

# The Regional Government Leaders Ambiguous Position and Political Influence in Indonesia's Civil Servant Management

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**Abstract:** The regional government leaders in civil state management and bureaucracy in post-Reform Indonesia were positioned as both leaders in regional political power, while on the other hand, they also had the power as the administrator of civil service management and its bureaucracy. This study aims to analyze Indonesia's current civil service management regulations and its practices by the regional leader in their governance. While also examining cases and patterns of violation of laws due to the regional government leader's inconsistent positions. This is a normative legal research article. The literature review gathers information from documents, references, and regulatory analysis. The data was analyzed qualitatively and presented descriptively. This article sums up that the regional government leader's political authority created a phenomenon where there are imbalances and dependencies between the relationship of bureaucracy and political power in regional governance. The progress of this governance relationship showed flaws in bureaucracy, where the bureaucrats and officials are vulnerable to subjective and political issues that might affect the quality of public services. The relationship between bureaucrats and regional leaders politically created the occurrence of civil servant management law violations, especially against the merit system and open job promotions. These cases of violations happened in several regional governments on different occasions.

**Keywords:** regional government leaders; civil servant management; regional autonomy; political influences.

## 1. Introduction

One of the primary strategic foundations of government is the civil services system. The argument is based on two key facts about the position of civil services in the government: (1) the success of a state's development lies in a systematic effort to improve the state civil services system and (2) the state's civil services system is a dynamic factor in bureaucracy that plays the role on the administration of governance.<sup>1</sup> As a result, the civil service management system affected the benefits and disadvantages of government services and bureaucracy. This is why the performance of state public servants has become a fundamental concern in every reigning government.

The dynamics in the course of bureaucracy have pressured every government to force bureaucratic reforms, one of which is on the civil service personnel aspect. Bureaucratic reforms in terms of civil services became a trend in the early 1990s to mid-2000s due to the public scrutiny of civil service as core actors in government public services.<sup>2</sup> One of the reasons for civil services reforms is also credited to the influence of Weberian bureaucracy, which focused on a defined hierarchical structure with a system of subordination and supervision, with a division of government labor and specified positions with assigned responsibilities.<sup>3</sup> This approach also paralleled the increase in the demand for government accountability, transparency, and effectiveness to promote better delivery of public services.<sup>4</sup> This effort was also reinforced by the updates of the government accountability system through a massive oversight system and both external and internal audit mechanisms.<sup>5</sup>

At first, the bureaucratic and civil service reforms looked like a promise to improve the bureaucracy, however in reality these efforts were still hindered by many challenges. The most common challenge found in many countries, whether developed or third-world countries, is there is still the tendency for political interference in the government bureaucracy.<sup>6</sup> The political and governance structure in many countries accommodates the close relationship between the political power

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1 Eko Prasoj, "Reformasi Kepegawaian Indonesia: Sebuah Review Dan Kritik," *Jurnal Kebijakan Dan Manajemen PNS* 4, no. 1 (2010): 36–37.

2 Jos C. N. Raadschelders, Theo A. J. Toonen, and Frits M. Van der Meer, *Comparative Civil Service Systems in the 21st Century*, ed. Frits M. van der Meer, Jos C. N. Raadschelders, and Theo A. J. Toonen, *Comparative Civil Service Systems in the 21st Century*, 1st ed. (London: Palgrave Macmillan UK, 2015), <https://doi.org/10.1057/9781137491459>: 3–4.

3 Mark Robinson, *From Old Public Administration to the New Public Service Implications for Public Sector Reform in Developing Countries* (Singapore: UNDP Global Centre for Public Service Excellence, 2015): 5

4 Salvatore Schiavo-Campo, "Reforming the Civil Service," *Finance & Development* 33, no. 3 (1996): 13.

5 Schiavo-Campo.

6 Alex Matheson et al., "Study on The Political Involvement in Senior Staffing and on The Delineation of Responsibilities Between Ministers and Senior Civil Servants," *OECD Working Paper on Public Governance* (Paris, 2007): 11.

and the bureaucratic system, one of them could be seen in the relations between the political figures with the civil services.<sup>7</sup> The relations could create disputes and deviation in government practices, for example in many developed countries like Pakistan, the Philippines, and India, the common cases are that political figures could tackle the bureaucrat's program or even use their influence to bring the bureaucratic system towards their own political goals.<sup>8,9,10</sup> These problems hinder the development of a bureaucracy towards a good governance system that requires professional and qualified public services.

In the context of governance in Indonesia, this issue can be seen during President Soeharto's administration known as the New Order (*Orde Baru*) era—which took place between 1966 to 1998—and saw the national civil service management system was in a state of urgency on reforms and changes. This urgency arose due to the tendency of the civil services in that era to be prone to intervention as one of the government authority's political tools.<sup>11</sup> Following the fall of the New Order administration, the civil services system in Indonesia quickly transformed, as did the presence of reforms and the emergence of regional government autonomy. This occurrence provided a breath of fresh air to the regional government, allowing it to regulate and rule autonomously without the fear of opposition and intervention from the central government.

Thus, the regional government implemented the power by the idea of decentralization, which means that numerous elements of the central government were delegated to the regional government to be enacted by the regional government's uniqueness and characteristics.<sup>12</sup> The goal of authorizing power through decentralization is to implement and settle government matters that are the responsibility of regional interests.<sup>13</sup> The decentralization serves as a consequence as Indonesia is a unitary nation—with the central government holding almost the dominant power in the nation's governance.<sup>14</sup> The implementation of decentralization means that the relationship between the central government and

7 Matheson et al, 38.

8 Ali Aslam et al., "Political Interference and Bureaucratic Performance in Pakistan: A Perspective of Civil Servants," *Pakistan Journal of Humanities and Social Sciences* 11, no. 3 (2023): 986–93, <https://doi.org/https://doi.org/10.52131/pjhss.2023.1102.0407986>.

