



# IMPLICATIONS OF THE GOVERNOR'S ELECTION ON THE AUTHORIZATION OF REGIONAL PERSONNEL ADMINISTRATION IN REALIZING GOOD GOVERNANCE

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<p><b>Received:</b> 6<sup>th</sup> July 2023 <b>Accepted:</b> 6<sup>th</sup> August 2023 <b>Published:</b> 6<sup>th</sup> September 2023</p>	<p>This research aims 1) to carry out legal reform regarding the election of the Governor in relation to the Governor's authority in structuring regional personnel; 2) to produce a theory about the implications of gubernatorial election on the Governor's authority in structuring regional personnel in realizing good governance. The problem of appointing Civil Servants to structural positions is a very complex problem considering that these arrangements are regulated sporadically in Indonesian Legislation. For this reason, central and regional governments need to interpret these regulations appropriately and consistently. The research method used is the normative juridical research method and the approaches used are the statutory approach, conceptual approach and case approach. Analysis of the legal materials used in this research was carried out by interpreting, evaluating and assessing all statutory regulations and assessing relevant legal materials. The results of the research show that 1) Regulation of the authority of regional heads in personnel management means that there are regulations relating to the implementation of personnel management/ASN, the implementation of which is not further elaborated, but still refers to and is guided by old regulations, so that these changes have implications for the authority of regional heads in staffing management of the State Civil Apparatus (Regional Civil Servants); 2) The legal implications for the election of regional heads with the authority of the Governor in staffing arrangements are that appointments and transfers to Echelon II (JPT) are carried out effectively starting from correct planning based on analysis of employee needs as a result of proper workload analysis. and 3) Ideally, in staffing at the time of regional head elections to realize good governance as legal reform, the Indonesian system in every field of civil servant management lacks democracy, diversity and effectiveness than the Korean civil servant management system. For example, in the performance appraisal process there are no regulations for complaints of other opinions by civil servants, in terms of effectiveness, Indonesia lacks a system to guarantee effectiveness such as evaluation during work on JPT, salary limits, pensions and promotions for civil servants who are punished by discipline, and sanctions against civil servants who violate the wealth reporting obligations in Korea. Management arrangements for civil servants in practice are determined by the norms that underlie the regulations/laws of a country. The Korean case emphasizes legal certainty, accountability and efficiency, while the Indonesian case shows the weaknesses of these dimensions. Indonesia's emphasis on ethics that does not have implications for legal certainty can be explained by the inclusion of political considerations in the administrative realm.</p>

**Keywords:** Election of the Governor, Authority of the Governor, Arrangement of Regional Civil Service.

## INTRODUCTION

The government administration system in Indonesia is based on a systemic approach including the central government system and the regional government system. The practice of administering government in intergovernmental relations is known as the concept of centralization and decentralization. The concept of centralization shows the characteristic that all government affairs authority is in the central government, while the decentralization system shows the characteristic that some of the authority for government affairs is given to regional governments.

The concept of decentralization in the Indonesian government system is an option in the administration of regional government and has been regulated based on laws and other statutory regulations.

Since the first amendment in 1999, the 1945 Constitution of the Republic of Indonesia was carried out until the fourth amendment in 2002, there have been changes in the regional government system as stipulated in Chapter VI regarding Regional Government which was amended in the second amendment in 2000 where the regions given the authority to manage their own household affairs. Based on the principle of autonomy and assistance duties regulated by Law Number 23 of 2014 concerning Regional Government.

The implementation of autonomy is often associated with decentralization, which is often interpreted as the delegation or division of authority (power) from the central government to regional governments (local government). In this case, the definition of regional government can have two meanings. First, local state government which is based on the principle of deconcentration. Second, namely local self-autonomous government (Ashiddiqie, Jimly: 2007).

