

Analysis of Bawaslu's Responsibility in Violations of the Neutrality of the State Civil Apparatus that Result in Losses to Voters in the 2024 Election

Enjelika Marbun¹, Budiman Sinaga²

^{1,2} Department of Law, Faculty of Law, Universitas HKBP Nommensen, Medan, Indonesia.
Email: enjelika.marbun@student.uhn.ac.id¹, budiman.sinaga@uhn.ac.id²

ARTICLE HISTORY

Received: December 03, 2024

Revised: January 30, 2025

Accepted: February 17, 2025

DOI

<https://doi.org/10.52970/grdis.v5i2.879>

ABSTRACT

The 2024 elections in Indonesia face various challenges, including violations of election neutrality committed by the State Civil Apparatus (ASN). This violation not only damages the integrity of the election but also has the potential to cause harm to voters. This study aims to analyze Bawaslu's obligations related to these violations and the impact on voters who feel disadvantaged. The research method used is normative juridical analysis with data analysis obtained from relevant legal regulations, official documents, and previous studies. The results showed that violations of ASN neutrality significantly impacted people's voting rights, and many voters felt pressured or disadvantaged by these actions. The research also identified that Bawaslu is legally responsible for addressing these violations and compensating the aggrieved parties. The implications of these findings point to the importance of implementing strict sanctions for violators to ensure fairness in the electoral process and the protection of voters' rights. In conclusion, there is a need to strengthen regulations and education for ASNs to prevent the recurrence of violations in the future.

Keywords: ASN, Neutrality, Election, Election Obligation.

I. Introduction

Indonesia is a democracy with a system of government in which all citizens participate in government through their representatives. "Government by the people, the supreme power is vested in the people and exercised directly by the elected government chosen under a free election system" without coercion from any party. In order to improve the quality of its democracy, Indonesia held General Elections (Pemilu) and Regional Head Elections in Indonesia simultaneously in 2024, which took place just this year. The 1945 Constitution Article 22E states that elections are held directly, publicly, freely, secretly, honestly, and fairly. Elections are held to elect members of the DPR, DPD, and DPRD, as well as to elect the president and vice president, as well as regional heads. Quality elections can produce a government recognized and supported by the people. In addition, elections can also determine the principles of legality, legitimacy, and credibility. The election itself has the potential to produce better or worse quality leaders depending on how much influence from the elements of the election organizers, which include the community, government, election supervisors (KPU and Bawaslu), and the Honorary Board of Election Organizers. The State Civil Apparatus is also mandated to maintain its neutrality by the provisions in Law Number 20 of 2023 concerning the State Civil Apparatus, which prohibits ASN from engaging in practical politics. However, in practice, it is often found that ASN does not fully

comply with these rules, so ASN's involvement in politics can undermine the integrity of elections and hurt voters' rights.

Violation of ASN neutrality is not only an administrative offense but also a serious threat to the quality of democracy. When ASN sides with one of the candidates or political parties, it creates injustice in the election process and disrupts public confidence in the election results. Voters who feel pressured or influenced by ASN's actions that are not neutral, whether through intimidation, abuse of authority, or manipulation of information, experience direct and indirect losses and lose their freedom of choice. Research conducted by several independent institutions shows that violations of ASN neutrality significantly reduce the quality of the electoral process, especially regarding the independence and freedom of voters to make their choices rationally and without pressure. In this case, the Election Supervisory Agency (Bawaslu) is crucial in maintaining election integrity. As a supervisory institution, Bawaslu is responsible for overseeing the election so that it continues to run by applicable regulations, including ensuring that ASN does not violate neutrality provisions. Bawaslu's main task is to prevent violations of neutrality, investigate reports of violations, and take action against these violations by applicable law. In addition, Bawaslu also plays a role in protecting voters who feel disadvantaged by violations committed by ASN so that their voting rights can be protected.

