

Analysis of Law Number 20 of 2023 on the Code of Ethics for Civil Servants During the Campaign Period in Gowa Regency From the Perspective of *Siyasah Dusturiyyah*

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Abstract: This study analyzes Law Number 20 of 2023 concerning the Code of Ethics for Civil Servants (ASN) during the campaign period in Gowa Regency from the perspective of *Siyāsah Dusturiyyah*. Using qualitative field research with normative juridical and sociological approaches, the study draws on primary and secondary data collected through observation, interviews, and documentation. The findings indicate that although ASN neutrality during the campaign period is normatively supported by strong regulations and Bawaslu's supervisory mechanisms in line with the principles of justice and professionalism, its implementation has not been optimal due to structural pressures, local political dynamics, and strong kinship ties and positional loyalty. These issues show that violations of ASN neutrality are not only administrative but also ethical deviations from the principles of amanah and public benefit (maslahah). The study concludes that the *siyāsah dusturiyyah* perspective strengthens constitutional ethics in maintaining ASN neutrality and underscores the need to reinforce bureaucratic independence, the role of Bawaslu, and ethical guidance and protection to achieve a professional, neutral, and integrity-based bureaucracy.

Keywords: Civil Servants (ASN); Code of Ethics; Campaign Period; Law Number 20 of 2023, *Siyāsah Dusturiyyah*; Bawaslu

1. Introduction

General elections function as a primary instrument for assessing the extent to which democracy develops both procedurally and substantively in a state that claims to be democratic. Through this mechanism, a just form of democracy can be realized and democratic growth can occur optimally. The fundamental essence of a democratic state lies in the recognition of the people as the holders of the highest sovereignty. The people play a decisive role in determining the direction and policies of the state through mechanisms regulated by the constitution and statutory laws, while sovereignty is exercised with due respect for the social, cultural, and political diversity of society. In the administration of democracy, the General Election Supervisory Body (Bawaslu) serves as an independent institution with a position equal to that of the General Election Commission (KPU). The independence of Bawaslu has been strengthened through improvements in its

organizational structure and the expansion of its authority. These measures have renewed public optimism regarding Bawaslu's capacity to prevent electoral law violations, resolve disputes, and provide legal protection for the public, despite previous pessimism among various groups concerning the prospects of this institution.¹

Regional head elections serve the same function as general elections as an instrument for realizing popular sovereignty, affirming the position of the people as the holders of the highest state power. In the external dimension, the conduct of regional head elections in border areas holds strategic value as an effort to strengthen national sovereignty in interactions with neighboring countries. Supervision of the electoral process in border regions, including regional head elections, constitutes a crucial element in ensuring the effective exercise of state sovereignty in both its internal and external dimensions.²

The 1945 Constitution affirms that Indonesia is a state governed by law, in which law functions as the highest authority within the national constitutional and governmental system. Law enforcement aims to create social order that is closely related to the general condition of society. Such order constitutes a fundamental prerequisite for the establishment of an orderly and harmonious social life. Teachers, as Civil Servants (ASN), occupy a strategic position that is fraught with challenges and frequently subject to political influence. Within the bureaucratic structure, appointments, assignments, transfers, and dismissals fall under the authority of the Staffing Development Officer (Pejabat Pembina Kepegawaian/PPK), who holds a political position. This condition creates potential linkages between personnel policies and certain political interests. Professional responsibility therefore requires teachers to maintain neutrality in order to preserve integrity and the quality of public services. The issue of teacher neutrality as ASN has thus become a significant public concern within the context of national political dynamics.³

In the implementation of general elections and regional head elections, the involvement of Civil Servants (ASN) in campaign activities oriented toward personal interests still frequently occurs. The victory of supported candidates often creates opportunities for such ASN to obtain certain promotions. This condition leads to violations of electoral principles, as elections and regional elections should be conducted in a direct, general, free, secret, honest, and fair manner, yet become influenced by the individual or group interests of ASN. Regulations concerning ASN neutrality in the conduct of general and regional elections are stipulated in various laws and regulations, both those that directly govern elections and those that specifically regulate the status and conduct of ASN through relevant ministerial regulations.⁴

