

Legal Protection of Civil Servants Against Identity-Based Spatial Coercion in Indonesia's Local Elections

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Abstract

Indonesian election law requires civil servants (ASN) to remain neutral but largely treats them as potential violators rather than rights-holders needing protection from coercion by regional heads who influence their careers. This study examines how identity-based coercion through kinship, religion, ethnicity, or birthplace ties, and spatial coercion through formally valid personnel sanctions, infringed civil servants' rights during the 2024 regional head elections (Pilkada) and why the legal framework failed to protect them. Using a socio-legal approach combining statutory, conceptual, and case analyses with a comparison of urban Kota Kotamobagu and rural Kabupaten Bolaang Mongondow, the study analyzes legislation, election regulations, Constitutional Court decisions, and interviews with 19 informants. Rural incumbents mobilized kinship networks and imposed remote transfers, while urban incumbents exploited religious polarization through WhatsApp groups and imposed demotions or non-job status. These practices violate rights to non-discrimination, fair treatment, and freedom from intimidation but remain legally invisible due to violator-centric, time-limited regulations dependent on identified testimony. The study proposes an Ethical-Cultural Meritocracy model involving independent review, confidential reporting, restorative remedies, and the Mongondow Tri-M ethic.

Keywords: Civil servant neutrality, digital whistleblowing, human rights, legal protection, local elections.

A. INTRODUCTION

The preservation of bureaucratic neutrality is a cornerstone of electoral integrity and the democratic rule of law. In Indonesia, the decentralization policy initiated after the 1998 *Reformasi* shifted political contestation to the local level and placed considerable authority over regional bureaucracies in the hands of directly elected regional heads. While direct regional head elections (*Pilkada*)

were envisioned to deepen democratic accountability, they have also intensified the vulnerability of the State Civil Apparatus (*Aparatur Sipil Negara*, ASN) to political co-optation (Ruslihardi et al., 2021; Tamma, 2016). Because incumbent regional heads simultaneously act as electoral contestants and as Personnel Guidance Officers (*Pejabat Pembina Kepegawaian*, PPK) with authority over appointments, transfers, and promotions, civil servants are structurally exposed to the electoral ambitions of their own superiors (Ramadhani et al., 2024; Ryu & Virindra, 2023).

Formally, the obligation of neutrality is densely regulated. Law No. 20 Year 2023 on the State Civil Apparatus places neutrality among the principles of the civil service (Article 2 letter f), requires civil servants to be free from the influence and intervention of all groups and political parties (Article 9 paragraph (2)), and makes maintaining neutrality an obligation (Article 24 paragraph (1) letter d). Government Regulation No. 94 Year 2021 on Civil Servant Discipline prohibits civil servants from supporting regional head candidates, including by making decisions or taking actions that benefit or harm a candidate (Article 5 letter n). Law No. 10 Year 2016 on regional head elections prohibits candidates from involving civil servants in campaigns (Article 70 paragraph (1) letter b), prohibits officials and civil servants from making decisions that benefit or harm a candidate (Article 71 paragraph (1)), and prohibits regional heads from replacing officials from six months before the determination of candidates until the end of their term without written approval of the Minister of Home Affairs (Article 71 paragraph (2)). These obligations are operationalized by General Elections Commission Regulation (PKPU) No. 13 Year 2024 on campaigns, the

Bawaslu regulations on the supervision of civil servant neutrality and the handling of election violations, and the 2022 Joint Decree of the Minister of Administrative and Bureaucratic Reform, the Minister of Home Affairs, the Head of the National Civil Service Agency (BKN), the Civil Service Commission (KASN), and Bawaslu on the guidance and supervision of civil servant neutrality.

The legal issue addressed in this article lies in the asymmetry of this framework. Almost every provision constructs the civil servant as a potential offender who must be disciplined, while the civil servant as a rights-holder who is coerced into partisanship receives little explicit protection. Yet the 1945 Constitution guarantees every person recognition, protection, and legal certainty (Article 28D paragraph (1)), the right to work and to fair and proper treatment in employment relations (Article 28D paragraph (2)), protection from threats of fear (Article 28G paragraph (1)), and freedom from discriminatory treatment on any basis (Article 28I paragraph (2)). Law No. 39 Year 1999 on Human Rights and the International Covenant on Civil and Political Rights, ratified through Law No. 12 Year 2005, likewise guarantee equal access to public service and equal protection against discrimination (Articles 25 and 26 ICCPR). When neutrality violations persist despite this framework (Agustian et al., 2025; Bawaslu RI, 2024; Nadjib et al., 2022), the problem lies less in the absence of rules than in the conditions under which civil servants must choose between legal sanctions that are rarely enforced and political retaliation that is rarely punished (Hartono, 2022; Ryu & Virindra, 2023; Tamma, 2016).

This issue is examined through a comparative socio-legal study of two

neighboring localities in North Sulawesi: Kota Kotamobagu and Kabupaten Bolaang Mongondow. United by the shared ancestral roots of the Mongondow ethnic group and by a common administrative history, since Kotamobagu was carved out of its parent regency as an autonomous city, the two jurisdictions nevertheless present opposing demographic and spatial profiles (Pierskalla, 2016). Kotamobagu is a compact, urban, and heterogeneous center, while Bolaang Mongondow is a vast, rural, and geographically dispersed agricultural landscape. Based on this background, the article addresses three problem formulations: (1) how identity-based and spatial coercion against civil servants during the 2024 *Pilkada* in the two localities infringes upon their constitutional and human rights; (2) why the existing legal framework, including Law No. 10 Year 2016, Law No. 20 Year 2023, PKPU, Bawaslu regulations, and Ministry of Home Affairs instruments, fails to protect civil servants from such coercion; and (3) what legal protection model can safeguard civil servants' neutrality and rights, including in digital spaces.

