

## LEGAL POLICY ON LEAVE APPLICATIONS OF MINISTERS-MAYORS PARTICIPATING IN THE PRESIDENTIAL ELECTION

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### Abstract

President Joko Widodo gave permission for ministers, ministerial-level officials, and regional heads not to resign from their positions even if they run in the 2024 presidential election. This is as the rules issued in Government Regulation Number 53 of 2023 amending Government Regulation Number 32 of 2018 concerning Procedures for Resignation in the Nomination of Members of the House of Representatives (DPR), Members of the Regional House of Representatives, President and Vice President, Request for Permission for the Nomination of President and Vice President, and Leave for the Implementation of the General Election Campaign. This is problematic because the non-resignation of these state officials will affect the neutrality of the elections in 2024, this is because these state officials are feared to take advantage of their status and position to win votes in the upcoming Presidential Election. As has been described above related to official cars used to transport billboards of candidate pairs and interventions against ASNs on duty in their respective regions or agencies. This research uses normative juridical research methods. by conducting a study of PP Number 53 of 2023 is the object of study in this study along with related regulations. PP Number 53 of 2023 is the focus of analysis.

**Keywords:** *Legal Policy, Leave, Presidential Election, Minister, Mayor*

### Introduction

A general election, also referred to as an "election", is a process of popular sovereignty in which people elect a president and vice president as well as members of the House of Representatives, the Regional Representative Council, the President and Vice President, and members of the Regional People's Representative Council. Direct, general, free, secret, honest and fair are the principles used during elections. According to Herbert Mc.Closky, political participation is a voluntary activity carried out by citizens directly or indirectly in the process of policy formation and taking part in the process of selecting the ruler. Elections are a momentum for the political participation of every citizen. <sup>1</sup>

One of the characteristics of a democratic country is to hold general elections democratically at a certain time. Basically, elections are a way to recognize and implement the political rights of the people. It also indicates that these rights are given to their representatives to run the government. One of the main means of upholding democratic order-also known as

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<sup>1</sup> Muhammad Zulhidayat, "Kewenangan Dan Peran Pemerintah Dalam Penyelenggaraan Komepetisi Sepak Bola Di Indonesia (the Authority and Role of Government in the Organizing of Football Competition in Indonesia)," *Jurnal Hukum Replik* 6, no. 2 (2018): 222.

popular sovereignty-is elections; it serves as a tool to enhance and improve democracy, not as its ultimate goal.<sup>2</sup>

General elections, which give people the opportunity to directly elect public officials, are tangible evidence of democracy in Indonesia. According to Article 1 Paragraph (2) of the 1945 Constitution of the Republic of Indonesia, "Sovereignty is vested in the people and exercised according to the Constitution." The meaning of "sovereignty is in the hands of the people" is that the people have the right, responsibility, right and obligation to democratically elect leaders who will form a government to manage and serve all levels of society, as well as elect representatives to represent them.<sup>3</sup>

However, some election rules have been problematic, one of which is the issuance of regulations regarding Ministers to Mayors who Run for Presidential Elections Do Not Have to Resign from Their Position. The latest regulation issued by President Joko Widodo allows ministers, governors, and mayors to participate in the 2024 Presidential Election (Pilpres) without resigning from their positions. Government Regulation (PP) Number 53 of 2023, which was amended by government regulation Number 32 of 2018, stipulates this rule. government regulation Number 32/2018 addresses the procedures for resignation in the nomination of DPR members, DPD members, DPRD members, the President, and Vice President, as well as requests for leave permits for the nomination of the president and vice president and the implementation of the general election campaign.<sup>4</sup>

In government regulation Number 32/2018, several provisions are amended. One of them is that ministers and ministerial-level officials who are nominated as presidential and vice presidential candidates do not have to resign from their positions; requests for approval and permission for the nomination of the President and Vice President; and procedures for carrying out election leave. So that this is feared to cause problems in the form of disruption of the neutrality of these state officials in carrying out their duties as Ministers-Mayors. For example, a video spread on social media shows a car with a red plate BK 9454 T transporting billboards depicting presidential and vice presidential candidates Ganjar Pranowo-Mahfud MD. The billboards were transported in Simalungun Regency, North Sumatra.