Supervisory data and administrative reports indicate that violations of neutrality continue to occur during both the preparatory and implementation stages of national elections and regional head elections. The National Civil Service Agency (Badan Kepegawaian Negara)

¹ Agus Riwanto, *Hukum Partai Politik Dan Hukum Pemilu Di Indonesia: Pengaruhnya Terhadap Penyelenggaraan Pemilu Berkualitas Dan Sistem Pemerintahan Presindesial Efektif* (Yogyakarta: Thafa Media, 2016), h. 1

² Ismed Kelibay and others, 'Dinamika Pemilihan Kepala Daerah Serentak Nasional Dalam Pemilihan Umum Tahun 2024', *Jurnal Noken: Ilmu-Ilmu Sosial*, 7.2 (2022), h. 167

³ Afan Aulia Ahmad, *Penegakan Hukum Terhadap Tindak Pidana Mobilisasi Massa Aparatur Sipil Negara Dalam Kampanye Pemilu* (Bandar Lampung: Fakultas Hukum, 2020), h. 2.

⁴ Nuraidha Mohsen, *Pengawas Netralitas Aparatur Sipil Negara* (Jakarta: Komisi Aparatur Sipil Negara, 2018), h. 1.

recorded a number of violations related to ASN discipline and codes of ethics throughout the 2024 election process, reflecting the need to strengthen preventive mechanisms and the enforcement of ethical violations within the government. The political landscape in Gowa Regency illustrates the challenges of implementing legal norms amid local political dynamics. Cases of alleged neutrality violations handled by Bawaslu and the Integrated Law Enforcement Center (Sentra Penegakan Hukum Terpadu/Gakkumdu) have led to legal proceedings against certain ASN officials, underscoring the interconnection between electoral criminal norms and administrative civil service mechanisms in safeguarding the integrity of the public bureaucracy. This phenomenon raises concerns regarding the effectiveness of supervisory systems and inter-agency coordination, particularly among election supervisory bodies, civil service institutions, and law enforcement agencies. Coverage in local and national media has reported on investigative processes, the transfer of cases to Gakkumdu, and court decisions, all of which affirm the existence of legal consequences for violations of ASN neutrality.⁵

The urgency of this study arises from the increasing potential for social conflict resulting from the weak enforcement of bureaucratic neutrality.⁶ This research is expected to help prevent the misuse of public facilities for political interests and to strengthen public trust in democratic governance practices at the regency level. Entitled “An Analysis of Law Number 20 of 2023 on the ASN Code of Ethics During the Campaign Period in Gowa Regency from the Perspective of *Siyāṣah Dusturiyyah*,” this study aims to measure the level of ASN compliance with the code of ethics during the campaign period, identify the determinant factors of violations, and formulate evidence-based policy recommendations to reinforce bureaucratic neutrality. The findings are expected to enrich academic literature while also providing practical guidance for policymakers and regional stakeholders.

2. Method

This study employs a qualitative field research approach oriented toward an in-depth understanding of the meaning of social phenomena through direct engagement with the research subjects. The use of descriptive data in the form of narratives, behaviors, and written documents enables a holistic interpretation of the meanings underlying social actions. This method emphasizes the empirical context as an authentic foundation of knowledge, with the researcher functioning as the central instrument in the stages of data collection and analysis.⁷

The juridical approach is a research method grounded in primary legal sources through the analysis of legal theories, concepts, principles, and statutory provisions relevant to the object of study. This approach is often referred to as a library-based approach, as it involves the examination of literature, regulations, and various legal documents related to the research problem. In the context of the return of seized evidence by the prosecution, which is still not fully understood by the public, the research focuses on a normative approach. This approach is further strengthened by empirical research in order to obtain more accurate and verifiable data.

⁵ Muhammad Syawaluddin, ‘Langgar Netralitas Pilkada 2024, ASN Kemenag Gowa Divonis 3 Bulan Penjara’, *Metrotvnews.Com*, 2024.

⁶ Muhammad Syawaluddin, ‘Oknum ASN Di Gowa Dinyatakan Melanggar Pidana Pemilu’, *Metrotvnews.Com*, 2024.

