

# Analysis of Bawaslu's Authority in Handling ASN Neutrality Violations in the 2024 Elections Case Study of Handling ASN Neutrality Violations in Gorontalo City Bawaslu

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## Abstract

*The importance of the function of elections, especially for changes in the country, is an important basis for many institutions to provide standards for democratic elections. This standard is important because it can be used as a benchmark for the success of the election itself. However, the most important thing of all is that elections must be able to provide guarantees of democratic legitimacy. To achieve this, transparency, accountability, credibility and integrity are needed in the implementation of the election itself so that people trust and believe in the election itself. Until now, effective election supervision is believed to be an instrument capable of providing guarantees for the implementation of democratic elections. This type of research is Sociological Juridical research and the approaches used by researchers in compiling this research are, among others: Statute Approach; case approach (case approach); and Comparative Approach. The results of this research show that in carrying out the supervision stages, Bawaslu has carried out outreach with all ASNs, signed MoU agreements and met with every OPD in every sub-district and neighborhood in Gorontalo City. However, every time the Bawaslu General Election is held, Bawaslu still receives reports of alleged violations from the public that ASN has violated the relevant regulations regarding ASN Neutrality which results in tarnishing democracy in terms of ASN neutrality, this arises because of the existence of inhibiting and supporting factors which can measure how far the success of their role is. owned by Bawaslu in upholding the principle of ASN Neutrality in the 2024 General Election.*

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## Abstrak

Pentingnya fungsi pemilu, terutama untuk perubahan negara menjadi dasar penting bagi banyak lembaga untuk memberikan standar tentang pemilu yang demokratis. Standar tersebut menjadi penting karena bisa dijadikan tolok ukur bagi keberhasilan pemilu itu sendiri. Namun yang terpenting dari itu semua adalah pemilu harus mampu memberikan jaminan legitimasi demokrasi, untuk bisa mencapai itu maka dibutuhkan adanya transparansi, akuntabilitas, kredibilitas dan integritas dari pelaksanaan pemilu itu sendiri sehingga masyarakat percaya dan yakin terhadap pemilu itu sendiri. Sampai sekarang pengawasan pemilu yang efektif dipercaya sebagai instrumen yang mampu menghadirkan jaminan atas pelaksanaan pemilu yang demokratis. Jenis penelitian ini adalah penelitian Yuridis Sosiologis dan Adapun pendekatan yang digunakan oleh peneliti dalam menyusun penelitian ini adalah, antara lain: Pendekatan Perundang-Undangan (Statue Approach); pendekatan kasus (case approach); dan Pendekatan Komparatif (comparative approach). Hasil Penelitian ini menunjukkan bahwa Dalam melakukan tahapan pengawasan Bawaslu telah melakukan sosialisasi dengan semua ASN, penandatanganan perjanjian Mou dan pertemuan dengan setiap OPD pada setiap Kelurahan dan Lingkungan yang ada di Kota Gorontalo. Namun setiap pelaksanaan Pemilihan Umum Bawaslu masih saja menerima laporan dugaan pelanggaran dari masyarakat bahwa ASN telah melanggar regulasi terkait tentang Netralitas ASN yang mengakibatkan tercorengnya demokrasi dalam hal kenetralan ASN, hal ini timbul dikarenakan adanya faktor penghambat dan faktor pendukung yang dapat mengukur seberapa jauh keberhasilan peran yang dimiliki oleh Bawaslu dalam menegakkan perinsip Netralitas ASN dalam Pemilihan Umum Tahun 2024

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## 1. INTRODUCTION

The existence of Bawaslu in Indonesia has a long story. The desire for an institution to carry out supervisory duties in the implementation of elections was born from the awareness of the Indonesian people themselves because they wanted the elections to be carried out with good governance, without hidden fraud, and therefore an institution was needed that acted specifically to carry out election supervision. The formation of the Election Supervisory Body (Bawaslu) is a breath of fresh air in order to encourage the process of holding general elections (elections) and regional head elections (pikada) that

are clean and free from irregularities, especially the process of violations committed by competing candidate pairs and their success teams in winning the General Election/Pilkada.