Previous studies have approached the problem from several angles. Legal scholarship in Indonesia has focused on the enforcement of neutrality rules and the accountability of civil servants who violate them. Hartono (2022) finds that Bawaslu supervision of civil servant neutrality in regional elections has been ineffective because career interests, family ties, and weak sanctions reduce deterrence, while Maharani and Rusdiana (2023) characterize partisan decisions by civil servants under Article 71 paragraph (1) of Law No. 10 Year 2016 as an abuse of authority. Ramadhani et al. (2024) argue that the voting rights of civil servants must be protected through bureaucratic reform based on the pillar of

neutrality, and Ruslihardi et al. (2021) and Nadjib et al. (2022) show that fragmented regulations and inconsistent sanctions allow violations to persist across electoral cycles. Studies of the 2024 elections confirm that politicization extends into the post-election period, when personnel decisions are used to reward loyal officials and sideline others (Agustian et al., 2025; Kamaluddin et al., 2024; Mujiburrahman et al., 2025).

Comparative research explains why such coercion is effective. Politicians routinely use control over public employment to reward supporters and discipline opponents (Akhtari et al., 2022; Brierley, 2021; Colonnelli et al., 2020; Gulzar & Pasquale, 2017), and negative inducements such as threats of dismissal or transfer are especially effective when patrons control the employment of their targets (Frye et al., 2019; Mares & Young, 2016). Experimental evidence shows that civil servants without effective tenure protection are significantly more willing to engage in political work for their superiors (Oliveros & Schuster, 2018). In Indonesia, these dynamics are amplified by clientelism, political dynasties, and partially implemented merit reforms (Aspinall & As'ad, 2016; Berenschot, 2018; Berenschot & Aspinall, 2020; Pierskalla & Sacks, 2020; Turner et al., 2022).

A further body of research documents the resurgence of identity politics and its migration into digital spaces. Religious and ideological cleavages continue to structure political behavior (Fossati, 2019), religious identity has been weaponized for electoral purposes (Mietzner & Muhtadi, 2018; Nastiti & Ratri, 2018), and identity polarization has been linked to democratic regression (Mietzner, 2020; Power, 2018; Warburton & Aspinall, 2019). Social media

create algorithmic enclaves that foster hostility toward perceived outsiders (Lim, 2017), and closed messaging groups enable subversive campaigning that escapes formal electoral regulation (Tapsell, 2021). These insights raise questions of technology law that have not yet been addressed in the neutrality literature: how evidence of coercion circulating in private digital channels can be lawfully obtained, and how the identities of civil servants who report it can be protected.

Existing studies therefore treat neutrality violations either as a problem of disciplining civil servants or as a by-product of political dynasties and local oligarchic power (Muksin et al., 2024; Purwaningsih & Widodo, 2020). What remains under-examined is the civil servant as a victim of coercion whose rights require legal protection, how local actors combine identity and geography to coerce civil servants, and how such coercion escapes a legal framework designed to sanction the coerced rather than protect them. To address this gap, the study uses Hadjon's (1987) theory of legal protection, which distinguishes preventive protection, giving citizens the opportunity to object before a government decision becomes definitive, from repressive protection, which resolves disputes after the decision is taken. This legal theory is combined with Castells' (2010) concept of resistance identity, Kambo's (2021) constructivist view that identity politics is deliberately manufactured by political entrepreneurs, Weber's (1978) ideal of an impersonal legal-rational bureaucracy, and Muhammad's (2019) concept of substantive electoral integrity, which requires the absence of coercion and intimidation against all actors in the electoral process, including civil servants.

This study does not claim to have discovered a new form of political

pressure; patronage, intimidation, and the abuse of personnel authority are well documented in the literature reviewed above. Its contribution is narrower and threefold. First, it reconceptualizes civil servant neutrality as a matter of legal protection and human rights rather than solely of discipline, showing that coercion against civil servants can be legally qualified as discrimination, unfair treatment in employment, and intimidation. Second, it proposes two analytical concepts, *spatial-based electoral bureaucratic terror* and the *spatial inversion of resistance identity*, whose added value lies in explaining why the same national legal framework produces different coercive instruments in neighboring jurisdictions and why those instruments escape legal scrutiny. Third, it proposes a legal protection model that integrates the Constitutional Court's mandate for independent merit supervision, protected digital reporting, personal data protection, and local cultural ethics, while distinguishing measures that can be adopted through implementing regulations from those that require statutory amendment. Accordingly, this study aims to analyze the forms of rights violations suffered by civil servants in the two localities, to identify and classify the normative problems that leave them unprotected, and to formulate a rights-based *Ethical-Cultural Meritocracy* model of legal protection.

To prevent these concepts from merely relabeling familiar phenomena, the study operationalizes them through explicit indicators. *Identity-based coercion* is present when a demand for electoral support invokes (a) kinship lineage, (b) religion or sub-ethnic origin, or (c) birthplace solidarity and social debt (*lipu'*), and when refusal is framed as betrayal of the group or answered with exclusion. *Spatial coercion* is present when a sanction for non-alignment takes the form of

a personnel measure whose burden derives from territory, namely distance, travel time, and separation from family in a dispersed jurisdiction, or the loss of scarce structural posts and allowances in a compact one. *Spatial-based electoral bureaucratic terror* is identified only when five indicators are present cumulatively: (1) the coercing actor is an incumbent or an official acting under the authority of the Personnel Guidance Officer; (2) the instrument is a formally valid personnel decision, such as a transfer, demotion, or *non-job* designation, rather than an overt threat or physical violence; (3) the burden of that decision is calibrated to the spatial profile of the jurisdiction; (4) the decision is linked in time or by informant testimony to the civil servant's refusal to support a candidate; and (5) the decision has a demonstrative effect that deters other civil servants. These indicators distinguish the concept from patronage, which operates primarily through positive inducements such as appointments and promotions offered to supporters (Brierley, 2021; Colonnelli et al., 2020); from political intimidation in general, which need not involve the target's employer or any legally valid act (Frye et al., 2019; Mares & Young, 2016); and from abuse of authority, which is a legal qualification applicable to any decision used for an improper purpose (Maharani & Rusdiana, 2023) but does not explain why that purpose remains invisible to enforcement. The *spatial inversion of resistance identity* is identified when (1) an identity historically framed as a defense of locals or the marginalized against outsiders or the center is invoked, (2) by actors who already control state power, (3) against subordinates within the bureaucracy rather than against an external dominant group, and (4) in a form that varies with the spatial setting. The third indicator distinguishes it from ordinary identity

politics directed at voters (Kambo, 2021; Mietzner & Muhtadi, 2018). Whether these concepts offer more than a description is tested in the discussion by examining whether they explain variation that patronage or abuse-of-authority accounts leave unexplained.

