

A Juridical Analysis of the Neutrality Principle of State Civil Apparatus in Expressing Opinions on Social Media

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Abstract.

The purpose of this research is to obtain a concrete understanding of the legal politics regulating the applicability of the principle of neutrality for Civil Servants in carrying out their duties and responsibilities. This neutrality is closely related to the expression of opinions through the use of social media. The study also emphasizes the utilization of social media by Civil Servants in a way that better ensures adherence to the principle of neutrality. The problems addressed in this thesis are: First, how is the legal politics concerning the neutrality of Civil Servants according to the prevailing laws and regulations? Second, how is the regulation of social media use by Civil Servants in expressing opinions that better guarantees the principle of neutrality? The research method employed is normative legal research, using statutory and conceptual approaches. The findings show that violations of Civil Servant neutrality in the use of social media are caused by several factors, namely the substance of legislation, the institutional structure of law enforcement, and societal culture. In addition, these issues are also linked to the prevailing legal politics. The regulation of social media use by Civil Servants in expressing opinions requires a systemic approach to realize the expected principle of neutrality. The enforcement of neutrality among Civil Servants depends not only on legal substance, but also on legal structure and legal culture. These three elements are interconnected and highly significant in strengthening the implementation of the principle of neutrality for Civil Servant.

Keywords: State Civil Apparatus; neutrality principle; social media and legal politics.

I. INTRODUCTION

The rapid development of information and communication technology has changed the way citizens interact, communicate, and participate in public discourse. Social media no longer functions only as a private communication channel. It has become a digital public sphere where information, opinions, criticism, political preferences, and social attitudes are produced and circulated widely. This transformation creates a new challenge for the State Civil Apparatus, known in Indonesia as *Aparatur Sipil Negara* or ASN, because every expression made by civil servants in digital spaces may affect public trust in the bureaucracy, government neutrality, and the legitimacy of public administration.

The issue becomes more important because ASN holds a strategic position in the administration of government and public services. ASN is not merely an individual citizen who has the right to express opinions. ASN is also a public official who represents the state in carrying out governmental duties. Therefore, the behavior of ASN in social media cannot be separated from the principles of professionalism, integrity, impartiality, and public accountability. Law Number 20 of 2023 concerning State Civil Apparatus confirms that ASN employees serve as planners, implementers, and supervisors of public administration and national development through professional public service, free from political intervention and corruption, collusion, and nepotism (Republic of Indonesia, 2023). The same law also revokes Law Number 5 of 2014, which means that current legal analysis of ASN neutrality must be adjusted to the latest statutory framework.

The principle of neutrality is a fundamental element in bureaucratic governance. In the context of a democratic rule-of-law state, neutrality requires ASN to provide public services fairly, professionally, and without political bias. This principle also prevents civil servants from becoming instruments of political power, especially during electoral competition. Indiahono (2022) explains that ASN must maintain impartiality in implementing public policies and providing public services so that bureaucracy is not used as a political machine. This view is relevant to the Indonesian context because bureaucratic neutrality has historically been influenced by political interests, party relations, and power structures.

The use of social media by ASN raises a more complex legal problem. On the one hand, ASN as citizens have constitutional rights to express opinions. On the other hand, ASN must obey ethical obligations and neutrality standards attached to their public position. This tension creates a normative dilemma between freedom of expression and bureaucratic neutrality. Nadzirin, Sukmariningsih, and Mashari (2025) show that violations of ASN neutrality are not only related to individual behavior, but also to regulatory weaknesses, overlapping legal norms, weak sanctions, and structural politicization of bureaucracy. Their study also highlights a conflict between ASN neutrality obligations and constitutional political rights, especially when political expression occurs in private or semi-private spaces.

