

Historical Study of the Neutrality Arrangements of the State Civil Apparatus in General Elections in Indonesia

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ABSTRACT

This research aims to determine the neutrality regulations of civil servants in general elections. To achieve this goal, analysis was carried out on secondary data or library materials consisting of primary legal materials, secondary legal materials, and tertiary legal materials. To complete secondary data, interviews were conducted with sources consisting of experts in the field of civil service law and general elections, as well as practitioners such as the State Civil Service Agency, the State Civil Service Commission, and the General Election Supervisory Agency of the Republic of Indonesia. This research applied a statute approach and combined it with a historical approach and a conceptual approach. The results of the research showed that from 1966 until now, the regulation of the neutrality of the State Civil Service in general elections has undergone changes in the subject and object of its regulation. However, this arrangement has not been able to guarantee the neutrality of the State Civil Service in general elections. This is inseparable from the political system, which does not yet support the realization of neutrality of the State Civil Service in General Elections.

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1. Introduction

Since gaining independence in 1945, Indonesia has embarked on a journey of democratic evolution, conducting numerous general elections to elect the President/Vice President and members of the Central, Provincial, and Regency/City People's Representative Councils. These elections have played a critical role in shaping the political landscape of the nation. However, the integrity and fairness of these elections are contingent upon various factors, one of the most significant being the neutrality of Civil Servants. The role of Civil Servants in

ensuring impartiality and nonpartisanship during elections is crucial to upholding democratic principles and public trust.¹

This research aims to delve into the regulation of the neutrality of the State Civil Apparatus in Indonesia from 1966 to the present. The term "state civil apparatus" refers to civil servants and government employees with work agreements who serve in government agencies, as defined in Article 1 Number 1. These individuals, entrusted with the responsibility of executing government and development tasks, are expected to remain neutral in the electoral process. This neutrality is mandated to ensure that their actions are free from the influence and intervention of political groups and parties, thereby maintaining the integrity of the electoral process.²

Article 9 of Law Number 20 of 2023 explicitly delineates the principle of neutrality for the State Civil Apparatus, emphasizing the importance of freedom from influence and intervention by all political groups and parties. This legal provision is crafted to protect the impartiality of Civil Servants, mandating that they refrain from engaging in political activities or demonstrating favoritism towards any political entity.³ The enforcement of this law is pivotal for preserving the democratic fabric of the nation, as it ensures that Civil Servants remain unbiased and dedicated solely to their professional duties without political interference. By maintaining a politically neutral State Civil Apparatus, the law upholds the integrity of public administration, fostering public trust and confidence in government institutions. Thus, the effective implementation of this legal framework is crucial for sustaining a fair and democratic governance system in the country.⁴

The focus of this research is to examine how the regulation of Civil Servant neutrality has evolved over the years, particularly from 1966 to the present. This period encompasses significant political transitions in Indonesia, including the New Order era, the reform period, and the subsequent democratization phases. Each of these eras presented unique challenges and dynamics that influenced the neutrality of Civil Servants in general elections.⁵

During the New Order era under President Suharto (1966-1998), the centralization of power and the dominance of the ruling party, *Golongan Karya (Golkar)*, posed significant challenges to the neutrality of Civil Servants. Civil Servants were often co-opted into supporting *Golkar*, blurring the lines between the state apparatus and political machinery. The authoritarian regime employed state resources and personnel to maintain its political dominance, compromising the impartiality of Civil Servants. The subsequent reform period, marked by the fall of Suharto in 1998, initiated a push for greater democratization and decentralization.

¹ Gunarto, Jawade Hafidz, and Sutrisno, 'Neutrality of The State Civil Apparatus in Regional Head Election Based on Justice Values', *Journal of Education and Social Science*, 9.1 (2018), 29-37. <https://doi.org/10.20473/v38i2.40064>.

² Andi Tenri Sompia and Muhammad Isa, 'Legislative Election 2019: Overview of the Civil Apparatus Position in Barito Kuala', *International Journal of Management and Administrative Sciences (IJMAS)*, 6.6 (2020), 8-13. <https://doi.org/10.36959/422/4122>.

³ Iding Rosyidin and Gun Gun Heryanto, 'Konstruksi Citra Partai Islam Pada Pemilu 2014 Pendekatan Fikih-Siyasah', *IJTIHAD Jurnal Wacana Hukum Islam Dan Kemanusiaan*, 15.1 (2016), 1. <https://doi.org/10.18326/ijtihead.v15i1.1-20>.

⁴ 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>.

⁵ Muhtar Said, Ahsanul Minan, and Muhammad Nurul Huda, 'The Problems of Horizontal and Vertical Political Accountability of Elected Officials in Indonesia', *Journal of Indonesian Legal Studies*, 6.1 (2021), 83-124. <https://doi.org/10.15294/jils.v6i1.43403>.