In Dutch literature, autonomy means "self-government (zelfregering)" which van Vollenhoeven divides into zelfwegeving (making laws yourself), zelfuitvoering (self-implementing), zelfrechtspraak (self-judgment) and zelfpolitie (acting alone) (Ashiddiqie, Jimly: 2007). Regional autonomy implements rights, obligations and responsibilities or regional authority to manage regional "household" (governance and development) in realizing the ideals and goals of autonomy.

The enactment of Law Number 23 of 2014, and Law Number 5 of 2014 concerning the State Civil Apparatus, is the basis for the arrangements for the implementation of personnel management/administration for Regional Civil Servants, especially matters in the field of personnel affairs which are decentralized to regions related to the authority of the Chief The Region as the Regional Civil Service Development Officer in terms of procurement, appointment, transfer and dismissal of Regional Civil Servants, has placed the role of the Regional Head very strategically considering that the regional head is a significant component for the success of national development, because regional government is a subsystem of national or state government.

Law Number 23 of 2014 concerning Regional Government does not contain provisions regarding the election of regional heads. The election of regional heads is determined separately in law. Regional head elections are regulated in Law Number 6 of 2020 concerning the Stipulation of Government Regulations in lieu of Law Number 2 of 2020 concerning the Third Amendment to Law Number 1 of 2015 concerning Stipulation of Government Regulations in Lieu of Law Number 1 of 2014 concerning the Election of Governors, Regents and Mayors become law, then the democratic pattern in the regions uses direct elections which completely changes the democratic pattern of regional heads which states that the election of regional head candidates and deputy regional head candidates is carried out in the plenary meeting of the Regional People's Representative Council (hereinafter abbreviated as DPRD) which is attended by at least two thirds of the DPRD members in the DPRD plenary meeting.

Direct regional head elections have various legal implications, such as a) direct regional head elections as strategic momentum in the development of regional autonomy and local democracy (H. Ismail MZ: 2014), preparation of regional development programs (Lukman Hakim: 2010), and implications gubernatorial election regarding the governor's authority in structuring regional personnel.

Discussing the implications of the governor's election for the governor's authority in structuring regional personnel means discussing the results of the regional head election and the manifestation of the governor's authority. Law Number 23 of 2014 concerning Regional Government as amended by Law Number 9 of 2015, Third Paragraph, Article 65 Paragraph (1) The Regional Head has task number 7, namely Carrying out other duties in accordance with statutory regulations (UU RI No. 23 of 2014 concerning Regional Government) and paragraph (2) in carrying out the duties as intended in Paragraph (1) in letter d the regional head has the authority to take certain actions in urgent situations which are really needed by the Region and/or the community and letter e, Carry out other authorities in accordance with statutory provisions.

Based on the description above, and supported by literature studies, it can be stated that the legal implications of direct regional head election in developing ASN careers are viewed from the perspective of: (a) Social State Civil Servants are; There is an impression/perception for ASN that the Regional Heads who are elected from direct elections always seem to have something to do with the support provided by civil servants (hereinafter abbreviated as PNS) to the Regional Head Candidates from the start of the campaign process up to the time of the election.

As a result, this has caused some civil servants/ASNs to feel worried when the regional heads who are elected later, in running the government, who of course use the human resources of their apparatus, will carry out a policy of selecting which human resources are more or less supportive and which are not. Even though it is expressly regulated in the Civil Service Regulations that civil servants in the Regional Head Election process must act neutrally and professionally. This means that whoever becomes the Regional Head elected through direct election is obliged by law to loyally carry out and support the programs and policies implemented by the Regional Head as long as they do not deviate from the provisions of the applicable regulations.