The political process must be protected from violations, interference, bad influence, special interests, fraud, cheating, intimidation, and all forms of illegal actions and corrupt practices that may occur in the electoral process. Violations should be punished by law enforcement and election organizers, with both criminal and non-criminal sanctions. The law should regulate the process for filing objections and reports of violations as well as the opportunity for aggrieved parties to challenge election results. The law should also regulate the impact of violations on the election result.<sup>5</sup> In addition, there are several other important

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<sup>2</sup> Muhammad Zulhidayat et al., "Legal Politics of Holding the 2024 Elections the Absolute and Ideal and Constitutional," *Rechtsnormen Journal of Law* 1, no. 1 (2023): 28–34.

<sup>3</sup> Syawaluddin Hanafi et al., "Tantangan Dalam Implementasi Kebijakan Perlindungan Hak Asasi Manusia Bagi Penyandang Disabilitas Di Provinsi DKI Jakarta," *Jurnal Hukum dan HAM Wara Sains* 2, no. 6 (2023): 509–516.

<sup>4</sup> Muhammad Zulhidayat, "Anomali Pembubaran Badan Olahraga Profesional Indonesia (Bopi) Melalui Perpres No.112 Tahun 2020," *Khatulistiwa Law Review*.

<sup>5</sup> Auliya Khasanofa and Muhammad Zulhidayat, "Indonesian Democracy: Folk Party or Humanitarian Tragedy?" 121, no. Inclar 2019 (2020): 117–120.

issues. These include whether the judiciary operates impartially and effectively; whether the media provides accurate information and reporting, and serves as a check on the political process and government; and whether the media provides access to candidates and information about their objectives.

## Methods

This research uses the normative research method, this research analyzes and studies Government Regulation Number 53 of 2023, along with other related regulations that are used as research subjects.<sup>6</sup> In this research, primary legal materials are laws, and secondary legal materials are materials related to the problems of primary legal materials, which consist of journals on dual citizenship status. Researchers conducted desk research to inventory and identify laws and regulations, as well as to classify and systematize legal materials relevant to the research problem. While conducting desk research, researchers undertook the process of reading and recording literature related to the subject of their research. Researchers examined information from normative legal research. The data analysis process is carried out by analyzing descriptively qualitative.

## Result and Discussion

### Rules for Submitting Leave for State Officials in Presidential Elections

Article 1 of Government Regulation Number 53 Year 2023 explains that several provisions in Government Regulation Number 32 Year 2018 are amended. Among other things, the provisions of paragraph (1) of Article 18 are amended. Article 18 paragraph (1) of Government Regulation Number 32/2018 previously stated that except for the President, Vice President, leaders and members of the People's Consultative Assembly, leaders and members of the DPR, leaders and members of the DPD, governors, deputy governors, regents, deputy regents, mayors, and deputy mayors, all state officials nominated as candidates for President or Vice President by a general participating political party or a coalition of political parties must resign from their positions..<sup>7</sup>

In Article 18 paragraph (1) of Government Regulation Number 53 of 2023, the phrases "minister" and "minister-level officials" are added. Thus, state officials, including ministers and ministerial-level officials, do not need to resign when nominated for president or vice president. The reason is as follows:

"State officials nominated by a political party or a coalition of political parties participating in the general election as candidates for President or Vice President must resign from their positions, except for the President, Vice President, leaders and members of the People's Consultative Assembly, leaders and members of the

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<sup>6</sup> Soerjono Soekanto, *Penelitian Hukum Normatif* (Jakarta: Raja Grafindo Persada, 2009). Hlm 1

<sup>7</sup> Muhammad Zulhidayat, "Interpretasi Hakim Tentang Pembagian Harta Bersama (Studi Yurisprudensi Mahkamah Agung Nomor 2531/Pdt.G/2022/Pajt)," *SULTAN ADAM : JURNAL HUKUM DAN SOSIAL* 1, no. 1 (2022): 81–87.

DPR, leaders and members of the DPD, ministers and ministerial-level officials, governors, deputy governors, regents, deputy regents, mayors, and deputy mayors."

In addition, Article 18 has one additional paragraph, namely paragraph (1a). This paragraph talks about the requirements that must be met by ministers and ministerial-level officials who are nominated as vice presidential or presidential candidates to obtain approval and permission for leave from the President. Which states that Ministers and ministerial-level officials who are nominated as candidates for President or Vice President as referred to in paragraph (1) by a political party or a coalition of political parties participating in the general election must obtain approval and leave permission from the President.<sup>8</sup>

Then Article 18 Paragraph 1 of the copy of the PP also states, "State officials who are nominated as presidential or vice-presidential candidates by a political party or a coalition of political parties participating in the general election must resign from their positions, except for the president, vice president, leaders and members of the People's Consultative Assembly, leaders and members of the DPR, leaders and members of the DPD, ministers and ministerial-level officials, governors, deputy governors, regents, deputy regents. Ministers and ministerial-level officials running for president or vice president must obtain presidential approval and leave permission, according to Article 18 paragraph 2. Meanwhile, Article 36 stipulates that ministers, ministerial-level officials, governors, deputy governors, regents, deputy regents, mayors, and deputy mayors can only take one working day off for one week during the election campaign.