This era saw the introduction of new regulatory frameworks aimed at ensuring the impartiality of the State Civil Apparatus. The enactment of Law No. 43 of 1999 on the Principles of Civil Service marked a significant step towards reinforcing Civil Servant neutrality.⁶ However, the effectiveness of these regulations in preventing political intervention and influence has varied, necessitating a comprehensive analysis of their implementation and impact.⁷

This research will employ a historical and legal analytical approach to trace the development of regulations pertaining to Civil Servant neutrality in general elections. By examining legal documents, government policies, and historical accounts, this study aims to provide a nuanced understanding of the regulatory landscape and its implications for electoral integrity. Additionally, it will consider the socio-political context within which these regulations were formulated and enforced.⁸

Ultimately, this research seeks to contribute to the broader discourse on electoral integrity and democratic governance in Indonesia. By shedding light on the regulatory measures aimed at ensuring the neutrality of Civil Servants, it hopes to inform policy discussions and promote reforms that enhance the impartiality and effectiveness of the State Civil Apparatus in upholding democratic principles.⁹

2. Research Method

This normative legal research focused on secondary data or library materials consisting of primary legal materials, secondary legal materials, and tertiary legal materials, which were studied to formulate research results and draw research conclusions in relation to the research problem. To complement secondary data, this research was also empirical, as it conducted field research through interviews with sources and analysis of the neutrality of the State Civil Apparatus. The research approach taken was a statutory approach combined with a historical approach, a conceptual approach, and a comparative approach. The legislative approach was carried out by examining statutory regulations (*regeling*), policy regulations (*beleidsregel*), and other government decisions or actions (*beshickking*) that are related to the neutrality of the state civil service. This research examined, more specifically, legal products issued by legislative and executive institutions. In a historical approach, this approach was used to examine the development of legal products issued by the legislature and executive from the early days of independence to the present. There was a long history that followed the birth of legal products or government legal policies in regulating the neutrality of the State Civil Service. Exploring the history of the development of legal products and changes in each period of government would be able to fully explain the background and development of regulations regarding the issues faced in order to reveal the philosophy and mindset that gave birth to what had been

⁶ Yordan Gunawan and others, 'Does the Protection of Minority Groups in Xinjiang Fail?', *Sriwijaya Law Review*, 4.2 (2020), 205–20. <https://doi.org/10.28946/slrev.Vol4.Iss2.432.pp205-220>.

⁷ Indriyati Kamil and Diani Indah, 'Political Communication Education for Beginner Voters in Convenient Regional Head Elections in 2024', *QALAMUNA: Jurnal Pendidikan, Sosial, Dan Agama*, 14.2 (2022), 855–68 <https://doi.org/10.37680/qalamuna.v14i2.3767>.

⁸ M Syahrul Borman and others, 'Model for Resolving Election Violations through Indonesian Election Body and Constitutional Court', *Legality : Jurnal Ilmiah Hukum*, 32.2 SE-Journal's Articles (2024), 238–62. <https://doi.org/10.22219/ljih.v32i2.33711>.

⁹ Akhwan Nadziri and Mashari, 'Reformulation of Handling Violations of Civil Servant Neutrality in Fair and Just Elections', *ICCCM Journal of Social Sciences and Humanities*, 3.2 SE-Articles (2024), 33–41. <https://doi.org/10.53797/icccmjssh.v3i2.7.2024>.

studied.

After the legal materials were collected, they were processed through the following stages:

- a. Editing was carried out by re-examining the legal material obtained so that it could be completed if incomplete legal material was found and formulating the legal material found into simpler sentences.
- b. Systematization was carried out by selecting legal materials, then classifying them and organizing them.
- c. The description was carried out by describing the research results based on the legal materials obtained and then analyzed.

Next, synchronization of statutory regulations was carried out vertically and horizontally. The data analysis method used was content analysis. Content analysis aims to describe the characteristics of the content and draw inferences from the content. The content analysis applied the qualitative type, which examined documents in the form of text. Qualitative content analysis was an integrative and conceptual analysis method for finding, identifying, processing, and analyzing documents to understand their meaning, significance, and relevance. Meanwhile, in interpreting the data, theoretical interpretation techniques are used by using several theories as comparisons, and these theories function as a guide.¹⁰

3. Result and Discussion

3.1. Neutrality Regulations for State Civil Apparatus 1966 - 1998

The history of the Indonesian nation's journey from 1966 to 1998 is known as the New Order era. In this new order era, Initially, Minister of Home Affairs Regulation Number 12 of 1968 was issued, mandating every civil servant in the Department to be loyal only to the State and nation and prohibiting them from becoming members of a political party. This step aimed to consolidate government bureaucracy and improve the position of civil servants in political life. However, in practice, this regulation often led to ambiguities. While it sought to ensure loyalty to the state, it inadvertently opened avenues for the ruling regime to interpret "loyalty" in ways that aligned with its political agenda.¹¹

Furthermore, in 1970, Government Regulation Number 6 of 1970 required every civil servant to join the Department of Home Affairs Employee Corps (*Kokarmendagri*), embodying the principle of monoclonality. This regulation prohibited civil servants from participating in political party activities and was intended to create a unified administrative body. However, this led to a centralized control mechanism, where loyalty to the state often translated to loyalty to the ruling party, *Golkar*. The enforcement of this regulation saw civil servants being co-opted into *Golkar's* activities, blurring the lines between state functions and political allegiance. The Republic of Indonesia Civil Servant Corps (KORPRI) was established based on Presidential Decree Number 82 of 1971, serving as the exclusive forum for training Civil Servants outside of official service. While ostensibly aimed at professional development, KORPRI became a vehicle for instilling political loyalty to the regime. Civil Servants were systematically integrated into *Golkar's* support network, as membership and active

¹⁰ Hesti Armiwulan and others, 'Artificial Intelligence and Its Challenges To Elections In Indonesia: A Legal Analysis', *Jambura Law Review*, 6.2 (2024), 264–85. <https://doi.org/10.33756/jlr.v6i2.24243>.

¹¹ Rino A. Nugroho and others, 'Government Official Political Neutrality in Digital Era: Challenge for Administrative Ethics?', *Iapa Proceedings Conference*, 2.1978 (2019), 406. <https://doi.org/10.30589/proceedings.2019.244>.

participation in KORPRI activities often implied implicit support for *Golkar*, thus compromising their political neutrality.