The results of the Direct Election of Regional Heads seem to be results that give great and absolute authority to the elected Regional Heads so that civil servants/ASN feel compelled to provide support without reserve even though sometimes there are many things that are not in accordance/in line with the provisions of laws and regulations. in implementing its programs and policies. Not to mention the supporting environment of the elected Regional Head who also plays a role in organizing and providing suggestions both directly and indirectly to SOPD ranks, so that ASN/PNS/SOPD Leaders feel that they have a burden and influence the tasks that should be carried out/carried out

properly. . There is a social gap for ASN/PNS due to the large authority of the Regional Head as a result of the direct election process, where in reality and in fact the Regional Head provides and provides special facilities to his loyal supporters in the form of housing, vehicles and other facilities which are not in accordance with its designation according to regulations in regional asset management. Because the supporter is not an ASN, but only an individual/private sector, even the facilities provided exceed reasonable standards. (b) Judging from the economic aspect of the State Civil Apparatus, income as long as it is sourced from salaries and allowances is relatively still in accordance with the provisions of the laws and regulations regarding salaries and allowances for attached positions, and the reference for the amount of regional allowances in particular still uses the previous Gubernatorial Regulation. However, for the payment of honorarium for activities within the SOPD scope, in the current year a policy of no honorarium for activities was implemented because it was considered that the activity was an inherent task for the implementer. It's just that in implementing this policy there is still a hidden financial burden required on SOPD through activities at PPTK, including to cover the appointment of Special Staff for Regional Heads who come from various Institutions/Private Parties and individuals whose Honorarium/allowances are charged to several SOPD through deductions. official travel costs for ASN who are on regular duty every month.

Economically, this certainly reduces the income of the ASN concerned. Likewise, there are many appointments of contract workers in several SOPDs without going through an analysis of manpower needs, thus burdening the regional budget in providing the honorarium budget for contract workers. Likewise, there were unilateral terminations in several SOPD of contract/honorary workers who had served/worked for a long time (some were 5 years old) unilaterally by the Head of SOPD who felt close to the Regional Head, so they took arbitrary actions without going through a proper process in terminating SDM (Without warning). (c) In terms of culture are; Because the directly elected Regional Head feels that he has absolute authority even though it often conflicts with the provisions of the staffing rules, the policies carried out in the context of developing ASN careers in structural positions are too frequent mutations/rotations within the scope of the Provincial Government SOPD where in a year up to 4 (four) mutations, from the cultural aspect of ASN, it worsens the motivation and work ethic of the apparatus, because it causes uncertainty about the existence of duties and responsibilities in a relatively short period of time and makes it difficult to evaluate the performance of the apparatus. This also makes the ASN work culture down and work sober because of the notion that the positions held are only temporary in a short time. More extreme is that there is an issue that is developing among ASN where in order to be able to maintain a lasting position or obtain a strategic position one must be good at personal approaches through people close to the Regional Head, and be able to accommodate certain interests requested, even to the point of influencing the work process in terms of procurement of goods and services in SOPD. The occurrence of various legal implications related to the election of regional heads on the authority of the Governor in managing regional personnel has indicated the existence of legal problems regarding this matter.

This dissertation research is at the level of legal philosophy, so the legal issues must adhere to legal principles. To be able to understand issues related to legal principles, it is necessary to first explain the meaning of legal principles. J.H.P Bellefroid stated that generally accepted legal regulations can be tested by basic rules. These basic rules do not need to be tested again. Above these basic rules there are no more rules. These basic rules are called legal principles.

These legal principles appear to the surface through legal rules. In every legal rule the legal principles can be traced. Legal principles have an important meaning for the formation of law, the application of law, and the development of legal science. For legal formation, legal principles provide an outline of the provisions that need to be stated in legal regulations. In the application of law, legal principles are very helpful for the use of interpretation and discovery of law and analogy. As for the development of legal science, legal principles are useful, because in legal principles various legal rules can be shown which at a higher level actually form a unity. For this reason, research on legal principles has very important value both for the world of academia, lawmaking and judicial practice.

In connection with the implications of the governor's election on the Governor's authority in structuring regional personnel, the emergence of problems at the legal dogmatic level in the form of regulation of competency and professional aspects in the context of realizing Good Governance and realizing quality, efficient and effective public services within the framework of the Governor's authority regarding regional personnel structuring the facts are not yet clear and firm. This issue leads to issues in the scope of legal philosophy related to the ideals of regional heads who have strong capacity, integrity and commitment and are legitimate in the eyes of the community and the principle of legal certainty.

