

# **Problems in Arranging the Position of Special Staff of the Special Region of Jakarta Government Reviewed from Law Number 2 of 2024 Concerning Special Provinces and Law Number 20 of 2023 Concerning State Civil Apparatus**

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## **Abstract**

On Wednesday, February 5, 2025, the Head of the State Civil Service Agency (BKN) of the Republic of Indonesia issued a strong warning to newly elected regional heads for the 2025–2030 term regarding the appointment of new personnel, particularly special staff. Prof. Zudan emphasized that appointing new staff must follow the legal recruitment path, namely through the State Civil Apparatus (ASN) and Government Employees with Work Agreements (PPPK), as regulated in Law No. 20 of 2023 on the State Civil Apparatus. However, the Governor of the Jakarta Special Region, Pramono Anung, asserted that Jakarta has special characteristics that allow the appointment of special staff. In accordance with Law No. 2 of 2024, which governs the Special Region of the Province of Jakarta, and based on the principle of *lex superior derogat legi generali*, the higher regulation overrides the general law. Article 38 paragraphs (1) and (2) of Law No. 2 of 2024 explicitly state that the Governor has the authority to appoint special staff, with detailed provisions regarding the requirements, appointment procedures, and remuneration to be regulated through a Governor Regulation.

**Keywords:** *special staff, state civil service agency, government of the special region of Jakarta.*

## **INTRODUCTION**

As a modern nation, Indonesia requires the government to participate directly in the development process to improve public welfare. Advancing public welfare and improving the quality of life of the nation are the primary objectives of the 1945 Constitution (Nurcholis, 2017). As a welfare state, the government must be directly involved in the development process to improve public welfare. Advancing public welfare and improving the quality of life of the nation are the primary objectives of the 1945 Constitution. This welfare is intended for all Indonesian citizens (Bela et al., 2020).

Considering Indonesia's vast and diverse territory, both geographically and socio-culturally, the 1945 Constitution of the Republic of Indonesia (UUD NRI) established the importance of regional governments. Article 18 of the 1945 Constitution stipulates that the Indonesian state is divided into large regions (provinces) and smaller regions (regencies/cities) with autonomous characteristics, while emphasizing relevant regional origins as a distinctive characteristic. Within the framework of the Unitary State of the Republic of Indonesia, the existence of regional governments is a constitutional provision that must be implemented (Suwarno, 2018).

The existence of regional governments is a constitutional provision and must be implemented within the governmental structure of the Republic of Indonesia. The role of Regional Heads is crucial, as they are key elements in the success of national development. Regional Heads function as figures or managers who determine the efficiency in achieving the goals of Regional Government organizations. The process of governance in the regions collectively depends on the role of these leaders or managers; in other words, the direction and goals of Regional Government organizations are determined by the talents, abilities, and capabilities of Regional Heads, which are their duties and responsibilities (Kaloh, 2019). Political experts have diverse views on the selection of Regional Heads through General Elections (hereinafter referred to as Elections), depending on the perspective from which they examine them, including the relationship between elections and democracy, political parties, societal diversity, citizen participation, and so on (Rahayu et al., ...).

There are two basic concepts of government: regional autonomy and decentralization. Regional autonomy is a central concept in regional governance. It refers to the level of authority held by local governments to manage their own affairs, including policies, budgets, and decision-making at the local level. Regional autonomy can vary from country to country, depending on the constitution and applicable laws (Ibid, 30).

The level of regional autonomy can vary across countries. Some countries may grant greater autonomy to local governments, while others may be more centralized in decision-making. Decision-making depends largely on each country's constitution, basic law, and political culture (Ibid, 30).

Regional autonomy can encompass many aspects of governance, including regulatory regulation, urban planning, education, health, infrastructure, natural resource management, and others. Local governments typically have the authority to regulate these matters according to their policies and the needs of their region. The implementation of regional autonomy does not always run smoothly; challenges include differences in local government capacity, oversight from the central government, financial issues, and inequalities between local governments in terms of resources and administrative capabilities. Regional autonomy can help promote citizen participation in decision-making that affects their lives, as well as enable better adaptation of policies to local needs.