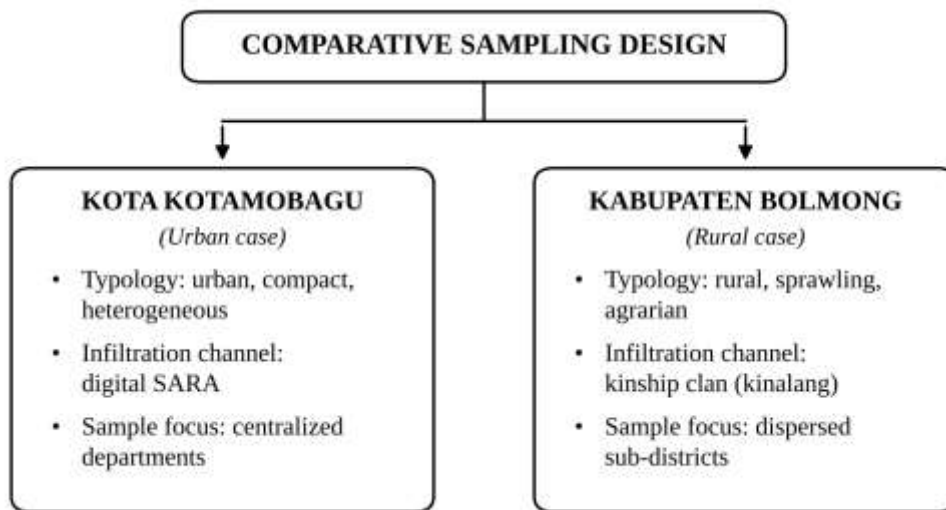
B. RESEARCH METHOD

This study is socio-legal (empirical juridical) research that combines normative legal analysis with a qualitative comparative case study. The normative component uses a statute approach, a conceptual approach, and a case approach. The primary legal materials include the 1945 Constitution; Law No. 39 Year 1999 on Human Rights; Law No. 12 Year 2005 on the ratification of the ICCPR; Law No. 31 Year 2014 on Witness and Victim Protection; Law No. 30 Year 2014 on Government Administration; Law No. 10 Year 2016 on regional head elections; Law No. 27 Year 2022 on Personal Data Protection; Law No. 20 Year 2023 on the State Civil Apparatus; Law No. 1 Year 2024 on the second amendment to the Electronic Information and Transactions Law; Government Regulation No. 94 Year 2021; Presidential Regulation No. 92 Year 2024 on BKN; PKPU No. 13 Year 2024; Bawaslu Regulation No. 6 Year 2018 and Bawaslu Regulation No. 9 Year 2024; the 2022 Joint Decree on civil servant neutrality; the Minister of Home Affairs Circular No. 821/5492/SJ of 2022 and Letter No. 100.2.1.3/1575/SJ of 2024; and Constitutional Court Decisions No. 136/PUU-XXII/2024 and No. 121/PUU-XXII/2024, while secondary legal materials consist of journal articles and books. The empirical component follows a most-similar systems logic: Kota Kotamobagu and Kabupaten Bolaang Mongondow are in the same province, share the Mongondow heritage, operate

under the same national regulations, and held their regional head elections simultaneously in 2024, but differ in spatial and demographic configuration (Figure 1). Nineteen informants were selected through purposive sampling, consisting of key informants (Bawaslu commissioners of both localities, senior officials of the local personnel agencies, and regional inspectorates), main informants (echelon III and IV structural officials, functional officers, and contract-based staff in the education, health, and regional secretariat sectors), and supporting informants (leaders of the Mongondow customary institution *AMABOM Raya* and political scientists specializing in North Sulawesi elections). Data were collected through semi-structured in-depth interviews, digital ethnography of civil service communications, and documentary analysis of Bawaslu violation registries, with triangulation across sources and techniques. Given the risk of retaliation, a total anonymity protocol was applied: no names, civil servant registration numbers, or departmental subdivisions are disclosed, identities are replaced with codes, interviews were held outside working hours in neutral public spaces, and oral informed consent was obtained before each interview. Legal materials were analyzed qualitatively through systematic and teleological interpretation, while field data were analyzed with the interactive model of Miles et al. (2014), comprising data condensation, data display in a comparative matrix (Table 1), and conclusion drawing, after which the empirical findings were tested against the legal norms to produce prescriptive conclusions. Interview transcripts and field notes were coded against the indicators of identity-based coercion, spatial coercion, and the two analytical concepts set out in the Introduction, and a pattern was classified as *spatial-based electoral*

bureaucratic terror only where all five indicators were corroborated through source triangulation. The normative problems identified were then classified as regulatory gaps, implementation shortcomings, or normative conflicts, each of which calls for a different legal instrument.

Figure 1
Comparative Sampling Design



Source: Authors' elaboration (2024)

C. RESULT AND DISCUSSION

The field data demonstrate that although both regions share a common indigenous matrix, coercion against civil servants during the 2024 *Pilkada* manifested asymmetrically and was shaped by the socio-spatial profile of each jurisdiction. The discussion follows the three problem formulations: the rights violations suffered by civil servants, the normative gaps that leave them unprotected, and the legal protection model proposed to close those gaps.

