

Topic: Human Right Issues of Artificial Intelligence (AI) Gaps and Challenges, and Affected Future Legal Development in Various Countries

Law Enforcement of The Neutrality of The State Civil Apparatus in The Implementation of Elections in The Perspective of Dignified Justice

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Abstract. *The phenomenon of violations of the neutrality of the State Civil Apparatus in general elections in Indonesia often occurs every annual democratic party. These violations occur due to weak law enforcement of legal structure, legal substance, and legal culture regarding general elections. This research aims to understand the neutrality arrangements of the State Civil Apparatus in general elections interpreting existing legal norms. This research method uses normative juridical method through literature study and legislation. Violations can be avoided by improving the legal system regarding General Elections in Indonesia. Starting from the regulation of elections and election neutrality, there is a synergy between institutions, the General Election Commission (KPU), the Election Supervisory Agency (Bawaslu) which is also tasked with overseeing the neutrality of the State Civil Apparatus. As well as public participation in upholding the law in the running of democracy in an honest, transparent, fair manner, so as to create dignified justice in the holding of elections in Indonesia.*

Keywords: *Dignified Justice; General Election; State Civil Apparatus Neutrality.*

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1. Introduction

Of the various rights of citizens recognised by the state through the 1945 Constitution of the Republic of Indonesia, there is one right that has come to be known as the political rights of citizens. Article 28E paragraph (3) of the 1945 Constitution states that the state guarantees every person to be able to associate, gather, and express opinions. The existence of Article 28E paragraph (3) of the 1945 Constitution of the Republic of Indonesia is a form of state recognition of the existence of political rights which are the constitutional rights of Indonesian citizens. Political rights are in principle rights that are universally recognised by countries in the world based on democratic values.

The Unitary State of the Republic of Indonesia as a democracy is a direct mandate from the provisions of Article 1 paragraph (2) of the 1945 Constitution of the Republic of Indonesia. In order to implement the principles of democracy, a state is obliged to establish institutions that support the implementation of the principles of democracy. There are institutions that have functions and duties in order to implement all the principles of democracy in question, including (1) the existence of a responsible government; (2) the existence of a House of Representatives elected through general elections; (3) the existence of political parties; (4) the existence of an independent press and mass media; and (5) the existence of an independent judicial system to guarantee human rights and defend justice.

The neutrality of organising elections is very necessary in maintaining the spirit of a healthy, honest and fair democracy. However, the implementation of elections in Indonesia often occurs fraud - fraud occurs in various elements. as in Article 3 of Law No. 7 of 2017 concerning Elections that organise elections, election organisers must carry out elections based on the principles referred to in Article 2 and their implementation must fulfil the principles of independence, honesty, fairness.¹

Law No. 7/2017 on Elections defines the Election Organiser as an institution that organises elections consisting of the General Election Commission, the Election Supervisory Board, and the Honorary Board of Election Organisers as a unified function of organising elections to elect members of the House of Representatives, members of the Regional Representatives Council, the President and Vice President, and to elect members of the Regional Representatives Council directly by the people. The challenge occurs in the neutrality of elections. The organisers who should not intervene in the freedom of the people.

¹ Article 3 of Law No 7 Year 2017 on Elections
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the right to vote but there are indications of directing one particular candidate from the organisers. This threatens democracy in Indonesia. ASN in the Indonesian Legal System is not allowed to show its support freely to candidates who are competing in the General Election and even directly participate in the Election campaign stage.

In addition, as long as a person is still an ASN, he/she is not allowed to run for election unless the ASN declares his/her resignation as an ASN. Even though an ASN still has the right to vote in the General Election, the limitation to be able to participate in other stages of the Election, such as registering as an election participant or being involved in the election campaign stage is a form of obstacle for ASN to exercise its political rights to associate, assemble and express opinions.² Based on the news, Bawaslu identified mobilisation and/or directing voters' choices as one of the problems. According to Bawaslu member Lolly Suhenty, there were incidents involving voters visiting 2,632 polling stations (TPS) to exercise their voting rights. Success teams, voters, and election organizers were the offenders who allegedly organised and/or directed decisions. The most popular locations for mobilisation and/or decision-making were: Central Java to West Java, East Banten DKI Jakarta Lampung North Sumatra South Sumatra Yogyakarta Special Region Riau. Bawaslu also found money politics during mass mobilisation and/or decision-making. When other residents reminded the perpetrators, they made a scene instead. Luckily, the Election Supervisory Committee (Panwaslu) was informed of the money politics by the polling station supervisor at that location.³