Article 1365 of the Civil Code provides a strong legal basis for parties who suffer losses due to unlawful acts, including violations of ASN neutrality, to claim compensation. This means that voters who feel aggrieved by ASN's involvement in practical politics can sue ASN or related parties to obtain compensation for the losses experienced. This shows that Bawaslu's role in handling violations of ASN neutrality is important in the political context and has significant legal implications, especially in the civil aspect. With this provision, two main problems will be reviewed in this journal, namely, first, how to prevent the non-neutrality of the State Civil Apparatus in the election by the State Civil Apparatus Law Number 20 of 2023, and secondly, what is the role of Bawaslu in handling ASN non-neutrality by Law Number 7 of 2017.

II. Research Method

This research uses a normative juridical analysis method by analyzing data obtained from relevant legal regulations, official documents, and previous studies. By using a normative legal approach, this research will examine the laws and regulations governing ASN neutrality and the role of the Election Supervisory Agency (Bawaslu) in monitoring and eradicating these violations. Some of the rules that are the focus are Law Number 20 of 2023 concerning the State Civil Apparatus, which requires ASN to maintain neutrality, as well as Law Number 7 of 2017 concerning General Elections, which provides supervisory authority to Bawaslu, election violations, including violations of ASN neutrality. In addition, this study will examine Article 1365 of the Civil Code, which provides a legal basis for aggrieved voters to request compensation for ASN violations. Data collection methods include secondary data. Secondary data comes from official reports, scientific documents, law books, and relevant journal articles. After the data is collected, a qualitative analysis is conducted. The results of normative studies will be linked to empirical results to provide a complete picture of the impact of violations of ASN neutrality on the quality of elections and voters' rights. Through this analysis, the research aims to assess Bawaslu's role in overcoming violations of ASN neutrality and its legal implications, as well as provide policy recommendations to improve election monitoring in the future.

III. Result and Discussion

3.1. Violation of election neutrality committed by the State Civil Apparatus (ASN) in the 2024 election

Violating ASN neutrality in the context of elections is not a new issue. However, in the 2024 Election, this issue becomes more crucial due to the increasing number of reports of violations and their significant impact on the democratic process. ASN neutrality is a fundamental principle regulated in several regulations, including Law Number 20 of 2023 concerning the State Civil Apparatus and Law Number 7 of 2017 concerning

Elections. Both regulations explicitly mandate ASN not to engage in practical politics, either directly or indirectly.

According to Law Number 20 Year 2023, ASN is prohibited from using state authority, resources, and facilities to support or campaign for specific candidates or political parties. Article 2, paragraph (2) of the ASN Law explains that ASN must be neutral in its duties, which means it may not take sides or support practical political activities. However, violations of ASN neutrality still occur in practice, often caused by political pressure, personal interests, or intervention from outside parties. Violation of the neutrality of the State Civil Apparatus (ASN) in the 2024 General Election is one of the issues that has received significant attention, considering that ASN should act neutrally in every election, as mandated by Law Number 20 of 2023 concerning the State Civil Apparatus. This law emphasizes that ASN is prohibited from engaging in practical politics, including supporting or rejecting specific candidates or parties. This aims to maintain the integrity of the election and ensure that ASN carries out its duties without political favoritism that could unfairly influence the election results. However, in practice, many reports indicate that ASN often violates this rule directly or indirectly. These violations can be open support for specific candidates, abuse of position to influence voters, and involvement in covert campaigns. It has been found that violations of ASN neutrality significantly reduce the quality of elections and threaten the independence of voters in making their choices. In some cases, voters even reported pressure to vote for specific candidates due to the intervention of non-neutral ASNs. Violations cause harm not only to other candidates who competed fairly but also voters. Voters who feel psychologically or directly harmed in their right to vote have the legal right to file a compensation claim. In this case, Article 1365 of the Civil Code provides a basis for the aggrieved party to sue the party guilty of unlawful acts committed by the ASN (Ridwan. H.R., 2018).

