regulations for the election of Village Heads in the provisions of article 33 letter g of the Village Law which states that "village head candidates must meet the requirements: registered less than 1 (one) year before registration". This provision is considered to cut the rights of many residents who want to work as Village Heads but have not yet reached the year of domicile. As well as the implications that can arise from constitutionality on the regulation of domicile requirements for one year for candidates for Village Heads.

From the above studies, there is no explanation of the concept and meaning of domicile used to fill government positions in the regions. Regarding the explanation of the previous research that has been explained above, there is a difference in this study, namely that this study focuses on the concepts and definitions of the domicile which is prioritized in filling positions in the region.

This study discusses the concept of domicile requirements in the regulations for the election of government positions in the village. Where the concept of domicile is considered by the community that the prospective government official in the village has the address on the ID card. The reason is that in laws and other regulations there is no significant mention of the concept of domicile and there is no sentence that refers to the domicile ID card. So the current research author wants to discuss the definition of domicile where in the concept and definition of domicile is not only with someone whose address is on the ID card.

Based on the description of the background above, it has shown the importance of understanding the concept of Domicile related to the filling of government positions in the regions, therefore based on the existing problems, the researcher wants to research related to the concept of domicile with the title Concept of Domicile in Filling Government Positions in the Regions. In this case, the researcher will discuss some of the main points of the problem formulation as follows:

1. What is the meaning of domicile in the framework of filling government positions in the regions?
2. Are the limitations on candidacy requirements in the Regional Regulation in line with the principles of human rights and state traditions in Indonesia?

## Methods

The research method used at this time is using a type of normative juridical method research where this research is carried out by analyzing norms in the selection of filling the applicable position and referring to the analysis of a problem or issue. In general, the juridical review research method involves research and interpretation of the applicable legal provisions regarding a certain case or event. This research uses a statute approach and a conceptual approach. The primary legal materials include:

1. Law Number 6 of 2014 concerning Villages
2. Law Number 24 of 2013 concerning Amendments to Law Number 23 of 2006 concerning Population Administration
3. Permendagri Number 112 of 2014 concerning the Election of Village Heads
4. Permendagri Number 18 of 2018 concerning Village Community Institutions and Village Customary Institutions
5. Sidoarjo Regency Regional Regulation Number 8 of 2015 concerning the Election of Village Heads
6. Regulation of the Regent of Sidoarjo Number 55 of 2016 concerning Guidelines for the Appointment and Dismissal of Village Apparatus
7. PKPU Number 8 of 2022 concerning the Establishment and Work Procedures of the ADHOC Agency for General Elections and Elections for Governors and Deputy Governors, Regents and Deputy Regents, and Mayors and Deputy Mayors

## 8. Civil Code Book One About Persons

Meanwhile, secondary legal materials include Article Journals, Civil Books, and Black Law Dictionary. Primary data and secondary data obtained through this research activity will be selected according to certain objectives, then will be analyzed qualitatively, then presented descriptively, namely by deciphering, explaining, and describing in accordance with the problems in the research with deductive reasoning, namely by drawing specific conclusions from general matters. The method of processing legal materials is carried out by sorting legal materials, namely by examining legal materials to find out whether the legal materials to be analyzed are in accordance with the subject matter and with the systematics of legal materials, namely the preparation of legal materials.

## Results and Discussion

### A. The Meaning of Domicile in the Framework for Filling Government Positions in the Region.

#### 1. Theoretical Meaning of Domicile

Domicile or residence is a place where a person (or legal entity) is considered to always be present or always present to exercise his rights and obligations. The domicile itself is taken from the word *domicilie* or *woonplaats* which means residence. In KBBI, domicile can be interpreted as a person's residence and residence. Juridically, domicile is the place where a person lives and the legal entity present is related to the implementation of obligations and the fulfillment of rights [5].