Long before that, in 1982, this ad-hoc institution was first formed in the framework of the 1982 general election. With the enactment of Law Number 7 of 2017 concerning General Elections, Bawaslu was placed as an institution that could hear and decide cases related to election violations, including how Bawaslu is part of the process of resolving code of ethics violations. This indicates that Bawaslu's role in resolving election and regional election disputes or violations has shown positive progress.

However, in several cases of resolving election violations, there are still shortcomings when election violations in the bureaucratic realm are carried out by the State Civil Apparatus (ASN), where Bawaslu's authority to execute violations involving ASN requires a long process and is based on the decision of the internal bureaucratic institution known as the State Civil Apparatus Commission (KASN). So in the process Bawaslu only provides assessments and recommendations on cases of violations involving bureaucratic officials to be decided by KASN.

Data collected by the State Civil Service Agency (BKN) through the Deputy for Supervision and Control of Personnel (Wasdalpeg), recorded 990 cases of neutrality violations committed by ASN from January 2018 to March 2019. This also means that from the Regional Head Election (Pilkada) until just before in the election of legislative candidates (Pileg) and President/Vice President (Pilpres) there have been various cases of violations of ASN neutrality. Head of the Public Relations Bureau, Mohammad Ridwan, said that the most violations of neutrality committed by ASN were carried out through the media by distributing images, providing support, commenting, and even uploading photos to express partiality towards certain pairs of candidates (paslon).

Social media, starting from the recapitulation of neutrality violation data, is a collaboration between BKN, the Election Supervisory Agency (Bawaslu) and the State Civil Apparatus Commission (KASN). Of the number of violations received, 99.5% were dominated by regional agency employees covering provinces/cities/cities. The total number of cases is outside of the reports received by BKN via the LAPORBKN complaints page, PR emails and social media. Cases of ASN neutrality in the form of providing support to certain candidate pairs are a form of violation of Government Regulation 53 of 2010 Article 4. The level of sanctions imposed starts from giving Disciplinary Punishment (HD) is moderate to severe HD. In detail, Article 7 Numbers (3) and (4) states that the dropping of HD is being carried out by postponing Promotion (KP) for one year, postponing periodic salary increases, and demotion to a lower level for one year. Meanwhile, for severe HD, this is done through release of position, demotion for three years, up to dismissal.

Law Number 5 of 2014 concerning ASN, the State Civil Apparatus Law is a Law that regulates the profession for Civil Servants and government employees with work agreements who work for government agencies. This law also regulates the rules of neutrality for civil servants, which are stated in Article 2 Letter f which states that every State Civil Servant is impartial from any form of influence and does not side with anyone's interests. Furthermore, Article 9 Paragraph 2 states that ASN employees must be free from influence and intervention from all political groups and parties, meaning that as a State Civil Apparatus who is closest to society,

ASN should be the party that carries out its duties in accordance with applicable regulations without having to be involved in political campaign activities to win a pair of candidates, mobilize the masses to win the desired candidate, and other acts of non-neutrality. Apart from that, ASN employees who have important positions in the government bureaucracy also often become role models for the community. If ASN employees are allowed to show support for one of the pairs of candidates/participants in

the general election, it is feared that the determination of policies and the implementation of public services will be influenced by practical politics which could give rise to injustice among society.

Apart from that, Government Regulation Number 53 of 2010 concerning Civil Servant Discipline, Articles relating to ASN employees as contained in Article 4 namely in number 12 where every civil servant is prohibited from providing support to candidates for President/Vice President, People's Representative Council, Council Regional Representatives, or Regional People's Representative Council by:

- a. Participate as a campaign implementer;
- b. Become a campaign participant using party attributes or civil servant attributes;
- c. As a campaign participant by mobilizing other civil servants; and/or
- d. As a campaign participant using state facilities.

