

**THE MERIT SYSTEM ON THE ACT NO. 20 OF 2023
ABOUT THE STATE'S CIVIL APPARATUS AND PUBLIC SERVICES**

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Abstract

Efforts to create a good government system are correlated with the government system built in government to achieve government goals through good employee management. Law no. 20 of 2023 concerning State Civil Apparatus. The main aim of having a merit system in positions is an effort to create a good service system for society. Therefore, the essence of Law no. 20 of 2023 in order to accelerate the implementation of the transformation of the state civil apparatus to create a state civil apparatus with high work results and behavior that is service-oriented, accountable, competent, harmonious, loyal, adaptive and collaborative, it is necessary to improve the implementation of the management of the state civil apparatus. This research uses a legal approach by analyzing the legal policy of an employee merit system in order to improve public services.

Keywords: Merit System, Legal Policy, Public Service

Abstrak

Upaya untuk menciptakan sistem pemerintahan yang baik memiliki korelasi dengan merit sistem yang dibangun dalam pemerintahan untuk mencapai tujuan pemerintah melalui manajemen pegawai yang baik. Undang-Undang No. 20 Tahun 2023 Tentang Aparat Sipil Negara. Tujuan utama dari adanya sistem merit dalam jabatan sebagai upaya untuk menciptakan system pelayanan yang baik bagi masyarakat. Oleh karena itu hakikat dari adanya UU No. 20 Tahun 2023 dalam rangka mempercepat pelaksanaan transformasi aparatur sipil negara untuk mewujudkan aparatur sipil negara dengan hasil kerja tinggi dan perilaku yang berorientasi pelayanan, akuntabel, kompeten, harmonis, loyal, adaptif, dan kolaboratif, perlu dilakukan penyempurnaan terhadap pelaksanaan manajemen aparatur sipil negara. Penelitian ini menggunakan pendekatan hukum dengan menganalisis kebijakan hukum adanya system merit pegawai dalam rangka meningkatkan pelayanan publik.

Kata kunci : Sistem Merit, Kebijakan Hukum, Pelayanan Publik

A. Introduction

The State of the Republic of Indonesia, in the Constitution of 1945, established its national objective, namely to establish a Government of the State of Indonesia that protects the entire nation of Indonesia and the entire bloodshed of Indonesia to advance the common well-being, to enlighten the life of the nation, and to participate in the implementation of a world order based on freedom, eternal peace and social justice.

To implement the trust to form an Indonesian State Government as envisaged in the Constitution of the Republic of Indonesia in 1945, a well-functioning government bureaucracy is required. The government has devised a plan of action to keep the government always present by building a clean, effective, democratic, and trustworthy system of government. To accomplish this, it is necessary for the ASN to be a main machine of bureaucracy that is professional, neutral and free from political intervention, free from practices of corruption, collusion, and nepotism, capable of organizing quality public service, and capable of performing the role of a sticker of national unity and unity under Pancasila and the Constitution of the Republic of Indonesia of 1945.

The regulatory framework governing the current ASN is Act No. 5 of 2014. Faced with a rapidly changing world accompanied by rapid technological advances, public demands for increasing public services, including demands to resolve honour problems, as well as the global economic opportunities and challenges faced by the Indonesian nation to compete with other nations in the world, changes need to be made to the provisions of the Act. The various regulations in this Act are expected to be the basis for accelerating the transformation of ASN Management to realize a professional and world-class Indonesian bureaucracy. ASN needs to have a digital mindset in carrying out the bureaucratic transformation and ASN management.

In addition to such sociological facts and empirical conditions, Juridically, the Law No. 5

Year 2014 on the Civil State Apparatus also needs to be adjusted to the presence of a Constitutional Court ruling that imply to the substance of the Law. Some of the decisions of the Constitutional Court, among others: Decision No. 41/PUU-XII/2014 concerning the resignation of the PNS following political contestation; Decision of the Court No. 8/POA-XIII/2015 concerning PNS who no longer serves as a state official and no vacancy of office is available; and Decision no. 87/POO-XVI/2018 concerning disrespectful termination of PNS for committing criminal acts.

The regulations contained in this Act are: 1. strengthening the oversight of the Merit System; 2. establishing the needs of the PNS and the PPPK; 3. welfare of the PSN and the PSPK; 4. appointment of honorary personnel; and 5. digitization of the ASN Management including the transformation of the component of the Management ASN.

