

The Prohibition of Civil Servant (ASN) in Actions to Benefit Prospective of Regional Head in Public

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Article	Abstract.
Keywords: ASN; Election; Head; Regional	This research aims to understand the correlation between ASN and Regional Head Election (Pilkada) as election for choose leader by democratic based on principle of direct, general, free, confidential, honest and fair which submitted by party political or combined party political. About implementation, right choose of Civil Servant or abbreviated with ASN prohibited to declare openly to public to invite choose one of candidate so that tend becomes form "campaign" or endorsement. However thus, level violation to implementation Pilkada simultaneously which ruled by government. This research used Socio Legal Research on phenomenon law which there is in public election and approach problem used a case approach. The conclusion show that the implementation of the banning the ASN in Bengkalis on Regional Head Candidates 2020 not yet done with good. Because still many found ASN which no neutral. It is caused the existence connection family Among ASN with candidate regional head, ambition of career position, no clear dan nothing strictly rules, weakness enforcement law.
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1. Introduction

The Regional Head Election (*Pilkada*)¹ is the choice for choose regional head by democratic based on principle direct, general, free, confidential, honest and fair which submitted by parti political or combined party political in line with development implementation which happen in field precisely give view other, about implementation Regional Head Election that is right choose ASN or abbreviated with ASN in no declared openly "campaign" on one couple candidate. Especially sometimes when ASN easy carried away current political or with say other in state forced and they no neutral because afraid in mutation or in downgrade the one on finally they in favor of wrong one couple candidate when wrong one candidate is candidate defense (incumbent). With existence partiality or involvement ASN with no neutral to Regional Head Election which in progress and no a little make neutrality of ASN in Regional Head Election this becomes factor main various cheating happens.²

ASN which working as executor policy public, waiter public, and adhesive and unifier nation, as which emphasized in Act No. 5 of 2014 about ASN law. Then the

¹ Yamin, H.M., (2013), Neutrality of ASN in Election of Regional Head in Takalar district, *Essay*, Bachelor Law, Faculty of Law, Hasanuddin University, Makassar

² Siswanto Sunarno, (2005). *Hukum Pemerintahan Daerah Di Indonesia*. Jakarta: Sinar Graphic, p.130

government make settings about restrictions activity ASN which called with principle neutrality in law ASN. The arrangement against neutrality of ASN for certainty³, utility and Justice Law to use limit power to possibility move power (abuse of power). Thing this means that restrictions power have correlation which close with effort limit behavior of rulers. No surprising if many proses political in Thing this election regional head injured with existence involvement by direct ASN in support wrong one of regional head candidate. In various area, candidate regional head incumbent almost always mobilize ASN for win himself. Should bureaucracy released from influence and entanglement bond political with powers political, so that service to community at which is given by bureaucracy neutral impartial and objective.

In the implementation to neutrality civil servant, government has emit amount order legislation. However, the level violation to principle neutrality among ASN still tall, especially approaching implementation election simultaneously. The neutrality of ASN could caused happening partiality or injustice in making policy and organization service which in the end will cause a loss for society at large⁴.

As for form violation neutrality of ASN which happen in Bengkalis on election 2020 is ethics to self alone which covers avoid conflict interest personal, group nor group; do Photo together will candidate; existence activity declare self. Becomes candidate regional head together in political party; and involved support wrong one couple candidate.⁵ Violation Neutrality of ASN this in law ASN no could so just equated with law on generally. Violations which relate with field election, with punishment administrative must more before come first from on use penalty fund. Use penalty administration which no right, according to the author too will have an impact on the higher participation ASN in snuggle government consequence business from parties violator which want to accompany voice ASN.

2. Research Methods

This research method used in study was juridical normative, whereas design study which used descriptive study, including formulative studies and exploratory who wants to know for the sake of studies continued.⁶ Study this aim for investigate the problem which related with formal nor non formal through literature studies which used for help to catch up various source reading, as book text, journal, and others which related to the current problem.

³ Hartini, S., (2009). Enforcement Law Neutrality of Civil Servant (PNS). *Journal Dynamics of Law*, Vol. 9. No. 3, September 2009.

⁴ Mokoagow, S., (2016). Violation Neutrality of ASN in Selection General Head DaerAh, *Lex Administration Journal*, 4(4).