Furthermore, in the same article, namely Article 4 point 13, it is further explained that every civil servant is prohibited from providing support to a candidate for President/Vice President either by making decisions and/or actions that are beneficial or detrimental to one of the candidate pairs during the campaign period; and/or holding activities that lead to partiality towards candidate pairs participating in the election before, during and after the campaign period including meetings, invitations, appeals, appeals or giving goods to civil servants within their work units, family members and the community. This article quite clearly explains the prohibition on a civil servant from participating in the political campaign of a candidate pair, either implicitly or openly. This is because a civil servant is a person who is considered neutral and independent by society, so they must actually exercise their right to vote freely and confidentially without the public needing to know which candidate pair they want to choose.

Article 9 paragraph (2) of Law Number 5 of 2014 concerning ASN, states that every ASN employee does not take sides from any influence and does not take sides with anyone's interests. ASN must comply with obligations and avoid prohibitions stipulated in statutory regulations and/or official regulations. If they are violated, they will be subject to disciplinary penalties, and are responsible for all forms of violations. Disciplinary violations in question are any words, writings, or actions of ASN that do not comply with obligations and/ or violating prohibitions on ASN disciplinary provisions, whether done inside or outside working hours, as well as using State facilities to benefit one of the candidates, causing harm to society and creating an unhealthy climate.

Based on this, researchers are interested in studying problems related to the implementation of Article 9 paragraph (2) of Law Number 5 of 2014 concerning State Civil Apparatus regarding violations of ASN neutrality in Regional Head Elections.

Gorontalo City Region, the Election Supervisory Agency (Bawaslu) discovered various fraudulent practices involving State Civil Apparatus in the General Election. Bawaslu's findings show the involvement of the State Civil Apparatus before the election stage and when the election stage has started. In handling violations of ASN Neutrality, so far the Gorontalo City Bawaslu has recommended 4 (four) violations of State Civil Apparatus (ASN) Neutrality to the State Civil Apparatus Commission (KASN).

This phenomenon certainly still provides homework for Bawaslu regarding taking action against the neutrality of ASNs who commit violations and are involved in the 2024 General Election. So that several cases discovered so far related to handling election violations committed by ASNs tend to be overlooked due to Bawaslu's limited authority in resolving violation cases at the bureaucratic level.

Based on the phenomenon that the author describes above, the author views that the issue of Bawaslu's authority in handling violations of ASN neutrality is an interesting issue,

so the author is interested in conducting research and seeing how Bawaslu's authority analysis is in handling violations of ASN neutrality in the 2024 Election, case study at Bawaslu Gorontalo City.

**2. RESEARCH METHOD**

The research approach used in this research is a normative juridical approach where the approach is carried out using a conceptual approach, where this research is an approach carried out by providing a point of view after carrying out an analysis of a focus problem in the research which is reviewed based on several aspects and legal concepts behind it. The focus of the problem, both from the values and legal concepts in terms of related regulations. The data analysis technique used is juridical, the data or research object is not only described in what way there is, but arguments will also be given regarding the authority of Bawaslu in handling violations of ASN neutrality in the 2024 elections. The legal materials collected will be identified with reference to quality or the quality of the data collected.

**3. RESEARCH RESULTS AND DISCUSSION**

Based on the results of research at the Gorontalo City Bawaslu Office, the duties and authority of City/Municipal Bawaslu are regulated in Law Number 7 of 2017 concerning General Elections. There are 4 outlines of Bawaslu's functions, namely:

1. Prevention,
2. Supervision,
3. Enforcement of violations, and
4. Election process disputes.

In principle, Bawaslu's three functions are used in the processes of monitoring the neutrality of the State Civil Service, namely prevention, supervision and prosecution of violations. The Election Supervisory Body (Bawaslu) is an independent body formed in order to realize the implementation of general elections with integrity and credibility in accordance with the principles of direct, general, free, secret, honest and fair (LUBERJURDIL). Apart from that, election integrity can increase public participation in government administration and can reduce mass protest activities.