⁷ Sukiati, *Metode Penelitian: Sebuah Pengantar* 2016, h. 88

The sociological approach is a method that analyzes social structures and social processes, particularly those related to social change. Soerjono Soekanto explains that sociology is a value-neutral discipline. Sociology does not direct the development of phenomena by prescribing social policies in collective life. Instead, it examines various social processes, as an understanding of social structure alone is insufficient to provide a comprehensive picture of human life in its collective dimension.

3. Results and Discussion

3.1 The Implementation of the ASN Code of Ethics under Law Number 20 of 2023 During the Campaign Period in Gowa Regency

As implementers of government policies, Civil Servants (ASN) hold a highly strategic position and bear significant responsibility in supporting the national development process; therefore, they are required to perform their duties in a professional, objective, and neutral manner. In practice, various domestic cases demonstrate that the lack of ASN neutrality can become an obstacle to national development, particularly when the bureaucracy is drawn into certain political interests. Experiences during the New Order era provide clear evidence that the absence of neutrality among Civil Servants (PNS) had a negative impact on governance and the effectiveness of development. Learning from these past shortcomings, the government has undertaken various reform efforts, particularly through the bureaucratic reform agenda, which is directed toward improving the quality of human resources within the civil service in order to realize a professional, integrity-driven ASN free from political intervention.⁸

One of the important outcomes of the bureaucratic reform agenda is the enactment of Law Number 20 of 2023 as an amendment to Law Number 5 of 2014 on the State Civil Apparatus (ASN Law), which explicitly positions the principle of neutrality as a fundamental principle that must be upheld by ASN. Various academic studies and the experiences of developed countries demonstrate a positive correlation between the level of neutrality of civil servants and the success of national development, particularly in terms of governance, the effectiveness of public services, and public trust. In line with this, the government continues to strive to implement the principle of neutrality within the ASN, with the expectation of improving bureaucratic quality while making a tangible contribution to the acceleration and equitable distribution of national development.

These efforts deserve appreciation and need to be followed up through a series of appropriate and sustainable measures. The enactment of the State Civil Apparatus Law constitutes a strong indicator of the government's seriousness in reforming ASN management. This is reflected in the explicit obligation imposed on ASN to maintain political neutrality, both in the delivery of public services and in policy formulation and decision-making processes, including within ASN management practices themselves. Furthermore, the establishment of the Civil Service Commission (Komisi Aparatur Sipil Negara/KASN) as an independent body mandated by the ASN Law to supervise the implementation of the neutrality principle further strengthens this commitment. The

⁸ Aang Kunaifi, S.H., M.H. (Divisi Pengawasan dan Sosialisasi Bawaslu Provinsi Jawa Timur), *Netralitas ASN dalam Pilkada dan Kewenangan Bawaslu*. Dikutip dari situs <https://mojokertokota.bawaslu.go.id/berita/netralitas-asn-dalam-pilkada-dan-kewenangan-bawaslu>

existence of such regulatory and institutional frameworks has, at the very least, fostered optimism among the public and stakeholders regarding the realization of tangible outcomes from the ongoing bureaucratic reform agenda.

Based on information obtained from several informants, the researcher who directly collected the data argues that the authority vested in Bawaslu, particularly in the context of election law enforcement, essentially falls within the domain of procedural law (formal law). Consequently, the regulation of the exercise of such authority is largely determined by the institution that implements it. In the case of Bawaslu, this regulation is set forth through regulations of the General Election Supervisory Body (Peraturan Badan Pengawas Pemilu/Perbawaslu), while remaining grounded in statutory provisions as the primary legal framework that grants Bawaslu original (attributive) authority to carry out its functions of election supervision and law enforcement.

