



## Reconstruction of the ASN Managerial Position System: A Legal Study of the Merit System and Structural Anti-Corruption Strategy in ASN Law No. 20 of 2023

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### Abstract

*This study aims to analyze the reconstruction of the State Civil Apparatus (ASN) position system from the perspective of administrative law as a strategy for preventing structural corruption, with a particular emphasis on the provisions of Law Number 20 of 2023 on ASN. The research employs a normative juridical method with statutory and conceptual approaches, supported by literature reviews and institutional reports. The analysis is grounded in administrative law theory (principles of legality, accountability, and merit), the rule of law, good governance, and structural anti-corruption theory. The findings reveal that although the merit system is normatively accommodated in Articles 13–18, its implementation continues to face serious deviations, including political interference, weak evaluation mechanisms, and the absence of clear rules on term limits. These conditions perpetuate bureaucratic patronage and create opportunities for structural corruption. This study proposes four reconstructive measures: (1) the issuance of implementing regulations concerning performance evaluation and term limitations; (2) the application of open merit-based assessments for all structural positions; (3) the institutional and executorial strengthening of the ASN Commission (KASN) and the National Civil Service Agency (BKN); and (4) the optimization of whistleblowing systems. These recommendations are expected to serve as legal and institutional instruments to strengthen the integrity, accountability, and professionalism of the bureaucracy, while closing loopholes for structural corruption in the governance of ASN positions.*

## Introduction

Corruption is a form of extraordinary crime that has permeated various aspects of national life, including the government bureaucracy (Puanandini et al., 2024). In this context, corruption is not merely understood as an individual act, but has developed into a systemic, structural phenomenon embedded in the state's institutional mechanisms. One factor triggering structural corruption is weak governance of the State Civil Apparatus (ASN) position, particularly in terms of appointments, transfers, and demotions, which are not based on the principle of meritocracy (Sofyan, 2023; Sary et al., 2024; Mahyudin et al., 2025; Wahyudi, 2025).

Practices of nepotism, collusion, and political loyalty often distort the ASN position system, resulting in low professionalism and bureaucratic accountability. This situation creates a dark space within the bureaucracy, which in turn opens up opportunities for abuse of authority and corruption (Nur & Wardani, 2024; Onyango, 2024; Obicci, 2025). Yet, the principle of merit requires filling positions based on competence, integrity, and performance, as stipulated in Law Number 20 of 2023 concerning the State Civil Apparatus (ASN Law). From a state administrative law perspective, the weak governance of civil servant positions reflects the

suboptimal implementation of the principles of legality, accountability, and merit, which should be the primary foundation. Within the rule of law, filling public positions should ideally be carried out through legitimate, transparent procedures free from political interference, in line with the principles of good governance, which demand accountability, professionalism, and bureaucratic integrity (Dwiyanto, 2006; Hadjon, 2007; Syadiyah et al., 2024; Birdayanthi et al., 2025; Augustine, 2025).

Regularly, the Civil Servant Law also remains fundamentally problematic. This regulation does not explicitly regulate the term of office for high-ranking officials or the open selection mechanism, as previously stipulated in Law Number 5 of 2014 concerning the State Civil Apparatus (ASN), which has now been revoked and replaced by the ASN Law. To date, implementing regulations regarding job evaluation, objectivity indicators, and the authority of supervisory institutions such as the State Civil Service Commission (KASN) and the State Civil Service Agency (BKN) are also not yet operationally available and binding. This legal vacuum has implications for weak oversight, the maintenance of the status quo, and the continued incumbency of low-performing officials.

Data from Indonesia Corruption Watch (ICW) in its 2023 Year-End Notes shows that throughout the year, more than 600 corruption cases occurred, with potential state losses reaching IDR 27 trillion. Most cases occurred in the procurement of goods and services and village funds, two sectors closely linked to strategic positions within the civil service (ASN). Meanwhile, in the context of enforcing ethics against civil servants involved in corruption, it was found that a number of individuals remained in structural positions, indicating weak ethical sanctions and internal oversight (Bormasa et al., 2023; Meyer-Sahling & Mikkelsen, 2022; Hidayat et al., 2023). Meanwhile, the National Agency for the Assessment and Application of Civil Servants (KASN) reported more than 3,000 complaints of merit system violations in 2023, of which approximately 40% were found to violate the principle of civil service neutrality, particularly in the lead-up to the elections (Afrihadi et al., 2025a). This fact highlights the gap between legal norms and practice on the ground.

The 2022 report by the Ombudsman of the Republic of Indonesia also revealed maladministration in the selection and appointment process for Civil Servants with Employment Agreements (PPPK), particularly regarding the transparency of filing (Ombudsman of the Republic of Indonesia, 2023). The Ombudsman's recommendations underscore the importance of increasing accountability at every stage of civil servant recruitment. Furthermore, the National Civil Service Agency (KASN) in a 2023 press release recorded more than 3,000 reports of merit system violations, with approximately 40% found to violate the principle of civil servant neutrality, particularly in the lead-up to elections (Afrihadi et al., 2025b). This is a serious indication that the civil servant position system has not fully prevented the distortion of power. Meanwhile, BKN data shows that in 2023 the number of civil servants in Indonesia reached 4.2 million, with 30% of them approaching retirement age in the next few years. This indicates that there is an opportunity to improve the governance of ASN positions through the application of the merit principle more optimally, however, it was still found that around 60% of ASN are still concentrated in the general administration sector, which indicates that ideal national talent management has not yet been realized.