The legal basis for supervision of Bawaslu as an institution that organizes election supervision in the implementation of post-conflict regional elections Bawaslu was formed as an ad hoc institution apart from the KPU structure consisting of an Election Supervisory Committee, which is tasked with supervising and taking action against election violations, election disputes, supervising the implementation of the election process and all other administrative processes in accordance with Perbawaslu Number 06 of 2018 concerning Neutrality Supervision of State Civil Service Employees, Members of the Indonesian National Army and Members of the National Police of the Republic of Indonesia.

The Gorontalo City Bawaslu, through the existing Perbawaslu, has the authority to supervise the neutrality of ASN in the implementation of the 2024 General Election, which aims to carry out general elections in accordance with common desires, such as being safe, peaceful, honest and fair so that violations in every election can be minimized, especially violations. Regarding the neutrality of ASN, the basic legal regulations related to Bawaslu's supervision of the neutrality of State Civil Apparatus are as follows:

**Table 3.1. Regulations Laws and Regulations**

Legislation	Contents/Related about
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<p><b>Law Number 7 of 2017, in Article 93 letter (f)</b></p>	<p>Mentioning the attribution of authority or duties to Supervise the Neutrality of ASN, it was stated that Bawaslu was tasked with: "Supervising the neutrality of the State civil apparatus, the neutrality of members of the Indonesian National Army, and the neutrality of members of the Indonesian National Police."</p>
<p><b>Perbawaslu Number 6 of 2018</b></p>	<p>Neutrality Supervision of State Civil Service Employees, Members of the Indonesian Army, and Members of the State Police of the Republic of Indonesia can be objects of supervision by Bawaslu.</p>
<p><b>Perbawaslu Number 14 of 2017</b></p>	<p>Regarding the handling of reporting violations in regional elections related to ASN stability</p>

Based on the table of statutory regulations above, what is regulated in the statutory regulations is accommodated by the supervisory strategy of the Gorontalo City Bawaslu. One of Gorontalo City Bawaslu's monitoring strategies is to prevent violations of ASN neutrality.

The results of interviews conducted by researchers with Mrs. Herlina Antu as Coordinator of the Legal, Prevention, Community Participation and Public Relations Division of Bawaslu Kotan Gorontalo in her office stated that:

*"Every supervision carried out by Bawaslu must be in accordance with the legislation that has been established by Bawaslu. In relation to neutrality supervision, Bawaslu has carried out coordination related to the approach by holding a MoU meeting with all ASN and P3K, and carrying out socializations that have been carried out. "We do this with OPD from sub-districts, sub-districts and every neighborhood in every area of Gorontalo City."*

From the results of the interview above, the researcher concluded that the supervision carried out was in accordance with the objective standards of Bawaslu supervision, but the existence of a violation related to violations committed by ASN resulted in the supervision efforts that had been carried out not getting maximum results because there were still violations related to Neutrality violations and the Code of Ethics of the State Civil Apparatus (ASN).

The objective standards in supervision that Bawaslu has in carrying out supervision related to neutrality are appropriate because when carrying out supervision, Bawaslu already has its own SOP before moving to carry out supervision regarding the neutrality of ASN, as for the inventory list of neutrality supervision problems for State Civil Apparatus (ASN), members of the military. The Indonesian National Police (TNI) and the Republic of Indonesia Police (POLRI) will determine the scope of supervision regarding ASN Neutrality.

The results of the supervision by the Gorontalo City Bawaslu will then be included in the Monitoring Result Report (LHP), then a study analysis will be carried out. If there are allegations of violations of ASN neutrality, the Gorontalo City Bawaslu will forward it to KASN via the SIAPNET application and then the ASN Commission will carry out

inspections and impose sanctions. In terms of imposing sanctions, KASN will continue to coordinate with the personnel management official, in this case the Regent of Gorontalo City, to determine follow-up steps. Then the PPK or Mayor will then follow up on the results of KASN's recommendations which will continue to be supervised and monitored directly by KASN and the Ministry of Administrative and Bureaucratic Reform. Imposition of sanctions considering the legal standards that have been established now, the burden of approval will be carried out by the approved authority or official. Regarding the position of imposing sanctions on state public officials, KASN continues to facilitate with the State Civil Apparatus, especially the Mayor of Gorontalo, Gorontalo in taking additional steps. The authorization given to ASN is not neutral according to the level of ASN violations. Where if ASN abuses the code of ethics, it will depend on managerial approval or good authority.