9 Rupert Hodder, "Political Interference in the Philippine Civil Service," *Environment and Planning C: Government and Policy* 27, no. 5 (October 1, 2009): 766–82, <https://doi.org/10.1068/c0843b>.

10 V.P. Gupta, "A STUDY OF CONFLICT BETWEEN POLITICAL ELITE AND BUREAUCRACY," *The Indian Journal of Political Sciences* 48, no. 1 (1987): 133–40.

11 Prasajo, "Reformasi Kepegawaian Indonesia: Sebuah Review Dan Kritik."

12 Bachrul Elmi, *Keuangan Pemerintah Daerah Otonom Di Indonesia*, 1st ed. (Depok: Universitas Indonesia, 2002).

13 Elmi.

14 Majelis Permusyawaratan Rakyat RI and Pusat Pengembangan Otonomi Daerah, *Hubungan Pusat Dan Daerah*, ed. Abdul Rafiq et al., 1st ed. (Jakarta: Badan Pengkajian MPR RI, 2022): 165-166.

the regional government covers the transfer of power and also sharing of several central government duties and responsibilities to the regional government.<sup>15</sup> These relations also brought structural relations—which were based on the existing government structure and hierarchy—and functional relations, which saw the relations based on the functions of each government entity that completed each other's.<sup>16</sup> One of these responsibilities is civil servant management, which is one of the sub-sectors in central government affairs based on regional autonomy.<sup>17</sup>

The presence of civil servants' affairs in regional autonomy implies that the regional government has authority over civil services management aspects such as civil servants/*pegawai negeri sipil* (PNS) formation needs, recruitment of civil servants, promotion of civil servant candidates, education and training, and even guidance and supervision on civil servants' management in the region.<sup>18</sup> Some of this authority was originally held by the central government, with administration handled by *Badan Kepegawaian Negara* (the State Civil Servant Management Body).<sup>19</sup> As a result of the presence of regional autonomy, the regulatory authority was shifted to the regional government through the head of the regional government and the regional government secretary, as well as its personnel.

The application of decentralization ideas through Law No. 22 of 1999 on Regional Government aided bureaucratic reform.<sup>20</sup> According to the stated Law, the head of regional governments (which comprises the governor/*gubernur*, the regent/*bupati*, and the mayor/*walikota*) is the key pillar in civil servant management at the regional government level. However, various issues and objections occur as a result of this structure and are based on the subjective view of the regional government's head of quality. The subjective opinion stems from the fact that the quality of regional government is determined by the competence of the head of regional government—if the head of regional government has competent capabilities, the quality of governance and civil servants under them will be improved, and vice versa.<sup>21</sup> The implication of the movement in bureaucracy and public servant management to regional governments is the necessity for a change in the legal system, as regional

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15 Anwar Nasution, "Government Decentralization Program in Indonesia" (Tokyo, 2016): 2-3.

16 Nasution.

17 Badan Perencanaan Pembangunan Nasional, "Pembagian Urusan Pemerintahan Bidang Otonomi Daerah, Pemerintahan Umum, Administrasi Keuangan Daerah, Perangkat Daerah, Kepegawaian, Dan Persandian," Kementerian PPN/Bappenas RI, accessed August 5, 2023, <https://www.bappenas.go.id/files/4613/5230/1470/otonomi-daerah-pemerintahan-umum-administrasi-keuangan-daerah-perangkat-daerah-kepegawaian-dan-persandian.doc>.

18 Badan Perencanaan Pembangunan Nasional.

19 Badan Kepegawaian Negara, "Sejarah Badan Kepegawaian Negara," Badan Kepegawaian Negara, 2021.

20 Prasjo, "Reformasi Kepegawaian Indonesia: Sebuah Review Dan Kritik."

21 Prasjo.

government changes frequently contravene current national legislation.

Based on this reality, there are several fascinating situations where the problem of public servant management and its bureaucracy has been focused on the regional government's head administrative decisions. The aforementioned examples include:

- 1) The problem of promotion and filling of government posts in the Province of North Sumatera government in 2021-2022 — which witnessed several cases of infringement by the governor of North Sumatera against existing civil servant norms.<sup>22</sup>
- 2) The issue of higher echelon rank promotion in the Lhokseumawe government is based on the regional government leader's likes and dislikes.<sup>23</sup>
- 3) The corruption scandal in Klaten's regional administration was a result of bribes paid to the *Bupati* to win job promotion auctions (*lelang jabatan*) illegally.<sup>24</sup>

These three cases demonstrated that there are numerous public servant management issues and violations that are dependent on the actions of the regional governments' heads. The infringement is founded on personal concerns, maladministration by the regional government heads, and the regional government's head's intention to seek personal political advantage from civil officials in their government. The purpose of this article is to provide an overview of existing civil service management regulations and laws, how the head of regional government implemented them in their governance, and their relationship with their position mandated by the laws, as well as to investigate cases of law violations due to the influence of the head of regional government position, both as a political position and as the head of a government. This study also looks at the disparity between the norms in Indonesian civil servant regulations and the disproportionate political influence of regional government leaders in local bureaucracy practice on regional civil servants' affairs. Thus, through critical analysis of cases and the impact of regional leaders' political positions on Indonesia's regional government staff affairs and even public services implemented, this research aims to fill the empirical gap between national civil service management laws and patterns of violation in regional government civil servant management.