In 1974, Law Number 8 of 1974 was issued. This law was born because Law Number 18 of 1961 was deemed no longer suitable for supporting or facilitating civil service development. After all, the position and role of civil servants felt increasingly important and decisive. On October 10, 1974, the DPR passed this bill into law in a plenary session. November 6, 1974, Law no. 8 of 1974 on Civil Service Principles was promulgated in the State Gazette of 1974 Number 55. With the promulgation of Law Number 8 of 1974, Law Number 18 of 1961, and other statutory regulations related to it were declared no longer valid.¹²

Furthermore, based on Law Number 8 of 1974 on the Basic Principles of Civil Service, Article 14 stated: "to further improve development, integrity, and cohesiveness, as well as in the context of efforts to guarantee the loyalty and full obedience of all civil servants to Pancasila, the 1945 Constitution, the State, and the Government, it is necessary to foster and develop a unified esprit de corps among Civil Servants." This regulation is intended to unite civil servants in one corps called *Korpri*.¹³

In 1975, Government Regulation Number 20 of 1975 on the Authority to Appoint, Transfer and Dismiss Civil Servants was issued. In this government regulation, authorized officials give permission for civil servants to become political party administrators. In 1976, Government Regulation Number 20 of 1976 was issued. This regulation clearly shows the involvement of Civil Servants in Work Groups and Political Parties. The granting of permits for civil servants to become administrators/members of political parties or work groups is regulated through a Circular from the Head of the State Civil Service Administration Agency. Number 07/SE/1976.¹⁴

This support is further strengthened in Law Number 3 of 1985 on Political Parties and Work Groups, in Article 8 paragraph (2) which states that:¹⁵

- a. Civil Servants who hold the position of a. Civil servants can become members of political parties and *Golkar's* with the knowledge of authorized officials;
- b. Civil servants who hold certain positions cannot become members of political parties or work groups except with written permission from the authorized official.

The provisions of Article 8 above normatively give civil servants the freedom to become members and administrators of political parties, but in reality, this permission is a separate

¹² 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>.

¹³ Mohammad Hazyar Arumbinang, Yordan Gunawan, and Andi Agus Salim, 'Prohibition of Child Recruitment as Soldiers: An International Regulatory Discourse', *Jurnal Media Hukum*, 30.1 (2023), 21–32. <https://doi.org/10.18196/jmh.v30i1.19322>.

¹⁴ Ratih Lestari Gema Perdana, 'Realizing the Neutrality of Government Employees From Political Intervention', *Hamdard Islamicus*, 43.Special Issue SE-Articles (2020). <https://doi.org/10.57144/hi.v43iSpecial Issue.229>.

¹⁵ Saiful Risky, Sholahuddin Al-Fatih, and Mabarroh Azizah, 'Political Configuration of Electoral System Law in Indonesia from State Administration Perspective', *Volksgeist: Jurnal Ilmu Hukum Dan Konstitusi*, 6.1 SE-Articles (2023), 119–30. <https://doi.org/10.24090/volksgeist.v6i1.7940>.

legal problem. The granting of permits is not always transparent. This resulted in many civil servants being disadvantaged due to permission.¹⁶

3.2. Neutrality Regulations for State Civil Apparatus 1999–2014

During the Reform Order, the political situation was similar to the beginning of independence and the Old Order, when political parties emerged. Political parties that form coalitions and win the elections for President and Vice President gain the prize of controlling departments. As a result, the neutrality of civil servants was greatly affected. Therefore, on January 26, 1999, Government Regulation Number 5 of 1999 on Civil Servants who Become Members of Political Parties was issued. In 1999, Government Regulation Number 12 of 1999 on Amendments to Government Regulation Number 5 of 1999 on Civil Servants who Become Members of Political Parties was also issued.

The regulations regarding the neutrality of Civil Servants are stated in articles 3 to 9. These provisions regulate that among those in their position as state officials, Civil Servants must act neutrally and avoid using state facilities for certain groups, not be discriminatory, especially in providing services to the community. Furthermore, Government Regulation Number 12 of 1999 amended several articles in Government Regulation Number 5 of 1999, especially Articles 7, 8 and 9. The provisions of these articles, among others, regulate the automatic removal of Civil Servant membership from membership and management of political parties.

The next rule is the Letter from the Head of the State Civil Service Agency Number K.26-17/V.19-14/99 regarding Civil Servants who are members of political parties, stating that Civil Servants must be neutral from the influence of all political groups and parties and not be discriminatory in giving service to the community. To ensure the neutrality of civil servants, civil servants are prohibited from becoming members and/or administrators of political parties. To further guarantee the regulation of the neutrality of Civil Servants, in 1999, the Civil Service Law and the General Election Law were issued. The civil service law issued is Law Number 43 of 1999 on Amendments to Law Number 8 of 1974 on the Principles of Personnel.

Neutrality for Civil Servants is regulated in Article 3 as follows: (1) Civil Servants function as elements of the state apparatus whose task is to provide services to the community in a professional, honest, fair, and equitable manner in carrying out State, government and development duties; (2) In their positions and duties as intended in paragraph (1), Civil Servants must be neutral from the influence of all groups and political parties and not be discriminatory in providing services to the community; (3) To ensure the neutrality of Civil Servants as intended in paragraph (2), Civil Servants are prohibited from becoming members and/or administrators of political parties."¹⁷

¹⁶ 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>.

¹⁷ Weron Murary, 'Presidential Neutrality and Position in the 2024 Presidential Election: A Constitutional Law and Comparative Law Perspective', *Journal of Social Research*, 3.3 (2024), 841–52. <https://doi.org/10.55324/josr.v3i3.1949>.

