

Reformulation of Handling Violations of Civil Servant Neutrality in Fair and Just Elections

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Abstract: Elections have become a fundamental need for all government regimes. Each stage of election administration allows for violations by organizers, election participants, and voters. Election administration often sees violations of the neutrality of civil servants that need proper regulation. This research will discuss and analyze the implementation of handling violations of civil servant neutrality in elections that lack justice and how to reformulate the handling of violations of civil servant neutrality in fair elections. The research method uses the type of empirical juridical research, with an approach to legislation, conceptual approaches, and comparative approaches. The research results show that: The implementation of handling violations of civil servant neutrality in elections that lack justice is caused by internal factors, namely the presence of non-neutral civil servants in the general election. External factors include every five-year democratic event titled elections, which are not only seen through the strength of the synergy between the TNI and the Police. Reformulation of handling violations of civil servant neutrality in fair elections requires regulations in the form of laws that explain the handling of election crimes, especially the involvement of civil servants in elections. The establishment of an Election Court consisting of the Indonesian National Police, the Public Prosecutor's Office, Judges, and several representatives with a background in election crimes that can handle election disputes.

Keywords: Reformulation, civil servant neutrality, general elections, justice

1. Introduction

The governance of a country is based on the principles of "government of the people, by the people, and for the people" (the democratic principle). This democratic principle demands that every individual has equal rights and opportunities in determining government policies. The application of the democratic principle is evident in the General Elections (Pemilu). In Indonesia, the Constitution of the Republic of Indonesia Year 1945 (UUD NRI 1945) stipulates that elections are held to choose members of the DPR (People's Consultative Assembly), DPD (Regional Representative Council), DPRD (Regional People's Representative Council), as well as the President and Vice President (Nasution, 2017).

The implementation of Regional Elections can be viewed as a fundamental pillar in the realization of people's sovereignty through periodic electoral mechanisms. Elections have become a basic necessity for all government regimes. Every government seeks to conduct elections within the framework of obtaining political legitimacy from the public. Elections are an inseparable tool in the political life of a modern democratic state, and a mature democracy remains an absolute necessity (Dewi, 2015).

According to Hasibuan (2023), elections are an essential requirement for a democratic state, representing the exercise of the people's sovereignty. Democracy also provides space for the full involvement of citizens in determining political opinions. In an effort to achieve clean and fraud-free Regional Elections, the Police, as law enforcement, must oversee the implementation of these elections. The Indonesian National Police, as a crucial pillar of law enforcement, plays a determining role in realizing the direction of the state's law and security, especially in regional elections. In regional elections, potential electoral crimes such as money politics, ballot tampering, fraud at polling stations, and various other forms of misconduct must be prevented and countered by the Police through decisive actions against individuals and groups involved (Widodo et al., 2023).

The implementation of elections is a crucial moment for the formation of government and the administration of the next period. As a country that hosts democratic festivities through voting every five years, Indonesia continuously strives to enhance itself, not only in terms of the electoral system but also the effectiveness of electoral organizers. It extends to aspects that, according to some, might not be considered too important but are closely related to the fundamental

principles of elections, particularly the issue of the Neutrality of Civil Servants (ASN) in every electoral process (Ash-Shidiqqi, 2022).

Regional elections (Pilkada) can trigger the utilization of bureaucracy for political interests. In various regions, incumbent regional leaders almost always mobilize civil servants to secure their victory. The bureaucracy should be free from the influence and entanglement of political ties with political forces, ensuring that the services provided to the public by a neutral bureaucracy remain impartial and objective (Yandri, 2017). A biased or non-neutral bureaucracy can lead to political corruption, thereby tainting the electoral process with undesirable actions.

Direct and simultaneous regional elections present a different situation, given the significant authority granted to regions since the implementation of regional autonomy. Regional leaders play a crucial role in determining the success of the development of an area. People often place high expectations on regional leaders to improve existing conditions. The issue of civil servant neutrality still frequently arises in regional elections. The neutrality of civil servants in political contests is a subject of legal employment studies. As Utrecht has pointed out, administrative law examines the special legal relationship established to enable officials (*amsdragers*) of the state administration to perform their specific duties (Hartini, 2009).