In connection with the application of the principles of regional heads who have strong capacity, integrity and commitment and are legitimate in the eyes of the community, it cannot be found in the practice of the Governor's authority in regional staffing arrangements because conceptually, the Governor's authority is part of the implementation of delegation and attribution authority (Supriadi: 2014) , which is a delegation of authority from the President to the Governor.

Furthermore, the application of the principle of legal certainty. Regarding legal certainty, Van Apeldoorn puts forward 2 (two) meanings:

1. Legal certainty means that it can be determined what law applies to a particular problem.

According to Rescou Pound, legal certainty allows for 'predictability' (something that can be predicted), and is in line with Holmes's opinion "The prophecies of what the courts will do in fact and nothing more pretentious are what I mean by law." However, according to Apeldoorn, this is not always the case, because in reality the judge also gave a different decision than what was suspected by law seekers.

2. Legal certainty means legal protection, in this case protection from arbitrariness in judgment.

Based on this opinion, it is at the same time a weakness of Alperdoorn's opinion regarding Holmes's thoughts, because even though judges can interpret legal regulations and even have discretion when it is necessary to make laws, this is still limited by the existence of concrete regulations that apply to the matter. Justice, as well as legal arguments, must be built based on applicable legal provisions, not outside legal provisions. Decisions born from arguments built outside legal provisions will give rise to legal uncertainty. On the other hand, decisions that are born from arguments based on law will create legal certainty but may cause legal injustice.

The application of the principle of legal certainty was not carried out due to the occurrence of various events in the regions related to staffing arrangements. This case is exemplified by the case that occurred in South Kalimantan Province.

The dimensions of the impact of the Regional Head's policy aimed at 19 Senior Echelon 2 Officials in the South Kalimantan Provincial Government are as follows: (a) Public Problems and the people involved, namely; With the dismissal of SOPD leaders/second echelon structural officials in several SOPD and Bureaus at the Regional Secretariat of South Kalimantan Province in early January 2017 on a large scale (approximately 28 people) which was carried out unilaterally by the Governor based on the results of the KASN Evaluation in the Monitoring Results Report and Letter Recommendation number: B-544/KASN/2/2017, dated 20 February 2017, regarding Recommendations on Complaints, signed by the Chairman of the State Civil Apparatus Commission, Sofian Effendi, proving that there was a violation in the dismissal from the position of Primary High Leader in filling regional apparatus as regulated in Government Regulation number 18 of 2016, and has also deviated from the Letter of the Minister of Administrative and Bureaucratic Reform of the Republic of Indonesia number: B/3116/M.PANRB/09/2016, dated 20 September 2016, regarding Filling High Leadership Positions within the Provincial and Regency Governments/ The city is related to the implementation of Government Regulation Number 18 of 2016 concerning Regional Apparatus, in this case the Governor of South Kalimantan to review his Decree regarding the dismissal of Primary High Leadership Officials and recommended that they be returned from certain Functional Positions to Structural/JPT Pratama positions (Suhardjo: 2019 ).

The problem above is rooted in the position and role of the newly inaugurated Governor-elect, who is not allowed to replace officials within the provincial government he leads within a period of six months from the date of inauguration. The governor who has just been inaugurated is also not allowed to replace high-ranking officials for two years after his inauguration.

This was emphasized by the Minister of State Apparatus Empowerment and Bureaucratic Reform (PANRB) Yuddy Chrisnandi in Circular Letter No. 02/2016 concerning Replacement of Post-Election Officials. A copy of the Circular Letter was sent to the President, Vice President and Minister of Home Affairs. The circular was issued to remind regional heads of the results of the simultaneous regional elections who were recently appointed. This needs to be done for continuity and to guarantee the career development of State Civil Apparatus (ASN) in each region.

