



Research Article



Does the State Civil Apparatus Violate Neutrality During Elections?

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Abstract: The impartiality of the State Civil Apparatus (ASN) is a fundamental prerequisite for ensuring free, fair, and democratic elections in Indonesia. As a complex legal topic encompassing constitutional rights, regulatory concerns, and bureaucratic politics, the goal of this study is to examine infractions of ASN neutrality. This research explores violations of ASN neutrality as a complex legal issue intersecting constitutional rights, regulatory shortcomings, and bureaucratic politicization. Employing a normative-empirical legal approach, the research draws on statutory analysis and field data from three districts Karanganyar, Boyolali, and Kendal. The findings reveal three critical legal and structural problems. First, enforcement of neutrality norms is undermined by fragmented, overlapping regulations and weak sanction mechanisms, reflecting a significant legal gap in the regulatory framework. Second, a normative conflict exists between the ASN's obligation to remain neutral and their constitutional political rights as citizens, particularly regarding passive political expression in private settings. This tension raises concerns over the proportionality and legitimacy of current restrictions. Third, the politicization of the bureaucracy by incumbent regional leaders has institutionalized patronage and structural pressure, weakening meritocracy and professional independence. The research recommends codifying ASN neutrality under a unified, enforceable legal framework; redefining the boundaries of political rights and professional duties; and strengthening institutional safeguards to protect civil servants from political coercion. Upholding both neutrality and civil liberties is essential to sustaining democratic governance and restoring public trust in the bureaucracy.

Keywords: Bureaucratic; Civil Servant Neutrality; Constitutional Rights; Democratic; Electoral Integrity;



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INTRODUCTION

Regular, free, and fair general elections are essential to any democracy. These elections express the will of the people and legitimize state authority. Indonesia, as a constitutional democracy, upholds the rule of law and democratic values. This requires a neutral, professional bureaucracy. Therefore, the State Civil Apparatus (ASN) must remain impartial and avoid participating in political or electoral activities.¹ However, according to field data, there have been serious direct and covert violations of ASN neutrality in the run-up to the general and regional elections in 2024–2025. In its evaluation of the 2020 Simultaneous Regional Elections, the Elections Supervisory Agency (Bawaslu) reported 1,536 violations of ASN neutrality throughout the election stages. This number suggests that the state bureaucracy has failed to incorporate the principle of neutrality systematically, and that officials responsible for practical political interests are under-supervised and under-trained. As our 2025 field research showed, this trend of violations is not only nationwide but

¹ Ilham dan Usman Muttaqin, M. Zaenul; Idris, 'TANTANGAN IMPLEMENTASI NETRALITAS PNS: (Kajian Kekerasan Simbolik Dalam Pilkada)', *Jurnal Wacana Politik*, Vol 6.Issue 1 (2021) <https://doi.org/10.24198/jwp.v6i1.32065>



also evenly distributed across various regions. Several ASN neutrality violations occurred in the Regencies of Karanganyar, Boyolali, and Kendal between 2022 and 2024. Several Karanganyar civil servants were suspected of directly supporting the incumbent by openly campaigning and abusing their official privileges. On social media, a large number of Boyolali civil personnel publicly endorsed specific candidates. In Kendal, violations were more visible through the use of campaign paraphernalia in the workplace and the encouragement of civil servants to attend political declarations.²

At the national level, violations of civil servant neutrality often occur in the form of covert campaign activities, such as disseminating political content through social media via posts, comments, and other means.³ Furthermore, a widespread violation is the use of state facilities, such as official vehicles, government offices, and even social assistance programs, to support specific candidates.⁴ Many civil servants are directly or indirectly involved in the team structure of successful candidate pairs, both formally and informally. Even more concerning, when structural officials such as sub-district heads or department heads frequently provide implicit instructions to their subordinates to support specific candidates, bureaucratic pressure that erodes the principle of neutrality increases.⁵ These patterns of violations not only reflect individual misconduct but also expose a deeper systemic problem within the enforcement and oversight framework.

Considering the weak deterrent effect of the existing sanctions system, the phenomenon of these violations is further complicated.⁶ While recommendations from the State Civil Service Commission (KASN) are often not seriously followed up by the Civil Service Development Officers (PPK) in each agency, many violations result in only minor administrative penalties, such as warnings or deductions from allowances. The effectiveness of institutional oversight is also a unique issue. Despite its mandate to investigate violations during the election stages, the Election Supervisory Agency (BAWASLU) is unable to impose sanctions on its staff members. Instead, KASN is often hindered by institutional limitations and political interference

² S.P.M.M. Amiruddin Sijaya, *MENYONGSONG PEMILU DAN PILKADA SERENTAK TAHUN 2024 DI INDONESIA* (Samudra Biru, 2021).

³ Vanesa Ajeng Ayu Ningtyas, 'Netralitas Aparatur Sipil Negara Dalam Pemilu Antara Hak Politik Dan Kewajiban Untuk Melaksanakan Tata Kelola Pemerintahan Yang Baik', *Binamulia Hukum*, 10.1 SE-Articles (2023), 15–30 <https://doi.org/10.37893/jbh.v10i1.374>

⁴ Nizza Kartika Sari and Adelia Trisna Juniar, 'Netralitas Aparatur Sipil Negara Dalam Penyelenggaraan Pemilu', *Policies On Regulatory Reform Law Journal*, 1.1 SE-Articles (2024), 16–25 <https://doi.org/10.59066/prlj.v1i1.821>

⁵ Risna Wendy Wiraganti, Aji Santoso, and Ajeng Hijriatul Aulia, 'Analysis of the Politicization of Regional Bureaucracy on the Neutrality of State Civil Apparatus Performance: Analisis Politisasi Birokrasi Daerah Terhadap Netralitas Kinerja Aparatur Sipil Negara', *Mendapo: Journal of Administrative Law*, 6.1 SE-Article (2025), 22–40 <https://doi.org/10.22437/mendapo.v6i1.39434>

⁶ Muhammad Abdi Sabri I Budahu and Moh Sulfikar Suling, 'Ketaatan Hukum ASN Terkait Netralitasnya Dalam Pemilihan Umum Dan Pemilihan Kepala Daerah (Perspektif Teori Ketaatan Hukum Herbert C. Kelman): ASN's Legal Obedience Regarding Its Neutrality in General Elections and Regional Head Elections (Herbert C. Kelm)', *Jurnal Media Hukum*, 13.1 SE-Articles (2025), 41–52 <https://doi.org/10.59414/jmh.v13i1.855>



in fulfilling its responsibility to maintain the professionalism and neutrality of civil servants.⁷

A qualitative survey also indicates that the majority of civil servants experience pressure from superiors and local political elites when making political choices, so that violations occur not solely due to personal desires, but rather as a result of a bureaucratic culture that is not entirely neutral.⁸ The politicization of bureaucracy remains a persistent problem in Indonesia's political democracy, as incumbent regional heads frequently mobilize government servants during election cycles.⁹ The underlying concern raised by this issue is whether the current legislative framework can guarantee ASN's impartiality.¹⁰ The neutrality of government workers in elections is no longer a matter of internal administrative discipline. In reality, this issue has evolved into a complex legal matter that highlights the tension between professional ethics, legal standards, individual constitutional rights, and the potential for abuse of power by political elites.¹¹ Civil servants, as part of the bureaucracy that should uphold the principles of professionalism and neutrality, often find themselves in a dilemma, caught between practical political interests.¹²

On the one hand, various regulations have been issued by the state to emphasize the prohibition on civil servants (ASN) from engaging in electoral politics. These provisions are stipulated, among others, in Law No. 5 of 2014 concerning ASN (as amended by Law No. 20 of 2023), Law No. 7 of 2017 concerning Elections, Law No. 10 of 2016 concerning Regional Elections, and Civil Servant Discipline Regulation No. 94 of 2021. Additionally, the Joint Decree of 5 Institutions Number 2 of 2022 also contains technical guidelines about ASN neutrality. On the other hand, these rules lack legal certainty in their application since they are frequently overlapping, disjointed, and subject to various interpretations.¹³

The ambiguity of norms and the weak enforcement of laws regarding violations of ASN neutrality have given rise to systemic legal uncertainty.¹⁴ It is certainly contrary

⁷ Muttaqin, M. Zaenul; Idris.

⁸ Sunarso Sunarso, Benni Setiawan, and Ni Putu Pande Satya Anjani, 'The Political Satire of Mojok.Co in the 2019 Indonesian Election', *Heliyon*, 8.7 (2022), e10018 <https://doi.org/https://doi.org/10.1016/j.heliyon.2022.e10018>

⁹ Sholahuddin Al Fatih and Asrul Ibrahim Nur, 'Does the Constitutional Court on Local Election Responsive Decisions?', *Journal of Human Rights, Culture and Legal System*, 3.3 (2023), 569–96 <https://doi.org/10.53955/jhcls.v3i3.74>

¹⁰ Ketut Sukewati Lanang Putra Perbawa, Paul Atagamen Aidonojie, and Benjamin Okorie Ajah, 'Disability and Electoral Justice for Inclusive Participation', *Journal of Sustainable Development and Regulatory Issues*, 3.2 (2025), 221–46 <https://doi.org/10.53955/jsderi.v3i2.93>

¹¹ Iim Halimatusa'diyah and Aptiani Nur Jannah, 'Understanding Hidden Layers in Political Participation: Women's Representation in Indonesia's Election Management Bodies', *Women's Studies International Forum*, 112 (2025), 103141 <https://doi.org/https://doi.org/10.1016/j.wsif.2025.103141>

¹² Blane D Lewis, 'The Impact of Democratic Elections on Taxation: Quasi-Experimental Evidence from Subnational Indonesia', *Economics Letters*, 211 (2022), 110270 <https://doi.org/https://doi.org/10.1016/j.econlet.2022.110270>

¹³ Hasto Kristiyanto, Satya Arinanto, and Hanief Saha Ghafur, 'Institutionalization and Party Resilience in Indonesian Electoral Democracy', *Heliyon*, 9.12 (2023), e22919 <https://doi.org/10.1016/j.heliyon.2023.e22919>

¹⁴ Dyah Margani Utami and others, 'The Role of the 30% Threshold for Islamic Parties: A Fast-Growing Middle Class and Religion-Based Political Preferences in Indonesia', *Heliyon*, 10.4 (2024), e25700 <https://doi.org/10.1016/j.heliyon.2024.e25700>



to the principle of *lex certa*, namely the principle that the law must be clear and specific. Article 28D, paragraph (1) of the 1945 Constitution of the Republic of Indonesia, firmly states that everyone has the right to fair legal protection and certainty.¹⁵ Therefore, if existing norms are confusing, overlapping, or unenforceable, then the principle of a democratic state based on the rule of law is also compromised.

