Merit System Inefficacy: Analysis of ASN Vulnerability to Regional Head Authority Post-Elections in Indonesia

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ARTICLE INFORMATION

ABSTRACT

This study examines whether the merit system effectively protects State Civil Apparatus (ASN) from authority abuse by regional heads following local elections in Indonesia. Through normative legal research employing conceptual and statutory approaches, the study critically analyzes the implementation gap between merit system regulations and post-election personnel practices. Document analysis of relevant legislation, administrative court decisions, and semi-structured interviews with KASN members and affected civil servants reveal three key findings. First, the institutional design placing regional heads as both political officials and Civil Service Development Officers creates inherent conflicts of interest that systematically undermine merit principles. Second, oversight mechanisms lack enforcement authority, with KASN recommendations frequently ignored without consequences. Third, post-electoral political dynamics drive personnel decisions based primarily on political loyalty rather than competence, manifesting in systematic bureaucratic reshuffles that disrupt institutional continuity. The research concludes that despite comprehensive legal frameworks, Indonesia's merit system fails to protect civil servants from political interference due to weak enforcement mechanisms and conflicting institutional roles. These findings suggest that structural reforms separating political and administrative functions in civil service management and strengthening oversight institutions with meaningful sanctioning powers are essential for establishing a truly merit-based bureaucracy in Indonesia's decentralized governance system.

INTRODUCTION

Democratic governance systems worldwide have increasingly adopted direct elections as a mechanism for ensuring legitimate, transparent, and accountable leadership transitions. These electoral systems are central to fostering political legitimacy and citizen participation. In countries with decentralized political structures—such as Brazil, Ethiopia, Ghana, and Indonesia—direct regional elections have become a defining feature of subnational governance. Indonesia, as one of the most populous democracies in Asia, introduced direct local elections (Pilkada) through Law No. 32/2004, which was later refined by Law No. 23/2014 concerning Regional Government. These legislative reforms aimed to empower citizens by enabling direct involvement in the leadership selection process, thereby enhancing local autonomy and deepening democratic governance (Erb & Sulistiyanto, 2009).

In practice, however, the anticipated democratic dividends have been difficult to realize. Rather than fostering meritocratic and accountable public administration, Indonesia's local electoral processes have been heavily influenced by transactional politics. This mirrors experiences in other developing democracies, where decentralization has often created new avenues for patronage rather than dismantling old hierarchies (Brierley, 2021; Miruts, 2014). In the Indonesian context, the recruitment and rotation (mutasi) of civil servants, particularly following regional elections, have become embedded within a clientelistic system. Bureaucratic appointments are frequently based on personal loyalty and political exchange rather than competence or institutional needs. This dynamic reflects what Hadiz (2010) describes as a "patron-client" relationship, wherein the state apparatus is captured to serve the interests of political elites rather than the public good.

To explore the structural dimensions of this issue, a bibliometric analysis using VOSviewer was conducted to map the conceptual landscape of research on civil servant management in Indonesia. The analysis revealed a dense and interconnected network of terms with the State Civil Apparatus (ASN) at its core. Strong connections were identified between ASN and merit system, neutrality, management, regional elections, regional heads, and legal frameworks. Notably, the clustering of terms such as "Pilkada," "mutasi," and "kepala daerah" underscores the entrenched relationship between political transitions and personnel shifts within regional governments.
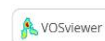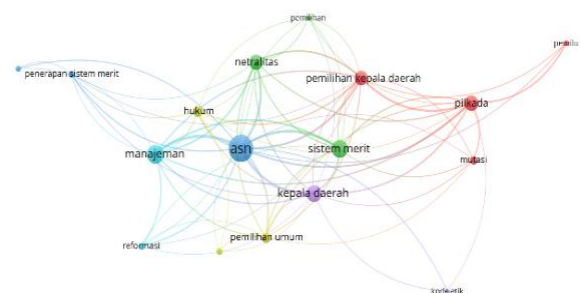

Figure 1. Network Visualization of Merit System Implementation and ASN Protection in Post-Regional Election.
Source: Source: Literature Riview Crossef, 2025

The VOSviewer visualization substantiates the argument that bureaucratic reshuffles following elections are not isolated incidents but part of a broader pattern that is both systemic and politically motivated. This pattern often reflects the political debts incurred during electoral contests. Regional heads who

have relied on civil servant support during campaigns often feel compelled to reward loyalists through favorable appointments while sidelining or punishing perceived opponents. As a result, the bureaucratic mutation process becomes a mechanism of political reciprocity, undermining the principles of meritocracy and violating civil service regulations (Ali, 2017; Haning & Abdullah, 2023).

The VOSviewer network also highlights the importance of neutrality and the merit system as distinct reform concepts. These clusters signal the potential of meritocratic governance to counterbalance political influence in public administration. However, despite their conceptual salience, neutrality and merit-based practices remain difficult to implement. Bureaucratic reshuffles often occur at the sole discretion of the regional head, without transparent criteria or timelines. Key positions are frequently filled by acting officials (Plt), or left vacant, while capable civil servants are transferred or demoted arbitrarily, particularly if they were associated with rival candidates.

These personnel decisions are not only politically charged but also disruptive to institutional continuity. From a human resource management perspective, organizational mutations should be strategic instruments for enhancing employee capacity and aligning workforce development with institutional goals. In reality, however, post-election reshuffles are frequently misused to consolidate power and assert control. The belief that such decisions fall entirely within the "prerogative right" of the regional head exacerbates this problem. This belief perpetuates a culture of executive dominance over the civil service, deterring reform efforts and reducing bureaucratic morale.

The consequences are far-reaching. Civil servants face uncertainty, diminished professional autonomy, and vulnerability to coercion. The situation is compounded by weak institutional enforcement mechanisms. The Central State Civil Service Commission (KASN), established to monitor ASN management, often finds its recommendations ignored by regional heads. The absence of sanctions or enforcement provisions renders these recommendations largely ineffective.

These dynamics raise critical questions about the adequacy of existing legal and institutional frameworks: Are the legal protections for civil servants sufficient to prevent abuse? Are civil service laws being enforced in a consistent and transparent manner? And more fundamentally, is the merit system truly functional within Indonesia's decentralized governance structure?

