



Violation of Civil Servant (ASN) Neutrality in the 2024 General Elections in Indonesia (From the Perspective of Handling Violations)

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Abstract: The issue of civil servant (ASN) neutrality is crucial in elections. This is because violations of ASN neutrality consistently occur in every general and regional election, including the 2024 general elections. This paper aims to identify the potential violations of ASN neutrality, the handling of ASN neutrality violations in the 2024 elections, and the ideal concept for addressing ASN neutrality violations. This qualitative research utilized secondary data obtained through literature reviews and document studies. Data analysis was conducted qualitatively, and the research findings were presented descriptively. The research concluded that potential violations of ASN neutrality in the 2024 elections are outlined in Joint Decisions of the Minister of PAN-RB, Minister of Home Affairs, Head of BPN, Chairperson of KASN, and Chairperson of Bawaslu No. 2/2022, No. 800-5474/2022, No. 246/2022, No. 30/2022, and No. 1447.1/PM.01/K.1/09/2022 regarding Guidelines for the Coaching and Supervision of ASN Employees in Organizing Elections. Handling violations of ASN neutrality involves two mechanisms: direct referral to KASN for violations of ASN neutrality and a mechanism for handling violations by Bawaslu for ASN neutrality violations that include general and regional election violations. The ideal concept for handling violations of ASN neutrality includes the establishment of a new institution as a channel for forwarding violations from Bawaslu, in accordance with Article 455 of Law No. 7 of 2017; the personnel supervisory official should not be a regional head but rather the Regional Secretary (Sekda); sanctions for neutrality violations should be strengthened to have a deterrent effect on ASN violators; the existence of specific regulations regarding the mechanism for handling ASN neutrality violations, complete with norms and sanctions for violations; and strengthening the role or authority of BKN in handling violations of ASN neutrality.

Keywords: Civil Servant Neutrality, ASN Neutrality Violations, Mechanisms for Handling Violations, Strengthening ASN Neutrality Regulations.

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1. Introduction

The Civil Servants in Indonesia are regulated by Law No. 20 of 2023 concerning Civil Servants (hereinafter referred to as ASN). ASN includes Civil Servants (PNS) and Government Employees with Employment Agreements (PPPK) (Anggoro, 2022). PNS are Indonesian citizens who meet certain qualifications and are permanently appointed as ASN employees by personnel supervisory officials to occupy government positions (Gobel et al., 2023). PPPK are Indonesian citizens who meet specific qualifications and are appointed based on employment agreements for a certain period to carry out government duties or occupy government positions. Article 11 of Law No. 20 of 2023 explains that the

duties of ASN employees are to implement public policies made by personnel supervisory officials in accordance with statutory regulations, provide professional and quality public services, and strengthen the unity of the Indonesian state (Utami, 2022).

Every ASN must remain neutral. Neutrality involves impartiality, where an ASN must be fair, objective, unbiased, free from influence, free from intervention, free from conflicts of interest, and not take sides with anyone (Sulistyo et al., 2021). Neutrality includes neutrality in public service, neutrality in the management of ASN, and neutrality in politics (Park et al., 2022). According to Bawamenewi (2019), political rights theoretically are rights possessed by every citizen to obtain power, position, and/or wealth. The political rights of ASN are protected by the 1945 Constitution as stated in Article 28D paragraph (3) "every citizen has the right to equal opportunities in government" and Article 28E paragraph (3) "everyone has the right to freedom of association, assembly, and expression" (Iriani et al., 2023).

2. Methodology

This research is a qualitative study utilizing secondary data. The data were obtained through literature reviews and document analysis. Secondary data include journals, research findings, case studies, reports from the Election Supervisory Board (Bawaslu) and the Civil Service Commission (KASN) on the handling of violations of ASN neutrality, as well as relevant regulations related to ASN neutrality in general and regional elections. To strengthen and deepen the study on the handling of violations of ASN neutrality, interviews were conducted with Bawaslu of Central Java Province, Bawaslu of East Java Province, and Bawaslu of West Java Province. Furthermore, all the data were analyzed using a qualitative descriptive method, outlining the data in a quality manner through well-structured, logical, and effective sentences to address the existing issues and draw research conclusions.

3. Potential Violations of ASN Neutrality in the 2024 Elections

Indonesia is set to conduct simultaneous general and regional elections in 2024 (Rudiyanto & Salia, 2023). The general election voting is scheduled for February 14, 2024, while the regional elections will take place on November 27, 2024. A recurring issue during every election event is the neutrality of ASN. Despite the robust regulations binding Civil Servants, encompassing laws, government regulations, joint decisions, and circulars, the existence of these regulations has not prevented violations of ASN neutrality. Every general and regional election, is marked by incidents of ASN neutrality violations.