Decentralization involves the transfer of authority and responsibility from the central government to local governments. The goal is to give local governments more power to make policies and manage resources. Decentralization can be political, financial, or administrative. The goal of decentralization is to improve public services and increase the efficiency and effectiveness of decision-making. Decentralization also helps reduce inequality between regions, promote citizen participation, and respond to diverse needs at the local level.

Decentralization can vary across the world. Some countries may implement strong decentralization with local governments having extensive authority, while others may limit local autonomy, depending on the constitution and basic laws of each country.

Local governments in the form of local self-government are given broader authority to regulate local affairs, such as urban planning, education, health, transportation, infrastructure, and expert staff. Local governments can regulate spatial planning and urban development, including urban infrastructure development, zoning

regulations, and the development of residential and commercial areas. Local governments have the ability to formulate policies and make decisions that align with the characteristics and needs of their communities, allowing for flexibility in governance. Regional governments are able to create policies relevant to the situation in their area. For example, in the agricultural sector, they can adopt policies that support crop types suited to the region's climate and soil (Achmad, 2024).

The Expert Staff to the Regional Head is a new position following the issuance of Government Regulation Number 41 of 2007 concerning Regional Apparatus Organizations, which was later updated by Government Regulation Number 18 of 2016 concerning Regional Apparatus. At every level or type of organization, expert staff play a crucial role in generating the information and analysis necessary to support specific decision-making. From a public policy perspective, expert staff act as policy analysts, providing advice or recommendations (policy advisors), often presented in the form of policy papers, to top managers. In the context of regional government, expert staff serve as policy advisors to the regional head. Therefore, the presence of expert staff is crucial in identifying emerging issues related to public services and finding appropriate solutions.

Regional governments are expected to have a better understanding of the needs and priorities of local communities. They can respond more effectively to emerging issues at the local level. Local governments can identify key priorities and focus on appropriate solutions.

The phenomenon of contract workers in Indonesia has been a public spotlight and a long-standing policy issue. In various government agencies, from education to healthcare, contract workers are used as an alternative solution to cover the shortage of permanent employees. However, the use of contract workers is often not accompanied by adequate legal protection and welfare, creating inequality and injustice in the national civil service system. The uncertainty of contract workers' employment status is a major problem. Many contract workers have served for years without clarity regarding their status as ASN (State Civil Servants with Employment Agreements). Yet, their contributions are no less important than those of permanent employees. This creates economic and psychological uncertainty, negatively impacting their work performance and motivation (Kurniawati, 2025).

The low compensation received by contract workers is also a crucial issue. Salaries far below a decent standard of living, coupled with the lack of benefits and national security, make them a vulnerable group of workers. Studies show that inadequate compensation significantly impacts job satisfaction and productivity of contract workers, particularly in the education sector.

The government has taken steps through Law No. 20 of 2023 to gradually phase out the honorary system, but the implementation of this policy still poses a dilemma. Many local governments are not yet ready to transform their personnel systems due to budget constraints and civil servant (ASN) formation quotas. ASN functions as an institution that supports the smooth operation of a government system. In this context, ASN are included in public service implementers, while public service implementing officials are individuals assigned within the implementing organization and are responsible for implementing a series of public service actions (Rizkyta, 2025). This actually adds to the burden of uncertainty experienced by honorary workers, especially teachers and health workers. From an administrative perspective, the lack of uniform

recruitment and management standards for honorary workers leads to unprofessional practices. Many honorary workers are recruited without an open selection mechanism, which impacts the quality of public services and violates the principle of meritocracy within the bureaucracy. This inequality has fueled public pressure for a total reform of the honorary system (Saragih, 2025).

Another problem is the limited access of contract workers to training and competency development. In the education sector, for example, many contract teachers do not receive equal training opportunities as civil servant teachers. This weakens the national education system and creates a quality gap between public and private schools. Furthermore, the prolonged presence of contract workers also obscures the professional orientation of civil servants. The national civil service system should prioritize efficiency, accountability, and fairness, but the practice of contract workers demonstrates a dominant pragmatic approach over a structural one. Therefore, a comprehensive and inclusive restructuring of the contract worker system requires a comprehensive and inclusive review. Therefore, the problem of contract workers in Indonesia is not merely an administrative issue but also involves social, economic, legal, and moral aspects. Personnel management policies must ensure fairness and sustainability. Without affirmative and comprehensive policies, contract workers will continue to be marginalized within the state bureaucratic structure.