The merit system, as conceptually defined, is a human resource framework that prioritizes achievement, competence, and integrity in personnel management. It mandates that placement, promotion, and remuneration be based on objective evaluations of performance, skills, discipline, and qualifications. It is also designed to provide fair training opportunities and clear career paths. The VOSviewer analysis affirms the relevance of the merit system within the broader discourse on civil service reform, as evidenced by its strong conceptual links to ASN and management.

Despite its normative appeal, the implementation of the merit system remains inconsistent. Recent research by Sarnawa (2022) on the relationship between regional heads and civil servants underscores how the subordination of bureaucrats to political authorities continues to obstruct the neutrality and professionalism expected of ASN. The study emphasizes the need for legal reform to effectively separate the authority of political officials from the professional management of civil servants.

To fill this gap, the current research aims to analyze two interrelated questions: (1) Do existing merit system regulations effectively constrain the discretionary power of regional heads in managing civil servants? (2) What institutional, political, or cultural factors allow the persistence of non-meritocratic practices in post-election bureaucratic mutations?

These questions are examined through multiple theoretical lenses. First, the Legal State theory (Rechtsstaat) emphasizes the supremacy of written law in regulating public affairs. In this framework, regional heads are not above the law and must adhere to statutory provisions in managing personnel (Soekanto & Mamudji, 2019). Second, Aristotle's theory of justice promotes corrective justice and balance, arguing that fairness must prevail over arbitrary preferences (Aristotle, 2009). Third, the theory of legal certainty underscores the need for laws to be consistently applied, free from subjective interpretation (Marzuki, 2021). Fourth, Satjipto Raharjo's theory of legal protection calls for the safeguarding of civil servants' rights against unjust actions (Raharjo, 2006). Finally, the theory of authority asserts that all public acts must derive legitimacy from a clear legal mandate (Ibrahim, 2018).

Comparative insights also enrich the analysis. In the Netherlands, the decentralized unitary state model has preserved meritocratic standards through robust institutional safeguards, even as civil service roles evolved over time (Meer et al., 2018). Similarly, research in Ethiopia highlights the gap between formal merit frameworks and actual practice due to political interference and institutional fragility (Miruts, 2014). In Ghana, partisan favoritism in low-skilled civil service appointments contrasts with more meritocratic recruitment for high-skilled roles, illustrating how electoral incentives shape personnel decisions (Brierley, 2021). These cases demonstrate that while merit systems are universally advocated, their success depends on political will, institutional capacity, and cultural norms.

In conclusion, the findings of the VOSviewer analysis and supporting empirical research underscore a disjuncture between the legal ideals of the merit system and the political realities of local governance in Indonesia. This study aims to bridge that gap by critically examining how merit-based principles can be operationalized in a context fraught with political contestation. By doing so, it contributes to the ongoing discourse on civil service reform and offers policy recommendations for reinforcing the autonomy, professionalism, and resilience of the Indonesian bureaucracy.

METHODE

This study employs a normative legal research design, drawing from the methodological frameworks established by (Ibrahim, 2018; Soekanto & Mamudji, 2019), which emphasize the systematic interpretation and analysis of statutory texts and doctrinal concepts. The research combines two complementary approaches: a conceptual approach to elucidate foundational ideas of the merit system, and a statutory approach to examine relevant laws such as Law No. 5/2014 on ASN and Law No. 23/2014 on Regional Government, following the methodological guidelines provided by Marzuki (2021) and Hermansyah (2017). This dual approach ensures a robust framework for analyzing vacuums, ambiguities, and conflicts within existing regulations governing civil service management in post-election contexts.

For data collection, this research relies on three primary sources of legal materials as categorized by Sunggono (2017): primary legal materials including laws, government regulations,

and PTUN decisions concerning ASN placement and post-election mutations; secondary sources such as journal articles and books; and tertiary sources including legal dictionaries and monographs. Following (Creswell & Creswell, 2018) approach to purposive sampling in qualitative research, key informants—three KASN members and two regional ASN officials affected by post-Pilkada transfers—were selected to validate and complement documentary findings, a method supported by Dobinson & Johns (2017) as appropriate for legal research with qualitative dimensions.

The data collection process adheres to Hutchinson (2018) rigorous approach to library research and Webley (2016) guidelines for document analysis in legal research, systematically cataloging and coding legal texts according to their relevance to merit system implementation. Semi-structured interviews, designed following methodological principles outlined by Creswell & Creswell (2018), capture experiential insights into how merit principles operate in practice. All materials are indexed by theme (e.g., authority abuse, sanction mechanisms) to ensure traceability and coherence in subsequent analysis.

The analytical framework follows a three-stage process: deductive reasoning to map theoretical constructs onto statutory provisions; inductive examination of document and interview data to identify emergent patterns, following Bendassolli (2013) approach to theory building in qualitative research; and comparative evaluation across different regulations as recommended by Yaqin (2015). Finally, the research employs inferential thinking as described by Taekema, (2018) and Siems (2014) to integrate normative and empirical strands, yielding conclusions and policy recommendations that address both doctrinal consistency and real-world challenges in enforcing the merit system as a protective mechanism for civil servants in Indonesia's regional governance context.
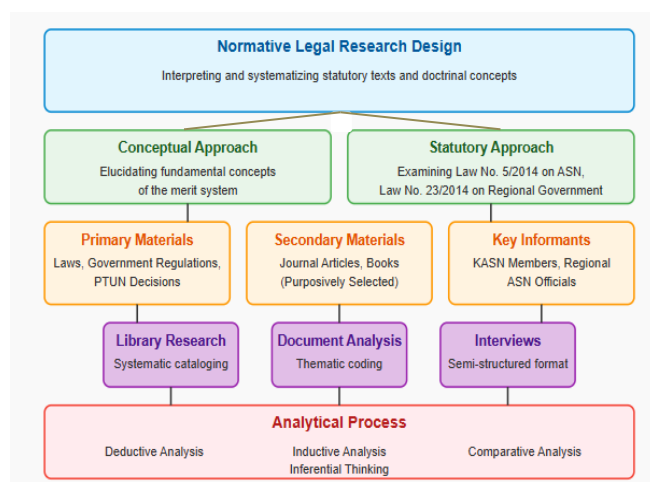

Figure 2. Research Methodology Framework. Source: research processed results, 2025

RESULTS AND DISCUSSION
Effectiveness of Merit System Regulations in Constraining Regional Heads' Actions
1. Legal Framework Analysis of Authority Abuse

Article 1, paragraph (3) of Law No. 37 of 2008 concerning the Ombudsman of the Republic of Indonesia provides a foundational definition of administrative actions that constitute abuse of authority. It defines such actions as instances where officials exceed their authority, misuse authority for purposes other than

those legally intended, or fail to fulfill legal obligations in the provision of public services—either through negligence or deliberate omission.

