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## JURIDICAL IMPLICATIONS OF THE POTENTIAL TRANSITION OF PPPK TO CIVIL SERVANTS: AN ANALYSIS OF LAW NO. 20 OF 2023 ON STATE CIVIL APPARATUS

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### Abstract

This study aims to examine the juridical implications of the absence of explicit provisions regarding the transition mechanism for Government Employees with Work Agreements (*Pegawai Pemerintah dengan Perjanjian Kerja* or PPPK) to Civil Servants (*Pegawai Negeri Sipil* or PNS) in Law No. 20 of 2023 concerning the State Civil Apparatus (ASN). A normative juridical approach is employed, drawing upon primary and secondary legal sources, including Constitutional Court decisions and relevant policy documents. The findings reveal that the legal vacuum surrounding the status conversion of PPPK has resulted in legal uncertainty, administrative inequality, and a potential violation of the principles of justice and equality as guaranteed by the Constitution. The absence of affirmative mechanisms in the form of implementing regulations further impedes the realization of a fair merit-based system within the national civil service. Therefore, a responsive and affirmative legal policy framework is urgently needed to accommodate the aspirations of PPPK employees through derivative regulations that ensure legal certainty, equitable treatment, and consistency with the principles of good governance. The normative recommendations include the establishment of implementing regulations that define a performance- and service-based transition pathway, as well as the reinforcement of accountability and transparency in ASN policy processes.

**Keywords:** PPPK; Civil Servants; ASN Law 2023; legal certainty; administrative justice

### INTRODUCTION

The State Civil Apparatus (*Aparatur Sipil Negara* or ASN) serves as the backbone of public service delivery in Indonesia. A fundamental transformation in its legal framework occurred with the enactment of Law No. 20 of 2023 on State Civil Apparatus, which formally stipulates that ASN consists of two categories: Civil Servants (*Pegawai Negeri Sipil* or PNS) and Government Employees with Work Agreements (*Pegawai Pemerintah dengan Perjanjian Kerja* or PPPK). This law not only clarifies key aspects such as the merit system, personnel needs planning, and welfare of ASN, but also mandates the elimination of honorary (non-ASN) staff through a staffing reorganization process to be completed no later than December 2025. Within this context, a central legal question arises: Does Law No. 20 of 2023 provide a clear legal foundation for the transition of PPPK personnel to PNS status, or

at least allow such a conversion, and if so, under what mechanisms and legal requirements? (Fauzi, M. A., 2023; Kompas, 2023).

Previous regulations, particularly Law No. 5 of 2014, clearly stated that PPPK employees are not automatically eligible for appointment as civil servants; they must compete through the general selection process, similar to other applicants. However, following the enactment of the 2023 ASN Law, there remains a regulatory vacuum concerning implementing provisions that explicitly address whether and how the status transfer from PPPK to PNS can occur. Several stakeholders, including members of the Indonesian Parliament (DPR), have expressed concern that no Government Regulation (PP) or other implementing legislation currently outlines a specific pathway for the appointment of PPPK to PNS. This has led to considerable uncertainty among PPPK personnel seeking status conversion. On the other hand, Law No. 20 of 2023 affirms the principle of equal rights between PNS and PPPK in several key domains such as pension benefits, retirement security, recognition, and merit-based practices (Imam, R., et al., 2024). Nevertheless, the absence of procedural clarity creates tensions between the stated legal ideals and practical implementation.

Previous studies have predominantly focused on the material and welfare-based dimensions of ASN reform such as equality in pension rights, allowances, and social security entitlements or on the broader discourse surrounding the status of honorary workers and the restructuring of non-ASN personnel post-enactment of the 2023 Law. For instance, various opinion pieces and media reports have highlighted the concerns of PPPK employees regarding the new law, suggesting that although formal rights such as pensions are now equalized, substantial uncertainty persists concerning the legal and regulatory pathways for status transition. However, there remains a significant gap in the academic literature no comprehensive legal study has yet addressed the juridical implications of PPPK-to-PNS conversion, particularly from the perspective of normative legal analysis, constitutional interpretation, and institutional practice, along with the normative and practical barriers involved.

The novelty of this research lies in its focused legal examination of the potential for PPPK appointment as civil servants within the framework of Law No. 20 of 2023. It explores both the normative legal text and contextual implementation, identifies regulatory gaps and normative conflicts, and analyzes the implications for key legal principles such as legal certainty, justice, and equal treatment. This study also incorporates field-level aspirations of PPPK employees, interpretative insights from both legislative and executive bodies, and assesses the potential for regulatory revision or new implementing regulations that could clarify the legal basis for status conversion. Thus, this research offers not only theoretical insights but also operational policy recommendations.