The Indonesian government has regulated the ethical use of social media by ASN through Circular Letter of the Minister of Administrative and Bureaucratic Reform Number 137 of 2018 concerning the Dissemination of Information through Social Media for State Civil Apparatus. The circular letter instructs ASN to uphold Pancasila, maintain the 1945 Constitution, serve the state professionally, preserve ethical standards, protect institutional integrity, avoid misuse of internal information, verify information sources, and refrain from spreading hoaxes, provocation, hate speech, radicalism, terrorism, pornography, defamation, extortion, or threats through social media (Ministry of Administrative and Bureaucratic Reform, 2018). This regulation shows that the state recognizes social media as a legal and ethical space that must be governed because digital expression can directly affect public order, institutional reputation, and neutrality of state officials.

Several previous studies have examined ASN neutrality and social media use. Lope (2020) focused on the legal consequences for ASN who spread false information through social media. The study emphasized that ASN must comply with ethical rules and may face legal as well as disciplinary sanctions if they disseminate hoaxes or unlawful content. Harahap (2024) analyzed ASN neutrality in political contests and argued that neutrality requires civil servants to avoid direct and indirect political favoritism. The study also showed that bureaucratic politicization, patronage, and weak supervision remain serious obstacles to the implementation of neutrality norms, particularly at the local government level. Meanwhile, Indiahono (2022) discussed the dynamics of bureaucratic neutrality policy in Indonesia and located the problem within the historical relationship between bureaucracy and political parties.

Although these studies provide important contributions, most of them focus on electoral neutrality, political contestation, disciplinary sanctions, or the spread of false information. Limited attention has been given to a juridical analysis of how legal politics shapes the regulation of ASN neutrality in expressing opinions through social media. This research therefore occupies a specific position by examining not only the existence of legal norms, but also the direction of legal policy, the coherence of regulation, and the extent to which the regulation of ASN social media use can better guarantee the principle of neutrality. The research gap lies in the need to connect ASN neutrality, freedom of expression, social media governance, and legal politics within one integrated legal analysis.

Theoretically, this study is grounded in the concept of the rule of law, legal politics, and legal system theory. The concept of the rule of law requires every exercise of public authority to be based on law, limited by law, and directed toward justice. In the Indonesian context, the rule of law is not merely procedural. It must reflect the values of Pancasila, constitutional supremacy, human dignity, democracy, and social justice. This concept provides the normative foundation for assessing whether restrictions on ASN expression through social media are legitimate, proportional, and consistent with constitutional principles.

The concept of legal politics is also central to this study. Legal politics refers to the state's official policy direction in forming, implementing, and reforming law to achieve national objectives (Mahfud MD, 2020). In this research, legal politics is used to analyze how the state designs rules on ASN neutrality, how these rules respond to digital communication, and whether the existing legal framework is sufficient to balance ASN rights and institutional neutrality. This approach is important because the regulation of ASN social media use cannot be viewed only as a technical administrative matter. It reflects the state's policy choice in managing bureaucracy, public ethics, political neutrality, and democratic participation.

Furthermore, this study uses legal system theory to explain why neutrality violations cannot be solved only through written rules. Friedman (1975) argues that a legal system consists of legal substance, legal

structure, and legal culture. Legal substance refers to norms and regulations. Legal structure refers to institutions and enforcement mechanisms. Legal culture refers to values, attitudes, and public behavior toward law. In the context of ASN neutrality, effective regulation requires clear legal norms, consistent supervisory institutions, and a legal culture that supports professionalism, impartiality, and responsible digital expression.

Based on this framework, the issue of ASN neutrality in social media is not only a matter of individual discipline. It is a systemic legal problem that involves the quality of regulation, the consistency of enforcement, the capacity of supervisory institutions, and the ethical awareness of ASN in digital public spaces. Therefore, this research is important to provide a juridical understanding of the legal politics governing ASN neutrality and to formulate a more appropriate regulatory direction for the use of social media by ASN in expressing opinions. This study is expected to strengthen the implementation of neutrality principles, protect public trust in bureaucracy, and support the development of a professional, accountable, and impartial state civil apparatus in the digital era.

