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## **Reformulating Village Head Authority in Issuing Heir Certificates: Surabaya Case under Public Services Law**

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### **ABSTRACT**

*The Regulation of the Minister of Agrarian Affairs and Head of the National Land Agency Number 3 of 1997 concerning Land Registration explains that residents of native Indonesian descent can obtain Heir Certificates at the village office witnessed by the sub-district head, village head, and two witnesses. However, this regulation does not clearly specify the scope of village head authority and the technical procedures for issuing Heir Certificates. These unclear boundaries create legal uncertainty and concern among village heads regarding legal protection in carrying out their duties, including in Surabaya City. Therefore, the Surabaya City Government periodically reformulates articles in the Mayor's Regulations to improve village office performance as the frontline of public services, particularly in issuing Heir Certificates. This normative juridical research employs statutory and conceptual approaches. The findings indicate that regulations governing village head authority in issuing Heir Certificates have implemented most principles of public service outlined in Law Number 25 of 2009 concerning Public Services. To enhance village service performance, reformulation is needed to fulfill several principles including legal certainty, equal rights, professionalism, participation, equal treatment or non-discrimination, accountability, facilities and special treatment for vulnerable groups, timeliness, speed, convenience, and affordability.*

**Keywords:** Authority, Heir Certificate, Public Services, Reformulation, Village Head

## INTRODUCTION

In the hierarchical system of Indonesian governance, the Village Head (Lurah) is a State Civil Apparatus appointed by the Regent or Mayor in accordance with civil service requirements stipulated by applicable laws. The Village Head represents the government assigned to a specific territorial jurisdiction called a village or *kelurahan*.<sup>1</sup> Within this jurisdictional area, the Village Head serves as the primary organizer and person responsible for governance, development, and community affairs. Three administrative matters are entrusted to the Village Head, encompassing governmental administration, population affairs, and land administration.<sup>2</sup>

One land administration product issued by the Village Head is the Heir Certificate. According to Article 1 Paragraph 15 of Surabaya Mayor Regulation Number 50 of 2021, an Heir Certificate is a certificate made by heirs to explain the relationship between heirs and the deceased.<sup>3</sup> The issuance of Heir Certificates is based on population documents. To obtain Heir Certificate services at the village office, applicants must prove their legal eligibility as heirs by submitting required documents and other necessary requirements to the village office.

Good faith from heirs in providing valid population data in Heir Certificate applications is certainly needed so that the asset transfer process from the deceased to heirs can proceed smoothly without problems. However, in practice, disputes or conflicts often occur among family members and relatives, leading to intentions to manipulate certain data. This situation can cause a Village Head to face legal proceedings related to their role in issuing Heir Certificates.<sup>4</sup>

Village Heads' concerns about unclear scope of authority, technical procedures, and legal protection in issuing Heir Certificates have caused some Village Heads to refuse this task and recommend issuance by other parties.<sup>5</sup> Moreover, Village Heads are often positioned as parties who issue various certificates without clear legal basis. Although these concerns are also felt by

<sup>1</sup> S. Mertokusumo, *Bunga Rampai Ilmu Hukum* (Yogyakarta: Liberty, 1984).

<sup>2</sup> Republik Indonesia, *Peraturan Pemerintah Republik Indonesia Nomor 17 Tahun 2018 Tentang Kecamatan* (Indonesia, 2018), <https://peraturan.bpk.go.id/Details/77921>.

<sup>3</sup> Pemerintah Kota Surabaya, *Peraturan Walikota Surabaya Nomor 50 Tahun 2021 Tentang Tata Cara Pelayanan Surat Keterangan Ahli Waris* (Indonesia, 2021), <https://jdih.surabaya.go.id/peraturan/3908>; Republik Indonesia, *Undang-Undang Dasar Negara Republik Indonesia Tahun 1945* (Indonesia, 1945), <https://jdih.dpr.go.id/setjen/index/id/UUD-1945-BAGIAN-PERTIMBANGAN-DAN-DOKUMENTASI-INFORMASI-HUKUM>.

<sup>4</sup> Ni Nyoman Tri Jayanti, Dr. Putu Ayu Sriasih Wesna, and Dr. I Nyoman Alit Puspadma, "Legal Consequences of Deposited Funds to Public Notary before Preparation of Sales and Purchase Agreement," *Journal of Law Theory and Law Enforcement* 3, no. 3 (September 6, 2024): 14–25, <https://journal.jfpublisher.com/index.php/jlte/article/view/607>.

<sup>5</sup> Erki Maulana Putra and Dr. M. Sholehuddin, "Legal Review of Infringement Prosecution under Government Regulation of Indonesia No. 80/2012 Through Telegram Letter of the Head of Indonesian National Police No. ST/2264/X/HUM.3.4.5./2022," *Journal of Law Theory and Law Enforcement* 2, no. 4 (October 27, 2023): 29–46, <https://journal.jfpublisher.com/index.php/jlte/article/view/404>.

Village Heads in Surabaya City, Heir Certificates issued by village offices have become one option for community members among several inheritance certificate services issued by other institutions, mainly because they constitute easily accessible, fast, and free public services. To improve village office performance as the frontline of community services, the Surabaya City Government then reformulated the Regulation of the Minister of Agrarian Affairs and Head of the National Land Agency Number 3 of 1997 concerning Land Registration Article 111 Paragraph 1 Letter C, Point 4 into Surabaya Mayor Regulation Number 75 of 2018, Surabaya Mayor Regulation Number 63 of 2019, Surabaya Mayor Regulation Number 50 of 2021, and Surabaya Mayor Regulation Number 03 of 2022.

According to progressive law perspective, law is an institution that continuously builds and changes itself to achieve higher degrees of perfection.<sup>6</sup> Likewise, policies regarding the Village Head's scope in issuing Heir Certificates need to be periodically improved over time to bring them closer to Surabaya City Government's goal of improving village office service performance.<sup>7</sup> There are 12 principles of public service delivery in Law of the Republic of Indonesia Number 25 of 2009 concerning Public Services Article 4, namely public interest, legal certainty, equal rights, balance of rights and obligations, professionalism, participation, equal treatment or non-discrimination, transparency, accountability, facilities and special treatment for vulnerable groups, timeliness, speed, convenience, and affordability.<sup>8</sup>

The reformulation of Village Head authority in issuing Heir Certificates presents a novel topic worthy of examination. From the emergence of new legal products resulting from reformulation conducted by Surabaya City Government to the necessity of reformulation so existing policies can align with the 12 public service principles will be discussed in this thesis. Ultimately, this research is expected to contribute to the development of legal science, particularly regarding the reformulation of Village Head authority in issuing Heir Certificates.