The form of supervision carried out by the Gorontalo City Bawaslu regarding the neutrality of ASN is that the Gorontalo City Bawaslu visits OPDs within the Gorontalo City Government, inviting ASNs to the Gorontalo City Bawaslu socialization activities.

The potential for violating ASN neutrality in elections and regional elections is somewhat different. The potential is greater in regional elections because the interests of regional heads and the bureaucracy are closer than in general elections, whether the executive or legislative are at the center, so conflicts of interest are still far away. Thus, the potential for abuse or mobilization of the State Civil Apparatus is actually greater in the regional elections. Moreover, if the incumbent runs, the potential for violating the neutrality of the State Civil Service is high, because ASN is also inseparable from political office. People who are products of political office who have the authority to give positions to ASN. Thus, interest friction in regional elections is greater when compared to general elections.

Bawaslu only has the authority to forward or recommend to the competent authority. Bawaslu forwarded it to MenPANRB and KASN through Bawaslu RI known to Bawaslu Gorontalo and Bawaslu RI. From the MenpanRB, Panwaslu was given a copy to give sanctions to those who were deemed to have violated the neutrality of ASN, namely Law Number 5 of 2014 concerning ASN. Gorontalo City Bawaslu does not know what kind of follow-up action has been taken by the authorized agencies to impose sanctions on ASNs who violate them. Bawaslu of Gorontalo City hopes that violations of ASN neutrality in the 2024 General Election in Gorontalo City will reduce or even not occur again.

Vulnerabilities and IKP implementation of monitoring the stages of updating voter data and voter lists, vulnerabilities in updating data and voter lists in the 2024 elections which are strategic issues related to voter lists including:

1. Matching and research were not conducted according to SOP;
2. There is still duplicity in the voter list;
3. The emergence of ineligible voters;
4. New voters who have not been accommodated in the DPT;
5. There were voters in one family who were then separated from where they voted after the polling stations were downsized by the Gorontalo City KPU.

On the other hand, the mapping of vulnerable polling stations which is carried out aims to prevent violations and fraud on voting day, provide basic TPS data to develop strategies to prevent suspected violations at the Tungsura stage and measure the level of knowledge and readiness of TPS supervisors in carrying out Tungsura supervision.

Vulnerabilities and IKP implementation of monitoring the campaign stages, Bawaslu City of Gorontalo before carrying out campaign monitoring detected more than what would occur in the Campaign Stages, the vulnerabilities that could occur during the stages were as follows:

1. Mobilization of ASN in the campaign

2. Use of state facilities in campaigning
3. The campaign was carried out in places of worship and educational institutions
4. Campaign is off schedule
5. Providing materials while campaigning (Money Politics)
6. Campaign material/content that is prohibited by law
7. Hoax and SARA issues
8. The implementer and/or team does not involve people who are prohibited by statutory regulations

#### 4. CONCLUSION

Authority analysis of the Election Supervisory Body in handling violations of the neutrality of the State Civil Apparatus in the implementation of general elections in Gorontalo City, it can be concluded that in carrying out the supervisory stages Bawaslu has carried out outreach with all ASNs, signed MoU agreements and met with every OPD in every sub-district and neighborhood in the area. Gorontalo City. However, every time Bawaslu elections are held, they still receive reports of alleged violations from members of Bawaslu supervisors and from the public that ASN has violated the relevant regulations regarding ASN Neutrality which results in tarnishing democracy. In terms of ASN neutrality, this arises because of the existence of inhibiting and supporting factors which can measure how far the successful role of Bawaslu in upholding the principle of ASN Neutrality in the 2024 Election in Gorontalo City.

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