The circular refers to two laws. First, Law Number 8 of 2015 concerning Amendments to Law Number 1 of 2015 concerning the Determination of Perpu Number 1 of 2014 concerning the Election of Governors, Regents and Mayors becomes law, especially Article 162 Paragraph (3) which determines: "Governor , Regent or Mayor are prohibited from replacing officials within the Provincial or Regency/City Government within a period of six months from the date of inauguration."

The second law, is Law Number 05 of 2014 concerning ASN, specifically Article 116 Paragraph (1) which stipulates: "Personnel Development Officials (PPK) are prohibited from replacing High Leadership Officials for two years from the inauguration of High Leadership Officials, unless "The official violates the provisions of the laws and regulations and no longer fulfills the specified office requirements." According to Paragraph (2), the replacement of key and middle level senior leadership officials can be carried out after obtaining approval from the President.

The problem of appointing Civil Servants to structural positions is a very complex problem considering that these arrangements are regulated sporadically in Indonesian Legislation. For this reason, central and regional governments need to interpret these regulations appropriately and consistently. Reflecting on Government Regulation Number 11 of 2017 concerning Management of Civil Servants as amended by Government Regulation Number 17 of 2020 concerning Amendments to Government Regulation Number I1 of 2017 concerning Management of Civil Servants, it also explains that Civil Servants who will or occupy structural positions must attend and pass leadership education and training in accordance with the competencies specified for the position. From this it is clear that the requirements for appointing Civil Servants to structural positions are truly realized and consistent.

In the organizational structure of regional work units (SKPD), selection for the appointment of structural officials should go through objective assessment stages. The full authority of regional heads in appointing structural officials can be seen from the formation of the Position and Rank Advisory Board Team (Baperjakat) which is tasked with taking an inventory of employees who have the qualifications to occupy certain positions and making recommendations to regional heads. His position as regional head has the right to approve or reject proposals from the Baperjakat team. Phenomena of this kind often become the discretion of the regional head's policies if they cause contradictions or polemics. The Governor, Regent or Mayor has absolute power to regulate employees who will help carry out their duties, as well as the right to dismiss employees who they deem less capable or less supportive of their policies. The meaning of discretion according to Gayus Lumbuun, member of Commission III of the DPR, "is a policy from an official which essentially allows a public official to carry out a policy that violates the law, with three conditions, namely, that it is in

the public interest, is still within the limits of their area of authority, and does not violate General Principles Good Governance" (Hukumonline: 2012).

The discretionary authority granted by Law Number 30 of 2014 concerning Government Administration is often misinterpreted because in practice promotions and job transfers often escape these norms and are fraught with the pressure of conflicts of interest. To obtain a position and opportunity to develop, a Civil Servant is faced with opportunities that are contested in a less professional manner and this is now commonplace in bureaucracy. The regional head's authority constitutes legal power to defend his policies with the assumption of discretion as a manifestation of his rights so that if a polemic arises over the transfer of structural officials, the regional head cannot be intervened by certain parties. In some regions, in fact, up to now there is still uncertainty regarding the consideration of the appointment of Civil Servants in structural positions, for example, the appointment of Echelon II to Echelon IV officials is still not in accordance with the applicable laws and regulations, for example the incompatibility of education with the new position of a Civil Servant, the incompatibility of experience in the old position with the new position, there are even Civil Servants who have taken leadership education, but have not yet received a position. In addition, the presence of officials with non-job status causes them to lose their position, and at the same time do not have a clear job.