Article 245 of the Law on Regional Government, the central government delegates the authority to conduct preventive supervision to regional heads, specifically governors, who act as representatives of the central government. This task includes assessing draft regional regulations at the district or city level, including those related to the Regional Long-Term Development Plan (RPJPD), the Regional Revenue and Expenditure Budget (APBD), APBD amendments, accountability for APBD implementation, regional taxes, regional levies, and spatial planning, before they are enacted by the regent or mayor (Tohadi, 2020).

On Wednesday, February 5, 2025, the Head of the National Civil Service Agency of the Republic of Indonesia issued a stern warning to elected regional heads for the 2025-2030 term regarding the appointment of new employees, especially special staff. Prof. Zudan emphasized that appointments must be made through legitimate channels, namely the State Civil Apparatus (ASN) and Government Employees with Work Agreements (PPPK).

Prof. Zudan, the head of the National Civil Service Agency, stated that the central government will not tolerate the recruitment of new employees at the provincial, district, and city levels. This policy aims to restructure the civil service system within the government sector.

According to the National Civil Service Agency, local governments are considered to have excessively large structures, particularly in terms of the relatively high number of administrative staff. "The number of employees is already too many; we already have enough, especially for administrative matters," said Prof. Zudan on Wednesday, February 5, 2025. If the elected Regional Head violates this policy, strict sanctions will be imposed by the central government. In addition to the ban on recruiting Special Staff, Regional Heads are prohibited from appointing honorary employees, who are deemed to waste the budget. The Head of the National Civil Service Agency emphasized that Regional Heads must be wise in managing their budgets and avoid

practices that negatively impact government efficiency. Staffing, if needed, must be through the Civil Servant Candidate (CPNS) and the Public Service Candidate (PPPK) recruitment process.

The presence of special staff for regional heads is an increasingly common practice used by governors, regents, and mayors to assist in the implementation of strategic tasks. Special staff are usually appointed directly by the regional head, with the aim of providing policy input, delivering political communications, or supporting development agendas. However, the existence and authority of special staff often sparks debate, primarily due to the unclear legal basis and accountability of their positions (Suryani, 2023).

Provisions regarding special staff at the regional level are not explicitly regulated in Law No. 23 of 2014 concerning Regional Government or its derivative regulations. This creates a legal loophole that allows regional heads to recruit special staff without strict oversight mechanisms. As a result, there is potential for overlapping authority between special staff and formal regional apparatuses, such as heads of departments or regional expert staff. In many regions, special staff are appointed without a transparent selection process, and are often dominated by non-bureaucratic elements such as political activists, campaign volunteers, or local figures with close personal ties to the regional head. This practice raises concerns about the principles of meritocracy and the professionalism of the public bureaucracy, as special staff can wield greater influence than structural officials without adequate technocratic backgrounds (Purba, 2022).

## RESEARCH METHODS

The type of research conducted in this study is normative legal research. This study emphasizes the use of sources from books, laws and regulations, and academic literature as the primary data for analyzing the case under study. Therefore, the author did not conduct direct research in the field, but rather examined the law from the perspective of existing norms and doctrines.

The method used is descriptive analytical research, which explains and provides a clear picture of the applicable law in a particular area or related to a specific legal event. In this case, the researcher connects existing legal regulations with legal theories and practices prohibiting the appointment of special staff based on Law Number 20 of 2023 on the State Civil Apparatus. Through a comparison of relevant legal provisions, it is hoped that accurate conclusions can be drawn regarding the case under study.

The data collection technique used was library research, utilizing books, doctrines, expert opinions, and relevant laws and regulations. The collected data was then analyzed qualitatively, namely by interpreting and connecting applicable positive legal norms to identify legal principles that serve as the basis for resolving the problem. With this approach, research can provide a deeper understanding of the legal issues being studied.

