

**AN ANALYSIS OF THE PROFESSIONAL SEPARATION OF EDUCATORS
(LECTURERS) AND POLITICAL PARTY PARTICIPANTS IN THE CIVIL
SERVANT IN THE 2024 ELECTION**

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ABSTRACT

Political parties can be interpreted as a means for citizens to participate in the management of the state. Political parties are new organisations that have emerged in society, younger than existing organisations in society. Lecturers as state officials, namely the Civil servant (ASN) in their role as educators and as political party participants in elections must be able to balance their main duties as a lecturer. As regulated in Law Number 14 of 2005 which discusses teachers and lecturers who have the right to participate in political parties. However, many laws and regulations in Indonesia regulate the prohibition of state officials to attend elections directly. This research uses one method, namely the juridical-normative research method with a statutory approach and a conceptual approach, where the legal materials used are in the form of laws and regulations as primary legal materials and books, legal journals as secondary legal materials, and other supporting sources through the internet in tertiary legal materials with qualitative descriptive legal material analysis techniques. Universities are at the forefront of creating citizens with academics and integrity. The 2024 election is a place to present prospective leaders who have integrity and quality. Lecturers as teaching staff have a role and contribution as parties who maintain the ethics and integrity of a nation's development. The role of universities in the context of elections that are in accordance with the principles of the elections themselves, of course the actors in universities, such as students and lecturers, are the main actors to encourage this.

Keywords: *State Officials, Political Participation, 2024 Elections.*

INTRODUCTION

Political parties can be interpreted as a means for citizens to participate in the management of the country¹. In the life of society, political parties are familiar in the environment around us, various party flags continue to appear in the community. The birth of political parties is a

¹ Jurdi, F. (2020). *Penghantar Hukum Partai Politik*. Prenada Media.

long history when discussed. Political parties are new organisations that have emerged in society, younger than the existing organisations in society.

One of the realisation of political parties comes from community involvement, the process of political parties begins with elections. Elections are a means for the community to determine the choice of figures and the direction of the leadership of the country or region within a specified time. Therefore, elections are one of the means of legitimising power that illustrates the condition of democracy in a country. As a pillar of democracy, the role of political parties in the national political system is a forum for the selection of national and regional leadership.

Political participation is the activity of citizens acting as individuals, with the intention of influencing decision-making by the government. Participation in political parties is individual or collective, organised or spontaneous, steady or sporadic, peaceful without violence, legal or illegal, effective or ineffective. Political participation is one of the important objects in a democracy. Participants in politics can come from various circles of society, in the middle class, lower class, and upper class. These circles of society come from various professions, one of which comes from educators in the realm of higher education or what is called a lecturer.²

Lecturers as state officials, namely the Civil servant (ASN) in their role as educators and as political party participants in elections must be able to balance their main duties as a lecturer. As regulated in Law Number 14 of 2005 which discusses teachers and lecturers who have the right to participate in political parties. However, many laws and regulations in Indonesia regulate the prohibition of state officials to attend elections directly.³

RESEARCH METHOD

This research uses one method, namely the normative juridical research method with a statutory approach and a conceptual approach, where the legal material used is in the form of legislation as primary legal material as well as books, legal journals as secondary legal material, and other supporting sources through the internet in tertiary legal material with qualitative descriptive legal material analysis techniques. This writing uses descriptive

² Miriam Budiharjo. 'Dasar-Dasar Ilmu Politik'. Jakarta: PT Gramedia Pustaka Utama. 2018. Pg. 397.

³ Arum, N. S., & Putri, M. W. (2022). Optimalisasi Terhadap Pns Yang Menjadi Anggota Partai Politik Berdasarkan Asas Netralitas Asn. *Sinar Dunia: Jurnal Riset Sosial Humaniora Dan Ilmu Pendidikan*, 1(4), 109-123

research. Descriptive research seeks to collect data from research findings to be compiled by explaining and analyzing to answer the problems that are the focus of the research.

