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Assessing The Neutrality Of Civil Servants When Running For Village Head

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This study argues that civil servants are not neutral when they run for office and participate in village head elections. This is because neutrality has no place when civil servants are involved in the selection of village heads, even if the nomination and screening processes are separate from political party nomination mechanisms. This study aims to explain the lack of neutrality among civil servants when they run for village head. Article 43, paragraphs (1) and (2), of Government Regulation No. 43 of 2014 on the Implementing Regulations of Law No. 6 of 2014 on Villages states that civil servants may run for the office of village head with the written permission of the personnel management official. If a civil servant is elected and appointed as village head, he or she is temporarily relieved of his or her duties for the duration of the term as village head without losing his or her rights as a civil servant. On the other hand, civil servants are required by law to remain neutral in all matters. This study employs a normative legal research method using both a statutory approach and a conceptual approach.The findings of this study reveal two things: first, there is a conflict between regulations that allow civil servants to run for village head and regulations regarding civil servant neutrality; and second, it was found that, conceptually, the candidacy of civil servants for village head cannot be separated from practical political dynamics.

Introduction

The issue of civil service neutrality is a topic that consistently arises during every general election or regional head election. This is because civil servants are frequently implicated in cases of neutrality violations. From 2018 to 2019, the State Civil Service Agency (BKN) recorded that 99.5% of ASN in regional agencies—including provinces, regencies, and cities—were involved in 990 cases of neutrality violations.[1] The majority of violations occurred via social media, ranging from sharing images, expressing support, commenting, to uploading photos to show support for

[1] Shinta Hadiyantina, "The Most Appropriate Strategy to Enhance Civil Servants' Neutrality in the Governance," *Journal of Economic and Administrative Sciences* 37, no. 1 (February 2, 2021): 61–78, https://doi.org/10.1108/JEAS-03-2019-0031.

specific candidate pairs.[2] During the 2020 Regional Elections, there were 604 civil servants who violated neutrality.[3]

The Election Supervisory Agency (Bawaslu) recorded 1,194 cases of alleged violations of civil service neutrality during the 2020 regional elections (pekalongankab.bawaslu.go.id, 2021). The State Civil Service Commission (KASN) recorded that at least 456 ASN had been reported for violating neutrality. One of the issues regarding this neutrality is the large number of ASN running for regional head positions. However, they have not followed the procedures required by law, such as resigning from their ASN positions.[4] A civil servant's lack of neutrality can lead to discriminatory service delivery, the emergence of disparities within the civil service, conflicts of interest, and a lack of professionalism among civil servants.[5] Strong oversight coupled with the enforcement of sanctions is key to ensuring the neutrality of the civil service during elections.

One type of "election" not regulated regarding civil servant neutrality is the Village Head Election (Pilkades). This is puzzling, given that the Pilkades is the most grassroots democratic process in Indonesia, held at the village level—excluding urban sub-districts and traditional villages. In fact, it can be said that the Pilkades is the largest local election in Indonesia, given the sheer number of villages. According to data from the Central Statistics Agency (BPS), there are 83,931 administrative areas at the village level in Indonesia. This figure consists of 75,436 villages (74,517 villages and 919 Nagari in West Sumatra), 8,444 urban villages, and 51 Transmigration Settlement Units (UPT)/Transmigration Settlement Units (SPT). The province with the largest number of village-level administrative units is Central Java, with 8,559 villages/kelurahan, followed by East Java in second place with 8,496 villages/kelurahan, and Aceh in third place with 6,508 villages. Meanwhile, the provinces with the fewest village-level administrative units are Jakarta and the Bangka Belitung Islands, which have 391 and 267 villages/kelurahan, respectively.[6]

When viewed as an event, the village head election can be described as a political competition that is so closely tied to the community that it can be leveraged as a vehicle for political education for the public.[7] Although it is a celebration of democracy, the Pilkades sometimes leaves behind

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2 Hieronimus Vincentius Seran, David B. W. Pandie, and Laurensius P. Sayrani, "The Neutrality Dilemma of Civil Servant in 2020 Local Leaders Election on Malaka Regency," *Dynamics of Politics and Democracy* 1, no. 2 (April 28, 2023): 109–23, https://doi.org/10.35912/dpd.v1i2.1487.

3 Saepudin Saepudin and Dana Pratiwi, "Dilemmatic Position of State Civil Apparatus (ASN)," *Journal of Government and Political Issues* 2, no. 2 (July 22, 2022), https://doi.org/10.53341/jgpi.v2i2.95.

4 Nurmalita Ayuningtyas Harahap, "Mewujudkan Sistem Meritokrasi Pasca Lahirnya Kewenangan Penjabat Kepala Daerah Untuk Memutasi Pegawai Negeri Sipil (Tinjauan Terhadap Surat Edaran Menteri Dalam Negeri Nomor 821/5492/SJ)," *Jurnal Hukum IUS QUIA IUSTUM* 31, no. 3 (October 30, 2024): 512–35, https://doi.org/10.20885/iustum.vol31.iss3.art2.

5 Ramesh Ramasamy, "Quality of Government, Public Service Delivery and Institutional Impartiality in Ethnically Polarised Societies: Evidence for Policy Makers," *Asia Pacific Journal of Public Administration* 42, no. 1 (January 2, 2020): 46–60, https://doi.org/10.1080/23276665.2020.1731246.

6 Alvina Vika Dwi Lesmana, Herninda Safira, and M Lukman, "Perbandingan Pelayanan Publik Antara Rumah Sakit Swasta Dan Rumah Sakit Negeri Di Lampung: Studi Kasus RSUD Abdoel Moeloek Dan Rumah Sakit Advent Bandar Lampung," *Jurnal Komunikasi Sosial Dan Politik* 5, no. 1 (2025): 7, https://doi.org/10.47637/komsospol.v5i1.1569.

7 Ambo S Tuwo Rivai et al., "Konflik Sosial Pasca Pemilihan Kepala Desa Di Desa Tawa Kecamatan Bacan Timur Tengah Kabupaten Halmahera Selatan," *JIS: Jurnal Ilmu Sosial* 3, no. 3 (2023): 2548–96.

conflicts. [8] as occurred in South Halmahera Regency during the 2016 simultaneous Pilkades.[9] In addition to being prone to conflict, money politics (Money Politics) also occurs in Pilkades. The phenomena of conflict and money politics in Pilkades may be a derivative of similar actions at higher levels of democratic contests, namely regent elections, governor elections, presidential elections, and legislative elections.[10] This means that village head elections are not significantly different from other general elections, though they have a different composition.