1. Identity-Based and Spatial Coercion as Violations of Civil Servants' Rights

In the agrarian landscape of Kabupaten Bolaang Mongondow, coercion is engineered through the revitalization of the *kinalang* system, a traditional

network of kinship lineages centered on historically powerful local political families. During the 2024 *Pilkada*, political actors deliberately invoked genealogy to demand compliance from civil servants who shared their bloodlines. As a sub-district structural official explained:

“In a rural setting like Bolmong, escaping the gaze of the ruling clan is nearly impossible. Political agents do not approach us with formal policy platforms; instead, they enter our private spaces and invoke our lineage. They say, ‘We are of one blood, one kinalang. If we do not protect our own family’s hold on power, who will?’ This places a massive psychological burden on us. To refuse to assist their campaign is not viewed as a legal choice to remain neutral; it is branded as an act of familial betrayal, resulting in social ostracization by our own community.”

A Bawaslu commissioner in Kabupaten Bolaang Mongondow highlighted the resulting difficulty of legal enforcement:

“The most pervasive neutrality violations in Bolmong are masked as traditional family gatherings, lifecycle rituals, or ancestral clan assemblies. Civil servants attend under the guise of customary obligations. However, behind closed doors, these gatherings function as highly effective political mobilization engines. Because the line between a cultural family obligation and an illegal campaign assembly is intentionally blurred, our enforcement mechanisms are tactically paralyzed.”

In the compact urban environment of Kota Kotamobagu, by contrast, coercion operated through the manipulation of religious and sub-ethnic diversity, locally referred to as SARA (*suku, agama, ras, dan antargolongan*). Political entrepreneurs manufactured polarization through informal digital networks, engineering a horizontal split within the city’s departments. A functional officer described this digital fragmentation:

“As soon as the 2024 Pilkada began, the professional atmosphere in our office turned intensely hostile. Unofficial WhatsApp groups proliferated outside our official channels, dedicated entirely to spreading religious rhetoric and polarizing narratives regarding ‘indigenous sons of the soil’ versus

‘outsiders’ to back the favored candidate. Our department head, who shared the identity of the dominant political faction, initiated a pattern of silent exclusion. Those of us perceived as outsiders or belonging to different religious groups were systematically cut out from strategic projects and isolated within our own offices.”

The two localities also differ in the sanctions imposed on civil servants who refuse to comply. In Kotamobagu, where offices are centralized and structural positions are highly valued, regional executives use their status as PPK to impose demotions or *non-job* designations, removing officials from their positions without dismissing them. A mid-level official explained:

“In an urban center, space is small but the stakes for survival are high. Professional neutrality cannot defend your family from an executive decree that strips you of your rank. The threat of being put in a non-job status means an immediate loss of regional allowances, wiping out up to 60% of your income overnight. Therefore, civil servants adopt a pragmatic stance of compliance. We sacrifice legal neutrality to protect our livelihoods from an all-powerful political executive.”

In Bolaang Mongondow, the regional executive instead capitalizes on the regency’s expansive and rugged geography. A field administrator described what informants call geographical exile:

“In Bolmong, the ultimate weapon used against non-aligned civil servants is the distance of your transfer. If you resist the mobilization orders of the ruling clan, you are not merely demoted; you are transferred to the most isolated coastal outposts or remote interior sub-districts, hours away from your home. This sudden, punitive relocation serves as an aggressive physical and financial terror. The daily travel costs and forced separation from our families break our resistance, forcing everyone else into submission.”

In both localities, this coercion is reinforced by the manipulation of *lipu*’ (homeland or birthplace solidarity). Patrons present themselves as benefactors who facilitated a civil servant’s recruitment or promotion and, when the election arrives, demand repayment in the form of political support

from the civil servant, his or her family, and subordinates. The comparison is summarized in Table 1.

Table 1
Forms of Coercion and the Rights Affected

Dimension	Urban: Kota Kotamobagu	Rural: Kabupaten Bolaang Mongondow
Spatial context	Compact territory; centralized offices; high-value structural posts	Vast, rugged territory; dispersed and isolated outposts
Identity channel	Religious and sub-ethnic (SARA) narratives in informal WhatsApp groups	Kinship lineage networks (<i>kinalang</i>) and customary gatherings
Coercive instrument	Demotion and <i>non-job</i> designation	Punitive transfer to remote sub-districts (geographical exile)
Cost to civil servants	Loss of rank and regional allowances	Travel costs, isolation, and separation from family
Reinforcing mechanism	<i>Lipu</i> ’ social debt and in-group favoritism	<i>Lipu</i> ’ social debt and in-group favoritism
Rights affected	Non-discrimination (Art. 28I(2) UUD 1945; Art. 26 ICCPR); fair treatment in employment (Art. 28D(2))	Fair treatment in employment (Art. 28D(2)); protection from threats of fear (Art. 28G(1)); family life

Source: Authors’ elaboration based on field data and legal analysis (2024)

Table 1 shows that although the political objective is identical, the coercive repertoire is calibrated to the territory: where space is scarce and positions are valuable, coercion targets rank and income; where space is vast and connectivity is poor, coercion targets physical location and family life. This study conceptualizes the pattern as *spatial-based electoral bureaucratic terror*. It also reveals a *spatial inversion of resistance identity*: rather than functioning as a defensive resource of the marginalized, as Castells (2010) theorizes, the *kinalang* network and the “sons of the soil” narrative are

appropriated by those who already hold power and are turned against subordinates within the state apparatus, consistent with Kambo's (2021) argument that identity politics is manufactured by political entrepreneurs.

Applying the indicators set out in the Introduction clarifies what these concepts add. In both localities, the coercing actors were incumbents or officials acting under the authority of the Personnel Guidance Officer, the instruments were formally valid personnel decisions, the decisions were linked by informants to refusal to support the favored candidate, and informants described their deterrent effect on colleagues. Only the indicator of spatial calibration differed: distance and isolation were decisive in Bolaang Mongondow, while the scarcity of structural posts and allowances was decisive in Kotamobagu. Patronage accounts explain why incumbents reward loyal officials, but not why the sanction for disloyalty takes different forms in two jurisdictions governed by identical rules. General accounts of intimidation explain why threats from employers are effective (Frye et al., 2019; Mares & Young, 2016), but not why these threats, being embedded in lawful personnel decrees, leave no evidentiary trace for election supervisors. The qualification of abuse of authority identifies the illegality of such decisions, but presupposes that their improper purpose can be proven. The added explanatory value of *spatial-based electoral bureaucratic terror* therefore lies in linking the form of coercion to territory and its legal invisibility to its formal validity, which is precisely the link that the normative analysis below must address.