Several previous studies have shown that the roots of corruption in the bureaucracy often stem from a weak civil servant (ASN) management system. Abuse of power among ASN not only violates the criminal law on corruption as stipulated in Law No. 31 of 1999 in conjunction with Law No. 20 of 2001 (Puannandini et al., 2023; Wahyudi, 2025; Zaki et al., 2022), but has also created a culture of power that exploits positions for personal gain. Furthermore, political intervention in ASN in the lead-up to elections directly impacts bureaucratic neutrality and

professionalism (Amir & Hertanto, 2023; Nadzirin et al., 2025). Appointments are often used as political tools, necessitating strict regulations and oversight to prevent irregularities.

Weak consistency in administrative law enforcement, particularly regarding the dismissal of ASN found guilty of misconduct, remains a problem. This was triggered by differences in interpretation of norms within the State Administrative Court (PERATUN) (Syam et al., (2019). This condition emphasizes the importance of legal harmonization and strengthening the principle of legality, in line with the findings of other studies that indicate the need for normative reconstruction based on integrity, accountability, and the prevention of structural corruption. In this context, Law Number 20 of 2023 concerning the State Civil Apparatus through Articles 27–55 has provided a legal basis for merit-based ASN management, including needs planning, procurement, performance management, competency and career development, and dismissal mechanisms. However, its implementation still faces various obstacles, ranging from weak supervision, the absence of technical regulations related to job evaluation, political intervention in placement, to inconsistent administrative law enforcement (Rizal & Holivil, 2023; Karimullah, 2024; Arsad, 2023).

This phenomenon emphasizes the need for a more in-depth legal study of Law Number 20 of 2023 concerning the State Civil Apparatus to identify regulatory gaps and implementation practices that have the potential to open up space for structural corruption. Reconstruction of the ASN position system into The inevitability of strengthening the principles of integrity, accountability, and good governance. Therefore, this study seeks to offer a model for the legal reconstruction of ASN positions that is oriented toward anti-corruption strategies, through a normative approach that emphasizes strengthening the principle of legality, clarity of norms, and effective oversight mechanisms.

## Methods

The methodological approach that is used in this research is normative juridical approach. Normative juridical approach is one that examines law as a system of norms, principles, and positive rules of law which governs social and governmental behaviour, and does not examine empirical behaviour or statistical quantification. Mamudji & Soekanto (2001) describe normative legal research as one that is aimed at examining legal norms found in legislation and other sources of law that are authoritative with the aim of evaluating their coherence, consistency and normative sufficiency. This method is considered suitable in exploring the merit system in the management of civil servant jobs since the central problems are the content of regulations, institutional power, and normative protection that aims at curbing the misuse of power within the bureaucracy (Bendix, 1945).

This research paper is mainly focused on the regulatory system that regulates the civil service merit system, especially those provisions that deal with appointment, transfer, dismissal and the supervisory role played by the bodies that oversight the civil servants. The fundamental normative reference is the Civil Servant Law, which highlights that the main principles include professionalism, integrity, neutrality as well as bureaucratic accountability. This analysis is further extended to its implementing regulations, i.e. Government Regulation Number 11 of 2017 relating to the Civil Servant Management and Government Regulation Number 17 of 2020 relating to Amendments to Government Regulation Number 11 of 2017. These laws are applicable as long as they do not contradict the latest statute laws. Using this framework, the study measures how well the merit system is normatively constructed according to which there is fair, transparent, and accountable governance of positions of civil servants.

The research study that should be undertaken is a normative legal research that has a descriptive analytical nature. Nurhayati et al. (2020) define normative legal research as an approach that sees law as a normative system in the form of rules and principles that have to be interpreted and systematised. Its analytical character of description suggests that the research does not only involve the description of the current legal provisions but rather critically evaluates the internal consistency of the provisions, their normative structure, and their ability to render the desired legal purposes. In this respect, the study provides an account of the legal provisions governing the merit system in a systematic manner and subsequently examines their suitability in avoiding abuse of power, political influence, and corruption in the civil service system (Sary et al., 2024; Meyer-Sahling et al., 2018; McCourt, 2007).

The study follows two complementing methods in order to enhance doctrinal analysis. The former one is the statute approach that presupposes a thorough review of the statutory provisions governing the merit system and the governance of civil servants. This practice focuses on the interpretation of the legislation through text in order to determine normative duties, institutional responsibilities and procedural protective measures. It has an analysis of the Civil Servant Law, Government Regulation Number 11 of 2017, and Government Regulation Number 17 of 2020, and other provisions that touch on the management of civil servants jobs.

The second analytical paradigm that will be used in this research is the conceptual approach that is systematic way of questioning the legal doctrines that define the merit-based civil service system and bureaucratic government. In this way, the investigation is able to relate doctrinal provisions with broad theoretical frameworks of administrative law and the rule-of-law theory. The study evaluates the principle of legality, accountability, good governance, abuse of power, and integrity in the office as some of the concepts. The combination of these principles places the merit system in the larger normative framework of the state administrative law and the doctrine of anti-corruption. The conceptual approach plays in particular an important role in determining the presence of substantive rule-of-law values in the regulatory framework or in the formal compliance with the procedure.

The materials used in the research as legal resources are logically divided into primary, secondary, and tertiary sources, which adheres to the doctrinal research schema outlined by Marzuki (2015). The official substratum of the analysis is primary legal materials. They include the Civil Servant Law, Government Reg. No.11 of 2017, Government Reg. No.17 of 2020, Law No.30 of 2014 relating to the Administration of a Clean State Free of Corruption, Collusion, and Nepotism, and the Law No.28 of 1999 in the same regard. These laws are also considered to determine the normative principles of appointment processes, administrative discretion, supervisory practices, and integrity in the office of a public office.