According to data from the Election Supervisory Board (Bawaslu), there were 634 alleged violations of ASN neutrality spread across 29 provinces during the 2019 general elections. The reported 547 ASN included sub-district heads (54 individuals), teachers (52 individuals), supervisors/officials at the fourth echelon (section/head of department) (43 individuals), top-level officials/second echelon (head of agency/head of bureau) (70 individuals), ASN staff (195 individuals), department secretaries (16 individuals), village/sub-district secretaries (10 individuals), school principals (27 individuals), doctors (5 individuals), village chiefs (14 individuals), lecturers (22 individuals), and administrators/third echelon (head of division/head of section) (39 individuals). Sanctions for these violations ranged from light to severe, tailored to the nature and severity of the violations committed by the reported ASN. Subsequently, during the 2020 regional elections, the number of ASN neutrality violations increased compared to the 2019 general elections. Data from the Civil Service Commission (KASN) indicates that there were 1,596 reported individuals violating ASN neutrality during the 2020 regional elections. The breakdown includes 751 reported violations before the campaign period, 851 violations during the campaign, and no reported violations after the campaign. The number of ASN neutrality violators in regional elections surpassed that of general elections.

Violations of ASN neutrality during regional elections result from various factors, including the bureaucratic mentality still far from the spirit of bureaucratic reform, political interests of ASN due to specific relationships with candidates such as tribal or familial connections, and the use of regional elections as a means of job promotion (Atmojo et al., 2023). In line with this opinion, the field of ASN system study and development maps violations of ASN neutrality, including the motivation to seize opportunities for job positions. Political patronage occurs because regional heads, as incumbents, have

the authority to demote, transfer, or promote ASN employees. Another factor is the existence of primordial relationships, including familial ties, political officials' relationships both within and outside the organization, which disrupt the professionalism and integrity of ASN (Siregar, 2020). The results of the KASN survey conducted on 10,617 ASN people in the 2020 regional elections noted that the causes of ASN non-neutrality were due to ties of brotherhood (50.76%), career interests (49.72%), similar backgrounds (16.84%), reciprocity (9.50%), and candidate pair pressure (7.48%).

Fundamentally, the meaning of ASN neutrality is freedom from influence, non-partisanship to political parties or specific election participants, or non-involvement in the political process to prevent the misuse of state facilities for the benefit of specific election participants (Sarnawa, 2018). Mifthah Thoha (2016) interprets ASN neutrality as the lack of influence on Civil Servants by political party interventions, allowing them to focus on their duties. Article 2, paragraph (f) of Law No. 20 of 2023 explains that the principle of neutrality is that every ASN should not favor any form of influence and should not side with interests outside the interests of the nation and state. Furthermore, it is emphasized in Article 24, paragraph (1), letter d that every ASN must maintain neutrality. Failure to uphold neutrality can distort public interests, result in suboptimal services, and lead to the placement of officials based on their involvement in regional elections, with bureaucratic positions occupied by incompetent Civil Servants.

One form of violation of ASN Neutrality is the expression of support for candidates or pairs of election participants, as outlined in Article 5 letter n of Government Regulation No. 94 of 2021 concerning Civil Servant Discipline. The forms of support include (1) participating in campaigns; (2) participating in campaigns using party attributes or Civil Servant attributes; (3) participating in campaigns by mobilizing other Civil Servants; (4) participating in campaigns using state facilities; (5) making decisions and/or actions that benefit or harm one pair of candidates before, during, and after the campaign period; (6) organizing activities that lean towards favoring a candidate participating in the election before, during, and after the campaign period, including meetings, invitations, appeals, or providing goods to Civil Servants within their working unit, family members, and the community; and (7) providing letters of support accompanied by a photocopy of the ID card or Resident Identity Card.

An interesting point of debate revolves around Article 5 letter n, point (1) "participating in campaigns." The term "participate" in the norm "participating in campaigns" has led to different interpretations, resulting in two opinions on the matter (Ambardi et al., 2018). *The first opinion* states that the term "participate" in participating in campaigns is interpreted as actively engaging in the campaign. Thus, this interpretation aligns with the provisions in points (2), (3), and (4). From these four points, it can be concluded that Civil Servants are allowed to participate in campaigns, provided they do not actively engage, do not use party or Civil Servant attributes, do not mobilize other Civil Servants, and do not use state facilities. *The second opinion* argues that the term "participates" in point (1) participating in campaigns is interpreted as being passive. If interpreted this way, it means that the provisions in point (1) are inconsistent with the provisions in points (2), (3), and (4). In point (1), it can be understood that Civil Servants are prohibited from participating in campaigns (even passively). Meanwhile, in points (2), (3), and (4), Civil Servants are allowed to participate in campaigns with certain conditions, namely not using party or Civil Servant attributes, not mobilizing other Civil Servants, and not using state facilities.