## LITERATURE REVIEW

### Utility Theory

Bentham in Said states that the state and law exist solely for true benefit, namely the happiness of the majority of society. This theory emphasizes that legal regulations should be designed to provide maximum benefit to the greatest

<sup>6</sup> Suteki, *Masa Depan Hukum Progresif* (Yogyakarta: Thafa Media, 2015).

<sup>7</sup> Republik Indonesia, *Undang-Undang Republik Indonesia Nomor 6 Tahun 2014 Tentang Desa* (Indonesia, 2014), <https://peraturan.bpk.go.id/Details/38582>; Republik Indonesia, *Undang-Undang Republik Indonesia Nomor 23 Tahun 2014 Tentang Pemerintahan Daerah* (Indonesia, 2014), <https://peraturan.bpk.go.id/Details/38685>; Republik Indonesia, *Peraturan Pemerintah Republik Indonesia Nomor 12 Tahun 2017 Tentang Pembinaan Dan Pengawasan Penyelenggaraan Pemerintahan Daerah* (Indonesia, 2017), <https://peraturan.bpk.go.id/Details/5832>.

<sup>8</sup> Republik Indonesia, *Undang-Undang Republik Indonesia Nomor 25 Tahun 2009 Tentang Pelayanan Publik*, 2009, <https://peraturan.bpk.go.id/Details/39210>.

number of people. In the context of Village Head authority in issuing Heir Certificates, this theory provides a foundation for understanding how regulations should be formulated to provide optimal benefits to the community requiring inheritance administration services.<sup>9</sup>

### **Legal Certainty Theory**

Kansil et al. define legal certainty normatively as a condition where a regulation is made to regulate clearly, logically, and does not create doubt that leads to norm conflicts. Legal certainty is essential in the context of Village Head authority because clarity of scope of authority and technical procedures will prevent legal uncertainty and protect both service providers and recipients. Without adequate legal certainty, Village Heads may hesitate to carry out their duties optimally due to fears of legal consequences.<sup>10</sup>

### **Legal Protection Theory**

According to Satjipto, legal protection is a form of safeguarding and protection so that society can enjoy all rights they should receive.<sup>11</sup> Legal protection theory is relevant in understanding the need for clear regulations that not only provide certainty regarding Village Head authority but also provide legal protection for Village Heads in carrying out their duties. This protection is important so Village Heads can work optimally without excessive concern about potential legal risks from carrying out their duties.

### **Progressive Law Theory**

According to progressive law perspective, law is an institution that continuously builds and changes itself to achieve higher degrees of perfection.<sup>12</sup> This theory provides a philosophical foundation for understanding why periodic reformulation of regulations regarding Village Head authority in issuing Heir Certificates is necessary. Law should not be viewed as something static but as something dynamic that must continue to adapt to community needs and develop toward better forms. Progressive law theory supports the Surabaya City Government's efforts in periodically reformulating Mayor's Regulations to improve village office service quality.

### **Reformulation**

The word "reformulation" is a loanword derived from the English term "reformulation." In the Oxford English Dictionary, the word reformulation can be interpreted as the action of recreating or rePreparing something, or even

<sup>9</sup> S. Said, *Pengantar Ilmu Hukum* (Yogyakarta: Total Media, 2011).

<sup>10</sup> C.S.T. Kansil, *Kamus Istilah Aneka Hukum* (Jakarta: Kencana Prenada Madia Group, 2009).

<sup>11</sup> R. Satjipto, *Ilmu Hukum* (Bandung: Citra Aditya Bakti, 2000).

<sup>12</sup> Kansil, *Kamus Istilah Aneka Hukum*.

expressing something in a different way.<sup>13</sup> In the legal context, reformulation refers to the process of revising or restructuring existing regulations to achieve better goals. Reformulation can involve clarifying ambiguous provisions, adding new provisions needed, or adjusting regulations to current conditions and needs.

### Authority

According to Ateng Syarifudin, authority is what is called formal power, namely power granted by law and regulated through regulations therein.<sup>14</sup> Authority is different from power in general because authority has a legal basis and clear limits. In the context of public administration, authority is an important concept because every government action must be based on clear legal authority. Without proper legal authority, government actions can be questioned for their legality.

### Village Head Authority

Village Head is a State Civil Apparatus assigned by the Regional Head (Regent or Mayor) to lead the village area with attention to civil service requirements in accordance with applicable laws and regulations. There are three administrative matters entrusted to Village Heads, including governmental administration, population administration, and land administration.<sup>15</sup> One land administration product issued by Village Heads is the Heir Certificate based on the Regulation of the Minister of Agrarian Affairs and Head of the National Land Agency Number 3 of 1997 concerning Land Registration Article 111 Paragraph 1 Letter C, Point 4 regarding Implementation Provisions of Government Regulation Number 24 of 1997 concerning Land Registration.<sup>16</sup>

Village Head authority in issuing Heir Certificates includes several aspects. First, verifying the completeness and validity of documents submitted by applicants. Second, conducting inheritance assemblies attended by all heirs and witnesses. Third, strengthening Heir Certificates made by heirs themselves. Fourth, storing and managing Heir Certificate archives. However, the scope of this authority is not clearly regulated in detail, causing uncertainty for Village Heads in carrying out these duties.

### Heir Certificate

According to Article 1 Paragraph 15 of Surabaya Mayor Regulation Number 50 of 2021, an Heir Certificate is a certificate made by heirs to explain

<sup>13</sup> Oxford English Dictionary, *Oxford English Dictionary*, ed. Ja and Weiner (Simpson, 1989).

<sup>14</sup> Sufriadi Sufriadi, "Tanggung Jawab Jabatan Dan Tanggung Jawab Pribadi Dalam Penyelenggaraan Pemerintahan Di Indonesia," *Jurnal Yuridis* 1, no. 1 (2014), <https://ejournal.upnvj.ac.id/Yuridis/article/view/141>.

<sup>15</sup> S. Mertokusumo, *Mengenal Hukum Suatu Pengantar* (Yogyakarta: Liberty, 1999).