II. METHODS

This study uses normative legal research with a descriptive analytical approach. Normative legal research, also known as doctrinal legal research, focuses on the examination of legal norms, principles, doctrines, and statutory provisions that are relevant to the legal issue being analyzed. This method is appropriate because the study examines the legal politics of the principle of neutrality for the State Civil Apparatus in expressing opinions through social media. Normative legal research is conducted by reviewing library materials or secondary data as the main source of analysis (Soekanto & Mamudji, 2015). In this context, the research does not measure social behavior statistically, but analyzes legal norms and concepts that regulate the obligation of neutrality for civil servants. Marzuki (2017) explains that normative legal research aims to discover legal rules, legal principles, and legal doctrines in order to answer specific legal problems.

The research applies two main approaches, namely the statutory approach and the conceptual approach. The statutory approach is used to examine laws and regulations related to the neutrality of the State Civil Apparatus and the use of social media in expressing opinions. This approach is important because the legal issue in this study is closely connected with positive law, including regulations governing civil servants, public ethics, administrative discipline, information technology, and digital communication. According to Marzuki (2017), the statutory approach is carried out by examining all laws and regulations related to the legal issue under study. Meanwhile, the conceptual approach is used to understand legal concepts such as neutrality, legal politics, freedom of expression, legal responsibility, and the rule of law. This approach helps the researcher interpret legal terms and examine their meaning in theory and practice (Hajar, 2015).

The data used in this study are secondary data obtained through legal materials. The legal materials consist of primary, secondary, and tertiary legal materials. Primary legal materials include binding legal sources, such as the 1945 Constitution of the Republic of Indonesia, laws, government regulations, ministerial regulations, circular letters, and other relevant statutory instruments. Secondary legal materials consist of books, journal articles, research reports, legal commentaries, academic papers, and other scientific publications that explain and support the analysis of primary legal materials. Tertiary legal materials include legal dictionaries, the Indonesian dictionary, encyclopedias, and other reference materials that provide guidance and clarification for primary and secondary legal materials (Soekanto & Mamudji, 2015).

Data collection was conducted through library research. This technique was used to collect legal materials from books, legislation, official documents, journal articles, research reports, theses, dissertations, conference papers, and other academic sources relevant to the research topic. In addition, this study also uses virtual research to obtain secondary data from reliable online sources, including official government websites, legal databases, and academic platforms. Virtual research supports library research by providing access to current legal documents and scholarly references related to the regulation of social media use by civil servants.

The data were analyzed qualitatively through non-statistical analysis. The analysis was conducted by organizing legal materials, identifying relevant legal norms, interpreting legal concepts, and drawing legal arguments based on the research problems. The analytical process follows the stages of data reduction, data display, and conclusion drawing as proposed by Miles and Huberman (1994). Data reduction was conducted by selecting legal materials directly related to ASN neutrality and social media regulation. Data display was carried out by systematically presenting the legal norms, concepts, and doctrinal arguments. Finally, conclusions were drawn by connecting the findings with the theoretical framework of legal politics, legal system theory, and the principle of neutrality. This method enables the study to produce a systematic juridical analysis of how the regulation of social media use by civil servants can better guarantee the principle of neutrality.

III. RESULT AND DISCUSSION

Legal Politics in Regulating the Neutrality Principle of the State Civil Apparatus

The findings show that the regulation of neutrality for the State Civil Apparatus or Aparatur Sipil Negara is constructed as part of Indonesia's legal politics in building a professional, impartial, and accountable bureaucracy. The neutrality principle is not merely an administrative norm. It is a constitutional and bureaucratic instrument designed to prevent the misuse of public authority, political intervention, and discriminatory public service. Law Number 20 of 2023 concerning the State Civil Apparatus confirms that ASN must be free from the influence and intervention of political parties or other groups. This provision places neutrality as a legal foundation for ensuring that civil servants perform their duties objectively, professionally, and based on public interest rather than partisan interest (Republic of Indonesia, 2023). The research material also shows that the regulation of ASN neutrality is arranged hierarchically through statutes, government regulations, election laws, and institutional guidelines to prevent bureaucratic politicization and abuse of power.