Furthermore, efforts were made to eliminate the monoclonality of civil servants to the work group, as happened during the New Order.¹⁸ However, this effort could not be implemented properly as a result of (1) dualism in the position of regional heads, such as on the one hand as Civil Service Supervisory Officers who have the authority to appoint, transfer, and dismiss civil servants and on the other hand they are an extension of political parties. This happens because, currently, regional heads are elected directly by the people, where the majority of regional heads come from political parties; (2) there is no supervisory institution regarding the implementation of the authority of regional heads. Therefore, regional heads will very easily politicize civil servants.

In 2000, Government Regulation Number 98 of 2000 on Procurement of Civil Servants was issued where in 2002, this government regulation was amended by Government Regulation Number 11 of 2002 on Amendments to Government Regulation Number 98 of 2000 on Procurement of Civil Servants, in article 18 paragraph 1 states that 1) Civil Servant Candidates dismissed include: i. become a member and/or administrator of a political party.

In 2003, Government Regulation Number 9 of 2003 on the Authority to Appoint, Transfer, and Dismiss Civil Servants was issued. Article 1 point 4 states that the Provincial Regional Civil Service Supervisor Officer is the Governor, while number 5 states that the Regency/City Regional Civil Service Supervisor Officer is the Regent/Mayor. The authority of Regional Civil Service Supervisory Officers is as follows: a) appointment of Prospective Regional Civil Servants in their area; (b) appointment as Regional Civil Servants for Prospective Regional Civil Servants in their environment, except for those who died or were disabled due to service; Article 8 paragraph (1) states that the Regency/Municipal Regional Civil Service Development Officer shall determine the promotion of Regional Civil Servants and Civil Servants who are seconded in their environment to become Junior Level I Officers for class I/b up to Level I Administrators for class III/d. ; Article 21 paragraph (1) states that the Regency/City Regional Civil Service Supervisory Officer determines: (a) temporary dismissal of the Regency/City Regional Secretary (b) temporary dismissal from public office for Civil Servants in their environment who occupy structural positions at echelon II and below functional level at that level; Article 25 paragraph (1) states that the Regency/City Regional Civil Service Supervisory Officer determines: (a) the dismissal of Prospective Regency/City Regional Civil Servants who do not meet the requirements to be appointed as Regional Civil Servants in their area (b) the dismissal of Regency Regional Civil Servants /Cities that have the rank of Level I Administrator for class III/d and below in their environment.

Regulations regarding the neutrality of other Civil Servants are contained in Government Regulation Number 37 of 2004 on the Prohibition of Civil Servants from Becoming Members of Political Parties. Government Regulation Number 42 of 2004 on the Development of Corps Spirit and the Code of Ethics for Civil Servants, among other things, regulates:¹⁹

1. Article 11, letter C, states that in terms of ethics towards themselves, Civil Servants are obliged to avoid conflicts of personal, group, or class interests. So Civil Servants are prohibited from carrying out actions that lead to favoring one of the candidates or actions

¹⁸ Hieronimus Vincentius Seran, David B W Pandie, and Laurensius P Sayrani, 'The Neutrality Dilemma of Civil Servant in 2020 Local Leaders Election on Malaka Regency', *Dynamics of Politics and Democracy*, 1.2 SE-Articles (2023), 109–23. <https://doi.org/10.35912/dpd.v1i2.1487>.

¹⁹ Akmal Malik and others, 'Direct and Simultaneous Regional Head Election in Indonesia with Government Efforts to Build a Balance of Political and Managerial Approaches', *East Asia*, 37.3 (2020), 261–79. <https://doi.org/10.1007/s12140-020-09341-y>.

that indicate being involved in practical politics/affiliating with a political party, for example:

- a. Civil servants are prohibited from approaching political parties regarding plans to nominate themselves or other people as potential candidates for Regional Head/Deputy Regional Head.
- b. Civil servants are prohibited from placing banners/billboards promoting themselves or other people as potential candidates for Regional Head/Deputy Regional Head.
- c. Civil servants are prohibited from declaring themselves as prospective candidates for Regional Head/Deputy Regional Head.
- d. Civil servants are prohibited from attending the declaration of prospective candidates/potential pairs for Regional Head/Deputy Regional Head with or without using the attributes of prospective pairs/political party attributes.
- e. Civil servants are prohibited from uploading, responding (such as likes, comments, and the like), or distributing images/photos of potential Regional Head candidates/pairs, the vision and mission of potential Regional Head candidates/pairs, or other connections with potential candidates/pairs via online media and social media.
- f. Civil servants are prohibited from taking photos together with prospective Regional Head/Deputy Regional Head candidates by following hand symbols/gestures used as a form of partiality.
- g. Civil servants are prohibited from being speakers/resources at political party meetings.
- h. In connection with sanctions for Civil Servants who are not neutral, the Minister for Administrative Reform issued a Circular Letter from the Minister for Administrative Reform Number SE/18.1/M.PAN/5/2004. This circular regulates the criteria for imposing sanctions on civil servants who are not neutral.