<sup>16</sup> Badan Pertanahan Nasional Republik Indonesia, *Kepala Badan Pertanahan Nasional Nomor 3 Tahun 1997 Tentang Ketentuan Pelaksanaan Peraturan Pemerintah Nomor 24 Tahun 1997 Tentang Pendaftaran Tanah* (Indonesia, 1997).

the relationship between heirs and the deceased.<sup>17</sup> Heir Certificates function as evidence of the status of someone as a legal heir of the deceased. This certificate is needed in various processes related to inheritance, such as transferring land rights, withdrawing deposits, or managing other assets left by the deceased.

In Indonesia's legal system, there are several institutions authorized to issue inheritance certificates or similar documents. For native Indonesian citizens, Heir Certificates can be issued by Village Heads. For citizens of Chinese descent, Heir Certificate Deeds can be made by Notaries. For citizens of Arab descent and other foreigners, inheritance certificates can be issued by the Heritage Management Office (Balai Harta Peninggalan). This differentiation based on descent has become one issue requiring attention in the context of equal treatment principles in public services.

### Public Services

Law Number 25 of 2009 concerning Public Services states that public services are activities or series of activities in fulfilling service needs in accordance with laws and regulations for every citizen and resident regarding goods, services, and administrative services provided by public service providers. Public services are a state obligation to fulfill citizen rights to obtain services needed in daily life.<sup>18</sup>

Public service delivery is based on 12 principles, namely public interest, legal certainty, equal rights, balance of rights and obligations, professionalism, participation, equal treatment or non-discrimination, transparency, accountability, facilities and special treatment for vulnerable groups, timeliness, speed, convenience, and affordability. These twelve principles serve as standards for assessing whether a public service has been delivered well or still requires improvement. In the context of Village Head services in issuing Heir Certificates, these twelve principles become benchmarks for evaluating existing policies and formulating necessary reformulations.

### RESEARCH METHODOLOGY

This research employs normative juridical research methods, which examine law as a normative system consisting of principles, norms, and legal rules.<sup>19</sup> This approach is appropriate for analyzing Village Head authority in issuing Heir Certificates because the focus of this research is on legal regulations governing such authority.

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<sup>17</sup> Sufriadi, "Tanggung Jawab Jabatan Dan Tanggung Jawab Pribadi Dalam Penyelenggaraan Pemerintahan Di Indonesia."

<sup>18</sup> Ibid.

<sup>19</sup> Mertokusumo, *Bunga Rampai Ilmu Hukum*; Satjipto Raharjo, "Penegakan Hukum Suatu Tinjauan Sosiologis," in *Dominasi Negara Terhadap Profesi Notaris Antara Ide Dan Realitas*, ed. Widhi Handoko (Bogor: Roda Publika Kreasi, 2019).

This research uses two main approaches. First, the statutory approach (statute approach), which examines various laws and regulations related to Village Head authority in issuing Heir Certificates. The regulations examined include the Regulation of the Minister of Agrarian Affairs and Head of the National Land Agency Number 3 of 1997 concerning Land Registration, Surabaya Mayor Regulation Number 75 of 2018, Surabaya Mayor Regulation Number 63 of 2019, Surabaya Mayor Regulation Number 50 of 2021, and Surabaya Mayor Regulation Number 03 of 2022. Second, the conceptual approach, which analyzes legal concepts relevant to this research, such as authority, reformulation, legal certainty, legal protection, and public services.

Legal materials used in this research consist of three types. Primary legal materials include laws and regulations directly related to the research topic, namely Law Number 25 of 2009 concerning Public Services, Government Regulation Number 24 of 1997 concerning Land Registration, Regulation of the Minister of Agrarian Affairs Number 3 of 1997, and various Surabaya Mayor Regulations concerning procedures for Heir Certificate services. Secondary legal materials include books, journals, and scientific articles discussing Village Head authority, public services, and inheritance law. Tertiary legal materials include legal dictionaries and encyclopedias that help explain legal terms used in this research.<sup>20</sup> Legal material collection is conducted through library research (library research) by studying, reviewing, and analyzing primary, secondary, and tertiary legal materials relevant to the research topic.<sup>21</sup> This process includes identifying applicable regulations, collecting related legal literature, and documenting important information from various sources.

Analysis of legal materials is conducted qualitatively using deductive methods. The analysis begins by identifying general principles of public services as stated in Law Number 25 of 2009, then examining how these principles are implemented in regulations governing Village Head authority in issuing Heir Certificates. Furthermore, analysis is conducted regarding aspects requiring reformulation to align existing policies with public service principles. The analysis results are presented descriptively in the form of systematic explanations that can be understood clearly.

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<sup>20</sup> Rokilah Rokilah and Sulasno Sulasno, "Penerapan Asas Hukum Dalam Pembentukan Peraturan Perundang-Undangan," *Ajudikasi : Jurnal Ilmu Hukum* 5, no. 2 (December 29, 2021): 179–190, <https://e-jurnal.lppmunsera.org/index.php/ajudikasi/article/view/3942>.

<sup>21</sup> Esti Royani and Maria Perida, "The Law of Unrecorded Birth Based on Constitution Number 16 of 2019," *Awang Long Law Review* 5, no. 1 (November 30, 2022): 189–194, <https://ejournal.stih-awanglong.ac.id/index.php/awl/article/view/549>.

## RESULT AND DISCUSSION

### Development of Policies Regulating Village Head Authority in Issuing Heir Certificates

The development of regulations governing Village Head authority in issuing Heir Certificates shows a progressive evolution process aimed at improving service quality and providing clearer legal certainty. This evolutionary pattern reflects what Rahardjo describes as the progressive nature of law, where law continuously develops itself to achieve higher levels of perfection. The following analysis examines each stage of regulatory development and its implications for Village Head authority.

1. Regulation of the Minister of Agrarian Affairs and Head of the National Land Agency Number 3 of 1997

This regulation serves as the foundation for village offices in issuing Heir Certificates. In this regulation, the scope of Village Head authority regulated includes parties eligible to receive services, the role and duties of Village Heads, and other institutions authorized to issue Heir Certificates. This regulation explains that parties eligible to receive Heir Certificate issuance services from village offices are deceased persons who were Indonesian citizens of native descent with last domicile in a village in Indonesia before death. Furthermore, it is explained that Village Heads act as authenticators present in inheritance assemblies, while heirs are parties who write the contents of Heir Certificates.