Article 31 contains additional changes. According to the new regulation, ministers and ministerial officials may campaign if they are members of a political party, members of a campaign team, or campaign organizers who have registered with the KPU. However, previously, they were only allowed to campaign if they were presidential or vice presidential candidates.<sup>9</sup>

More specifically, according to Article 36 paragraph (1), "Governors, deputy governors, regents, deputy regents, mayors, and deputy mayors as referred to in Article 31 paragraph (1) letter b and letter c, and ministerial-level officials as referred to in Article 31 paragraph (2) letter b and letter c shall be on leave for 1 (one) working day in 1 (one) week during the general election campaign period."

However, holidays are referred to as free days to conduct election campaigns if leave is not permitted. This is the rule regarding the application for leave in participating in the 2024 Presidential Election.

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<sup>8</sup> Muhammad Zulhidayat, "Disfungsi Peran Satgas Anti Mafia Bola Dalam Memberantas Match Fixing Sepakbola Indonesia," *Jurnal Ilmiah Dunia Hukum* 6, no. 2 (October 14, 2022): 93.

<sup>9</sup> Muhammad Zulhidayat and Separen, "Anomaly of The Authority of The District Court In Examining And Resolving Football Sports Disputes In Indonesia," *Melayunesia Law* 6, no. 2 (2022): 167–176.

Implications of the issuance of Government Regulation No. 53 of 2023 for the 2024 elections. An electoral law should be created to govern democratic and fair elections. This is the goal of every country to realize this. The rules regarding elections have been clearly regulated in Law No. 7 of 2017 which explains that elections are the organization of democracy in Indonesia. Meanwhile, the requirements to become a presidential candidate ("presidential candidate") and vice presidential candidate ("vice presidential candidate") are as follows: (a) pious to God Almighty; (b) an Indonesian citizen since his/her birth and has never received other citizenship of his/her own free will; (c) the husband or wife of the presidential candidate and the husband or wife of the vice presidential candidate are Indonesian citizens; (d) has never betrayed the country and has never committed corruption and other serious crimes; (e) is spiritually and physically able to carry out the duties and obligations as president and vice president and is free from narcotics abuse, and so on.<sup>10</sup>

Furthermore, this legal basis provides legitimacy that in running for office there must be provisions and requirements that are implemented, besides that other provisions after the issuance of PP No. 53 of 2023 have also changed the requirements in the presidential election, especially state officials who are in the position of Minister and Mayor, furthermore the President must give permission to those who serve as governors, deputy governors, regents, deputy regents, mayors, and deputy mayors, as well as those who will be nominated as presidential or vice presidential candidates by political parties or a combination of political parties participating in the election.

If the president has not granted permission within 15 days after receiving a letter requesting permission, permission is deemed to have been granted. Presidents, vice presidents, ministers, governors, deputy governors, regents, deputy regents, mayors, and deputy mayors involved in election campaigns must then comply with the following requirements: not use the facilities where they work except for state official purposes; and take leave outside the state's responsibility. The aforementioned leave and schedule are implemented while maintaining the functions of state government and local government.<sup>11</sup>

However, according to the author's analysis, the non-resignation of these state officials will affect the neutrality of the elections in 2024, this is because these state officials are feared to take advantage of their status and position to win votes in the upcoming Presidential Election. As has been described above related to official cars used to transport billboards of candidate pairs and interventions against ASNs on duty in their respective regions or agencies. So that the author is worried that by not

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<sup>10</sup> Muhammad Zulhidayat, "Cyberporn Analysis in the Perspective of the Ius Constitutum in Indonesia," *Jurnal Hukum Replik* 8, no. 1 (2020): 70.