Scholarly literature, peer-reviewed journal articles, academic commentaries, and previous empirical results related to civil service reform, merit-based systems, administrative accountability, and corruption prevention are included in secondary legal materials. These sources serve as sources of analysis of statutory provisions and their theoretical consistency. Secondary literature is also referred to compare the Indonesian merit system to the greater principles of administrative law and anti-corruption tactics as presented in the academic literature.

Tertiary legal sources include legal dictionaries, encyclopedias and explanatory materials that clarify technical terminology and doctrine. Tertiary sources do not have normative authority but they add to the interpretative accuracy by providing conceptual clearness in the application of the meaning of merit, discretion, integrity and abuse of authority. Together, these three

aspects of legal resource provide a full-scale basis of normative reconstruction and doctrinal evaluation.

Systematic identification, retrieval, and analysis of statutory texts, official government publications, and academic literature and other pertinent jurisprudence are all part of the process of compiling legal materials using library research. Both physical and online databases are used to ensure that the relevant legal sources are covered exhaustively. The library research allows the researcher to follow the development of the regulatory provisions on the merit system and identify the interpretative disputes that are hidden within legal scholarship. The study relies on the source of authoritative documents and, therefore, its analysis is confined to verifiable legal sources.

Legal analysis is a qualitative process that is executed through the interpretation of the doctrines and strict legal logic. Normative research that is based on qualitative analysis does not involve statistic processes and uses interpretative approaches that aim to clarify the meaning, scope, and implications of the legal norms. The research uses grammatical interpretation to explain the meaning of the text, systematic interpretation to study the relationship between the provinces, and the teleological interpretation to determine whether the regulatory framework has met its target objectives of promoting professionalism and curbing corruption. In addition to this, the study compares normative provisions to the principles of administrative accountability and anti-corruption governance to identify possible disharmonies, ambiguities or regulatory gaps. This comparative normative analysis aims at revealing the discrepancies between statutory requirements and institutional practice enacted in the design of regulation. In the case of deficiencies, the study suggests a normative reconstruction by proposing more precise regulatory constructions, stronger supervisory structures, or more express protection of discretionary abuse.

This research does not conduct empirical field investigation. Reports from supervisory institutions such as KASN and the Ombudsman are used solely as secondary supporting materials to illustrate normative gaps in implementation. The primary object of analysis remains the statutory construction and doctrinal consistency of Law Number 20 of 2023 concerning the State Civil Apparatus and its implementing regulations

## **Results and Discussion**

### **ASN Managerial Positions and the Implementation of the Merit Principle: A Normative Analysis of Law No. 20 of 2023 and Its Implementing Regulations**

The regulation of managerial positions within the State Civil Apparatus (ASN) is a fundamental framework for establishing a professional, accountable bureaucracy free from political interference and collusive practices. The ASN Law explicitly establishes a meritocracy-based position system as the primary basis for ASN management. These provisions are comprehensively regulated in Articles 13 to 55, which outline the position structure, filling mechanisms, and the merit principle as a normative reference in civil service governance.

Articles 13 to 55 of Undang-Undang Nomor 20 Tahun 2023 tentang ASN establish the structural framework of ASN managerial and non-managerial positions and formally mandate the application of the merit system. However, a systematic interpretation reveals several normative inconsistencies and regulatory gaps.

First, Article 13 and Article 14 classify managerial positions hierarchically, yet the law does not provide detailed normative parameters for competency measurement at each level. While Article 26 defines merit as qualification, competence, performance, integrity, and morality, the absence of legally binding indicators creates ambiguity in its operationalization. From the

perspective of the legality principle, a norm that lacks measurable criteria risks becoming declarative rather than prescriptive.

Second, Article 30 obliges authorized officials to implement the merit system. However, the provision does not stipulate explicit legal consequences for non-compliance. In normative legal construction, an obligation without a clearly formulated sanction weakens enforceability. This creates a structural imbalance between normative command and institutional accountability.

Third, although Article 15 emphasizes competency-based position filling, the law does not explicitly mandate open selection mechanisms for all structural levels. The absence of uniform procedural standards results in unequal regulatory treatment between high leadership positions and lower managerial positions. This inconsistency may contradict the equality before the law principle embedded within rule of law doctrine.

Furthermore, the law regulates retirement age but does not comprehensively regulate fixed term limits outside high leadership positions. The coexistence of Article 70 transitional provisions and reliance on Peraturan Pemerintah Nomor 11 Tahun 2017 and Peraturan Pemerintah Nomor 17 Tahun 2020 creates normative uncertainty. A statutory framework that depends on outdated implementing regulations may generate interpretative fragmentation and weaken legal certainty.

From a systematic interpretation approach, Articles 13–55 demonstrate a normative commitment to meritocracy but lack coherence in enforcement design, supervisory authority strengthening, and procedural uniformity. Teleologically, if the objective of the ASN Law is to prevent structural corruption through merit-based governance, then the current regulatory design remains partially incomplete.

This indicates that the principal issue lies not in the absence of merit principles at the declarative level, but in the insufficient normative engineering required to transform meritocracy into an enforceable administrative structure.

Article 13 classifies ASN positions into two categories: Managerial Positions and Non-Managerial Positions. Article 14 classifies Managerial Positions into five categories: senior high-ranking positions, middle high-ranking positions, pratama high-ranking positions, administrator positions, and supervisory positions. This division reflects a hierarchical bureaucratic structure with an emphasis on role specifications and competencies in carrying out government duties. Furthermore, Articles 14-16 emphasize that positions must be filled according to competency and job requirements. Article 30 stipulates that authorized officials are required to implement a merit system in exercising their authority. However, implementing regulations have not yet been issued and still refer to Government Regulation No. 11 of 2017 and Government Regulation No. 17 of 2020.