Although they share similarities with higher-level democratic elections, prospective candidates in village head elections are not representatives of political parties; instead, the nomination process involves screening and selection mechanisms. The detailed mechanisms regarding candidate identification and screening are typically regulated in the Regent's Regulation of each respective region; for example, Article 16(d) of Musi Banyuasin Regency Regulation No. 6 of 2019 on Village Head Elections states that the village election committee conducts the identification and screening of prospective candidates.[11]

In addition to candidates not being affiliated with political parties, there are also differences regarding prospective candidates in village head elections. Specifically, in these elections, civil servants (PNS) are permitted to compete for the position of village head without having to resign from their civil service positions. This provision is regulated in Government Regulation No. 43 of 2014 on the Implementing Regulations of Law No. 6 of 2014 on Villages (GR No. 43/2014), Article 43, paragraphs (1) and (2). Although GR No. 43/2014 was amended by Government Regulation No. 47 of 2015 on Amendments to Government Regulation No. 43 of 2014 on the Implementing Regulations of Law No. 6 of 2014 on Villages (GR No. 47/2015), it was subsequently amended again by Government Regulation No. 11 of 2019 on the Second Amendment to Government Regulation No. 43 of 2014 on the Implementing Regulations of Law No. 6 of 2014 on Villages (GR No. 11/2019). However, the substance of Article 43, Paragraphs (1) and (2) of GR No. 43/2014 was not amended or repealed. Meanwhile, in other general elections, civil servants are required to resign to maintain neutrality.[12]

If a civil servant who runs for office is elected as village head, their rights as a civil servant are not forfeited. This does not mean there are no issues. In 2014 in Bojonegoro Regency, East Java, a number of civil servants filed a complaint with the Regional People's Representative Council (DPRD) because they had not received permission from the local Education Office (Disdik), which was a requirement for registering in the village head election. The reason given by the Purbalingga

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8 Mukhamad Fathoni and Stefanus Pani Rengu Jurusan Administrasi Publik, "Gaya Kepemimpinan Kepala Desa Dalam Pembangunan Fisik Desa(Studi Di Desa Denok Kecamatan Lumajang Kabupaten Lumajang)," *Jap)* 3, no. 1 (2020): 139–46.

9 Marno Wance and Abd Halil Hi Ibrahim, "Faktor Penyebab Konflik Pemilihan Kepala Desa Serentak Di Kabupaten Halmahera Selatan," *Journal of Governance and Local Politics* 1, no. 2 (November 27, 2019): 157–74, https://doi.org/10.47650/jglp.v1i2.20.

10 Maldini Faqih, "Winning Strategy and Factors Affecting Win In The Village Head Election Contest (Pilkades): Case Study In Sengon Village, Tanjung Subdistrict, Brebes Regency," *Journal of Law and Social Politics* 1, no. 1 (January 20, 2023): 28–40, https://doi.org/10.46799/jlsp.v1i1.5.

11 Bayu Eka Lesmana and Diki Suherman, "Pilot Project Village Head Election with Electronic Voting System (e-Voting) in Malinau District, North Kalimantan Province," *Social Impact Journal* 2, no. 1 (June 30, 2023): 9–21, https://doi.org/10.61391/sij.v2i1.24.

12 Jacobus Ronald Mawuntu, Jemmy Sondakh, and Patria Caraka Regar, "The Neutrality of the State Civil Apparatus in General Elections: A Study of Law Enforcement," *Al-Ishlah: Jurnal Ilmiah Hukum* 26, no. 1 (January 19, 2023): 1–14, https://doi.org/10.56087/aijih.v26i1.374.

regent was that the number of civil servants in the regency was very limited, while the Purbalingga regency government bureaucracy urgently needed personnel to run the administrative machinery [13]. What happened in Purbalinggo Regency does not rule out the possibility that similar situations could occur in other regions.

On the other hand, Law No. 20 of 2023 on the Civil Service (Law No. 20/2023) establishes the principles, values, and codes of ethics and conduct for civil servants. Article 2(f) of Law No. 20/2023 stipulates that the implementation of policies and management of civil servants is based on the principle of neutrality. The principle of neutrality means that every civil servant must remain impartial and free from any form of influence and must not favor the interests of any particular party.[14]

This study aims to address the shortcomings of previous studies. In addition to seeking to demonstrate that the participation of civil servants as candidates for village head in the village head election constitutes a violation of the principle of neutrality as stipulated in Article 2(f) of Law No. 20 of 2023, the problematic nature of a civil servant's position—whether elected or not—as a village head, and the conflict between the norms of civil servant neutrality and the legal norms regarding civil servants running for village head, are also examined.[15] The neutrality of civil servants when participating in village head elections needs to be understood, given that these are direct elections chosen by the public, even though the nomination process does not involve political parties; on the other hand, civil servants are public servants who are supposed to serve the public neutrally. This study aims to answer the question of how civil servant neutrality is compromised when participating in village head elections, as legalized by Article 43, paragraphs (1) and (2) of Government Regulation No. 43/2014. This study is expected to contribute to the State Civil Service Agency (BKN), local governments (Pemda), and policymakers regarding village head elections and civil servant neutrality.

Method

This study employs normative legal research, a method that focuses on examining legal norms, principles, doctrines, and regulations through library-based research. Normative legal research is conducted by analyzing primary, secondary, and tertiary legal materials to identify, interpret, and evaluate legal issues within the existing legal framework.[16] This approach is particularly relevant for assessing the legal implications of the participation of civil servants (Aparatur Sipil Negara/ASN) in village head elections and examining whether the existing regulatory framework adequately safeguards the principle of bureaucratic neutrality. The research

[13] Adelina Fatmayanti Nasution, Marlon Sihombing, and Hatta Ridho, "The Impact of Bureaucratic Reform Policy on Public Services at the Population and Civil Registration Service of North Padang Lawas Regency," *Perspektif* 13, no. 1 (2024): 231–43, https://doi.org/10.31289/perspektif.v13i1.11035.

[14] Fitriyanti Rahman, Fence M. Wantu, and Zamroni Abdussamad, "Merit-Based Civil Service Management: A Rule of Law Perspective," *Journal of Public Representative and Society Provision* 6, no. 1 (February 6, 2026): 207–19, https://doi.org/10.55885/jprsp.v6i1.808.

[15] Bagus Sarnawa and Fawaz Muhammad Khaer, "Historical Study of the Neutrality Arrangements of the State Civil Apparatus in General Elections in Indonesia," *Jurnal Media Hukum* 31, no. 2 (September 30, 2024): 262–79, https://doi.org/10.18196/jmh.v31i2.22618.