This is what often causes personnel problems, including feelings of dissatisfaction with the officials who are appointed because they feel that the appointment is unfair. This feeling of dissatisfaction often results in a decrease in the level of work ethic with the official concerned so that in the end the work which is the joint responsibility of the employee concerned and the official results in poor results. Apart from that, there is also a sense of dissatisfaction from these Civil Servants, which ultimately reduces employee work performance, resulting in the running of government in the regions in order to prioritize public services not run as effectively and efficiently as expected by the public. Seeing this situation, there has been a lot of speculation, that in appointments to positions there tends to be an impression of political factors, relatives, family, and so on. Responding to issues regarding filling structural positions that occur within regional government, regional heads through the Personnel and Human Resources Development Agency (BKPSDM), previously known as the Regional Personnel and Training Agency, are expected to be able to play their role so that the process of appointing structural positions can minimize subjectivity that still occurs today so that good governance can be created, including the implementation of public services.

There are various problems in regional personnel management. Future policies related to echelons and structural levels of positions should also be regulated in statutory regulations. The mechanism for appointing regional government officials is left entirely to the Governor, Mayor or Regent as regional heads who have full authority in appointing and appointing officials. or his assistant. Ideally, to become a professional employee in accordance with the position analysis, every Civil Servant should have started to be directed from the moment of procurement based on the expertise they have in a particular position.

Based on the descriptions above, there are various laws and regulations related to the election of the governor, the authority of the Governor in structuring regional personnel as described above. This is the background for the author to discuss in more depth the legal concept and the relationship between gubernatorial election and the governor's authority in personnel management. The author is interested in research in the form of a dissertation proposal with the title "Implications of the Election of Governors on the Authority to Arrange Regional Personnel in Realizing Good Governance".

### RESEARCH METHODS

This research focuses on examining how the regional head's authority is regulated in staffing arrangements, what are the legal implications for the election of governors with the Governor's authority in staffing arrangements and how ideally to determine the Governor's authority in staffing arrangements during the governor election to realize good governance as legal reform. Meanwhile, the method used in writing this research is a normative legal research method. Normative legal research is one of the most research conducted by students, both undergraduate, masters, and doctoral students. This is because this research can only be done in the workplace, without bothering to dig up data that comes from the community. The term normative legal research comes from English, namely normative legal research, in Dutch it is called *normatieve juridisch onderzoek*, while in German it is called *normative juristische recherche* (Salim HS: 2013).

Normative legal research is library research that examines literature or secondary data and primary data by studying written sources or materials in the form of books, articles, newspapers and magazines by reading, interpreting, comparing and translating from various sources related to election implications. governor on the authority of the Governor in managing regional staffing in realizing good governance, the method used is the normative juridical research method which is a typical research of law. The approach used in this research consists of a statute approach, a comparative approach, a conceptual approach, and a case law approach (Peter Mahmud Marzuki: 2014).

Legal material is the basic material that will be used as a reference or basis for writing this research. The legal materials used in writing this research are primary, secondary and tertiary legal materials. "Primary legal material is legal material that is authoritative, meaning legal material that has authority" (Peter Mahmud Marzuki: 2014). Primary legal materials consist of statutory regulations, official records or treatises in the making of statutory regulations and state administrative decisions. Secondary legal materials are legal materials that provide an explanation of primary legal materials. The secondary legal materials used to provide an explanation of the material contained in the primary legal materials are derived from several literatures, legal books including legal theses, theses and dissertations, legal journals, legal dictionaries, and commentaries. on court decisions and other books that are directly related to the theme of this

research. The use of secondary legal materials is "to provide researchers with a kind of "guide" in which direction researchers are moving" (Peter Mahmud Marzuki: 2014). This secondary legal material is an aid in writing this research.

In this study, the deductive analysis method was used, namely the analytical method by conducting an analysis of laws and regulations related to the formulation of the problems contained in this research and then correlated with several principles and theories which became the basis or analytical knife in writing this research as a step to find conclusions/conclusions, solutions and ideal conceptions about the things being discussed.