22 Ombudsman Perwakilan Sumatera Utara, "Usulkan Yanuarlin, Ombudsman Sumut: Gubsu Diduga Maladministrasi," Ombudsman RI, 2021, <https://ombudsman.go.id/perwakilan/news/r/pwk--usulkan-yanuarlin-ombudsman-sumut--gubsu-diduga-maladministrasi>.

23 Zahniar, M. Nazaruddin, and M. Abubakar, "Tantangan Pelaksanaan Program Seleksi Terbuka Jabatan Pimpinan Tinggi (JPT) Pratama Di Kota Lhokseumawe," *Jurnal Transparansi Publik (JTP)* 2, no. 2 (2022): 90-91.

24 Isyana Artharini, "Kasus Suap Bupati Klaten : Ada Kaitan Dinasti Politik Dan Korupsi ?," BBC Indonesia, 2020, <https://www.bbc.com/indonesia/indonesia-38484498>.

The first part will present an in-depth assessment of Indonesian civil servant management and its challenges, with a focus on job promotion within the bureaucratic ranks and external political influence, mostly in the post-reform and post-regional autonomy eras. The following section will look at the relationship between regional government leaders' authority in civil servant management and the ambiguity of their position in civil service management, which affects the quality of public services delivered by civil employees. The last segment of this paper will look at cases of regional government leaders violating central government-implemented civil service management regulations.

## 2. Method

The normative legal research is used in this legal research article. Normative legal research is a study method that seeks to discover legal norms, legal principles, and legal doctrines to address legal issues.<sup>25</sup> The goal of employing this method is to provide an in-depth understanding of the norms stated in the regulation as a theoretical foundation for comprehending the legal framework on these topics. In terms of research methods, readers should be aware that there are numerous relevant research methodologies available, namely socio-legal research. The author, on the other hand, used normative methodology, to provide readers with an understanding of the ideal legal norms (*das sollen*) as intended by statutes, how the norms could be prevalent in real-world scenarios, and also the general pattern of problems that hindered productive regulatory implementation.

This research relies heavily on legal statutes and literature (secondary materials) to analyze the cases. The focus of this research is the examination of norms as they are defined in laws, legal documents, and literature. Relevant laws and regulations, as well as secondary legal materials obtained from various literature on regulation, regional autonomy, and civil servant management in Indonesia, were the primary resources. The laws discussed in this article are as follows:

- 1) The series of laws in civil services affairs, started from the Law No. 43 of 1999 on Civil Servant Principles (*Undang-Undang Nomor 43 Tahun 1999 tentang Pokok-Pokok Kepegawaian*), Law No. 5 of 2014 on Civil Services Apparatus (*Undang-Undang Nomor 5 Tahun 2014 tentang Aparatur Sipil Negara*), and Law No. 20 of 2023 on on Civil Services Apparatus (*Undang-Undang Nomor 20 Tahun 2023 tentang Aparatur Sipil Negara*), and also the derivative laws such as the Government Regulations No. 11 of 2017 on Civil Servant Management

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25 Peter Mahmud Marzuki, *Penelitian Hukum* (Jakarta: Kencana Prenada, 2011): 35.

(*Peraturan Pemerintah Nomor 11 Tahun 2017 tentang Manajemen PNS*) which later revised through the Laws No. 17 of 2020 (*Peraturan Pemerintah Nomor 17 Tahun 2020 tentang Perubahan Peraturan Pemerintah Nomor 11 Tahun 2017 tentang Manajemen PNS*); and

2) The series of laws in Indonesia's general governance—such as Law No. 30 of 2014 on Governance Administration (*Undang-Undang Nomor 30 Tahun 2014 tentang Administrasi Pemerintahan*)—to laws regarding regional government, local bureaucracy and regional autonomy ranging from the Law No. 32 of 2004 on Regional Government Principles (*Undang-Undang Nomor 32 Tahun 2004 tentang Pokok-Pokok Pemerintahan Daerah*)—which then revoked through the Law No. 23 of 2014 on Regional Governance (*Undang-Undang Nomor 23 Tahun 2014 tentang Pemerintahan Daerah*).

The aforementioned laws were chosen due to their position and usefulness as legal essential bases in the practice of local government bureaucracy and civil servant management in Indonesia. The author uses many outdated laws to stress the legal historical aspect as an analysis tool on the selected issues.

The data in this research mostly is qualitative data, which is then descriptively analyzed to highlight the important ideas and concerns as presented in this paper. The statute approach, historical approach, and case approach were also used in the article. The case approach differs from the case study. The case approach focuses more on the practical application of norms or legal principles, evaluates several examples as references for a legal issue, and incorporates the findings of the study into legal explanations.<sup>26</sup>

### 3. Analysis

#### 3.1 Indonesia's civil servants' management and its issues in post-Reform and post-Regional Autonomy

##### 3.1.1 The legal history and development of Indonesia's civil servants' management

One of the most prominent shifts in civil servant management after the fall of the New Order administration was marked by the enactment of several civil servant laws that decreased the central government's authority and influence, mainly through Law No. 43 of 1999 on Civil Servant Principles which later revoked by the Law No. 20 of 2023 on Civil Services Apparatus.

<sup>26</sup> Mukti Fajar and Yulianto Achmad, *Dualisme Penelitian Hukum Normatif Dan Empiris*, 1st ed. (Yogyakarta: Pustaka Pelajar, 2010): 157.