The principles of management such as planning, organizing, actuating, and controlling (POAC) are applied in PNS management. (DBO). As a system, staff management also has cycles, namely planning (formation, selection, recruitment, appointment), development (placement in a post, promotion, demotions, disciplinary construction, welfare efforts, improvement of competence, competence assessment, etc.), supervision (control, legal assistance, inspectorate, and Bapeka), and dismissal and retirement of officials.¹

B. Research Methods

Research can simply be defined as "an attempt to search again". What are you looking for? What research is looking for is the answers to an unsolved problem. This search attempt was carried out against an object very carefully. Of course what is sought is true knowledge, that is

¹ Aswin Eka Adhi, Sistem Manajemen Kepegawaian, ADPG4449/MODUL 1
<http://repository.ut.ac.id/4606/1/ADPG4449-M1.pdf>
25/1/2023.

knowledge acquired by scientific methods.² In research with the title The Merit System On The Act No. 20 of 2023 About The State's Civil Apparatus And Public Services, Use a legal approach by analyzing in depth the state's legal policy towards the recruitment and post-establishment system of civil government officials.

C. Results And Discourse

Merit System In Order To Create Good Governance

Based on the approach to word analysis and the theory of behavioral change, the merit system is defined as management of SDM based on performance (merit), that is, all employee work behavior in its existence is categorized as good or bad, which directly affects the rise or fall of earnings and/or career of the employee's post. The concept of merit systems reflects that the performance factor is central to this system or, in other words, the main focus of the system merit is in order to improve or improve performance. (Woodard, 2005). If the performance of the job is good then the employee (SDM) will be awarded a reward or reward in the form of an increase in earnings and/or career of the post. If the performance of the employee (SDM) is bad, then will receive punishment in the form of a decrease in income and/or career of the office.³

Excellent equipment resources are the key to moving the bureaucracy agile and efficient. The quality of the equipment's resources became one of the indicators of the success or failure of the bureaucracy in achieving the country's goals. (Noors, 2019). This emergency of superior equipment resources is accompanied by efforts to improve government governance which will ultimately affect national development program as described in the Regulations of the Minister of

State Appliances and Bureaucratic Reforms (Ministers of the PAN and RB) No. 25 Year 2020 on the Roadmap of Bureaucracy Reforms Year 2020-2024.

In the roadmap, the establishment of SDM apparatus became one of the areas of reforms carried out through the application of the merit system to create a professional, integrated and highly competitive ASN. The application of the merit system in the management of ASN becomes an absolute matter in order for good governance or good government to be achieved. The merit system the qualification, competence and performance aspects of equipment resources as the driving wheel of bureaucracy, ranging from the recruitment process, placement, career development to the dismissal.⁴

In principle, there is a paradigm shift in the field of civil service in Indonesia, namely that the civil servants elected are officials based on basic competence and work performance in order to realize the state of unity of the Republic of Indonesia. Although the implementation process and the stage of implementation of the PNS management has not yet and immediately undergone many changes. The process of change in the management of PNS the Reformation era is still in the process of improvement. The process of change continues to respond to the problems that have arisen. As for the problems encountered on the ground, it is a question between bureaucracy and politics in Indonesia. The head of the district as the building officer of the municipality in the region is determined by the general election process as the mandate of the implementation of democracy selected by the political party system, while the civil state officials as the caretaker of the maintenance of the government are purely bureaucratic who should

² Nur Solikin, 2021, Pengantar Metodologi Penelitian Hukum, CV. Penerbit Qiara Media, Jawabarat, p. 1-2

³ Arief Daryanto, "Merit System Dalam Manajemen Pegawai Negeri Sipil", Jurnal kebijakan dan Manajemen PNS, VOL.1, NO.2, November 2007, hlm. 2-3.