From a legal perspective, these practices are not merely ethical lapses

but infringements of constitutional and human rights. The exclusion of civil servants from strategic work because of their religion or sub-ethnic origin is discriminatory treatment prohibited by Article 28I paragraph (2) of the 1945 Constitution, Article 3 paragraph (3) of Law No. 39 Year 1999, and Article 26 of the ICCPR, and it denies equal access to public service guaranteed by Article 25 letter (c) of the ICCPR. Demotions, *non-job* designations, and punitive transfers imposed because of political non-alignment violate the right to fair and proper treatment in employment relations under Article 28D paragraph (2), while threats of familial ostracization and exile infringe the right to protection from threats of fear under Article 28G paragraph (1). Such decisions also constitute an abuse of authority prohibited by Article 17 of Law No. 30 Year 2014 on Government Administration, because personnel powers are used for a purpose other than the one for which they were granted (Maharani & Rusdiana, 2023). Finally, by turning civil servants into instruments of mobilization, the practices undermine substantive electoral integrity, which requires the absence of coercion against all electoral actors (Muhammad, 2019).

The digital dimension adds a further rights concern. Religious and ethnic narratives circulated in office WhatsApp groups resonate with research on algorithmic enclaves and underground campaigning (Lim, 2017; Tapsell, 2021) and translate national patterns of religious polarization (Fossati, 2019; Mietzner & Muhtadi, 2018) into the micro-politics of the office. When such content incites hostility against colleagues on the basis of religion or ethnicity, it may fall within the prohibition of inciting hatred based on race,

ethnicity, or religion in Article 28 paragraph (2) of Law No. 1 Year 2024 on the second amendment to the Electronic Information and Transactions Law, and when produced by campaign actors it violates the prohibition of insulting a person, religion, ethnicity, race, or group in Article 57 paragraph (1) letter b of PKPU No. 13 Year 2024. The victims, however, are colleagues inside the bureaucracy, a category that election regulations do not recognize as rights-holders.

2. Normative Gaps in the Legal Protection of Civil Servants

Before turning to the individual problems, three types of normative problems are distinguished, because each requires a different solution. A *regulatory gap* (legal vacuum) exists where no norm addresses the conduct or provides a remedy; it can only be closed by creating a new norm at the appropriate level of legislation. An *implementation shortcoming* exists where an adequate norm is in place but is not applied or enforced effectively; it calls for institutional, procedural, or capacity measures rather than new legislation. A *normative conflict or inconsistency* exists where norms at the same or different levels contradict each other or have not been integrated; it is resolved through the principles of *lex superior*, *lex specialis*, and *lex posterior*, through revocation of the lower instrument, or through harmonization under Law No. 12 Year 2011 on the Formation of Legislation as amended. The four problems discussed below combine these types in different ways, as summarized in Table 3.

The second problem formulation concerns why the existing framework fails to prevent these violations. The analysis identifies four normative

problems. The first is a *violation-centric design*. Article 5 letter n of Government Regulation No. 94 Year 2021, the 2022 Joint Decree, and Bawaslu Regulation No. 6 Year 2018 are primarily oriented toward detecting and sanctioning civil servants who show partisanship. Article 70 paragraph (1) letter b of Law No. 10 Year 2016 and Article 62 paragraph (1) letter b of PKPU No. 13 Year 2024 prohibit candidates and campaign teams from involving civil servants, but the sanction under Article 189 targets the candidate, not the restoration of the civil servant's rights. Article 71 paragraph (1) and Article 188, whose subjects were broadened by Constitutional Court Decision No. 136/PUU-XXII/2024 to include regional officials and members of the military and police, criminalize decisions that benefit or harm a *candidate*, but not decisions that harm a *civil servant* who refuses to be mobilized. A civil servant who complies risks discipline, whereas the official who coerced him or her faces no specific legal consequence for the coercion itself. This asymmetry contradicts the preventive dimension of legal protection described by Hadjon (1987), because the law offers the coerced civil servant no opportunity to contest a politically motivated decision before it takes effect. In terms of the typology above, this is a *regulatory gap*: no statutory norm prohibits the coercion of civil servants or entitles them to a remedy. It can be closed definitively only by amending Law No. 10 Year 2016, although the Government could, in the interim, amend Government Regulation No. 94 Year 2021 to make the coercion of subordinates for electoral purposes an express disciplinary offense of the superior.

The second gap is *temporal*. Article 71 paragraph (2) of Law No. 10 Year 2016 prohibits incumbents from replacing officials from six months before the determination of candidates until the end of their term without written approval of the Minister of Home Affairs, and Article 162 paragraph (3) prohibits replacements within six months after the inauguration of new regional heads. The Ministry of Home Affairs reaffirmed this prohibition for the 2024 *Pilkada* through Letter No. 100.2.1.3/1575/SJ of 29 March 2024. However, Ministry of Home Affairs Circular No. 821/5492/SJ of 2022, which allowed acting regional heads to transfer civil servants without prior approval, shows how administrative instruments can loosen statutory safeguards. More fundamentally, the field data indicate that retaliation is frequently postponed until after the restricted periods or disguised as routine rotation. Because a *non-job* decree or a remote transfer is drafted in the neutral language of personnel management, it appears legally valid and escapes the incumbent disqualification sanction in Article 71 paragraph (5), consistent with comparative evidence that transfers are a standard instrument of political discipline (Akhtari et al., 2022; Gulzar & Pasquale, 2017). This problem is mixed. The absence of protection after the restricted periods is a *regulatory gap*. The circular that loosened the approval requirement reflects a *normative conflict*, since a circular is a policy instrument (*beleidsregel*) rather than legislation within the meaning of Articles 7 and 8 of Law No. 12 Year 2011 and cannot set aside Article 71 paragraph (2) of a statute. The approval of retaliatory transfers presented as routine rotation is an *implementation shortcoming* of the ministerial approval procedure.