While in terms of decentralization, firstly introduced through the Law No. 22 of 1999 on Regional Governance, revised by the Law No. 32 of 2004 on Regional Government Principles, and then revoked through the Law No. 23 of 2014 on Regional Governance (*Undang-Undang Nomor 23 Tahun 2014 tentang Pemerintahan Daerah*). In terms of the civil servant's neutrality and warranty for good public service, Law No. 43 of 1999 became a landmark law that regulated the decreasing influence of any government political power through the removal of Korpri (*Korps Pegawai Republik Indonesia/Indonesia's civil servant corps*) position as one of the Golkar Party's (*Partai Golongan Karya*) substructures.<sup>27</sup> This law had the effect that the Golkar Party soon did not have political power over the civil servants and the law itself confirmed that the civil servants were neutral and free from any political influence — whether from any ruling political party or not.<sup>28</sup> The law also enforced that every public service performed by civil servants must be held without any discrimination towards the people.<sup>29</sup>

The Law No. 43 of 1999 in terms of civil servant management acknowledges that several elements become the responsibility of the regional governments. This responsibility is supported by the principles of decentralization of civil servants' affairs to the regional governments.<sup>30</sup> Some of the aforementioned elements include the establishment of standard norms, and procedures, formation of job promotion, development of human resource quality, civil servant transfers, salaries, stipends, welfare issues, terminations, rights, obligations, and legal positions.<sup>31</sup> Those several elements were soon confirmed as the regional government domain through the legislation of regional regulation (*Peraturan Daerah*).

Furthermore, Law No. 32 of 2004 stated that regional governments shall be implemented by the decentralization and regional autonomy principles outlined in this legislation. The regional government elections were further regulated by Law No. 32 of 2004, which mandated that all elections for regional governments be held directly by the people.<sup>32</sup> The implications of this direct

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27 The Golongan Karya/Golkar Party is the political party of President Soeharto and New Order administration which saw the party in the sole government power for almost more than 30 years due to its influence and power to the civil servants. See: Nabillah Mahdiana, "Politisasi KORPRI Pada Pemilu Orde Baru Tahun 1970 - 1998 Di Jawa Timur," *Jurnal AVATARA* 6, no. 3 (2018): 49.

28 Korps Pegawai Republik Indonesia, "Sejarah KORPRI: Korps Pegawai Republik Indonesia," Korpri.go.id, 2019.

29 Article 3 par. (2) in Law No. 43 of 1999 on Civil Servant Principles.

30 the General Explanation Section in Law No. 43 of 1999 on Civil Servant Principles

31 *Ibid.*

32 See Article 24 par. (5) in Law No. 32 of 2004 on Regional Governance.



election undoubtedly changed how the bureaucracy and political authority relate to one another; in particular, the neutrality of the bureaucracy was compromised by the existence of political pressures.<sup>33</sup> As a result, Indonesia has a widespread phenomenon where certain public officials actively participate in politics by endorsing a particular candidate.<sup>34</sup> The regional government leaders also need to be aware of decision-making, which includes the decision issue of forming the regional government “cabinet” — which is primarily filled by the officials of government bureaucracy.<sup>35</sup> Leaders of the regional government must comprehend the selection of officials since it has a significant impact on the standard of the policies that will be put into effect by the regional government.

Further arrangement in the realm of civil servant management was also introduced in Law No. 32 of 2004 on Regional Governance which enforced that the regional government regulation should be synchronized with the civil servant management in the Laws on civil servant policies which cover planning, requirements, appointments, placement, education and training, developments, payroll, dismissal, retirement, positions, rights, obligations, responsibilities, prohibition, sanctions and rewards.<sup>36</sup> The law also stipulated that the government carry out the management supervision of regional civil servants as one national civil servant management system.<sup>37</sup> The process of guidance and supervision in Indonesia’s civil servant system is coordinated through the Ministry of Internal Affairs (*Menteri Dalam Negeri*) on a national scale, while it is also the responsibility of the governor on a regional scale.<sup>38</sup>

The practice of decentralization in civil service management is not without any problems. There are several problems, mainly about the issue of the government budget and the implementing regulations—especially at the regional government level—concerning the career and merit system.<sup>39</sup> On the issues of budgeting, there is a problem of reduction in development spending (*belanja pembangunan*) caused by the allocation of the General Allocation Fund (*Dana Alokasi Umum*) which mainly focuses on state personnel expenditure

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33 M. Adian Firas, “Politik Dan Birokrasi: Masalah Netralitas Birokrasi Di Indonesia Pada Era Reformasi,” *Jurnal Review Politik* 6, no. 1 (2016): 161–62.

34 *Ibid.*

35 *Ibid.*

36 See: The Explanation Section in Law No. 32 of 2004 on Regional Governance.

37 Article 129 par. (1) in Law No. 32 of 2004 on Regional Governance.

38 Article 135 par. (1) in Law No. 32 of 2004 on Regional Governance.

39 Erlanda J. Putra, “Pengelolaan Kepegawaian Pada Era Otonomi Daerah,” *Kanun: Jurnal Ilmu Hukum* 17, no. 65 (2105): 49–51.