In this situation, the adage "*ubi jus ibi remedium*" (where there is a right, there must be a legal remedy) seems to lose its meaning. When civil servants experience political pressure, their constitutional rights and legal certainty as citizens are not effectively protected.¹⁶ In fact, according to Satjipto Rahardjo's doctrine of law as a tool of social engineering, the law should serve as a tool for social engineering to create justice.¹⁷ However, when the law fails to address the reality of civil servant neutrality violations fairly and consistently, a gap emerges between the law as an ideal norm and the social practices that occur.¹⁸ Furthermore, restrictions on the political rights of civil servants, particularly the right to vote and be elected, have given rise to a conflict between the principle of neutrality and the principles of non-discrimination and respect for human rights. In this way, civil workers have to decide between fulfilling their responsibilities as unbiased public servants and exercising their rights as citizens with political rights.

The problem is further made worse by the dysfunctional functioning of the Civil Servant Commission (KASN), which has long been perceived as non-independent and lacking in coercive authority. Incumbent regional heads, who use civil servants as a tool for electoral mobilization and exploit public funds and structural positions to garner votes, have created a politicization of the bureaucracy in many regions. Furthermore, law enforcement against neutrality violations has been ineffective. Many cases end with minor administrative recommendations without examining the structural causes. Moreover, the roles of civil servants as citizens and public servants differ, allowing political forces to exploit this loophole.¹⁹

Various previous studies have addressed election issues from multiple perspectives, ranging from strengthening election organizing institutions to reconstructing money politics regulations and justice-based electoral dispute resolution.²⁰ For example, Rosa Muhammad Thamrin Payapo's dissertation (2018) highlighted the importance of

¹⁵ Asno Azzawagama Firdaus and others, 'Indonesian Presidential Election Sentiment: Dataset of Response Public before 2024', *Data in Brief*, 52 (2024), 109993 <https://doi.org/https://doi.org/10.1016/j.dib.2023.109993>

¹⁶ Ella S Prihatini, 'Women and Social Media during Legislative Elections in Indonesia', *Women's Studies International Forum*, 83 (2020), 102417 <https://doi.org/https://doi.org/10.1016/j.wsif.2020.102417>

¹⁷ S.H.I.M.H. Dr. Jonaedi Efendi and S.H.M.H. Prof. Dr. Prasetyo Rijadi, *Metode Penelitian Hukum Normatif Dan Empiris: Edisi Kedua* (Prenada Media, 2022).

¹⁸ Risa J Toha, Dimitar D Gueorguiev, and Aim Sinpeng, 'The Normalization of Intolerance: The 2019 Presidential Election in Indonesia', *Electoral Studies*, 74 (2021), 102391 <https://doi.org/https://doi.org/10.1016/j.electstud.2021.102391>

¹⁹ Tri Joko Waluyo, 'The Changing Political Orientation of Air Tiris, Kampar, Riau Community towards Islamic Political Parties in General Elections (a Case Study: General Elections in Indonesia)', *Journal of Islamic Marketing*, 12.2 (2020), 225–48 <https://doi.org/https://doi.org/10.1108/JIMA-06-2019-0118>

²⁰ Cut Fiarni, Herastia Maharani, and Ivan Nathaniel Kirsten, 'Electoral Recommender System for Indonesian Regional People's Representative Councils (DPRD) Using Knowledge-Based and Collaborative Filtering Approach.', *Procedia Computer Science*, 234 (2024), 28–39 <https://doi.org/https://doi.org/10.1016/j.procs.2024.02.149>



strengthening the General Elections Commission (KPU) as an effort to achieve institutionally high-quality elections.²¹ Mhd. Teguh Syuhada Lubis (2023) proposed regulatory reconstruction to establish criminal accountability for political parties involved in money politics. Bagus Sarnawa (2022) traced the historical shift in the legal concept of civil servant neutrality from the early days of independence to the present,²² and Said Syahrul Rahmad (2022) evaluated the election dispute resolution framework, which was deemed not to be based on substantive justice.²³

Despite their contribution to enriching the scientific literature on elections, these studies generally still place the issue of ASN neutrality within a sectoral framework, whether normative, historical, or institutional, without comprehensively describing the complexity of the relationship between legal norms, ASN constitutional rights, and the dynamics of local power practices in electoral contests, particularly in regional elections.²⁴ By examining ASN neutrality infractions as a complicated legal issue that extends beyond formal laws to incorporate aspects of substantive fairness and the structural political pressures regional administrations confront, this essay closes this gap. Based on this, this research will re-explore the legal position of ASN in elections by analyzing three main legal issues that are actual and crucial, namely: (1) legal uncertainty due to overlapping regulations and weak enforcement of sanctions against violations of ASN neutrality, (2) conflict between the principle of ASN neutrality and constitutional political rights as citizens, and (3) politicization of bureaucracy by the power elite, especially incumbent regional heads, which weakens the professionalism of ASN in electoral contests. This description is expected to contribute to the renewal of the legal framework and strengthen the integrity of electoral democracy in Indonesia through systemic reforms to regulations, institutions, and the ethics of power in the state bureaucracy.

METHOD

The normative-empirical juridical method used in this study combines research on positive legal norms with empirical field data verification.²⁵ Primary data were obtained as supporting data through field studies in three regions (Karanganyar, Boyolali, and Kendal Regencies), which were purposively selected due to the high number of violations of civil servant neutrality during the regional elections. Secondary data, on the other hand, consisted of laws and regulations, decisions, academic literature, and institutional documents related to the neutrality of civil

²¹ ROSA MUHAMMAD THAMRIN and PAYAPO, 'Penguatan Kelembagaan Komisi Pemilihan Umum Dalam Mewujudkan Pemilihan umum Yang Berkualitas' (Universitas Hasanuddin, 2018).

²² BAGUS SARNAWA, 'Pergeseran Hukum Netralitas Aparatur Sipil Negara Dalam Pemilihan Umum' (Universitas Gajah Mada, 2022).

²³ Said Syahrul Rahmad, 'Rekonstruksi Regulasi Penyelesaian Sengketa Proses Pemilu Berbasis Keadilan Di Provinsi Aceh' (Universitas Islam Sultan Agung, 2022).

²⁴ Ridho Al Izzati and others, 'Direct Elections and Trust in State and Political Institutions: Evidence from Indonesia's Election Reform', *European Journal of Political Economy*, 85 (2024), 102572 <https://doi.org/https://doi.org/10.1016/j.ejpoleco.2024.102572>

²⁵ Mamasiddikov Muzaffarkhon Musakhonovich and others, 'The Protection of Labor Rights on the Court System', *Journal of Human Rights, Culture and Legal System*, 4.3 (2024), 742–64 <https://doi.org/10.53955/jhcls.v4i1.115>



servants. This study employs a statutory, conceptual, and comparative approach.²⁶ This approach is used to investigate countries such as the United States, Canada, France, and Germany. To produce a solution-oriented and contextually normative formulation for addressing violations of civil servant neutrality in free and fair elections, qualitative data analysis was conducted by linking field practice conditions and applicable regulations.²⁷

RESULT AND DISCUSSION

Legal Uncertainty in Enforcing ASN Neutrality

The issue of civil servant neutrality in elections and regional elections is not only related to the implementation of norms, but also touches on fundamental aspects of the legal framework that underpins their implementation.²⁸ One crucial source of legal uncertainty lies in the overlapping and ambiguous regulations governing the neutrality, discipline, and restrictions on the actions of civil servants during electoral contests.²⁹ Regulations regarding the neutrality of civil servants are scattered across various stand-alone legal instruments, without a clear codification system. Law Number 5 of 2014 concerning the State Civil Apparatus provides a normative basis for civil servants' obligations to be neutral, free from political intervention, and not to engage in practical political activities.³⁰ Moreover, similar provisions are also contained in Law Number 7 of 2017 concerning Elections and Law Number 10 of 2016 concerning Regional Elections, which prohibit civil servant involvement in political campaigns and activities during election periods.³¹

Furthermore, Government Regulation Number 94 of 2021 concerning Civil Servant Discipline also regulates the types of violations and the classification of administrative sanctions for civil servants who fail to maintain neutrality.³² Technically, the enforcement of neutrality is also outlined in a Joint Decree (SKB) of Five Institutions: the Ministry of Home Affairs, the Ministry of Administrative and Bureaucratic Reform (PAN-RB), the National Civil Service Agency (BKN), the National Armed Forces Agency (KASN), and the Elections Supervisory Agency (Bawaslu). It provides technical guidelines for the implementation and enforcement of civil servant neutrality

²⁶ Abdul Kadir Jaelani, Reza Octavia Kusumaningtyas, and others, 'Green Legality Certificate on Agrarian Reform: Indonesian Experience', *KnE Social Sciences*, 2024 <https://doi.org/10.18502/kss.v8i21.14713>

²⁷ Abdul Kadir Jaelani, Resti Dian Luthviati, and others, 'Indonesia Carbon Tax Policy: A Key Role in Sustainable Development Goals', 2024, p. 020040 <https://doi.org/10.1063/5.0202042>

²⁸ Irwan Waris and Shadiq M, 'Civil Servant Neutrality in Regional Head Election', *Proceedings of the 2021 Tadulako's International Conference on Social Sciences (TICoSS 2021)*, 674.TICoSS 2021 (2022), 50–55 <https://doi.org/https://doi.org/10.2991/assehr.k.220707.012>

²⁹ Andi Mardatila and Syaharie Ja'ang, 'Netralitas Aparatur Sipil Negara Dalam Pemilu Di Samarinda: Analisis Hukum Dan Pengawasan', *International Journal of Politic, Public Policy and Environmental Issues*, 4.2 (2025), 10–16 <https://doi.org/10.53622/ij3pei.v4i2.381>

³⁰ Bayu Indra Permana and others, 'Reposisi Pengaturan Netralitas Aparatur Sipil Negara Dalam Penyelenggaraan Pilkada', *Jurnal Usm Law Review*, 5.1 (2022), 224–38 <https://doi.org/10.26623/julr.v5i1.4800>

³¹ Jacobus Ronald Mawuntu, Jemmy Sondakh, and Patria Caraka Regar, 'The Neutrality of the State Civil Apparatus in General Elections: A Study of Law Enforcement', *Al-Ishlah: Jurnal Ilmiah Hukum*, 26.1 (2023), 1–14 <https://doi.org/10.56087/aijih.v26i1.374>