On one hand, civil servants (ASN) are government officials required to carry out administrative tasks to provide public services. On the other hand, civil servants are also members of the community with political and economic interests that concern their choices in regional elections (Pilkada). These dominant interests often hinder the realization of fair and just elections. During the reform era, one of the resolutions of the 5th National Meeting of the Civil Servant Corps (KORPRI), the only civil servant organization outside the civil service, stated that "civil servants should not engage in political party activities." All aspects of life are regulated by laws and regulations, norming human behavior in almost every aspect of human life. Regarding regional elections, there are three regulations governing them: Law Number 5 of 2014 concerning Civil Servants, Law Number 10 of 2016 concerning the Election of Governors, Regents, and Mayors, and Government Regulation Number 53 of 2010 concerning the Discipline of Civil Servants (Nugraha et al., 2019).

If government bureaucracy can maintain its neutrality in performing its functions, the entire population can be served well and professionally. A neutral bureaucracy does not prioritize or favor any specific group's interests. Favoring the interests of the entire population is equivalent to practicing democracy. Meanwhile, bureaucratic bias towards a political party in power tends to create opportunities for the abuse of authority, such as corruption, collusion, and nepotism. Based on the above issues, the researcher deems it necessary to conduct research on the Neutrality of Civil Servants in regional elections.

Civil servants are often politicized and mobilized by stakeholders, primarily to garner significant votes in every contest, whether legislative elections, presidential elections, or regional elections (Pilkada). This latent danger, with a long history of perpetuating the power of the New Order that lasted for 32 years, has been observed. The high number of violations of civil servant neutrality during the 2019 elections, approximately 1,096 legal violations related to the neutrality of civil servants, the military, and the police during the 2019 elections, is noteworthy. The State Civil Apparatus Agency (BKN) released data on violations of civil servant neutrality during the 2019 elections, with around 99.5% occurring in regional agencies, from provincial to district/city governments.

In the implementation of the simultaneous elections in 2019, both for executive and legislative positions, electoral violations were not merely defined as actions that violated Law Number 7 of 2017. Instead, electoral violations can be interpreted as actions carried out either individually or collectively when breaching rules related to general elections. These violations can be classified into three categories: Administrative Electoral Violations, Criminal Electoral Violations, and Violations of Ethical Codes.

The findings of electoral violations according to the Election Supervisory Agency (Perbawaslu) Number 7 of 2018 resulted from monitoring conducted by Bawaslu, provincial Bawaslus, and/or district/city Bawaslus, as well as sub-district Election Supervisory Boards (Panwaslu), Village/Community Election Supervisory Boards (Panwaslu Kelurahan/Desa), and Foreign Election Supervisory Boards (Panwalu LN), along with Polling Station Supervisors, during each stage of the electoral process that contained allegations of violations. In 2019, Bawaslu processed 276 alleged violation cases, of which 255 cases were identified by sub-district Election Supervisory Boards and district/city Bawaslu. Among these findings, there were 246 cases of administrative violations, 1 case of criminal violation, and 7 cases of alleged ethical code violations.

Electoral violations subject to criminal proceedings are investigated by the Police in coordination with the Public Prosecutor's Office. An illustrative case occurred in Sragen Regency, where a criminal electoral violation was committed by a Civil Servant (ASN) serving as a Sub-District Head (Camat) in Sambirejo. This individual was found guilty by the Sragen District Court. During the National Coordination Meeting to Strengthen the Implementation of the 2014 Presidential and Vice-Presidential Elections held in Jakarta on June 4, 2014, the Chairman of Bawaslu imposed a sentence of 1 month in prison and a fine of IDR1.500.000.00. It is argued that the punishment should have been more severe to serve as a deterrent for other civil servants.

Civil servants (ASN) are expected to provide public services impartially and without being influenced by personal interests. If members of the civil service prioritize the interests of a supported candidate, especially if that candidate is an incumbent, it may lead to problems. First, it may result in the bureaucracy neglecting the needs of the public they serve. Second, the lack of neutrality among civil servants may lead to conflicts of interest and heightened political sentiments

within the bureaucracy. Finally, individuals perceived as not supporting certain candidates may face repercussions ranging from reassignment to dismissal. In the organization of elections, it is essential to ensure that the principles and foundations of the electoral process are implemented correctly, despite the potential for violations by organizers, participants, or voters at each stage of the electoral process.