⁵ Statistical Data/ Infographics on Violations Handling of Bawaslu of Bengkalis 2020

⁶ Moh. Nazir, (2014), *Metode Penelitian*, Bogor: Ghalia Indonesia, p. 75.

3. Results and Discussion

3.1. Implementation of ban the ASN to Action Profitable Candidate of Regional Head 2020 in Bengkalis based on Act No. 1 of 2015 on Stipulation of Government Regulation in Lieu of Act No. 1 of 2014 concerning the Election of Governors, Regents, and Mayors to become Laws

Implementation from election which done in region this vulnerable will fraud which happen so that could hurt process democracy that alone. By because that, needed something enforcement law in handle act criminal cheating in election so that realization certainty law. Enforcement law done for functioning norms of law by real as guidelines behavior in traffic or connection law in life society and state.

Neutrality of ASN is not new in life of democracy in Indonesia. The problem neutrality of ASN Becomes issue long which always actual in life patriotic especially approaching implementation party democracy, as case on Regional Head Election (*Pilkada*) Simultaneously in Bengkalis has implemented. The actual issue neutrality of ASN in implementation *Pilkada* happen because existence worries public partiality ASN to wrong one regional head candidates by historical, problem about neutrality of ASN in party democracy has actually happened since the first general election.

Problem neutrality of ASN becomes the more real and complex when his absence instrument of law which by comprehensive capable overcome problem. All regarding with ASN in Act No. 5 of 2014 about ASN, including inside it problem neutrality of ASN. In chapter 2 Constitution the said that maintenance policy and management ASN implemented with based on principle wrong the only one principle neutrality. Principle neutrality in Constitution interpreted that every ASN no siding from all form influence anywhere and no take sides to anyone's interest.⁷

Provision in regulation about partiality ASN in Regional Head Election:

- Act No. 5 of 2014 about ASN. Constitution this born with reason wrong the only one as effort for build ASN which have integrity, professional, neutral and free from intervention politic, clean from practice corruption, collusion, and nepotism as well as capable organize service public for public and capable operate role as element adhesive and unity nation based on Pancasila and law based on UUD NRI 1945 natural skeleton realize the aim of country.⁸
- Act No. 10 of 2016 about Change Second on Act No. 1 of 2015 About Determination Regulation Government Replacement Constitution No. 1 of 2014 About Election Governor, Regent, And Mayor Become Constitution. On principle Constitution this born in frame ensure election regional head which implemented by democratic as mandate chapter 18 paragraph (4) UUD NRI 1945. The democratic could come true if sovereignty people and democracy from people has upheld tall as requirement in an election.⁹ Relation with neutrality civil servant, in the chapter 7 Constitution the has mentioned by clear that if there is a civil servant want to register self as will

⁷ Explanation chapter 2 letters f Act No. 5 of 2014 on Civil Servant

⁸ Ibid.

⁹ Refer to the preamble of letter a of Act No. 5 of 2014 concerning Civil Servant

candidate regional head, so a the must more formerly withdraw self as civil servant since register self as candidate head.¹⁰