Ihsan Maulana, a researcher at the Association for Elections and Democracy (Perludem), regretted the light sanctions imposed on the Head of the SMP Division of the Education and Culture Office of Medan City, Andy Yudistria, and five other people. The Medan City Government only gave ethical sanctions in the form of a reprimand, even though the six were proven to have violated neutrality as state civil servants (ASN). So do not be surprised if many ASNs are found who are not neutral during the election.⁴ Indonesia needs to clean up to restore democracy to the public, establish alternative institutions that are independent, and also dare to tidy up three crucial laws, namely the Election Law, the State Civil Apparatus Law, and the Presidential Institution Law.⁵

² Vanesa Ajeng Ayu Ningtyas, Neutrality of the State Civil Apparatus in Elections Between Political Rights and Obligations to Implement Good Governance, Binamulia Hukum Vol 10 No 1 July 2021, p 17

³ <https://www.kompas.com/tren/read/2024/02/19/100000065/bawaslu-temukan-19-masalah-dalam-election-2024-following-the-details>, accessed 2024

⁴ <https://koran.tempo.co/read/nasional/487156/apa-saja-temuan-asn-tak-netral>, accessed 29/04/2024

⁵ <https://www.kasn.go.id/id/publikasi/ratusan-asn-langgar-netralitas-jelang-pemilu-lebih-sistemik-and-decisive> Law Enforcement of The Neutrality of The State Civil Apparatus in The Implementation of Elections in The Perspective of Dignified Justice

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The implementation of the General Election still found various problems related to the State Civil Apparatus (ASN) which is the executor of the bureaucracy and refrain from actively participating in practical politics in their duties so that ASN can do their work more focused and professional.⁶

For these violations, there was injustice, dishonesty, and impartiality in the organisation of the elections. So that Indonesia is far from being a democratic country. Neutrality becomes injustice, so Indonesia should uphold the existing legal system in order to create dignified justice as a goal of the election itself.

2. Research Methods

This research uses the normative juridical method, research that examines laws and regulations, and library materials with an emphasis on positive legal norms. In this research, distinguishing primary and secondary legal materials are two categories that form the basis for the division of research data. Furthermore, the data obtained will be evaluated using the interpretation method to describe and explain the meaning and consequences of the legal material. So that researchers can obtain a comprehensive understanding of the legal context through the process of analysis, from where the data is obtained to conclusions relating to the legal context under study.

3. Results and Discussion

3.1. Neutrality and Prohibition of State Civil Apparatus Engaging in Practical Politics

There are at least two ways for government employees to engage in practical politics during elections, which can compromise their impartiality and independence. These include: First, specifically: in local elections, government employees overtly or covertly assist local candidates by forming "success teams." become supporters of local candidates (success teams) in local elections. Second, government employees participate in the campaigns of political candidates. When government employees Supporting or becoming a success team for one of the candidates in the local elections is one way for them to get involved in practical politics without having to become an organiser or member of a political party that is a contender in the local elections. This is done in public or in private.⁷

⁶ Amir and Hertanto, Neutrality of State Civil Apparatus in Simultaneous Elections in 2024, Journal Publicuho, Volume 6 Number 2 (May - July 2023),

⁷ Rahmat Bagdja, ASN Neutrality: Problematics and Contemporary Studies, p 10
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Data shows that in the 2019 General Election there were 732 (seven hundred and thirty-two) cases of ASN neutrality. Violations through social media, namely 66 (sixty-six) cases, ASN attending declarations of support for election participants as many as 8 (eight) cases, engaging in campaigns and holding activities that show partiality as many as 8 (eight) cases, mobilisation of others to support election participants as many as 4 (four) cases.⁸

In the 2020 Pilkada as of 27 September 2020, Bawaslu has found 700 (seven hundred) cases and received reports of 61 (sixty-one) cases. Of the 761 (seven hundred and sixty-one) alleged violations, the highest trend of violation of ASN neutrality is ASN providing support through social media or mass media as many as 252 (two hundred and fifty-two) recommendations. Furthermore, ASN conducts.⁹

Reports of violations of ASN neutrality to KASN ahead of the 2024 General and Regional Elections show an increasing level of carelessness. Certain ASNs showed partiality to one of the candidate pairs by utilising bureaucratic resources, regulatory engineering, budget allocations, mobilisation of human resources, program assistance, and use of facilities and infrastructure.