[16] Faisal Ananda Arfa, *Metode Penelitian Hukum Islam* (Jakarta: Prenada Media Group, 2018); Muhammad Ramdhan, *Metode Penelitian*, ed. Aidil Amin Effendy (Surabaya: Cipta Media Nusantara, 2021); Sidiq Uma and Miftachul Choiri, *Metode Penelitian Kualitatif Di Bidang Pendidikan*, ed. Anwar Mujahidin (Ponorogo: CV. Nata Karya, 2019); Sugiyono, *Metode Penelitian Kualitatif* (Bandung: Alfabeta, 2020).

specifically investigates the issue of neutrality among civil servants who contest village head elections. The study is limited to elections for village heads (*pemilihan kepala desa*) as regulated under Indonesian village governance laws and does not encompass elections in urban villages (*kelurahan*) or traditional villages (*desa adat*), which are governed by different legal mechanisms and institutional arrangements. This limitation is intended to ensure a focused analysis of the legal status, rights, and obligations of civil servants participating in village head elections within the framework established by national legislation. To achieve the research objectives, this study utilizes both the statutory approach and the conceptual approach. The statutory approach is employed to examine and analyze relevant laws and regulations governing civil servant neutrality, public administration, elections, and village governance. This includes an examination of the legal provisions contained in the Constitution, laws governing the State Civil Apparatus, village administration regulations, and implementing regulations related to village head elections. Through this approach, the study seeks to identify potential inconsistencies, legal gaps, or normative conflicts regarding the participation of civil servants in village head elections [17]. In addition, the conceptual approach is used to explore the theoretical and doctrinal foundations of civil servant neutrality and democratic local governance.[18] This approach enables the researcher to analyze legal concepts developed by scholars and legal experts concerning neutrality, impartiality, public service ethics, democratic participation, and political rights. The concept of bureaucratic neutrality is particularly important because civil servants are expected to perform their duties professionally and free from political influence while simultaneously possessing constitutional rights as citizens, including the right to participate in political processes [19]. By employing the conceptual approach, this study aims to provide a comprehensive understanding of the balance between the political rights of civil servants and the need to maintain a professional, impartial, and accountable bureaucracy. The combination of statutory and conceptual approaches allows this research not only to examine the positive law governing the issue but also to critically evaluate whether the existing legal framework reflects the principles of legal certainty, justice, and democratic governance. Accordingly, the study contributes to the discourse on the legal regulation of civil servant participation in village head elections and the broader challenge of maintaining bureaucratic neutrality within Indonesia's decentralized democratic system.

Result and Discussion

Legal Regulation of Civil Servants Running for Village Head

With regard to the structure and administration of local government, the governance of villages—or as they are otherwise known—is governed by the provisions of Article 18, paragraph (7) of the 1945 Constitution (UUD 1945), which states that "The structure and procedures for the administration of local government shall be regulated by law." The 1945 Constitution allows for the existence of various forms of government within the Indonesian system of government.

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17 J. W. Creswell, *Research Design: Qualitative, Quantitative, and Mixed Methods Approaches*, 4th ed. (USA, 2014).

18 Creswell; John W Creswell and J David Creswell, *RESEARCH DESIGN Qualitative, Quantitative, and Mixed Methods Approaches* (United Kingdom: SAGE Publications, Inc., 2023), http://files/1090/John W. Creswell, J. David Creswell - Research Design_ Qualitative, Quantitative, and Mixed Methods Approaches-SAGE Publications (2022).pdf.

19 Made Laut Mertha Jaya, *Metode Penelitian Kuantitatif Dan Kualitatif (Teori, Penerapan, Dan Riset Nyata)* (Yogyakarta: Quadrant, 2020); Hamid Darmadi, *Metode Penelitian* (Alfa Beta, 2011).

Through amendments to the 1945 Constitution, recognition of indigenous customary law communities is reinforced by the provision in Article 18B paragraph (2), which states: "The State recognizes and respects indigenous customary law communities and their traditional rights as long as they remain in existence and are consistent with societal development and the principles of the Unitary State of the Republic of Indonesia, as regulated by law."[20]

The laws governing villages have existed since the Old Order, through the New Order, and up to the Reform era. These laws have undergone numerous changes that have simultaneously transformed the role of villages in line with the spirit of regional autonomy. These laws are:

No.	Year	Regulations
1	1948	Law No. 22 of 1948 on the Principles of Local Government
2	1957	Law No. 1 of 1957 on the Principles of Local Government
3	1965	Law No. 18 of 1965 on the Principles of Local Government
4	1965	Law No. 19 of 1965 on Village Administration
5	1974	Law No. 5 of 1974 on the Principles of Regional Government
6	1979	Law No. 5 of 1979 on Village Administration
7	1999	Law No. 22 of 1999 on Regional Government
8	2004	Law No. 32 of 2004 on Regional Government
9	2014	Law No. 6 of 2014 on Villages

The most recent amendment to Law No. 6 of 2014 on Villages (Law No. 6/2014) states in its preamble that Law No. 6/2014 was enacted because existing regulations on villages had failed to adequately address the interests and needs of village communities. Furthermore, the implementation of existing village regulations is no longer in line with the times, particularly regarding the status of customary law communities, democratization, diversity, community participation, and the progress and equitable distribution of development. This has led to disparities between regions, poverty, and socio-cultural issues that could undermine the integrity of the Unitary State of the Republic of Indonesia.

A village is defined as a legal entity where a community resides and has the authority to govern itself. Bintarto (1983) describes a village as a geographical manifestation (territory) shaped by socio-geographical, economic, political, and cultural elements in their reciprocal relationships and interactions with surrounding areas.[21] Before the colonial era, the political structure and functions of indigenous governments (villages) were widely recognized in various societies, not only in Indonesia but also in other countries, such as the Barangay in the Philippines, the Panchayat in Indo-Pakistan, the Sultanates in Malaysia, the Small Kingdoms in Nepal, the Gam Sabbawas in

[20] Robert Castle Kempton, "Approach to Climate Change Sustainability Project, for Our Common Future," *MAKILA*, February 10, 2025, https://doi.org/10.20944/preprints202502.0640.v1.