This regulation also explains that besides village offices, Notaries are authorized to make Heir Certificates for citizens of Chinese descent, and the Heritage Management Office for citizens of Arab descent and other foreigners.<sup>22</sup> This differentiation based on descent reflects the pluralistic approach in Indonesian inheritance law, which recognizes different legal systems for different population groups. However, this differentiation has become one aspect requiring reconsideration in the context of equal treatment principles in public services.

The findings of this research regarding the foundational role of Ministerial Regulation Number 3 of 1997 align with research by Hanum, who notes that this regulation provides the primary legal basis for Village Heads in issuing Heir Certificates. However, this research extends Hanum's findings by identifying that while this regulation provides a legal foundation, significant ambiguity remains regarding

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<sup>22</sup> Badan Pertanahan Nasional Republik Indonesia, *Kepala Badan Pertanahan Nasional Nomor 3 Tahun 1997 Tentang Ketentuan Pelaksanaan Peraturan Pemerintah Nomor 24 Tahun 1997 Tentang Pendaftaran Tanah*.

the scope of Village Head authority and technical procedures that must be followed. This ambiguity creates legal uncertainty not only for Village Heads but also for the community requiring these services.

2. Surabaya Mayor Regulation Number 75 of 2018 Concerning Procedures for Heir Certificate Services

This regulation explains that the contents of Heir Certificates are made by and are the responsibility of the heirs themselves. Heirs are also required to attach Application Letters for Heir Certificate Services, Statements of Document Authenticity, and Minutes of Oath Taking by Heirs as requirement documents. Additionally, this regulation explains the definition of native Indonesian citizens, namely those who are not of Chinese, Arab, or other foreign descent, and parties eligible to be served by village offices are one level of family relationship.<sup>23</sup>

This regulation represents the first significant step by Surabaya City Government in providing more detailed guidance regarding Heir Certificate issuance procedures. By clarifying that heirs are responsible for the contents of certificates and requiring various supporting documents, this regulation attempts to provide greater legal protection for Village Heads. However, the limitation to "one level of family relationship" without clear definition in this initial regulation became one source of confusion in implementation.

The approach taken in this regulation reflects efforts to balance administrative efficiency with legal prudence. On one hand, the regulation seeks to facilitate inheritance processes for the community. On the other hand, it attempts to protect Village Heads from potential legal risks arising from disputes among heirs. This finding supports Garwan's research, which emphasizes the importance of clarity regarding the legal position of Heir Certificates as evidence. However, this research provides a more comprehensive contribution by analyzing how periodic reformulation attempts to resolve these ambiguities.

3. Surabaya Mayor Regulation Number 63 of 2019 Concerning Amendment of Surabaya Mayor Regulation Number 75 of 2018

This regulation clarifies several provisions and definitions of specific terms used in previous regulations, such as the term "one level down," which is defined as the family relationship of a husband and wife along with their children. This regulation also standardizes formats for application letters for services, Heir Certificates, heir statements, and statements of document authenticity and validity.

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<sup>23</sup> Pemerintah Kota Surabaya, *Peraturan Walikota Surabaya Nomor 75 Tahun 2018 Tentang Tata Cara Pelayanan Surat Keterangan Ahli Waris* (Indonesia, 2018), [https://jdih.surabaya.go.id/uploads/peraturan/perwali\\_2035.pdf](https://jdih.surabaya.go.id/uploads/peraturan/perwali_2035.pdf).

Several provisions were also added and clarified, such as the requirement that all heirs and witnesses must sign Heir Certificates before the Village Head, Village Heads can be replaced by acting officials if unable to attend, Village Heads are authorized to issue copies of Heir Certificates according to originals, Village Heads can legalize photocopies of Heir Certificates if archives given to applicants are lost or damaged, and the obligation of village and sub-district offices to document the Heir Certificate service process to be printed and combined with village archives as evidence.<sup>24</sup>

This regulation demonstrates Surabaya City Government's responsiveness to problems emerging in field implementation. The clarification of the term "one level down" and format standardization represent concrete steps in increasing legal certainty. The addition of provisions regarding documentation and legalization also shows attention to accountability and transparency aspects in service delivery.

These findings complement research by Setiawan, who discusses Heir Certificate Deeds made by Notaries in the context of legal unification. This research shows that while Setiawan focuses on notarial products, regulatory reformulation at the village level also moves toward greater standardization and clarity, although through different mechanisms. This parallel development indicates a broader trend toward harmonization of inheritance administration in Indonesia.

#### 4. Surabaya Mayor Regulation Number 50 of 2021 Concerning Procedures for Heir Certificate Services

In this regulation, the term "one level" in previous regulations becomes "one level of descent" to clarify the definition and improve grammar. This regulation also stipulates that applicants can fill out service application letters and upload requirement documents to the Surabaya Single Window Alpha (SSW Alpha) website and application, then attend assemblies at village offices.<sup>25</sup>

The introduction of digital technology through the SSW Alpha system marks a significant transformation in Village Head service delivery. This change not only improves administrative efficiency but also increases transparency and accessibility of services for the community. The integration of information technology in public services aligns with contemporary trends in public administration,

<sup>24</sup> Pemerintah Kota Surabaya, *Peraturan Walikota Surabaya Nomor 63 Tahun 2019 Tentang Perubahan Atas Peraturan Walikota Surabaya Nomor 75 Tahun 2018 Tentang Tata Cara Pelayanan Surat Keterangan Ahli Waris* (Indonesia, 2019), <https://jdih.surabaya.go.id/peraturan/3664>.

<sup>25</sup> Pemerintah Kota Surabaya, *Peraturan Walikota Surabaya Nomor 50 Tahun 2021 Tentang Tata Cara Pelayanan Surat Keterangan Ahli Waris*.

which emphasize the importance of e-government in improving service quality.

This finding extends previous research that has not specifically addressed the digitalization aspect of Heir Certificate services at the village level. While various studies discuss public service digitalization in general, this research provides a specific contribution by documenting how digital technology is integrated into inheritance administration processes at the most basic level of government. This integration has important implications for accessibility and efficiency, two key principles in Law Number 25 of 2009 concerning Public Services.