Within this framework, abuse of authority can be understood to involve three critical elements: (1) the element of intent, (2) the element of deviation from the legitimate objectives of authority, and (3) the element of negative personal disposition. These elements highlight the necessity of examining not only the actions of officials but also the source and nature of the authority granted to them. As each state civil apparatus official operates under a distinct scope and legal basis of authority, any allegation of abuse must consider both the legal source of that authority and the specific nature of the official's error.

From the perspective of state administrative law, abuse of authority may be classified into three distinct categories: (1) abuse of authority that contradicts the public interest, (2) abuse of authority that deviates from statutory regulations under the pretext of serving the public interest, and (3) abuse of authority conducted without adherence to procedural norms in pursuit of administrative goals.

These forms can be broadly grouped into two main types of administrative abuse: exceeding authority (détournement de pouvoir) and arbitrary action (abus de droit).

The first type, exceeding authority (also referred to as excès de pouvoir), occurs when a public official acts beyond the legal scope of their designated authority. Such actions result in the invalidation of any decisions or administrative acts, as they are not legally grounded and fail to achieve the intended public objectives.

The second type, acting arbitrarily, involves the unauthorized or excessive use of power, whereby officials make decisions or take actions that go beyond what is legally permitted and contradict existing legal norms or procedures. Understanding these legal classifications is essential to identifying, evaluating, and adjudicating potential cases of authority abuse. It emphasizes that legality in administrative actions is not merely a formal requirement but a substantive safeguard against the misuse of public office for personal or factional gain. This legal analysis reinforces the need for strict adherence to procedural legitimacy and lawful mandates in the governance of public administration.

Table 1. Legal Classification of Authority Abuse in ASN Placement

Form of Authority Abuse	Definition in Law No. 30/2014	Application to ASN Placement
Exceeding Authority	Actions beyond term/time limits, territorial bounds, or contrary to regulations	Transfers without meeting procedural requirements
Mixing Authority	Actions outside scope of field/material authority or contrary to purpose	Placing officials in positions unrelated to their competence
Acting Arbitrarily	Actions without authority basis or contrary to court decisions	Ignoring KASN recommendations or court orders

Source: research analysis results, 2025

The assessment of abuse of authority is closely tied to the concept of public interest and the intended objectives established by the conferral of authority. However, any claim of such abuse must be substantiated by factual evidence demonstrating that a government official has exercised their authority for purposes other than those legally mandated. In this context, compliance

serves as a critical parameter in determining whether authority has been properly executed or deviated from its lawful framework. Within the realm of state administrative law, which primarily governs legal norms applicable to government conduct, compliance with these norms constitutes a fundamental benchmark for the lawful exercise of administrative authority.

Law No. 30 of 2014 on Government Administration does not provide a formal definition of abuse of authority. Instead, it categorizes the concept into three distinct forms: (1) exceeding authority, (2) conflating or mixing authority, and (3) acting arbitrarily. Article 17, paragraph (1) explicitly prohibits government officials from engaging in any of these forms of abuse. The statute further elaborates that exceeding authority includes actions taken beyond the scope of an official's term or jurisdiction, or those that contravene statutory provisions. Mixing authority refers to actions or decisions made outside the substantive scope of an official's designated authority, particularly when such actions contradict the purpose for which the authority was granted. Meanwhile, arbitrary actions are defined as those conducted without a legal basis or in contravention of a final court ruling.

An official may be deemed to have abused their authority when the implementation of the authority granted for a specific public objective is diverted from that objective. Such abuse is not characterized by inadvertent error or negligence, but by a deliberate and conscious deviation from the lawful purpose toward goals that serve personal or group interests. This intentional misuse fundamentally undermines the legitimacy of administrative actions and erodes public trust in governance.

This conceptualization is consistent with Aristotle's theory of justice, referenced in the introductory section of this paper. Aristotle emphasized that justice is achieved through proportionality and impartiality, not by favoring one's own interests or those of particular groups. When regional heads deviate from the intended merit-based principles in appointing civil servants, favoring political allies or personal networks instead, they violate this foundational principle of justice. Such behavior exemplifies a distortion of administrative objectives in favor of private or partisan gain, thus representing a substantive breach of both legal norms and ethical governance standards.

2. Merit System Implementation Gap

The implementation of the merit system in Indonesia's public administration exhibits a significant discrepancy between the normative legal framework and its practical application. Although the legal structure—particularly the Government Administration Law (Law No. 30 of 2014) and the Ombudsman Law—provides comprehensive provisions regarding the limits and responsibilities of administrative authority, these regulations are frequently not enforced in a consistent or effective manner. Government and administrative officials who intentionally misuse their authority are legally accountable in accordance with the principles of administrative law. This accountability is rooted in the statutory definition of authority and its lawful application for the public interest.

Authority in public administration is legally defined and limited to specific officials—namely those occupying structural or functional positions, and elected officials such as regional heads—who are granted the legal right to exercise public power. Such authority must be derived from and exercised in accordance with the prevailing laws and regulations. As stipulated in Article 17 of Law No. 30 of 2014, abuse of authority encompasses actions that exceed legal boundaries, involve unauthorized conflation of powers, or are exercised arbitrarily.