⁴ Andry Prasetya Permana dan Rahmad Taufik, "Implementasi Kebijakan Dan Sistem Merit Pada Seleksi Terbuka Jabatan Pimpinan Tinggi Pratama Kabupaten Bangka Selatan", Responsive: Jurnal Pemikiran Dan Penelitian Bidang Administrasi, Sosial, Humaniora Dan Kebijakan Publik, Volume 6 Nomor 1 Bulan April Tahun 2023, hlm. 16.

be political partners in order to organize the wheel of government.⁵

Under Act No. 20 of 2023, that Article 2 Maintenance policy is based on the following principles:

- a) legal certainty;
- b) professionalism;
- c) proportionality;
- d) unity;
- e) delegation;
- f) neutrality;
- g) accountability;
- h) effectiveness and efficiency;
- i) openness;
- j) management of ASN;
- k) union
- l) justice and equality; and
- m) well-being.

In overseeing the implementation of this policy, the U.S. Merit Protection Board uses in Australia, the merit system is considered important and its implementation aims to ensure that recruitment is carried out fairly and competitively and free from political influence and other non-merit factors. According to the Australian Public Service Commission (APSC), Australian public sector recruitment is regulated as follows:⁶

1. The vacancy department must be announced;
2. Skill and post requirements must be established;
3. Assessment criteria must be set and announced to the candidate;
4. The decision must be based on a comparison between the criteria and the assessment results;

⁵ Meisi Kalesaran, “PENERAPAN SISTEM MERIT MENUJU PEMERINTAHAN YANG TERPERCAYA (*TRUSTWORTHY GOVERNMENT*) (Studi Penelitian Pada Badan Kepegawaian Daerah Provinsi Sulawesi Utara)”, *Jurnal Ilmu Pemerintahan Suara Khatulistiwa (JIPSK)*, Vol VI, No. 01, Juli 2021, hlm. 72.

⁶ Septiana Dwiputrianti, dkk, 2019, “Penilaian Penerapan Sistem Merit dalam Manajemen ASN di Instansi Pemerintah Tahun 2019”, Penerbitan pada Bidang Pengkajian dan Pengembangan Sistem - Komisi Aparatur Sipil Negara, hlm 9.

5. The process must be open to the applicant to be given the opportunity to apply;
6. The person recommended is the best;
7. The decision can be tested and there is no conflict of interest.

The California School Personnel Commissioners Association (CSPCA) also formulates some principles of the system of merit in the management of competence, namely:⁷

1. Recruitment is based on ability, knowledge, and skills; and is carried out through fair and open competition;
2. Fair and equal treatment with respect to the rights of individuals;
3. Payment appropriate to performance;
4. Effective and efficient employment;
5. Capacity development of staff through education and training to support performance improvement;
6. And protection of staff.

Good Management System Officers in the Public Service Framework

The aim of the application of the merit system in management is to improve the performance of the SDM in order to high and sustained productivity of the institution/organization. The conditions that can be met for the application of the merit system to work effectively according to Simamora are: 1. Making a high standard of performance, because low expectations can turn into a fulfillment of self-prophecy. 2. Develop accurate performance assessment systems, focusing on results-oriented and job-specific criteria. 3. Train supervisors in performance evaluation mechanisms and in the art of giving feedback to subordinates. Ineffective performance must be managed constructively. 4. Strictly link rewards to performance by using semi-annual performance assessments to give or reject system merit improvements. 5. Use a wide range of system merits improvements by making wage increases more meaningful.⁸

In order to carry out the functions of

⁷ Septiana Dwiputrianti, dkk. *Ibid*

⁸ Arief Daryanto, *Op. Cit.*, hlm. 3.

government in providing prime public service to the people, as well as realizing the reform of bureaucracy and good governance, the Government is required to have the resources of the civil apparatus of the state that have integrity, professional, neutral and free from political intervention, free from the practices of corruption, collusion, and nepotism, and able to organize public service for the society and capable of performing the role as a sticker element of unity and unity of the nation according to Pancasila and the Basic Law of the Republic of Indonesia of 1945. Furthermore, there is a need for fundamental reforms and changes in the system of maintenance of government, in this case especially concerning the institutional aspects, inefficiency and resources of the civil apparatus of the State. Such fundamental changes must focus on the aspects of efficiency, efficiency and productivity of the resources of civil apparatuses of the state through a balanced hierarchical and horizontal division of work, measured in the ratio between the volume or burden of work and the amount of resources accompanied by strict formal arrangements and supervision. In order to that, government officials need to be encouraged to develop their full competence through comprehensive management of the state's civilian apparatus resources.⁹