Secondly, the indication of non-neutral Civil Servants (ASN) can give rise to conflicts of interest and heightened political sentiments during the course of governmental processes (bureaucracy). Ultimately, an individual perceived as unwilling to support a particular candidate may face negative stigma and, consequently, various threats, ranging from reassignment (mutation) to intimidation and dismissal. In the organization of elections, it is imperative to ensure that the principles and foundations of the electoral process are implemented correctly and appropriately at each stage, despite the potential for violations by organizers, participants, or voters (Hartini, 2009).

Violations can be committed by various parties, and it can be argued that everyone has the potential to engage in violations. Electoral violations themselves can be defined as actions that contravene regulations related to elections, with the highest hierarchy of legal regulations being the 1945 Constitution of the Republic of Indonesia. The specific law governing elections is Law Number 7 of 2017 concerning General Elections. In this research, the researcher will delve deeper into the neutrality of the role of ASN and the mechanisms for handling violations in the organization of simultaneous elections.

The study by Hartini (2009), which discusses the legal reconstruction of the pattern of handling violations of the neutrality principle of employees, emphasizes that violations of the neutrality of Civil Servants (PNS) are a legal issue that consistently arises in every election. This longstanding issue can be resolved through the government's commitment to limit PNS involvement in practical political activities. This situation requires a legal reconstruction of the pattern of handling PNS violations through both repressive and preventive measures. The researcher's study, which differs from the previous research, focuses more on how the handling of violations of ASN neutrality in elections is implemented, addressing the lack of justice. Additionally, the research explores how the handling of violations of ASN neutrality in elections can be reformulated to achieve justice?

2. Methodology

This research is descriptive and employs an empirical juridical approach. This approach utilizes legal regulations, conceptual approaches, and comparative approaches that emphasize efforts to study all legal principles or explore various forms of applicable positive regulations. The approach also considers the structure or arrangement of laws, attempting to harmonize existing laws, studying the legal background, and conducting a legal analysis to identify differences or similarities between one law and another (Suyanto, 2023). Data collection is primarily conducted using the document study technique (library research and online research) by leveraging the secondary data needed, including primary, secondary, and tertiary legal materials. The process involves exploring the history and synchronizing the legal materials. Primary legal materials used consist of legislation, especially those related to elections. Secondary legal materials to be used include scholarly research and literature related to the research substance. Tertiary legal materials refer to supporting information for primary and secondary legal materials, including data from journals, legal dictionaries, and encyclopedias.

3. Results and Discussion

3.1 The Implementation of Handling Violations of Civil Servants' Neutrality in Elections That Are Not Yet Just

The formation of legislation in Indonesia related to Regional Government and Elections has changed relatively quickly, with changes occurring at least within a 5-year period, and some legislative changes occurring within just one year. For example, Law Number 23 of 2014 concerning Regional Government replaced Law Number 32 of 2004 concerning Regional Government. In Law Number 22 of 2014 concerning the Election of Governors, Regents, and Mayors, a change occurred in the same year through Government Regulation in Lieu of Law (Perpu) Number 1 of 2014 concerning the Election of Governors, Regents, and Mayors.

The position of Regional Heads, including Governors, Regents, and Mayors in Indonesia, is mandated by Article 59 paragraph (2) of Law Number 23 of 2014. However, the election process (Pilkada) is determined by Law Number 23 of 2014, which states that "Provisions regarding Pilkada are regulated by Law." Article 62 specifies that the regulations on Pilkada are separately arranged in two conflicting pieces of legislation: Law Number 22 of 2014, which adopts an indirect mechanism for Pilkada through the election by regional DPRD members, and Government Regulation in Lieu of Law Number 1 of 2014, which stipulates a direct mechanism for Pilkada, allowing the people to vote directly.

A fundamental issue in the concept and implementation of elections in Indonesia is the relatively rapid changes in legislation, with amendments occurring at least every 5 years. Even the election of Regional Heads was carried out by regional DPRD members for a considerable period, not through direct elections by the Indonesian people. This situation also impacts electoral crimes and their handling (Suparnyo & Sukresno, 2023; Ni'mah et al., 2019).