The law delineates three sources of governmental authority: attribution, delegation, and mandate. Responsibility for the exercise of this authority depends on its source. In the case of attribution, accountability lies with the originating agency or official; for delegated authority, with the delegate; and for mandates, with the original authority holder. Where abuse of authority results in administrative error and subsequent state financial loss, the liability for restitution depends on whether the loss is attributable to such abuse. If so, individual officials are held accountable; if not, the responsibility falls to the institution involved.
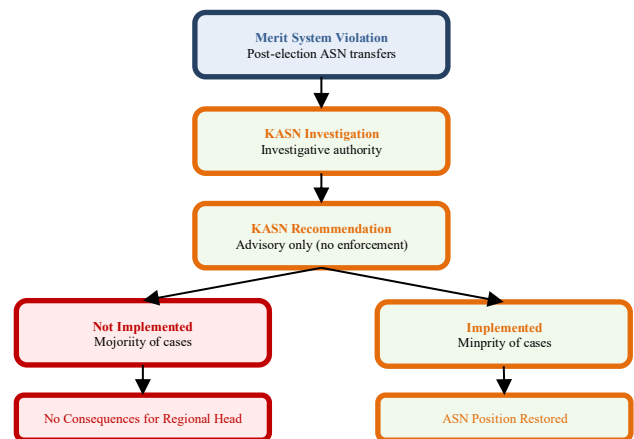
Figure 3. Accountability Mechanism in Merit System Violations. Source: research analysis results, 2025

As depicted in Figure 3, the legal framework governing public administration in Indonesia provides explicit provisions for sanctions in cases of authority abuse. Article 80, paragraph (3) of Law No. 30 of 2014 on Government Administration stipulates the imposition of severe administrative sanctions on officials who violate the prohibitions outlined in Articles 17 and 42. Additionally, Article 80, paragraph (4) extends these sanctions in cases where such violations result in state financial losses, harm to the national economy, or environmental degradation. The specific forms of these administrative sanctions are articulated in Article 81, paragraph (3), which includes permanent dismissal—with or without entitlement to financial compensation or benefits—and, in some instances, public disclosure of the dismissal through mass media channels.

Abuse of authority not only violates legal and ethical standards but also fundamentally compromises the legal validity of administrative decisions and actions. Acts deemed to be legally defective due to such abuse are subject to nullification and corresponding legal consequences. Nevertheless, despite the presence of these normative mechanisms, enforcement in practice remains uneven. This is particularly evident in the conduct of regional heads, especially in their discretionary roles related to the recruitment, appointment, and management of civil servants, where violations of merit-based principles often go unpunished.

Findings from document analysis and qualitative interviews with members of the State Civil Apparatus Commission (Komisi Aparatur Sipil Negara, or KASN) reveal that existing accountability mechanisms are rarely invoked against regional officials, even in clear cases of merit system violations. This

discrepancy underscores a significant gap between the regulatory framework and its implementation in the field.

This persistent implementation gap reflects a broader failure of legal certainty, a foundational principle in administrative law that mandates the consistent and predictable application of legal norms. The current state of enforcement demonstrates that, while the institutional framework to uphold meritocratic governance is in place, it is inadequately utilized. As a result, legal violations and deviations from good governance practices continue with limited or no consequences, thereby undermining the rule of law and the credibility of administrative institutions.

Factors Enabling Authority Abuse in ASN Placement
1. Political Dynamics After Direct Regional Elections

In the practice of public administration, regional heads—who attain office through direct elections—often face political pressure to reward individuals who significantly contributed to their electoral success. These individuals are frequently appointed to strategic positions within the local bureaucracy, regardless of their qualifications or merit. To accommodate such appointments, existing civil servants—many of whom are perceived as politically unaffiliated with the incumbent—are often displaced or assigned to non-functional roles (*non-job* status). This displacement occurs despite the static number of available positions, compelling regional leaders to prioritize political loyalty over administrative competence.

As a result, the merit system—designed to ensure that public service positions are filled based on qualifications, performance, and fairness—is routinely undermined. Career civil servants who were previously appointed based on professional merit are replaced by politically affiliated individuals who may lack the necessary experience and competencies. This practice constitutes a clear departure from the principles of meritocracy and reflects a broader pattern of arbitrariness in public administration at the regional level.

Such arbitrariness is not incidental but often systemic, and it has been widely documented in empirical studies. These studies have identified several key factors that contribute to the tendency of regional heads to bypass the merit system in favor of political considerations, namely:
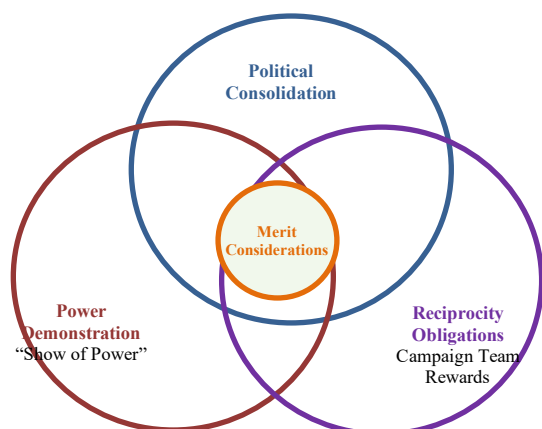
Figure 4. Motivational Factors in Post-Election Personnel Decisions. Source: research analysis results, 2025

a. Show of Power
The discretionary use of authority to appoint, transfer, or dismiss civil servants—particularly those in echelon 3 and 4

positions—has become a strategic political instrument for regional heads, especially in the aftermath of local elections. This practice often circumvents standardized merit-based procedures, thereby undermining principles of fairness and professionalism in civil service management. Rather than adhering to objective performance indicators or competency-based criteria, such actions are frequently motivated by the desire to assert control, consolidate political influence, and secure loyalty within the bureaucratic structure.

These personnel decisions serve as both symbolic and practical manifestations of power, allowing newly elected or re-elected officials to reshape administrative environments in their favor. In effect, the bureaucratic apparatus becomes a terrain for political reinforcement, rather than a neutral institution serving the public interest. This phenomenon reflects broader global trends observed in other decentralized democratic systems, where politicization of the civil service is used as a mechanism to entrench authority and reward political allegiance.

For instance, Mamshae (2025) describes the phenomenon of hybrid appointments in the Kurdistan Regional Government, where merit-based criteria are intertwined with patronage considerations in selecting high-level bureaucrats, reinforcing political allegiance over competence.

This dynamic is further supported by findings from García-Guadilla & Pérez (2002), who argue that decentralization, while aiming to democratize governance, often reinvigorates clientelistic practices where bureaucracies are instrumentalized for political reciprocity. Similarly, in the United States, Lewis & Waterman, 2013) reveal that lower-tier political appointees frequently act on ideological motives rather than professional qualifications, leading to a weakening of bureaucratic integrity and legal accountability.