The Civil Servant Law does not stipulate a maximum term of office for High-Leading Positions (JPT). Instead, it stipulates a retirement age (60 years for JPT), rather than a term of office. This opens up room for reinterpretation or extension of positions without a clear time limit, potentially reducing the periodic circulation of positions. Furthermore, to date, there are no implementing regulations that detail the evaluation forms, assessment objectivity indicators, or the operational and binding role of supervisory institutions such as the National Civil Service Agency (KASN) and the National Civil Service Agency (BKN).

Article 26 of the Civil Servant Law explains that the principle of meritocracy is a principle of human resource management based on qualifications, competence, potential, performance, integrity, and morality, implemented fairly and equitably without discriminating based on ethnicity, race, color, religion, national origin, gender, marital status, age, or special needs.

Performance assessments are intended to measure work achievements objectively, measurably, and relevantly to organizational targets as a basis for promotions, transfers, or dismissals. While job oversight ensures that tasks are carried out in accordance with competency standards and the code of ethics, while preventing abuse of authority. Career development is directed at ongoing development through education and training, job rotation, and assignments to enhance ASN capabilities according to organizational needs.

Furthermore, Article 34 explains that JPT positions can be filled by civil servants (PNS) or PPPK (Regional Personnel Management) without specifying the mechanism. Government Regulation 11 of 2017 stipulates that the appointment and dismissal of JPT positions must be carried out through an open and competitive selection process that upholds procedural transparency, accountability for results, and measurable assessment indicators, so that all candidates have equal opportunities based on qualifications, competency, and integrity. This mechanism is not only intended to minimize patronage, nepotism, and political interference in filling positions, but also represents the application of the principles of legality, justice, and proportionality in state administrative law. It also serves as a normative instrument to prevent structural corruption and strengthen professional governance free from the domination of non-technocratic power (Nur & Wardani, 2024).

This regulation is also in line with the principles of good governance, particularly regarding accountability, objectivity, and bureaucratic professionalism. Civil servant positions are expected not to be a commodity of power, but rather the result of a transparent and measurable selection process (Dwiyanto, 2006b). However, Article 70 (3) of the Civil Servant Law stipulates that existing civil servant commissions continue to carry out their duties and functions until implementing regulations are established. Government Regulation No. 17 of 2020 stipulates that the term of office of a JPT is a maximum of five years and can be extended based on performance evaluation, but there are no similar provisions for positions below the JPT. Furthermore, there are currently no implementing regulations that operationally and bindingly regulate the form of evaluation, indicators of assessment objectivity, and the role of supervisory institutions such as the KASN and BKN (Chairiah et al., 2020).

The absence of clear evaluation mechanisms and term limits for positions outside of the JPT (Jantimate Position) have the potential to lead to structural abuse of authority. Holding positions without term limits and without transparent evaluation risks the accumulation of power, stagnation of bureaucratic innovation, and the emergence of personal loyalties that displace institutional loyalties. In practice, this situation can create a "comfort zone" for officials, thus reducing motivation to improve performance or implement policy reforms, and potentially perpetuating maladministration practices such as collusion, condoning poor performance, or exploiting office for personal or group interests (Setyasih, 2023).

Furthermore, positions without term limits tend to become a "comfort zone" for officials, thus reducing enthusiasm for improving performance or implementing policy reforms. In the long term, such a situation has the potential to perpetuate maladministration practices, such as collusion, condoning poor performance, or exploiting office for personal or group interests. This is certainly contrary to the spirit of bureaucratic reform, which demands adaptive, accountable, and performance-based governance (Habibi, 2020).

Furthermore, the merit principle in the Civil Service Law emphasizes the management of civil servants based on qualifications, competence, performance, integrity, and morality. Normatively, this provision aligns with the principles of the rule of law and good governance, which require that the procedure for filling positions be legal, transparent, and free from political interference (Aswin Maysura, 2025). However, implementation in the field still shows

deviations. The LAN (2020) report noted that most government agencies have not been able to consistently implement the merit system, and the open selection mechanism is often distorted by political interference (Santoso, 2019). This situation is further exacerbated by the fact that open selection is only mandatory for filling JPT (Job Positions), while lower-level positions lack equivalent regulations, creating a gray area in the practice of promotions and transfers. Similar findings were identified by the KASN (2022), which received numerous reports regarding position filling not based on competence or performance.

Thus, there is a gap between legal norms and implementation practices that has the potential to perpetuate bureaucratic patronage and open up opportunities for structural corruption. This gap underscores the need for a critical analysis of the weaknesses in the legal substance and the role of supervisory institutions in ensuring the effective implementation of the merit system.

### **Implementation Deviation from the Principle of Merit in Job Management**

Deviations from the merit principle in the management of civil servant positions remain a crucial problem in Indonesian bureaucratic practices. Although this principle is mandated normatively in Articles 13 to 55 of the Civil Servant Law and clarified in various implementing regulations, including Government Regulation No. 17 of 2020, its implementation in practice is often distorted. The merit principle, which should emphasize qualifications, competence, and performance, is often undermined by patronage practices, political intervention, and non-professional considerations. This situation not only undermines objectivity and accountability in civil servant management but also has the potential to hinder the achievement of adaptive, transparent, and optimally service-oriented bureaucratic reform.

One of the most obvious forms of deviation is seen in the promotion process, where official placements do not always reflect objective considerations based on performance achievements or technical competence (Ridwan et al., 2024). In practice, promotion decisions are often influenced by personal ties, political loyalties, and even considerations of rewards for certain groups. These patterns reflect a return to patronage practices that undermine the spirit of bureaucratic professionalism. In addition to promotions, horizontal rotational transfers are also frequently carried out without any basis in organizational needs analysis or individual career development of civil servants. This phenomenon indicates a weak institutional merit system, particularly in terms of oversight and accountability for job management.