A study by Satrio (2021) states that violations of ASN neutrality in elections can seriously affect the quality of elections. ASN's non-neutrality is often manifested in the form of the use of state facilities for campaign purposes, mobilization of support by ASN, or ASN's involvement in practical politics. Oktaviani's research (2021) also found that this violation seriously undermines public trust in the election results because it creates injustice in the political process. Bawaslu, as an election supervisory institution, has the duty and authority to monitor and take action against violations of ASN neutrality. However, the effectiveness of this supervision is often questioned due to limited resources and weak sanction enforcement mechanisms. Kurniawan (2022), in his research, revealed that many cases of ASN violations were not seriously followed up, so the same violations were repeated in the next election. He highlighted the importance of strengthening the role of Bawaslu, both in terms of preventive supervision and strict legal action. In addition, the impact of violations of ASN neutrality on voters is also very significant. Ridwan (2018), in his work on state administrative law, emphasizes that when ASN is not neutral, voters are often intimidated or forced to vote for specific candidates. This, of course, violates the principle of free and secret elections. This violation results in voters feeling deprived of their right to vote freely, reducing the quality of democracy itself.

Data from a survey conducted by an independent institution in the 2019 General Election showed that around 15% of ASNs were involved in neutrality violations, especially in covert campaigns and state facilities for political purposes. While this figure may not seem significant, the impact on public trust and election legitimacy is significant. In the civil context, Article 1365 of the Civil Code (KUHPperdata) states that any unlawful act that causes harm to another person is obliged to provide compensation. When ASN violates neutrality and harms voters, such as losing free voting rights, aggrieved voters have a legal basis to claim compensation. This literature review clearly shows that violations of ASN neutrality significantly impact the electoral process and voters' rights. Bawaslu must be more active in preventing and prosecuting violations, including providing protection and compensation for aggrieved voters. For this reason, it is necessary to strengthen the sanction mechanism and supervision so that similar violations do not occur again in future elections.

3.1.1. Prevention through Education and Socialization

Bawaslu makes various efforts to prevent violations of ASN neutrality by providing education and socialization related to the role of ASN in elections. In the book *Election Supervision in Indonesia* by Zulfikar, it is stated that Bawaslu routinely conducts training and disseminates information on ASN neutrality to government officials and the wider community to prevent abuse of power by ASN. With more intensive socialization, it is hoped that ASN can understand the importance of maintaining integrity and not engaging in practical political activities, which can disrupt fairness in elections.

3.1.2. Whistleblowing and Investigation Mechanism

If a violation occurs, Bawaslu provides an open reporting mechanism that allows the public, candidates, or other parties who feel aggrieved to report alleged violations of ASN neutrality. According to Bawaslu's *Election Supervision Guidebook*, once a report is received, Bawaslu will immediately investigate by collecting evidence, clarifying the parties involved, and identifying any relevant legal violations. This process includes summoning the reported ASN and examining witnesses to validate existing information.

3.1.3. Sanctions and Legal Actions

If the violation is proven, Bawaslu will recommend sanctions to the State Civil Apparatus Commission (KASN) and relevant ministries for further action. The sanctions that can be imposed on ASNs who violate neutrality vary, ranging from reprimands and demotions to dismissal. In his book, Marzuki mentions that strict action against violations of ASN neutrality is an important effort to maintain the quality of democracy in Indonesia and ensure that ASN does not unlawfully influence election results. In addition, criminal action can be taken if the violation violates more serious legal provisions, such as abuse of authority that directly impacts election results.

3.1.4. Post-Reporting Surveillance

After sanctions are imposed, Bawaslu is also responsible for ensuring that the implementation of sanctions runs according to the provisions. This supervision includes monitoring follow-up from relevant agencies so that violations of ASN neutrality are punished administratively and that similar violations are not repeated. In the book *Election Law Enforcement* by Hadi Supomo, it is stated that follow-up supervision by Bawaslu is important because sanctions against violating ASN are often considered ineffective if not accompanied by strict monitoring.