Moreover, research in Scandinavian contexts by Christiansen et al. (2016) shows that an increased presence of politically appointed advisors can lead to "functional politicization," where even merit-based civil servants adapt their behavior to align with political interests, further eroding bureaucratic neutrality. This global phenomenon of political domination over administrative processes is underscored in a recent review by Staroňová & Knox (2024), who document how politicized recruitment and structural politicization have emerged as systemic challenges even in mature democracies.

These findings reinforce the conclusion that Indonesia's experience is not an anomaly but a reflection of broader tensions inherent in decentralized democratic governance. The ability of elected officials to demonstrate power through personnel decisions not only undermines meritocratic principles but also erodes the institutional capacity of the civil service. Without robust legal safeguards and independent oversight, the promise of bureaucratic neutrality and reform remains vulnerable to post-electoral political calculus.

b. Warning
In the context of regional elections (Pilkada), civil servants (Aparatur Sipil Negara/ASN) often face significant political pressure. Those who do not demonstrate support for the incumbent or winning candidate are frequently targeted. Regional heads have been known to issue informal warnings, implying that only their political allies—referred to as "their people"—will be retained or promoted within the bureaucratic hierarchy. This politicization of appointments directly

undermines the principles of bureaucratic neutrality and objectivity.

With the implementation of direct elections for regional heads, political forces that secure electoral victories often extend their influence into the administrative apparatus, exerting control over the bureaucracy. This dynamic fundamentally contradicts the ideal of ASN neutrality, which requires public servants to remain impartial and refrain from aligning with any political party, electoral candidate, or interest group. A truly neutral ASN should serve the public as a whole, without bias toward any particular segment of society—especially not the campaign teams of political parties supporting a specific candidate.

Neutrality is essential to ensuring that all bureaucratic actions are conducted objectively and in accordance with the public servant's official duties and functions. Only through such objectivity can the broader goals of reform—including bureaucratic reform—be meaningfully realized. However, ASN often find themselves in a precarious position due to political interference. On the one hand, they are career bureaucrats appointed, promoted, transferred, or dismissed by political officeholders (Pejabat Pembina Kepegawaian/PPK), whose actions are often influenced by political considerations. This institutional arrangement leads to a perceived, and often real, alignment of bureaucratic careers with the interests of political figures. On the other hand, ASN are expected to maintain neutrality and uphold professional standards in delivering governance and public services.

As implementers of public policy and custodians of budgetary and administrative authority, ASN occupy a critical position in the machinery of government. Their strategic placement makes them susceptible to being instrumentalized by political leaders seeking to consolidate or expand their power. For this reason, the principle of neutrality is not merely a normative expectation but a foundational pillar for ethical governance. It ensures that public, governmental, and developmental duties are carried out without partisan influence.

Neutrality, however, does not exist in isolation. It is intrinsically linked to the concept of objectivity. Objectivity necessitates the absence of bias and political interference, thereby reinforcing the impartial character of bureaucratic service. In this sense, neutrality can only be meaningfully maintained in an environment free from undue political intervention. True impartiality is achieved when the bureaucratic system itself is insulated from external pressures that distort public service delivery.

This analysis highlights a fundamental tension between Max Weber's model of legal-rational authority—which posits that bureaucratic authority should be grounded in competence, rules, and impersonal procedures—and the political authority exercised by directly elected regional heads. As outlined in the theoretical framework presented in our introduction, the authority of bureaucrats should derive from legal norms and professional qualifications, whereas political authority is legitimized through electoral success. This duality creates a conflict, particularly within Indonesia's decentralized governance system, where regional heads simultaneously assume political and administrative roles. The fusion of these roles creates vulnerabilities in the bureaucratic structure, allowing political interests to encroach upon what should be a neutral and professional civil service.

Scholars have emphasized the fragility of bureaucratic neutrality within decentralized systems, where political appointments frequently blur the lines between professional merit and loyalty (Kulicka, 2020; Staňová, 2014). The politicization of senior civil service roles often results in skewed implementation of policy and erosion of accountability (Hustedt H. H., 2014; Meier M., 2019). In decentralized governance contexts, local political elites tend to reinforce patronage networks by leveraging bureaucratic appointments to secure loyalty, which further undermines meritocratic principles (Lampropoulou G., 2020). This also challenges the Weberian vision of impartial administrative structures (Asmerom, 1996; Peters, 2023).

2. Structural Conflicts in the Merit System Framework

Political party intervention in bureaucratic institutions fundamentally disrupts the functioning of the civil service system, which should operate based on the principles of rationality, legality, and sound governance. When such interference occurs, the integrity of the personnel development system is compromised. Appointments and promotions are no longer determined by merit—such as competence, experience, and capacity—but rather by political allegiance and personal preferences. This practice undermines the merit system and damages institutional professionalism.

The politicization of civil servants (Aparatur Sipil Negara or ASN) has a profound negative impact. It not only tarnishes the collective image and unity of the ASN but also compromises the public interest. One of the key characteristics of exemplary public officials is their ability to separate personal or partisan political interests from their official duties to the public, the nation, and the state. Officials must not exploit their positions or the facilities afforded to them for political purposes, enact policies that unfairly benefit or disadvantage specific groups, or mobilize ASNs under the pretense of promises, implicit or explicit.

The success of bureaucratic reform is largely contingent upon the integrity and leadership of high-ranking bureaucrats. Political authority, when used constructively, should serve as an instrument for formulating policy that aligns with national and public interests. In such a context, the ASN, as policy implementers, can execute these directives effectively, thus contributing to the realization of good governance.

To achieve this, it is imperative to eliminate political dichotomies within the structure of state administration. A clear distinction must be maintained between officials performing political functions—such as policy formulation—and those executing administrative functions. The politicization of the bureaucracy stems from two sources: political parties that exert influence over the civil service, and executive officials who exploit bureaucratic structures to maintain political power. Despite originating from different actors, both forms of politicization share a common goal: the consolidation and perpetuation of authority.

Harold Crouch's concept of the "Bureaucratic Polity" in Indonesia identifies three central characteristics: (1) the bureaucracy functions as the dominant political institution; (2) other political bodies—including parliaments, political parties, and civil society groups—are too weak to counterbalance bureaucratic dominance; and (3) the public, excluded from bureaucratic structures, remains politically and economically passive, further empowering the bureaucracy in a self-reinforcing cycle.