Electoral crimes encompass various dynamic aspects, and due to their relatively rapid changes, the substance regarding the establishment of various institutions, such as Regional Election Supervisory Body (Banwasda), Regional Election Supervisory Committee (Panwaskab/Kota), and others, leads to thin and difficult-to-understand boundaries of authority. The authority of Banwasda and the authority of the Police as "Investigators" or "Prosecutors" also create their own set of issues.

The election process must be supported by electoral criminal law instruments, which are essential for achieving fair and honest elections. The regulation of electoral crimes serves two crucial purposes: protecting election participants, organizing institutions, and voters from various detrimental electoral violations and crimes, and upholding legal order and societal integrity in the conduct of elections.

The mechanism of electoral criminal justice follows the general criminal justice system. In the criminal justice system, there exists a network framework that utilizes criminal law (substantive criminal law, formal criminal law, and criminal law implementation) in an integrated manner. All elements of the law enforcement subsystem, including the police, the public prosecutor's office, the judiciary, and correctional institutions, are involved in an interconnected network.

Direct elections by the people in regional elections are a realization of restoring the basic rights of the people to choose leaders in their regions. The people have the opportunity and sovereignty to determine regional leaders directly, freely, and secretly without any interference. However, the implementation of regional elections does not always proceed ideally, as civil servants (ASN) who are obligated to provide public services are often co-opted for political interests. Politicians and aspiring regional leaders who are not committed to national principles often exploit the bureaucracy for their political interests (Firmas, 2016).

One of the duties of civil servants (ASN) is to administer government and development in the effort to achieve national goals. These national goals, as stated in the Preamble of the 1945 Constitution of the Republic of Indonesia, include protecting the entire Indonesian nation and its diverse heritage and promoting the general welfare, enlightening the life of the nation, and participating in establishing a world order based on freedom, eternal peace, and social justice (Sutrisno, 2019).

To achieve these national goals, loyal and obedient civil servants are needed, committed to Pancasila, the 1945 Constitution of the Republic of Indonesia, and the unity of the Indonesian state. They should be intelligent, efficient, clean, and free from the influence and intervention of all political groups and parties. Civil servants, in line with their functions, are expected to implement public policies, serve the public, and act as unifiers of the nation. However, the reality during regional elections (Pilkada) often sees civil servants failing to remain neutral due to several influencing factors.

Article 2 letter f of the Civil Servant Law stipulates that the implementation of policies and management of civil servants is based on the principle of neutrality. The explanation of this article clarifies that "the principle of neutrality" means that every official should not be influenced by any form of intervention and should not favor anyone's interests. On the other hand, Article 1 number 2 of the Civil Servant Law emphasizes that public servants (PNS) who are part of the civil service, other than permanent government employees, have the right to vote in general elections (Pemilu) and regional elections (Pilkada).

Article 53 of the Civil Servant Law also raises a crucial issue regarding the authority of the Regent/Mayor as the Personnel Affairs Officer to determine the appointment, transfer, and dismissal of officials within their jurisdiction. This provision often triggers civil servants to act impartially during Pilkada due to the loyalty of subordinates to their superiors, thereby disregarding regulations.

The confusion in the Regulation of the Minister of State Apparatus Empowerment and Bureaucratic Reform dated July 22, 2015, Number: B/2355/M.PANRB/07/2015, concerning the Neutrality of Civil Servants and the prohibition of using government assets in simultaneous regional elections, poses a significant challenge. This circular contains provisions with multiple interpretations, stating that every civil servant is prohibited from providing support to regional heads/deputy regional heads by "participating in campaign activities to support the candidate." This sentence is open to various interpretations as civil servants may argue that their presence in a campaign is merely to learn about the candidate's figure, vision, and mission. It is difficult to determine whether civil servants participating in the campaign are providing support or not.

Indonesia is a legal state (Rechtsstaat) and not a state of power (Machstaat). A legal state aims to protect the entire Indonesian nation and its diverse ethnicities, realize the life of the nation's society, and consequently, the state must place the law as the supreme authority and the sole instrument for resolving all issues.