5. Surabaya Mayor Regulation Number 3 of 2022 Concerning Amendment of Surabaya Mayor Regulation Number 50 of 2021

This regulation governs several policies that facilitate and increase the flexibility of Heir Certificate issuance services, such as replacement of requirement documents with equivalent documents. This regulation states that birth certificates can be replaced with birth acknowledgment certificates from hospitals, and death certificates can be replaced with Corpse Examination Certificate documents from hospitals or Death Certificates from Sub-Districts. Additionally, this regulation adds conditions that allow heirs and witnesses not to attend inheritance assemblies in person, namely natural disasters, social disasters, and non-social disasters.<sup>26</sup>

This regulation demonstrates flexibility and adaptability in responding to various situations that may prevent physical attendance of heirs in inheritance assemblies. Recognition of equivalent documents also shows a pragmatic approach in addressing administrative challenges faced by the community. These provisions reflect the application of the principle of convenience and special facilities for vulnerable groups, two of the twelve public service principles in Law Number 25 of 2009.

The progressive development from the 1997 Ministerial Regulation through various Surabaya Mayor Regulations shows a consistent pattern toward greater clarity, flexibility, and accessibility. Each stage of reformulation addresses specific problems identified in previous implementation while maintaining attention to legal certainty and legal protection for both service providers and recipients. This finding makes an important contribution to understanding how

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<sup>26</sup> Pemerintah Kota Surabaya, *Eraturan Walikota Surabaya Nomor 3 Tahun 2022 Tentang Perubahan Atas Peraturan Walikota Surabaya Nomor 50 Tahun 2021 Tentang Tata Cara Pelayanan Surat Keterangan Ahli Waris* (Indonesia, 2022), <https://jdih.surabaya.go.id/peraturan/4061>.

progressive law operates in practice, not merely as an abstract concept but as a real process of continuous legal improvement.

### **Reformulation of Village Head Authority in Issuing Heir Certificates Based on Public Service Principles**

Analysis of the application of 12 public service principles in regulations governing Village Head authority in issuing Heir Certificates reveals varying levels of implementation. Some principles have been well applied, while others require further reformulation. The following analysis examines each principle and provides recommendations for necessary reformulation.

#### **1. Public Interest**

Application of the public interest principle in policies governing Heir Certificate issuance at village offices is assessed as very good and does not yet require reformulation. Application of this principle is represented by the Regulation of the Minister of Agrarian Affairs and Head of the National Land Agency Number 3 of 1997, which explains the selection of village offices as Heir Certificate issuers for native Indonesian citizens so that the transfer of asset ownership from the deceased proceeds peacefully and fairly for all interested parties without anyone being harmed.<sup>27</sup>

The placement of village offices as Heir Certificate issuers reflects deep understanding of the public interest principle. Village offices, as the closest level of government to the community, have better access to information about family relationships and community social conditions. This proximity enables more contextual and responsive services to local community needs. Furthermore, free Heir Certificate services at village offices ensure that even economically disadvantaged communities can access their inheritance rights.

#### **2. Legal Certainty**

Application of the legal certainty principle in policies governing Heir Certificate issuance at village offices is assessed as quite good, represented by the Regulation of the Minister of Agrarian Affairs and Head of the National Land Agency Number 3 of 1997 and Surabaya Mayor Regulation Number 75 of 2018, which provide scope limitations for Village Head authority along with clear procedures in carrying out duties.<sup>28</sup> However, policy reformulation is needed to explain the definition of Village Head roles as authenticators of Heir Certificate issuance and policies governing attitudes Village Heads should take if inheritance conflicts occur.

Kansil et al. define legal certainty normatively as a condition where regulations are made to regulate clearly, logically, and do not create doubt leading to norm conflicts. In the context of Village Head authority in issuing Heir Certificates, legal certainty is essential not only for Village Heads themselves but also for the community

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<sup>27</sup> Pemerintah Kota Surabaya, *Peraturan Walikota Surabaya Nomor 50 Tahun 2021 Tentang Tata Cara Pelayanan Surat Keterangan Ahli Waris*.

<sup>28</sup> Ibid.

receiving services. Ambiguity regarding Village Head roles as "authenticators" has been one main source of confusion and concern among Village Heads.

The recommended reformulation should clearly explain that Village Heads function as authenticators who ensure that inheritance assemblies are conducted properly, all heirs are present or validly represented, and required documents are complete. However, Village Heads are not responsible for verifying the material truth of family relationships stated by heirs, as this is the responsibility of heirs themselves. If inheritance conflicts occur, Village Heads should have clear authority to refuse service and direct parties to competent institutions to resolve disputes, such as courts or mediators.

### 3. Equal Rights

Application of the equal rights principle in policies governing Heir Certificate issuance at village offices is assessed as quite good, represented by Surabaya Mayor Regulation Number 75 of 2018 and Mayor Regulation Number 3 of 2022, which state that all heirs have the right to attend and witness inheritance assemblies even in disaster conditions via online means.<sup>29</sup> However, policy reformulation is needed to realize equalization of Village Head and village office staff knowledge regarding Heir Certificate preparation.

Equal rights mean that all heirs, without exception, must have equal opportunities to attend inheritance assemblies and express their perspectives. The provision allowing online attendance during disasters demonstrates awareness of this principle. However, in practice, equalization of knowledge and capacity among Village Heads and village office staff in different areas is also an important aspect of equal rights principles. Communities in all areas should receive services of the same quality, regardless of where they live.

### 4. Balance of Rights and Obligations

Application of the balance of rights and obligations principle in policies governing Heir Certificate issuance at village offices is assessed as very good and does not yet require reformulation. Application of this principle is represented by Surabaya Mayor Regulation Number 75 of 2018 and Surabaya Mayor Regulation Number 63 of 2019, which explain the rights and obligations of both Village Heads and heirs in a balanced manner.<sup>30</sup>

The balance of rights and obligations is a fundamental principle in administrative law relationships. In the context of Heir Certificate services, this balance is reflected in clearly defined rights and obligations for each party. Village Heads have the right to receive complete and valid documents from applicants, and correspondingly, they have the obligation to process applications that meet requirements

<sup>29</sup> Pemerintah Kota Surabaya, *Peraturan Walikota Surabaya Nomor 75 Tahun 2018 Tentang Tata Cara Pelayanan Surat Keterangan Ahli Waris*.