This analysis highlights how dominant political actors within the bureaucracy are empowered not only by the public's limited capacity to demand accountability, but also by the government's own inability to shield bureaucratic institutions from political manipulation. Consequently, ASN officials are often reduced to instruments of political power, unable to act independently or serve the public impartially. The appointments of ASN personnel increasingly ignore merit-based criteria, leading to the selection of underqualified officials driven by political loyalty rather than professional competence.

Furthermore, the political mobilization of ASN is often accompanied by the influence of "success teams"—groups that support electoral candidates. Following an election victory, these teams frequently seek political compensation by demanding strategic bureaucratic positions. Their objective is to gain influence over resources and decision-making processes, particularly within "wet" agencies—those perceived as lucrative due to their access to funds and development programs. These placements are intended not only to recoup campaign expenses but also to secure political and financial interests for future electoral cycles.

Such practices exacerbate the erosion of the merit system, particularly in the appointment of High Leadership Positions (JPTs) in regional government organizations. These appointments are often politically motivated rather than based on administrative needs or performance considerations.

In light of these challenges, maintaining the political neutrality of the ASN is essential. According to Government Regulation No. 11 of 2016, Article 255, civil servants are strictly prohibited from becoming members or administrators of political parties. Violations of this provision may result in dishonorable discharge. Furthermore, ASN appointments and promotions must be conducted professionally, without political interference, and through an independent selection committee. As stipulated in Article 72 of the ASN Law, promotions must be based on an objective assessment of merit, including factors such as competency, qualifications, leadership, teamwork, creativity, and performance, regardless of gender, ethnicity, religion, race, or social class.

Table 2. Comparison of Merit System Legal Provisions and Implementation Realities

Merit System Principle	Legal Provision	Implementation Reality
Competence-Based Selection	Article 72, Law No. 5/2014	Political considerations often override competence
Political Neutrality	Article 255, Government Regulation No. 11/2016	ASN often pressured to support regional head candidates
Independent Selection Committee	Article 113, Law No. 5/2014	Selection committees often influenced by regional head preferences
KASN Oversight	Article 30, Law No. 5/2014	KASN recommendations frequently ignored by regional heads

Source: research analysis results, 2025

A merit-based recruitment and promotion system is one of the promises of Indonesia's reform. There is hope that the various new regulations produced in the early post-Soeharto period can depoliticize the bureaucracy, which requires the bureaucracy to be politically neutral. In addition, it is also widely hoped that the encouragement born from the use of direct elections will encourage politicians to strengthen the capacity of the bureaucracy in the regions. Therefore, voters will have the opportunity to evaluate their regional heads based on the quality of their public services or on the effectiveness of government programs so that these politicians will be encouraged to appoint and support the right people, namely those who do have the capacity to implement these programs.

However, various studies and observations show that democratization in Indonesia has not succeeded in promoting meritocracy. On the contrary, democratization and, in particular, the implementation of a direct election system seems to have encouraged a new form of politicization of regional bureaucracy. This assessment is consistent with the theory of legal protection advanced by Satjipto Raharjo, which emphasizes that legal protection should safeguard human rights when harmed by others and ensure people can enjoy their legally granted rights. Our findings demonstrate that current merit system regulations fail to provide effective protection for ASN rights to fair and competence-based career development.

Dahlström & Lapuente (2017) extensive cross-national research on bureaucratic structures offers valuable theoretical grounding for understanding these structural conflicts. Their separation-of-interests model argues that effective civil service systems require institutional separation between the career incentives of politicians and bureaucrats. When these interests converge—as they do in Indonesia's system where regional heads control bureaucratic careers—corruption and patronage proliferate. Their empirical findings demonstrate that countries with greater separation between political and bureaucratic career structures show significantly higher governance quality and lower corruption levels.

Similarly, Fukuyama (2013) influential work on governance quality demonstrates that optimal bureaucratic performance requires both capacity and autonomy. His analysis identifies Indonesia as a case of "high capacity, low autonomy" bureaucracy, where professionally qualified civil servants lack the institutional independence to resist political pressure. This framework helps explain why Indonesia's merit system remains ineffective despite considerable investments in formal procedures and civil service training. Fukuyama's theory underscores that without structural autonomy, capacity-building alone cannot create a meritocratic civil service system.

Institutional Design Flaws in Merit System Implementation

1. Regional Head as Implementer of Merit System in Region

In order to organize the Regional Government in accordance with the mandate of the 1945 Constitution, the Government has formed a law that is in accordance with the situation and conditions based on the dynamics that exist in society. After the reform, the great demand for strengthening autonomous regions in order to provide some of the authority that was originally owned by the center has become a major concern. Therefore, Law No. 23 of 2014 concerning Regional Government was formed. Based on this law, each region is led by a Regional Head—governor, regent, or mayor—elected directly by the people, with authority over regional administration and personnel management. The Regional Head's term of office is five years and may be renewed once.

The implementation of regional autonomy has restructured the position of governors as both regional leaders and representatives of the central government. Article 38 paragraph (1) of Law No. 23 of 2014 designates the governor as responsible for fostering, supervising, and coordinating district/city administrations, as well as handling central government-assigned duties. This framework was further clarified by Government

Regulation No. 19 of 2010, which outlines the mechanisms of the governor's dual role, including their authority to impose rewards or sanctions upon local governments. The metaphor that positions the governor as the "left hand" of the president reinforces the centrality of their role in ensuring policy coherence across administrative levels.

However, this institutional arrangement creates a problematic conflation of roles that undermines the implementation of merit principles. While civil service appointments should be based on competence, performance, and neutrality, the reality is that regional heads often use their administrative powers for political purposes. When a political official also acts as the Civil Service Development Officer (Pejabat Pembina Kepegawaian/PPK), there arises a clear conflict of interest. As highlighted in the Rechtsstaat theory discussed earlier, all administrative actions must be rooted in the rule of law and not driven by personal or political motives. The merging of political authority and administrative oversight disrupts this legal balance and allows for arbitrary interventions in personnel decisions.

This dilemma is not exclusive to Indonesia. International scholarship shows that similar tensions arise in other decentralized systems. Mamshae (2025), studying the Kurdistan Regional Government, reveals that top-level civil service appointments often involve a mix of merit-based and patronage considerations—termed "hybrid appointments"—undermining the integrity of professional bureaucracy. In this framework, political loyalty becomes an implicit qualification, compromising impartiality and long-term governance capacity.