<sup>11</sup> Muhammad Zulhidayat, Atma Suganda, and Imran Bukhari Razif, "Political Law of The Government in A Special Naturalization of Indonesian Football Players Based on Welfare State Theory," *Eduvest - Journal Of Universal Studies*.

withdrawing the Presidential and Vice Presidential Candidate Pairs, it will further make the 2024 elections far from the principles of Luber and Jurdil as we all hope.<sup>12</sup>

It is very important to understand that ASN neutrality is related to impartiality. An ASN employee working in the bureaucratic system must be fair, objective, unbiased, uninfluenced, not involved in conflicts of interest, and not take sides with anyone.<sup>13</sup> Elections such as presidential elections can trigger the use of bureaucracy for political interests. The bureaucracy must be free from political influence and not tied to political power, so that services to the community can be provided by a neutral, impartial and objective bureaucracy. Political corruption generated by a bureaucracy that takes sides or is not neutral can cause election processes such as the presidential election to be inappropriate.<sup>14</sup>

There are at least three things that must be carefully considered in terms of election law enforcement, including the following:<sup>15</sup>

- a. First, it is related to the protection of the political process from interference, interference, negative influence, certain interests, fraud, cheating, intimidation, and all forms of unlawful actions and corrupt practices. Violators must receive both criminal and non-criminal sanctions. Substantive or material laws, such as the types of offenses and their sanctions, are addressed in this provision. The goal is "protection of the electoral process from fraud". Law enforcement serves to prevent violations or fraud that threaten the integrity of elections. Any mistakes must be corrected. That integrity can be enforced by different institutions with their own mechanisms.
- b. Second, it relates to the right to challenge election results and the right to resolve issues with aggrieved parties. This should be regulated in law. Various necessary matters should be regulated during the election petition process. The provisions emphasize procedural law such as how an aggrieved party, i.e. a candidate or political party, can protest the election results to fight for its rights.
- c. Third, it deals with how violations affect the outcome of an election. Such provisions should be regulated by law. In this regard, it is important to determine whether the country has a legal system that includes rules on how violations impact on electoral outcomes. In the absence of these provisions,

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<sup>12</sup> Muhammad Zulhidayat, "Perbandingan Konstitusional: Pengaturan Impeachment Di Indonesia Dan Italia," *Jurnal Hukum Replik* 7, no. 1 (2019): 1–18.

<sup>13</sup> Muhammad Zulhidayat, "Ambiguitas Hak Konstitusional Kebebasan Beragama Dan Berkeyakinan Di Indonesia Dalam Perspektif Ius Constitutum," *Jurnal Nalar Keadilan* 1, no. 1 (2021): 59–73.

<sup>14</sup> Warokka Mikhael, "Peran Ombudsman Dalam Pengawasan Pelayanan Publik Yang Bebas Dari Korupsi, Kolusi Dan Nepotisme," *Lex Privatum* 5, no. 1 (2017): 97–104.

<sup>15</sup> Ramlan Surbakti, Didik Supriyanto, and Topo Santoso, *Penanganan Pelanggaran Pemilu: Seri Demokrasi Elektoral* (Jakarta: Kemitraan bagi Pembaruan Tata Pemerintahan, 2011). Hlm. 6-7

criminal convictions for electoral offenses will not affect the outcome of the election and are therefore ineffective. The absence of this provision will encourage some participants to mobilize votes negatively or illegally due to the minor consequences of the offence, such as the threat of disqualification of a seat they have already secured.

Since the motive and opportunity to violate the electoral law remains in jeopardy, it can be concluded that the placement of provisions on electoral offenses in the electoral law is very important. The absence of provisions often favors some electoral participants. This inappropriate behavior is indicative of the quality of the democratic process, to the detriment of others and the general public. Inappropriate behavior during the electoral process is also a breach of public trust and an illegal act. To address these issues, in accordance with each country's laws and legal system, various institutions and systems can be responsible for elections with integrity.<sup>16</sup>

## Conclusion

The implementation of the 2024 elections will experience many problems, especially in realizing neutral elections. This is because state officials do not resign from their positions in line with the issuance of PP Number 53 of 2023. Therefore, there needs to be a strict rule prohibiting that state officials who do not resign from their positions must get strict supervision, especially in utilizing their positions to influence the voters' votes in the 2024 elections. State institutions such as KPU, Bawaslu and DKPP must work extra hard to make efforts so that the 2024 elections can run well.

For state officials who use state facilities to conduct campaigns, there must be a strict sanction from the government and also be realized with rules related to elections. The use of state facilities is something that certainly violates the norms in the Election Law. Law number 7 of 2017.