The urgency of this study is underscored by the ongoing legal uncertainty, which has concrete consequences: PPPK and long-serving non-ASN personnel feel disadvantaged due to the absence of clear conversion rules; rights related to pensions and social security remain largely theoretical without supporting implementation regulations; substantive justice and

administrative fairness are threatened by differential treatment based on employment status; employee motivation and loyalty may decline in the face of unclear career prospects; and potential legal conflicts such as judicial review claims in the Constitutional Court and political-legal pressures in the legislature pose significant burdens on the state if regulatory ambiguity persists. Accordingly, this research aims to bridge the legal gap between the normative framework of the 2023 ASN Law and the realities of implementation, thereby contributing both academically and practically to the consolidation of personnel regulation in Indonesia.

## **RESEARCH METHOD**

This study employs a normative juridical approach, utilizing legal analysis methods that focus on the examination of statutory regulations as the primary legal materials. This approach is selected because the main objective of the research is to identify, analyze, and evaluate the legal norms contained in Law No. 20 of 2023 on State Civil Apparatus (ASN Law 2023) and to explore the juridical implications of the absence of explicit provisions regarding the mechanism for transitioning Government Employees with Work Agreements (PPPK) to Civil Servants (PNS). The primary legal sources in this study include relevant legislation, particularly Law No. 20 of 2023, Law No. 5 of 2014 on ASN (used for normative comparison), implementing government regulations derived from both laws, and relevant decisions of the Constitutional Court. To complement these, secondary legal materials are also utilized, including academic literature, scholarly journals, expert opinions in the fields of administrative and civil service law, and official documents issued by government institutions such as the National Civil Service Agency (BKN), the Ministry of Administrative and Bureaucratic Reform (KemenPAN-RB), and the State Civil Apparatus Commission (KASN). In addition, to support contextual analysis, the study reviews official news sources, public statements by relevant authorities, and recent policy developments following the enactment of the 2023 ASN Law (Marzuki, P.M., 2015; Soekanto, 2018).

The technique for collecting legal materials is conducted through library research, involving the review of both printed and digital legal documents and scholarly literature. The collected data is then analyzed using descriptive-analytical methods and systematic legal interpretation. The analysis aims to uncover the normative meaning of existing provisions, identify legal gaps, and evaluate the extent to which principles of administrative law and constitutional norms such as legal certainty, justice, and equal treatment are upheld or neglected in the regulation of PPPK employment status (Soekanto, 2018).

## **RESULT AND DISCUSSION**

### **1. The Legal Status of PPPK within the State Civil Apparatus System under Law No. 20 of 2023**

Since the enactment of Law No. 20 of 2023 on State Civil Apparatus (ASN Law 2023), Indonesia's positive legal norms have formally recognized Government Employees with

Work Agreements (PPPK) as an integral component of the State Civil Apparatus (ASN), holding equal standing with Civil Servants (PNS) in several rights and obligations. Normatively, Article 5 of the ASN Law stipulates that ASN comprises two categories: PNS and PPPK, clearly indicating that both fall under the same civil service framework. Furthermore, Chapter VI on Rights and Obligations particularly Article 21(1) states that ASN employees are entitled to recognition and rewards in both material and non-material forms. These include remuneration, allowances, facilities, social security (including pension and old-age benefits), working environment, personal development, and legal assistance. Thus, the new regulation has significantly expanded the material entitlements of PPPK, bringing them closer in welfare terms to those of PNS (Rahman, L., 2023).

However, in terms of the opportunity for PPPK personnel to be appointed as PNS, the ASN Law 2023 does not provide explicit provisions for status conversion. There is no mention of phrases such as "*automatic appointment*", "*PPPK-to-PNS conversion*", or a specific administrative pathway that allows PPPK employees to transition to PNS status without undergoing the general recruitment process applicable to other applicants. Several sources note that the new law explicitly rules out automatic conversion from PPPK to PNS, instead requiring PPPK candidates to compete in open selection processes like any other citizen. In addition, Article 75 of the ASN Law maintains that implementing regulations from Law No. 5 of 2014 remain valid insofar as they do not conflict with the new law. Consequently, prior regulations regarding PPPK-to-PNS appointments primarily contained in Law 5/2014 and its derivative Government Regulations still serve as a reference until superseded. Nevertheless, these older regulations do not contain any special mechanism for automatic conversion from PPPK to PNS. Rather, they consistently prescribe the general open recruitment process (CPNS selection) for anyone, including existing PPPK personnel, who seeks PNS status (Sari, P. & Wibowo, T., 2023).