The handling of neutrality violations is still not clearly regulated, leading to a tendency for institutions to shift responsibility if a violation occurs. The handling of violations is described by the Chairman of the Republic of Indonesia Election Supervisory Board (Bawaslu) as a series of processes, including the forwarding of findings, receiving reports, collecting evidence, clarification, assessment and/or recommendations, and forwarding the results of the study on findings or reports to the competent authorities for follow-up.

Reports are followed up by Election Supervisors who conduct assessments, compile documentation, and complete evidence of violations. Subsequently, a plenary meeting is held to determine whether the reported violations fall under

non-violations, administrative violations, or criminal violations. If the violation falls under criminal offenses, recommendations are made to the police for further action according to applicable law.

In dealing with election violations, institutions are already regulated by the Regional Election Law according to their legal issue criteria, including: 1) the Election Commission (KPU) handles violations against electoral administration provisions, which are violations other than those categorized as election criminal offenses and election code of ethics violations; 2) the Integrated Law Enforcement Center (Sentra Gakumdu), consisting of members from the Police, Public Prosecutors, and Bawaslu/Panwaslu, deals with criminal election law violations; 3) the Election Organizer Honorary Council (DKPP) deals with violations of election code of ethics, its mechanisms, procedures, procedural guidelines, and resolutions; 4) the Constitutional Court (MK) deals with disputes over election results, procedural guidelines, and resolutions; and 5) the State Civil Apparatus Commission (KASN) is an independent non-structural institution free from political intervention, aiming to create professional and high-performing civil servants, provide fair and neutral services, and act as a unifier of the nation. Its tasks include maintaining the neutrality of civil servants and conducting oversight and professional development.

These institutions are theoretically sufficient to address and resolve issues of neutrality during regional elections. However, in practice, these institutions often lack promptness in carrying out their duties and responsibilities. An example is the case of dozens of officials in Bantul Regency suspected of lacking neutrality by providing support during a declaration. Surprisingly, the Ombudsman handled the neutrality case, even though it is not directly related to election violations. The Civil Servant Law mandates four state institutions with authority related to neutrality, namely the Ministry of State Apparatus Empowerment and Bureaucratic Reform (Menpan RB), the State Civil Apparatus Commission (KASN), the National Administration Institute (LAN), and the National Personnel Agency (BKN) (Firman, 2017).

3.2 Reformulation of Handling Violations of Civil Servant Neutrality in Fair Elections

Direct, General, Free, Secret, Honest, and Fair (Luberjurdil) elections, according to the researcher, cannot be viewed partially by merely assessing that the Election Commission (KPU) successfully fulfilled its duties in organizing the General Election, the Election Supervisory Board (Bawaslu) successfully overseeing all stages, and the Honorary Council of Election Organizers (DKPP) successfully preserving ethics, morality, dignity, and the dignity of election organizers to regain public trust. Instead, within it, there must be a proactive role of civil servants (ASN) in maintaining their independence and neutrality to prevent them from becoming tools to facilitate political goals.

The 2019 elections, although conducted quite well, still left several serious issues, one of which is the significant mobilization, politicization, and intervention of civil servants to boost their popularity. The conduciveness of each five-year democratic event titled the Election is not only seen through the strength of TNI-Polri synergy, the intensive role of Bawaslu in handling election violations, and the massive socialization of the KPU to suppress abstention rates. Still, beyond that, the conducive climate of our democracy must be created with the strong awareness of both central and regional authorities to regulate civil servants to remain neutral even though they are civil society members with voting rights.

The spirit of civil servant neutrality must be built, first and foremost, through those who have direct authority over the Civil Service apparatus to negate Lord Acton's words, "Power tends to corrupt, and absolute power corrupts absolutely." When looking at the figures of Election Violations, in 2019 in Indramayu Regency, there were 276 violations with the following specifications: 255 findings, 21 reports, 266 registrations, 10 not registered, divided into several types of violations, including 246 Administrative Election Violations, 1 Criminal Election Violation, 7 Violations of the Code of Ethics, 11 Non-violations, and 1 Other Legal Violation. When examining these figures, violations by civil servants as mentioned in the above description are included in the category of other legal violations, with 1 case related to civil servants in Indramayu Regency during the 2019 elections, which was officially addressed by the State Civil Apparatus Commission (KASN).