In the context of public service, neutrality has direct relevance to the quality and continuity of governance. ASN must continue to serve the public professionally, regardless of changes in political leadership. Therefore, neutrality means that ASN should not side with any political party, candidate, group, or interest that may influence the objectivity of public administration. This principle also supports good governance because it strengthens integrity, accountability, equality, and legal certainty in the implementation of bureaucratic duties (Republic of Indonesia, 2023). The legal politics of ASN neutrality thus reflects the state's effort to create a bureaucracy that is loyal to the Constitution, Pancasila, and public service rather than to temporary political power.

The regulation of ASN neutrality is also closely related to the code of ethics and code of conduct. ASN is required to uphold basic values such as service orientation, accountability, competence, harmony, loyalty, adaptability, and collaboration. These values form the ethical basis for regulating ASN behavior, including conduct in digital spaces. In this regard, neutrality cannot be interpreted narrowly as the absence of political party membership. It also includes the obligation to avoid conflicts of interest, partisan expressions, political symbols, or digital activities that may indicate support for or opposition to certain political actors.

The Gap Between Normative Regulation and Empirical Practice

Although the legal framework already regulates ASN neutrality, the findings reveal a significant gap between normative expectations and actual practice. This gap reflects the classical tension between *das sollen* and *das sein*. Normatively, ASN must remain neutral, professional, and impartial. Empirically, violations continue to occur, especially during elections and regional head elections. Data cited in the research material show that until April 2, 2024, the Civil Service Commission or KASN recorded 481 reports of ASN neutrality violations, with 264 ASN proven to have violated neutrality and 181 already sanctioned by the Personnel Supervisory Officials. The data indicate that neutrality violations are not incidental but recurring in bureaucratic practice.

The problem becomes more complex in the digital era because social media accelerates the circulation of political messages, personal opinions, and public reactions. ASN may violate neutrality not only through direct campaign activities, but also through digital actions such as posting, commenting, sharing, liking,

following, or joining online groups that support certain candidates. These actions may appear simple, but legally they can indicate political preference and partiality. This finding is consistent with the idea that digital behavior has legal and ethical consequences, especially when performed by public officials whose identity is attached to the state bureaucracy.

The data also show that in the 2024 election context, 403 ASN were reported for alleged neutrality violations, and 183 or 45.4 percent were proven to have committed violations. In the 2020 simultaneous regional head elections, 2,034 ASN were reported, 1,597 were proven to have violated neutrality, and 1,450 had received sanctions from Personnel Supervisory Officials. These figures demonstrate that neutrality violations occur across different electoral cycles and involve various levels of bureaucracy. The causes include the motive to obtain or maintain positions, primordial relations, lack of understanding of neutrality regulations, external pressure, weak integrity, the perception that partiality is normal, and sanctions that do not always create a deterrent effect.

Social Media as a New Legal Space for Neutrality Violations

The research finds that social media has created a new arena for ASN neutrality violations. Social media is no longer a purely private space. It functions as a digital public sphere where political expression can be accessed, reproduced, interpreted, and used as evidence. Therefore, ASN activities on social media must be assessed not only as personal expression but also as conduct that may affect public trust in the bureaucracy.

This condition creates a legal dilemma. On the one hand, ASN as citizens have constitutional rights to express opinions and participate politically through voting. On the other hand, ASN as state apparatus must maintain impartiality, avoid practical politics, and refrain from acts that benefit or harm political candidates. The research material emphasizes that the neutrality principle does not eliminate ASN political rights. ASN still have the right to vote. However, the law restricts their participation in political activities that may show support, campaign involvement, or use of bureaucratic influence.

This distinction is important. Neutrality does not mean political silence in all aspects of citizenship. It means limiting political expression when such expression is connected to public office, public authority, institutional identity, or actions that can influence political competition. Therefore, social media activities such as supporting candidates, sharing campaign content, joining campaign groups, or using symbols of support may constitute neutrality violations because they create public perceptions of bureaucratic partiality.

Law Enforcement and the Protection of ASN Neutrality in Social Media Use

The relationship between law enforcement and ASN neutrality is central to the effectiveness of regulation. The findings show that law enforcement is not only punitive but also preventive. Clear, consistent, and transparent enforcement can function as an early warning system, create a deterrent effect, and increase ASN awareness of ethical behavior in digital spaces. Without firm enforcement, neutrality norms may remain formal rules without real influence on bureaucratic behavior.