The third gap is *evidentiary and digital*. Bawaslu Regulation No. 9 Year 2024 on the handling of election violations requires reports to be submitted within seven days of the reporter learning of the violation (Article 4) and accompanied by the reporter's identity documents and evidence (Article 6), while it contains no specific mechanism for protecting reporters. Bawaslu commissioners in both localities reported that investigations frequently collapse because civil servants refuse to give formal testimony for fear of retaliation, so that violations widely known within the bureaucracy rarely become legally proven cases. Although Article 19 of the regulation allows preliminary information to be drawn from messaging applications and social media, coercion in closed WhatsApp groups is difficult to access lawfully, and the use of screenshots raises questions under Law No. 27 Year 2022 on Personal Data Protection concerning the processing of other group members' personal data. The general protection regime for witnesses and reporters under Law No. 31 Year 2014, including immunity from legal action in Article 10, has not been integrated into election violation procedures. Election supervisors therefore depend on testimony and documents that are controlled by the very actors under investigation, which explains why sanctions for neutrality violations remain weak and inconsistent (Hartono, 2022; Nadjib et al., 2022; Ruslihardi et al., 2021). This problem is primarily a *normative inconsistency*: the reporter-identity requirement of Bawaslu Regulation No. 9 Year 2024 and the protection regime of Law No. 31 Year 2014 have not been harmonized, and the evidentiary rules have not been aligned with Law No. 27 Year 2022. The reluctance of witnesses is the resulting *implementation*

shortcoming. Because Bawaslu and LPSK already hold the relevant authority, this problem can largely be addressed through implementing regulations and inter-agency agreements without amending the statute.

The fourth gap is *institutional*. Law No. 20 Year 2023 provided for the end of KASN, and Presidential Regulation No. 92 Year 2024 assigned the supervision of merit system implementation to BKN, an agency within the executive. In Decision No. 121/PUU-XXII/2024, read on 16 October 2025, the Constitutional Court declared Article 26 paragraph (2) letter d of Law No. 20 Year 2023 conditionally unconstitutional and required that supervision of the merit system, including the application of civil service principles, values, and codes of ethics and conduct, be carried out by an independent institution to be established within two years. Until such an institution exists, civil servants who are coerced by regional heads lack an independent forum, and the cultural pressure of *lipu'* social debt further discourages them from seeking one. This normative situation helps explain the paradox of neutrality identified by Tamma (2016): civil servants are legally required to be neutral, yet both their legal environment and their cultural environment penalize neutrality. In Weberian terms (Weber, 1978), the impersonal bureaucracy is undermined not only by patronage (Berenschot, 2018; Berenschot & Aspinall, 2020) but by the absence of legal guarantees that make impersonality safe for those who practice it. The institutional problem is an *implementation shortcoming* of a constitutional mandate: the norm requiring independent supervision now exists by virtue of Decision No. 121/PUU-XXII/2024, but the institution does not, and its establishment requires legislative follow-up by

the House of Representatives and the Government.

These gaps also have a spatial dimension that national regulations overlook. Indonesia has created many new districts and municipalities by separating urban centers from their rural hinterlands (Pierskalla, 2016), producing jurisdictions that offer incumbents different instruments of coercion. A transfer within a compact city imposes relatively low costs, whereas a transfer across a vast regency imposes heavy financial, physical, and familial costs. Uniform rules that focus on the timing of personnel decisions, rather than on their distance, cost, and purpose, therefore cannot capture the geographical exile documented in Bolaang Mongondow. This constitutes a further *regulatory gap*, since no norm requires politically sensitive personnel decisions to be justified by reference to their distance, cost, and purpose.

Table 3
Typology of Normative Problems and Required Legal Instruments

Normative problem	Type	Provisions concerned	Required solution and instrument
Violator-centric design: no prohibition of coercing civil servants and no remedy	Regulatory gap	Art. 70(1)(b), 71(1), 188, 189 Law No. 10/2016; Art. 5(n) GR No. 94/2021	Amendment of Law No. 10/2016; interim amendment of GR No. 94/2021 by the Government
Retaliation after the restricted periods	Regulatory gap	Art. 71(2), 162(3) Law No. 10/2016	Statutory revision of the provision; interim amendment through a ministerial or regulation

Circular loosening the approval requirement	Normative conflict	MoHA Circular No. 821/5492/SJ/2022 vs. Art. 71(2) Law No. 10/2016	Revocation of the circular; replacement by a binding Minister of Home Affairs Regulation
Retaliatory transfers presented as routine rotation	Implementation shortcoming	Ministerial approval under Art. 71(2) Law No. 10/2016	Reasoned approval decisions; post-approval audit by BKN
Reporter-identity requirement without integrated protection	Normative inconsistency	Art. 4, 6 Bawaslu Reg. No. 9/2024; Art. 10 Law No. 31/2014; Law No. 27/2022	Amendment of Bawaslu Regulation No. 9/2024; Bawaslu-LPSK cooperation agreement
Witness reluctance and inaccessible digital evidence	Implementation shortcoming	Art. 19 Bawaslu Reg. No. 9/2024	Confidential reporting channel; digital evidence and corroboration protocol
No independent merit supervisor	Implementation shortcoming of a constitutional mandate	Art. 26(2)(d) Law No. 20/2023; CC Decision No. 121/PUU-XXII/2024; Pres. Reg. No. 92/2024	Statutory establishment of the independent institution; interim BKN validation
Spatial blindness of personnel rules	Regulatory gap	Law No. 10/2016; Law No. 20/2023	Distance, cost, and purpose criteria in implementing regulations, later codified in statute

Source: Authors' elaboration based on legal analysis (2024)

3. A Rights-Based Ethical-Cultural Meritocracy Model of Legal Protection

The third problem formulation concerns how civil servants' neutrality and rights can be protected. Because the evidence that formal enforcement requires is precisely what coercion and cultural obligation suppress, legal protection cannot rely on discipline alone. This study proposes a rights-based *Ethical-Cultural Meritocracy* model that combines preventive and repressive legal protection (Hadjon, 1987) with a cultural foundation (Table 2). The

model responds to calls to move personnel authority away from politically affiliated regional heads (Ramadhani et al., 2024) and to strengthen merit-based reforms that have been only partially implemented (Turner et al., 2022).