Regarding this debate, Arie Budiman, Commissioner of the Civil Service Commission (KASN), stated that the provisions of Article 5 letter n, point (1) of Government Regulation No. 94 of 2021 are interpreted as a prohibition for Civil Servants to participate in campaigns even if only passively. The reinforcement of this prohibition is then followed up in the Joint Decisions (SKB) of the Ministry of Administrative and Bureaucratic Reform, the Ministry of Home Affairs, the KASN, Bawaslu, and the National Civil Service Agency (BKN) No. 2/2022, No. 800-5474/2022, No. 246/2022, No. 30/2022, No. 144.1/PM.01/K.1/09/2022, in provision number 4, which states, "Civil Servants are prohibited from attending declarations or campaigns of candidate pairs and providing actions or biased support." According to Arie Budiman, the term "attending" in provision number 4 is interpreted as a passive attitude. Based on this, Civil Servants are prohibited from participating in campaigns in the 2024 elections, even if only passively.

This differs from the 2019 elections, which used Government Regulation No. 53 of 2010 (regulations

before the enactment of Government Regulation No. 94 of 2021). In Government Regulation No. 53 of 2010, regulation regarding the prohibition of campaigns for Civil Servants were stated in Article 4, point (12). Article 4, point (12) of Government Regulation No. 53 of 2010 states that Civil Servants are prohibited from: (a) participating as campaign implementers; (b) participating in campaigns using party attributes or Civil Servant attributes; (c) participating in campaigns by mobilizing other Civil Servants; (d) participating in campaigns using state facilities. In item (a), Civil Servants are prohibited from participating as campaign implementers. The definition of campaign implementers refers to Law No. 7 of 2017, which states:

- a. campaign implementers for pretidential and vice-pretidential elections include officials from political parties or coalitions of proposing political parties, individuals, and organizations conducting activities appointed by election participants (Article 269);
- b. campaign implementers for the elections of DPR members include officials from political parties participating in DPR elections, individuals, and organizations appointed by election participants (Article 270);
- c. campaign implementers for the elections of DPD members consist of DPD candidate members, individuals, and organizations appointed by election participants (Article 271).

The prohibition of civil servants (PNS) as campaign implementers, as stated in Article 4 number 12 letter (a) of Government Regulation No. 53 of 2010, is in line with the norm in Article 280 paragraph (3) of Law No. 7 of 2017, which states that anyone as referred to in paragraph (2) is prohibited from participating as campaign implementers and campaign teams. One of them refers to ASN. Therefore, in the 2019 elections, based on Article 4 number (12) of Government Regulation No. 53 of 2010, it can be interpreted that PNS are allowed to participate in campaigns, provided they are not campaign implementers, do not use party or PNS attributes, do not mobilize other PNS, and do not use state facilities.

The introduction of new regulations prohibiting PNS from participating in campaigns (even passively) in the 2024 elections, as stipulated in Article 5 letter n number (1) of Government Regulation No. 94/2021, indicates a tightening of the political space for ASN by the government. In the context of the right to vote, ASN needs to know the vision, mission, and programs of the candidates or pairs they will vote for. Understanding this can be obtained when ASN participates in campaigns. However, if ASN is prohibited from participating in campaigns, it means there is no longer access for ASN to learn about the vision, mission, and programs of candidates or pairs through campaigns. Therefore, ASN must seek alternative means to obtain information related to the vision, mission, and programs of candidates or pairs.

Efforts to tighten the political space for ASN in the 2024 elections are also evident with the signing of Joint Decisions No. 2/2022, No. 800-5474/2022, No. 246/2022, No. 30/2022, and No. 144.1/PM.01/K.1/09/2022 concerning Guidelines for the Coaching and Supervision of ASN Employees in Organizing Elections by the Minister of Administrative and Bureaucratic Reform, Minister of Home Affairs, Head of BKN, Chairman of KASN, and Chairman of Bawaslu RI. This guide is then used as a reference in supervising the neutrality of ASN in the 2024 elections.