<sup>30</sup> Pemerintah Kota Surabaya, *Peraturan Walikota Surabaya Nomor 63 Tahun 2019 Tentang Perubahan Atas Peraturan Walikota Surabaya Nomor 75 Tahun 2018 Tentang Tata Cara Pelayanan Surat Keterangan Ahli Waris*.

promptly. Heirs have the right to receive services without discrimination and the obligation to provide accurate and honest information.

This balanced approach protects both parties and creates healthy administrative relationships. The existing regulations have adequately regulated this aspect, with clear provisions regarding what Village Heads can demand from applicants and what applicants can expect from Village Head services. This finding aligns with research by Kuingo, Hufron, and Setyadji on reformulation of authority, which emphasizes the importance of balance in administrative relationships to ensure justice and legal certainty.

#### 5. Professionalism

Application of the professionalism principle in policies governing Heir Certificate issuance at village offices is assessed as quite good, represented by the Regulation of the Minister of Agrarian Affairs and Head of the National Land Agency Number 3 of 1997, Surabaya Mayor Regulation Number 75 of 2018, and Mayor Regulation Number 63 of 2019, which regulate in detail the authority and obligations of Village Heads in issuing Heir Certificates.<sup>31</sup> However, policy reformulation is needed to regulate prohibitions in Heir Certificate preparation and consequences for violations.

Professionalism in public services requires service providers to have adequate competence, work according to established standards, and uphold professional ethics. In the context of Village Head services, professionalism means that Village Heads must understand applicable regulations, follow proper procedures, and act with integrity. However, professionalism also requires clear boundaries regarding what should and should not be done, along with sanctions for violations.

The recommended reformulation should include specific provisions regarding actions prohibited for Village Heads in the Heir Certificate issuance process, such as prohibitions on accepting gratuities, processing applications without complete documents, or issuing certificates when indication of disputes exists. Additionally, clear sanctions should be established for violations, ranging from administrative warnings to more severe sanctions for serious violations. These provisions will strengthen professionalism and provide deterrent effects against potential violations.

#### 6. Participation

Application of the participation principle in policies governing Heir Certificate issuance at village offices is assessed as less than satisfactory, indicated by the absence of regulations reflecting application of this principle. It is hoped that in the future, policies can be issued governing community involvement, media for providing aspirations and expectations regarding Heir Certificate preparation, and village office follow-up on community aspirations through plenary staff reviews.

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<sup>31</sup> Ibid.

Participation is an important principle in democratic governance and quality public services. Community involvement in service evaluation and improvement can provide valuable input for service providers. In the context of Heir Certificate services, participation can take various forms, such as regular surveys of service user satisfaction, public forums to discuss service improvement, or complaint mechanisms that are easily accessible and responsive.

This finding contrasts with research by Garwan, which does not specifically address the participation aspect in Heir Certificate services. This research identifies participation as one principle requiring attention in future reformulation. The absence of formal mechanisms for community participation represents a gap that needs to be addressed to ensure that Heir Certificate services truly meet community needs and expectations. This is particularly important considering that these services directly affect community interests in managing inheritance left by family members.

#### 7. Equal Treatment or Non-Discrimination

Application of the equal treatment or non-discrimination principle in policies governing Heir Certificate issuance at village offices is assessed as less than satisfactory, indicated by the absence of regulations reflecting application of this principle. It is hoped that in the future, policies can be issued that eliminate classification of Heir Certificate issuing institutions based on race and determine one institution that can provide issuance services for all Indonesian citizens whose inheritance distribution is not in conflict.

The differentiation of Heir Certificate issuing institutions based on descent (native Indonesians to village offices, Chinese descent to Notaries, Arab descent and other foreigners to Heritage Management Offices) reflects a pluralistic legal heritage that may have been relevant in the past but is increasingly questioned in the contemporary context. This differentiation potentially violates the non-discrimination principle guaranteed by the 1945 Constitution and various international human rights instruments ratified by Indonesia.

The recommended reformulation should consider unification of Heir Certificate issuance authority for all Indonesian citizens without distinction based on descent. One approach that can be considered is providing authority to village offices to serve all Indonesian citizens for cases without disputes, while cases with disputes or requiring more complex legal analysis can be directed to Notaries or courts. This approach will ensure equal access to public services for all citizens while maintaining flexibility to address various situations that may arise.

This finding extends research by Setiawan on Heir Certificate Deeds made by Notaries in the context of legal unification. While Setiawan focuses on notarial roles, this research identifies that unification needs to also address the level of village office services to ensure that all citizens, regardless of descent, have equal access to basic inheritance administration services.

## 8. Transparency

Application of the transparency principle in policies governing Heir Certificate issuance at village offices is assessed as very good and does not yet require reformulation. Application of this principle is represented by the Regulation of the Minister of Agrarian Affairs and Head of the National Land Agency Number 3 of 1997, Surabaya Mayor Regulation Number 63 of 2019, and Mayor Regulation Number 3 of 2022, which govern matters related to transparency of the Heir Certificate issuance service process, all stages of which can be witnessed and understood by all interested parties without anything hidden.<sup>32</sup>

Transparency is a key principle in good governance and quality public services. In the context of Heir Certificate services, transparency means that all procedures, requirements, processing times, and costs (if any) must be clearly communicated to the public. Additionally, the Heir Certificate preparation process itself must be open and observable by all interested parties, particularly all heirs entitled to inheritance.

Provisions requiring all heirs to attend inheritance assemblies, document the process, and store archives properly reflect strong commitment to transparency principles. This transparency not only protects community rights but also provides protection for Village Heads by ensuring that all steps taken in the service process can be accounted for. This finding supports the view of Satjipto regarding legal protection, that transparency is one important form of protecting the rights of all parties involved in legal relationships.

## 9. Accountability

Application of the accountability principle in policies governing Heir Certificate issuance at village offices is assessed as quite good, represented by Surabaya Mayor Regulation Number 50 of 2021 and Mayor Regulation Number 63 of 2019, which govern matters regarding accountability for Heir Certificate issuance service activities in the form of documentation and copying of requirement documents.<sup>33</sup> However, policy reformulation is needed to govern implementation of layered verification to ensure the accuracy of Heir Certificate contents and inclusion of family genealogy information in village office population databases.