³² Fathur Rauzi, 'Optimalisasi Penjatuhan Hukuman Akibat Indisipliner Kerja Pegawai Negeri Sipil', *Media of Law and Sharia*, 3.4 (2022), 337–47 <https://doi.org/10.18196/mls.v3i4.15844>



violations.³³ However, these scattered regulations give rise to several structural issues, including a lack of synchronization in the content and scope of regulations, differing definitions of "neutrality," and duplication of sanctions that lead to confusion in enforcement. A single violation by a civil servant can be categorized as a disciplinary violation under the Government Regulation, a campaign violation under the Election Law, and an ethical violation under the Civil Servant Law. Consequently, uncertainty arises in the interpretation and implementation of norms, both by supervisory officials and civil servants themselves.³⁴

Amid this normative uncertainty, enforcement authorities often rely on the Joint Decree of the Five Institutions as a technical reference, despite its lack of binding legal force. The Joint Decree of the Five Institutions, which is often used as a technical basis for enforcement, does not have normatively binding legal force. Based on Law Number 12 of 2011 concerning the Formation of Legislation, the Joint Decree is not included in the hierarchy of valid legislation in Indonesia, which comprises the 1945 Constitution, laws, Government Regulations, Presidential Regulations, and Regional Regulations. Thus, the Joint Decree is administrative and cannot serve as a normative basis that compels ASN in general; it is only internally binding on the agency that issued it.³⁵

The practical implications of using Joint Decrees (SKB) as the basis for legal action are significant. Action based solely on Joint Decrees (SKB) is potentially subject to challenge due to its lack of legal standing. It can lead to conflicts of authority between supervisory institutions such as Bawaslu (Elections Supervisory Agency), KASN (National Agency for the Supervision of Civil Servants), regional BKDs (Regional Civil Servants Agency), and PPK (Regional Civil Servant Supervisory Agency) within government agencies. When differing interpretations or attitudes arise between agencies regarding a case, there is no single rule of law that can serve as a definitive reference, so the disciplinary enforcement process is often hindered or even impossible to implement.³⁶

Recognizing the complexity and legal uncertainty arising from the overlapping and fragmented regulations regarding ASN neutrality, the primary solution required is the harmonization and codification of regulations within a comprehensive, hierarchical, and operational legal framework.³⁷ Harmonization is needed to align various legal products that currently regulate similar matters but with different standards and

³³ Aprilian Sumodiningrat, 'Menakar Transformasi Bawaslu Menjadi Lembaga Independen Peradilan Pemilu', *Jurnal Konstitusi*, 19.1 SE-Articles (2022), 180–201 <https://doi.org/10.31078/jk1918>

³⁴ O. Narzullaev, 'Scientific and Theoretical Analysis of the Right to Use Forest Land (in the Example of Uzbekistan)', ed. by L. Foldvary and I. Abdurahmanov, *E3S Web of Conferences*, 386 (2023), 05004 <https://doi.org/10.1051/e3sconf/202338605004>

³⁵ M. Arief Budiman, 'Konsep Demokratis Dalam Pembentukan Peraturan Tentang Pembentukan Peraturan Perundang-', *Khatulistiwa Law Review*, 2.April (2021) <https://doi.org/https://doi.org/10.24260/klr.v2i1.298>

³⁶ Ridwan Ridwan, 'Eksistensi Dan Keabsahan Surat Keputusan Bersama 3 Menteri Tentang Penjatuhan Sanksi Terhadap Pegawai Negeri Sipil', *Jurnal Hukum IUS QUIA IUSTUM*, 28.1 SE-Articles (2021), 1–20 <https://doi.org/10.20885/iustum.vol28.iss1.art1>

³⁷ Dairani Dairani and Ach. Fadlail, 'Konsep Pengaturan Netralitas Asn Dalam Pemilu Dan Pilkada Serentak Tahun 2024', *LISAN AL-HAL: Jurnal Pengembangan Pemikiran Dan Kebudayaan*, 17.2 SE-Articles (2023), 251–66 <https://doi.org/10.35316/lisanalhal.v17i2.251-266b>



understandings, such as Law No. 5 of 2014 concerning ASN, Law No. 7 of 2017 concerning Elections, Law No. 10 of 2016 concerning Regional Elections, and PP No. 94 of 2021 concerning Civil Servant Discipline, including the Joint Decree of 5 Institutions which is technically used as a reference, but does not have binding legal force.³⁸ Within the harmonization framework, a comprehensive evaluation of the inconsistencies between these regulations is necessary, particularly regarding: (1) The definition of neutrality, which needs to be emphasized singly and operationally; (2) Types of violations and their classification, so that they do not overlap or give rise to multiple interpretations; and (3) The authority between supervisory institutions, such as KASN, BAWASLU, and PPK, to be regulated in an integrated manner in a transparent and hierarchical coordination system.³⁹

Codification is necessary to unify the regulation of ASN neutrality into a single, specific regulation, such as a Government Regulation in Lieu of Law (Perppu) or a revision to the ASN Law, thereby eliminating the fragmentation of sectoral regulations that creates uncertainty. This codification must also include a proportional, firm, and coercive sanctions system, as well as apparent executive authority for supervisory institutions, such as the KASN, to ensure the continuity of law enforcement in the event of violations of ASN neutrality. This legal reformulation can be theoretically strengthened by referring to Gustav Radbruch's theory of legal certainty (*rechtszekerheid*), which asserts that laws must fulfill the elements of clarity, consistency, and enforceability. Laws that are unclear or open to multiple interpretations violate the principle of certainty and tend to be ineffective in regulating behavior. Radbruch stated that without certainty, law loses its primary function as a guide to communal life. In addition, in Roscoe Pound's theory of "law as a tool of social engineering," law is positioned as a social engineering instrument that must be able to create order and justice in society. If the ASN neutrality regulation fails to prevent violations, then the law has lost its function as a tool to guide neutral and professional administrative behavior. In Indonesia, the law must also be based on the principle of "lex certa" in a state of law, as regulated in Article 28D, paragraph (1) of the 1945 Constitution, namely that everyone has the right to fair legal certainty. Therefore, vague, overlapping, and unintegrated regulations constitute a violation of the principle of the state of law itself.

Another issue that reinforces legal uncertainty in handling violations of ASN neutrality is the weak enforcement system of applicable sanctions.⁴⁰ Although Indonesia has an ASN supervisory body, namely the State Civil Service Commission (KASN), which is tasked with overseeing the implementation of the merit system and maintaining ASN neutrality as mandated by Law No. 5 of 2014, the authority of

³⁸ Nurmalita Ayuningtyas Harahap, 'Harmonisasi Ketentuan Hukuman Disiplin Pegawai Asn Untuk Menjamin Kepastian Hukum', *Mizan: Jurnal Ilmu Hukum*, 11.2 (2022), 185 <https://doi.org/10.32503/mizan.v11i2.2729>

³⁹ Syahlan Syahlan, 'Effective and Efficient Synchronization in Harmonization of Regulations Indonesia', *Journal of Human Rights, Culture and Legal System*, 1.1 (2021) <https://doi.org/10.53955/jhcls.v1i1.7>

⁴⁰ Irwan Setiawan and others, 'The Regulation of ASN Neutrality and Political Rights in Regional Head Elections: Legal Challenges and Solutions', *Journal of Management World*, 2025.2 SE-Articles (2025), 250–60 <https://doi.org/10.53935/jomw.v2024i4.909>



KASN is legally limited.⁴¹ The function of KASN in the context of taking action against violations of neutrality is limited to providing written recommendations to the authorized Personnel Development Officer (PPK) at the agency where the ASN concerned is assigned.⁴² These limitations pose serious implementation challenges. KASN recommendations are not legally binding, so their implementation depends entirely on the cooperation and good faith of individual civil servants (PPK), such as regional heads or institutional leaders.⁴³ In many cases, these recommendations are not acted upon and are often ignored. The lack of a coercive mechanism inherent in KASN's authority results in disciplinary action against violating civil servants becoming merely a superficial administrative procedure lacking substantive effectiveness.⁴⁴

Furthermore, enforcement in the field often involves light sanctions, such as verbal or written warnings, delays in periodic salary increases, or deductions from allowances. Severe sanctions, such as dishonorable discharge, are rarely imposed, except in cases of serious violations, including corruption. As a result, many civil servants who violate civil service regulations often experience no deterrent effect and may even consider such sanctions a common risk in regional political dynamics, especially if they receive protection from the local power elite.⁴⁵ This situation has systemic implications that cannot be ignored. Violations of civil servant neutrality continue to recur from one election period to the next. It not only indicates weak oversight but also suggests a lack of accountability among structural officials (PPK) who fail to follow up on recommendations.⁴⁶ It could undermine the credibility of the KASN as an institution overseeing civil servant neutrality, while simultaneously weakening public trust in the government's commitment to upholding the principles of clean governance and integrity.⁴⁷

As a form of normative recommendation, it is necessary to carry out reforms on four fundamental aspects: (1) strengthening the authority of KASN so that it is not merely recommendatory, but has executive authority in cases of proven violations; (2) standardization of sanctions based on violation classification to ensure consistency and legal certainty; (3) improving the external monitoring and evaluation mechanism for the implementation of KASN recommendations by PPK; and (4) implementing

⁴¹ Saepudin Saepudin and Dana Pratiwi, 'Dilemmatic Position of State Civil Apparatus (ASN)', *Journal of Government and Political Issues*, 2.2 (2022), 117–25 <https://doi.org/10.53341/jgpi.v2i2.95>

⁴² Arif Rahmansyah and Irwandi Irwandi, 'Analisis Terhadap Netralitas Aparatur Sipil Negara Dalam Pemilihan Kepala Daerah Berdasarkan Peraturan Perundang-Undangan', *Limbago: Journal of Constitutional Law*, 1.3 (2021), 449–66 <https://doi.org/10.22437/limbago.v1i3.16197>

⁴³ M Hary Rubianto, Ardiansyah Ardiansyah, and Bagio Kadaryanto, 'The Prohibition of Civil Servant (ASN) in Actions to Benefit Prospective of Regional Head in Public', *Jurnal Daulat Hukum*, 5.1 (2022), 20 <https://doi.org/10.30659/jdh.v5i1.18498>

⁴⁴ Mawuntu, Sondakh, and Regar.