(*belanja pegawai*).<sup>40</sup> On the other hand, there are also existing problems of management overlapping due to sectoral ego from the state agencies at both national and regional levels. Several government agencies have the regulatory authority over civil service management namely the Ministry of Administrative and Bureaucratic Reforms (*Kementerian Pendayagunaan Aparatur Negara dan Reformasi Birokrasi*), the National State Personnel Agency (*Badan Kepegawaian Nasional*), The State Administrative Agency (*Lembaga Administrasi Negara*) and the Ministry of Internal Affairs (*Kementerian Dalam Negeri*).<sup>41</sup> As a result, the policies issued by these agencies often tend to be out of sync, especially regarding technical instructions and implementation instructions.<sup>42</sup>

To tackle the problems that existed in the previous regulations, the merit system was widely introduced in Indonesia's civil service bureaucracy system through the legislation of Law No. 5 of 2014 on State Civil Apparatus (*Undang-Undang Nomor 5 Tahun 2014 tentang Aparatur Sipil Negara*)—which brought the solution to the serious issue to improve the quality of civil service management. The aforementioned Law regulated the recruitment and job promotion model that emphasized the merit system and competence of each civil servant. The introduction of the merit system was hopefully able to eliminate the patronage relations between the political elites in the regional government with the civil servants and even the civil servant candidates. Another way this new Law tried to improve the quality of Indonesia's civil servant system is by imposing the obligation to each state agency to formulate the number and type of civil servant positions needed based on job and workload analysis.<sup>43</sup>

The planning system should be adjusted with the regional government necessity, to achieve the overall target of public services. Another interesting content of this law is the responsibilities on civil service management which previously held by the president of Indonesia, were shifted to the regional government leaders. This shift was introduced before with the enactment of Government Regulation No. 9 of 2003 on The Authority to Promote, Displace, and Terminate the Civil Servants (*Peraturan Pemerintah Nomor 9 Tahun 2003 tentang Wewenang Pengangkatan, Pemindahan, Pemberhentian Pegawai Negeri Sipil*) which revised through the Government Regulation No. 63 of 2009 on (*Peraturan Pemerintah Nomor 63 Tahun 2009*).

The shift of responsibility to the regional government leaders is

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40 Putra.

41 Putra.

42 Putra.

43 Article 56 par. (1) Law No. 5 of 2014 on Civil Service Apparatus.

understood as one of the central government's firm steps to respect the decentralization principles. The paradigm was also based on the concept presented by Miftah Thoha and Koesoemahatmadja, which viewed that regional autonomy is related to the issues of self-determination, self-regulation, and governance based on authority, power, and initiative.<sup>44</sup> In consequence, an autonomous regional government is only legitimate when the regional government has the authority or power in governance, especially to determine the interests of the region and its people.<sup>45</sup> The impacts of this shift on regional governance and its relations with civil servant management, mainly the authority exercised by the regional government leaders, will be discussed further in the next section.

### **3.1.2 The issues on relation and authority of head of regional government in civil servant management in post-Reform Indonesia.**

Law No. 23 of 2014 mandated that the regional government leaders hold the highest rank in the regional government bureaucracy, while also acting as the main element of regional governance that leads the implementation of government affairs which fall under the authority of the regional government.<sup>46</sup> The regional government leaders, along with the regional legislative body (*Dewan Perwakilan Rakyat Daerah/DPRD*), carried out these affairs while assisted by the Regional Apparatus (*Perangkat Daerah*) which consists of the elements of the state civil servants.<sup>47</sup> The Regional Apparatus—whether at the province level or regency/city level—usually consisted of the secretary of the regional government; the secretary of DPRD; the inspectorate/regional government supreme supervision body; and legal government entities and bodies.<sup>48</sup> The authorities exercised by the Regional Apparatus covered the governance affairs which are the authority of the regional government while also exercising the Co-Administration Tasks (*Tugas Pembantuan*) which are mandated by the Laws.<sup>49</sup>

The rank of leader in the Regional Apparatus is held by a so-called “head” who directly answers to the regional government leaders and administratively to the secretary of the regional government.<sup>50</sup> The rank of head of government

44 Koesoemahatmadja, *Pengantar Ke Arah Sistem Pemerintahan Daerah Di Indonesia*, 1st ed. (Jakarta: Bina Cipta Publishing, 1979); Miftah Thoha, “Manajemen Pembangunan Daerah Tingkat Dua,” *Prisma* (Jakarta, 1985).

45 Koesoemahatmadja, *Pengantar Ke Arah Sistem Pemerintahan Daerah Di Indonesia*.

46 Article 1 no. 3 in Law No. 23 of 2014 on Regional Governance.

47 Article 57 and Article 208 in Law No. 23 of 2014 on Regional Governance.

48 Article 209 par. (1) in Law No. 23 of 2014 on Regional Governance.

49 Article 209 par. (3) in Law No. 23 of 2014 on Regional Governance.

50 Article 218 and Article 219 in Law No. 23 of 2014 on Regional Governance.

bodies or entities in the regional government could only be filled by the state civil apparatus employees, with the requirements of governmental competence and also met the competency requirements which cover the technical, managerial, and socio-cultural skills.<sup>51</sup> The process of promotion for the head of the regional government apparatus is usually performed through an open selection with senior ranking eligibility and requirements as mandated by the Laws and Regulations in civil service management.<sup>52</sup>