Conceptually, the scope of domicile meaning can also be traced from the definitions and classifications compiled in the Black law dictionary. In the dictionary, domicile is defined as "domicile of birth, domicile of choice, domicile of origin, domicile of succession, domicile of trustee", in general domicile is interpreted as the residence of a person where the person is present to exercise his rights and obligations [6].

Domicile of birth refers to the place of residence of a person where at the time of his birth also provides a reference point to identify a person in administrative records, especially in terms of birth. Preferred domicile refers to the residence of a person they have chosen or who has been agreed. The original domicile refers to the residence of a person who has been designated as their primary address. Domicile of succession refers to the place where a person lives from the inheritance given by the heirs. The domicile of the trustee refers to the place of residence of a person that has been determined by a trustee. In addition, there are also several definitions of types of domicile in the theoretical meaning of domicile.

Domicile of birth, which is the residential address or residence of a person at the time he or she is born. This is as an address used to register a person's birth at a civil registry office or an institution authorized to take care of population administration. Birth domicile is often used for administrative purposes such as school registration, identity document registration, and other legal processes.

Domicile of choice, which is the residential address or residence of a person who has been chosen or agreed by the person to be their official address, even if it is not the same as their actual residential address. More precisely, the preferred domicile is a domicile that is determined based on a physical presence in a state or territory, coupled with the intention to make it a home. Preferred domicile is also the same as actual domicile, because in this case domicile actually refers to the real and actual residence of a person, where a person actually lives and carries out daily activities in his place of residence. This is different from the official address recorded on the identity document or government administration but does not reflect the actual place of residence. For example, a person has an ID card with an address in region A, but the actual place of residence and work is in region B, in this case area B is the actual domicile.

Domicile of origin, which is a person's residential or residential address that has been designated as a person's official address or primary address in various administrative documents, even though it may no longer be the current residence. The domicile of origin is an address that is usually



used or listed in official identity documents, such as passports, identity cards, to driver's licenses, and can also be used for administrative purposes such as tax payments, voter registration, and motor vehicle registration. The original domicile can still be the same even if the person has moved his place of residence. The original domicile can also be said to be a person's domicile at birth and the domicile comes from a foster parent or determined by law.

**Domicile of succession,** This domicile refers to the residential address or residence of a person which is the legal basis for determining the jurisdiction of the court and the applicable law in resolving legal issues related to a person's inheritance. It can also be said that the domicile of succession is the residence of a person where the heir has a residence or main residence at the time the heir gives his inheritance.

**Domicile of trustee,** domicile that refers to a person's address that has been determined by a trustee for the administrative interests they represent. The domicile of the trustee is different from the actual domicile or place of residence of the trustee. The determination of the domicile of the trustee is generally carried out for certain purposes related to law or administration, such as tax payments, investment management, and the fulfillment of other legal requirements.

According to Subekti, everyone according to the law, is obliged to have a place to live that can be sought. The place of residence is called domicile, as well as legal entities are required to have a certain place of residence. In general, a person has a domicile in the main place of residence, but for people who do not have a certain place of residence, the domicile is considered different where he is really located. Some people have a domicile according to the domicile of others, such as wives, children, and someone in care. In addition, there is also a domicile chosen in relation to a business, for example, an election stipulated in a contract. As for someone who has died, the house of death is the "final domicile" of the deceased person. This domicile of the deceased is important to determine which law applies in the matter of his inheritance, and which judge has the power to adjudicate and in the case of filing a lawsuit against the debts of a deceased person to his heirs.

According to Soetojo Prawirohamdjojo and Asis Safiodinn, domicile consists of the actual place of residence and the chosen place of residence. The actual place of residence is a place related to exercising civil authority in general. The actual place of residence is distinguished between a compulsory place of residence (*afhankelijk*) and a place of voluntary residence (*onafhankelijk*). A compulsory place of residence is a place of residence that does not depend on the circumstances of others but depends on relationships with other people such as the domicile of a wife, a child who is a nurse, a person under parole or a worker. Meanwhile, a voluntary place of residence is a place where a person lives who is free according to his own opinion. The chosen place of residence is a place of residence that is designated as a person's residence by one or more parties in the relationship of deeds, for example in a certain agreement [7].