⁴⁵ Surya Yudha Regif and Andre Pattipeilohy, 'Penyalahgunaan Peran Aparatur Sipil Negara (ASN) Dalam Electoral Misconduct Pada Pilkada Di Indonesia', *Jurnal Adhyasta Pemilu*, 6.1 SE-Artikel (2023), 38–48 <https://doi.org/10.55108/jap.v6i1.62>

⁴⁶ Sangyub Ryu and Naufal Virindra, 'Impaired Neutrality: A Propensity That Occurs Among Indonesian Bureaucrats in the Election', *Policy & Governance Review*, 7.1 (2023), 38 <https://doi.org/10.30589/pgr.v7i1.622>

⁴⁷ Azura Marha Rafifah and Mudiya Rahmatunnisa, 'Analisis Kerentanan Pelanggaran Netralitas ASN Jelang Pilkada Serentak Tahun 2024 Pasca Penghapusan KASN', *Jurnal Ilmiah Muqoddimah : Jurnal Ilmu Sosial, Politik, Dan Humaniora*, 2024 <https://doi.org/https://doi.org/10.31604/jim.v8i4.2024.1974-1983>



sanctions against PPK who do not implement recommendations, both in the form of administrative sanctions and administrative criminal accountability in terms of protection against deliberate violations.

However, such normative and structural reform efforts will not be effective without adequate institutional transparency as a supporting element of oversight accountability. Weaknesses in enforcing sanctions against violations of civil servant neutrality are not simply the result of individual violators' non-compliance, but rather a manifestation of structural weaknesses in institutional design and prevailing legal norms. Without reforms that address the root of the problem, violations of civil servant neutrality will continue to be a recurring problem that erodes the integrity of electoral democracy and bureaucratic professionalism in Indonesia. One crucial aspect contributing to the weak enforcement of civil servant neutrality is the low level of institutional transparency, particularly in the management and publication of audit results, as well as the enforcement of violations. The State Civil Service Commission (KASN) and the Election Supervisory Agency (BAWASLU), two key institutions responsible for overseeing the neutrality of civil servants, have not consistently published the results of their audits of violations through official, open mechanisms, such as the PPID Portal or a publicly accessible online dashboard.⁴⁸ This internal, selective, and limited publication policy makes it difficult for the public, the media, and other stakeholders to access data on violations and their follow-up. The formal process for requesting information through the PPID is often slow, complicated, or even unresponsive, severely limiting public control over the integrity of the oversight process.

This lack of transparency has a systemic impact on public perception and trust. When information regarding enforcement actions against civil servant (ASN) neutrality violations cannot be openly verified, it creates room for allegations of neglect, political interference, or even protection of violators.⁴⁹ The lack of adequate publicity regarding enforcement results also creates a legal gray area, where public ignorance is exploited to cover up ineffective enforcement. Consequently, trust in oversight bodies such as the KASN (National Agency for Civil Servant Protection) and the Elections Supervisory Agency (BAWASLU) has declined, and the public has questioned the government's commitment to maintaining civil servant neutrality.⁵⁰

Therefore, strategic steps are needed to strengthen institutional transparency. It includes encouraging the regular publication of audit results and sanctions in the form of digital reports that are easily accessible through the Public Information and Transactions Agency (PPID) or an online dashboard.⁵¹ Furthermore, information request procedures must be simplified and responsive, and involve public and media participation as part of an external oversight mechanism. Regular evaluations and

⁴⁸ Saepudin and Pratiwi.

⁴⁹ A Al Hariz, H Nugroho, and R Ridwan, 'Reconstruction of Legal Protection for Civil Servants as Whistleblowers in Eradicating Corruption Crimes in Indonesia', *Journal of Law and Legal Reform*, 5.3 (2024), 1185–1226 <https://doi.org/10.15294/jllr.v5i3.16334>

⁵⁰ Wendy Wiraganti, Santoso, and Hijriatul Aulia.

⁵¹ Dan Honig, Ranjit Lall, and Bradley C. Parks, 'When Does Transparency Improve Institutional Performance? Evidence from 20,000 Projects in 183 Countries', *American Journal of Political Science*, 67.4 (2023), 1096–1116 <https://doi.org/10.1111/ajps.12698>



audits of public information disclosure are also necessary to ensure institutional accountability and transparency. Without strong transparency, efforts to enforce civil servant neutrality will struggle to achieve substantive effectiveness and will become little more than procedural formalities.

The lack of strong transparency at the central level is also reflected in field conditions, where weak norm implementation continues to recur across various regions. Field studies in three districts, Karanganyar, Boyolali, and Kendal, show that violations of ASN neutrality are still widespread and repeated, reflecting the weak implementation of norms at the local level. In Karanganyar Regency, a significant increase in the number of violations was recorded from year to year, with a peak in 2024 of 46 violations, which included ASN involvement in campaigns, becoming members of political parties, and attending candidate declarations. Sanctions imposed generally took the form of performance allowance cuts and ethical sanctions, but were not sufficient to create a deterrent effect.⁵²

Meanwhile, in Boyolali Regency, violations took on more varied forms, leading to the structural mobilization of civil servants. Examples include cases of directing civil servants to vote for a particular presidential candidate by the regional head, the collection of civil servant contributions for campaign purposes, and the presence of village officials at internal political party meetings. In some cases, civil servants were even reported to have openly expressed support on social media or through official local government forums. Some violations resulted in sanctions, such as allowance cuts, honorable discharges, or moral sanctions; however, the involvement of local political elites made the enforcement process vulnerable to interference and inconsistency.

In Kendal Regency, data shows more than 3,000 cases of alleged violations of civil servant neutrality in the 2024 regional elections, making this region one of the areas with the highest violation rates. Practices uncovered include civil servants attending campaigns, engaging in vote buying, becoming party officials, and posting content on social media that supports specific candidates. Administrative sanctions, such as postponement of promotions and dismissal of structural officials, have been implemented, but have not been accompanied by an adequate public oversight system.

Overall, these field findings suggest that the implementation of the ASN neutrality norm has been ineffective at the regional level.⁵³ The weak capacity of supervisory institutions, the structural position of regional heads as PPK (Regional Civil Servant Administrators), and low transparency in law enforcement are factors that contribute to repeated violations. It suggests that despite the existence of legal norms, their implementation still faces structural, political, and bureaucratic cultural barriers that are not yet entirely neutral.⁵⁴ It is essential to examine how the legal systems of several democratic countries maintain and enforce the principle of civil service neutrality, thereby strengthening normative analysis and providing a comparative

⁵² Amiruddin Sijaya.

⁵³ Muttaqin, M. Zaenul; Idris.

⁵⁴ Topo Santoso, 'Election Offences as the Ground of Election Petition: A Comparative Analysis', *Indonesian Journal of International Law*, 4.2 (2007) <https://doi.org/10.17304/ijil.vol4.2.142>



perspective. Countries such as the United States, Canada, France, and Germany have more established legal and institutional frameworks to maintain bureaucratic independence from political influence in the electoral process. **Table 1.** presents the differences between laws, supervisory institutions, and the system of enforcing sanctions for violations of ASN neutrality in several countries, in comparison to the situation in Indonesia.

Table 1. Differences between laws, supervisory institutions, and the system of enforcing sanctions for violations of ASN neutrality

Country	Main Regulations	Supervisory Agency	Nature of Supervision	Sanctions and Law Enforcement
United States of America	<i>Hatch Act of 1939</i>	Office of Special Counsel (OSC)	Independent, has investigative and executive powers	Firm, including dismissal, fines, and direct administrative action
Canada	<i>Public Service Employment Act (PSEA)</i>	Public Service Commission (PSC)	Independent, preventive and repressive	Firm, strict ethical procedures and direct involvement in recruitment & discipline
French	The Principle of Neutrality in ASN Law	Administrative Disciplinary Authority	Integrated into the state administration system	Violations are stated in positive law, sanctions are hierarchical and automatic
German	Federal Civil Service Law	Civil Servant Supervisor (Disziplinarrecht)	Autonomous, based on ethical standards of the rule of law	Firm, including dismissal, demotion, and revocation of employee status
Indonesia	ASN Law (No. 5/2014), Election Law (7/2017), Regional Election Law (10/2016), PP No. 94/2021, Joint Decree of 5 Institutions	KASN (recommended), PPK, Bawaslu	Fragmented, recommendative, independent	Weak, light sanctions are dominant, implementation depends on PPK, not uniform

Sources: processed by author

Based on the table described above, the Hatch Act of 1939, which explicitly forbids federal employees from engaging in partisan political activities, tightly regulates civil service neutrality in the United States.⁵⁵ Workers are not allowed to support candidates, run campaigns, or use their jobs for political purposes.⁵⁶ The primary objectives of this rule are to maintain the impartiality and professionalism of the bureaucracy and to prevent politics from influencing government operations. The Public Service Employment Act (PSEA) governs the neutrality of civil servants in Canada. According to this law, public servants are required to avoid conflicts of interest and maintain political neutrality. Canada emphasizes the importance of a public service system free from political influence as the foundation of fair and professional governance.⁵⁷ Enforcement of violations is carried out through strong and independent administrative institutions.⁵⁸ In France, the principle of civil servant neutrality is guaranteed within the state administration system. With explicit administrative penalties for infractions, civil servants are legally forbidden from expressing any political preferences while in office. The French government considers

⁵⁵ Sharon Mastracci and Arthur J Sementelli, 'Neutrality Narratives, Gender, and Fear of Cuckoldry in Public Administration', *Organization*, 29.4 (2021), 770–80 <https://doi.org/10.1177/13505084211015381>

⁵⁶ Permana and others.

⁵⁷ Mouna Hazgui, Peter Triantafillou, and Signe Elmer Christensen, 'On the Legitimacy and Apoliticality of Public Sector Performance Audit: Exploratory Evidence from Canada and Denmark', *Accounting, Auditing and Accountability Journal*, 35.6 (2022), 1375–1401 <https://doi.org/10.1108/AAAJ-04-2020-4508>

⁵⁸ Amélie Armstrong and Ian Stedman, 'A "Renewed Conversation" about Ethical Management in Canada's Public Service: Where Should We Be Headed?', *Canadian Public Administration*, 67.4 (2024), 620–31 <https://doi.org/https://doi.org/10.1111/capa.12591>



fairness and administrative integrity to be essential components of public service. In Germany, civil servants are prohibited from publicly supporting any party or candidate and are legally obligated to maintain their neutrality.⁵⁹ Through a methodical legal framework that forbids the misuse of public office for private political advantage, the German political system upholds this neutrality. A stringent oversight framework and high moral standards for public servants further support it. This comparison concludes that these four democracies consistently enforce strict prohibitions on civil servant political participation through structured regulations, independent oversight bodies, and a firm and legally certain sanctions system. Compared to Indonesia, the main weakness lies in the weak binding power of recommendations from oversight bodies (such as the KASN) and the absence of an independent oversight body with quasi-judicial authority, as exemplified in these countries.⁶⁰

Therefore, Indonesia must urgently reform its legal and institutional framework to align with international best practices by strengthening the binding authority of oversight institutions and establishing an independent, quasi-judicial body to ensure the effective enforcement of civil servant neutrality. Without such reforms, the neutrality principle will remain vulnerable to political interference, ultimately undermining the integrity of public administration and democratic governance.