### RESEARCH RESULT

#### 1. Regulation of the Governor's authority in managing personnel during the gubernatorial election.

The arrangement of the Governor's authority as well as the Civil Service Development Officer (PPK) in the regions in staffing arrangements has been regulated in various laws and regulations in Chapter V of Regional Civil Service Articles 129, Article 130 and Article 132 of Law Number 32 of 2004 concerning regional government and then after replaced by Law Number 23 of 2014 concerning Regional Government, there have been fundamental changes, especially those related to the management/administration of regional civil servants, and it turns out that there is not a single article that regulates the implementation of affairs in the field of personnel management for State Civil Apparatus Employees in areas where it turns out that this arrangement is explicitly regulated in Law Number 5 of 2014 concerning the State Civil Apparatus which regulates the authority of the Governor in carrying out personnel management/ASN, specifically regarding the Transfer of Civil Servants regulated in Article 73 of Law Number 5 of 2014 concerning State Civil Apparatuses which are the authority possessed by the Governor as PPK while taking into account the application of the principle of decentralization and the principle of delegation or delegation of authority from the central government to officials in the regions to carry out elements of government in the regions until the term of office of Governor ends;

#### 2. The Governor's authority in managing personnel during the gubernatorial election period can create good governance.

The regulation of the Governor's authority in managing staffing during the gubernatorial election period has not been able to realize good governance, this is because it is limited by the existence of Article 71 paragraph (2) of Law Number 10 of 2016 concerning the Second Amendment to Law Number 1 of 2015 concerning Stipulation of Substitute Government Regulations Law Number 1 of 2014 concerning the Election of Governors, Regents and Mayors Becomes Law (UU Pilkada) which says "Governors or Deputy Governors, Regents or Deputy Regents, and Mayors or Deputy Mayors are prohibited from replacing officials 6 (six) months before the date of determination of pairs of candidates until the end of the term of office unless written approval is obtained from the Minister", even though the provisions of Article 73 paragraph (2) of the ASN Law explicitly state that "Mutations of PNS in a Central Agency or Regional Agency are carried out by Personnel Development Officials", so that the implementation Article 71 paragraph (2) of the Pilkada Law raises a conflict of norms and reduces the authority of the Governor as PPK in managing staffing, so that the regulation of the rotation, transfer, promotion and supervision system for alleged ASN who plays practical politics ahead of the Pilkada causes the authority to be reduced by up to 6 (six) months his term of office which resulted in the obstruction of the implementation of governance until the end of his term and the failure to realize good governance starting from 6 months before the local elections and 6 months after the regional elections.

#### 3. The governor's authority in staffing arrangements during the gubernatorial election period is to realize good governance as legal reform.

Regulating the authority of the Governor in managing staffing during the gubernatorial election period to realize good governance as legal reform must be carried out because the application of the norms of Article 71 paragraph (2) of the Election Law is not appropriate and relevant to be applied to the Governor as a Personnel Development Officer on the basis of the argumentation as First, by authority based on Article 73 paragraph (2) of Law Number 5 of 2014 concerning ASN explicitly states that the Governor has the authority to carry out "PNS Transfers in a Central Agency or Regional Agency carried out by Personnel Development Officials". Second, based on the RDP DPR RI with Bawaslu, Government, KPU and DKPP with the simultaneous post-Election Evaluation agenda on Tuesday, February 3 2016 it is clear that what is at issue is the use of government programs for campaign purposes which are prone to misuse. As for the transfer of civil servants, there are already strict regulations in the ASN Law. Third, the rampant allegations of civil servant involvement in practical politics ahead of the regional elections, it is necessary to carry out continuous staffing development which is the responsibility of the Governor as a Civil Servant Supervisor, so that if civil servants are found who are not neutral during the election agenda, the governor as PPK can apply sanctions to ASN as a form of development carried out by the governor for ASN. Fourth, with the Merit system, it answers all questions about the transfer and appointment of ASN because it is based on achievement, not the subjectivity of PPK due to planning problems in procuring ASN employees supervised by the ASN Commission (hereinafter abbreviated as KASN). Fifth, the availability of law enforcement facilities in the field of staffing if there are ASN Employee Disputes which can be resolved through administrative efforts and the State Administrative Court. Administrative efforts consist of objections and administrative appeals. Objections are submitted in writing to the superior of the official authorized to punish, stating the reasons for the objection and a copy of which is submitted to the official authorized to punish. An administrative appeal is submitted to the State Civil Apparatus Advisory Board. If