[21] Myroslav S. Dnistryanskyi and Iryna M. Chaika, "Location of Small Towns and Rural Settlements of Ukraine and New Realities of the Administrative- Territorial System: Contradictions and Perspectives of Mutual Influences," *Journal of Geology, Geography and Geoecology* 32, no. 1 (April 7, 2023): 3–16, https://doi.org/10.15421/112301.it was concluded that the location of very small cities, urban-type settlements (selyshcha miskoho typu

Sri Lanka, and the Sakdina in Thailand. These names refer to political structures with specific functions that have been known and practiced for a very long time in their respective societies .[22]

Under Law No. 6 of 2014, Article 1, paragraph (1), a village is defined as a village or a traditional village, or one known by another name, hereinafter referred to as a village, is a legal community unit with defined territorial boundaries that has the authority to regulate and manage governmental affairs and the interests of the local community based on community initiative, ancestral rights, and/or traditional rights that are recognized and respected within the system of government of the Unitary State of the Republic of Indonesia. The Village Government is led by the Village Head or by another title, assisted by village officials as the administrative body of the Village Government (Article 1, paragraph (3) of Law No. 6 of 2014). Additionally, there is the Village Consultative Body or by another name, which is an institution that performs governmental functions, whose members are representatives of the village population based on territorial representation and are democratically elected.

In the Explanatory Notes to Law No. 6/2014, villages—or entities known by other names—are stated to have existed prior to the formation of Indonesia. As evidence, the Explanatory Notes to Article 18 of the 1945 Constitution (prior to amendments) state that "Within the territory of the State of Indonesia, there are approximately 250 'Zelfbesturende landschappen' and 'Volksgemeenschappen,' such as Desa in Java and Bali, Nagari in Minangkabau, Dusun and Marga in Palembang, Kampung in Sunda, Kanpon in Madura, Gampong in Aceh, and so on (gobumdes.id 2020)(gobumdes.id 2020)(gobumdes.id 2020). Thus, the village is a universal phenomenon, as it shares certain common characteristics while also possessing specific local, regional, and national traits.[23]

This is understandable, given that the word "desa" itself is etymologically derived from the Sanskrit word "deca," meaning homeland, native land, or birthplace. From a geographical perspective, a "desa" or "village" is defined as a group of houses or shops in a rural area, smaller than a town. A village is a legal community unit with the authority to manage its own affairs based on ancestral rights and customs recognized by the national government and located within a regency. The foundational principles of village governance are diversity, participation, indigenous autonomy, democratization, and community empowerment.[24] Village governance comprises the village government, the village consultative body, village-owned enterprises, and village assets (Article 1, paragraphs (2), (3), (4), (6), (7), and (11) of Law No. 6/2014). These elements form the basis for the village as an autonomous region.

The Concept of Bureaucratic Neutrality

Article 1, paragraph (1), and (2) of Law No. 20 of 2023, it is stated that the State Civil Apparatus (ASN) is a profession comprising Civil Servants (PNS) and government employees

[22] Nur Alamsyah, "28521-ID-Memahami-Perkembangan-Desa-Di-Indonesia," *Jurnal Academica Fisip Untad* 03, no. 02 (2011): 12.

[23] E. Murdiyanto, *Sosiologi Perdesaan: Pengantar Untuk Memahami Masyarakat Desa* (Yogyakarta: Lembaga Penelitian dan Pengabdian Kepada Masyarakat (LP2M) Universitas Pembangunan Nasional Veteran Yogyakarta Press, 2020).

[24] Muhammad Mutawalli Mukhlis et al., "Examining the Implementation of Participatory Village Autonomy: Models of Community Engagement and Application in Strengthening Inclusive Governance in Indonesia," *Jurnal Pengabdian Hukum Indonesia (Indonesian Journal of Legal Community Engagement) JPHI* 8, no. 1 (August 16, 2025): 115–62, https://doi.org/10.15294/jphi.v8i1.21226.

under employment contracts who work in government agencies, are appointed by personnel management officials, and are assigned duties in a government position or other state duties, and are paid in accordance with laws and regulations. Article 6 of Law No. 20 of 2023 states that ASN consists of PNS and PPPK. PPPK are ASN employees appointed as employees under employment contracts by personnel management officials in accordance with the needs of government agencies. Meanwhile, PNS are Indonesian citizens who meet certain requirements, appointed as permanent ASN employees by personnel management officials to hold government positions (Article 1 paragraph (3) of Law No. 20/2023).

In the consideration of Law No. 20/2023, it is stated that in the context of realizing the nation's ideals and achieving the state's objectives as outlined in the preamble of the 1945 Constitution, it is necessary to develop civil servants who possess integrity, professionalism, neutrality, and freedom from political intervention, are free from practices of corruption, collusion, and nepotism, and are capable of providing public services to the community as well as fulfilling their role as a unifying element of national unity and cohesion based on Pancasila and the 1945 Constitution. Based on this, it can be stated that neutrality is the essence of Law No. 20/2023. Civil servants are not merely government workers, but far beyond that, they are unifying elements of national unity and cohesion. Accordingly, civil servants must not discriminate in providing services to the community.

In line with that, Vassalo (2014, 330) states that civil servants are government apparatuses serving as servants of the state and the public, where their duties and obligations concern the public interest (nation and state). Civil servants must actively act as a clean and authoritative government apparatus, serving as a role model for society and transforming themselves into apparatuses full of dedication and responsibility, thereby ensuring the implementation of duties without abusing power or committing misconduct.

The neutrality of civil servants is highly needed for government organizations whose main mission is to regulate, serve, and empower the community to achieve collective welfare.[25] The concept of neutrality can also mean providing limitations and clarity regarding the role of civil servants in governance. The implication of such limitations is the enforcement of laws oriented toward ensuring civil servants perform their duties professionally [26]. In other words, the understanding of neutrality involves restricting the authority of civil servants to remain impartial in political activities. In this context, neutrality can also be interpreted as an attitude of not taking sides and not favoring any particular group or faction, being non-discriminatory, free from group interests, and not influenced by the interests of political parties.[27] One of the most important aspects in enforcing the neutrality of civil servants is the aspect of supervision.[28] An effective civil

[25] Hadiyantina, "The Most Appropriate Strategy to Enhance Civil Servants' Neutrality in the Governance"; Suzan Ilcan and Tanya Basok, "Community Government: Voluntary Agencies, Social Justice, and the Responsibilization of Citizens1," *Citizenship Studies* 8, no. 2 (June 2004): 129–44, https://doi.org/10.1080/1362102042000214714.

[26] Tedi Sudrajat and Agus Mulya Karsona, "Menyoal Makna Netralitas Pegawai Negeri Sipil Dalam Undang-Undang Nomor 5 Tahun 2014 Tentang Aparatur Sipil Negara," *Jurnal Media Hukum* 23, no. 1 (2016): 87–94, https://doi.org/10.18196/jmh.2015.0070.87-94.