Weak oversight and the lack of a periodic job evaluation system exacerbate this situation. Job evaluations, which should be conducted periodically and based on performance indicators, have not been integrated into the human resource management systems of many government agencies. This creates a gray area for the emergence of non-transparent and unaccountable practices. A 2022 report from the National Civil Service Agency (KASN) noted that approximately 30% of the total complaints received related to violations of the merit principle in promotions and job transfers. The Indonesian Ombudsman (2021) also highlighted that the rotation and promotion process for civil servant officials in several regions is still carried out without an objective analysis of job performance and workload. In fact, in some cases, high-performing officials have been demoted for non-technical reasons that cannot be systematically verified.

Weak oversight and the absence of periodic job evaluations exacerbate the deviation from the merit principle in the civil service bureaucracy. In the employment context, although the legal norm of the minimum wage is clearly regulated in Article 185 (1) in conjunction with Article 90 (1) of Law Number 13 of 2003 concerning Manpower, its enforcement is only effective in the large and medium industrial sectors, while in the small and micro sectors many workers do not receive wage protection (Yo'el & Al Anshori, 2019). This emphasizes that the existence of

legal norms alone does not guarantee effective implementation; they must be supported by consistent monitoring instruments and evaluation mechanisms.

In the Anglo-Saxon tradition, A.V. Dicey emphasized the supremacy of law, equality before the law, and constitutionalism (Dicey, 1959), while Lon L. Fuller highlighted the "internal morality of law"/procedural values (general, promulgated, non-retroactive, consistent, enforceable, stable, and due process), which are highly relevant to assessing the procedures for filling civil servant positions (Lon L. Fuller, 1958). This deviation phenomenon underscores that the implementation of the merit system in filling positions in regional governments still faces a structural dilemma (Maisarah & Buana, 2025). They highlight that the merit system, which should be an instrument to prevent corruption, collusion, and nepotism (KKN), is often compromised by the political considerations of regional heads. In another study, Subagja et al., (2024) found that the policy of filling positions through PPPK based on Government Regulation (PP) Number 49 of 2018, Management of Government Employees with Work Agreements (PP No. 49 of 2018), although intended to expand professional access, has instead given rise to polemics regarding equal rights and job protection. The practice is often non-transparent, without objective measurement, and opens up opportunities for political intervention that deviates from the principles of meritocracy.

The practice of filling civil service positions by military personnel (the Indonesian National Armed Forces/TNI) is considered contrary to the principles of civil bureaucratic reform. The involvement of the TNI in civil service positions blurs the civil-military boundary and deviates from the merit system, as appointments are often made without open selection and rely primarily on proximity to or military track records (Sari et al., 2025). This practice has the potential to undermine meritocracy and undermine the credibility of the civil service as a neutral, responsive, and professional bureaucracy. This has the potential to undermine the meritocratic order and undermine the institutional credibility of the civil service as the backbone of a neutral, responsive, and professional public service.

Deviations from the merit principle in civil service position filling practices also need to be placed within the framework of the rule of law (Rechtsstaat/Rule of Law). The principles of the supremacy of law, legality, and limitations on power, as stated by A.V. Dicey, Lon L. Fuller, Joseph Raz, and Jimly Asshiddiqie all require that all personnel policies be implemented objectively, non-discriminatory, and predictably through consistent regulations (Asshiddiqie, 2005). Therefore, political intervention, patronage, or practices that ignore periodic job evaluations clearly contradict the rule of law and undermine the principles of good governance, which prioritize accountability and transparency. Ultimately, strengthening the merit system is not only about civil servant management, but also about the realization of good governance and efforts to maintain the legitimacy of Indonesia's rule of law.

Reports issued by supervisory institutions such as the Civil Service Commission and the Ombudsman should not be treated merely as empirical descriptions of administrative irregularities. Within normative legal research, such reports function as secondary materials that reveal structural weaknesses in regulatory design.

The recurring reports of merit violations recorded by KASN demonstrate that the obligation formulated in Article 30 of Undang-Undang Nomor 20 Tahun 2023 tentang ASN lacks sufficient coercive force. A norm that imposes an obligation without attaching explicit administrative sanctions or binding corrective mechanisms risks being reduced to symbolic legislation. From the perspective of administrative law doctrine, enforceability is a core component of normative effectiveness. Without enforceable consequences, the merit principle remains declarative rather than operational.

Similarly, findings from the Ombudsman regarding maladministration in recruitment and promotion processes indicate that procedural safeguards within the ASN Law are not systematically codified. The absence of detailed implementing regulations concerning evaluation standards, objectivity indicators, and measurable performance benchmarks creates interpretative discretion that may be excessively broad. In rule of law theory, excessive discretion without structured limitations may lead to arbitrariness.

The significant number of neutrality violations during electoral periods also signals a regulatory vulnerability. Although neutrality is normatively mandated, the ASN Law does not comprehensively regulate preventive mechanisms, monitoring procedures, and immediate disciplinary consequences. This regulatory gap suggests that the statutory framework emphasizes ethical expectations but underdevelops institutional control architecture.

Thus, empirical reports do not merely illustrate implementation failure. They indicate deficiencies in three normative dimensions: clarity of legal standards, enforceability of obligations, and institutional binding authority. From a doctrinal standpoint, repeated violations should be interpreted as symptoms of incomplete regulatory engineering rather than isolated administrative misconduct. Consequently, the issue is not whether merit principles exist within the statutory text. The critical question is whether the law provides sufficiently precise, enforceable, and institutionally supported mechanisms to transform meritocracy into a functioning administrative safeguard against structural corruption.