State Civil Apparatus (ASN) is a profession for Civil Servants (PNS) and Employees with Work Agreements (PPPK) who work in government agencies.¹⁰ Meanwhile, a person who fulfils certain qualifications and is appointed as a permanent ASN employee by a civil service official to occupy a government position is known as a civil servant.¹¹

This is related to the ASN neutrality guidelines and the discussion of the prohibition of ASN in politics. This indicates that no ASN employee supports a struggle other than the struggle of the nation and state and does not take an influential position.¹² Furthermore, Article 9 paragraph (2) of the ASN Law explicitly states that ASN employees must be free from the influence and intervention of all groups and political parties.

⁸ Indrawan Susilo Prabowoadi et al, Neutrality of the State Civil Apparatus in the Perspective of Elections and Pilkada, Edition III Volume 2 Number 2 - November 2020 | IUS CONSTITUENDUM Journal 127

⁹ Indrawan Susilo Prabowoadi et al, Neutrality of the State Civil Apparatus in the Perspective of Elections and Pilkada, Edition III Volume 2 Number 2 - November 2020 | IUS CONSTITUENDUM Journal 127

¹⁰ Article 1 point 1 of Law Nomor 20 of 2023 concerning the State Civil Apparatus

¹¹ Article 1 Point 3 of Law Number 20 Year 2023 concerning ASN

¹² Article 2 Letter F of Law Number 20 Year 2023 concerning ASN

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In essence, then, an efficient government bureaucracy is necessary to fulfil the mission of the Preamble of the 1945 Constitution to establish an Indonesian State Government. In order to realise transparent, efficient, democratic and trustworthy governance, the government has launched an action plan. To realise this, ASN is required to be the main driving force of a bureaucracy that is impartial, neutral, and free from political interference. In addition, ASN must also be able to provide high-quality public services and act as an adhesive to the integrity and unity of the nation based on Pancasila and the 1945 Constitution.¹³

After you know the prohibition of ASN actively participating in politics, you must pay attention to the SKB Neutrality of ASN which regulates the neutrality of ASN in elections. Furthermore, ASN carries out activities posting, commenting, sharing, liking, joining, or following groups or accounts of winning presidential and vice presidential candidate pairs, DPR, DPD, DPRD, governors, deputy governors, regents, mayors, or deputy mayors violates Article 9 paragraph (2) of the ASN Law and Article 5 letter n number 5 of PP 94/2021 which regulates disciplinary penalties.¹⁴

Article 5 letter of Government Regulation of the Republic of Indonesia Number 94 of 2021 concerning Discipline of Civil Servants¹⁵ Providing support to candidates for President/Vice President, candidates for Regional Head/Vice Regional Head, candidates for members of the House of Representatives, candidates for members of the Regional Representative Council, or candidates for members of the Regional Representative Council by:

1. participate in the campaign; 2. become a campaign participant by using party attributes or civil servant attributes; 3. as a campaign participant by mobilising other civil servants; 4. as a campaign participant by using state facilities; 5. make decisions and/or actions that benefit or harm one of the candidate pairs before, during, and after the campaign period; 6. conducting activities that lead to partiality towards candidate pairs who are election participants before, during, and after the campaign period including meetings, invitations, appeals, calls, or providing goods to civil servants within their work units, family members, and the community; and/or 7. providing letters of support accompanied by photocopies of Identity Cards.

¹³ <https://www.hukumonline.com/klinik/a/aturan-larangan-asn-berpolitik-dan-asas-netralitas-lt5c5a830e48153/>, accessed 03/05/2024

¹⁴ <https://www.hukumonline.com/klinik/a/aturan-larangan-asn-berpolitik-dan-asas-netralitas-lt5c5a830e48153/>, accessed 03/05/2024

¹⁵ Article 5 letter of Government Regulation of the Republic of Indonesia Number 94 of 2021 concerning Civil Servant Discipline

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Furthermore, there are various levels and types of disciplinary punishment. The level of disciplinary punishment consists of: a. light disciplinary punishment; b. moderate disciplinary punishment; or c. severe disciplinary punishment.¹⁶ For civil servants who violate the provisions of the a b o v e prohibition, the punishment is The severe discipline imposed consists of:¹⁷ First, demotion to a lower level for 12 months; Second, release from his position to an acting position for 12 months; and Third, honourable dismissal not at his own request as a civil servant.