Leaders of regional governments have a responsibility to carry out oversight authority, one of which deals with the administration of the state apparatus and civil services, on behalf of the central government.<sup>53</sup> As a result, the regional government leaders, also known as *Pejabat Pembina Kepegawaian Daerah* (herein *PPK Daerah* in Indonesian), have the authority and capacity to act as the regional government's top supervisor of civil employment. The Government Regulation No. 11 of 2017 on Civil Servant Management regulates PPK Daerah's powers in the following ways:

a) The authority to assign the promotion, assignment, and termination of every civil servant employee in their governance.<sup>54</sup>

b) The authority to submit the request for civil servants' needs at the national level through the PPK in regional apparatuses.<sup>55</sup>

c) The authority to fill out the special committee for high-ranking officials (*jabatan pimpinan tinggi pratama*), who then lead the regency/city regional secretariat.<sup>56</sup>

d) The authority to authorize civil servant transfer in inter-regency/city regional government inside a province while taking into account the considerations from *Badan Kepegawaian Negara*.<sup>57</sup>

Those authorities placed the regional government leaders, such as *gubernur* or *bupati/walikota*, as joint coordinators along with the PPK that exist in each of every regional government agency within their realm of authority. Not only that in terms of the provincial government, the fourth authority also mandated that the governor carry out the authority of the President of the Republic of Indonesia in carrying out a unilateral termination process.

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51 Article 233 in Law No. 23 of 2014 on Regional Governance.

52 Article 234 par. (4) in Law No. 23 of 2014 on Regional Governance.

53 Article 375 in Law No. 23 of 2014 on Regional Governance.

54 See: Article 3 in in Government Regulation No. 11 of 2017 on Civil Servant Management.

55 See: Article 12 in Government Regulation No. 11 of 2017 on Civil Servant Management.

56 Article 127 in Government Regulation No. 11 of 2017 on Civil Servant Management.

57 Article 192 in Government Regulation No. 11 of 2017 on Civil Servant Management.

One of the interesting points in the case of the position of regional government leaders as *PPK Daerah* is the relationship between the leaders and the Regional Apparatus Organs (*Organ Perangkat Daerah/OPD*), which helped the regional government leaders in organizing the civil servants' affairs. The aforementioned OPD is the *Badan Kepegawaian Daerah* (BKD) which is the regional agency that is responsible for assisting the regional government leaders to implement the management and administration of the state civil apparatus. The existence of BKD—together with the principles of regional autonomy—shifted the paradigm of civil servant management policy which made the position of the regional governments not only as the executor of the policies, but also in formulating and managing all civil servants' affairs that previously held by the Central Government.<sup>58</sup> The regional government leaders have the right to demand for responsibility from the BKD through the administrative process by the secretary of the regional government in terms of managing the civil servants' affairs.<sup>59</sup> The BKD's main functions are derived from the regional government leaders' authorities which vary, ranging from the authority to recruit new civil servant candidates to the civil servant retirement issues.<sup>60</sup>

Although the regional government leaders were given the power to control and supervise the public workers, this does not necessarily indicate that there are no issues in this area. The position of the leader of regional government both as a political office and state official according to the Laws No. 5 of 2014 might bring some problems in practice.<sup>61</sup> This position is intertwined with another problem in civil servants' affairs, namely the problem of state personnel neutrality. The issue of government servant neutrality is a result of the political rights granted to them, including the ability to vote in national and regional elections. Because of the authority granted, every public servant in the latter elections was an administrator who worked under the direction of a regional government head and had a direct professional connection with the regional leaders. The regional government leaders also faced a dilemma since, in their capacity as *PPK Daerah*, they had the power to exert political influence over the state personnel.

This influence led to a “mutualistic symbiosis” among the regional

58 Miftah Thoha, *Manajemen Kepegawaian Sipil Di Indonesia* (Jakarta: Penerbit Kencana, 2010).

59 Sedarmayanti, *Manajemen Sumber Daya Manusia Reformasi Birokrasi Dan Manajemen Pegawai Negeri Sipil* (Bandung: PT. Refika Aditama, 2009).

60 Sedarmayanti.

61 Article 122 in Laws No. 5 of 2014 on State Civil Apparatus.

government officials, especially the incumbents and those with a history in the civil service, who were all drawn in by promises of rewards and advantages that may be connected to their careers. This also holds when a new regional government leader is elected and begins to assert authority over their competitors; at that point, there is a tendency to remove senior state officials or anybody else who is thought to be supporting their political rivals during the regional elections. Thus, the position of regional government leaders in civil servant management has created new problems that might be feared to harm the spirit of the merit system and the neutrality of the state personnel.

The so-called symbiotic relationship between political authority and bureaucracy also had the possibility of conflict of interests in general--where there is a tendency that bureaucrats usually adhere and have no choice but to follow any policies implemented that could potentially have political and personal benefit for regional leaders.<sup>62</sup> It also should be noted that conflicts of interest have several negative effects on governance, including a potential impact on the implementation of good governance, a decrease in the quality of public services delivered, and harm to the aspect of impartiality in government.<sup>63</sup> This conflict of interests is forbidden by bureaucratic and governance regulations, such as Law No. 30 of 2014 on Governance Administration, which prohibits personal benefit and conflict of interests for government figures.<sup>64</sup> However, it should be highlighted that the current legal system does not expressly limit political influence in conflicts of interest, which may impede governance.

### **3.2 The notable cases on violations in civil services management regulation due to the regional government leaders' political influence**

Before we acknowledge the position of regional government leaders in the civil services system, we ought to know that various theories pointed out the relations between the civil services system as a professional public service instrument and the position of political power in a government administration. Two major views argued on the level of relationship between civil servants as a part of bureaucracy and the position of political power in governance, namely the executive ascendancy which positioned the bureaucracy and its tools as a subordinate of any political means; while on the other hand the bureaucratic

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62 Gerry Ferguson, "Public Officials and Conflict of Interests" in Gerry Ferguson, *Global Corruption: Law, Theory & Practice*, 3rd ed. (Victoria: University of Victoria, 2018): 858-859.