The Dilemma of Civil Servant Neutrality and Constitutional Political Rights

The issue of ASN neutrality is not merely a bureaucratic administrative problem, but rather touches on fundamental aspects of the human rights and constitutional rights of every citizen. In the Indonesian legal system, citizens' political rights are guaranteed in Article 28D paragraph (3) of the 1945 Constitution of the Republic of Indonesia. This provision affirms that all Indonesian citizens, regardless of their status or position, have the right to participate in political life. It includes the right to vote and be elected, express political opinions, join political parties, and participate in the broader democratic process.⁶¹ However, in practice, ASN political rights are limited by the norm of neutrality explicitly stipulated in Article 9 of Law Number 5 of 2014 concerning the State Civil Apparatus (ASN Law). This article states that "State Civil Apparatus must be neutral in carrying out their duties and not take sides with any particular political interests." This norm is reinforced by several other technical regulations, such as Government Regulation No. 94 of 2021 concerning Civil Servant Discipline, as well as various circulars and joint decrees across institutions, which prohibit ASN from engaging in practical political activities, including campaigning, declaring support, and participating in successful teams or political parties.⁶²

The tension between these two norms creates an apparent normative conflict. On the one hand, civil servants (ASN) are citizens whose political rights are guaranteed by the constitution. On the other hand, ASN are public servants bound by ethical and professional obligations to maintain neutrality. In this context, what some

⁵⁹ Ben Wagner and others, 'Mapping Interpretations of the Law in Online Content Moderation in Germany', *Computer Law & Security Review*, 55 (2024), 106054 <https://doi.org/https://doi.org/10.1016/j.clsr.2024.106054>

⁶⁰ Permana and others.

⁶¹ BAGUS SARNAWA.

⁶² Wendy Wiraganti, Santoso, and Hijriatul Aulia.



constitutional law experts refer to as a "conflict between the norms of rights and the norms of official obligations" arises. For example, when a civil servant likes or shares political content on social media, is this action an expression of constitutional political rights or a violation of the principle of neutrality? Or, when a civil servant chooses to be a passive member of a political party, can the state restrict these rights?⁶³ Restrictions on the political rights of ASN are indeed possible, but they must comply with the principles of proportionality and legal clarity. In modern constitutional law doctrine, restrictions on human rights, including political rights, must be based on law, have a legitimate purpose, be carried out proportionally, and not eliminate the essence of the right itself. This principle is also emphasized in Article 28J of the 1945 Constitution, which states that restrictions on human rights can only be carried out to guarantee recognition and respect for the rights and freedoms of others, and to meet the demands of justice, taking into account morality, religious values, security, and public order.

In several Constitutional Court decisions, such as MK Decision No. 5/PUU-V/2007, the Court has stated that restrictions on the political rights of ASN are constitutional as long as they are carried out for the greater good, namely, maintaining the professionalism and neutrality of the bureaucracy in state administration.⁶⁴ However, the Court also emphasized that such restrictions must not be absolute or completely suppress political rights, because ASN remain citizens whose rights are guaranteed by the constitution.

Therefore, the solution to this tension is not to eliminate one of the norms, but rather through a proportional, contextual, and functionally based approach to legal interpretation. Civil servants can still exercise their political rights as citizens. However, their implementation is limited as long as they remain in positions that have the potential for conflicts of interest with their public service duties. Restrictions are temporary and limited to practical political expressions that could affect the neutrality of the institution. While passive rights such as voting remain fully guaranteed, the right to join a party or engage in active politics must be assessed based on the risks to bureaucratic neutrality and professionalism.⁶⁵ To maintain neutrality regarding civil servants (ASN), the government has imposed several restrictions on political participation for civil servants, both in terms of active actions and passive expressions.⁶⁶ In principle, restrictions on civil servants' political participation are intended to safeguard bureaucratic integrity and prevent political influence from compromising the quality of public services. However, several regulations and oversight policies have overextended the scope of restrictions, extending to civil

⁶³ Waris and M.

⁶⁴ Rubianto, Ardiansyah, and Kadaryanto.

⁶⁵ Youli Cho, Zheng Fang, and Nicholas Cheng Siang Sim, 'Meritocratic Beliefs and Economic Growth: A Mediating Effect of Economic Inequality', *Asia and the Global Economy*, 3.2 (2023), 100072 <https://doi.org/10.1016/j.aglobe.2023.100072>

⁶⁶ Muttaqin, M. Zaenul; Idris.



servants' expression in digital and social media spaces, which may lead to violations of human rights and civil liberties.⁶⁷

Normatively, ASN are expressly prohibited from actively participating in practical political activities, as stipulated in various provisions, such as Article 9 of Law No. 5 of 2014 concerning ASN, and detailed in implementing regulations, including Government Regulation No. 94 of 2021 and Joint Decrees of 5 Institutions. ASN are prohibited from joining campaign teams, making open declarations of support, or attending campaign activities. However, several supervisory policies at the ministerial/institutional and regional levels also extend the prohibition to passive actions interpreted as forms of support, such as "liking," "sharing," or "commenting" on politically nuanced content on social media. This repressive approach considers ASN's political expression, even in digital forms that do not directly impact the performance of public services, a violation of neutrality.

This phenomenon indicates the presence of symptoms of over-regulation, namely when regulations are made too broad, strict, and disproportionate to the objectives to be achieved. Over-regulation in the context of ASN occurs when all forms of political expression, even those not directly related to their public office, are considered violations of the law. As a result, ASN's rights to express personal opinions, including those on social media, are limited. Provisions such as this risk curbing freedom of expression and opinion, which are part of human rights, as guaranteed in Article 28E paragraph (3) of the 1945 Constitution, and also in International Instruments such as the International Covenant on Civil and Political Rights (ICCPR), which Indonesia has ratified through Law No. 12 of 2005.⁶⁸

The principle of proportionality itself is an inseparable part of the standard for limiting human rights in modern law. In Indonesian law, this principle is affirmed in Article 28J paragraph (2) of the 1945 Constitution.⁶⁹ As a compromise, regulations regarding civil servant neutrality should be designed in a balanced and rational manner. Active measures that seriously compromise the impartiality of public services, such as direct campaign participation or the use of public funds for political purposes, should be the primary target of restrictions. In the meantime, the civil rights of civil servants as citizens must be upheld, including the right to passive political expression in private settings. The government also needs to develop clear and proportionate guidelines regarding social media use, as well as conduct political education and public

⁶⁷ Claus Thustrup Kreiner and Isabel Skak Olufsen, 'Is Inequality in Subjective Well-Being Meritocratic? Danish Evidence from Linked Survey and Administrative Data.', *Journal of Economic Behavior & Organization*, 203 (2022), 336–67 <https://doi.org/10.1016/j.jebo.2022.09.004>

⁶⁸ Devara Febrydo Batubara, 'Pembatasan Hak Berekpresi Dan Berpendapat Asn Dalam Bersosial Media Dalam Bersosial Media Dalam Konteks Pencegahan Pelanggaran Netralitas Asn', *Jurnal Hukum To-Ra: Hukum Untuk Mengatur Dan Melindungi Masyarakat*, 10.2 (2024), 390–414 <https://doi.org/10.55809/tora.v10i2.339>

⁶⁹ Soo Ling Lim and Peter J. Bentley, 'Opinion Amplification Causes Extreme Polarization in Social Networks', *Scientific Reports*, 12.1 (2022), 18131 <https://doi.org/10.1038/s41598-022-22856-z>



ethics advocacy for civil servants, rather than solely resorting to a sanctioning approach.⁷⁰

Therefore, the regulation of civil servant neutrality should not be an instrument of political silencing, but rather a tool to ensure that civil servants can continue to carry out their duties professionally without losing their identity as citizens free to express themselves. This balance is a concrete manifestation of the implementation of a democratic state based on the rule of law and respect for human rights principles.⁷¹ Therefore, the concept of civil servant neutrality must be understood proportionally, in line with their unique position as both part of the state apparatus and citizens entitled to constitutional rights. The State Civil Apparatus (ASN) in the Indonesian legal system is an entity that holds a dual position: on the one hand, as an implementer of government administration, and on the other hand, as a citizen whose political rights are guaranteed by the constitution. As stipulated in Article 28D, paragraph (3) of the 1945 Constitution of the Republic of Indonesia, every citizen has the right to citizenship status and political rights, including the right to vote, be elected, and express opinions in political forums. It means that ASN citizens do not automatically lose these political rights simply because of their employee status.⁷²

However, in practice, civil servants' political rights are strictly restricted by laws and regulations governing bureaucratic neutrality, such as the Civil Servant Law, Government Regulation No. 94 of 2021 concerning Civil Servant Discipline, and various circulars or technical joint decrees. These restrictions include prohibitions on active actions such as joining campaign teams, attending campaigns, and openly expressing political support through social media. Furthermore, some policies interpret passive political expression for example, liking or sharing political content on social media as a violation of neutrality. It suggests a potentially overregulatory expansion of restrictions, extending to the private space and personal expression of civil servants.⁷³

Socially, these overbearing limitations make it more difficult for civil servants to engage in a robust and democratic society. A bureaucracy that has been systemically silenced runs the risk of becoming docile, unthinking, and vulnerable to manipulation. Furthermore, the narrowing of democratic space within the bureaucracy creates a culture of fear that undermines the quality of public services and the effectiveness of

⁷⁰ Huanhuan Li, Zongfeng Sun, and Jiacheng Xi, 'Unveiling Civil Servants' Preferences: Human-Machine Matching vs. Regulating Algorithms in Algorithmic Decision-Making Insights from a Survey Experiment', *Government Information Quarterly*, 42.1 (2025), 102009 <https://doi.org/10.1016/j.giq.2025.102009>

⁷¹ Ying Chen and others, 'Factors Influencing Civil Servants' Willingness to Implement Cardiopulmonary Resuscitation in Chongqing, China: Based on the Theory of Planned Behavior', *Heliyon*, 10.9 (2024), e29803 <https://doi.org/10.1016/j.heliyon.2024.e29803>

⁷² Shulan Lei and others, 'Reliability and Validity of Warwick-Edinburgh Mental Well-Being Scale among Chinese Civil Servants', *International Journal of Mental Health Promotion*, 26.1 (2024), 61–67 <https://doi.org/10.32604/ijmh.2023.045478>

⁷³ Xuesong Li and Jian Wang, 'Should Government Chatbots Behave like Civil Servants? The Effect of Chatbot Identity Characteristics on Citizen Experience', *Government Information Quarterly*, 41.3 (2024), 101957 <https://doi.org/10.1016/j.giq.2024.101957>



the government itself.⁷⁴ Both practical and normative policy changes are required to resolve this conundrum. The distinction between active political expression while performing official duties and private political expression unrelated to public service must be made explicit in regulations. Furthermore, psychological support and political education should be provided to civil servants so they consciously understand their boundaries, not out of fear. Organizational culture must also be built democratically to support responsible freedom of expression.