Circular Letter of the Minister for Administrative Reform of the Republic of Indonesia Number SE/08/M.PAN/2005 explains that every civil servant who becomes a candidate for regional head/deputy head must fulfil the specified requirements.²⁰

In 2008, Law No. 10 of 2008 on the Election of Members of the People's Representative Council, Regional Representative Council, and Regional People's Representative Council was issued, which regulates the neutrality of Civil Servants.²¹ In Article 84, paragraph (2), it is stated that campaign implementers in campaign activities are prohibited from including civil servants. Law Number 42 of 2008 on the Election of the President and Vice President also states the same thing, especially in Article 41, paragraphs (2), (4), and paragraph (5), which states that Civil Servants are prohibited from being involved and participating in campaign activities. Moreover, in Law Number 8 of 2012 on General Elections, article 86 paragraph (2) regulates the prohibition on the involvement of Civil Servants in campaign activities.²²

In 2009, Government Regulation Number 14 of 2009 was issued on Procedures for State Officials in Carrying out General Election Campaigns. Article 21 states that (1) in carrying out

²⁰ Askari Razak and others, 'Balancing Civil and Political Rights: Constitutional Court Powers in Indonesia and Austria', *Journal of Indonesian Legal Studies*, 8.2 (2023). <https://doi.org/10.15294/jils.v8i2.70717>.

²¹ Timothy Frye and Ekaterina Borisova, 'Elections, Protest, and Trust in Government: A Natural Experiment from Russia', *The Journal of Politics*, 81.3 (2019), 820–32. <https://doi.org/10.1086/702944>.

²² M. Faisal Husna, 'Political Participation of Beginner Voters in the 2020 Regional Head Election in Binjai City', *Legal Brief*, 11.5 (2022), 2705–9. <https://doi.org/10.35335/legal.v11i5.546>.

an election campaign, state officials are prohibited from: a. use state facilities; b. mobilize subordinate officers for campaign purposes; c. use and/or utilize funds sourced from state finances, either directly or indirectly; and/or d. use the facilities of State-Owned Enterprises and Regional-Owned Enterprises, (2) State facilities as intended in paragraph (1) letter a is in the form of a. mobility facilities, such as official vehicles including State Officials' official vehicles and employee official vehicles, as well as other official means of transportation; b. office buildings, official residences, office buildings belonging to the Government, belonging to the Provincial Government, belonging to the Regency/City Government, except for remote areas where implementation must be carried out with due regard to the principles of justice; c. office facilities, regional radio and code/telecommunications belonging to the Provincial/Regency/City Regional Government, and other equipment, as well as materials. (3) State buildings or facilities as intended in paragraph (2) which are rented to the public are exempt from the provisions as intended in paragraph (1).²³

3.3. Neutrality Regulations for State Civil Apparatus 2014 - 2023

Neutrality regulations during the reform period can be seen in Law Number 5 of 2014. Article 9 Point (2) of the law states that State Civil Service Employees must be free from influence and intervention from all groups and political parties. In Article 12, state civil service employees play the role of planners, implementers, and supervisors of the implementation of general government tasks, as well as national development through the implementation of professional policies and public services, free from political interference.

The neutrality of the State Civil Apparatus is also regulated in Law number 8 of 2015 on Amendments to Law No. 1 of 2015 on the Determination of Government Regulations in Lieu of Law No. 1 of 2014 on the Election of Governors, Regents and Mayors into Law, regulated in Article 70 paragraph (1) which reads as follows: in the campaign of candidate pairs it is prohibited to involve: (1) (2) State civil servants, members of the Republic of Indonesia state police, and members of the Indonesian national army.²⁴

Further regulations are also contained in Law Number 10 of 2016 on the Second Amendment to Law Number 1 of 2015 on the stipulation of government regulation Number 1 of 2014 on the Election of Governors, Regents, and Mayors into Law, in Article 70 paragraph (1) letter b states "Candidate pairs are prohibited from involving State Civil Apparatus, Members of the Republic of Indonesia Police and Members of the Indonesian National Army".²⁵

In 2017, Law Number 7 of 2017 was issued regulating the neutrality of State Civil Apparatus in Article 280 paragraph (2), which states, "Executors and/or campaign teams in election campaign activities are prohibited from involving State Civil Apparatus." Then, Article 283

²³ Rahmat Muhajir Nugroho and others, 'A Comparison of Legislative Election Systems in Indonesia and Malaysia', *Jurnal Media Hukum*, 31.1 (2024), 59-77. <https://doi.org/10.18196/jmh.v31i1.21485>.

²⁴ Sukardi Sukardi and Hadi Rahmat Purnama, 'Restorative Justice Principles in Law Enforcement and Democracy in Indonesia', *Journal of Indonesian Legal Studies*, 7.1 (2022), 155-90. <https://doi.org/10.15294/jils.v7i1.53057>.

²⁵ M Jeffri Arlinandes Chandra and Jamaludin Ghafur, 'Peranan Hukum Dalam Mencegah Praktik Politik Uang (Money Politics) Dalam Pemilu Di Indonesia: Upaya Mewujudkan Pemilu Yang Berintegritas', *Wajah Hukum*, 4.1 (2020), 52. <https://doi.org/10.33087/WJH.V4I1.167>.

paragraph (1) states, "Other State Civil Servants are prohibited from holding activities that lead to bias towards election participants before, during, and after the campaign period."²⁶

In addition to the law, neutrality regulations include, among other things, the Circular Letter of the Minister of PAN-RB Number: B/2355/M.PANRB/07/2015, regarding the Neutrality of State Civil Apparatus and the Prohibition of the Use of Government Assets in the Simultaneous Election of Regional Heads. The Circular regulates, among other things, "Whether a candidate is or is not a candidate for Regional Head, so that:²⁷

1. Maintain neutrality in the election of Governor and Deputy Governor, Regent, and Deputy Regent, as well as Mayor and Deputy Mayor.
2. Do not use government assets in the campaigns of the Governor and Deputy Governor, Regent and Deputy Regent, and Mayor and Deputy Mayor, such as meeting rooms/halls, official vehicles, and other office equipment.
3. State Civil Service employees who do not comply with the provisions and violate prohibitions will be subject to moderate to severe disciplinary penalties in accordance with statutory regulations.