[27] Rahmat Robuwan, Rio Armanda Agustian, and Donis Daviska, "Implikasi Hukum Administrasi Negara Terhadap Netralitas Aparatur Sipil Negara," *Jurnal Fakta Hukum* 4, no. 1 (October 4, 2025): 21–28, https://doi.org/10.58819/jfh.v4i1.181.

[28] Nurfaza Aula, Afiful Ikhwan, and Nuraini Nuraini, "The Leadership Role of the Principal as Supervisor in Conflict Managemen at Muhamadiayah 2 Madiun High School," *Al-Hayat: Journal Og Islamic Education* 4, no. 1 (2020): 90–105, https://doi.org/https//doi.org/10.35723.ajie.v4il.112.

servant supervision system is highly needed to ensure that civil servants, in carrying out their duties, comply with the prevailing laws and regulations, in order to create a professional and accountable bureaucracy.[29]

The demand for civil servant neutrality is a mandate of the prevailing regulations, as stipulated in the provisions of Law No. 20/2023, Government Regulation Number 42 of 2004 on the Development of Corps Spirit and the Civil Servant Code of Ethics (PP No. 42/2004), Government Regulation Number 94 of 2021 on Civil Servant Discipline, as well as several circular letters as reaffirmed by the State Civil Service Commission (Komisi ASN), the Minister of Administrative and Bureaucratic Reform (PANRB), the Minister of Home Affairs (Mendagri), the State Civil Service Agency (BKN), and the Elections Supervisory Agency (Bawaslu RI). Neutrality in this context emphasizes that civil servants are prohibited from giving support to or engaging in activities that lead to practical politics in the context of Regional Head Elections, Legislative Elections, or Presidential Elections. Thus, civil servants are required to remain professional, impartial to any form of influence, and not favor the interests of anyone.[30]

In maintaining neutrality, civil servants are overseen by the State Civil Apparatus Commission (KASN), which is tasked with: a) Maintaining the neutrality of civil servants; b) Supervising the professional development of civil servants; and c) Reporting the supervision and evaluation of the implementation of State Civil Apparatus management policies to the President. Additionally, they are overseen by the Election Supervisory Body (Bawaslu) in accordance with Article 3 of the Regulation of the Election Supervisory Board Number 6 of 2018 concerning the Supervision of the Neutrality of Civil Servants, Members of the Indonesian National Armed Forces (TNI), and Members of the Indonesian National Police (Polri). The neutrality of civil servants, members of the TNI, and members of the Polri can be the object of supervision by Bawaslu, Provincial Bawaslu, and Regency/City Bawaslu if the actions of civil servants, TNI members, and Polri members have the potential to violate provisions as regulated in the laws and regulations regarding elections and/or voting as well as violate the code of ethics and/or discipline of each agency or institution. Third, the Ministry of Administrative and Bureaucratic Reform (KEMENPANRB) Fourth, the State Civil Service Agency (BKN).

To ensure the neutrality of civil servants, the Constitutional Court also issued Decision No. 41/PUU-XIII/2014, stating that civil servants who run for or are nominated as Governor/Deputy Governor, Regent/Deputy Regent, mayors/deputy mayors must submit a written resignation as civil servants upon being designated as candidates for the election of Governor/Deputy Governor, Regent/Deputy Regent, or Mayor/Deputy Mayor. Furthermore, the neutrality of civil servants is reaffirmed in the Letter from the Ministry of State Apparatus Empowerment and Bureaucratic Reform No. B/71/M.SM.00.00/2017 (Kemenpan No. B/71/M.SM.00.00/2017) during the 2018 simultaneous regional elections, the 2019 legislative elections, and the 2019 presidential and vice-presidential elections, namely;

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[29] Gema Perdana, "Menjaga Netralitas ASN Dari Politisasi Birokrasi (Protecting The ASN Neutrality From Bureaucracy Politicization)," *Negara Hukum: Membangun Hukum Untuk Keadilan Dan Kesejahteraan* 10, no. 1 (2019): 109–28, https://doi.org/10.22212/jnh.v10i1.1177.

[30] Per Lægreid and Lois Recascino Wise, "Transitions in Civil Service Systems: Robustness and Flexibility in Human Resource Management," in *Comparative Civil Service Systems in the 21st Century* (London: Palgrave Macmillan UK, 2015), 203–22, https://doi.org/10.1057/9781137491459_11.

1. Civil servants are prohibited from approaching political parties regarding plans to nominate themselves or others as prospective candidates for Regional Head or Deputy Regional Head;
2. Civil servants are prohibited from displaying banners or billboards promoting themselves or others as prospective candidates for Regional Head or Deputy Regional Head;
3. Civil servants are prohibited from declaring themselves as prospective candidates for Regional Head or Deputy Regional Head;
4. Civil servants are prohibited from attending the declaration of prospective Regional Heads or Deputy Regional Heads, whether or not they are wearing campaign attire for the prospective candidate pair or political party attire;
5. Civil servants are prohibited from uploading, commenting on, or disseminating images or photos of prospective candidates or prospective candidate pairs for Regional Head via online media or social media;
6. Civil servants are prohibited from taking photos with prospective Regional Heads or Deputy Regional Heads while mimicking hand gestures or movements used to indicate support;
7. Civil servants are prohibited from serving as speakers or panelists at political party meetings.

Then, during the 2019 General Election, the Minister of State Apparatus Reform and Bureaucracy issued a letter regarding the Implementation of Civil Servant Neutrality in the Conduct of the 2019 Presidential and Vice Presidential Elections as well as the Legislative Elections, which outlines the obligations and prohibitions for civil servants, namely:

1. Civil servants must remain neutral, free from any form of influence, and must not favor the interests of any party
2. Civil servants must avoid conflicts of interest—whether personal, group-based, or factional—specifically by refraining from actions that indicate support for a particular candidate or actions that suggest involvement in practical politics or affiliation with a political party
3. Civil servants must uphold the honor of the state, the government, and the dignity of the civil service
4. Civil servants are prohibited from serving as officials and/or members of political parties
5. Civil servants are prohibited from providing support to candidates for President/Vice President, the House of Representatives, the Regional Representative Council, or the Regional People's Representative Council as stipulated in Law No. 7 of 2017 on General Elections and Government Regulation No. 94 of 2021 on Civil Service Discipline.