Table 2. Several Recommendations That Can Be Taken

Aspect	Recommendation
Recognition of political rights	Regulations must guarantee the political rights of ASN in areas not directly related to job duties.
Proportional restrictions	Restrictions on political expression only apply when ASN actively carry out public office functions.
Psychological support	Provide human rights counseling and education as well as discussion space on the ethics of neutrality for ASN.
Organizational culture	Build an open bureaucratic organization, encourage dialogue, and not repressive of ASN opinions.

Table 2 outlines four strategic recommendations aimed at reformulating the legal framework of civil servant neutrality in a more proportional and human rights-based manner. First, the aspect of *recognition of political rights* emphasizes the need to guarantee the political rights of civil servants (ASN) in areas unrelated to their official duties, ensuring that their employment status does not automatically negate their constitutional rights as citizens. Second, *proportional restrictions* advocate that limitations on political expression should only apply when civil servants are actively performing public office functions, thus preventing unnecessary encroachment on their private freedoms. Third, the *psychological support* dimension calls for the provision of human rights counseling, civic education, and open discussion spaces on the ethics of neutrality, to foster awareness through constructive rather than punitive measures. Fourth, under *organizational culture*, the recommendation is to cultivate an open bureaucratic environment that promotes dialogue and avoids repressive attitudes toward civil servants' opinions, thereby supporting a democratic institutional climate. Collectively, these recommendations underscore the importance of legal and cultural reform in striking a balance between bureaucratic professionalism and the protection of civil liberties within a democratic state governed by the rule of law.⁷⁵

In conclusion, civil servants (ASN) find themselves in a complex position: they are required to be neutral yet remain part of a sovereign people. A democratic state must be able to respect both dimensions in a balanced manner. Without respect for the political rights of civil servants, neutrality will be an empty slogan that will alienate the bureaucracy from its citizens. Conversely, with a proportional and human rights-based approach, the bureaucracy will grow as a professional, neutral, and democratic civil

⁷⁴ Florence Carrouel and others, 'Promoting Health Literacy in the Workplace Among Civil Servants: Cross-Sectional Study', *JMIR Public Health and Surveillance*, 10 (2024), e58942–e58942 <https://doi.org/10.2196/58942>

⁷⁵ Rajan Khanal, Anil Kumar Gupta, and Prakash C. Bhattarai, 'Civil Servants' Integrity in Public Sector: The Case of Nepal', *Heliyon*, 8.12 (2022), e12632 <https://doi.org/10.1016/j.heliyon.2022.e12632>



force.⁷⁶ Restrictions on the political rights of ASN in Indonesia necessitate a critical analysis from an international human rights perspective, primarily about the International Covenant on Civil and Political Rights (ICCPR), which Indonesia has ratified through Law No. 12 of 2005. Article 25 of the ICCPR affirms that every citizen has the right to participate in government, either directly or through freely chosen representatives, and has the right to vote and be elected. Additionally, it affirms the right to access public office under equal conditions and without discrimination. These rights are a fundamental part of the democratic system and cannot be arbitrarily set aside, even for civil servants or bureaucratic apparatus.⁷⁷

In the eyes of international human rights law, restrictions on political rights can be justified, but only if they meet three cumulative criteria: first, the restrictions must be based on a law that is firm, clear, and accessible to the public (provided by law); second, the restrictions must have a legitimate purpose, for example to maintain national security, public order, public morality, or the protection of the rights of others; and third, the restrictions must be proportionate and necessary in a democratic society, that is, not exceeding what is necessary and not eliminating the essence of the right itself. These principles are emphasized in General Comment No. 25, issued by the UN Human Rights Committee, which highlights that any restrictions must not be unclear, biased, or susceptible to abuse of power.⁷⁸

However, in Indonesian regulatory practice, restrictions on the political rights of civil servants are often applied broadly and even tend to exceed the limits permitted by human rights law. Regulations such as those contained in Article 9 of the Civil Servant Law, Government Regulation No. 94 of 2021 concerning Civil Servant Discipline, and Joint Decrees of 5 Institutions not only prohibit civil servants from actively engaging in practical politics, such as joining campaign teams or participating in campaigns, but also interpret passive actions on social media such as liking or sharing political content as a violation of neutrality. Article 25 of the ICCPR's proportionality principle is not met by national laws, as evidenced by these restrictions, which also apply to private speech unrelated to official duties.⁷⁹

Overly broad restrictions not accompanied by strong normative standards also open up the possibility of discrimination and unequal legal treatment. Under certain circumstances, civil servants who demonstrate specific political affiliations may be subject to sanctions, while those who tend to support those in power are often overlooked. This inconsistency in enforcement reinforces the suspicion that restrictions on civil servant neutrality are often used as a political tool, rather than as a principle of

⁷⁶ Shinta Hadiyantina, 'The Most Appropriate Strategy to Enhance Civil Servants' Neutrality in the Governance', *Journal of Economic and Administrative Sciences*, 37.1 (2021), 61–78 <https://doi.org/10.1108/JEAS-03-2019-0031>

⁷⁷ Srisombat Chokprajakchat and Nittaya Sumretphol, 'Implementation of the Code of Professional Ethics for Thai Civil Servants', *Kasetsart Journal of Social Sciences*, 38.2 (2017), 129–35 <https://doi.org/10.1016/j.kjss.2016.03.004>

⁷⁸ Vincent Obedgiu and others, 'An Investigation of Key Predictors of Organizational Citizenship Behavior of Civil Servants', *International Journal of Organization Theory & Behavior*, 23.2 (2020), 101–19 <https://doi.org/10.1108/IJOTB-03-2019-0041>

⁷⁹ Andi Indahwaty Sidin and others, 'Can Buginese Values Foster the Organizational Citizenship Behavior (OCB) of Civil Servants in Local Hospital in Makassar, South Sulawesi, Indonesia', *Enfermería Clínica*, 30 (2020), 229–32 <https://doi.org/10.1016/j.enfcli.2020.06.052>



bureaucratic professionalism.⁸⁰ To resolve the normative conflict between civil servant (ASN) neutrality and the constitutional guarantee of political rights, several specific and innovative recommendations are proposed. First, the government should introduce a Neutrality Boundaries Index (NBI) that clearly categorizes permissible and impermissible political expressions based on their relevance to public duties and institutional impact, ensuring legal clarity and consistency. Second, the establishment of an Independent Commission on Civil Servant Rights and Neutrality (ICCSRN) with quasi-judicial authority is essential to ensure due process and protect ASN from arbitrary sanctions. Third, a Passive Expression Protection Clause should be codified into national regulations to explicitly safeguard non-active forms of political expression, such as liking or sharing political content online, as long as they do not interfere with official responsibilities.⁸¹ Fourth, the implementation of contextual ethics certification programs would enhance ASN's understanding of the boundaries of neutrality through rights-based education. Fifth, a human rights-audited digital assessment tool should be developed to ensure that monitoring mechanisms do not unjustly penalize private or passive expressions. Finally, Indonesia must adopt a legal harmonization blueprint that aligns all ASN neutrality laws with international human rights standards, particularly the ICCPR, applying the principles of legality, legitimacy, and proportionality.⁸² These recommendations aim to balance professional bureaucratic conduct with the preservation of civil liberties, thereby strengthening Indonesia's commitment to a democratic and rights-respecting state.

Politicization of Bureaucracy and Erosion of ASN Professionalism in Regional Elections

Although the Civil Servant Law provides space for regional heads to act as PPK (Commissioner of Civil Servants), its implementation conflicts with the provisions of Law Number 23 of 2014 concerning Regional Government, which states that regional heads do not have direct authority in managing civil servants except upon delegation from the President. Unfortunately, the form and limits of this delegation are not explicitly regulated, thereby leaving regional heads vulnerable to manipulation of authority. In some cases, regional heads still rely on outdated legal bases, such as Government Regulation No. 63 of 2009, to transfer and appoint civil servants, despite these provisions no longer being in line with the latest civil service legal regime. It creates legal uncertainty and fragmentation of power, ultimately harming civil servants as part of a bureaucratic system that should function neutrally and accountably.⁸³

The impact of this situation is clear. Civil servants not only lose their sense of job security but also lose motivation due to a career system that no longer relies on performance or achievement. The practice of political patronage in civil servant

⁸⁰ Ming-Yueh Hwang and others, 'The Relationship between the Online Social Anxiety, Perceived Information Overload and Fatigue, and Job Engagement of Civil Servant LINE Users', *Government Information Quarterly*, 37.1 (2020), 101423 <https://doi.org/10.1016/j.giq.2019.101423>

⁸¹ Hongcheng Ling, Xuebin Ding, and Changqi Tao, 'Digital Innovation, Human Capital Allocation, and Labour Share: Empirical Evidence from Listed Companies in China', *Journal of Innovation & Knowledge*, 10.3 (2025), 100705 <https://doi.org/10.1016/j.jik.2025.100705>

⁸² Yuping Deng, Jinxiao Yang, and Jiamei Liu, 'Labour Rights Protection and Export Expansion: Evidence from SA8000 Certification', *Journal of Asian Economics*, 95 (2024), 101816 <https://doi.org/10.1016/j.asieco.2024.101816>

⁸³ Albert Anton Traxler and others, 'The Interplay of Sustainability Reporting and Management Control – an Exploration of Ways for Dovetailing to Develop Reporting beyond Accountability', *Journal of Applied Accounting Research*, 26.6 (2023), 160–82 <https://doi.org/10.1108/JAAR-08-2022-0222>



management fosters fear, apathy, and bureaucratic dependence on political power, fundamentally contradicting the purpose of establishing the civil servant as a professional entity serving the public interest, not electoral interests.⁸⁴ To address this problem, more assertive and comprehensive regulatory and institutional intervention is needed. First, it is necessary to clarify the limits of regional heads' authority in managing civil servants (ASN) through legitimate, specific, and binding derivative regulations. Explicit legal frameworks must accompany the delegation of authority from the President to regional heads to prevent the abuse of power. Second, the oversight system for ASN transfers and promotions must be strengthened through independent institutions such as the KASN (National Civil Service Agency) and the Ombudsman, which are given not only recommendatory but also executive authority. Third, the rule of ASN neutrality must be fully enforced, including the imposition of administrative and legal sanctions on regional heads found to politicize the bureaucracy. Fourth, fundamental reforms to the implementation of the merit system must be consistently implemented through digitized recruitment, performance-based oversight, and transparent management of the ASN.⁸⁵