### **Impact on Structural Corruption**

Deviations from the principle of merit in the process of filling public offices carry profound implications for the integrity and legitimacy of bureaucratic governance. Within a merit-based administrative system, recruitment and promotion are designed to ensure that public authority is exercised by individuals who possess competence, integrity, and professional capacity. When these standards are disregarded, the normative foundation of bureaucratic professionalism is weakened. The bureaucracy then risks transforming from a neutral administrative apparatus into a political instrument that serves particularistic interests rather than the public good. In such circumstances, public office is no longer conceptualized as a trust (public trust doctrine), but as a resource subject to distribution within networks of influence.

From the perspective of administrative law and rule of law theory, this shift undermines the principles of legality, equality, and accountability. Public office should be allocated through objective, transparent, and legally predictable procedures. However, when meritocratic safeguards are eroded, decision-making authority becomes increasingly personalized. Discretion that should function within structured legal boundaries expands into discretionary arbitrariness. This distortion creates conditions in which corruption cannot be understood solely as isolated unlawful acts committed by individual officials. Instead, corruption evolves into a structural phenomenon embedded within institutional arrangements and sustained by patterns of reciprocal power relationships.

This condition aligns with the concept of structural corruption as articulated by Michael Johnston, who explains that corruption may become systemic when institutional control mechanisms fail to restrain entrenched power networks. Structural corruption is characterized not merely by bribery or embezzlement, but by the normalization of practices that privilege loyalty, proximity, and political alignment over merit. When recruitment and promotion mechanisms lack transparency and enforceable standards, informal bargaining processes may replace formal procedures. Position allocation may occur through negotiated exchanges, political patronage, or tacit agreements that operate outside formal accountability channels.

The absence of transparent and competitive selection mechanisms also produces a concentration of informal authority within certain bureaucratic actors. Officials who secure and maintain positions through patronage networks often develop power bases that are insulated from objective performance evaluation. This produces a bureaucratic configuration in which decision-making authority is exercised through relational dependency rather than institutional mandate. Over time, such dynamics contribute to the emergence of what may be described as a bureaucratic oligarchy. Within this structure, a limited group of actors exercises disproportionate influence over resource allocation, personnel decisions, and policy implementation, while formal oversight institutions remain normatively present but functionally weakened.

Political patronage further reinforces a transactional logic within administrative governance. As observed by Merilee S. Grindle, patronage systems tend to convert public appointments into instruments of political consolidation rather than mechanisms for improving organizational performance. Transfers, promotions, and strategic placements become tools for maintaining loyalty and securing political alliances. Under such conditions, career mobility is detached from competence assessment and instead becomes contingent upon relational proximity to centers of power. This dynamic erodes internal accountability, as officials may prioritize allegiance to political patrons over adherence to legal norms and ethical standards.

Normatively, such a pattern contradicts the foundational objectives of Undang-Undang Nomor 20 Tahun 2023 tentang ASN, which formally mandates merit-based governance as an anti-corruption safeguard. The statutory affirmation of meritocracy is intended to institutionalize professionalism and neutralize political interference. However, when the regulatory framework lacks enforceable sanctions, measurable performance standards, and binding supervisory authority, the merit principle risks remaining declarative rather than operational. This normative weakness creates a structural vulnerability in which deviations can be reproduced without immediate legal consequence.

Moreover, structural corruption tends to reproduce itself through organizational culture. When non-merit appointments become normalized, they generate expectations of reciprocity and protection within patronage networks. Ethical violations may be tolerated to preserve group cohesion. Poor performance may be overlooked to maintain political stability. Such tolerance gradually institutionalizes impunity. In this context, corruption is sustained not by overt illegality alone, but by the systematic weakening of meritocratic filters that should prevent the concentration and misuse of power.

Therefore, deviation from the principle of merit does not merely disrupt procedural fairness in civil service management. It alters the structural architecture of governance itself. It weakens legality, distorts institutional incentives, and facilitates the entrenchment of informal power networks. The most concerning implication is that structural corruption becomes increasingly difficult to detect and sanction, because it is embedded within formally lawful procedures that lack substantive safeguards.

Consequently, reinforcing the merit system is not simply an administrative reform agenda. It is a juridical imperative aimed at restoring the normative coherence between statutory principles and institutional practice. Without robust meritocratic enforcement, bureaucratic governance risks drifting toward a system in which authority is sustained by loyalty and exchange rather than legality and competence. In such an environment, corruption ceases to be an exception and instead becomes structurally reproduced within the very framework intended to prevent it.

## **Systematic Normative Reconstruction of the ASN Position Governance Framework**

The reconstruction proposed in this study is not merely policy oriented but normatively structured. It is formulated by mapping specific regulatory weaknesses to corresponding juridical interventions within the statutory hierarchy.

First, regarding the absence of detailed evaluation standards and objectivity indicators, the deficiency lies in the incomplete operationalization of Article 26 and Article 30 of Undang-Undang Nomor 20 Tahun 2023 tentang ASN. The law formulates merit principles but does not codify measurable performance benchmarks. Therefore, reconstruction requires the issuance of implementing regulations at the Government Regulation or Presidential Regulation level that explicitly regulate evaluation instruments, measurable indicators, periodic assessment procedures, and legal consequences for non compliance.

Second, concerning the unequal procedural standards in position filling, the gap emerges from the absence of an explicit mandate for open selection beyond high leadership positions. While open selection is reinforced in Peraturan Pemerintah Nomor 11 Tahun 2017 and Peraturan Pemerintah Nomor 17 Tahun 2020, the ASN Law does not uniformly extend this requirement to all managerial levels. Normative reconstruction therefore requires harmonization through statutory clarification to ensure equal procedural safeguards across structural tiers.