## **2. Meaning of domicile in laws and regulations.**

Meanwhile, according to civil law, domicile is an official position that can be in the form of a residence, house, office, or city that has a position of rights and obligations in the eyes of the law, which means that the domicile is an address that is in accordance with the current place of residence. The domicile address is sometimes different from the address listed on the ID card [8].

The regulation and definition of domicile in Indonesia has actually been regulated in several legislative products. There are at least two laws that regulate the definition, namely: Law Number 24 of 2013 concerning Amendments to Law Number 23 of 2006 concerning Population Administration and Law Number 6 of 2014 concerning Villages. In addition to the law, there are more specific regulations related to definitions in several implementing regulations, both at the central and regional levels. At the central level, the regulation of the Minister of Home Affairs Number 112 of 2014 concerning the Election of Village Heads and the Minister of Home Affairs Regulation Number 18 of 2018 concerning Village Community Institutions and Village Customary Institutions and at the regional level there are regulations for the Regional Regulation of Sidoarjo Regency Number 8 of 2015 concerning the Election of Village Heads and Regulation of the Regent of Sidoarjo Number 55 of 2016 concerning Guidelines for the Appointment and Dismissal of Village Apparatus.

In the meaning of domicile in Law Number 24 of 2013 concerning Amendments to Law Number 23 of 2006 concerning Population Administration, domicile itself refers to the residential address of a person which is officially stated in documents on population administration. The domicile is the address of a person's residence which is used as a reference in various administrative processes such as in the making of KTP (Identity Card), other population documents, and in various other transactions or official purposes. Another concept of domicile in the Law is to clarify the identity and population status of a person, as well as to provide information about the place of residence that can be used by the government in order to provide services to the citizens. Domicile is also the basis for determining certain obligations, such as the right to obtain public services in an area, as well as the basis for the government in terms of population distribution mapping and development planning. This in the meaning of domicile in Law Number 23 of 2014 shows that domicile refers to a person's place of residence, both permanent and non-permanent which is the juridical basis for his existence in various aspects of society, nation, and state life [9].

In the discussion of domicile itself in Law Number 24 of 2013 concerning Amendments to Law Number 23 of 2006 concerning Population Administration, there are 4 discussions that discuss domicile, but from all of these discussions there is no discussion about the definition of domicile itself.

In the concept of Law Number 6 of 2014 concerning Villages, it is the same as the concept of Law Number 24 of 2013 concerning Amendments to Law Number 23 of 2006 concerning Population Administration, which refers to the address of the residence of a person who is officially registered in the village. In the Village Law, there is the importance of domicile, namely to provide a concrete administrative basis regarding the place of residence of a person or a resident in a village. In this case, there is a connection with various development programs and public services organized by the village government, as well as a basis for various administrative purposes and the identity of the villagers. There are implications for the determination of domicile in the Village Law, namely on participation in community activities, rights and obligations in the structure of village government, and for the purpose of elections (general elections) at the village level. As part of village administration, domicile can also be used as a basis for the creation of various other administrative documents required by villagers. This in Law Number 6 of 2014 is slightly different from Law Number 24 of 2013 where the Law explains directly about domicile while in Law Number 6 of 2014 it does not explain directly about the domicile.

In the discussion of domicile contained in Law Number 6 of 2014 concerning Villages, there are 2 discussions that refer to domicile, but both discussions do not discuss the definition of domicile itself. The Law also does not directly mention domicile, but the Law mentions the place of residence of a person which is the meaning of the domicile itself.

## **B. Domicile as a Condition for the Formation of Village Government Structure (Case Study in Sidoarjo Regency)**

### **1. Regulations Related to Domicile Requirements in Filling Positions in Village Government.**

The regulation of domicile requirements in filling government positions is actually plural in every level and branch of power, both executive and legislative. Even for certain positions, there is a domicile requirement that refers to a certain locality. one of them is the filling of the position structure in the village government [10].