A similar dynamic is evident in Latin America, where decentralization has failed to eliminate old clientelist structures. García-Guadilla & Pérez (2002) argue that decentralization often replicates centralized power dynamics at the local level, allowing political elites to manipulate bureaucratic processes for electoral or partisan gain. In such settings, civil servants are rarely appointed based on merit alone, and administrative decisions are shaped by reciprocal political obligations rather than institutional needs.

Recent research further supports these concerns. Staroňová & Knox (2024) identify multiple dimensions of politicization in civil services, including politicized recruitment, structural politicization, and behavioral alignment with ruling parties. In systems where political leaders directly control appointments, the boundaries between policy-making and policy-implementation become blurred, eroding meritocratic safeguards.

In Indonesia, this structural ambiguity not only undermines meritocracy but also creates a power asymmetry between the central oversight institutions (such as KASN) and regional executives. The regulatory framework grants formal authority to enforce merit principles, yet in practice, regional heads retain substantive control over recruitment and promotion, with limited accountability. As a result, merit system enforcement becomes conditional—implemented when politically convenient and ignored when it conflicts with the interests of incumbents.

This institutional design flaw has broad implications. It perpetuates a political culture where loyalty supersedes competence, leading to inefficiency, demotivation among professional civil servants, and the deterioration of public trust in government institutions. Therefore, to truly realize the ideals of a merit-based bureaucracy, reform must focus on structurally separating the political and administrative functions within regional governance. Strengthening the autonomy and authority of oversight institutions like KASN, while revisiting the legal mandate of regional heads in personnel matters, is imperative to safeguard the neutrality and professionalism of Indonesia's civil service.

2. Weak Enforcement Mechanisms

One of the factors that influence the many acts of abuse of authority by regional heads is that the provisions of the law do not accommodate the application of severe sanctions against Regional Heads who violate the implementation of the Merit System. In carrying out the transfer of career bureaucrats, regional heads have benefited from the regulatory structure created under the decentralized system, where they have almost unlimited authority to transfer ASN from and to various fields in their bureaucracy.

The ASN Law imposes formal limitations on this authority, for example, regarding the formation of KASN, which has the authority to supervise the recruitment and promotion of ASN. This ASN Law also gives greater authority to regional secretaries in determining the promotion and transfer of bureaucrats in their respective regions. KASN, with its duties as supervising recruiting and promoting ASN, can only issue recommendations related to decisions taken by the Personnel Development Officer that deviate from the merit system, but many of these recommendations are not implemented by regional heads because they are only recommendations. KASN cannot make decisions to punish regional heads who violate.

Likewise, if this enters the realm of PTUN disputes, the decision taken is also only to restore the position of the ASN or accept the decision of the regional head. There are no strict rules that provide sanctions to regional heads for violations or abuse of authority committed.

This enforcement deficit directly undermines the legal certainty principle, as articulated in our introduction. When legal provisions exist but lack effective enforcement mechanisms, the predictability and reliability of the legal system—key components of legal certainty—are compromised. The absence of meaningful sanctions creates a system where merit principles exist in form but lack substantive implementation.

This issue also arises in other countries beyond Indonesia. International literature has highlighted similar deficiencies in enforcement mechanisms in decentralized bureaucracies. Peters Pierre, J. et al. (2004) argue that politicization in civil services often arises when institutional constraints are weak, enabling leaders to manipulate recruitment for political purposes. Similarly, Gajduschek & Staronova (2023) demonstrate that in the absence of strong formal enforcement, informal political discretion tends to dominate personnel decisions, undermining professionalization and meritocratic norms. Also emphasizes that when sanctions for non-compliance are weak or absent, patronage persists under the guise of decentralization (Estes, 2013). These findings reinforce the importance of designing robust institutional frameworks with enforceable rules to uphold merit principles in decentralized governance systems.

CONCLUSION

This research reveals critical findings regarding the failure of the merit system to protect the State Civil Apparatus (ASN) from political intervention by regional heads following local elections in Indonesia. Our comprehensive analysis demonstrates that despite a well-established legal framework for merit system

implementation, three key structural factors impede its effectiveness.

First, the institutional structure that positions regional heads as both Civil Service Development Officers and political officials creates an inherent conflict of interest. This dual role enables regional heads to leverage administrative authority for political purposes, subordinating merit principles to post-election political calculations. The research confirms that regional heads frequently use personnel transfers as tools for rewarding political supporters and punishing perceived opponents, undermining bureaucratic professionalism.

Second, oversight and enforcement mechanisms exhibit substantial weaknesses. The State Civil Service Commission (KASN) operates without adequate sanctioning authority, reducing its effectiveness to merely an advisory body. Administrative court decisions show that even when civil servants win cases, regional heads face no punitive consequences for merit system violations, creating a climate of impunity.

Third, post-electoral political dynamics drive systematic "political mutations" that weaken bureaucratic professionalism. Our data reveals consistent patterns where political loyalty supersedes competence and performance as the primary determinant for official appointments, contradicting the mandates of civil service legislation.

These findings have significant implications for civil service governance reform in Indonesia. Institutional separation between political functions and administrative authorities in ASN management is essential. Strengthening KASN's enforcement powers and implementing structural reforms to sever patronage connections between bureaucracy and electoral politics would allow for competency-based civil service professionalism.

This study has methodological limitations, including its dominant normative-legal approach, limited interview samples, and restricted access to comprehensive post-election transfer data across regions. Future research should employ mixed methods combining legal analysis with quantitative surveys of civil servants across regions, conduct comparative studies to identify successful governance models protecting bureaucratic neutrality in competitive electoral contexts, and integrate perspectives from public administration, political science, and organizational sociology.

REFERENCES

Ali, D. M. (2017). The Transformation of Merit System in Indonesian Civil Servant Promotion System.

Aristotle. (2009). Nicomachean Ethics (W. D. Ross, Trans.). Oxford University Press.

Asmerom, H. K. (1996). The neutrality of public bureaucracy in multiethnic societies. In Democratization and Bureaucratic Neutrality. Springer. https://link.springer.com/content/pdf/10.1007/978-1-349-24808-7_9

Bendassolli, P. F. (2013). Theory Building in Qualitative Research: Reconsidering the Problem of Induction. Forum: Qualitative Social Research, 14(1).