The Joint Decisions by the five institutions explains 13 types of violations of ASN neutrality, including: (1) displaying banners/billboards/other campaign tools for candidate election participants; (2) socializing/campaigning on social media/online for candidates; (3) approaching political parties as potential candidates or the public (for independents) as potential candidates; (4) attending declarations/campaigns of candidate pairs and providing biased support; (5) becoming a member and/or official of a political party; (6) making shares, comments, likes, posts, or joining or following groups or accounts supporting candidates; (7) making decisions or actions that can benefit/harm political parties/candidates/candidate pairs before, during, and after the campaign; (8) providing support to individual candidates by providing letters of support or collecting photocopies of ID cards or residence certificates; (9) posting on social media or other publicly accessible media photos with candidates, or with success team members, displaying symbols of bias, or wearing party political attributes, campaign tools related to candidates/pairs; (10) organizing activities that lead to bias towards political parties, candidates, or pairs; (11) becoming an expert team/campaign team or consultant or other designations

for potential candidates or potential election participants before the determination of participants in elections or selections; (12) becoming an expert team/campaign team or consultant or other designations for political parties or candidates or election participants after the determination of participants; and (13) forms of violations or alleged violations not included in the outlined violations.

These violations indicate a broad scope of ASN neutrality violations. This scope covers from when election participants are still potential candidates/potential pairs until after becoming candidates/pairs. In other words, the scope covers from before the determination to after the determination of general/regional election participants. Sanctions for these violations vary from moral sanctions in the form of closed or open statements (7 violations), moderate disciplinary punishment (2 violations), severe disciplinary punishment (9 violations), to dishonorable dismissal (1 violation).

Moral sanctions are imposed when ASN is proven to violate the code of ethics (Government Regulation No. 42 of 2004). These code of ethics violations include ASN proven to display campaign tools for potential election or regional head candidates, socializing/campaigning on social media for potential election or regional head candidates, making posts, shares, likes, comments, or joining accounts supporting potential election or regional head candidates, posting photos with potential election or regional head candidates, and attending declarations/campaigns for spouses of election or regional head candidates while not on leave outside the state's responsibility. These violations of the code of ethics occur at the stage before the determination of general/regional election participants. Thus, the status of general/regional election participants is still as "potential general/regional election candidates."

In cases where ASN are proven to violate discipline, they will face severe disciplinary legal sanctions. Violations falling into this category occur when election participants or regional head candidates already have the status of "potential general/regional election candidates." These violations include ASN displaying campaign materials for potential general/regional election candidates, conducting socialization/campaigning on social media for potential general/regional election candidates, attending declarations or campaigns and providing biased support/actions for potential general/regional election candidates, as well as making posts, shares, likes, comments, or joining accounts supporting potential general/regional election candidates (Ruslihardi et al., 2021).

Another type of sanction is moderate disciplinary punishment. Examples include ASN proven to approach political parties or potential general/regional election candidates without being on leave outside state responsibilities and becoming experts or campaign teams for potential general/regional election candidates. Specifically, for ASN proven to become members and/or officials of political parties, they will face the most severe sanction of dishonorable dismissal. This sanction is the most severe for ASN. If ASN intends to become a member or official of a political party, they must resign first. This regulation also applies when ASN intends to run as a participant in elections or regional head selections, requiring them to resign first as ASN.

The implementation of strict regulations and harsh penalties for ASN in general and regional elections is intended to maintain ASN neutrality. Through these regulations and sanctions, ASN will rethink violating neutrality. ASN is expected to understand the limitations of actions or behaviors that may potentially violate ASN neutrality. Thus, violations of ASN neutrality can be prevented or at least minimized. In the 2024 elections, neutrality regulations also apply to candidate civil servants and non-civil servant government employees (PPNPN). For candidate civil servants, they are bound by Article 43 of Government Regulation No. 94 of 2021, stating that the provisions of Government Regulation No. 94 of 2021 apply *mutatis mutandis* to candidate civil servants. As for non-civil servant government employees (PPNPN), the Minister of Administrative and Bureaucratic Reform has issued Circular Letter No. 1 of 2023 regarding Guidelines for the Guidance and Supervision of Neutrality of Non-Civil Servant Government Employees in Elections and Selections.