Apart from disciplinary violations, civil servants are also considered to have violated the code of ethics in Article 11 letter c of PP 42/2004, namely ethics towards themselves which includes avoiding conflicts of personal, group or group interests. The sanction for violating the code of ethics is a moral sanction made in writing and stated by the Civil Service Supervisory Officer, either in the form of a closed or open statement. Then, in giving moral sanctions, the type of violation of the code of ethics committed by civil servants must be stated. This is regulated in Article 15 of PP 42/2004.¹⁸

Government Regulation is the body that establishes the code of ethics and esprit de corps of civil servants. Government Regulation No. 42/2004 relates to the Code of Ethics and Corps Spirit of Civil Servants. The rationale behind the issuance of this regulation, which is also an implementing regulation of the ASN Law, is the belief that a strong, cohesive, and united civil service can be realised through fostering the corps spirit of civil servants, including a code of ethics, as well as having high sensitivity, resilience, and solidarity as part of the state apparatus and public servants.

Article 11 letter c of the Government Regulation on the Corps Spirit and Code of Ethics for Civil Servants states that in terms of ethics towards themselves, civil servants must avoid conflicts of personal, group or group interests. So civil servants are prohibited from taking actions that lead to favouring one of the candidates or actions that indicate involvement in practical politics/affiliation with political parties.¹⁹

¹⁶ Article 8 of Government Regulation of the Republic of Indonesia Number 94 of 2021 concerning Discipline of Civil Servants

¹⁷ Article 8 paragraph (4) jo. Article 14 letter i numbers 3 and 4 of Government Regulation Number 94 of 2021 concerning Civil Servant Discipline

¹⁸ <https://www.hukumonline.com/klinik/a/aturan-larangan-asn-berpolitik-dan-asas-netralitas-lt5c5a830e48153/>, accessed 03/05/2024

¹⁹ Article 15 paragraph (1) of Government Regulation No. 42/2004 on the Corps Spirit and Code of Ethics of Civil Servants

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Article 15 paragraph (1) and Article 16 of the Government Regulation on the Corps Spirit and Code of Ethics for Civil Servants basically states that for violations of the code of ethics, civil servants may be subject to moral sanctions and may be subject to administrative action in accordance with laws and regulations, upon the recommendation of the Ethics Code Council. This regulation is not yet fully foundal because it still has the potential to continue to be violated, so that justice will not be created in the implementation of elections in Indonesia.

Justice comes from the word fair, which means not arbitrary, impartial, or one-sided. Justice can be divided into at least three types: general or legal justice, special justice, and aequitas. Legal justice is justice according to the law, which must be fulfilled in the public interest.²⁰

3.2. Law Enforcement of Election Neutrality Violations in the Perspective of Dignified Justice

Law enforcement in violation of election neutrality is fairly low, violators are often only given light sanctions. In Government Regulation Number 94 of 2021 concerning Civil Servant Discipline, there is no explanation regarding violations of election neutrality. The lack of clarity regarding serious and minor violations of ASN actions that violate neutrality causes a blurring of norms in enforcing the law for violators.

Firstly, it is Bawaslu who must take full responsibility for cracking down and enforcing the law on electoral offences. Allegations of violations are followed up by the law enforcement function. From this role, it is clear that Bawaslu is not an ordinary election organiser. The fact that Bawaslu is given permission to take action against alleged violations of elections and regional elections, including violations of ASN neutrality, is evidence of this.²¹

In this case, Bawaslu is the organisation responsible for the conduct of regional and national elections that has the responsibility to enforce the legal provisions on the prevention, supervision, and prosecution of violations of ASN neutrality outlined in the Babaslu Regulations, which govern elections and regional head elections. Here is an explanation of how Babaslu's functions work:

²⁰ Gustav Radbruch, Legal Philosophy, II, 1932, in 20th Century Legal Philosophy Series: Vol. IV, The Legal Philodophies of Lask, Radbruch, and Dabin, Translated by Kurt Wilk, Harvard University Press, Cambridge. Massachusetts, 1950, pp., 49-224.