Arrangements related to domicile requirements in filling the structure of village government positions in Indonesia are carried out within the scope of regulation at the ministerial and local government levels, at the ministerial level there are Permendagri Number 112 of 2014 concerning the Election of Village Heads, Permendagri Number 8 of 2018 concerning Village Community Institutions and Village Customary Institutions and PKPU Number 8 of 2022 concerning the Establishment and Work Procedures of the ADHOC Agency for General Election Organizers and Governor Elections and Deputy Governors, Regents and Deputy Regents, and Mayors and Deputy Mayors and at the Regional Government level there are Sidoarjo Regency Regulation Number 8 of

2015 concerning the Election of Village Heads and Sidoarjo Regulation Number 55 of 2016 concerning Guidelines for the Appointment and Dismissal of Village Apparatus. (1) Permendagri Number 112 of 2014 concerning the Election of Village Heads The regulation of domicile requirements in the formation of village government structures in this Permendagri is specifically intended for filling the position of village head. The arrangement is stated in the provisions of Article 21 letter g which reads: *"Candidates for Village Head must meet the following requirements: ... g. be registered as a resident and reside in the local village for at least 1 (one) year prior to registration;"* Based on the formulation of the norm above, the sentence in the article does not specifically not use the term domicile in the series of sentences. However, in this sentence, the terminology "resident and residing in the local village" is used, which conceptually represents domicile or part of the meaning of domicile itself. (2) Permendagri Number 8 of 2018 concerning Village Community Institutions and Village Customary Institutions. The arrangement is stated in the provisions of article 3 paragraph (2) letter b which reads *"The establishment of LKD as referred to in paragraph (1) by fulfilling the requirements: ... b. domiciled in the local village;"* Based on the formulation of the norm above, the sentence in the article does not specifically explain the term domicile in the series of sentences. However, in this sentence the terminology "domiciled in the local village" is used, which conceptually represents the domicile or part of the domicile itself. (3) PKPU Number 8 of 2022 concerning the Establishment and Work Procedures of the ADHOC Agency for General Elections and Elections for Governors and Deputy Governors, Regents and Deputy Regents, and Mayors and Deputy Mayors The regulation of domicile requirements in the formation of village government structures in PKPU is specifically intended for filling members of PPK, PPS, and KPPS. The arrangement is stated in the provisions of Article 35 paragraph (1) letter f which reads: *"The requirements to become a member of PPK, PPS, and KPPS include: ... f. domiciled in the work area of PPK, PPS, and KPPS;"*. Based on the formulation of the norm above, the sentence in article 35 paragraph (1) says that one of the requirements for KPPS members is domicile in the work area, where a person must live permanently in the area that is the area of responsibility or the work area of KPPS. (4) Sidoarjo Regency Regulation Number 8 of 2015 concerning the Election of Village Heads The regulation of domicile requirements in the formation of village government structures in this Regional Regulation is specifically intended for filling the position of village head. The arrangement is stated in the provisions of Article 22 paragraph (1) letter g which reads: *"The requirements to become a Village Head Candidate are: ... g. registered as a resident and residing in the local village for at least 1 (one) year before registration;"*. It can be seen Based on the formulation of the norm above, it is the same as with the Minister of Home Affairs, namely the sentence in the article does not specifically not use the term domicile in the series of sentences. However, in this sentence, the terminology "resident and residing in the local village" is used, which conceptually represents domicile or part of the meaning of domicile itself. (5) Perbup Sidoarjo Number 55 of 2016 concerning Guidelines for the Appointment and Dismissal of Village Apparatus The regulation of domicile requirements in the formation of village government structures in this Perbup is specifically intended for filling village apparatus positions. The arrangement is stated in the provisions of Article 7 paragraph (2) letter e which reads: *"The general requirements for Village Apparatus candidates as referred to in paragraph (1) are local villagers who meet the requirements: ... e. registered as a resident of the Village and residing in the Village for at least 1 (one) year prior to registration;"*. Based on the formulation of the norm above, the sentence in the article does not specifically not use the term domicile in the series of sentences. However, in this sentence, the terminology "resident and residing in the local village" is used, which conceptually represents domicile or part of the meaning of domicile itself.