## RESULTS AND DISCUSSION

### **How are the government regulations regarding the prohibition on appointing special staff to regional heads reviewed from Law Number 20 of 2023 concerning State Civil Apparatus and Law Number 2 of 2024 concerning the Special Region of Jakarta?**

According to information from the Indonesian National Civil Service Agency (BKN) and the Ministry of Administrative and Bureaucratic Reform (MPR), the number of active non-civil servants (or honorary) in 2022 was 400,000. However, after further verification, the total number reached 2,355,092, with the majority working in local governments. This data was then discussed in a House of Representatives (DPR) meeting regarding the Draft Law on Civil Servants.

On January 23, 2025, the government, through the State Civil Service Agency (BKN), issued a decree clarifying the status of non-ASN employees registered in the BKN database but not participating in the PPPK Phase 1 and Phase 2 selection in the 2024 fiscal year. This decision was made to address the issue of non-ASN employees at BKN who were unable to register for the 2024 PPPK selection and would be transferred to the Part-Time PPPK policy in accordance with Decree No. 16 of 2025 from the Minister of State Apparatus Empowerment, Reform, and Bureaucracy.

This decree clarifies the Part-Time PPPK system, including salary and employment status. The Part-Time PPPK policy was adopted by the government as a solution to regulate non-ASN employees; meet the need for ASN in government agencies; clarify the status of non-ASN employees; and improve public services to ensure smooth tasks and services to the public.

According to this decree, the criteria for non-ASN employees eligible for Part-Time PPPK positions are those already registered in the BKN database, those who participated in the 2024 Civil Servant Candidate selection process but did not pass, or those who participated in the 2024 Government Employee with Work Agreement selection process but were unable to fill the available vacancies. These Part-Time PPPK positions will be created to meet several needs, including: Teachers and Education Personnel; Health Workers; Technical Personnel; General Operations Managers; Operational Service Operators; Operational Service Managers; and Operational Service Administrators.

The Head of the BKN reminded non-ASN employees already registered in the BKN database to remain calm and focused on completing all stages of the selection process. The government has made efforts to ensure that non-ASN employees already registered with the BKN can be appointed as Part-Time PPPK positions. Finally, the Head of the BKN also continues to remind central government agencies that they will no longer accept honorary workers and similar positions. Further details regarding the recruitment regulations for Part-Time PPPK, including employment contracts, and their rights and obligations, are regulated in Ministerial Decree Number 16 of 2025.

Governor of the Special Region of Jakarta, Pramono Anung, emphasized that Jakarta has a unique status that allows it to employ special staff. This is in accordance with the provisions of Article 38 of Law Number 2 of 2024, which regulates the Special Region of Jakarta.

President of the Republic of Indonesia, Joko Widodo, signed Law Number 2 of 2024 concerning the Special Region of Jakarta. The establishment of the Special Region of Jakarta, approved on April 25, 2024, was carried out with the aim of achieving

prosperity for all people and protecting human rights, thus requiring a special regional government that respects Jakarta's history and characteristics.

Article 1, paragraphs 1 and 2 of this law explain that the Special Region of Jakarta is a province with special governance within the Unitary State of the Republic of Indonesia. This special status relates to how it carries out its national economic functions and serves as a globally connected city.

This law regulates the position and role, boundaries and division of territory, principles and structure of government, city councils/district councils, and village consultative bodies. It also covers government affairs and privileges related to Jakarta's function as a national economic center and global city.

The transitional provisions in Article 63 state that when the Jakarta Special Region Law comes into effect, the Special Region of Jakarta Province will continue to function as the nation's capital in stages. The management of government affairs and state matters, including the location of state institutions and other organizations in accordance with existing regulations, may still be conducted or located within the Special Region of Jakarta Province.

According to the Regional Government Law, Article 65 Paragraph (1) letter C explains that the Regional Head is responsible for leading all government affairs under the region's responsibility. The Regional Head is also given the authority to make administrative decisions, including the appointment of experts or special staff, as long as such decisions do not violate the law, budget, or principles of good governance.