²¹ Indrawan Susilo Prabowoadi, Journal of IUS CONSTITUENDUM Edition III Volume 2 Number 2 - November 2020, p 142

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First, Prevention. The authority to prevent violations of ASN neutrality in the Election Law is regulated in Article 93 letter b, Article 77 letter a, Article 101 letter a, and Article 105 letter a of Law No. 7/2017 on General Elections. Meanwhile, the authority to prevent violations of ASN neutrality in the Election Law is not clearly regulated, but Bawaslu still has the authority to prevent violations of ASN neutrality because Article 22B letter c of the Election Law mandates Bawaslu to coordinate and monitor the stages of supervision of the election.

Second, Supervision, Related to the foundation of Bawaslu's responsibilities, authorities, and obligations in implementing Article 93 letter f, Article 97 letter d, Article 101 letter d, Article 105 letter d, Article 108 letter c, and Article 111 letter c of Law No. 7 of 2017 concerning General Elections provides guidelines for supervising ASN neutrality. Then, Article 23 paragraph 1 and Article 71 paragraph 1 of the Pilkada Law is the basis for Bawaslu's responsibilities, authorities, and obligations in overseeing ASN neutrality.²²

Third, the rationale behind Bawaslu's action against violations of ASN neutrality Article 93 letter b of the Election Law. Article 94 paragraph (2) and letter A Jo Article 97 of the Election Law. Article 98 Paragraph (2); Article 101 Letter A Jo Article 102 Paragraph (2); and Article 105 Letter A. Article 22B letter i, Article 28 paragraph (1) letter e, Article 30 letter e, and Article 33 letter e of the Election Law are the basis for Bawaslu's action against violations of ASN neutrality.²³

Bawaslu has created a number of technologies to combat violations of ASN neutrality, ranging from collaboration with Central and Local Government organisations, creating a hotline to assist with reporting, and developing an application to report suspected election violations, specifically Gowaslu.

For the prosecution of ASNs who violate election neutrality, it should not only be administrative sanctions for moral violations committed by an ASN. Rather, it must reach the realm of criminal law. Because there are still frequent and ongoing violations of neutrality committed by ASN and this will harm the nation and state itself.

Article 15 paragraph (1) and Article 16 of the Government Regulation on the Corps Spirit and Code of Ethics for Civil Servants basically states that for violations of the code of ethics, civil servants may be subject to moral sanctions and may be subject to administrative action in accordance with laws and regulations, upon the recommendation of the Ethics Code Council. A

²² Indrawan Susilo Prabowoadi, Journal of IUS CONSTITUENDUM Edition III Volume 2 Number 2 - November 2020, p 142

²³ Indrawan Susilo Prabowoadi, Journal of IUS CONSTITUENDUM Edition III Volume 2 Number 2 - Law Enforcement of The Neutrality of The State Civil Apparatus in The Implementation of Elections in The Perspective of Dignified Justice
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phrase must be added where in the level of serious violations committed by an ASN must reach the election crime.

In terms of operationalization / functionalisation, the implementation and function of criminal law can be divided into three periods or stages, as follows: 1. There are three stages or phases in which criminal law operates, which are as follows: 1) Formulation Stage: This stage is the stage of formation of criminal legislation (legislative/formulative power). about the types of offences that can be punished and the types of penalties that can be applied; 2) Implementation Stage: This is the stage where criminal law is applied or where judges punish individuals or organisations for acts committed by those entities. The judge can authorise the application to a person or corporation for the actions committed by that person or corporation (applying/judicial power); and 3) Execution Stage.²⁴

Lawrence M. Friedman, in his book *American Law an Introduction*, puts forward the theory of Legal System. According to him:

"...A legal system in actual operation is a complex organism in which structure, substance, and culture interact. A legal system is the union of "primary rules" and "secondary rules." Primary rules are norms of behaviour, secondary rules are norms about those norms - how to decide whether they are valid, how to enforce them, etc..."²⁵

This theory states that the legal system consists of elements of legal structure, legal substance, and legal culture. Furthermore, the legal system is a unity between primary rules in the form of customary norms and secondary unity in the form of norms that will determine whether the customary norms are valid and enforceable or not.

In Freidman's view, there must be an improvement in legal substance. The concept of legal substance in the ideal of prosecuting violations of election neutrality for ASN is not enough to rely on the Law.

²⁴ Barda Nanawi Arief, *Some Aspects of Criminal Law Enforcement and Development Policy* (Bandung: Citra Aditya Bhakti, 1998), p. 99. 99.