Table 2
The Rights-Based Ethical-Cultural Meritocracy Model

No	Pillar	Instrument	Legal Basis and Function
1.	Preventive legal protection	Independent validation of demotions, <i>non-job</i> designations, and remote transfers in an extended election period	Constitutional Court Decision No. 121/PUU-XXII/2024; Art. 71(2) and 162(3) Law No. 10 Year 2016; prevents retaliation before it takes effect
		Express prohibition of coercing civil servants	Amendment of Art. 71(1) Law No. 10 Year 2016; Art. 17 Law No. 30 Year 2014
2.	Repressive legal protection (digital)	Encrypted, confidential reporting channel (identity protected; corroboration required) integrated with Bawaslu, BKN, and LPSK	Law No. 31 Year 2014; Law No. 27 Year 2022; protects reporters' identity and data
		Digital evidence standards and expedited remedy for retaliation	Amendment of Bawaslu Regulation No. 9 Year 2024; restores rights of affected civil servants
3.	Cultural foundation (Tri-M)	<i>Mototompiaan</i> , <i>Mototabian</i> , <i>Mototanoban</i> in the regional code of conduct	Frames neutrality as service to the homeland; builds collective protection and peer vigilance

Source: Authors' elaboration based on field data and legal analysis (2024)

As presented in Table 2, the first pillar provides preventive legal protection. The independent merit supervisory institution mandated by Constitutional Court Decision No. 121/PUU-XXII/2024 should be given explicit authority to validate, before they take effect, any demotion, *non-job* designation, or inter-district transfer affecting civil servants during an extended period from the determination of candidates until twelve months

after inauguration, extending the logic of Article 71 paragraph (2) and Article 162 paragraph (3) of Law No. 10 Year 2016. Pending its establishment, the Minister of Home Affairs and BKN should apply the same requirement through binding implementing regulations rather than circulars. For transfers to remote postings, the validation should assess not only timing but also the distance, cost, and justification of the transfer, so that the spatial instrument of coercion is brought within legal scrutiny. Personnel decisions issued without such validation should be treated as administrative decisions vitiated by abuse of authority under Law No. 30 Year 2014, and coercion of civil servants should be expressly added to the acts prohibited by Article 71 paragraph (1).

The second pillar provides repressive legal protection adapted to digital governance. Bawaslu, BKN, and the Witness and Victim Protection Agency (LPSK) should operate an integrated, encrypted reporting channel through which civil servants can report coercion. To remain compatible with the formal requirements of election violation procedures, the channel should be *confidential* rather than fully anonymous: the reporter's identity is recorded and held by Bawaslu or LPSK as personal data protected under Law No. 27 Year 2022, is not disclosed to the reported party or to the reporter's superiors, and the reporter is granted the protections and immunity of Law No. 31 Year 2014. Where a reporter is unwilling to be identified even to Bawaslu, the submission should not be processed as a formal report but as preliminary information under Article 19 of Bawaslu Regulation No. 9 Year 2024, which Bawaslu may verify on its own initiative and, if substantiated, register as its own finding (*temuan*), so that the reporter-identity requirement of Article 6 is

not imposed on the civil servant. For retaliation that occurs after the restricted periods, the regulation should also extend the seven-day reporting deadline in Article 4.

Confidential reporting must not lower the safeguards that protect the reported party. First, a confidential or anonymous submission is a trigger for investigation, not evidence in itself: a violation may be established only if the allegation is corroborated by independent evidence, such as the personnel decree, its timing relative to the electoral calendar, its deviation from regular rotation patterns, messages lawfully provided by group participants, or the testimony of protected witnesses. Second, the reported official retains the right to be informed of the allegation and to be heard before any finding is made, consistent with the presumption of innocence and the general principles of good governance under Law No. 30 Year 2014, while the reporter's identity is withheld only to the extent necessary to prevent retaliation. Third, the standard of proof should differ according to the forum. Election crimes under Articles 188 and 189 of Law No. 10 Year 2016 continue to require proof under criminal procedure, whereas the administrative remedy for the affected civil servant can operate on a lower threshold: once a civil servant shows *prima facie* that an adverse personnel decision followed a refusal to support a candidate, the issuing official should bear the burden of demonstrating that the decision rested on legitimate merit-based grounds. Bawaslu Regulation No. 9 Year 2024 should accordingly set lawful standards for digital evidence from closed messaging groups that limit the processing of third parties' data to what is necessary. Civil servants who

are demoted or transferred in retaliation should have access to an expedited administrative remedy that can suspend and reverse the decision, ensuring that protection is restorative rather than merely punitive.

The third pillar is cultural. Because coercion is legitimized by local narratives, legal protection must be accompanied by changes in the normative environment in which officials operate (Purwaningsih & Widodo, 2020). In collaboration with the Mongondow customary institution, the model proposes institutionalizing the ancestral Tri-M philosophy in the regional code of conduct. *Mototompiaan* (mutual improvement) frames the defense of the merit system and the rejection of clientelism as service to one's homeland. *Mototabian* (mutual love and protection) becomes an institutional pact of collective protection, acting in Kotamobagu as a barrier against religious polarization through inclusive public service and in Bolaang Mongondow as a shield against clan pressure that obliges colleagues to support non-aligned civil servants. *Mototanoban* (mutual mindfulness and vigilance) operates as a peer-to-peer ethical mechanism through which civil servants remind one another of their oath of office and call out divisive digital content or covert clan mobilization before it becomes a statutory violation. Because the same values could be re-appropriated by elites, the cultural pillar is designed to operate only together with, and never as a substitute for, the preventive and repressive legal safeguards.