Without these structural and normative reforms, regional heads will continue to have the opportunity to instrumentalize the bureaucracy as a tool of political power. If this trend continues, the principle of civil servant neutrality will erode further, and electoral democracy will become a mere formality, controlled by local political elites through a bureaucracy that lacks independence. Institutional strengthening, regulatory harmonization, and changes to bureaucratic culture that promote professionalism and responsibility within the framework of a democratic state governed by the rule of law are necessary to address this condition, which is a form of structural deviation.⁸⁶

In the practice of regional government administration in Indonesia, political intervention towards ASN does not always take the form of explicit pressure or official instructions. More worrying are the subtle, covert, and often undocumented forms of pressure that are highly effective in fostering unhealthy political compliance within the bureaucracy. This kind of pressure frequently manifests as unofficial orders from superiors, whether they be senior bureaucrats or regional leaders, that subtly relate the political allegiance of government personnel to tenure, career continuity, or organizational security.⁸⁷

Organizational cultures shaped by political, rather than meritocratic, power relations have led civil servants to feel compelled to adapt to the dominant political direction in their workplace. In many cases, civil servants are told that siding with or supporting the incumbent will guarantee career stability and tenure, while neutrality or critical positions are considered high-risk. This phenomenon creates an unhealthy

⁸⁴ Christa Brunnschweiler and others, “‘You Need to Have This Information!’: Using Videos to Increase Demand for Accountability on Public Revenue Management”, *World Development*, 186 (2025), 106813 <https://doi.org/10.1016/j.worlddev.2024.106813>

⁸⁵ Saepudin and Pratiwi.

⁸⁶ Mohammed Alshurafa and Rania Kamla, ‘Accountability and the Postcolonial Identity of Palestinian Human Rights NGO Activists’, *Accounting, Organizations and Society*, 112 (2024), 101546 <https://doi.org/10.1016/j.aos.2024.101546>

⁸⁷ Jane Broadbent, ‘The Response to Covid-19 in England: Political Accountability and Loss of Trust’, *Journal of Accounting & Organizational Change*, 16.4 (2020), 527–32 <https://doi.org/10.1108/JAOC-07-2020-0093>



bureaucratic atmosphere, where social and psychological pressures also serve as covert political instruments.⁸⁸ As a result, many civil servants feel they have no choice but to follow the political current to avoid the risk of being transferred to non-strategic positions, being excluded from important projects, or even being subjected to administrative sanctions without objective justification. Fear of such pressure drives civil servants to engage in clandestine political activities, whether through attending campaigns, participating in political declarations, or even providing support through social media, despite this normatively violating the principle of neutrality guaranteed by civil service regulations.

Reports and field studies conducted by various institutions, such as the Indonesian Ombudsman and the Civil Servant Commission, reveal that political interference in the work of civil servants occurs in many regions, particularly in the lead-up to regional elections (Pilkada) or general elections.⁸⁹ Many civil servants are instructed, verbally or implicitly, to attend political activities or express support for the incumbent regional head. In such situations, ideal civil service administrative law cannot function effectively, as political and hierarchical power relations often override it.⁹⁰ In response to this situation, civil servant management reform must focus on establishing a concrete and operational system of protection for civil servants from structural political pressures. Institutional strengthening of supervisory entities, such as the National Civil Service Agency (KASN), is necessary so that they have a mandate that is not only advisory but also capable of conducting effective investigations and taking appropriate action. The socialization of the principle of civil servant neutrality cannot be done symbolically; it must be integrated into ongoing training, emphasizing public ethics and the rights of civil servants as citizens.⁹¹

The state must also establish a secure reporting system that ensures confidentiality and provides legal protection, thereby safeguarding the welfare and safety of civil servants who may be under political pressure. The central government must also impose stricter limitations on the authority of regional leaders in civil servant management to prevent political interference through transfers and promotions. Only in this way can civil servants carry out their functions as public servants professionally, with integrity, and free from the pressures of electoral interests.⁹² Therefore, structural political pressure on civil servants constitutes a violation of the fundamental principles of bureaucratic professionalism and the neutrality of state institutions. In addition to enforcing normative regulations, the state must create a bureaucratic structure that is both politically secure and structurally just in order to protect civil servants from such

⁸⁸ Ashutosh Thakur and Jonathan Bendor, 'Endogenous Reorganization: Status, Productivity & Meritocratic Dynamics', *Journal of Economic Behavior & Organization*, 227 (2024), 106747 <https://doi.org/10.1016/j.jebo.2024.106747>

⁸⁹ Perbawa, Aidonojie, and Ajah.

⁹⁰ Hadiyantina.

⁹¹ Carina Saxlund Bischoff, 'Between a Rock and a Hard Place: Balancing the Duties of Political Responsiveness and Legality in the Civil Service', *Public Administration*, 101.4 (2023), 1481–1502 <https://doi.org/10.1111/padm.12898>

⁹² Kutsal Yesilkagit and others, 'The Guardian State: Strengthening the Public Service against Democratic Backsliding', *Public Administration Review*, 84.3 (2024), 414–25 <https://doi.org/10.1111/puar.13808>



interference. An essential condition for transparent, democratic, and conflict-free governance is the preservation of civil servants' objectivity.⁹³

Patronage culture has long dominated Indonesia's regional bureaucratic system. Instead of professionalism and meritocracy, this system bases the relationships between high officials and their subordinates on transactional and personal ties. Patronage better known in political literature as clientelism describes a relationship pattern in which powerful officials (patrons) provide protection, access to resources, and opportunities for promotion to employees (clients) in exchange for political loyalty, support, or compliance with the patron's interests. In practice, regional heads, heads of Regional Apparatus Organizations (OPD), and structural officials often serve as patrons. At the same time, civil servants (ASN) and administrative employees become clients who depend on their proximity to power for their careers and job security.⁹⁴

In the public bureaucracy, this culture of patronage not only violates the fundamental principles of neutrality and professionalism of civil servants (ASN) but also creates a moral and structural dilemma that shackles them in a routine of political dependency. Many ASN feel the need to demonstrate partisanship, or at least political loyalty, to certain political officeholders in order to maintain their positions or avoid being transferred to non-strategic positions. When political loyalty becomes a career-determining instrument, the principle of neutrality, which should be the foundation of public service, is reduced to empty jargon devoid of ethical understanding.⁹⁵

The culture of patronage also hinders the internalization of neutral values within the civil service. In a system that prioritizes loyalty over competence, federal workers with integrity who prefer to act professionally are often ostracized. They endure psychological and institutional constraints and must decide between upholding their civil servant ethics and succumbing to the pressures of patronage to avoid being marginalized. The consequences of this dilemma are not only a decline in work morale but also the emergence of internal ethical conflicts, bureaucratic corruption, and even the politicization of public services, which is detrimental to the broader community.⁹⁶

Systemically, the persistence of a culture of patronage has serious consequences for bureaucratic performance and the quality of government. Public services are suboptimal because bureaucratic decisions are driven more by patrons' political agendas than by public needs or policy analysis. Regional political stability is also fragile as nepotism, collusion, and personal interests become increasingly prevalent within the bureaucracy. Furthermore, public trust in civil servants (ASN) is also degraded, as people perceive the bureaucracy as no longer serving the public but

⁹³ JESSICA A. J. RICH, 'Outsourcing Bureaucracy to Evade Accountability: How Public Servants Build Shadow State Capacity', *American Political Science Review*, 117.3 (2023), 835–50 <https://doi.org/10.1017/S0003055422000892>

⁹⁴ Pedro Monteiro and Paul S. Adler, 'Bureaucracy for the 21st Century: Clarifying and Expanding Our View of Bureaucratic Organization', *Academy of Management Annals*, 16.2 (2022), 427–75 <https://doi.org/10.5465/annals.2019.0059>

⁹⁵ Erol Saglam, 'Bureaucracies under Authoritarian Pressure: Legal Destabilisation, Politicisation and Bureaucratic Subjectivities in Contemporary Turkey', *International Journal of Law in Context*, 18.3 (2022), 288–302 <https://doi.org/10.1017/S1744552322000234>

⁹⁶ Hendrikus Triwibawanto Gedeona and Endang Wirjatmi Trilestari, 'The Model for Implementing Bureaucratic Reform in the Ministry of Administrative Reform', 2021 <https://doi.org/10.2991/assehr.k.210629.028>



rather serving the interests of the ruling elite. Under these conditions, bureaucratic reforms that rely on neutrality, accountability, and professionalism are virtually ineffective. The reduction in public service quality brought on by the erosion of civil servants' (ASN) professionalism is one of the significant issues confronting Indonesian governance today. Many ASNs have shifted their focus from ideal public service to practical electoral interests in the modern bureaucratic environment. Demands to demonstrate political loyalty to regional heads or political officials often lead ASNs to stray from their primary function as neutral and professional public servants.⁹⁷

This tendency occurs because civil servants, structurally and culturally, are vulnerable to political pressure and intervention from their superiors. To maintain their positions, avoid transfers, or obtain promotions, many civil servants engage in practical political activities, either directly or indirectly. As a result, the public service orientation is displaced, and the quality of civil servant work declines significantly. This phenomenon shows the decline of bureaucratic ethics and the institution's inability to uphold the professionalism and objectivity that are essential components of good governance.⁹⁸ Furthermore, a decline in the quality of civil servants (ASN) is another indicator of a governance collapse. The bureaucracy's inability to respond quickly and effectively to policies is often caused by weak internal motivation among civil servants, a stagnant organizational culture, and a disconnect between career systems and work performance. When career paths are determined more by political proximity than competence and integrity, the motivation to perform well and innovatively will increasingly wane. Furthermore, the lack of ongoing training, limited access to capacity building, and institutional leadership that fails to set an example further exacerbate this situation.⁹⁹

In conclusion, the decline in the quality of public services and the professionalism of civil servants (ASN) is a manifestation of structural and cultural failures in the management of the state bureaucracy.¹⁰⁰ Improvements can only be achieved through comprehensive reforms that emphasize the development of a merit system, improving human resource quality, and transforming organizational culture. If these issues are not addressed immediately, not only will public trust continue to decline, but the foundations of the rule of law and democracy will also be weakened due to the lack of support from a qualified and professional bureaucracy.¹⁰¹

This critical situation is further illustrated by empirical evidence from the field, which provides a concrete picture of how bureaucratic dysfunction and cultural deficiencies particularly regarding civil servant neutrality, manifest at the local level. Field studies were conducted in three districts, namely Karanganyar, Boyolali, and Kendal.¹⁰² This study demonstrates that violations of neutrality by the State Civil Apparatus (ASN) in

⁹⁷ Athanasios Geromichalos and Ioannis Kospentaris, 'The Unintended Consequences of Meritocratic Government Hiring', *European Economic Review*, 144 (2022), 104093 <https://doi.org/10.1016/j.euroecorev.2022.104093>

⁹⁸ Michael W. Bauer, 'Administrative Responses to Democratic Backsliding: When Is Bureaucratic Resistance Justified?', *Regulation & Governance*, 18.4 (2024), 1104–17 <https://doi.org/10.1111/rego.12567>

⁹⁹ Wendy Wiraganti, Santoso, and Hijriatul Aulia.