Furthermore, in 2020, during the Regional Head Elections (Pilkada), to ensure the neutrality of civil servants, a Joint Decision was issued by the Minister of State Apparatus Empowerment and Bureaucratic Reform, the Minister of Home Affairs, the Head of the State Civil Service Agency, the Chairperson of the State Civil Service Commission, and the Chairperson of the General

Election Supervisory Agency No. 05 of 2020, No. 800-2836 of 2020, No. 167/KEP/2020, No. 6/SKB/KASN/9/2020 No. 0314 Regarding Guidelines for Monitoring the Neutrality of Civil Service Employees in the Conduct of the 2020 Simultaneous Regional Head Elections, it is decided that civil servants are prohibited from:

1. Civil servants are prohibited from approaching political parties regarding plans to nominate themselves or others as prospective Regional Heads/Deputy Regional Heads;
2. Civil servants are prohibited from putting up banners or billboards promoting themselves or others as prospective candidates for Regional Head/Deputy Regional Head;
3. Civil servants are prohibited from declaring themselves as prospective candidates for Regional Head/Deputy Regional Head;
4. Civil servants are prohibited from attending the declaration of prospective Regional Heads/Deputy Regional Heads with or without wearing the attributes of the prospective candidate pair or political party;
5. Civil servants are prohibited from uploading, responding to, or disseminating images/photos of prospective candidates or prospective candidate pairs for Regional Head via *online* media or social media;
6. Civil servants are prohibited from taking photos with prospective Regional Heads or Deputy Regional Heads while mimicking hand gestures or movements used to indicate support;
7. Civil servants are prohibited from serving as speakers or panelists at political party meetings.

The letter from the Minister of State Apparatus Reform and Bureaucracy also stipulates various sanctions that may be imposed on civil servants if they fail to maintain neutrality during the conduct of Regional Head Elections (Pilkada), Legislative Elections (Pileg), and Presidential and Vice Presidential Elections (Pilpres).

In line with the above regulations, Article 11(c) of Government Regulation No. 42/2004 states that civil servants must avoid conflicts of interest—whether personal, group-based, or factional. This means civil servants must remain neutral in every respect. Neutrality is also reflected in the functions and duties of civil servants. The functions of civil servants are outlined in Article 10 of Law No. 20/2023, namely: first, implementers of public policy; second, public servants; and third, unifiers and binders of the nation. Furthermore, Article 11 of Law No. 20/2023 outlines the duties of civil servants, namely: first, implementing public policies established by personnel management officials in accordance with applicable laws and regulations; second, providing professional and high-quality public services; and third, strengthening the unity and integrity of the Unitary State of the Republic of Indonesia.

The above regulations are in place to ensure the neutrality of ASN as state administrators, so that ASN remain impartial in providing services to the public. From the above explanation, none of the provisions address village head elections (Pilkades), even though the dynamics observed in presidential, regional, and legislative elections also occur in village head elections. Therefore, allowing civil servants to run for village head effectively constitutes a violation of the neutrality principle itself, as the campaign process for electing a village head is inherently political. Civil servants running for village head should resign upon being officially nominated as candidates to

uphold the principle of neutrality. This also serves as evidence of a legal vacuum regarding civil servant neutrality during village head elections.

In the life of a nation, government is essential to govern the people, protect the people, and meet the people's needs, as the very nature of the state is coercive, monopolistic, and encompasses both. With a government in place, all territories and their boundaries can be controlled, monitored, and easily regulated. Every region has its own government and administrative apparatus, ranging from villages, sub-districts, districts, provinces, to the central government.[31] This means that within the context of governance at the village level, a village head is essential. This goes hand in hand with the necessity of the village head election itself.

Law No. 6/2014 stipulates the procedures for electing village heads as follows:

1. The procedures for electing village heads are carried out simultaneously throughout all regencies/cities (Article 31, paragraph (1)).
2. The Village Consultative Body forms a village head election committee (Article 32, paragraph (2))
3. The Village Head Election Committee consists of members of the village apparatus, community organizations, and village community leaders (Article 32, paragraph (4)).
4. Village head elections are direct, universal, free, secret, honest, and fair (Article 34, paragraph (2)).
5. The Village Head election is conducted through the stages of nomination, voting, and determination (Article 34 paragraph (3)).
6. In conducting the Village Head election as referred to in paragraph (2), a Village Head Election Committee shall be formed (Article 34 paragraph (4)).
7. The election committee referred to in paragraph (4) is tasked with conducting the screening and selection of prospective candidates based on the specified requirements, conducting the voting, determining the elected Village Head candidate, and reporting on the implementation of the Village Head election (Article 34 paragraph (5)).
8. The costs of the Village Head election are borne by the District/City Regional Revenue and Expenditure Budget (Article 34, paragraph (6)).

When examining the phrasing of the procedures for electing a village head as outlined above, there are similarities with the definition of general elections as regulated in Law No. 7 of 2017 on General Elections (Law No. 7/2017), Article 1, paragraph (1), which states that General Elections, hereinafter referred to as "Elections," are the means through which the people exercise their sovereignty to elect members of the People's Representative Council, members of the Regional Representative Council, the President and Vice President, and to elect members of the Regional People's Representative Council, which are conducted directly, universally, freely, secretly, honestly, and fairly within the Unitary State of the Republic of Indonesia based on Pancasila and the 1945 Constitution of the Republic of Indonesia.[32]

Article 1(1) of Law No. 7 of 2017 does not explicitly refer to village head elections as a form of general election. However, Article 1 is substantively consistent with Article 34(2) of Law No.

[31] Sugiman, "Pemerintahan Desa," *Binamulia Hukum* 7, no. 1 (2018): 82–95, https://doi.org/10.37893/jbh.v7i1.16.

[32] Amalia Diamantina Syailendra Anantya Prawira, "Election Violation and Election Law Enforcement In General Election In Indonesia," *Jurnal Hukum Volkgeist* 4, no. 1 (2019): 25–34.

20/2023. Therefore, in that context, it can be said that the village head election is one form of the electoral system. This is because the public will directly elect a village head who meets the requirements, with a term of office of 6 (six) years starting from the date of inauguration. A village head may serve a maximum of three consecutive or non-consecutive terms (Article 39(1) and (2) of Law No. 20 of 2023). However, aside from the difference regarding the prohibition of civil servants from participating as election candidates, the general election system involves special organizing bodies, namely the Election Supervisory Agency (Bawaslu) and the General Election Commission (KPU) (Article 1, paragraphs (8) and (17) of Law No. 7/2017). Meanwhile, in the village head election system, only an organizing committee is formed by the regency/city.