Bawaslu's efforts in prosecuting violations of ASN neutrality aim to create honest and fair elections. Thus, ASN participation in practical politics can be suppressed, and people's voting rights can be protected more optimally. Violations of neutrality committed by ASN broadly impact the quality of elections and democracy in Indonesia. According to Marbun (2011), the neutrality of ASN in elections is a fundamental requirement for creating fair and free elections from intervention by interested parties. Violations of ASN neutrality, such as using state facilities for campaigns, involvement in political campaigns, or providing support to one candidate, create inequality in political competition.

Several factors, including weak internal control regulations within the ASN institution and the non-optimal role of election supervisory institutions such as Bawaslu, can cause the non-neutrality of ASN. According to Mulyana (2017), Bawaslu has the moral and legal responsibility to keep ASN neutral in elections. Bawaslu, in this case, must prevent, supervise, and take action against violations of ASN neutrality that occur during elections by Election Law Number 7 of 2017. Violations that are allowed or not taken seriously will harm voters, who should have the right to vote without intimidation or pressure.

3.2. Bawaslu's handling form in taking action against violations of ASN Neutrality

The State plays the General Election Supervisory Agency (Bawaslu) to supervise, prevent, and prosecute. This has been supported by the issuance of regulations related to the procedures for implementing this supervision. This supervision is inseparable from supervision during the registration of legislative candidates and registration of regional heads, campaign supervision, and supervision of counting and voting. Bawaslu has a central role in supervising the elections in Indonesia, including handling neutrality violations committed by ASN. As a government apparatus, ASN must maintain neutrality in elections per the legal provisions stipulated in Law Number 20 of 2023 concerning the State Civil Apparatus and Law Number 7 of 2017 concerning General Elections. However, there are often cases of violations of ASN neutrality, both individually and institutionally, which require strict enforcement measures from Bawaslu.

Violations of ASN neutrality in the 2024 Election have profound legal implications, especially when viewed from the responsibility of the Election Supervisory Agency (Bawaslu). Based on Law Number 7/2017 on General Elections, Bawaslu is authorized to supervise and follow up on any ASN violations. This authority includes investigating violations, verifying reports, and applying sanctions to ensure that the principle of ASN neutrality is maintained to maintain the integrity of the election process. Furthermore, Article 1365 of the Civil Code states that any unlawful act that causes harm to another party must provide compensation. This provides a legal basis for voters harmed by non-neutral ASN's actions to demand compensation. In this context, Bawaslu has an important role as an administrative supervisor and a guardian of justice for voters whose rights have been violated. Therefore, strengthening the role of Bawaslu is crucial to ensure that ASN performs its functions neutrally without favoring one of the election contestants.

IV. Conclusion

Violations of neutrality by the State Civil Apparatus (ASN) in the 2024 elections significantly impact the quality of democracy and voters' rights. ASN, which is supposed to maintain neutrality, is instead involved in practical politics, causing injustice and reducing the independence of the electoral process. Such actions violate the provisions of Law Number 20 of 2023 concerning ASN and Law Number 7 of 2017 concerning Elections, which mandate ASN to be impartial in political contestation. As a result, voters affected by ASN's partiality lose the freedom to vote without pressure or intimidation.

The Election Supervisory Body (Bawaslu) is important in acting against these violations. Bawaslu is responsible for supervising, preventing, and investigating violation reports and providing recommendations for effective sanctions so that violations do not recur. Based on Article 1365 of the Civil Code, aggrieved voters can claim compensation for violations committed by ASN. Therefore, law enforcement by Bawaslu functions as supervision and provides legal protection for aggrieved voters. These findings highlight the importance of strong regulations, practical sanctions, and continuous education for ASNs to maintain neutrality in elections. Thus, the electoral process in Indonesia is expected to run transparently and without intervention so that voters' rights are protected from negative influences due to ASN non-neutrality. The need for continuous commitment from Bawaslu to conduct strict supervision and rapid response to violations is increasingly clear, especially in ensuring that every individual can exercise their right to vote freely, without pressure or influence from ASN.

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