Of all the domicile requirements in the regulations that have been explained above, there are other conditions that can be used as parameters to understand the meaning of domicile from the provisions above. This is related to the requirements in Article 21 letter h of Permendagri Number 112 of 2014 concerning the Election of Village Heads, and the requirements in Article 22 Paragraph (1) letter I of Regional Regulation Number 8 of 2015 concerning the election of Village Heads. In both regulations, it is stated that there is a condition of "not serving a criminal sentence". This



provision is actually not only related to the context that an official must behave well and not be a prisoner, but also the ability of a person to effectively carry out his duties and responsibilities in the government. Associated with the domicile requirements that exist in, the concept of domicile in the two regulations can be understood as the existing position of a person in the place where he or she serves. A prospective official who will later take office must always be present in a physical state at his place of residence or residence.

Regarding the concept of domicile in Article 3 paragraph (2) letter b of Permendagri Number 18 of 2018 concerning Village Community Institutions and Village Customary Institutions and Article 21 letter g of Permendagri Number 112 of 2014 concerning the Election of Village Heads, the two have similarities to the concept of domicile where the two mention the same requirements where the requirements for the formation of LKD and the requirements for the election of the Village Head are that a person must reside in the local village. Both articles have the same normative formulation, which does not explain specifically about domicile, but both use the terminology "*domicile/residence in the local village*" which conceptually represents the domicile itself.

## **2. Analysis of Domicile Requirements Based on Theory and Legislation.**

The conditions for domicile based on the theory and legislation that have been explained earlier, regarding this matter, basically these conditions are in accordance with or have been implemented according to the principles in the law. Because the content of the conditions that have been explained is the same as what has been listed in the Law above. Regarding the selection of filling positions in Sidoarjo Regency, it uses the theory of origin domicile where a person's place of residence has been determined as a person's official address or main address in various administrative documents, even though it may no longer be the current residence [11].

In the conditions above, it can be seen that some of the regulations that have been explained in the rules regarding domicile which are not written directly with the sentence domicile, namely using the sentence of residence in the local village where it already refers to the concept of domicile. In the domicile requirements in the Permendagri and Perda that have been explained above in the two articles that both read "not currently undergoing a criminal sentence", it can be understood if it is part of the domicile requirement where a candidate for government official in the village must always be present in a physical state at his place of residence. If a person is proven to be serving a criminal sentence, it can be ascertained that the person will not always be present in a physical state at his residence, where if the person runs for the village head, the person is considered not to meet part of the domicile requirements as well [12].

Regarding the domicile requirements contained in PKPU which are listed in Article 35 paragraph (1) letter f which reads: "*The requirements to become a member of PPK, PPS, and KPPS include: ... f. domiciled in the work area of PPK, PPS, and KPPS;*". This is even though it is different in the sentence in the article is basically the same as the domicile requirements listed in the Permendagri, Perda, and Perbup where the requirements in the regulation are about indigenous people or local residents. Because in the PKPU, the requirement for a person who wants to become a PPK, PPS and KPPS is mandatory to be a local resident who will be given a task with a work area according to his domicile.

In the concept of domicile in the Civil Code and KBBI that has been explained above, it has similarities in the concept of domicile, namely with the concept where the domicile is every person is considered to reside in the center of his residence, which also means where a person is considered to always be present or always physically present to carry out his rights and obligations.