Public service is the right of every society whose implementation is based on a principle of simplicity, security, certainty of time, clarity, accountability, accuracy, ease of access, availability of means and supplies, decency and hospitality, convenience, and discipline. These principles encompass various kinds of:¹⁰

⁹ Bramantyo Agung M. Arifin, 2020, “(Modul Best Practice) Sistem Informasi Manajemen Kepegawaian Pada Administrasi Dan Pelayanan Kepegawaian Dalam Kerangka Merit System Di Lingkungan Kementerian Hukum Dan HAM, Teknis Substantif Sistem Informasi Kepegawaian, Badan Pengembangan Sumber Daya Manusia Hukum Dan Hak Asasi Manusia Kementerian Hukum Dan Hak Asasi Manusia Republik Indonesia, hlm. 17.

¹⁰ Lailul Mursyidah dan Ilmi Usrotin Choiriyah, 2020, “Manajemen Pelayanan Publik”, Penerbit: UMSIDA

1. Legal certainty means that there are laws and regulations that guarantee the provision of public services in accordance with the needs and sense of justice of the public. b. Openness means that every recipient of the service can easily access and obtain information about the desired service.
2. Participation is intended to promote the role and community in the maintenance of public service by paying attention to the appearances, needs, and expectations of the community.
3. Accountability means that the process of maintenance of the recovery must be accountable in accordance with the laws.
4. Public interest means that in the granting must not take precedence over the interests of individuals or groups.
5. Professionalism means that the organizing apparatus must have competition appropriate to its field of duty.
6. Equality of rights means that in the provision of public services it is non-discriminatory in the sense that there is no distinction between tribe, race, religion, group, gender and economic status.
7. The balance of rights and obligations means that the fulfilment of rights must be proportionate to the obligations to be fulfilled by both the service provider and the recipient.

In relation to the phenomenon of bureaucratic behavior, the position, role and function cannot be separated from the individual as an apparatus (official) who has perceptions, values, motivations and knowledge in order to perform functions, duties and social responsibilities in the public service. Human behavior within an organization is crucial to achieving maximum results in order to the goals of the organization.¹¹ Maintaining good governance basically requires the involvement of the entire component of

Press, hlm. 22-24.

¹¹ Ismail Nurdin, 2019, “Kualitas Pelayanan Publik (Perilaku Aparatur Dan Komunikasi Birokrasi Dalam Pelayanan Publik)”, Penerbit Media Sahabat Cendekia, hlm. 11

stakeholders, whether bureaucracy in the government environment, private as the extension of the hands of the government and the public. Maintaining good governance is a government that is close and affectionate to the community and in providing services must be in accordance with the needs of the community. The essence of good governance can be seen in the conduct of good public service. It is in line with the spirit of regional decentralization and autonomy policies aimed at giving flexibility to regions to regulate and manage their respective regions in order to improve public service.¹²

Lack of optimum government management performance can be caused by a variety of factors, including: indifference and low commitment at various levels of government and other government organizers to jointly realize the goal of decentralization/regional autonomy. In addition, there is a minimum of commitment to establish and implement strategies and policies to improve performance and quality of public services. The United Nations Development Programme (UNDP) defines governance as "the use of political and economic authority and administrative authority to manage national affairs at all levels". Governance encompasses the entire mechanism of processes and institutions in which societies and groups of societies express their interests by exercising legal rights, fulfilling obligations and bridging differences between them. To put it simply, good governance is generally understood as the management of good government. The word 'good' here means following certain principles in accordance with the basic principles of good governance. (UNDP, 2000).¹³

The establishment of standards of public service must be well structured and not complicated, for that it must take into account aspects; capacity, institutions and apparatus of service providers, as well as regional potential and socio-cultural characteristics of local

communities. Thus, the established standards of public service can be implemented well, especially by the operational performers of the service in direct contact with the public, as well as easily understood and accepted by the public / stakeholders. In the discussion, formulation and formulation of the standards of the public service should involve the apparatus related to the service, for the purpose of building a joint commitment to the achievement of the objectives set in the vision, mission of the organization. It is important in the process of formulation and discussion, involving the community/stakeholder, and carried out without formality.¹⁴

This adult public service is still faced with conditions that are not in line with the needs and changes in various areas of social, national, and national life. This could be caused by a lack of readiness to respond to a wide-ranging value transformation and the impact of complex development problems. Meanwhile, the new order of Indonesian society is faced with global hopes and challenges driven by advances in science, information, communications, transport, investment, and trade.