DISCUSSION

Forms of Political Campaign Activities as Political Participation in Higher Education in Review of the Election Law and the Higher Education Law

The organisation of free and fair elections provides a requirement where there must be equality implemented by the organising committee or election participants themselves, which is intended for all election participants and voters. The purpose of holding elections is not only related to renewing leadership, strengthening the legitimacy of government, and facilitating socialisation and political learning, but also as a facility to strengthen national integration. Not only that, through elections, there is also an opportunity for the community to obtain various data, ranging from development programmes and steps and strategies from candidates who are election participants who aim to share revised development ideas for the welfare of citizens.

Universities actually have a position and role to urge an election to be an honest, free, and fair election. As a place of learning for academic people, the actors in it also play a position as a party that protects the continuity of the holding of elections based on the rules and corridors of each that can be accounted for. Lecturers or teachers in higher education can be pioneers in sharing their voices with citizens if conducting a democratic and fair election is important and needs to be protected, by urging election participants to prepare all their best programmes and designs to be offered as information to the public.

However, in the implementation of elections in Indonesia, there is still one issue that is still being discussed, whether the political campaign activities that politicians try to deliver their ideas and programmes to the public can be carried out on campus or not. Based on Law No. 7/2017 on Elections, any form of political party campaign activity is prohibited in places of learning. However, in the description or explanation section, it is explained that if the learning organiser invites election participants, it is stated that they can carry out campaign activities on campus, without using the attributes of any political party.

Political participation in universities has become a matter of discussion in the academic community. This is because there are significant or important elements in it, such as the participation of the academic community such as college students and lecturers. For

Ratnamulyani and Maknai, college students, although still young and do not have much experience, but this group of students is listed among those who are open in pursuing new matters and are critical and independent.⁴ After that, Lestari and Arumsari also shared a statement that it is important to look at the political participation of student groups because it greatly affects the political world because students become ‘the citizens’ and become the main axis in democracy.⁵ After that, the next group is teachers or academics in both private and public universities. Past research and literature has also shown that academics have a significant influence on development policy. Research by McRae and Robet, reported that academics can play a significant role in political spheres such as elections, by becoming candidates and joining political parties or becoming observers and advisors to political parties.⁶

Hill and Kian Wie, stated that the constraints relate to the rule of law within the university itself.⁷ For example, in accordance with the Election Law itself. In addition, academics with a Civil servant (ASN) background are prohibited from engaging in political activities and upholding the principle of neutrality in their profession. This is the cause of weak political participation in Indonesia, especially in the scope of higher education due to regulations that prohibit it. Supposedly, with the support of many studies that provide a statement that the importance of universities is present in increasing public participation in political activities. Finlay and Flanagan, state that any form of participation that can be carried out by universities, such as civic political education in courses or academic public discussions, and public services are various efforts to increase public participation in the higher education environment and learn to become a more active and critical society with the world of politics. ⁸ Sociologically, in accordance with Article 6 of Law No. 12/2012 on Higher Education, especially the principle of higher education is the search for scientific or true truth by the academic community and the ongoing culture and empowerment of the nation.

⁴ Ratnamulyani, I.A & I.B, Maksudi, "Peran Media Sosial Dalam Peningkatan Pemilih Pemula Dikalangan Pelajar di Kabupaten Bogor", *Sosiohumaniora*, Vol. 20, No.2, pg. 154-161, 2018.

⁵ Lestari, E.Y. & N. Anumsari, "Partisipasi Politik Pemilih Pemula pada Pemilihan Walikota Semarang di Kota Semarang", *Integralistik*, Vol. 29, No. 1, pg. 10, 2018.

⁶ Mc. Rae, Dave & Robertus Robet, "*Don't Ask, don't tell: Academics and Electoral Politics in Indonesia, Contemporary Politics*", Vol. 26, No. 1, pg. 38-39, 2020.

⁷ Hill, H & T. Kian Wie, "*Indonesian Universities in Transcition: Catching Up and Opening Up, Bulletin of Indonesian Economics Studies*", Vol. 48, No.2, pg. 229-251, 2012.