- Government Regulation No. 53 of 2010 about Discipline Employee of ASN. In principle, the presence of this regulation is aimed at realizing civil servant which reliable, professional and immoral. In skeleton realize civil servant as meant, PP this then load rule which of them is obligation, ban and the law discipline which could dropped to PNS which has proved doan violation regarding with obligation civil servant which Neutrality of ASN in implementation election, has said in chapter 3 that civil servant must obey all provision regulation legislation. Temporary ban for civil servant, in chapter 4 has confirmed also that civil servant prohibited wrong the only one for give support to candidate Head Region/Deputy regional head, with method: involved in activity campaign to support candidate Head Region/Deputy regional head; use facility which related position in activity campaign; make decision and/or action which profitable or harm one candidate pair during time campaign; and/or stage activity which lead to partiality to couple candidate which Becomes participant election before, During, and after time campaign covers meeting, invitation, appeal, exciting, or gift goods to civil servant in work unit environment, family members, and society.
- Regulation Government No. 42 of 2004 about Pembina Soul Corps and Code Ethics Employee Country Civil. If we search in the preamble could is known that PP No. 42 Of 2004 born as step concrete for embed flavor Unity and unity, togetherness, work same, not quite enough answer, dedication, discipline, creativity, pride and flavor have organization Employee Country Civil in Country Unity Republic Indonesia (Soul Corps) to whole civil servant as well as practice ethics for civil servant. Relation with neutrality civil servant, chapter 11 PP by firm explain that wrong one room scope ethics to self alone (PNS) is avoid conflict interest personal, group, nor group. Besides that, in in PP the also said that wrong one ethics civil servant in life patriotic that is obey all regulation legislation which apply in doing Duty. It means, when regulation legislation invitation has want so that ASN respect tall neutrality in *Pilkada* 2018, so Thing that is price dead which must done as bagian which no inseparable in an effort to foster the spirit of the ASN Corps.
- Letter Circular Commission ASN No. B.2900/KASN/11/2017 dated 10 November 2017 about Supervision Neutrality of ASN on *Pilkada* Simultaneously 2018. Letter circular this is form concrete implementation Duty Commission apparatus Spill Country (KASN) in guard neutrality of ASN. Reference in implementation Duty the refers to on Act No. 5 Of 2014 about ASN, PP No. 42 Of 2004 and PP No. 53 Of 2010 as has Writer describe previously. On in principle, letter circular this present as form effort advanced in skeleton realize ASN which professional, neutral and free from political interference.
- Letter Circular Minister Utilization ASN and Reform Bureaucracy No. B/71/M/SM.00.00/2017 dated 27 December 2017 about Implementation Neutrality of ASN. If mirrored, in principle letter circular this have meaning which same with letter circular which issued by KASN, that is is effort advanced for realize ASN which

¹⁰ See Article 7 letter s of Act No. 5 of 2014 on Civil Servant

professional, neutral and free from intervention political. In inside, letter circular this speak about exclamation or invitation to officer builder Staffing and whole ASN so that notice a regulation regarding listenan neutrality of ASN in porganization election Simultaneously 2018, legislative election of 2019 and President election .

Besides that letter circular this also speak about mechanism monitoring and evaluation excited. Based on description from various regulation which arrange about neutrality of ASN on suda firm and clear. However it just very difficult in implementation of ban office ASN to action profitable Candidate regional head 2020 in Bengkalis based on Act No. 1 of 2015. It be observed in Act No. 1 of 2015, about neutrality of ASN could seen that principle neutrality mbecome 1 from 13 principle important in maintenance policy and management ASN. It means, in effort shape ASN as aspired to for realize the aim of country¹¹.

However in practice, especially when in violation neutrality of ASN which happen in Bengkalis on *Pilkada* 2020. The provision Violation Neutrality of ASN in Constitution ASN nokcould so just equated with law law on generally. In Constitution civil servant, Violation which related dejust with field election, more use means punishment administrative from on use penalty criminal even though use penalty administration precisely no give effect deterrent and permanent just happen violation neutrality of ASN in every implementation *Pilkada*. To could show as election which democratic, implementation *Pilkada* need regulation firm as pillars which must support it. In context this, punching to dropping penalty which firm in violation neutrality of ASN expected could realize integrity.

The results of interview with KPU Bengkalis convey that implementation of ban office asn to action profitable candidate regional head 2020 in Bengkalis based on Act No. 1 of 2015 has walk with good, although as long as I still also there is ASN which follow do action which support candidate regional head on election and even then only a few cases. In laws and regulations are very clear that the action is prohibited and there are sanctionsit's for officials who violate.¹²

The results interview with chairman of Bawaslu Bengkalis mention that implementation ASN to action profitable candidate regional head on election Bengkalis 2020 in Bengkalis by general already could walk with good, where already start there is awareness para ASN for no follow as well as support on cheers election which personal interest. However in his journey still also obtained cases good report from community as well as findings from election supervisors alone there are several ASN which do action which categorized as support couple candidate of regional head that is as much 7 cases which enter realm violation Neutrality of ASN.¹³

Framework law which ensure and protect rights constitutional every citizen, equality, competition and participation in process election. The enforcement law that also provide mechanism which effective, fast and appropriate in complete every problem election, follow with penalty which later by fair and firm could decided. With

¹¹ Agus Hadiawan, (2009), Election Evaluation in Topala, Lampung (Studies in district of South Lampung, Metro City and Bandar Lampung), *Journal Scientific Administration Public and Development of the University of Lampung*, 3(7)

¹² Interview with the Chairman of KPU Bengkalis

¹³ Interview with the Head of Bawaslu Bengkalis

framework law and enforcement law, effort maintenance *Pilkada* as part from agenda of democracy and good governance and effectively can be realized.