Violations occur at every stage of the election, from the voter list update, registration and verification of participants, participant determination, election participant determination, constituency seat determination, legislative and presidential candidate nominations, campaign stages, counting stages, result determination, to the oath and pledge ceremony.

Elections represent the process of exercising the sovereignty of the people to fill positions in a government based on direct, general, free, secret, honest, and fair principles. "You can have an election without democracy, but you cannot have democracy without an election," this statement underscores the importance of elections for a country that operates under a democratic system.

One crucial aspect of the election process is the supervision of its implementation. Article 1, number 7 of Law Number 7 of 2017 regarding Elections regulates three election organizing institutions: the Election Commission (KPU), the Election Supervisory Board (Bawaslu), and the Honorary Council of Election Organizers (DKPP). Bawaslu has the function of overseeing elections, as stipulated in Article 1, number 17 of Law Number 7 of 2017, which states that Bawaslu is the election organizing institution that oversees the conduct of elections throughout the territory of the Unitary State of the Republic of Indonesia.

This supervisory function is crucial to ensure that the election process adheres to the principles and principles of election organization. In order to realize Indonesia's aspirations in line with the mandate of the opening of the 1945

Constitution, it is necessary to have civil servants who are professional, free from corrupt practices, collusion, and nepotism, free from political interference, and capable of providing public services to the community (Abiyasa, 2019).

During the leadership of President Abdurrahman Wahid, there were changes to the 1945 Constitution of the Republic of Indonesia, specifically in Chapter XII regarding Defense and State Security. The People's Consultative Assembly (MPR) Decree No. VI/MPR/2000 addressed the separation of the Indonesian National Army and the National Police of the Republic of Indonesia, while MPR Decree No. VII/MPR/2000 outlined the roles of the Indonesian National Army and the National Police of the Republic of Indonesia. These constitutional changes affirmed the formulation of the duties, functions, and roles of the National Police of the Republic of Indonesia, as well as the institutional separation of the Indonesian National Army and the National Police of the Republic of Indonesia, each with its own distinct role and function.

The primary duties and authorities of the police are outlined in Articles 13, 14, 15, and 16 of Law No. 2 of 2002 concerning the National Police of the Republic of Indonesia. As a key security, escort, and supervisor element during elections, the police need to project a firm, neutral, and authoritative demeanor. The existence and work ethic of the police force must remain independent and uninfluenced by various interest groups participating in the elections. This demand is logical as the police, serving both as a protector and an enforcer of the law, are expected to exhibit fairness and justice in carrying out their duties (Soedarsono, 2010).

The police receive reports of election violations from the Election Supervisory Board (Bawaslu), provincial and district/city election supervisory boards (Panwaslu), sub-district Panwaslu, on-field election supervisors, and overseas election supervisors through the Integrated Law Enforcement Center (Sentra Gakkumdu). The received reports are documented in a separate police register. At the same time, an assessment is made regarding whether the evidence of alleged offenses submitted by Bawaslu and its associates has been fulfilled or not. In certain situations, the police investigators position themselves merely as the recipients of clean reports without conducting further investigations. However, according to the Election Law, police investigators are supposed to investigate alleged election crimes (Fahmi, 2016).

Several election-related crimes fall under the jurisdiction of the Integrated Law Enforcement Center (Gakkumdu) as outlined in Law No. 7 of 2017 concerning General Elections. These offenses are broadly categorized into various qualifications of acts, including criminal acts directed at individuals, those that can be committed by KPU officials, both at the provincial and district/city levels, and offenses related to campaign implementation (Junaidi, 2020).

Conflict of neutrality among bureaucrats in the jurisdiction of the Central Java Regional Police (Polda Jawa Tengah) in 2018 found 75 cases during the simultaneous implementation of the 2018 Regional Elections (Pilkada). The involvement of Civil Servants (ASN) in the election process, most notably during the Central Java Gubernatorial Election (Pilgub Jawa Tengah) in 2018, attracted significant public attention. Notable cases include the incidents involving Siti Atiqoh and the cases of Wika Bintang and Zainudin. These examples illustrate the involvement of ASN in the 2018 Central Java Regional Elections.