The content of Circular Letter No. 1 of 2023 stipulates that every PPNPN must be neutral and free from the influence and/or intervention of all groups and political parties in elections and selections. In order to realize the neutrality of PPNPN, every Personnel Officer (PPK) and authorized officials must carry out efforts to foster and supervise the neutrality of PPNPN, including: (1) conducting socialization to all

PPNPN through various activities and media; (2) continuously striving to create a conducive climate to maintain neutrality; (3) supervising PPNPN in their respective institutions during the election and selection periods; (4) addressing violations of neutrality by PPNPN and imposing sanctions or legal consequences on PPNPN who violate neutrality in accordance with the provisions of laws and regulations; (5) sanctions are applied step by step up to the termination of employment as stipulated in the annual employment agreement between government agencies and PPNPN; (6) conveying the results of handling violations of PPNPN neutrality to the task force for the guidance and supervision of ASN neutrality formed based on a joint decision in 2022.

Furthermore, Circular Letter No. 1 of 2023 explains that the forms of neutrality violations for PPNPN are based on the forms of ASN neutrality violations as stipulated in the joint agreement on guidelines for the guidance and supervision of ASN neutrality in the implementation of elections and selections. The imposition of neutrality rules for candidate civil servants and PPNPN is considered appropriate and meets the sense of justice, considering that candidate civil servants and PPNPN work similarly to ASN. Before these regulations existed, candidate civil servants and PPNPN were often susceptible to intervention or mobilization by certain candidates or participants. Therefore, to anticipate this, the government provides guidelines for candidate civil servants and PPNPN to remain neutral in general and regional elections. The demand for candidate civil servants and PPNPN to remain neutral aims to preserve their professionalism and integrity in carrying out their duties as public servants and servants of the community.

4. Handling violations of ASN neutrality

4.1. Authority of Bawaslu in Handling Violations of ASN neutrality

Bawaslu is one of the election organizers, alongside the General Election Commission (KPU) and the Election Organizer Honor Council (DKPP). These three institutions constitute a unified function in the conduct of elections. Bawaslu includes the National Bawaslu, provincial Bawaslu, district and city Bawaslu, sub-district Panwaslu, village/ward Panwaslu, overseas Panwaslu, and Polling Station Supervisors. The main tasks of Bawaslu include overseeing every stage of the election, resolving election process disputes, and handling violations (Hudia et al., 2021). Specifically, Bawaslu's authority in overseeing the neutrality of civil servants (ASN), as stated in Article 93 letter f of Law No.7 of 2017, is to supervise the neutrality of civil servants, the Indonesian National Armed Forces (TNI), and the National Police (Polri).

Article 454 of Law No.7 of 2017 states that election violations can be discovered or reported. Discoveries are the result of Bawaslu's work, while reports of violations come from the public. Those eligible to report alleged violations include citizens with voting rights, election participants, and election monitors. The reporting period is a maximum of 7 (seven) days from the discovery of the alleged violation. The results of oversight are determined as findings within a maximum of 7 (seven) days from the discovery of the alleged violation. Bawaslu has a maximum of 7 (seven) days to handle violations after receiving and registering the discovery or report. If Bawaslu requires additional information, it is given a maximum of 7 (seven) days to request additional information from relevant parties. Thus, Bawaslu's assessment takes a maximum of 14 (fourteen) working days after the discovery or report is received and registered.

Violations of ASN neutrality fall under other legal regulations or other legal violations. As the term suggests, violations of other legal regulations refer to violations of regulations other than election regulations. For example, civil servants actively involved in politics, supporting a specific candidate, or taking actions that indicate bias toward a particular candidate (Merdekawati et al., 2022). However, Bawaslu does not handle this alone but must coordinate with the KASN. KASN, as an institution, will follow up after Bawaslu's handling. Other violations, aside from violations of ASN neutrality, falling into the category of other legal violations include violations of the neutrality of the TNI/Polri, violations of the neutrality of village heads and village officials.

Handling allegations of violations of ASN neutrality in Bawaslu is differentiated into 2 (two) mechanisms. The distinction in handling mechanisms depends on the case, whether it involves only violations of ASN neutrality or violations that also include election violations. The mechanism for handling violations by

Bawaslu is regulated in Bawaslu Regulation (Perbawaslu) No. 7 of 2022 concerning the Handling of Discoveries and Reports of Election Violations.

4.2. Handling allegations of violation of ASN neutrality

In elections, there are instances of ASN neutrality violations that do not involve election violations. For example, an ASN posing for a photo with a candidate, pointing to the candidate's number as a symbol. Or an ASN engaging in sharing, liking, or commenting on posts related to a candidate or their campaign team on social media. Such violations are considered breaches of ASN neutrality without direct election violations. The handling of these cases by the Election Supervisory Board (Bawaslu) is as follows:

a. aoriginating from reports

ASN neutrality violations may stem from public reports, involving Indonesian citizens with voting rights, election monitors, or participants. Reports must be submitted to Bawaslu (at the appropriate level) within 7 days of discovering the violation. Reports can be submitted directly, through official Bawaslu channels, or via the sigaplapor application. Initial reports can also be in the form of preliminary information. Unlike other report types, preliminary information does not require the reporter's identity. The reporter only needs to report the alleged violation. If Bawaslu receives preliminary information, it conducts an investigation to confirm the violation. If proven, Bawaslu proceeds with the case.