Several court decisions illustrate how social media use may be connected to neutrality violations. In the Andoolo District Court Decision Number 1/Pid.S/2020/PN Adl, an ASN who served as a village head was found guilty of intentionally carrying out an act that benefited one candidate pair through a WhatsApp group. The court considered the digital message as an act that could influence support for a specific candidate. This shows that online communication, including messages in digital groups, can have legal consequences when it is used to support political candidates. The decision was later modified by the Southeast Sulawesi High Court Decision Number 120/Pid.Sus/2020/PT Kdi.

Another case is the Pinrang District Court Decision Number 191/Pid.Sus/2024/PN Pin. In this case, an ASN was accused of benefiting a candidate pair by following an Instagram account associated with a campaign team. The court stated that the act was proven, but it did not qualify as a criminal offense, so the defendant was released from all legal charges. This case reveals an important legal issue. Not all digital acts automatically become criminal acts, even if they may raise questions about neutrality. Therefore, legal enforcement must carefully distinguish between ethical violations, disciplinary violations, administrative violations, and criminal offenses. This distinction is necessary to ensure proportionality, legal certainty, and justice.

Sanctions for Violations of ASN Neutrality

The findings also show that sanctions play an important role in ensuring compliance with neutrality norms. Sanctions function as legal consequences for violations and as instruments to prevent repeated misconduct. In the context of ASN neutrality, the main approach is administrative sanctions, although certain acts may also lead to criminal consequences under election laws. Administrative sanctions are relevant because neutrality violations are closely related to public office, bureaucratic discipline, and ethical obligations.

The Joint Decree of several government institutions on the guidance and supervision of ASN neutrality regulates various forms of violations and sanctions. Violations may include online campaign activities, making posts, comments, shares, likes, joining or following campaign groups or accounts, posting photos with candidates or campaign teams, and displaying symbols of political support. Some of these acts are categorized as ethical violations, while others may lead to medium or severe disciplinary sanctions. The research material shows that online campaign activity and digital support through social media may be classified as serious disciplinary violations.

This finding demonstrates that the state increasingly recognizes social media as a legally relevant space in the enforcement of ASN neutrality. Digital traces can become evidence of partiality. However, the enforcement mechanism must still follow due process, proportionality, and clarity of norms. If the regulation is unclear, inconsistent, or applied selectively, sanctions may fail to produce justice and legal certainty. Therefore, the sanction system must be supported by clear indicators, transparent procedures, and consistent institutional coordination.

6. Internalization of Neutrality as a Cultural and Institutional Requirement

The enforcement of ASN neutrality cannot rely solely on written rules and sanctions. It must also be internalized as part of bureaucratic culture. This aligns with Friedman's legal system theory, which states that legal effectiveness depends on three elements: legal substance, legal structure, and legal culture (Friedman, 1975). Legal substance refers to norms regulating ASN neutrality. Legal structure refers to institutions responsible for supervision and enforcement. Legal culture refers to ASN attitudes, values, and awareness toward neutrality.

The findings show that neutrality violations are often influenced by political pressure, career interests, primordial ties, weak integrity, and low legal awareness. These factors indicate that the problem is not merely normative. It is also cultural and structural. Therefore, strengthening ASN neutrality requires continuous education, ethical training, digital literacy, institutional supervision, and exemplary leadership. The research material emphasizes the need for ASN to adopt an apolitical attitude in the performance of public service duties, focusing on competence, professionalism, and public interest rather than political power.

Soekanto's theory of law enforcement is also relevant. Legal effectiveness is influenced by legal factors, law enforcement officers, facilities, society, and culture (Soekanto, 2016). In the case of ASN neutrality, these five factors are clearly visible. The law must be clear. Supervisory institutions must act consistently. Digital monitoring facilities must be available. ASN must understand the rules. Bureaucratic culture must reject political partiality. Without these conditions, neutrality regulation will not work effectively.