In relation to the foregoing, Law Number 1 of 2015 regulates and delineates the functions of the General Election Supervisory Body (Bawaslu) by using the terms duties, authorities, and obligations. From the perspective of state administrative law, these three terms essentially all convey the meaning of authority, although philosophically each has a different nuance and emphasis. Nevertheless, from a juridical-administrative standpoint, they can be understood as forms of authority inherent in Bawaslu as a state institution in carrying out its functions of election supervision and election law enforcement. Such authority is regulated in Articles 28 and 29 for Provincial Bawaslu and Articles 30, 31, and 32 for Regency/Municipal Election Supervisory Committees (Panwas Kabupaten/Kota). Article 28 points (e) and (i) of Law Number 1 of 2015 stipulate that Provincial Bawaslu is authorized to forward findings and reports that fall outside its jurisdiction to the competent authorities and to carry out other duties and authorities as provided by laws and regulations. Meanwhile, Article 29 point (f) of Law Number 1 of 2015 provides that Provincial Bawaslu performs other obligations in accordance with statutory provisions. Similarly, Regency/Municipal Bawaslu possesses authorities equivalent to those of Provincial Bawaslu, as regulated in Article 30 points (e) and (i) and Article 32 point (f).⁹

Furthermore, a review of the authority of the General Election Supervisory Body (Badan Pengawas Pemilihan Umum/Bawaslu) in addressing issues concerning the neutrality of Civil Servants (Aparatur Sipil Negara/ASN) can be examined from the perspective of formal law (procedural law) and the supervisory functions vested in Bawaslu as an election oversight institution. From the perspective of formal law, such authority is reflected in the procedures, mechanisms, and stages for handling alleged violations of ASN neutrality, which are normatively regulated in statutory provisions. Meanwhile, from the standpoint of its supervisory function, Bawaslu plays a role in conducting prevention, supervision, and enforcement against any actions by ASN that potentially violate the principle of neutrality in elections. In this regard, Bawaslu Regulation Number 6 of 2018 and Bawaslu Regulation Number 14 of 2017 may serve as the primary references for examining the scope and limits of Bawaslu's authority, particularly in the context of handling violations. Article 3 of Bawaslu Regulation Number 6 of 2018 expressly stipulates the provisions that form the basis for the implementation of Bawaslu's duties and authorities in conducting supervision

⁹ Pasal 22E Undang-Undang Dasar Negara Republik Indonesia Tahun 1945.

and handling alleged election violations, including those related to violations of ASN neutrality.¹⁰

The results of the supervisory activities carried out by the General Election Supervisory Body (Badan Pengawas Pemilihan Umum/Bawaslu) may take the form of findings that serve as one of the entry points in the law enforcement process (*pro justitia*), in addition to other sources such as reports from the public or relevant parties, which may also be used by Bawaslu as a basis for handling violations. In examining such findings and reports, Bawaslu is vested with the authority to summon the reporter, the reported party, individuals suspected of committing violations, as well as witnesses or experts for clarification and the provision of statements, including expert testimony given under oath. Furthermore, the results of the review conducted by Bawaslu may lead to several forms of conclusions or specific follow-up actions.

Violations of the neutrality of Civil Servants (Aparatur Sipil Negara/ASN) that are proven to contravene the provisions of the Election Law shall be recommended by the General Election Supervisory Body (Badan Pengawas Pemilihan Umum/Bawaslu) to the General Election Commission (Komisi Pemilihan Umum/KPU) or forwarded to the Police if such violations fulfill the elements of an election-related criminal offense. Conversely, if the results of the review indicate that no violation of ASN neutrality has occurred, the case-handling process shall be terminated in accordance with the applicable regulations. Nevertheless, where the review reveals violations of provisions outside the scope of the Election Law, Bawaslu retains the authority to forward the case to the competent institution for further action, as stipulated in Article 32 of Bawaslu Regulation Number 14 of 2017.¹¹

3.2 The *Dusturiyah* Perspective and Its Influence on the Implementation of the Civil Servant Code of Ethics During the Campaign Period in Gowa Regency

The *Dusturiyah* perspective positions the constitution and statutory regulations as the primary foundations for the administration of government, including the regulation of the conduct of Civil Servants (Aparatur Sipil Negara/ASN). In the context of the general election campaign period, *Dusturiyah* principles emphasize that every action undertaken by ASN must be subject to constitutional norms that ensure neutrality, fairness, and legal certainty. The neutrality of ASN is not merely an administrative obligation, but rather a manifestation of the principle of the rule of law (*rechtstaat*), which requires a clear separation between practical political interests and the function of public service.¹²

The implementation of the Civil Servant (Aparatur Sipil Negara/ASN) code of ethics during the campaign period is significantly influenced by the *Dusturiyah* framework, as the code of ethics is formulated as a derivative of constitutional norms and higher-ranking statutory regulations. This perspective requires ASN not only to comply with rules in a

¹⁰ Pasal 3 Peraturan Bawaslu Nomor 6 Tahun 2018.