Furthermore, the State Civil Apparatus Commission Letter Number B-2900/KASN/11/2017, dated November 10, 2017, was also issued regarding the Supervision of the Neutrality of State Civil Service Employees during the 2018 Simultaneous Regional Elections. Then, in 2018, a Circular Letter from the Minister of PAN-RB was issued Number 36/ M.SM.00.00/2018 on Provisions for State Civil Apparatus whose husband or wife is a Candidate for Regional Head/Deputy/Legislative Member Candidate/Presidential Candidate, regulating State Civil Apparatus whose husband or wife is a Candidate for Regional Head/Deputy. Candidates for Legislative Members and Candidates for President/Vice President can accompany their husband or wife.²⁸

In 2021, Government Regulation Number 94 of 2021 on Civil Servant Discipline was issued. Article 5 letter n states: Civil Servants are prohibited from taking part in campaigns, becoming campaign participants using party attributes or civil servant attributes, As campaign participants by mobilizing other Civil Servants, As campaign participants using state facilities, Making decisions and /or actions that are beneficial or detrimental to one of the candidate pairs before, during and after the campaign period, Carrying out activities that lead to bias towards the candidate pairs participating in the election before, during and after the campaign period, including meetings, invitations, appeals, appeals or gifts goods to Civil Servants within their work units, family members and the community, Provide a letter of support accompanied by a photocopy of the Population Identification Card or Certificate of Resident Identification.

Furthermore, based on Article 13 letter g, Civil Servants who violate the prohibition on becoming campaign participants by using party attributes or civil servant attributes are subject to moderate disciplinary sanctions. Meanwhile, Article 14 Letter I states that civil servants who

²⁶ Nasrullah Arull Yahya, 'Simultaneous Elections in North Aceh Regency: An Islamic Perspective', *Jurnal Media Hukum*, 27.2 (2020), 177-94. <https://doi.org/10.18196/jmh.20200150>.

²⁷ Muhammad Zulfa Alfaruqy, 'Perilaku Politik Generasi Milenial: Sebuah Studi Perilaku Memilih (Voting Behavior)', *Jurnal Psikologi Jambi*, 4.1 (2019), 10-15. <https://doi.org/10.22437/jpi.v4i1.8780>.

²⁸ Taufiq Yuli Purnama and Ramalina Ranaivo Mikea Manitra, 'The Proposal for the Implementation of Elections in Indonesia: A Framework Based on the Presidential System', *Wacana Hukum*, 29.2 SE-Journal's Articles (2023), 181-205. <https://doi.org/10.33061/wh.v29i2.9815>.

violate the prohibition as campaign participants by mobilizing other civil servants as campaign participants using state facilities to make decisions and/or actions that benefit or harm one of the candidate pairs before, during, and after the campaign period, holding activities that lead to support for candidate pairs participating in the election before, during and after the campaign period, including meetings, invitations, appeals, appeals or giving goods to civil servants within their work units, family members and the community. When they provide a letter of support accompanied by a photocopy of their Identity Card or Certificate of Identity, they will be subject to severe disciplinary penalties.

3.4. Discussion

From the beginning of independence until the Old Order era, civil servants were scattered and divided into various political parties, which at that time numbered in the dozens as a result of the ease of forming political parties, according to Maklumat X from the Vice President at that time. Civil servants are supposed to be loyal to the Indonesian State and nation, but in reality, they are loyalists to political parties. Many civil servants during the Old Order government were recruited to become members of political parties. This was due to the potential of Civil Servants as a group that was, on average, educated and had a better social position than most people at that time. Civil servants are expected to be able to collect votes to win the General Election. Conversely, civil servants also have an interest in their careers, so they are willing to collaborate with political parties. At that time, what was called the seizure of civil servants by political parties occurred. Civil servants are ultimately divided into various party camps that are ideologically different from each other. The main task of a government administrator is often left to serve party interests. The function of serving the public has been defeated, and what is no less great is the possibility that they will also use state facilities to serve party interests.²⁹

Bureaucratic politicization occurs because, through politicization, a bureaucracy can be led to become a support base for the minister's party (as well as party administrators) in the upcoming general election. Based on half a century of experience, there are three types of bureaucratic politicization in Indonesia: Open politicization is when efforts are being made directly, and there is nothing to cover up. This type of open politicization took place during the Parliamentary Democracy period (1950-1959), where at this time, leaders of political parties (political parties) competed for the position of minister who directly led a ministry. After occupying the minister's chair, the minister will try his/her best to show the leadership and the policies he/she is pursuing so that employees in the ministry are interested in joining and becoming members of the minister's party. With conditions like this, it was finally found that several ministries were the basis or dominated by a political party, for example, what was clearly visible was that the Ministry of Home Affairs and the Ministry of Agriculture were dominated by the PNI, the Ministry of Religion was alternately dominated by NU or Masyumi, the Ministry of Foreign Affairs was alternately dominated by PSI and PNI. Second, half-open politicization was carried out by political party leaders during the guided democracy period. It is said to be half open because bureaucratic politicization is only intended for political parties representing Nationalist, Religious, and Communist (Nasakom) groups. However, this last

²⁹ Yordan Gunawan and Hanna Nur Afifah Yogar, 'Indonesia E-Hailing Taxi: The Competition between Law and Technology', *Handbook of Research on Innovation and Development of E-Commerce and E-Business in ASEAN*, 2 (2020), 594-606. <https://doi.org/10.4018/978-1-7998-4984-1>.