Brierley, S. (2021). Combining Patronage and Merit in Public Sector Recruitment. The Journal of Politics, 83 IS 1, 182–197.

Christiansen, P., Niklasson, B., & Öhberg, P. (2016). Does politics crowd out professional competence? The organisation of ministerial advice in Denmark and Sweden. West European Politics, 39, 1230–1250. https://doi.org/10.1080/01402382.2016.1176368

Creswell, J. W., & Creswell, J. D. (2018). Research Design: Qualitative, Quantitative, and Mixed Methods Approaches (H. Salmon (ed.); Fifth edit). SAGE Publications, Inc.

Dahlström, C., & Lapuente, V. (2017). Organizing leviathan: Politicians, bureaucrats, and the making of good government. In Organizing Leviathan: Politicians, Bureaucrats, and the Making of Good Government. https://doi.org/10.1017/9781316822869

Dobinson, I., & Johns, F. (2017). Qualitative Legal Research BT - Research Methods for Law (M. McConville & W. H. Chui (eds.); pp. 18–45). Edinburgh University Press.

Erb, M., & Sulistiyanto, P. (2009). Deepening Democracy in Indonesia? Direct Elections for Local Leaders (Pilkada). ISEAS Publishing.

Estes, K. W. (2013). Book Review: Jobs for the Boys: Patronage and the State in Comparative Perspective , by M. S. Grindle. Comparative Political Studies, 46(6). https://doi.org/10.1177/0010414013479102

Fukuyama, F. (2013). What is governance? In Governance (Vol. 26, Issue 3). https://doi.org/10.1111/gove.12035

Gajduschek, G., & Staronova, K. (2023). Politicization beyond the Merit-system Façade. The Intricate Relationship between Formal and Informal Institutions of the Senior Civil Service Systems in Central and Eastern Europe. International Journal of Public Administration, 46(9). https://doi.org/10.1080/01900692.2021.2009858

García-Guadilla, M. P., & Pérez, C. (2002). Democracy, Decentralization, and Clientelism: New Relationships and Old Practices. Latin American Perspectives, 29, 90–109. https://doi.org/10.1177/0094582X02029005006

Hadiz, V. R. (2010). Localising Power in Post-Authoritarian Indonesia: A Southeast Asia Perspective. Stanford University Press.

Haning, T., & Abdullah, T. (2023). Merit System Principle: A Missed Opportunity for Fairness in Indonesia's Civil Service.

Hermansyah. (2017). Hukum Perbankan Nasional Indonesia. Kencana.

Hustedt H. H., T. and S. (2014). Politicization mechanisms in ministerial bureaucracies. International Review of Administrative Sciences. https://journals.sagepub.com/doi/abs/10.1177/0020852314533449

Hutchinson, T. (2018). Doctrinal Research: Researching the Jury BT - Research Methods for Law (M. McConville & W. H. Chui (eds.); pp. 29–50). Edinburgh University Press.

Ibrahim, J. (2018). Teori dan Metodologi Penelitian Hukum Normatif. Bayumedia Publishing.

Kulicka, K. (2020). Doing administration, doing gender: Repairing political neutrality with a feminist toolbox. Administrative Theory & Praxis. https://www.tandfonline.com/doi/abs/10.1080/10841806.2019.1678355

Lampropoulou, G., M. and O. (2020). The "Trilemma" of public bodies. Administration & Society. https://journals.sagepub.com/doi/abs/10.1177/0095399720902798

Lewis, D., & Waterman, R. (2013). The Invisible Presidential Appointments: An Examination of Appointments to the Department of Labor, 2001 – 11. Presidential Studies Quarterly, 43, 35 – 57. https://doi.org/10.1111/PSQ.12002

Mamshae, A. (2025). Between Merit and Patronage: Hybrid Appointments of Top Civil Service. Governance.

Marzuki, P. M. (2021). Penelitian Hukum. Kencana Prenada Media.

Meer, F. van der, Dijkstra, G., & Kerkhoff, T. (2018). The Dutch Decentralized Unitary State and Its Effects on Civil Service Systems. Administory, 3, 138–154.

Meier M., K. J. and C. (2019). Bureaucracy and the failure of politics. Administration & Society. https://journals.sagepub.com/doi/abs/10.1177/00953997198

74759

Miruts, G. (2014). Merit Based Human Resource Management in Tigray Region: Do We Really Know What We Are Doing? Public Policy and Administration Research, 4(7), 70–86.

Peters Pierre, J., B. G., Meyer-Sahling, J.-H., & Grindle, M. S. (2004). Politicization of the Civil Service in Comparative Perspective. International Review of Administrative Sciences, 70(3), 437–456.

Peters, B. G. (2023). Public administration in authoritarian regimes. Asia Pacific Journal of Public Administration. https://www.tandfonline.com/doi/abs/10.1080/23276665.2023.2169820

Raharjo, S. (2006). Ilmu Hukum Progresif. Kompas.

Sarnawa, B. (2022). Relations between the State Civil Apparatus and Regional Heads in the Indonesian State Civil Service System. Varia Justicia.

Siems, M. M. (2014). Comparative Law. Cambridge University Press.

Soekanto, S., & Mamudji, S. (2019). Penelitian Hukum Normatif: Suatu Tinjauan Singkat. RajaGrafindo Persada.

Staroňová, K., & Knox, C. (2024). Politicisation of the Civil Service: Contestation and Context. NISPAcee Journal of Public Administration and Policy. https://doi.org/10.2478/nispa-2024-0019

Staňová, Ľ. (2014). Central civil service management structures as brokers of de-politicization. Human Affairs. https://link.springer.com/article/10.2478/s13374-014-0229-6

Sunggono, B. (2017). Metodologi Penelitian Hukum. RajaGrafindo Persada.

Taekema, S. (2018). Comparative Legal Research Methods BT - The Cambridge Companion to Comparative Law (M. Bussani & U. Mattei (eds.); pp. 131–150). Cambridge University Press.

Webley, L. (2016). Qualitative Approaches to Empirical Legal Research. The Oxford Handbook of Empirical Legal Research.

Yaqin, A. (2015). Legal Research and Writing. LexisNexis.