Bawaslu initiates a preliminary study and gathers evidence of the violation based on public reports. The case file, containing the report form, preliminary study, and evidence, is then forwarded to the State Civil Apparatus Commission (KASN).

b. originating from findings

Apart from public reports, allegations of ASN neutrality violations can arise from findings during Bawaslu supervision. Findings are violations discovered through Bawaslu monitoring and documented in a report form called "supervision results." If findings reveal ASN neutrality violations, Bawaslu forwards the case to KASN with the relevant documents.

4.3. Handling allegations of violation of ASN neutrality involving election violations

Allegations of ASN neutrality violations may involve election offenses. For instance: (a). An ASN actively distributing campaign materials during an election campaign or serving as a campaign team member for a candidate. In both cases, there are two violations: a breach of ASN neutrality and an election offense. In the case of scenario (a), the election violation falls under Article 280, paragraph (1) of Law No. 7 of 2017, which prohibits the involvement of ASN by campaign organizers, participants, and teams. In the case of scenario (b), the election violation is covered by Article 280, paragraph (3) of Law No. 7 of 2017, which prohibits ASN from being part of a campaign team. Violations of Article 280 fall under the category of election offenses.

The principle upheld by the Election Supervisory Board (Bawaslu) is to handle allegations of election offenses. Bawaslu is not authorized to address matters unrelated to election offenses. Therefore, when there is an ASN neutrality violation that also involves an election offense, Bawaslu must initiate the handling process. Bawaslu has a maximum of 14 days for the handling process. The time limitation requires Bawaslu, at all levels, to adhere to the same standard processing time to ensure legal certainty, fairness, and utility, especially for election participants (Ismi & Malik, 2022). During the handling process, Bawaslu conducts clarifications, gathers evidence, and conducts a study.

ASN neutrality violations often encompass election offenses. The handling of election offenses involves Bawaslu, the police, and the prosecutor's office at their respective levels. These entities are collectively part of an institution called the Integrated Law Enforcement Center (Sentra Gakkumdu). The process of handling election offenses is based on Regulation No. 7 of 2022 regarding the handling of findings and reports of violations by Bawaslu and Regulation No. 3 of 2023 regarding Sentra Gakkumdu. While Bawaslu conducts its study, the police carry out an investigation. The investigation results are then provided to Bawaslu. Throughout the handling process, Bawaslu can engage in discussions with the police and the prosecutor's office as needed.

Bawaslu's study of findings or reports, investigation results, and joint discussions with the police and the prosecutor's office are discussed in a plenary meeting forum at Bawaslu. The plenary meeting decides whether the case will be forwarded to the police or halted. If the plenary meeting decides to proceed with the case to the police, the case file must be forwarded to the police investigator via the Integrated Police Service Center (SPKT) within 24 hours. The subsequent investigative phase is conducted by the police within 14 days from the date of receiving the case file. After the investigation period, joint discussions are held to decide whether to transfer the case file to the prosecutor. If the prosecutor deems the case file incomplete, it is returned to the police for completion. Conversely, if the case file is considered complete, the public prosecutor proceeds with prosecution by transferring the case file to the District Court. The District Court has 7 days to examine the case. A verdict from the District Court can be subject to legal appeal, marking the conclusion of the legal process for election offenses.

Based on the explanation above, it can be concluded that there are differences in the handling of violations of ASN neutrality by Bawaslu. The difference depends on the case. If the case of violating ASN neutrality contains election violations, it means that Bawaslu must handle it. The maximum handling time is 14 (fourteen) days. The results of Bawaslu's handling are in the form of studies. Furthermore, the study will be discussed at the Bawaslu plenary meeting to decide whether the case will be forwarded to the police or stopped. On the other hand, if the ASN violation is only a violation of neutrality (without any election violations) then Bawaslu does not need to handle it, but instead directly forwards the case to KASN. Forwarding attachments are in the form of a report form, initial study and evidence (for the report mechanism) or a findings form, monitoring results report and evidence (for the findings mechanism).