The measures in Table 2 differ in the authority they require and in how quickly they can be implemented. Table 4 therefore orders them by priority and distinguishes measures that can be adopted immediately within existing

authority, through implementing regulations, inter-agency agreements, or regional instruments, from reforms that require the amendment of a statute. The first category does not depend on the legislative calendar and can be applied before the next electoral cycle; the second provides the permanent statutory basis without which interim measures remain vulnerable to revocation.

Table 4
Implementation of the Model by Priority, Authority, and Legal Instrument

Priority and category	Measure	Authority	Legal instrument
1. Immediate: implementing regulation	Revoke Circular No. 821/5492/SJ/2022; require reasoned prior approval of transfers, demotions, and <i>non-job</i> designations during the election period	Minister of Home Affairs	Minister of Home Affairs Regulation
1. Immediate: implementing regulation	Confidential reporting channel; processing of unidentified submissions as preliminary information; corroboration and digital evidence standards; right of the reported party to be heard	Bawaslu	Amendment of Bawaslu Regulation No. 9/2024
1. Immediate: inter-agency agreement	Integration of reporter protection with LPSK	Bawaslu and LPSK	Cooperation agreement; LPSK protection decisions under Law No. 31/2014
2. Short term: implementing regulation	Interim merit validation of politically sensitive personnel decisions, including a distance, cost, and purpose test for remote transfers	BKN	BKN Regulation
2. Short term: implementing regulation	Express disciplinary offense of coercing subordinates for electoral purposes	Government	Amendment of GR No. 94/2021

2. Short term: regional instrument	Incorporation of the Tri-M ethic into the civil service code of conduct	Regional governments, with the Mongondow customary institution	Regional head regulation
3. Long term: statutory amendment	Independent merit supervisory institution with authority to validate personnel decisions	House of Representatives and Government	Amendment of Law No. 20/2023 following CC Decision No. 121/PUU- XXII/2024
3. Long term: statutory amendment	Express prohibition of coercing civil servants; extended restriction period; remedy for affected civil servants	House of Representatives and Government	Amendment of Law No. 10/2016

Source: Authors' elaboration based on legal analysis (2024)

D. CONCLUSION

First, identity-based and spatial coercion during the 2024 *Pilkada* infringes upon civil servants' constitutional and human rights. In rural Bolaang Mongondow, incumbents weaponize *kinalang* kinship networks and punish non-aligned civil servants with transfers to remote sub-districts, while in urban Kotamobagu they exploit religious and sub-ethnic polarization in WhatsApp groups and impose demotions or *non-job* designations. These practices, reinforced by *lipu*' social debt, amount to discrimination, unfair treatment in employment, intimidation, and abuse of authority, and they reflect a spatial inversion of resistance identity in which communal identity is turned against the state apparatus. Because the political objective was constant while the coercive instrument varied with the spatial configuration, this finding is relevant beyond the two sites to other jurisdictions formed by separating urban centers from rural hinterlands.

Second, the existing legal framework fails to protect civil servants because

it is violator-centric, temporally limited, evidentially dependent on identified testimony, and institutionally weak. Law No. 10 Year 2016, Government Regulation No. 94 Year 2021, PKPU No. 13 Year 2024, the Bawaslu regulations, the 2022 Joint Decree, and Ministry of Home Affairs instruments sanction civil servants who show partisanship but do not recognize coerced civil servants as rights-holders, do not reach retaliation disguised as routine personnel management after the restricted periods, and lack effective protection for those who report coercion in physical or digital spaces. These problems are of different types, comprising regulatory gaps, a normative conflict between a ministerial circular and the statute, inconsistencies between election procedures and the reporter-protection and data-protection regimes, and implementation shortcomings, each of which requires a different legal instrument.

Third, the neutrality and rights of civil servants can be safeguarded through a rights-based Ethical-Cultural Meritocracy model that combines preventive protection through independent validation of personnel decisions, repressive protection through a confidential digital reporting channel integrated with LPSK, grounded in personal data protection, and subject to corroboration and the reported party's right to be heard, and a cultural pillar based on the Mongondow Tri-M philosophy.

The recommendations are ordered by priority and by the legal instrument they require (Table 4). Measures that can be implemented immediately within existing authority are: (1) the revocation by the Minister of Home Affairs of Circular No. 821/5492/SJ of 2022 and its replacement by a binding regulation requiring reasoned prior approval of politically sensitive personnel decisions; (2)

the amendment by Bawaslu of Bawaslu Regulation No. 9 Year 2024 to provide a confidential reporting channel, corroboration and digital evidence standards, and safeguards for the reported party, supported by a cooperation agreement with LPSK; (3) a BKN regulation establishing interim merit validation, including a distance, cost, and purpose test for remote transfers; and (4) the incorporation of the Tri-M ethic into civil service codes of conduct by the regional governments of Kotamobagu and Bolaang Mongondow.

Reforms that require statutory change fall to the House of Representatives and the Government: the amendment of Law No. 20 Year 2023 to establish the independent merit supervisory institution required by Constitutional Court Decision No. 121/PUU-XXII/2024, and the amendment of Law No. 10 Year 2016 to prohibit the coercion of civil servants expressly, to extend the restriction on personnel decisions, and to provide a remedy for affected civil servants. Until these reforms are enacted, the Government can bridge the gap by amending Government Regulation No. 94 Year 2021 to make the coercion of subordinates for electoral purposes an express disciplinary offense.

Because this study is limited to two localities with a shared ethnic heritage and to restricted access to formal documentation of coercive decisions, future research should test the proposed typology in regions with different geographic and demographic profiles and evaluate the effectiveness of the proposed legal protection model once implemented.

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