⁸ Flanagan C. Young People's Civic Engagement and Political Development, dalam A. Furlong (Ed)., "*Handbook of Youth and Young Adulthood: New Perspectives and Agendas*", (New York: Routledge, 2009).

Forms of Practical Political Campaigns in Review of Article 28 of the 1945 Constitution of the Republic of Indonesia

General elections are the biggest democratic party in history that can determine the direction of the Indonesian nation for the next five years. Therefore, this democratic party must be held directly, publicly, freely, secretly, honestly, and fairly in accordance with the principles of elections that apply in Indonesia. Elections that are conducted directly by Indonesian citizens for all groups that have been declared to meet the organiser's requirements, are also carried out in an honest and confidential manner that is only known privately and applies fairly to all Indonesian citizens.⁹ The holding of elections in accordance with the principles of elections can be created if it is organised by organizers who have integrity, professionalism, and accountability, and are able to involve the public to participate actively, widely, and with quality.¹⁰

General elections are held jointly, but there are many events that are in the public spotlight and discussed, such as the involvement of members of the Civil servant (ASN) or Village Government who are not allowed to conduct campaign activities in practical politics at every political momentum in Indonesia. This is because not only is there a prohibition in our legislation, such as Law Number 5 of 2014 concerning the Civil servant, Law Number 6 of 2014 concerning Villages and supported by Law Number 7 of 2017 concerning General Elections, but the role of ASN and the Village Government itself is as officials who have high integrity and ideals of neutrality over the elections that occur, and this is what makes the neutrality of the Civil servant and Village Government over elections the most crucial issue.

The principle of neutrality is that every employee of the Civil servant or the Village Head as the embodiment of the Village Government does not take sides from any form of influence and does not favour the interests of anyone, which is related to politics. One form of manifestation of political rights is stated in Article 28 D paragraph (3) of the 1945 Constitution of the Republic of Indonesia regarding the right to vote and be elected in elections. This shows that in a series of elections, state officials must carry out their duties professionally and responsibly, and free from all collusion and nepotism. So that this is in line with the implementation of policies and management of a state official. However, in reality,

⁹ Indriani Karlina, "Tinjauan Yuridis Terhadap Keikutsertaan Anggota Badan Permusyawaratan Desa Dalam Kampanye Calon Anggota DPRD Provinsi Nusa Tenggara Barat (Studi Putusan No. 6/Pid.Sus/2019/PN.Dpu).," *Skripsi Thesis, Universitas Hasanuddin*, 2021.

¹⁰ Kadimuddin Baehaki, "Gagalnya Pencegahan Money Politik Pada Pemilihan Kepala Daerah," *Jurnal Philpsophia Law Review* Vol.1, No.1, pg. 39-96, 2021.

in the events encountered, there are still many Village Heads (in this case as Village Governments) and Civil servant carrying out practical political campaign activities carried out by one of the candidates from certain political parties, so that the articles governing these rules have not been properly and maximally realised, where a Village Head as an executor of the Village Government should be neutral.¹¹

The issue of neutrality of state officials such as the Civil servant and the Village Head as a representative of the village government, actually intersects with the content of the validity of association, which is regulated in Article 28 E paragraph (3) of the 1945 Constitution of the Republic of Indonesia, which reads: "Every person has the right to assemble, associate, and express opinions." This article states the political rights of Indonesian citizens, which are universal for democratic countries. Meanwhile, democratic efforts can be carried out by holding an election, as explained by Gaffar in Efrizal, who states that elections are the most important forum or place to realise democracy in a country.¹² The impact of the embodiment of the neutrality of state officials in elections creates its own doubts about the neutrality of state officials because it has been stated in Article 43 of Law Number 39 of 1999 concerning Human Rights. Therefore, there are still many problems that exist over the violation of the right to neutrality by state officials in elections, because theoretically it is difficult to find a suitable basis that can provide justification for the possibility of state officials to be involved in practical political campaign activities.