## References

- Khasanofa, Auliya, and Muhammad Zulhidayat. "Indonesian Democracy: Folk Party or Humanitarian Tragedy?" 121, no. Inclar 2019 (2020): 117–120.
- Mikhael, Warokka. "Peran Ombudsman Dalam Pengawasan Pelayanan Publik Yang Bebas Dari Korupsi, Kolusi Dan Nepotisme." *Lex Privatum* 5, no. 1 (2017): 97–104.
- Ramlan Surbakti, Didik Supriyanto, and Topo Santoso. *Penanganan Pelanggaran Pemilu: Seri Demokrasi Elektoral*. Jakarta: Kemitraan bagi Pembaruan Tata Pemerintahan, 2011.
- Soekanto, Soerjono. *Penelitian Hukum Normatif*. Jakarta: Raja Grafindo Persada, 2009.
- Syawaluddin Hanafi, Yusuf Djabbar, Marjana Fahri, Surya Pebriyani Jasmin, and

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<sup>16</sup> Muhammad Zulhidayat and Batara Simbolon, "Analisis Status Kewarganegaraan Anak Di Kalangan Artis Yang Lahir Di Luar Negeri Dalam Perspektif Undang-Undang No. 12 Tahun 2006 Tentang Kewarganegaraan Republik Indonesia," *Audi Et AP: Jurnal Penelitian Hukum* 2, no. 02 (2023): 72–78.

- Muhammad Zulhidayat. "Tantangan Dalam Implementasi Kebijakan Perlindungan Hak Asasi Manusia Bagi Penyandang Disabilitas Di Provinsi DKI Jakarta." *Jurnal Hukum dan HAM Wara Sains* 2, no. 6 (2023): 509–516.
- Zulhidayat, Muhammad. "Ambiguitas Hak Konstitusional Kebebasan Beragama Dan Berkeyakinan Di Indonesia Dalam Perspektif Ius Constitutum." *Jurnal Nalar Keadilan* 1, no. 1 (2021): 59–73.
- . "Anomali Pembubaran Badan Olahraga Profesional Indonesia (Bopi) Melalui Perpres No.112 Tahun 2020." *Khatulistiwa Law Review*.
- . "Cyberporn Analysis in the Perspective of the Ius Constitutum in Indonesia." *Jurnal Hukum Replik* 8, no. 1 (2020): 70.
- . "Disfungsi Peran Satgas Anti Mafia Bola Dalam Memberantas Match Fixing Sepakbola Indonesia." *Jurnal Ilmiah Dunia Hukum* 6, no. 2 (October 14, 2022): 93.
- . "Interpretasi Hakim Tentang Pembagian Harta Bersama (Studi Yurisprudensi Mahkamah Agung Nomor 2531/Pdt.G/2022/Pajt)." *SULTAN ADAM: JURNAL HUKUM DAN SOSIAL* 1, no. 1 (2022): 81–87.
- . "Kewenangan Dan Peran Pemerintah Dalam Penyelenggaraan Kompetisi Sepak Bola Di Indonesia (the Authority and Role of Government in the Organizing of Football Competition in Indonesia)." *Jurnal Hukum Replik* 6, no. 2 (2018): 222.
- . "Perbandingan Konstitusional : Pengaturan Impeachment Di Indonesia Dan Italia." *Jurnal Hukum Replik* 7, no. 1 (2019): 1–18.
- Zulhidayat, Muhammad, Rosi Mirnawati, Amina Intes, Uwe Barroso, and Elladdadi Mark. "Legal Politics of Holding the 2024 Elections the Absolute and Ideal and Constitutional." *Rechtsnormen Journal of Law* 1, no. 1 (2023): 28–34.
- Zulhidayat, Muhammad, and Separen. "Anomaly of The Authority of The District Court In Examining And Resolving Football Sports Disputes In Indonesia." *Melayunesia Law* 6, no. 2 (2022): 167–176.
- Zulhidayat, Muhammad, and Batara Simbolon. "Analisis Status Kewarganegaraan Anak Di Kalangan Artis Yang Lahir Di Luar Negeri Dalam Perspektif Undang-Undang No. 12 Tahun 2006 Tentang Kewarganegaraan Republik Indonesia." *Audi Et AP: Jurnal Penelitian Hukum* 2, no. 02 (2023): 72–78.
- Zulhidayat, Muhammad, Atma Suganda, and Imran Bukhari Razif. "Political Law of The Government in A Special Naturalization of Indonesian Football Players Based on Welfare State Theory." *Eduvest - Journal Of Universal Studies*.