²⁵ Lawrence M. Friedman, *The Legal System: A Social Science Perspective* (New York: Russel Sage Foundation, 1975), p 6.

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Elections, and other regulations. But there needs to be development of legislation or another legal instrument. Improvements and arrangements in the laws and regulations below regarding violations of election neutrality can be reinforced and detailed, regarding election neutrality committed by ASN is a serious, moderate or minor violation, as well as what forms of minor, moderate, and severe violations in the election violation. So that if it is a serious violation, administrative and criminal sanctions can be imposed.

Improvements in the legal structure, is the assertiveness of Bawaslu in other law enforcement devices, police, TNI, Attorney General's Office, Judges, and Bawaslu, KPU, all government agencies must support and take action against violations of election neutrality for ASN who commit violations. Weak enforcement will result in continued violations that will occur every annual democratic party.

Legal culture, what must be improved is the legal culture that develops in society. The community is very important to participate and oversee the elections in order to create democracy and elections that are honest, fair, and clean, and transparent. Legal culture is one of the components of the legal system related to the perception and behaviour of the law applied by the community. Laws translated in the form of laws are dead, if not suppressed and revived by the system itself.

It can be understood that the law is not a free force, but a response to social pressure as an effort to reflect the expectations of social forces by applying pressure. Meanwhile, customary law is a combination of the will based on certain interests with moral and social motivations, as well as the actual influence of individuals and groups stemming from personal interests guided by the cultural factors of the society to which they belong.

wants and needs are achieved. The ban on civil servant neutrality is philosophical.²⁶

Improvements must occur in the legal system, both the substance of the law in the form of laws and other regulations, as well as the legal structure, all election organisers, and the legal culture, namely the people who participate in monitoring elections that are honest and fair, and free from election violations.

²⁶ Farida Sekti Pahlevi, Corruption Eradication in Indonesia: Lawrence's Legal System Perspective

M. Freidman, El-Dusturie Journal, Vol.1, No.1, June 2022, p. 30

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What is criminal law Politics and policy can be observed in the fields of criminal justice and law.²⁷ There are two components to legal policy:²⁸ (1) the attempt to enact regulations that are appropriate to the current conditions and circumstances of society; (2) the policy of the state, implemented through authorised bodies, to enact such regulations. (2) state policy, through authorised bodies, to enact the desired regulations, which are anticipated to be used to articulate social realities and realise aspirations; (2) state policy, through authorised bodies, to develop.²⁹

Pancasila is seen as the fundamental norm, or legal principle, in Teguh Prasetyo's grand theory of justice. As the source of all legal inspiration for creating political ethics (democracy), Pancasila is seen by Prasetyo as the most i m p o r t a n t fundamental principle, especially the institutional ethics of elections, which are the most tangible example of democracy that can honour the example of The most tangible form of democracy has the power to build a dignified society.³⁰

That the law, as a system, treats and protects human values in accordance with its essence and the nature and purpose of its existence. This includes the laws and principles governing electoral ethics and their implementation. reasons for living. Dignified Justice explores the legal system as a whole. According to Lawrance Friedmann, dignified justice will prioritise justice that has a clear purpose. Dignified justice emphasises justice that is grounded in the soul of the nation, or the moral spirit and purpose of the law (volksgeid: Pancasila).³¹

The philosophy of dignified justice is based on science - especially the science of law. T h e structure or strata of legal science consisting of philosophy, philosophy of law, and conception of justice shows the reach of the theory of dignified justice. This can be seen from the structure or strata in legal science, which consists of legal theory as the second layer and legal philosophy as the first layer. The first and foremost is legal philosophy, while legal theory is the second and third layer. The first and foremost is legal philosophy, while legal theory is the

²⁷ Maroni, Introduction to the Politics of Criminal Law, Bandar Lampung: Anugrah Utama Raharja, 2016, p. 3.

²⁸ Soedarto, Criminal Law and the Development of Society, Bandung: Sinar Bandung, 1983 p 20

²⁹ Hariman Satria, "Legal Politics of Money Politics Crime in General Elections i n Indonesia" (2019) 5:1 Integritas: An Anti-Corruption Journal, p. 3

³⁰ Teguh Prasetyo, Dignified Justice: A Legal Theory Perspective, Bandung: Nusa Media, 2017 p 37.