4.4. The Authority of KASN in Handling Violations of ASN Neutrality

KASN is an independent institution whose task includes overseeing the neutrality of civil servants (ASN). KASN is only present in Jakarta, with no extensions of its authority in other regions. However, its responsibilities cover the entire territory of Indonesia. This poses a challenge for KASN in carrying out its functions, given the limitations in its authority to address violations of ASN neutrality. According to Jimly Asshiddiqie, KASN is a derivative institution, not directly sourced from the constitution, and functions as a state auxiliary organ (Asshiddiqie, 2010).

Upon receiving cases forwarded by Bawaslu or recommendations from Bawaslu, KASN conducts an assessment to determine whether there has been a violation of ASN neutrality. This involves on-site visits, clarification with relevant parties, and the collection of evidence. If KASN finds evidence of neutrality violations by ASN, it issues a recommendation letter addressed to the personnel supervisor (PPK) concerning the reported ASN. PPK is then required to follow up on KASN's recommendations. Conversely, if ASN is not proven to have committed a violation, their reputation will be rehabilitated.

In handling violations of ASN neutrality, KASN's authority is limited to issuing recommendations for imposing sanctions. These recommendations are forwarded to the Personnel Supervisor (PPK), who is responsible for taking further action. However, during the 2020 regional elections, not all PPKs followed KASN's recommendations. As of November 2, 2020, out of 812 reported cases of ASN violating neutrality, KASN provided recommendations for 604 cases. However, only 344 cases (57%) received sanctions from PPK.

In response to this situation, the Minister of Home Affairs issued Circular Letter No. 800/2344/13 on October 27, 2020, instructing local governments to act on KASN's recommendations within 3 days of receiving them. By November 8, 2020, there was an increase in follow-ups by PPK. Out of 830 reported cases, 619 ASN received recommendations, and PPK imposed sanctions on 416 ASN (67.2%). This represented a 10.2% increase in PPK follow-up. The data on violations continued to increase until the voting day on December 9, 2020. According to KASN, from 2020 to 2021, they recommended sanctions for 1,596 ASN, including moral sanctions through closed statements (130 individuals, 8.2%), moral sanctions through open statements (533 individuals, 33.3%), light disciplinary punishment (32 individuals, 2.0%), medium disciplinary punishment (884 individuals, 55.4%), and severe disciplinary punishment (17 individuals, 1.1%). Therefore, the total number of ASN neutrality violators is 1,596 ASN.

To ensure PPK compliance with recommendations, KASN also applies disciplinary sanctions to PPK who

do not follow their advice. KASN can recommend to the president to impose sanctions on PPK who violate merit systems and regulations. ASN who are not sanctioned by PPK also face penalties from BKN through the blocking of personnel data. On April 7, 2022, BKN issued Regulation No. 6 of 2022 on the Implementation of Government Regulation No. 94 of 2021. This regulation serves as a guide for government agencies, officials, and civil servants involved in implementing PNS discipline. Before the enactment of Regulation No. 6 of 2022, discipline was governed by Circular Letter No. 23/SE/1980 on PNS Discipline and Head of BKN Regulation No. 21 of 2010 on the Implementation of Government Regulation No. 53 of 2010 on PNS Discipline.

BKN's role includes ensuring the implementation of ASN neutrality as a concrete manifestation of the Norms, Standards, Procedures, and Criteria (NSPK) for ASN management. BKN ensures that violations of neutrality are addressed according to the mechanisms outlined in Government Regulation No. 94 of 2021. This includes taking actions such as warnings, reprimands, and blocking personnel data in the Civil Service Administration Application System (SAPK) if PPK does not follow KASN's recommendations. BKN also collaborates with other ministries or institutions to enhance the effectiveness of enforcing ASN neutrality. In the 2024 elections, a decrease in violations of ASN neutrality is expected compared to the previous elections.

5. Ideal Concept for Handling Violations of ASN Neutrality

Handling violations of ASN neutrality in general and regional elections, is not solely the responsibility of the Bawaslu institution but involves several relevant agencies, including the Ministry of Administrative and Bureaucratic Reform (Menpan RB), the Ministry of Home Affairs (Mendagri), KASN, PPK, and BKN. Each of these institutions has specific duties and functions in the handling process. The most crucial role is held by KASN, established based on Law No. 5 of 2014 concerning ASN. Article 27 states that KASN is a non-structural, independent institution free from political intervention, aiming to create professional and performance-oriented ASN employees, provide fair and neutral services, and act as a unifying force for the nation. KASN's tasks include maintaining the neutrality of ASN employees, overseeing and nurturing the profession of ASN, and reporting supervision and evaluation of the implementation of ASN management policies to the president.