To become a village head, Article 33 of Law No. 6/2014 stipulates several requirements that must be met, namely:

a. A citizen of the Republic of Indonesia;
b. To be devout to God Almighty;
c. Upholding and practicing Pancasila, implementing the 1945 Constitution of the Republic of Indonesia, and defending and maintaining the integrity of the Unitary State of the Republic of Indonesia and Bhinneka Tunggal Ika;
d. Having completed at least junior high school or its equivalent;
e. At least 25 (twenty-five) years of age at the time of registration;
f. Willing to be nominated as Village Head;
g. Registered as a resident and having resided in the local village for at least 1 (one) year prior to registration;
h. Not currently serving a prison sentence;
i. Has never been sentenced to imprisonment based on a court decision that has become final and binding for committing a criminal offense punishable by a minimum of 5 (five) years or more of imprisonment, unless 5 (five) years have passed since the completion of the prison sentence and the individual has honestly and openly disclosed to the public that they were previously convicted and are not a repeat offender;
j. Not currently deprived of the right to vote pursuant to a court decision that has become final and binding;
k. Is in good health;
l. Has never served as Village Head for 3 (three) consecutive terms; and
m. Other requirements stipulated in the Regional Regulation.

The Legality of Civil Servants Serving as Village Heads

The legality of civil servants serving as village heads is regulated in Law No. 6/2014. Based on this regulation, there is no prohibition against civil servants serving as village heads; however, civil servants may only become village heads when appointed by the Regent/Mayor upon the dismissal of the incumbent village head or the expiration of the incumbent's term, and not by participating in an election and winning the position.[33] This is stipulated in Article 46 paragraph (1), Article 47 paragraph (1), and Article 118 paragraph (6) of Law No. 6/2014, which reads:

[33] Kerri Milita, John Barry Ryan, and Elizabeth N. Simas, "Nothing to Hide, Nowhere to Run, or Nothing to Lose: Candidate Position-Taking in Congressional Elections," *Political Behavior* 36, no. 2 (June 6, 2014): 427–49, https://doi.org/10.1007/s11109-013-9235-3.

In the event that the remaining term of office of the dismissed village head as referred to in Article 43 is no more than 1 (one) year, the Regent/Mayor shall appoint a civil servant from the Regency/City Regional Government as the acting Village Head until a village head is elected.

Article 47(1)

> In the event that the remaining term of office of the dismissed village head as referred to in Article 43 is more than 1 (one) year, the Regent/Mayor shall appoint a civil servant from the Regency/City Regional Government as the Acting Village Head.

Article 118, paragraph (6)

> Village officials who hold the status of civil servants shall perform their duties until their placement is determined, as regulated by a Government Regulation

Government Regulation No. 43/2014 states that a civil servant may serve as a village head not only to replace a dismissed village head or one whose term has expired, but a civil servant is also permitted to run for village head with the permission of their superior. This means a civil servant may become a village head not only by being appointed by the local Regent to replace a village head whose term has expired. Thus, civil servants are entitled to run for village head for a six-year term and may run again for up to three consecutive or non-consecutive terms. If a civil servant is elected as a village head, their civil service rights are not forfeited, as stipulated in Government Regulation No. 43/2014, Article 43, paragraphs (1) and (2).

Article 43, Paragraph (1)

> A civil servant who runs for village head must obtain written permission from the personnel management official.

Article 43, Paragraph (2)

> In the event that a civil servant as referred to in paragraph (1) is elected and appointed as a village head, the individual is temporarily relieved of their position for the duration of their tenure as village head without losing their rights as a civil servant.

In this context, a conflict of vertical norms is occurring ([34]regarding the neutrality stipulated in Article 2(f) of Law No. 5/2014 and the permissibility of civil servants serving as village heads as regulated in Article 43(1) and (2) of Government Regulation No. 43/2014, thereby causing legal uncertainty. Therefore, the principle of *lex superior derogate lex inferior* applies, whereby GR No. 43/2014 must be set aside because it is hierarchically subordinate to Law No. 5/2014 (See: Article 7 of Law No. 12 of 2011 on the Formation of Legislation (Law No. 12/2011)). Thus, the conflict between Government Regulation No. 43/2014 and Law No. 5/2014 must be resolved through a *judicial review* mechanism before the Supreme Court, which has the authority to review regulations subordinate to laws against the law itself (Article 9(2) of Law No. 12/2011).

Practical Political Elements in Village Head Elections

The process of running for village head does not involve political parties, but rather a screening and selection process. Although prospective village head candidates are not from political parties, this does not mean that village head elections are free from political elements.

[34] Nurfaqih Irfani, "Asas Lex Superior, Lex Specialis, Dan Lex Posterior: Pemaknaan, Problematika, Dan Penggunaannya Dalam Penalaran Dan Argumentasi Hukum," *Jurnal Legislasi Indonesia* 16, no. 3 (2020): 305–25.

This is emphasized by Yuningsih and Subekti (2013, 232–33) in,[35] who state that the village head election process is a political activity demonstrating how democracy unfolds at the village level. The village head election is a political event at the village level that demonstrates that the village community is one that engages in direct political participation.

The regency/city establishes and sets the registration mechanism. Each candidate who meets the qualifications, such as the requirements to become a village head, may register as a candidate. Since the organizers are the regency/city, involving village officials and community leaders, there is an opportunity for civil servants to engage in administrative manipulation, as civil servants already have established networks, ranging from the village, sub-district, to the regency level. Meanwhile, ordinary citizens running for village head—who in this context are the opponents of civil servants—may face administrative obstacles during the registration process. This is likely to occur because the Pilkades is not organized by a separate institution, such as the Election Supervisory Board (Bawaslu) and the General Election Commission (KPU) in the general election system regulated by Law No. 7/2017.

Furthermore, the opportunity for civil servants to be non-neutral arises during the campaign period. As with other elections, candidates will campaign to win over the public to vote for them, which in this case will also involve their campaign teams. It is possible that the error stems not from the civil servant running for village head, but from their campaign team, as it is not uncommon to find in the field that campaign teams often engage in political maneuvering to win over voters.[36]

Since the village head election is a democratic process, there is a possibility that civil servants running for village head will compete with other candidates. This means that a village head candidate who is a civil servant may compete for votes with a colleague who is also a civil servant or with other members of the community. In other words, if there are multiple village head candidates, community polarization will naturally occur, resulting in some community groups supporting one candidate while not necessarily backing the civil servant running for office.