Perpetrator Siti Atiqoh, proven to display a biased stance throughout the series of events during the 2018 Central Java Gubernatorial Election, held a prominent position as the wife of the incumbent Ganjar Pranowo. She was seen accompanying her husband during political orations and also supporting him in submitting the registration documents for the gubernatorial candidacy during the 2018 Central Java Gubernatorial Election at the Central Java KPU Office on January 9, 2018.

In this regard, the Police collaborated with the Integrated Law Enforcement Center (Gakkumdu), which serves as the hub for enforcing the law on election-related crimes, comprising elements from the Election Supervisory Board (Bawaslu), Provincial Election Supervisory Boards, and/or District/City Election Supervisory Boards, including the Indonesian National Police. The National Police, in handling cases of ASN involvement, undertake a series of activities ranging from investigation to the discovery of committed election-related crimes.

Elections are a crucial instrument in a democratic state with a representative system, representing the tangible manifestation of procedural democracy. Indonesia, as a legal state with democratic governance, recognizes elections as a vital pillar of democracy to be conducted democratically. The regulations governing the implementation of elections in Indonesia are stipulated in the 1945 Constitution.

The periodic organization of elections is an absolute necessity as a means of democracy, making sovereignty the core of national life. The process of people's sovereignty, initiated by elections, is intended to establish the principles of legality, legitimacy, and credibility for a government supported by the people. Governance by the people, for the people, and of the people will bring about people-centric governance.

Every segment of the nation's population should contribute to the success of these simultaneous regional elections. This support and assistance should be proportional and in compliance with existing norms and rules. Support is also expected from civil servants (ASN), but this support must adhere to the principle of neutrality upheld by each individual ASN. The principle of neutrality needs to be preserved to ensure that professionalism and public service, which are the main duties, can be executed maximally. The neutrality of bureaucrats is regulated in Government Regulation No. 53 of 2010 concerning Civil Service Discipline, which holds Local Government Heads responsible for enforcing sanctions against civil servants involved in violations during regional elections, both in terms of neutrality and the misuse of state facilities (Mursanto, 2018).

The investigator of election crimes is an investigator from the Indonesian National Police. The investigation into election crimes is carried out by a team of election crime investigators appointed (investigation is not conducted individually) according to applicable legal provisions (Febriandi, 2021). Several factors influencing the handling of cases involving Civil Servants (ASN) in elections are as follows:

a) Lack of Evidence

Evidence is the most crucial element in uncovering a criminal act, such as legislative election violations, for the police. Evidence includes anything related to an act, and with this evidence, it can be used as proof to convince the judge of the truth of a criminal act committed by the defendant. The police must base the designation of a suspect on at least two pieces of evidence. Article 184 paragraph (1) of the Criminal Procedure Code states that valid evidence includes witness statements, expert testimony, documents, clues, and the defendant's statements.

Reports of election violations by election supervisory bodies to the police are often not accompanied by evidence. The police's difficulty with evidence is the lack of witnesses providing statements about legislative election violations. This often makes it challenging for the police to develop and uncover cases of election-related crimes in the short time frame stipulated in Law Number 8 of 2012 concerning the Election of Members of the People's Consultative Assembly, Regional People's Representative Council, and Regional Representative Council.

b) Limited Handling Time

The examination of gubernatorial election crimes during the adjudication phase must be conducted by judges specially appointed and educated by the Chief Justice of the Supreme Court as judges for general election crimes. The time frame for handling general election crimes, from the initial stage, pre-adjudication, examination in court (adjudication), must be given a time limit to ensure that the judicial process does not disrupt the gubernatorial election process.

In handling gubernatorial election crimes, the Central Java Regional Police are regulated by Law Number 8 of 2012 concerning the Election of Members of the People's Consultative Assembly, Regional People's Representative Council, and Regional Representative Council. The police are mandated to uncover Election Law violations within a 14-day period, including the investigation, inquiry, and examination reports to be submitted to the prosecutor's office for prosecution. If the examination report is returned by the prosecutor to the police due to incompleteness, the police are required to complete the file within 3 days.