The conditions and rapid changes that followed such a shift in values need to be understood wisely through a steady and continuous step of activity in various aspects of development to build public confidence in the realization of national development goals. This requires a concept of a public service system that contains values, perceptions and standards of behavior capable of realizing human rights as mandated by the Basic Law of the Republic of Indonesia of 1945 can be applied so that people obtain services in accordance with the hopes and ideals of national goals. Considering the above, a public service law is required. Considering the above, a public service law is required. The fact in Law No. 25 of 2009 on Public Service Article 10, that:

1. The organizer is obliged to carry out an evaluation of the performance of the

¹² Muhammad Fitri Rahmadana, dkk, 2020, "Pelayanan Publik", Penerbit Yayasan Kita Menulis, hlm. 1.

¹³ Muhammad Fitri Rahmadana, dkk, *Ibid.*, hlm. 1-2

¹⁴ Muhammad Fitri Rahmadana, dkk, *Ibid.*, hlm. 39

executive in the organizational environment on a regular and continuous basis.

2. Based on the results of the evaluation as referred to in paragraph (1), the organizer has the obligation to make efforts to improve the capacity of the executor.
3. Evaluation of implementation performance as referred to in paragraph (1) is carried out with clear and measurable indicators, taking into account improvements in procedures and/or improvement of the organization in accordance with the basis of public service and legislative regulations.

Article 11

1. The organizer is obliged to conduct the selection and promotion of executives in a transparent, non-discriminatory, and fair manner in accordance with the provisions of the law.
2. The organizer is obliged to award an award to the executor who has achieved the work.
3. The organizer is obliged to punish the executor who violates the internal rules of the organizer.
4. Further provisions concerning the award and punishment mechanisms shall be determined by the organizer.

In the face of the challenges and building better public services in the digital age, governments need to commit themselves to continuously improving the quality and efficiency of public services, as well as strengthening public participation and trust in the government. Therefore, there is a need for good staff management in the placement of officers.

National Civil Equipment Management will be one of the focus of government development by 2020. Through the Ministry of National Development Planning/Bappenas, the Technocratic Plan of the National Medium-term Development Plan (RTRPJMN) 2020-2024 has been prepared, which is the 4th stage of the long-term national development plan (RPJPN) 2005-2025. The national medium-term development plan 2020 -2024 is aimed at better human resource development, through the public sector

as well as empowerment of the non-public sector to a competitive global. Specifically in the area of equipment, the Ministry of NPA/Bappenas has drawn up three development priorities, namely: (1) improving accountability performance, supervision and reform of bureaucracy; (2) improving innovation and quality of public services; and (3) strengthening implementation of merit-based State Civil Apparatus management. The development of State Civil Apparatus management to establish a world-class bureaucracy that is truly professional, integrated and neutral has begun since the policy of the merit system in the management of the State Civil Apparatus was implemented. The Act No. 5 of 2014 on State Civil Equipment is the legal basis which explicitly mandates that government agencies should apply systemicity in the management of State Civil Apparatus. The system of merit is defined as the policy and management of the ASN based on qualifications, competence, and performance, which is enforced fairly and reasonably without discrimination. The definition is listed in the Act No.5 of 2014 about State Civil Apparatus where in the system of the merit the most preferred is the qualification that includes in the selection and recruitment of officials, compensation and placement of the same.¹⁵

D. Conclusion

A state legal policy on the management of officials is necessary in order to create a good government. The system of merit embodied in the Law No. 20 Year 2023 on the State Civil Apparatus is a model of good governance of the public to create good order for public service to the public. The placement of officials in accordance with their competence will encourage the strengthening of a good public service system for the community. Therefore, strengthening the

¹⁵ Anggita Chariah, dkk, “Implementasi Sistem Merit Pada Aparatur Sipil Negara Di Indonesia” Jurnal Borneo Administrator, Vol. 16 No. 3, Desember 2020, hlm. 384-385

competence of government officials through the merit system will encourage the orientation of good state development especially in the field of high-level service from the local government to the central government.

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