¹¹ Pasal 32 Peraturan Bawaslu Nomor 14 Tahun 2017.

¹² Fajar Laksono, "Netralitas Birokrasi dalam Kontestasi Politik Lokal," *Jurnal Administrasi Negara*, Vol. 26 No. 3, Tahun 2022.

formal sense, but also to internalize constitutional values such as professionalism, integrity, and impartiality. Accordingly, any violation of the ASN code of ethics during the campaign period may be regarded as a form of deviation from *Dusturiyah* principles that constitute the foundation of democratic governance.

In Gowa Regency, local political dynamics during the campaign period often present particular challenges to the implementation of the Civil Servant (Aparatur Sipil Negara/ASN) code of ethics. Structural proximity between ASN and regional heads, as well as strong social and cultural ties, have the potential to influence the attitudes and conduct of ASN in responding to political contestation. From the *Dusturiyah* perspective, such conditions necessitate the strengthening of ASN's constitutional awareness to ensure the maintenance of neutrality and to prevent involvement in partisan practices that may undermine the principles of justice and equality in elections. Therefore, the *Dusturiyah* perspective plays a crucial role as a normative and evaluative framework in assessing the extent to which the implementation of the ASN code of ethics operates effectively during the campaign period in Gowa Regency. This approach emphasizes that the enforcement of the ASN code of ethics must be carried out consistently, transparently, and accountably as part of efforts to uphold constitutional supremacy. Through the strong application of *Dusturiyah* values, it is expected that ASN will be able to perform their roles professionally and neutrally, thereby supporting the conduct of democratic elections with integrity.

From the perspective of Islamic law, particularly within the study of *siyāsah dustūriyyah*, the governance of the state and the exercise of public authority must be grounded in the principles of justice (*al-'adl*), trust (*amānah*), honesty (*ash-ṣidq*), and the public interest (*maṣlahah 'ammah*). State officials, including Civil Servants (Aparatur Sipil Negara/ASN), are regarded as holders of public trust who are obliged to perform their duties professionally and free from personal or group interests. This principle is consistent with the concept of *wilāyah al-'ammah* in Islamic law, which positions public officials as servants of the public interest rather than instruments of particular political power.¹³

Furthermore, the *siyāsah dustūriyyah* perspective emphasizes the importance of bureaucratic independence as a prerequisite for the realization of just and integrity-based governance. Institutional reluctance and the weak protection afforded to Civil Servants (Aparatur Sipil Negara/ASN) who choose to remain neutral indicate that the application of the principles of *ḥisbah* (oversight) and *mas'ūliyyah* (accountability) within the governmental structure has not yet been optimal. In Islamic thought, the state bears both moral and legal obligations to establish a system that protects state officials from illegitimate political pressure, thereby enabling them to carry out their entrusted duties objectively and professionally. Accordingly, Islamic legal scholarship views the effectiveness of applying the *Dusturiyah* perspective in safeguarding ASN neutrality as insufficient if pursued solely through the formalization of norms and regulations. Rather, it must be realized through the strengthening of ethical governance, exemplary leadership, and institutional protection mechanisms oriented toward the public interest (*maṣlahah 'ammah*). The substantive implementation of *siyāsah dustūriyyah* values is expected to foster a bureaucracy that is just,

¹³ Andi Muhammad Asrun, "Implementasi Prinsip Konstitusionalitas dalam Penyelenggaraan Pemilu," *Jurnal Hukum & Pembangunan*, Vol. 52 No. 1, Tahun 2022.

independent, and characterized by integrity, while simultaneously preventing the politicization of state apparatus at every stage of the democratic process.¹⁴