In this case, the domicile theory used in Sidoarjo Regency basically runs in accordance with the above Law. To determine the domicile benchmark in Sidoarjo itself, candidates are asked to show proof of their domicile from the village concerned. This can be the address listed in an official identity document such as an ID card or KK. In determining the certainty of domicile theory in the election for filling positions in relevant regions, namely by doing the theory or meaning of preferred domicile. Because in this theory, a person more often lives in the area that has been chosen as his residence. This is very relevant for the requirements regarding domicile in the election for filling positions in

the regions, both the Chairman of RT and the Village Head. Compared to using the original domicile, where it is possible that a person is domiciled in the area but physically not always there. Regarding the domicile requirements contained in Permendagri Number 112 of 2014 concerning the Election of Village Heads with the formulation listed in Article 21 letter g which reads: *"Candidates for Village Head must meet the following requirements: ... g. registered as a resident and residing in the local village for at least 1 (one) year prior to registration"*. Based on the black law dictionary, the formulation is included in the type of Domicile of Origin, because the requirement refers to the obligation of a person who is domiciled according to the ID card.

In addition, the domicile requirements contained in Permendagri Number 18 of 2018 concerning Village Community Institutions and Village Customary Institutions with the formulation listed in article 3 paragraph (2) letter b which reads: *"The establishment of LKD as referred to in paragraph (1) by fulfilling the requirements: ... b. domiciled in the local village;"*. Based on the Black Law Dictionary, the formulation is the same as the Minister of Home Affairs Regulation number 112 of 2014 concerning the Election of Village Heads, which is included in the type of Domicile of Origin. The requirements listed in the article refer to the obligations of a person who is domiciled according to the ID card.

The domicile requirements contained in PKPU Number 8 of 2022 concerning the Establishment and Work Procedures of the ADHOC Agency for General Elections and the Election of Governors and Deputy Governors, Regents and Deputy Regents, and Mayors and Deputy Mayors with the formulation listed in Article 35 paragraph (1) letter f which reads: *"The requirements to become a member of PPK, PPS, and KPPS include: ... f. domiciled in the work area of PPK, PPS, and KPPS"*, based on the black law dictionary, the formulation is the same as the previous regulation, which is included in the type of Domicile of Origin, the PPK, PPS and KPPS requirements also refer to the obligations of a person who is domiciled according to the ID card.

The domicile requirements contained in the Sidoarjo Regency Regulation Number 8 of 2015 concerning the Election of Village Heads with the formulation listed in Article 22 paragraph (1) letter g which reads: *"The requirements to become a Village Head Candidate are: ... g. registered as a resident and residing in the local village for at least 1 (one) year before registration"* based on the black law dictionary, the formulation is also included in the type of Domicile of Origin. Because it is the same as the previous regulation, which refers to someone who is domiciled according to the ID card.

The requirements contained in the Sidoarjo Regulation Number 55 of 2016 concerning Guidelines for the Appointment and Dismissal of Village Apparatus with the formulation listed in Article 7 paragraph (2) letter e which reads *"The general requirements for Village Apparatus candidates as referred to in paragraph (1) are local villagers who meet the requirements: ... e. registered as a resident of the Village and residing in the Village for at least 1 (one) year before registration"* based on the black law dictionary, the formulation is included in the type of Domicile of Origin. Because it is the same as the previous regulation, which refers to someone who is domiciled according to the ID card.

**Table 1. The use of the term domicile in the regulation of the requirements for filling government positions in the village.**

No	Regulation	About	Formula	Type Of Domicile
1	Permendagri Number 112 of 2014	Village Head Election	Candidates for Village Head must meet the following requirements: ... g. registered as a resident and residing in the local village for at least 1 (one) year before registration.	Domicile of Origin
2	Permendagri Number 18 of 2018	Village Community Institutions and Village Customary Institutions	The establishment of LKD as intended in paragraph (1) by fulfilling the requirements:... b. domiciled in the local village.	Domicile of Origin
3	PKPU Number 8 of 2022	Establishment and Work Procedures of the ADHOC Agency for General Elections and Elections for Governors and Deputy Governors, Regents and Deputy Regents, and Mayors and Deputy Mayors	The requirements to become a member of PPK, PPS, and KPPS include: ... f. domiciled in the work area of PPK, PPS, and KPPS.	Domicile of Origin
4	Sidoarjo Regency Regulation Number 8 of 2015	Village Head Election	The requirements to become a Village Head Candidate are: ... g. registered as a resident and residing in the local village for at least 1 (one) year before registration.	Domicile of Origin
5	Sidoarjo Regulation Number 55 of 2016	Guidelines for the Appointment and Dismissal of Village	The general requirements for Village Apparatus candidates as referred to in paragraph (1) are local villagers who meet the requirements: ... e. registered as a resident of the Village and	Domicile of Origin