¹⁰⁰ I Budahu and Suling.

¹⁰¹ Johan Christensen, 'When Bureaucratic Expertise Comes under Attack', *Public Administration*, 102.1 (2024), 79–94 <https://doi.org/10.1111/padm.12905>

¹⁰² Amiruddin Sijaya.



general and regional elections are a real problem that occurs in various forms and at various local levels. These findings reveal different patterns and intensities of violations. However, they are rooted in similar problems: weak internalization of neutrality values, a low deterrent effect of the sanctions system, and structural pressure from local political elites who use the bureaucracy as a tool of power.

Table 3. Violations of ASN Neutrality and Sanctions in Karanganyar, Boyolali, and Kendal

No	Regency	Year	Form of Violation	Number of Cases	Sanctions Imposed
1	Karanganyar	2022	<ul style="list-style-type: none"> • Open political support • Misuse of state facilities 	2 cases	<ul style="list-style-type: none"> • Written warning • A light warning
		2023	<ul style="list-style-type: none"> • Civil servant involvement in the campaign • Campaign symbols in the office 	3 cases	<ul style="list-style-type: none"> • Tukin Cutting • Open moral sanctions
		2024	<ul style="list-style-type: none"> • ASN participates in the candidate declaration for the use of official vehicles and public facilities 	46 cases	<ul style="list-style-type: none"> • 25% Tukin Deduction (6 months) • A stern warning from the PPK
2	Boyolali	2023	<ul style="list-style-type: none"> • ASN are directed to vote for a particular presidential candidate • Campaign contributions • Political activities on social media 	Not specifically mentioned	<ul style="list-style-type: none"> • Release from office • Written warning • Dismissal of village head
3	Kendal	2024	<ul style="list-style-type: none"> • ASN participates in the campaign • Use of party attributes in the workplace • Posting political support on social media • Money politics by ASN 	>3,000 reports of indications of violations	<ul style="list-style-type: none"> • Dismissal • Postponement of promotion • Strong warning

Sources: processed by the author

In Karanganyar Regency, the most dominant form of violation is the misuse of state facilities for campaign purposes. Civil servants and government officials are expected to use official vehicles, office buildings, and government-issued communication tools to support the image and campaign activities of incumbent candidates. It contradicts the principle of civil servant neutrality as stipulated in Law No. 5 of 2014 concerning Civil Servants. It violates local administrative provisions, specifically Karanganyar Regent Regulation No. 8 of 2019 and its amendment in Regent Regulation No. 13 of 2023, which explicitly prohibit the use of campaign attributes in public spaces and government work environments. Although these regulations are quite progressive at the local level, their implementation still faces obstacles due to weak oversight and the lack of courage on the part of supervisory institutions to take firm action against violators who hold strategic positions.



Meanwhile, in Boyolali Regency, violations of civil servant neutrality are evident in other, more subtle but no less substantial forms: expressions of political support on social media. Many civil servants are known to "like," share content, or comment on social media posts that are campaign-related or support a particular candidate. However, because social media is a public platform and such conduct is viewed as partisanship, such expressions are considered to be violations of neutrality under Indonesian law. However, it has proven challenging to effectively monitor the digital domain because the violations are often passive and open to various interpretations. According to the dissertation, many civil servants consider their actions to be a form of constitutionally protected free speech, which creates a conflict between expectations for official neutrality and individual political rights.¹⁰³

Unlike in Karanganyar and Boyolali, in Kendal Regency, violations occurred in the form of direct involvement of civil servants in political activities, including participation in political declarations and the use of campaign materials in the workplace. Campaign items, such as banners, buttons, and t-shirts, were reportedly worn by a large number of public servants who attended declarations of support for particular regional head candidates. This occurrence creates a political environment within a bureaucracy that should be free from conflicts of interest, as well as violating official neutrality laws. A professional work environment is disrupted as a result of this activity because civil workers who take a neutral position or do not align with specific political currents frequently face marginalization or career degradation. These three instances highlight the fact that electoral contest violations of civil servant neutrality are a systemic issue that cannot be resolved purely by normative means. Weak oversight, uneven law enforcement, and the hazy lines separating civil servants' civic rights from their official duties as public officials are the primary barriers. Furthermore, existing regulations, whether in the form of laws, government regulations, or joint decrees (SKB), have not fully addressed the increasingly complex dynamics of violations at the regional level.¹⁰⁴

Therefore, based on these empirical findings, civil servant neutrality is not only compromised by individual negligence but also by local power structures that enable and even encourage civil servant involvement in practical politics. Future efforts to strengthen civil servant neutrality must include improving institutional integrity, reformulating clearer and more contextual regulations, and strengthening oversight of digital space and civil servant symbolic behavior in the public sphere. Lessons from Karanganyar, Boyolali, and Kendal provide concrete evidence that this problem requires a more systemic solution, not merely administrative or symbolic fixes.¹⁰⁵

From the perspective of Michel Foucault's theory of legal power, this practice reflects the dominance of power relations that transcend formal legal instruments.¹⁰⁶ The power of regional heads over civil servants operates simultaneously through structures, organizational culture, and networks of influence that hold the bureaucracy

¹⁰³ Jacqui Baker, 'Reformasi Reversal: Structural Drivers of Democratic Decline In Jokowi's Middle-Income Indonesia', *Bulletin of Indonesian Economic Studies*, 59.3 (2023), 341–64 <https://doi.org/10.1080/00074918.2023.2286020>

¹⁰⁴ Amiruddin Sijaya.

¹⁰⁵ Sitti Aminah, Tomo HS, and Siti Maemunah, 'The Politicization of the Bureaucracy in Local Government (Case Study in Indonesia)', 2021 <https://doi.org/10.4108/eai.6-3-2021.2306284>

¹⁰⁶ B Golder, *Re-Reading Foucault: On Law, Power and Rights*, A GlassHouse Book (Routledge, 2013).



hostage to political obedience. On the other hand, the law, which is intended to protect civil servants from structural pressures, is weakened due to the lack of clear limits on authority and ineffective oversight. This phenomenon indicates the colonization of the legal system by the political system, as criticized by Niklas Luhmann in his systems theory, where the dominance of political logic defeats the autonomy of the legal system.¹⁰⁷ When civil servants become mere extensions of the incumbent's electoral interests, the bureaucracy loses its primary function as a neutral and accountable public servant.

Normatively, this issue demonstrates the failure of Law Number 5 of 2014 concerning the State Civil Apparatus (ASN), which places a merit system and neutrality as the primary principles in civil service development.¹⁰⁸ While theoretically, regional heads can only act as PPK based on the delegation of authority from the President, in practice, this is often ignored and not strictly monitored by the central government. This unclear boundary of authority creates room for bureaucratic politicization, triggering the practice of transfers and promotions based on political interests rather than qualifications and achievements.¹⁰⁹

Therefore, firm and comprehensive legal and institutional reforms are necessary to break the chain of politicization in the regional bureaucracy.¹¹⁰ First, the regulatory framework governing the authority of regional heads as PPK must be clarified and strengthened to prevent misuse during political moments. Second, the delegation of personnel authority should be limited and conditioned on the principle of neutrality that can be monitored in real time by central institutions. Third, institutional strengthening, such as the Civil Service Commission (KASN) and the Ombudsman, must be carried out by expanding their investigative authority and making their recommendations binding, so that regional heads who abuse their authority can face legal consequences. Furthermore, the state must also provide legal protection and a safe reporting space for civil servants who experience political pressure, so that they can continue to carry out their duties professionally and independently. If reforms are not implemented immediately, the politicization of the bureaucracy will continue to weaken the law from within, making the bureaucracy not a guardian of the public interest, but rather an instrument of the incumbent's power. In a democratic state governed by the rule of law, this condition is a serious anomaly that must be corrected to maintain neutrality, accountability, and public trust in the government system.¹¹¹

CONCLUSION

The neutrality of civil servants (ASN) during elections is not only essential for safeguarding democratic integrity but also for upholding a professional and accountable bureaucracy. However, empirical findings reveal persistent violations

¹⁰⁷ C Baraldi and others, *Unlocking Luhmann: A Keyword Introduction to Systems Theory*, BiUP General (transcript Verlag, 2021).

¹⁰⁸ Rahmansyah and Irwandi.

¹⁰⁹ Mardatila and Ja'ang.

¹¹⁰ Hamka Hendra Noer, 'Portrait of the Politicization of Indonesian Bureaucracy in the 2024 Election', *International Journal of Social Service and Research*, 4.03 (2024), 752–69 <https://doi.org/10.46799/ijssr.v4i03.735>

¹¹¹ Bustamil Muhidin and Suswanta Suswanta, 'Birocracy Politization Typology in Structural Official Replacement (Case Study in Regional Government of North Maluku Province)', *International Journal of Social Service and Research*, 3.2 (2023), 452–59 <https://doi.org/10.46799/ijssr.v3i2.279>



rooted in three critical dimensions: legal inconsistency, normative conflict, and political instrumentalization. First, there exists a legal gap stemming from fragmented and overlapping regulations, coupled with weak enforcement mechanisms, which results in low deterrence and widespread noncompliance. To address this, a novel regulatory reform is required namely, the harmonization and codification of ASN neutrality norms into a single, hierarchical, and enforceable legal framework, accompanied by the empowerment of KASN with quasi-executive authority rather than merely advisory power. Second, the current legal architecture fails to reconcile the constitutional political rights of ASN as citizens with the neutrality mandate, creating a normative tension that threatens both human rights and legal proportionality. A contextual restructuring of regulations is proposed, one that distinguishes between active political engagement and private, passive expression protecting the latter as a form of civil liberty while maintaining neutrality in official functions. Third, field studies underscore how regional political elites exploit structural control over the bureaucracy, exerting pressure on civil servants to act as political instruments, thereby eroding institutional integrity. To mitigate this, the study proposes a novel protection mechanism through secure whistleblower channels, legal safeguards for politically coerced civil servants, and a stricter delimitation of regional executive power in civil service management. These findings collectively highlight the urgent need for a rights-based and functionally grounded overhaul of neutrality regulations to preserve both democratic values and bureaucratic professionalism in Indonesia.

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