According to the author, the primary issue in the application of the *siyāsah dustūriyyah* perspective to the neutrality of Civil Servants (Aparatur Sipil Negara/ASN) does not lie in any incompatibility between the values of Islamic law and the national legal system, but rather in the gap between ideal norms and the practical realities of bureaucracy at the local level. Substantively, *dustūriyah* principles such as justice, trust (*amānah*), and public interest (*maṣlahah*) have been internalized within state regulations and the ASN code of ethics. However, these values have not yet been effectively implemented due to the persistent influence of power structures and political relations that shape bureaucratic behavior, particularly during the campaign period. Moreover, structural pressure from superiors with specific political affiliations constitutes a form of power domination that contradicts the principle of *amānah* in Islamic law. From the *siyāsah dustūriyyah* perspective, power should function as a means of public service rather than as an instrument of political mobilization. When ASN are placed in a dilemma between maintaining neutrality and securing their positions, a shift in orientation occurs from the pursuit of public interest toward the interests of power. This condition demonstrates that weak bureaucratic independence is not merely an administrative issue, but also an ethical problem in the governance of public authority.

Accordingly, the author concludes that the implementation of the *siyāsah dustūriyyah* perspective in safeguarding the neutrality of Civil Servants (Aparatur Sipil Negara/ASN) should be directed toward strengthening the substantive ethics of power, rather than focusing solely on the enforcement of formal, mechanistic norms. This strengthening encompasses several strategic aspects, including enhancing bureaucratic independence through the limitation of political intervention, enforcing exemplary leadership as a moral and professional model for subordinates, and establishing a fair and transparent protection system for ASN who are committed to neutrality. In this way, the application of *siyāsah dustūriyyah* serves not merely as a form of normative legitimacy, but also as a living, contextual, and adaptive ethical framework capable of guiding democratic governance that is accountable, just, and grounded in integrity. This approach affirms that the values of Islamic law can function as a moral foundation guiding bureaucratic conduct, while simultaneously serving as an instrument to harmoniously balance political interests and the public interest.

4. Conclusion

The findings of this study indicate that the neutrality of Civil Servants (Aparatur Sipil Negara/ASN) constitutes a fundamental principle in realizing a professional and integrity-based bureaucracy. This principle is reinforced through bureaucratic reform, normative regulation under Law Number 20 of 2023 on the State Civil Apparatus, and the establishment of the Civil Service Commission (Komisi Aparatur Sipil Negara/KASN). In the administration of elections, the General Election Supervisory Body (Badan Pengawas Pemilihan Umum/Bawaslu) holds strategic authority to supervise, prevent, and take action

¹⁴ Antoni Miswardi, Nasfi, 'Etika, Moralitas, Dan Penegakan Hukum', Penelitian Dan Kajian Ilmiah Universitas Muhammadiyah Sumatera Barat, 15.2 (2025), h. 154

against violations of ASN neutrality based on the Election Law and Bawaslu Regulations, as reflected in practices in Gowa Regency. Such supervision is carried out through preventive measures, direct oversight, and legal enforcement, despite challenges related to geographical conditions and limited access, which can be relatively mitigated through the role of Sub-district Election Supervisory Committees (Panwaslu Kecamatan) and inter-agency coordination. This study affirms that Bawaslu's authority encompasses both law enforcement and administrative supervision, thereby playing a crucial role in safeguarding electoral integrity and ensuring ASN neutrality.

The results further demonstrate that the *siyāsah dustūriyyah* perspective positions ASN neutrality as both a constitutional obligation and a moral trust grounded in the principles of justice, trust (*amānah*), honesty, and public interest (*maṣlahah 'āmmah*), which have been internalized within national regulations, particularly Law Number 20 of 2023 on the State Civil Apparatus. During the campaign period in Gowa Regency, *dustūriyyah* values are normatively reflected in the ASN code of ethics and Bawaslu's supervisory mechanisms, although they are not adopted in terminological form. However, their implementation remains suboptimal due to a gap between normative provisions and bureaucratic practice, influenced by structural pressures, political interests tied to positions, as well as kinship relations and local cultural dynamics. These conditions potentially weaken bureaucratic independence and contradict the principles of *amānah*, justice, and the objectives of Islamic law (*maqāṣid al-sharī'ah*). Therefore, this study emphasizes that the application of *siyāsah dustūriyyah* should be directed toward strengthening the ethics of power, exemplary leadership, bureaucratic independence, and fair and accountable institutional protection systems for ASN, rather than relying solely on the formalization of legal norms.

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