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Apparatus	residing in the Village for at least 1 (one) year before registration.
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### C. **Redefinition of the Concept of Domicile in the Framework of Effectiveness of Village Government Performance in Sidoarjo**

There are factual problems/phenomena in filling positions that occur in the election of the head of RT, this phenomenon occurs in the requirements for the candidacy of the head of RT where it occurs in one of the areas, precisely in housing in Klosepuluh, Sukodono, Sidoarjo. This problem occurred due to the nomination process carried out in the concept of Domicile of Origin. In this concept, it is mandatory that a person or prospective candidate for the head of RT is required to reside according to the ID card. This raises a problem where a person who is not domiciled according to the ID card cannot run for the head of the RT. Not only that, there are other problems, namely where in the area there are only a few people who are domiciled according to the ID card, and not all people who are domiciled according to the ID card want to be made candidates for the head of the RT. This gives rise to a direct appointment method with the provision of fixed conditions, namely residents who are domiciled according to the ID card [13].

The concept of Domicile of Origin also affects the effectiveness of the work of a person who has served as an RT. The effect is that if someone who has served as the head of the RT, especially with the results of direct appointment, then the work of the head of the RT is ineffective. Because the person appointed may only have his domicile according to the ID card, but the person/physical person is not always in the area which is the responsibility of the head of the RT. So what happens will not be met the needs of residents in the RT area and their duties as RT will not be optimal. In this explanation, a conclusion can be drawn where the phenomenon that occurs in the concept of Domicile of Origin in the election of the head of the RT will have an impact where in the nomination process there is injustice or discrimination regarding the limit of a person to participate in the election and the ineffectiveness of a person who has become the head of the RT with the results of the direct appointment, where the needs of the residents will not be met and their duties as the head of the RT will not be optimal. Because the person often moves places and his physical presence is not always in the area that is his responsibility as the head of the RT [14].

In the concept of domicile in the candidacy of the village head or others, it also has an impact on effectiveness at work. The concept of domicile requirements in Sidoarjo Regency that has been explained previously is with the concept of origin where a person or candidate is asked to show proof of domicile on the ID card. Most of the people do not have their actual residence, the existence of these requirements makes a person who has been elected as a government official ineffective when working. Because their actual place of residence is different from the domicile listed on the ID card, basically their physical presence is not always in the area at the domicile address of their ID card [15].

In this case, it can be ascertained that in the concept of domicile at the time of candidacy or election for filling a position in the relevant region, namely using the concept or meaning of preferred domicile because it can be seen again in the definition of domicile which is basically a domicile or also a place of residence, namely a place where a person (or legal entity) is considered to always be present or always present to exercise his rights and obligations. The concept or meaning in the preferred domicile is a person who chooses his place of residence as his permanent residence, where the person is most likely to settle in the place he will choose. There is an example of a case in the domicile and address of the ID card, namely when a person leaves his or her home area as stated on the ID card and settles in another area to work for a long period of time, then his domicile address is a place that is temporarily occupied in carrying out his obligations at work. This has explained that the domicile address and the address listed on the ID card sometimes have a difference. Also keep in mind that the current residential address may be different from the address registered administratively [16].