63 Organisations for Economic Cooperation and Development, *Managing Conflict of Interests in Public Sector* (Paris: OECD, 2003): 91-93.

64 See Article 43 in Laws No. 30 of 2014 on Governance Administration.

sublation theory puts the position of bureaucracy and its tools as an equal to political powers.<sup>65</sup>

Based on these views, the bureaucracy of Indonesia could be said to adhere to the principles of bureaucratic sublation. This argument is based on the fact that the bureaucratic sublation promoted professionalism in career offices which also had its power as a permanent office.<sup>66</sup> The bureaucratic sublation simply puts the bureaucracy through its officials with different powers from the authority conferred by political factors—therefore, the bureaucrats had equal status as professionally qualified officials with their specialization in governance.<sup>67</sup> A professional career official usually had a longer stint than their superiors, which is mainly a political official who is usually not a specialist in their field.<sup>68</sup> Another argument that placed the character of Indonesia's bureaucracy as a bureaucratic sublation is the fact that the bureaucracy administration not only acted to implement any public policies but also had the role of formulating the public policies.<sup>69</sup> Therefore, the bureaucracy also needed political support to implement the policies successfully.<sup>70</sup> In this context, any bureaucrats or career officials have the power to balance and respond against the political power. Hence, the bureaucrats' or career officials' position does not merely act as a subordinate and implementation tool but acts as an equal to the executive political power.<sup>71</sup> In short, it created the fact that the career official is an apolitical power they are highly politicized (or so-called "apolitical but highly politicized").<sup>72</sup>

The last sentence could also be analyzed using the theory of public servant bargaining, which states an unwritten bargaining behavior between the bureaucracy and the political authorities in terms of governing authority and credits. The deal requires bureaucrats to give up part of their political rights in exchange for a secure and permanent position, while politicians give up their right to recruit and fire civil servants at will in exchange for loyalty and competence from the bureaucrats.<sup>73</sup>

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65 Carino, in Miftah Thoha, *Birokrasi Dan Politik Indonesia*, 1st ed. (Jakarta: PT Raja Grafindo Persada, 2003).

66 Thoha.

67 Ledivina Carino, *Bureaucracy for Democracy: The Dynamics of Executive-Bureaucracy Interaction During Governmental Transitions* (Quezon City: University of The Philippines, 1994): 193.

68 Rourke, as referenced in Waluyo, *Manajemen Publik: Konsep, Aplikasi, Dan Implementasinya Dalam Pembinaan Otonomi Daerah* (Bandung: Mandar Maju Publishing, 2007).

69 Waluyo.

70 Riris Katharina, "Pegawai Negeri Sipil Sebagai Wakil Kepala Daerah," *Politica* 3, no. 1 (n.d.): 5-7.

71 Katharina.

72 Katharina.

73 C. Hood, "Control, Bargains, and Cheating: The Politics of Public-Service Reform," *Journal of Public Administration Research and Theory* 12, no. 3 (July 1, 2002): 309-32, <https://doi.org/10.1093/oxfordjournals>.

Furthermore, the deal also stated that bureaucrats would have the discretion to create and implement policies, as well as take credit from the public if the policies were successful or blame if the policies failed.<sup>74</sup> This arrangement was pushed by the political figures due to its tendency to benefit political authorities, particularly those with passive and semi-autonomous political decision-making capabilities, as it has little effect on public perception of political power credibility.<sup>75</sup> The position implies that the political authority—in this case, the regional government leader—serves only as a representative of public political power in an advisory and consulting capacity.<sup>76</sup>

The regional government leaders' political influences were the impact of ratification of the Law No. 22 of 1999 on Regional Governance, which has positioned the role of the regional leaders as regional service administrators (*pembina kepegawaian daerah*). This influence should be translated as a way to create bureaucratic loyalty from the civil employees and officials to the regional leaders to ensure the administration policy's success.<sup>77</sup> However, the development of Indonesia's bureaucratic relations with the political power faced a lot of dilemmas where there were so many violations against the bureaucracy regulation.

The regional civil servants—especially the top government officials—had created a massive dependency on the political power of the regional leaders to ensure their jobs were stable. This created an instability in the bureaucracy system that hindered the public service and governance effectiveness. This problem arose from the phenomenon when the regional leaders were shuffled as a result of an election, the ranks and organizations of the civil servants also changed.

The illustration of this dilemma is reflected in post-reform Indonesia, where there are so many conflicts between bureaucratic power and political power in regional governance. There is various evidence shown by several cases, as described by Erwan Agus Purwanto, that there was so much ineffectiveness in Indonesia's bureaucracy due to the political constraints also the gap of quality and vision between the regional leaders and the bureaucrats.<sup>78</sup> The writer also

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jpart.a003536: 318.

74 Hood: 326.

75 Christopher Hood and Martin Lodge, *The Politics of Public Service Bargains: Reward, Competency, Loyalty - and Blame* (Oxford: Oxford University Press, 2006): 102-103.

76 David Siegel, "The 'Public Service Bargain' in Local Government: A New Way of Looking at Relations between Municipal Councils and CAOs," *Canadian Public Administration* 58, no. 3 (September 3, 2015): 406-25, <https://doi.org/10.1111/capa.12120>: 411-412.