However, the involvement of several agencies has resulted in a lengthy process of handling violations of ASN neutrality. Additionally, not all PPKs are willing to impose sanctions on ASN violators. Some PPKs do not follow KASN's recommendations until the elections are over. For example, in the 2019 elections in Central Java Province, out of 29 cases of ASN neutrality violations handled by Bawaslu, 25 cases received recommendations from KASN. However, only 12 cases (41%) were acted upon by PPK, while 17 cases (58%) were not addressed by PPK. These 17 cases occurred in various regions within Central Java Province. In the 2020 regional elections in Central Java, there was an improvement in the follow-up by PPK. Out of 46 cases of handling violations of ASN neutrality, all were addressed by KASN. Of these 46 cases, 39 (84%) were acted upon by PPK, while 7 (15%) were not addressed by PPK. Another notable point regarding the handling of ASN neutrality violations in Central Java Province is the discovery of ASN violators who were promoted by PPK after the elections, specifically in Boyolali and Sukoharjo regencies.

Nationally, in the 2020 regional elections, there were 2,034 reported cases of ASN violating neutrality. Of these, 1,596 ASN (78.5%) were proven to have violated neutrality and received recommendations for sanctions from KASN. Out of the 1,596 cases, PPK acted upon 1,373 ASN cases (86%), while 223 cases (14%) were not addressed by PPK. This data indicates that KASN can fulfill its duties effectively, leading to a successful process in handling ASN neutrality violations. However, the institution is considered not essential for maintaining the professionalism of ASN, as evidenced by its exclusion from Law No. 20 of 2023. There is no regulation about KASN, as found in Law No. 5 of 2014. Article 70, paragraph (3) of Law No. 20 of 2023 states that KASN, existing at the time of the law's enactment, will continue its tasks and functions until the implementation regulations of Law No. 20 of 2023 are established. According to the academic draft of Law No. 20 of 2023, the tasks, functions, and authorities of KASN can be performed by ministries, rendering KASN unnecessary. This justification was subsequently used as the reason for dissolving KASN (Barus, 2022). Therefore, an ideal concept for handling ASN neutrality violations may need to be formulated.

Firstly, referring to Article 455 of Law No. 7 of 2017, violations of laws other than election violations, non-election disputes, and non-election criminal acts: (1) are processed by Bawaslu, Provincial Bawaslu, Regency/City Bawaslu, Sub-district Panwaslu, Village/Ward Panwaslu, LN Panwaslu, and TPS Supervisors according to their respective authorities; and/or (2) forwarded to competent institutions or parties. From this provision, it is evident that handling violations of ASN neutrality cannot be solely addressed by Bawaslu but requires the involvement of other institutions. Therefore, the possibility of establishing a new institution to replace KASN exists. This new institution should be independent to carry out its duties professionally and with integrity. Secondly, the personnel supervisor should not be a regional head but the Secretary of the Regional Secretariat (Sekda) to ensure an objective and neutral approach in handling violations. Thirdly, sanctions for neutrality violations should be strengthened to have a deterrent effect on ASN violators. Fourthly, there is a need for specific regulations regarding the mechanism for handling ASN neutrality violations, complemented by norms for sanctions against violations. Fifthly, strengthening the role or authority of BKN in handling ASN neutrality violations.

6. Conclusions

Based on the above explanation, the following conclusions can be drawn: The potential violations of ASN neutrality in the 2024 elections are outlined in Joint Decisions No. 2/2022, No. 800-5474/2022, No. 246/2022, No 30/2022, and No. 14447.1/PM.01/K.1/09/2022 regarding the Guidelines for the Coaching and Supervision of ASN Employees in Organizing Elections by the Minister of Administrative and Bureaucratic Reform, Minister of Home Affairs, Head of BKN, Chairman of KASN, and Chairman of Bawaslu RI. Handling violations of ASN neutrality involves two mechanisms: direct referral to KASN for violations of ASN neutrality and a mechanism for handling violations by Bawaslu for ASN neutrality violations that include general and regional election violations. The ideal concept for handling violations of ASN neutrality includes the establishment of a new institution as a channel for forwarding violations from Bawaslu, in accordance with Article 455 of Law No. 7 of 2017; the personnel supervisory official should not be a regional head but rather the Regional Secretary (Sekda); sanctions for neutrality violations should be strengthened to have a deterrent effect on ASN violators; the existence of specific regulations regarding the mechanism for handling ASN neutrality violations, complete with norms and sanctions for violations; and strengthening the role or authority of BKN in handling violations of ASN neutrality.

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