This very short time frame is perceived as difficult and a significant challenge for the police, especially the Central Java Regional Police, in uncovering gubernatorial election violations because they have to complete three processes in 14 days: investigation, inquiry, and examination report.

c) Uncooperative Public Statements

The mechanism for handling election crimes should adhere to the general mechanisms for handling crimes, including the initial stage (pre-adjudication), examination in court (adjudication), and the execution of decisions (post-adjudication). Election crimes should be emphasized, not crimes reported by complaint. If law enforcement officials (especially investigators) see indications of violations of the law (election crimes), they must immediately handle these allegations.

During the gubernatorial election, many violations are committed by participating parties. These violations occur during various stages of the election. During the campaign phase, some violations occur, such as the existence of money politics. In handling such cases, law enforcement (police) faces difficulties in conducting investigations because the public generally refuses to become witnesses if they have received money from election participants. However, witnesses play a crucial role in uncovering cases of election crimes related to money politics (Palinrungi & Akub, 2022).

The public is often afraid to become witnesses, considering the Criminal Code, namely Article 149 paragraphs (1) and (2), which aim to prosecute those involved in vote-buying:

Paragraph 1

"Whoever, during an election based on general regulations, by giving or promising something, bribes someone not to use their voting right or to use it in a certain way, is threatened with imprisonment for a maximum of nine months or a fine of up to four thousand five hundred rupiahs."

Paragraph 2

"The same penalty applies to voters who accept gifts or promises and are willing to be bribed."

The public turns a blind eye and is reluctant to provide information regarding the practice of money politics conducted by election participants or political party cadres who commit violations using money politics as a means to win their endorsed candidates or for their party.

The solutions to the above challenges are: a) Clarifying regulations related to the definition of ASN neutrality; b) The need for regulations in the form of a law that explains the handling of election crimes, especially the involvement of ASN in elections; and c) The establishment of an Election Court consisting of the Indonesian National Police, the Prosecutor's Office, Judges, and several representatives with a background in election crimes to handle election disputes.

4. Conclusion

Based on the research findings and discussions above, several conclusions can be drawn: 1) the implementation of handling violations of the neutrality of civil servants in elections that has not been just is due to internal factors. In the execution of elections, civil servants who are not neutral are still found. The lack of neutrality among civil servants in regional elections (Pilkada) is a result of loyalty, familial relationships, career ambitions, ambiguous regulations, weak law enforcement, and the low awareness of the community to report suspected findings of civil servants involved in Pilkada contests. Additionally, external factors come into play during every five-year democratic event titled the General Election (Pemilu). This is not only assessed based on the strong synergy between the military and police but also on the intensive role of Election organizers such as the Election Supervisory Board (Bawaslu), which has the authority to handle election violations. Despite the massive socialization efforts by the General Election Commission (KPU) to suppress abstention rates, conducive democratic climate requires a strong awareness among authorities, both at the central and regional levels, to discipline civil servants to maintain neutrality; and 2) the reformulation of handling violations of the neutrality of civil servants in a just election is carried out by participants in regional elections (Pilkada) or political party cadres who commit violations using money politics as a means to win their endorsed candidates or for their party. The realization of civil servant neutrality in regional elections can be achieved by optimally involving the roles of several relevant institutions, including the State Civil Apparatus Commission (KASN), Bureaucracy Leadership, Election Commission (KPU), and Election Supervisory Board (Bawaslu). This requires a reformulation of regulations in the form of laws that explain the handling of election crimes, especially the involvement of civil servants in elections. The establishment of an Election Court, consisting of the Indonesian National Police, the Attorney General's Office, judges, and several representatives with a background in election crimes, is necessary to handle election disputes.

Considering the conclusions above, several recommendations can be proposed as follows: 1) for the Government, it is advisable that the neutrality of Civil Servants becomes a national discourse in this era of reform, given the significant role of Civil Servants. Therefore, proper guidance and development are essential. Civil Servants should no longer be political pawns that can influence the state system; 2) for the Election Commission (KPU), it is crucial to thoroughly prepare regulations for presidential and legislative elections. This is to ensure the successful realization of the positive goals of simultaneous elections, such as establishing a robust presidential system for efficient governance; and 3) for the public, efforts should be made to reduce election violations. Providing education to the community about what is prohibited for participants and organizers during the various stages of the election process is essential.

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