Furthermore, political rights are regulated in Article 28 D paragraph (2) of the 1945 Constitution. Political rights are an important element that can determine the success of a foundation of the rule of law, democracy, protection of human rights, and the central position of political rights in the life of the state.¹³ The political rights of state officials in relation to the right to vote are basic rights for every individual that must be guaranteed by a state.¹⁴ Meanwhile, the existence of the right to be elected in elections is the right to register as a candidate for election, which in principle must be limited through certain conditions to ensure

¹¹ Henok Kriswanto, "Implementasi Larangan Bagi Kepala Desa Yang Menguntungkan Calon Kepala Daerah Berdasarkan UU Nomor 1 Tahun 2015," *National Conference on Social Science and Religion (NCSSR)*, Vol. 290, No. 96, 2022.

¹² Efrizal dan Gaffar. (2012). *Political Explorer: Sebuah Kajian Ilmu Politik*. Bandung: Alfabate. ¹¹ Marbun, S.F., & Moh. Mahfud MD. (1987). "Pokok-Pokok Administrasi", Yogyakarta: Liberty.

¹³ Fahmi, K. (2017). "Pergeseran Pembatasan Hak Pilih Dalam Regulasi Pemilu Dan Pilkada", *Jurnal Konstitusi*, Vol. 14, No. 4, pg. 671, 2017.

¹⁴ Elias, F. dan Ruddy, W, "Pencabutan Hak Politik Sebagai Pidana Tambahan Dalam Perspektif Hukum Hak Asasi Manusia Di Indonesia", *Jurnal Lex Et Societatis* Vol. 6, No. 4, hlm. 21, Juni 2018.

that the rights of others are not violated. For example, in Constitutional Court Decision Number 41/PUU-XII/2014, the Constitutional Court stated that if what applies is the norm that Civil Servants as state officials must resign when registering as candidates, then this norm only partially fulfils the guarantee of constitutional rights in accordance with Article 28 D paragraph (1) of the 1945 Constitution, regarding the value of legal certainty, not containing the value of justice. This is because the impact of civil servants resigning as state officials when registering for elections can potentially harm other citizens who will lose their status as civil servants, even though there is no guarantee of certainty for the civil servant to become a permanent candidate in an election. The Constitutional Court's decision, which is used as a reference material for the studies conducted, states that the requirement for civil servants or state officials to resign from their positions to run for election is not a limitation of human rights in their constitutional rights to obtain equal opportunities in government (in accordance with Article 28 D paragraph (3) of the 1945 Constitution of the Republic of Indonesia). The granting of the right to vote and be elected in the General Election is limited and constitutionally as explained in the provisions of Article 28 J paragraph (2) of the 1945 Constitution of the Republic of Indonesia, but only as a juridical consequence of the choice of other public officials to enter the political sphere, so that public officials are obliged to resign in accordance with the laws and regulations that have regulated this matter, as stated in Constitutional Court Decision Number 45/PUU-VIII/2010, with the latest reference to Decision Number 41/PUUXII/2014.

CONCLUSION

Universities are at the forefront of creating citizens with academics and integrity. The 2024 election is a place to present prospective leaders who have integrity and quality. Lecturers as teaching staff have a role and contribution as parties who maintain the ethics and integrity of a nation's development. The role of universities in the context of elections that are in accordance with the principles of the elections themselves, of course the actors in universities, such as students and lecturers, are the main actors to encourage this. Lecturers as civil servants or state officials are required to stand alone without having to take sides with anyone either openly or secretly. Regulations related to the implementation of political campaign activities within the university have been regulated in laws and regulations, such as the Election Law and the Higher Education Law. Actually, the prohibition of practical

political activities in Indonesia does not violate the 1945 Constitution, especially in Article 28, which regulates the limitation of human rights of Indonesian citizens. Therefore, it is expected that the determination of the terms and limitations of these rights requires appropriate guidelines or parameters to maintain the principle of neutrality of state officials so as not to intersect with existing laws and regulations.

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