Third, the supervisory function of KASN and BKN remains normatively limited due to the absence of binding executorial authority. Reconstruction in this dimension requires explicit statutory reinforcement granting binding corrective power, mandatory compliance mechanisms, and sanctioning authority for disregard of supervisory recommendations. Without such reinforcement, institutional oversight remains advisory rather than coercive.

Fourth, the whistleblowing mechanism must be structurally integrated into the ASN governance framework. Although protection norms exist in separate legislation, they are not systematically embedded within the ASN regulatory architecture. Reconstruction therefore requires explicit incorporation of protected reporting channels, procedural follow up obligations, and anti retaliation safeguards within ASN specific regulations.

From a hierarchical legal perspective, reconstruction must occur at three levels: statutory clarification within the ASN Law, harmonization with existing government regulations, and issuance of new implementing instruments to close regulatory vacuums. Only through multi level normative engineering can the merit system shift from declarative principle to enforceable administrative architecture.

Thus, reconstruction is not conceived as institutional reform alone, but as juridical redesign aimed at strengthening legality, enforceability, and structural anti corruption safeguards within ASN governance.

### **Realizing a System that is Meritocratic, Transparent and Free of Political Intervention**

To realize a clean, professional, and accountable bureaucracy, a reconstructive policy is needed that can comprehensively overhaul the civil service (ASN) employment system, which has remained vulnerable to patronage practices, political intervention, and abuse of authority. This reconstruction is based on the principles of state administrative law, a merit system, and a transparent and accountable governance approach. Within this framework, four strategic recommendations are formulated aimed at strengthening the legal basis, clarifying selection and evaluation mechanisms, and expanding the scope for public participation and oversight of the ASN position management process.

First, the urgency of regulations on evaluation and term limits for ASN. Implementing regulations that operationally govern the form of job evaluation, indicators of assessment objectivity, and the role of supervisory institutions such as the National Civil Service Agency (KASN) and the National Civil Service Agency (BKN) are still lacking and binding. The absence of this instrument has the potential to create a legal vacuum (*rechtsvacuum*) that hinders the implementation of the merit principle in the bureaucracy. In fact, Article 15 of the ASN Law mandates that filling positions must consider qualifications, competencies, and the best performance, including a maximum term limit of five years for JPT. However, similar provisions have not been implemented for positions below the JPT, thus opening up opportunities for consolidation of power outside of transparent evaluative mechanisms.

According to the Rule of Law (*Rechtsstaat/Rule of Law*) theory, the limitation of ASN terms reflects the principle of due process of law in public office management. Unclear evaluation rules have the potential to give rise to maladministration, as positions can be maintained without accountability mechanisms. This contradicts the principle of legal certainty (Article 28D of the 1945 Constitution) and the principles of good governance (Asshiddiqie, 2005). Meanwhile, the Theory of State Administrative Law emphasizes the need for derivative regulations (PP/Perpres) as a concrete form of legal norms. Without implementing regulations, the substantive legal norms in the ASN Law cannot function effectively. According to Philipus M. Hadjon, one of the functions of administrative law is as an instrument of control over power to prevent deviations in the exercise of authority (Hadjon, 2007). The legal vacuum in ASN position evaluation actually weakens administrative law's oversight function over the bureaucracy. This is in line with the theory of meritocracy, which prioritizes rewards and career development based on individual achievement and competence. In the context of bureaucracy, meritocracy rejects all forms of patronage and nepotism and demands a transparent and fair evaluation system. On the other hand, the New Public Management (NPM) approach encourages the bureaucracy to implement the principles of efficiency, effectiveness, and accountability by emphasizing the importance of results-based performance evaluation (output and outcome) (Riwayati, 2024). Therefore, job evaluation is not merely administrative but also strategic for improving the quality of public services.

Related studies also emphasize the urgency of job evaluation within a merit system framework. One study found that civil servant performance management in North Minahasa Regency was suboptimal due to a weak organizational commitment to the merit principle, putting positions at risk of being retained based on the status quo rather than actual performance (Novie T. Dalensang & Ambarawati, 2025). This aligns with other research findings, which show that without regular and transparent job evaluations, the equalization of administrative positions to functional positions is hampered by bureaucratic cultural resistance and unclear performance parameters (Aulia & Reviandani, (2025). Therefore, objective and ongoing evaluation is an absolute requirement to ensure the suitability of positions to individual competencies and is a normative mandate in the development of a merit-based professional bureaucracy.

Second, Merit-Based Open Assessment as an Instrument for Civil Servant Structural Position Selection. Merit-based open assessment is a strategic instrument in realizing a professional, clean, neutral, and accountable bureaucracy. This principle requires that every structural position, both at the central and regional levels, be filled by individuals with the best qualifications, competence, integrity, and performance through a transparent, competitive, and objective data-based selection process. Provisions regarding open selection have been emphasized in Government Regulation No. 20 of 2020, which stipulates that JPT positions must be filled through open and competitive selection. However, this mandate has not been

explicitly extended to all structural positions beyond JPT, so there is still room for unethical practices. in line with the principle of meritocracy.

Within the framework of state administrative law, this open assessment mechanism reflects the application of the principles of legality, objectivity, and non-discrimination. Performance assessments in the selection process must be.