At first glance, civil servants do enjoy a favorable position in the eyes of the public due to their status as civil servants; however, it is not impossible that this very status could become a liability when running for village head. Other community groups may exploit this situation to attack the civil servant, as the civil servant does not resign from their civil service position and continues to receive their civil service benefits. It is therefore not surprising that social polarization becomes increasingly sharp following the village head election. Among the support teams, it is not easy to reconcile differences and rebuild community unity and village development.[37]

There are no specific rules requiring civil servants to remain neutral in village head elections, as is the case in other elections; thus, it can be said that there is a conflict of norms between the rules of neutrality and the permissibility of participating in village head elections. This exacerbates the situation, as it becomes difficult to distinguish, for example, whether an event organized by a

[35] Antari, Windari, and Mangku, "Tinjauan Yuridis Mengenai Antynomy Normen (Konflik Norma) Antara Undang-Undang Nomor 5 Tahun 1960 Tentang Peraturan Dasar-Dasar Pokok Agraria Dengan Undang-Undang Nomor 25 Tahun 2007 Tentang Penanaman Modal Terkait Jangka Waktu Perolehan Hak Atas Tanah."

[36] Kevin J. O'Brien and Lianjiang Li, "Accommodating 'Democracy' in a One-Party State: Introducing Village Elections in China," *The China Quarterly* 162 (June 12, 2000): 465–89, https://doi.org/10.1017/S0305741000008213.

[37] Amin Tohari, "The Role of Local Wisdom in Creating Peace and Social Harmony in Villages: Cultural and Traditional Perspectives," *Jurnal Konseling Dan Pendidikan* 13, no. 1 (2025): 316–25, https://doi.org/10.29210/1142400.

civil servant is part of their official duties or a campaign activity—the same applies to the use of state facilities. Furthermore, there is an opportunity for civil servants to endorse their fellow civil servants as village head candidates. If this occurs, it becomes difficult to take action against such civil servants due to legal uncertainty, as existing regulations only govern general elections, not village head elections.[38]

Furthermore, complications arise when a civil servant is elected as a village head or vice versa. If a civil servant is elected as a village head, they will naturally perform the duties and functions of a village head. As the top official in the local government, a village head who is a former civil servant has broad and comprehensive responsibilities across various aspects of village governance. On one hand, this positions the village head as someone with extensive access to power, both externally and internally. On the other hand, the village head also faces the highest risk regarding various forms of accountability for their work. This is because diverse decisions and accountability reports regarding the administration of village government are centralized through the village head.

Article 26(1) of Law No. 6/2014 states that the duties of the village head include administering village government, implementing village development, fostering village community development, and empowering the village community. Consequently, Article 26(2) of Law No. 6/2014 stipulates that in carrying out these duties, the village head has the authority to:

a. Leading the administration of village government;
b. Appointing and dismissing village officials;
c. Exercising authority over the management of village finances and assets;
d. Enacting village regulations;
e. Establishing the village revenue and expenditure budget;
f. Fostering the well-being of the village community;
g. Maintaining peace and order in the village community;
h. Developing and improving the village economy and integrating it to achieve a productive-scale economy for the greatest possible prosperity of the village community;
i. Developing sources of village revenue;
j. Proposing and accepting the transfer of a portion of state assets to improve the welfare of the village community;
k. Developing the social and cultural life of the village community;
l. Utilizing appropriate technology;
m. Coordinating participatory village development;
n. Representing the village in and out of court or appointing legal counsel to represent it in accordance with the provisions of laws and regulations; and
o. Exercising other authorities in accordance with the provisions of laws and regulations.

[38] Fence M Wantu and Abdul Hamid Tome, "Dynamics of Village Head Election Arrangements," *Jambura Law Review* 3 (April 30, 2021): 96–116, https://doi.org/10.33756/jlr.v3i0.8783; Anang Wahyu Kurnianto and Ridwanto Ardi Kusumo, "Recall on Village Heads Election: An Election Law Reform," *Journal of Law and Legal Reform* 1, no. 2 (January 13, 2020): 201–14, https://doi.org/10.15294/jllr.v1i2.35406; Ward Berenschot, Wigke Capri, and Devy Dhian, "A Quiet Revolution? Village Head Elections and the Democratization of Rural Indonesia," *Critical Asian Studies* 53, no. 1 (January 2, 2021): 126–46, https://doi.org/10.1080/14672715.2021.1871852; Edward Aspinall and Noor Rohman, "Village Head Elections in Java: Money Politics and Brokerage in the Remaking of Indonesia's Rural Elite," *Journal of Southeast Asian Studies* 48, no. 1 (February 26, 2017): 31–52, https://doi.org/10.1017/S0022463416000461.

When viewed, the duties and authorities of the village head listed above can be grouped into two categories: those related to politics and those unrelated to politics, although the two are very difficult to distinguish. Because the duties and functions of the village head will intersect with both political and non-political matters, it is possible that the village head's actions may be rejected by the general public or by those who did not vote for him. Meanwhile, the village head's role is to carry out duties and exercise authority for the common good and the well-being of the community. In this context, there is a risk that civil servants serving as village heads may fail to remain neutral, as they already possess bureaucratic networks extending from the sub-district to the district level prior to assuming the role. Such networks could potentially lead to administrative misconduct to facilitate the smooth handling of affairs, even if this contradicts the community's wishes. This underscores that serving as a political official and as a civil servant are distinct roles that may, in practice, conflict with one another.

Furthermore, if a civil servant candidate for village head is not elected, the consequences are even worse, as the unsuccessful civil servant will return to their position as a civil servant. This aligns with the disappointment the civil servant will experience, as the competition in the village head election is not merely about winning or losing, but also about prestige within the community. Therefore, there is no guarantee that a civil servant who loses and returns to serve in the district, sub-district, or village government itself will remain neutral in serving the community. This is because the community members who voted for the civil servant and those who did not will be easily identifiable, as the village head election is limited to the village level.

Conlusion

Based on the above discussion, it can be concluded that the position of village head is no different from other positions, such as President, Governor, and Regent/Mayor, which are directly elected by the public. Allowing civil servants to run for village head constitutes a violation of the regulations on civil service neutrality. Because the position of someone campaigning for the office of village head does not allow a civil servant to remain neutral—they are bound to take sides. On the other hand, societal polarization during village head elections is inevitable. The legality of civil servants participating in village head elections, as regulated in Government Regulation No. 43/2014, violates the neutrality rules set forth in Law No. 6/2014. This means the two norms are in conflict. Therefore, in accordance with the principle of *lex superior derogate lex inferior,* the authority granted by Government Regulation No. 43/2014 must be set aside because it contradicts Law No. 6/2014. Furthermore, there is a legal vacuum regarding civil servant neutrality during village head elections, as there are no clear sanctions or a specific agency to oversee civil servant neutrality during such elections. Civil servant neutrality must be maintained, as civil servants are public servants; failing to safeguard their neutrality through neutrality regulations is an anomaly within a democratic framework.

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