Regulatory Direction for Social Media Use by ASN

The research finds that future regulation of ASN social media use must be systemic, not fragmented. It must balance freedom of expression, political rights, bureaucratic ethics, and public service neutrality. A systemic approach means that regulation must contain clear definitions of prohibited digital conduct, proportional sanctions, effective supervision, digital literacy programs, and coordination among relevant institutions.

The legal politics of ASN social media regulation should also be guided by three legal objectives: justice, legal certainty, and utility. Justice requires that sanctions be proportional and not arbitrary. Legal certainty requires clear standards on what ASN may and may not do on social media. Utility

requires that regulation strengthens public trust, prevents bureaucratic politicization, and supports democratic elections.

In this regard, the regulation of ASN social media use must be directed not only toward punishment but also toward prevention and education. ASN must understand that digital expression can affect institutional neutrality. Government institutions must provide clear guidance, practical examples, and regular socialization. This is important because many neutrality violations may arise not only from deliberate political support but also from misunderstanding, weak digital literacy, or lack of awareness of legal consequences.

IV. DISCUSSION

Based on the analysis, ASN neutrality in social media use is a legal issue that involves normative, institutional, and cultural dimensions. The existing regulations already provide a legal basis for preventing ASN involvement in practical politics. However, the persistence of violations shows that legal substance alone is insufficient. Effective enforcement requires strong institutions, consistent sanctions, digital monitoring, and internalization of neutrality values.

The results confirm that the legal politics of ASN neutrality must be understood as part of bureaucratic reform and democratic governance. ASN must be protected from political pressure, but at the same time ASN must also be prevented from using public status, authority, or digital platforms to support political interests. Therefore, the regulation of social media use by ASN must be strengthened through an integrated approach that combines legal clarity, institutional supervision, ethical education, and legal culture development.

V. CONCLUSION

This study concludes that the legal politics concerning the neutrality of the State Civil Apparatus has been normatively regulated through various laws and regulations that aim to ensure legal certainty, justice, professionalism, and impartiality in public administration. The principle of neutrality requires civil servants to remain free from political influence, party interests, and group pressure in carrying out their duties. Neutrality is not only an ethical obligation, but also a legal principle that supports clean bureaucracy, fair public service, and democratic governance.

The existing legal framework has provided a clear basis for regulating ASN neutrality. Civil servants are not prohibited from having political preferences as citizens. They still have the right to vote in elections. However, ASN must not participate in practical political activities, such as campaigning, showing public support for certain candidates, using state facilities for political interests, or conducting digital activities that indicate political partiality. Therefore, the principle of neutrality does not remove the constitutional rights of ASN, but limits the exercise of those rights when they conflict with public office, bureaucratic ethics, and state responsibilities.

This study also finds that social media has become a new space for violations of ASN neutrality. Digital activities such as posting, commenting, sharing, liking, following campaign accounts, or joining political support groups may be considered forms of partiality when they show support for or opposition to certain candidates, parties, or political interests. Although these actions may appear simple, they can create legal and ethical consequences because ASN status is closely related to public trust in government institutions. Thus, the use of social media to display political preference can be categorized as a violation of ASN neutrality when it affects bureaucratic impartiality or creates conflicts of interest.

In practice, the implementation of ASN neutrality still faces several challenges. Violations continue to occur, especially during general elections and regional head elections. These violations are caused by weaknesses in legal substance, limitations in institutional enforcement, political pressure, low legal awareness, weak integrity, and legal culture that does not fully support neutrality. This shows that the problem of ASN neutrality is not only related to the existence of legal norms, but also to how those norms are enforced, understood, and internalized.

Therefore, the regulation of social media use by ASN requires a systemic approach. The enforcement of neutrality must involve legal substance, legal structure, and legal culture. Clear rules, strong institutional supervision, consistent sanctions, digital literacy, ethical education, and preventive guidance are needed. Compliance should not only be based on fear of sanctions, but also on internal awareness that neutrality is part of professional responsibility. Strengthening ASN neutrality in the digital era requires integrated legal policy that combines regulation, enforcement, supervision, and cultural transformation.

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