Institutional Capacity Theory emphasizes that the success of bureaucratic reform is heavily influenced by the capacity of institutional actors, encompassing three key dimensions: formal authority, technical capability, and political independence. These three elements complement each other in determining the effectiveness of institutional performance, particularly in carrying out its oversight function. If any one element is lacking, the oversight function has the potential to be reduced to a mere administrative symbol without making a real contribution to the desired structural change (Fukuyama, 2004). In this context, strengthening the KASN and BKN means building a supervisory system that is not merely reactive, but also proactive and corrective.

Substantive accountability needs to be directed at evaluating actual performance, not just administrative compliance (Bovens, 2007). Furthermore, a supervisory model that focuses on tangible results is considered more effective in identifying areas prone to irregularities early on. Successful bureaucratic reform relies on results-based oversight and early detection of institutional risks (De Vries & Nemec, 2013). This emphasis on outcome-based oversight supports the need for objective performance indicators as a basis for evaluating public office. This aligns with research findings revealing that the weak executive authority of the National Civil Service Agency (KASN) has led to many of its recommendations being ignored by regional heads, particularly in cases of violations of civil servant neutrality and non-objective job selection. (Maisarah & Buana, 2025)

Thus, strengthening the institutions of the KASN and the National Civil Service Agency (BKN) is not merely a matter of increasing the budget or personnel, but must also address regulatory (legal authority), technical (competence and infrastructure), and coordinative (cross-agency synchronization) aspects to ensure they can effectively and fairly carry out their merit system oversight function.

Fourth, Optimizing the Whistleblowing System as a Participatory Instrument in Oversight of Civil Servant Positions. Strengthening the reporting and whistleblowing system is a crucial pillar in creating a transparent and accountable bureaucracy. Within the framework of state administrative law, this mechanism can be categorized as a form of public participation in oversight of government administration. Whistleblowing can reveal abuses of power within the bureaucratic system itself, which often escape formal audit mechanisms (Iskandar & Saragih, 2018). Therefore, the existence of a responsive, secure, and accessible internal and external reporting system is essential for the governance of civil servants.

Normatively, protection for whistleblowers is stipulated in Law Number 13 of 2006 concerning Witness and Victim Protection, and reinforced by Government Regulation Number 71 of 2000 concerning Procedures for Implementing Community Participation and the Granting of Awards in the Prevention and Eradication of Corruption. However, the implementation of this norm still faces challenges such as fear of retaliation from whistleblowers, weak anonymity systems, and minimal incentives for whistleblowers acting in good faith.

Within the context of the Accountability through Transparency theory, the success of a whistleblowing system depends on an institutional design that guarantees legal protection, clear reporting procedures, and effective follow-up on reports. This participatory oversight function can also be understood through the Deliberative Governance approach, which positions civil

society and civil servants as active actors in maintaining the integrity of public office. This is in line with research showing that countries with robust whistleblowing systems have higher detection rates of bureaucratic corruption and faster institutional reform (De Vries & Nemeč, 2013). Optimizing a whistleblowing system requires more than just providing reporting channels; it also requires regulatory reform, an open organizational culture, and strengthening whistleblower protection institutions. This approach will expand the scope for social control over malfeasance practices and strengthen the principle of accountability in civil service management.

The four strategic steps outlined above are crucial pillars in building civil servant (ASN) governance that not only adheres to legal principles but also fosters meritocratic, inclusive, and integrity-based bureaucratic practices. Bureaucratic reform will be ineffective if it remains normative without concrete, measurable, and consistent execution. Therefore, synergy between legislation, institutions, and public participation is necessary to ensure that all civil servant management processes are conducted objectively and accountably. With a collective commitment from the government, supervisory institutions, and the public, a clean, professional civil servant (ASN) governance system free from political power dominance can be realized as the foundation of a responsive and trustworthy government.

## Conclusion

Reform of civil servant governance is a prerequisite for the realization of a professional, accountable bureaucracy free from political interference. Although the Civil Servant Law normatively affirms the principle of a merit system as the foundation of civil servant management, the reality of its implementation demonstrates persistent structural gaps and practical deviations. The legal vacuum (*rechtsvacuum*) regarding periodic job evaluations and term limits opens up space for the accumulation of power, bureaucratic stagnation, and political patronage. This deviation has implications for the emergence of structural corruption, where political proximity is more important than qualifications, competence, and performance as measures of meritocracy.

This phenomenon underscores the weak effectiveness of institutional oversight in ASN management, both in terms of regulation and institutional capacity. From a state administrative law perspective, this condition represents a dysfunctional principle of checks and balances and a degradation of vertical and horizontal accountability mechanisms, which should serve as instruments for controlling power within the bureaucracy. This aligns with Philipus M. Hadjon's theory on the protection of citizens against government actions, which emphasizes the importance of oversight mechanisms to prevent absolute administrative power.

To address these challenges, comprehensive and sustainable reconstructive policies are needed, including: (1) the issuance of implementing regulations that explicitly regulate the form of job evaluation, indicators of objectivity, term limits, and legal protection for assessing officials; (2) implementing merit-based open assessments for all civil servant (ASN) structural positions to prevent patronage; (3) strengthening the KASN and BKN to ensure binding legitimacy; and (4) optimizing the whistleblowing system to ensure anonymity, legal protection, incentives, and effective follow-up on reports.

These four steps are not merely technical-administrative improvements, but rather a juridical-institutional strategy that emphasizes the function of law as an instrument of social engineering (according to Roscoe Pound, law as a tool of social engineering). In the context of modern administrative law, bureaucratic reform must be understood as an effort to reorganize the relationship between the state and its citizens to align with the principles of good governance, meritocracy, and substantive justice. Thus, the transformation of civil servant governance not

only fulfills the formal legal aspects but also returns the bureaucracy to its essence: as an organ of a democratic legal state oriented towards public service, upholding integrity, and realizing a responsive and accountable government.

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