Accountability means that service providers must be able to account for all actions taken in the service delivery process. In the

<sup>32</sup> Badan Pertanahan Nasional Republik Indonesia, *Kepala Badan Pertanahan Nasional Nomor 3 Tahun 1997 Tentang Ketentuan Pelaksanaan Peraturan Pemerintah Nomor 24 Tahun 1997 Tentang Pendaftaran Tanah*; Pemerintah Kota Surabaya, *Peraturan Walikota Surabaya Nomor 63 Tahun 2019 Tentang Perubahan Atas Peraturan Walikota Surabaya Nomor 75 Tahun 2018 Tentang Tata Cara Pelayanan Surat Keterangan Ahli Waris*; Pemerintah Kota Surabaya, *Peraturan Walikota Surabaya Nomor 3 Tahun 2022 Tentang Perubahan Atas Peraturan Walikota Surabaya Nomor 50 Tahun 2021 Tentang Tata Cara Pelayanan Surat Keterangan Ahli Waris*.

<sup>33</sup> Pemerintah Kota Surabaya, *Peraturan Walikota Surabaya Nomor 50 Tahun 2021 Tentang Tata Cara Pelayanan Surat Keterangan Ahli Waris*; Pemerintah Kota Surabaya, *Peraturan Walikota Surabaya Nomor 63 Tahun 2019 Tentang Perubahan Atas Peraturan Walikota Surabaya Nomor 75 Tahun 2018 Tentang Tata Cara Pelayanan Surat Keterangan Ahli Waris*.

context of Heir Certificate services, accountability is not only about administrative documentation but also about mechanisms to ensure the accuracy of information contained in certificates issued. Existing documentation and archiving provisions are good first steps, but additional mechanisms are needed to strengthen accountability.

The recommended reformulation should include layered verification procedures, where Heir Certificates prepared by heirs are verified at multiple levels before being authenticated by Village Heads. This verification can involve checking population databases, cross-checking with family cards and other identity documents, and if necessary, field verification to confirm family relationships stated. Additionally, developing a comprehensive family genealogy database at village offices will greatly assist verification processes and reduce the risk of errors or manipulation.

This finding complements research by Hanum regarding the legal strength of Heir Certificates issued by Village Heads. While Hanum discusses Heir Certificates as evidence in the context of Sale and Purchase Binding Deeds, this research identifies that strengthening verification and documentation mechanisms at the issuance stage will increase the legal strength and reliability of Heir Certificates as evidence in various legal processes.

#### 10. Facilities and Special Treatment for Vulnerable Groups

Application of the facilities and special treatment for vulnerable groups principle in policies governing Heir Certificate issuance at village offices is assessed as quite good, represented by Surabaya Mayor Regulation Number 3 of 2022, which discusses special treatment for disaster survivors (social, non-social, and natural disasters) to attend inheritance assemblies online.<sup>34</sup> However, policy reformulation is needed to regulate minimum and maximum age limits for attending inheritance assemblies, allow persons with mental disabilities to be represented in attending assemblies with certificates from hospitals, and provide special treatment and facilities for other vulnerable groups such as pregnant women, the poor, and persons with physical disabilities if needed.

Vulnerable groups in society often face additional barriers in accessing public services. In the context of Heir Certificate services, these vulnerable groups may include children, the elderly, persons with disabilities, pregnant women, and people in disaster situations. Existing provisions regarding online attendance during disasters are good steps, but attention to other vulnerable groups needs to be expanded.

The recommended reformulation should include specific provisions regarding age limits for heirs who can independently attend inheritance assemblies. For underage children, mechanisms should be established for representation by guardians or legal representatives. For

<sup>34</sup> Pemerintah Kota Surabaya, *Eraturan Walikota Surabaya Nomor 3 Tahun 2022 Tentang Perubahan Atas Peraturan Walikota Surabaya Nomor 50 Tahun 2021 Tentang Tata Cara Pelayanan Surat Keterangan Ahli Waris*.

the elderly who may have difficulty attending in person, special facilitation should be provided, such as services at their residences if needed. For persons with mental disabilities who cannot fully understand the inheritance process, mechanisms should be established for representation with supporting medical certificates.

Additionally, adequate physical facilities should be provided for persons with physical disabilities, such as wheelchair access, priority service, and staff assistance if needed. For pregnant women, especially those with advanced pregnancies, flexibility should be provided regarding attendance schedules or alternative service methods. These provisions will ensure that all community groups, including the most vulnerable, can access their inheritance rights without undue obstacles.

#### 11. Timeliness

Application of the timeliness principle in policies governing Heir Certificate issuance at village offices is assessed as quite good, represented by Surabaya Mayor Regulation Number 50 of 2021, which states that applicants can fill out service application letters and upload requirement documents to the Surabaya Single Window Alpha (SSW Alpha) website and application for faster services.<sup>35</sup> However, reformulation is needed governing time limits for each stage in Heir Certificate issuance and determination of specific hours for Heir Certificate services.

Timeliness in public services means that services must be provided within reasonable and predictable timeframes. Uncertainty regarding processing times often becomes one of the main sources of community dissatisfaction with public services. In the context of Heir Certificate services, timeliness is particularly important because these services are often needed urgently, for example, for land transfer processes or withdrawing deposits from the deceased.

The recommended reformulation should establish clear standards for processing times at each stage of Heir Certificate services. For example, initial document verification should be completed within a maximum of two working days from submission, inheritance assembly scheduling should be conducted within a maximum of one week after documents are declared complete, and certificate authentication and delivery should be completed on the same day as the inheritance assembly. These standards will provide certainty for applicants regarding when they can expect to receive services.

Additionally, determination of specific service hours for Heir Certificate services will improve efficiency and accessibility. For example, specific days and hours can be designated for Heir Certificate consultation and services, separate from other village office services. This arrangement will allow Village Heads and staff to focus attention on this service during specified times, while also providing certainty for the community regarding when they can access these services.

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<sup>35</sup> Pemerintah Kota Surabaya, *Peraturan Walikota Surabaya Nomor 50 Tahun 2021 Tentang Tata Cara Pelayanan Surat Keterangan Ahli Waris*.

## 12. Speed, Convenience, and Affordability

Application of the speed, convenience, and affordability principles in policies governing Heir Certificate issuance at village offices is assessed as very good and does not yet require reformulation. Application of these principles is represented by the Regulation of the Minister of Agrarian Affairs and Head of the National Land Agency Number 3 of 1997, Surabaya Mayor Regulation Number 50 of 2021, Surabaya Mayor Regulation Number 63 of 2019, and Mayor Regulation Number 3 of 2022, which govern procedures for issuing Heir Certificates at village offices with processes that are fast, easy, and affordable compared to other institutions.<sup>36</sup> In the future, it is hoped that policies can be issued governing briefing for officials who can substitute duties in Heir Certificate services when Village Heads are unable to attend and provision of barcodes on Heir Certificates to increase service flexibility.