³¹ Herdi Munte, Political Law Enforcement of Election Crimes from the Perspective of Dignified Justice, IDJ, Volume 4, Issue 2 (2023), p. 234

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second and third layer (legal theory), followed by law and legal practice as the fourth layer and legal dogma (jurisprudence) as the third layer (legal practice).³²

Dignified justice theory originates from the tug-of-war between *lex eterna* (the upper current) and *volksgeist* (the lower current), in understanding law as an attempt to approach the mind of God according to the legal system based on Pancasila. The theory of dignified justice uses Legal approaches as legal philosophy, legal theory, legal dogmatics as well as law and legal practice, dialogue systematically.³³

In the perspective of dignified justice, it should only be the behaviour or actions of individuals in society and the actions of society as a whole that can harm all individual parties in society itself. And this can be said to be an evil act, because it harms many parties.

The theory of dignified justice contains a theoretical view with a postulate that all activities in a country must be based on applicable laws and regulations. Pancasila, in the perspective of dignified justice, is the highest legislation, the source of all sources of law. It is said to be the highest rule of law because in the perspective of dignified justice, Pancasila is the First Treaty. Those who study law understand this in the expression *pacta sunt servanda* (the agreement is a binding law as befits the law for those who make it). As a law, it can be enforced, for those who do not want to obey and implement it.³⁴

Election violations that occur in Indonesia do not reflect the dignity of the Indonesian nation and state which is guided by Pancasila. Pancasila as a source of law should be the basis for a legal system that runs, the value of honesty and fairness is contained in the precepts of Pancasila. Therefore, election violations of ASN neutrality are far from dignified justice, fraud committed and ASN intervention against voters are violations of human rights and violations of Pancasila as the spirit of the legal system in Indonesia.

Philosophically, elections are held because they are motivated by a number of considerations. The first consideration is that elections have the aim of ensuring the achievement of national ideals and goals. In the perspective of the philosophy of law of Dignified Justice, the knowledge (epistemology) of national ideals and goals can only be found in the soul of the Indonesian nation

³² Teguh Prasetyo and Abdul Halim Barakatullah, *Legal Science and Legal Philosophy, Studies in the Thought of Jurists Throughout the Ages*, Fourth Mould, Student Library, Yogyakarta, 2011, p. 21

³³ Teguh Prasetyo, *Dignified Justice from a Legal Theory Perspective*, Second Print, Nusa Media, Bandung, 2015, pp. 30-31.

³⁴ Teguh Prasetyo, *DKPP RI Ethical Enforcers of Dignified Election Organisers*, p 22
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(Volkgeist). In the soul of the Indonesian nation, the national ideals and goals are contained in the Preamble of the 1945 Constitution of the Republic of Indonesia (UUD 1945).³⁵

To ensure honest and fair elections, protection is needed for voters, parties participating in elections, and the people in general from all fear, intimidation, bribery, fraud, and other fraudulent practices that will affect the accuracy of election results. These actions are often carried out by ASN and this violates human rights, because it has intervened with potential voters. Reforms in the prosecution of election violations for ASN must be realised in a comprehensive and systematic regulation.

4. Conclusion

From this research it can be concluded that in principle the concept of neutrality of ASN in elections to support one of the candidates is a form of deviation and violation of law and human rights for ASN. First, in terms of the substance of the regulations regarding Article 15 paragraph (1) and Article 16 of the Government Regulation on the Corps Spirit and Code of Ethics for Civil Servants, which only on administrative sanctions, criminal sanctions need to be added, on the grounds that it harms many parties and is a crime. From the legal structure, there is a lack of law enforcement carried out by election organisers, including the handling carried out by Bawaslu. Then the weak legal culture people who should participate in overseeing honest and fair elections, but instead the community is "indifferent" and even happy when there is money politics. Second, in the perspective of dignified justice that the legal system in Indonesia must be based on Pancasila as the ground norm, because Pancasila is the perspective of the philosophy of law of Dignified Justice, the knowledge (epistemology) of national ideals and goals can only be found in the soul of the Indonesian nation (Volkgeist), namely Pancasila itself. If ASN is not honest, fair, and neutral in elections, it does not have a Pancasila attitude and does not want to show loyalty to the nation and state, and does not obey the law, both the 1945 Constitution and Pancasila.

³⁵ Teguh Prasetyo et al, Election Philosophy Based on Dignity Justice Theory, Bantul: K-Media, 2021, p. 28
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