group, on the one hand, formally has the right to place several leaders or figures into the cabinet and then politicize the bureaucracy.³⁰

During the New Order era, the government carried out improvements and controlled civil servants. Various programs to improve the condition of the government bureaucracy at that time included the bureaucratic rationality policy, which was intended to create efficiency in bureaucratic institutions. Bureaucracy in the New Order government was a very effective political instrument in mobilizing the masses to maintain the New Order political format. The presence of bureaucracy as an instrument of power is one of the ways in which it provides direct support to *Golkar* during every general election.³¹

Apart from the policy of reducing the number of ministers in the cabinet from a cabinet of 100 ministers to a cabinet consisting of only 23 ministers, the renewal of the bureaucratic system has also touched various strategic aspects of the government bureaucracy. Renewal of the public bureaucratic system was carried out by the government at the beginning of the New Order by restructuring the government's organizational structure and increasing employee professionalism through various types of employee training. Purging the bureaucracy from party political influences was carried out through the issuance of Minister of Home Affairs Regulation Number 12 of 1968, which placed the civil bureaucracy under the control of the central government.

The next New Order government program was the unification of the government bureaucratic corps. This was a response to the disunity of Civil Servants during the Old Order. Apart from that, the New Order realized that civil servants must be given the opportunity to organize into political parties. Based on these reasons, it is necessary to provide guidance that is regulated in clear regulations. This is the reason for organizing civil servants in a body in the form of a corporation.³²

This began in 1966 with the formation of the Ministry of Home Affairs Employee Corps (Kokar Mendagri) as the forerunner to the Republic of Indonesia Employee Corps (KORPRI). This institution was actually designed for the political benefit of winning Golongan Karya in the 1971 elections. Kokar and the Minister of Home Affairs succeeded in winning Golongan Karya absolutely in the 1971 elections and encouraged the government to expand its membership to all government bureaucratic apparatus from various departments or agencies, both at the central and regional levels.

In further developments based on Presidential Decree No. 82 of 1971 on Korpri, the unification of the civil bureaucracy into one forum was actually carried out through the formation of the Republic of Indonesia Civil Service Corps so that Korpri became the only forum that accommodated the aspirations of government bureaucratic employees. The policy of uniformity is enforced within the government bureaucracy. The aspect of bureaucratic

³⁰ Yahya Pandega Putra and others, 'Policy Of A Merit System To Make A Good And Clean Government In The Middle Of Bureaucratic Politicization', *Journal of Government and Civil Society*, 4.2 (2020), 159. <https://doi.org/10.31000/jgcs.v4i2.2393>.

³¹ Yordan Gunawan and Yovi Cajapa Endyka, 'The Protection of Small and Medium Enterprises in Yogyakarta: The Challenges of ASEAN Economic Community', *Pertanika Journal of Social Sciences and Humanities*, 25.October (2017), 199-206.

³² Muhamad Haris Aulawi and others, 'Governing Indonesia's Plan to Halt Bauxite Ore Exports: Is Indonesia Ready to Fight Lawsuit at the WTO?', *Bestuur*, 11.1 (2023), 26-42. <https://doi.org/10.20961/bestuur.v11i1.69178>.

organizational life that was first targeted by political policy was the development of the spirit of teamwork among government bureaucratic officials. The loyalty of government bureaucratic officials is directed to the State and government, not to political parties. This rule still has the same substance as the rules during the Old Order government.³³

In order to unify the corps, one of the policies issued by the government is Government Regulation No. 26 of 1970 on Membership of Civil Servants in Political Parties and Work Groups. The essence of this Government Regulation is in Article 2, which relates to permits for civil servants in political parties. Legal politics regarding granting permits for civil servants in political parties is an attempt to recruit civil servants to strengthen the power of the New Order government.³⁴

During the New Order, this permission was misused on the grounds that it interfered with the implementation of duties. If officials are consistent, civil servants who are members and administrators of social organizations should also be prohibited because they can interfere with the implementation of their duties. Seeing this reality, the New Order government was inconsistent in granting permits. Apart from these reasons, during the New Order era, civil servants in political parties were always associated with monoloyalty.³⁵ Monoloyalty is very positive if it is implemented consistently in accordance with Law Number 8 of 1974 on the Principles of Civil Service, especially Article 3. The meaning of monoloyalty in Article 3 is that civil servants are for the benefit of the government, but in reality, they are used to support certain groups/parties and become a driving force of Golongan Karya's victory through Korpri. Thus, the implementation of the neutrality of civil servants is siding with *Golkar*.

During the New Order government, the policy slogan was to make the government bureaucracy neutral from political parties. Civil servants are prohibited from joining political parties. However, this policy is a political ploy by the government to dominate civil servants to become members of the Golongan Karya, which is not a political party. At that time, there were only two political parties, the United Development Party and the Indonesian Democratic Party. Civil servants are prohibited from joining the United Development Party and the Indonesian Democratic Party but are allowed to join the Golongan Karya. That was the bureaucratic neutrality of the New Order government. During the New Order government, as explained above, the government bureaucracy could not clearly differentiate between careerists and partisans. The New Order government used a career system in its regulations, but almost all government bureaucratic officials were partisans of the political power that ruled as a single majority. Every appointment of a person to a government bureaucratic position based on considerations of membership or support for a particular political power is a form of political party intervention that can disrupt bureaucratic neutrality. The replacement of the positions of Secretary General, Director General, and the like by new ministers because the old officials are not of the same political background as the minister is an example of political intervention into government bureaucracy.