Related to human rights principles, in the domicile requirements listed in the Regional Regulation and Perbup with the limitation of the minimum time limit for its determination in the area where it resides. It can be ascertained that it still does not meet the principles of human rights, namely the principle of equality and the principle of non-discrimination, because in the conditions of the domicile there is still a minimum period of years/months during the residence. With these conditions, there is a gap or social jealousy regarding other people who want to run for regional office. The requirements for domicile listed in the Regional Regulation and Perbup do not have a specific explanation regarding the minimum population limit set, so that it does not meet the principles in human rights. This is a person who has resided in his area or who has chosen his actual place of residence as his domicile, then it can be ascertained that a person should be able to run for office as a regional official, which should have met the domicile requirements for the nomination of regional officials in the Regional Regulation or Perbup in the absence or outside the minimum limit of the period of residence in the domicile requirements in the Regional Regulation and Perbup [17].

In addition, according to the principle of human rights in the requirements with the concept of Domicile of Origin, namely that participation in government must be meaningful and effective. In the use of Domicile of Origin, which if it is considered no longer relevant, it can lead to an election that does not reflect their actual will and needs. The principle of human rights also emphasizes that all rights and freedoms must be enjoyed without any discrimination. If the rules regarding filling government positions in the region use the Domicile of Origin where a person physically lives in the village where he lives but does not have the original domicile or domicile listed on the ID card in the village where he lives, he does not have the right to run for office, while a person who has an original domicile or domicile listed on the ID card but the person lives elsewhere can still have the right to run for office, then this can cause inequality or discrimination. This means that the concept of Domicile of Origin still does not meet the principle of human rights because with this concept it can cause inequality and discrimination.

## Conclusion

Domicile is something that is often heard among the community and is often used in various requirements and one of them is in filling government officials in the village, where if a person wants to run as a candidate for village head, the person must meet the requirements in the laws and regulations, one of which is the requirements regarding domicile. Domicile itself has many conceptual concepts, including domicile of birth, domicile of origin, domicile of choice, domicile of succession, domicile of trustee. These concepts have different meanings and definitions even though they are basically the same about where a person lives. The concept of domicile in the Civil Code and also according to KBBI has no difference, the two have similarities, namely where the domicile is everyone who is considered to reside in the center of his residence which also means where a person is considered to always be present or always physically present to carry out his rights and obligations.

Many people often define the domicile as someone whose address is listed on the ID card. In fact, domicile itself has various meanings and definitions, it has been listed and compiled in the Black law dictionary and also in the Civil Code. It is important for the community to understand the concept and definition of domicile, because with the lack of understanding of the community, it will give rise to multiple interpretations of the domicile itself. And the effect of mutitafsir itself can cause problems in candidacy and affect the effectiveness of performance in the government in the village itself. This discussion also provides an understanding of the requirements for filling positions related to domicile, namely the condition that reads "not currently serving a criminal sentence". The reason is that this is related to domicile, namely with these conditions, a person who is serving a criminal sentence can be ascertained that the person is not always physically present at his place of residence. Therefore, the domicile must be understood by the public regarding the definition and meaning of domicile, especially in the process of filling government positions in the region. Because the Law and

regulations related to filling government positions in the village do not explain the definition of domicile itself. In this definition, the concept used in Sidoarjo, especially in the election of Village Heads and RTs, where in the requirements in the process of filling government positions in Sidoarjo according to the Regional Regulation and Perbup, it can be ascertained using the definition of Domicile of Origin. This concept is ineffective or irrelevant because there are still many problems that arise due to the concept of Domicile of Origin in the nomination process because in this concept only relies on the domicile listed on the ID card. So the relevant concept for the nomination process for the Village Head and RT is to use the Concept of Choice (Domicile of Choice), because in the concept according to the explanation that has been discussed above, namely that a person will always be present in a physical state because the person has chosen his place of residence as an official place, which automatically the person will always be physically present. If a person is always physically present, then a person will maximally perform his duties as a government official in the village, both the Village Head and the RT, and if a person is always physically present, the needs of the residents will be met.

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