administrative efforts have been carried out and there is no settlement, it can be tested at the State Administrative Court. Sixth, the implementation of Article 71 paragraph (2) of the Regional Election Law is not properly implemented in the implementation of PNS Management carried out by the Governor as PPK which in fact is carrying out orders from the ASN Law, so that the authority of the Governor as PPK as stipulated in Article 73 paragraph (2) is an absolute authority that cannot be reduced by other regulations because the transfer of civil servants is part of staff development which is the obligation and authority of the governor as PPK, so special legal provisions apply that override general law or *lex specialist derogat legi generalis* so that good governance does not materialize ( Good governance).

#### 4. Advice

- a. There are various problems in regional personnel management. Future policies related to echelons and structural levels of positions should also be regulated in statutory regulations. The mechanism for appointing regional government officials is left entirely to the Governor, Mayor or Regent as regional heads who have full authority in appointing and appointing officials. or his assistant. Ideally, to become a professional employee in accordance with the position analysis, every Civil Servant should have started to be directed from the moment of procurement based on the expertise they have in a particular position.
- b. In responding to issues regarding filling structural positions that occur within regional government, regional heads through the Personnel and Human Resources Development Agency (BKPSDM), previously known as the Regional Personnel and Training Agency, are expected to be able to play their role so that in the process of appointing structural positions can minimize the subjectivity that still occurs today so that good governance can be created, including the delivery of public services.
- c. In order for the DPR RI and the Government to revise article 71 paragraph (2) of the Regional Election Law because the application of the norms of article 71 paragraph (2) of the Regional Election Law is not appropriate and relevant to apply to the Governor as a Personnel Development Officer because it is contrary to Article 73 paragraph (2) of the Law Number 5 of 2014 concerning ASN explicitly states that the Governor has the authority to carry out transfers of civil servants within a Central Agency or Regional Agency by the Civil Service Development Officer, therefore by revising and revoking or canceling the implementation of Article 71 paragraph (2) of the Regional Election Law, it will restore The authority of the Governor as PPK in the region to organize and develop personnel in accordance with the provisions of Article 73 of the ASN Law so that the Governor can realize the creation of good governance.

## CONCLUSION

The results of the research show that 1) Regulation of the authority of regional heads in personnel management means that there are regulations relating to the implementation of personnel management/ASN, the implementation of which is not further elaborated, but still refers to and is guided by old regulations, so that these changes have implications for the authority of regional heads in staffing management of the State Civil Apparatus (Regional Civil Servants); 2) The legal implications for the election of regional heads with the authority of the Governor in staffing arrangements are that appointments and transfers to Echelon II (JPT) are carried out effectively starting from correct planning based on analysis of employee needs as a result of proper workload analysis. and 3) Ideally, in staffing at the time of regional head elections to realize good governance as legal reform, the Indonesian system in every field of civil servant management lacks democracy, diversity and effectiveness than the Korean civil servant management system. For example, in the performance appraisal process there are no regulations for complaints of other opinions by civil servants, in terms of effectiveness, Indonesia lacks a system to guarantee effectiveness such as evaluation during work on JPT, salary limits, pensions and promotions for civil servants who are punished by discipline, and sanctions against civil servants who violate the wealth reporting obligations in Korea. Management arrangements for civil servants in practice are determined by the norms that underlie the regulations/laws of a country. The Korean case emphasizes legal certainty, accountability and efficiency, while the Indonesian case shows the weaknesses of these dimensions. Indonesia's emphasis on ethics that does not have implications for legal certainty can be explained by the inclusion of political considerations in the administrative realm.

## AWARD

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