3.2. Resistance in Process Implementation of ban ASN to Action Profitable on Candidate of Regional Head 2020 in Bengkalis

The implementation ban of ASN to action profitable Candidate of regional head 2020 di Bengkalis, of course just face a resistance. It is things which hinder the way something process for reach results end from process that alone so that slow down or make imperfect results as desired.

It is very important for identify factors which resistance in process implementation of ban ASN to action profitable Regional Head Candidates 2020 in Bengkalis. This matter related with problem enforcement law. Enforcement law is process did effort for upright this or functioning norms law by real as guidelines behavior in traffic or connection in life socialize and patriotic.¹⁴

The resistance related implementation of ban partiality ASN in regional head election got from various factors. These factors include the following: (a) Family relation; Connection family Among ASN with candidate regional head of course very affect neutrality. (b) Position Career Ambition; *Pilkada* by get it right away bring up group society that support and no support and there is also group public which becomes volunteer or no volunteer.¹⁵ (c) Unclear Rules; Section 2 letter f in ASN Law regulates that maintenance policy and management ASN based on principle neutrality. ASN can just postulate that his presence in banner limited for knowing figure, vision, and mission the candidate. By because that, very difficult for determine is ASN which follow campaign it, but support or not. (d) the weakness of law enforcement; Indonesia is a country law (*rechstaat*) and no country power (*maachsstaat*). Country law aim protect all nation Indonesia pilled blood Indonesia, realize people's life as nation and country which prosperous, orderly, safe, peace and peace as well as fair social.

Handling violation neutrality still not yet by clear arranged, so that there is a tendency between institution if happen violation¹⁶. Handling violation depicted by the Chairperson of Bawaslu as series of processes that covers successorn finding, acceptance report, group evidence, clarification, assessment and or gift recommendation, as well as carry on results study on findings or report to agency which authorized to follow up.¹⁷

3.3. The Effort Overcome Resistance in Process Implementation of ban ASN to Action Profitable Candidate of Regional Head 2020 in Bengkalis

As for effort overcome resistance in process implementation of ban partiality ASN

¹⁴ Salman Luthan and Agus Triyanto, "Revitalization sluggishaga Justice", *Journal Law Ius Quia Iustum*, Vol. 9 No. 4 1997, p.55.

¹⁵ Sutrisno, Principle Neutrality of ASN in Election of Regional Head, *Journal Law of Ius Quia Iustum*, Vol. 26 No. 3 September 2019.p. 528-529.

¹⁶ Firman. (2017). The Word, "Meritocracy" and Neutrality of ASN in the Influence of *Pilkada*", *Journal IJPA-The English Journal of public Administration*, 3 (2), p. 15-16

¹⁷ Ibid.

in Election of Regional head in Riau Province include the following:¹⁸ (a) Preventive; Stage meeting with element government which related with government and staffing discuss preparation step and evaluation to violation of ASN neutrality Scope of Riau Province Government. b. Stage meeting with element staffing and supervision in form of unification perception about supervision neutrality of ASN date 9 February 2017 located in Regional Secretary Meeting Room. (b) Repressive: Effort Repressive is all effort done after happening deed with give effect deterrent.

Regulation about Neutrality of ASN already relatively enough and clear. However in level implementation policy still weak. The government system and politic in Indonesia result in bureaucracy still not yet handled totally with professional. Supervision which very weak result in violation neutrality of ASN no be prosecuted by firm. Law Enforcement must enforced by firm and no play around. Challenge for leaders of country this for committed in enforce neutrality and not interfere with the administration of the bureaucracy with political affairs. The challenge could overcome wrong the only one with build supervision system which walk with systematic, thorough from start complaint/finding until recommendations for violations that occurred.

4. Conclusion

Implementation of ban ASN to action profitable on regional head election 2020 in Bengkalis based on Act No. 1 of 2015 still not yet done with good action. Because still found some cases report from public or findings from election supervisor itself that still existence any ASN which do action which categorized as support couple candidate regional head openly in public. Rule which already very clear and there is has penalty or punishment for officer which did violate but still give enough deterrent effect in every election.

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¹⁸ Interview with Head Bawaslu of Bengkalis

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