77 Katharina, "Pegawai Negeri Sipil Sebagai Wakil Kepala Daerah."

78 Erwan Agus Purwanto, *Birokrasi Publik Dalam Sistem Politik Semi-Parlementer*, ed. Wahyudi Kumorotomo,



pointed out that there are several notable cases of conflict and violations of power performed by the regional leaders against the proper regulations on bureaucracy and administration, as shown in the table below:

**Table 1.** several cases of violation on civil servant regulations by the Regional Government Leaders in Indonesia during post-Reforms period in the last 10 years.

The Case	The Detail on Violation or Conflict Case	The Impact of the Case
The corruption case of Klaten regional government leader ( <i>Bupati Klaten</i> ) in the job promotion mechanism in Klaten Regional Government. <sup>79</sup>	The bribery and gratification case was performed by the <i>Bupati</i> /regional government leader of Klaten regency in promotion of the organizational structure and work procedures of civil servant organisation.	Incompetent open bidding mechanisms during the official job promotion process might lead into inefficiency and incompetence in public service, as the selected official through illegal means might not have the capabilities and the competence in either creating a public policy or implementing it in their governance.
The problem of government official position auction ( <i>lelang jabatan pejabat tinggi</i> ) in North Sumatra Province Government. <sup>80</sup>	Obstruction by the Governor in open job auction ( <i>lelang jabatan</i> ) process, that led into an administrative problem due to the Governor violation against the winners' decision and its related regulation	The Ministry of Bureaucratic Reforms issued a warning against the government of North Sumatera. While the vacant position was filled by the temporary officials which had limited authority in governance. Hence, this case hampered the administration process in the vacant organizations.
The issue of higher echelons rank promotion in the Lhokseumawe Regional Government. <sup>81</sup>	The personal and subjective considerations by the regional leader which hampered the auction filling process through assessment centre mechanism in the regional government.	The civil servant appointment to the top leadership position was not in accordance with the merit system, which should be based on competency, educational qualifications, track record owned, position requirements and performance. Thus, the goals of the merit system were not met in the job filling process.

Sources: Processed by the author from various sources (2021).

1st ed. (Yogyakarta: Penerbit Gaya Media, 2005).

79 For further details, see: Artharini, "Kasus Suap Bupati Klaten : Ada Kaitan Dinasti Politik Dan Korupsi ?"

80 See: Redaksi Harian Medan Bisnis, "Edy Rahmayadi Seleksi Ulang Eselon II Pemprov Sumut Di 9 OPD," Harian Medan Bisnis, 2021, [https://medanbisnisdaily.com/news/online/read/2019/10/04/88478/edy\\_rahmayadi\\_seleksi\\_ulang\\_eselon\\_ii\\_pemprov\\_sumut\\_di\\_9\\_opd/](https://medanbisnisdaily.com/news/online/read/2019/10/04/88478/edy_rahmayadi_seleksi_ulang_eselon_ii_pemprov_sumut_di_9_opd/); Ombudsman Perwakilan Sumatera Utara, "Usulkan Yanuarlin, Ombudsman Sumut: Gubsu Diduga Maladministrasi."

81 See: Zahniar, Nazaruddin, and Abubakar, "Tantangan Pelaksanaan Program Seleksi Terbuka Jabatan Pimpinan Tinggi (JPT) Pratama Di Kota Lhokseumawe."

Supposedly, the authority given as an administrator in their regional governance should have an impact on its subordinates who assist in regional employment matters. Based on the cases above, this shows that the authority given to the regional government leaders by the law as the administrator of the civil servant management coupled with ignorance and violation of the law could lead to a disaster in public governance. This disaster could be far-reaching and detrimental and might lead to government mismanagement and ineffective public services, which could affect the people's livelihood. Thus, this created accountability and political instability issues that might shadow a regional government administration. These issues might lead to governance disruption, public trust crisis, to hampered regional economic development.

## 4. Closing

### 4.1 Conclusion

The massive authority in civil servant management held by the regional government leaders in post-Reforms Indonesia—which supposedly sparked to creation of an effective regional governance—however, is still plagued by several problems. This problem, interestingly, is related to the imbalance of power due to the huge influence of political power. On the other hand, the professional bureaucrat's power depended on the political power to implement their policies and interests in public governance. This issue then coupled with the interest and competence of the regional government in selecting the “cabinet” position in their regional organizations. Coupled with those issues, this created a great political power held by the regional leaders that affected the public services performed by the civil servants.

The problem of the massive political power of the bureaucracy in Indonesia's civil servant management created several cases of abuse and violation. The writer's handpicked cases reflected this issue, where it affected and hindered the governance administration in carrying out public services. The position of the regional leaders in a political position as well as administrator positions places interference between the public interests and political considerations with the civil servant management. Civil servant management supposedly has been arranged in such a way as to provide services to the public and is the foundation of the career of civil employees. This raises several problems that impede progress in the quality of the bureaucracy as well as hinder the advancement of the quality of existing civil service management

in regional governance. The imbalance of political power and bureaucracy also showed that the regional government system was vulnerable to corruption practices and gnawed by competence and accountability problems.

#### 4.1 Advice

To mitigate the problems of abuse of authority or incompetence by the regional leaders which had a great political influence against the bureaucrats, it is very important for the government—as in the central government which covers the executives and legislative—to establish a robust bureaucracy and legal system that could bring the balance between the political system and bureaucracy. The balance is supposedly made to ensure transparency, accountability, and the guidance of public interests in governance. Additionally, both the government and the society can provide a strong oversight mechanism on the political-bureaucrats relation—especially an external one—which is very important to help in addressing and preventing conflicts in public governance.

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