The principle of *lex superior derogat legi generali* is a legal principle that states that a more specific law (*lex specialis*) will trump a more general law (*lex generalis*) if both address the same issue. The purpose of this principle is to resolve issues that arise between two legal rules that are equivalent but differ in scope. In the Indonesian legal system, this principle is often used in certain legal relationships such as criminal law, state administration, and administrative law.

Researchers stated that the appointment of non-civil servant employees, including special staff, is still ongoing in several regions. However, only the Special Region of Jakarta Province has clear regulations through Law Number 2 of 2024. Meanwhile, other regions that recruit special staff use regulations from Governor Regulations or Regent/Mayor Regulations derived from Law Number 23 of 2014 concerning Regional Government, which does not specifically regulate the appointment of Special Staff for Regional Heads.

### **How the Rules for Appointing Special Staff to Regional Heads Conflict According to Law Number 2 of 2024 Concerning the Special Region of Jakarta and Law Number 20 of 2023 Concerning State Civil Apparatus Reviewed from the Principles of Legislation**

Jakarta Governor Pramono Anung emphasized that Jakarta has special powers that allow it to have special staff. In accordance with the provisions of Law Number 2 of 2024, this law regulates the Special Region of Jakarta Province.

President Joko Widodo has signed Law Number 2 of 2024 concerning the Special Region of Jakarta. The law, approved on April 25, 2024, exists because it aims to create

equitable public welfare and protect human rights for all citizens. This requires a special regional government that respects Jakarta's history, unique characteristics, and characteristics.

Article 1, paragraphs 1 and 2 of this law state that the Special Region of Jakarta Province is a province with special powers in administering its government within the framework of the Unitary State of the Republic of Indonesia. This special authority relates to the implementation of national economic functions and global city functions.

This law also regulates the position and function, boundaries and division of territory, principles and structure of government, city or district councils, and deliberative bodies in urban villages. All of this relates to governance and special authorities concerning its function as a national economic center and global city.

Article 63 of the transitional section explains that after the Jakarta Special Region Law is passed, the Jakarta Special Region Province will gradually remain the nation's capital. Government administration and the headquarters of state institutions and other organizations, as required by law, may continue to be conducted or located within the Jakarta Special Region Province.

A Public Hearing (RDP) between the National Civil Service Agency (BKN), the Ministry of Administrative and Bureaucratic Reform (KemenPAN-RB), and the Indonesian House of Representatives (DPR RI) agreed that following the enactment of Law Number 20 of 2023 concerning the State Civil Apparatus, other officials may no longer hire honorary staff. Any appointment of honorary staff after the law is passed will be subject to severe sanctions.

The BKN, KemenPAN-RB, and the DPR RI also agreed that the number of government employees with work agreements (PPPK) will be adjusted to the number of non-ASN workers registered in the BKN database. Furthermore, all processes for granting Employee Identification Numbers (NIP) for PPPK for the 2021-2023 period will be completed soon. The Head of the National Civil Service Agency stated that the budget for regional employees must be used to appoint honorary staff as PPPK, given the limited budget resulting from austerity policies by the central and regional governments.

The principle of *lex superior derogat legi generali* is a legal principle that states that a specific legal rule will supersede a more general rule if both regulate the same matter. This principle exists to help resolve problems when two legal rules are equivalent but differ in their scope. In the Indonesian legal system, this principle is often used in specific laws such as criminal law, state administrative law, and other laws.

Based on this principle, Law Number 2 of 2024 concerning the Special Region of Jakarta explains in Article 38 paragraphs (1) and (2) that the Governor can appoint special staff. Furthermore, detailed requirements, appointment procedures, and salaries can be regulated in a Governor's Regulation.

## CONCLUSION

Based on the research results, it can be concluded that after the enactment of Law No. 20 of 2023 concerning ASN, the appointment of honorary staff is prohibited and violations can be subject to severe sanctions. The arrangement of non-ASN staff is focused through the PPPK mechanism with priority on teachers and health workers. ASN



recruitment is carried out annually selectively so that it is hoped that there will be no more non-ASN recruitment in government agencies. Law No. 2 of 2024 concerning the Special Region of Jakarta grants Jakarta the privilege of having special staff. The Governor has the authority to appoint experts or special staff as needed, as long as it does not violate the law, budget, and principles of good governance.

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