³³ Tomasz Janowski, 'Digital Government Evolution: From Transformation to Contextualization', *Government Information Quarterly*, 32.3 (2015), 221–36. <https://doi.org/10.1016/j.giq.2015.07.001>.

³⁴ Muhamad Takiyuddin Ismail and Norazam Mohd Noor, 'Resisting International Election Observation Through Election Visit Programmes: The Case of Malaysia', *Journal of Current Southeast Asian Affairs*, 39.2 (2020), 310–31. <https://doi.org/10.1177/1868103420930022>.

³⁵ Athari Farhani, 'Aspects of Democratic Constitutionalism In The Appointment of Acting Regional Heads', *STAATSRECHT: Indonesian Constitutional Law Journal*, 6.1 (2022), 1–18. <https://doi.org/10.15408/siclj.v6i1.28467>.

However, in practice, if we trace it from the beginning of the New Order government between 1966 and 1971, there is the term "monoclonality" of Civil Servants towards Golongan Karya. Golongan Karya, which was raised by President Soeharto as a political force, made civil servants the main target of becoming members and administrators from the central to the village level. Intimidation of Civil Servants occurred in the first general election in 1971.³⁶ In 2014, the depoliticization of civil servants re-emerged in anticipation of the political attitudes that occurred during the New Order. The policy of prohibiting civil servants from participating in politics was based on the trend of disintegration and anticipation after the 1999 General Election, which predicted that a coalition cabinet would emerge. Law 43 of 1999 prohibits Civil Servants from being members of political parties, but they are still given the right to vote.³⁷

Changes in personnel arrangements, especially the neutrality of Civil Servants from the New Order to the Reformation period, were due to a shift in development and government functions from the center to the regions. During the almost 32 years of the New Order government, the government was very authoritarian and centralized. The point of power is centralized in the government bureaucracy. Control of development and governance is in the hands of the central government.³⁸

The paradigm built in the State Civil Apparatus Law is in terms of managing human resources for the State Civil Apparatus. This is a step forward in efforts to implement bureaucratic reform by the government, so it is not an exaggeration to say that the birth of this law is a milestone in the success of reform and also a starting point for enforcing the professionalism and acceptability of the State Civil Apparatus.³⁹

With the existence of the State Civil Servants Law, all civil servants have become a profession, and regional heads no longer have the right to interfere with and regulate staff appointments. Thus, the authority of regional heads is not unlimited. The reason for the need for the State Civil Service Law is that the government views that there are fundamental problems related to human resources within the bureaucracy/civil service that must be addressed as soon as possible.⁴⁰

4. Conclusion

The regulation of the neutrality of State Civil Servants (ASN) in general elections in Indonesia has undergone significant changes over time, evolving in terms of both subject and object. Initially, in 1966, regulations were limited to prohibiting Civil Servants from participating in

³⁶ Ujang Komarudin and Pitut Pramuji, 'Between Clientelism and Patrimonialism: Local Politics of the Philippines and Indonesia', *JWP (Jurnal Wacana Politik)*, 8.1 (2023), 32. <https://doi.org/10.24198/jwp.v8i1.42602>.

³⁷ Zainal Arifin Mochtar and Kardiansyah Afkar, 'President's Power, Transition, and Good Governance', *Bestuur*, 10.1 (2022), 68–84. <https://doi.org/10.20961/bestuur.v10i1.59098>.

³⁸ Wahyudin M Akili and Rafika Nur, 'Democratic Regional Head Elections Are Based on the Principles of Freedom, Openness, Honesty and Fairness', *Jurnal Ilmu Sosial Dan Pendidikan (JISIP)*, 8.2 (2024), 1448–54. <https://doi.org/10.58258/jisip.v7i1.6806/http>.

³⁹ Saparuli Saparuli and Punta Yoga, 'Regional Head Official Appointment Mechanism During the Conditional Regional Head Election Transition Period', *HERMENEUTIKA: Jurnal Ilmu Hukum*, 7.1 (2023), 1. <https://doi.org/10.33603/hermeneutika.v6i3.8322>.

⁴⁰ Wicipto Setiadi, 'Institutional Restructuring to Sustain Regulatory Reform in Indonesia', *Hasanuddin Law Review*, 5.1 (2019), 120–31. <https://doi.org/10.20956/halrev.v5i1.1699>.

general elections. However, during the New Order era, Civil Servants were mandated to become members of *Golkar's*, an organization that supported the New Order government. Consequently, Civil Servants became political agents working to secure victories for *Golkar* in general elections. In contemporary Indonesia, the regulatory framework has evolved to impose broader prohibitions. Civil Servants are now barred from not only joining political parties but also from engaging in any aspect of the general election process, including serving on campaign teams, participating in election campaigns, and involving themselves in political party activities. These regulatory changes are crucial for enhancing the neutrality of the ASN and preserving the integrity of the electoral process. During the New Order era, the co-option of Civil Servants into *Golkar's* political machinery severely compromised the neutrality of the ASN, intertwining their professional roles with political agendas and undermining public trust and election integrity. The contemporary framework aims to address these historical issues by ensuring that the ASN remains impartial and focused on serving the public interest rather than partisan interests. In practice, these regulations have led to a more politically neutral civil service, essential for fair and democratic governance. Civil Servants are now more insulated from political pressures, allowing them to perform their duties without undue influence from political parties, fostering a more level playing field in elections. However, challenges remain in enforcing these regulations uniformly, with instances of political interference still occurring, indicating the need for continuous monitoring and stricter enforcement mechanisms. Overall, these regulatory changes represent a positive step towards a more impartial and professional ASN, contributing to the overall health and robustness of Indonesia's democracy.

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