Speed, convenience, and affordability are key principles making village office services attractive options for the community. Heir Certificate services at village offices are generally faster than services at Notaries or Heritage Management Offices because village offices have better access to local population data and do not require complex appointment scheduling. Additionally, free services make these services accessible even to economically disadvantaged communities. Integration of the SSW Alpha system has further increased speed and convenience by allowing applicants to submit applications and upload documents online, reducing the need for multiple visits to village offices. This integration demonstrates adaptation to digital technology trends in public services, which have become increasingly important, particularly during and after the COVID-19 pandemic.

Although current implementation of these principles is already good, further improvements can still be made. Provision of barcodes or QR codes on Heir Certificates will facilitate verification of certificate authenticity by parties requiring these documents, such as land offices or banks. This technology will also make archiving and tracking more efficient. Additionally, preparation of comprehensive technical guidance and regular training for officials who can substitute Village Head duties will ensure service continuity even when Village Heads are unable to attend, without sacrificing service quality.

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<sup>36</sup> Badan Pertanahan Nasional Republik Indonesia, *Kepala Badan Pertanahan Nasional Nomor 3 Tahun 1997 Tentang Ketentuan Pelaksanaan Peraturan Pemerintah Nomor 24 Tahun 1997 Tentang Pendaftaran Tanah*; Pemerintah Kota Surabaya, *Peraturan Walikota Surabaya Nomor 50 Tahun 2021 Tentang Tata Cara Pelayanan Surat Keterangan Ahli Waris*; Pemerintah Kota Surabaya, *Peraturan Walikota Surabaya Nomor 63 Tahun 2019 Tentang Perubahan Atas Peraturan Walikota Surabaya Nomor 75 Tahun 2018 Tentang Tata Cara Pelayanan Surat Keterangan Ahli Waris*; Pemerintah Kota Surabaya, *Peraturan Walikota Surabaya Nomor 3 Tahun 2022 Tentang Perubahan Atas Peraturan Walikota Surabaya Nomor 50 Tahun 2021 Tentang Tata Cara Pelayanan Surat Keterangan Ahli Waris*.

## CONCLUSION

This research has examined the reformulation of Village Head authority in Surabaya City in issuing Heir Certificates from the perspective of Law of the Republic of Indonesia Number 25 of 2009 concerning Public Services. The analysis reveals several important findings regarding the development of regulations and the need for further reformulation based on public service principles. The legal foundation for Village Head authority in issuing Heir Certificates is the Regulation of the Minister of Agrarian Affairs and Head of the National Land Agency Number 3 of 1997 concerning Land Registration. Recognizing the need for clearer and more detailed regulations, the Surabaya City Government has progressively reformulated this ministerial regulation through four successive Mayor's Regulations: Surabaya Mayor Regulation Number 75 of 2018, Surabaya Mayor Regulation Number 63 of 2019, Surabaya Mayor Regulation Number 50 of 2021, and Surabaya Mayor Regulation Number 03 of 2022. This series of reformulations demonstrates the commitment of Surabaya City Government to continuously improve the quality of village office services as the frontline of community services. Analysis of these regulations against the twelve principles of public service delivery in Law Number 25 of 2009 reveals that most principles have been implemented well. The principles of public interest, balance of rights and obligations, transparency, and speed, convenience, and affordability have been very well applied and do not require immediate reformulation. Meanwhile, the principles of legal certainty, equal rights, professionalism, accountability, facilities and special treatment for vulnerable groups, and timeliness have been quite well applied but still require reformulation in certain aspects to achieve optimal implementation. However, two principles require serious attention because their implementation is still less than satisfactory: the participation principle and the equal treatment or non-discrimination principle. The absence of formal mechanisms for community participation in service evaluation and improvement represents a significant gap that needs to be addressed. Similarly, the classification of Heir Certificate issuing institutions based on descent needs to be reconsidered to ensure equal treatment for all Indonesian citizens.

Based on this analysis, several policy reformulations are recommended to improve village office service performance in issuing Heir Certificates. First, clear definition of Village Head roles as authenticators and establishment of procedures Village Heads should follow when inheritance conflicts occur are needed to strengthen legal certainty. Second, regulations governing prohibitions and consequences for violations in issuing Heir Certificates need to be formulated to enhance professionalism and provide deterrent effects. Third, formal mechanisms for community participation need to be established, including media for providing aspirations and procedures for village offices to respond to community input. Fourth, elimination of classification of Heir Certificate issuing institutions based on race and designation of one institution capable of serving all Indonesian citizens

whose inheritance distribution is not in conflict need to be considered to realize the principle of equal treatment or non-discrimination. Fifth, implementation of layered verification and inclusion of family genealogy information in village office population databases are necessary to strengthen accountability and reduce the risk of errors or manipulation. Sixth, regulations regarding age limits for attending inheritance assemblies and permission for persons with mental disabilities to be represented need to be established to ensure protection for vulnerable groups. Seventh, establishment of time limits for each stage of Heir Certificate services and determination of specific hours for inheritance consultation and services will improve timeliness and provide certainty for applicants. Finally, provision of barcodes or QR codes on Heir Certificates and preparation of comprehensive technical guidance for substitute officials will increase service flexibility and ensure service continuity. These reformulation recommendations are not merely technical improvements but reflect a progressive understanding of law as an institution that must continuously develop itself to achieve higher degrees of perfection. In the context of Village Head services in issuing Heir Certificates, this progressive approach means that regulations must continue to adapt to community needs, technological developments, and evolving understandings of human rights and public services. Through consistent implementation of public service principles, Heir Certificate services at village offices can truly become services that are just, transparent, accountable, and accessible to all community groups without discrimination. The findings of this research contribute to the development of legal science, particularly regarding the application of progressive law theory in reformulating government authority at the most basic level. This research also provides practical contributions for policymakers in Surabaya City and other regions in Indonesia facing similar challenges in improving the quality of village office services. Furthermore, this research opens opportunities for further research, particularly regarding the effectiveness of implementing reformulation recommendations and comparative studies with inheritance administration practices in other countries that may provide useful insights for the Indonesian context.

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