A normative analysis of the ASN Law 2023 reveals that while the legislation guarantees equality in material rights, it does not provide for equality in employment status in the sense of allowing permanent conversion from PPPK to PNS without selection. The meritocratic principle upheld by the ASN Law forms the basis for requiring that access to PNS positions remain open through competitive examinations and established eligibility requirements. The law does not establish any direct appointment pathway or special track for PPPK employees. This represents a significant normative limitation for PPPK personnel aspiring to obtain PNS status. The absence of clear implementing regulations further diminishes the practical opportunity for PPPK-to-PNS conversion. While Article 75 technically allows for the continued application of implementing provisions under Law 5/2014, there are currently no Government Regulations or derivative rules that directly address the status transition of PPPK under the framework of Law No. 20 of 2023. This regulatory gap results in uncertainty regarding the mechanisms, criteria, timelines, and procedures for status conversion. Statements from legislative actors (DPR) urging the government to issue new implementing regulations specifically addressing this matter suggest that the technical provisions are still lacking (Andi, S., et al., 2024).

From a legal standpoint, the ASN Law 2023 guarantees PPPK employees a level of welfare and social protection comparable to that of PNS, but it does not guarantee employment status conversion. PPPK personnel cannot acquire PNS status automatically by virtue of legislation alone without accompanying implementing rules that define such transition mechanisms. Within the framework of administrative and constitutional law, this raises concerns regarding the principles of justice and legal certainty: for instance, if long-serving PPPK personnel are unable to convert to PNS status except by competing with the general public, this may result in unequal treatment despite the equalization of material rights (Aji, S., 2024).

In conclusion, the analysis shows that ASN Law 2023 has expanded the normative space for PPPK rights, particularly in terms of material entitlements. However, the normative limitations remain substantial: there are no explicit provisions that allow PPPK to become PNS without participating in the general selection process; implementing regulations are still absent; and the continued application of outdated regulations lacks the progressiveness needed to accommodate status transitions. This suggests that the legal opportunity for PPPK appointment as PNS remains normatively restricted, and highlights the need for the government to fill the regulatory gap to provide a clearer legal basis for the aspirations of PPPK personnel.

## **2. Juridical Implications of the Absence of Explicit Norms on the Status Conversion of PPPK to PNS: Legal Certainty, Administrative Justice, and the Merit System in Indonesia's Civil Service Law**

The absence of explicit regulation regarding the mechanism for transitioning Government Employees with Work Agreements (PPPK) to Civil Servants (PNS) in Law No. 20 of 2023 on the State Civil Apparatus (ASN Law) along with the lack of implementing regulations has resulted in a number of serious juridical implications, both within the framework of administrative law and in the broader context of constitutional justice. Normatively, the ASN Law does affirm equality between PNS and PPPK in terms of several rights, such as income, social security, and legal protection, as stipulated in Articles 21 and 22. However, the law fails to clearly regulate the opportunities, requirements, or procedures for PPPK to convert to PNS status, either through administrative channels or affirmative pathways. This legal vacuum creates ambiguity in interpretation and uncertainty in policy implementation, especially as there is no transitional clause or explicit mandate to establish a conversion mechanism (Kusuma, D. R., 2023).

The first juridical implication concerns the emergence of legal uncertainty for PPPK employees who have served for many years and aspire to be appointed as PNS either through special appointments or affirmative selection. Within the principles of good governance (*Asas-Asas Umum Pemerintahan yang Baik*, or AUPB), legal uncertainty constitutes a violation of the principle of legal certainty (rechtssicherheit) and protection of legitimate expectations. PPPK personnel hold legitimate legal expectations for clarity regarding their employment status, particularly given their essential roles in strategic public sectors such as

education and healthcare. When such expectations are not met with clear legal norms, the state is seen as failing to provide adequate legal safeguards (Arifin, Z., 2023; Kusuma, D. R., 2023).

Second, the principle of equality before the law is also compromised when PPPK personnel despite having fulfilled performance and service length criteria are not provided with an affirmative pathway to become PNS, while members of the general public are allowed to apply through open recruitment. This raises fundamental questions about substantive justice within the national civil service system. Constitutionally, Article 28D(1) of the 1945 Constitution of the Republic of Indonesia (UUD NRI 1945) guarantees every individual the right to recognition, protection, fair legal certainty, and equal treatment before the law. Thus, when long-serving, professional PPPK personnel are denied equitable access to PNS status, it may be considered a form of legal discrimination, contradicting the principle of non-discrimination in constitutional law (Budianto, R., et al., 2024).

The third implication involves the potential for legal conflict and judicial review, triggered by this normative gap. Dissatisfaction among PPPK personnel may result in constitutional challenges before the Constitutional Court (Mahkamah Konstitusi), particularly against provisions in the ASN Law that are perceived as unjust or inconsistent with the Constitution. While the Court in its Decision No. 84/PUU-XXI/2023 affirmed that the appointment of both PPPK and PNS must adhere to the merit-based selection system, it also emphasized the need for affirmative policies for specific groups, such as long-serving honorary teachers. This demonstrates that even the judiciary acknowledges the necessity of policy differentiation based on social justice, provided it remains within the meritocratic framework (Sari, P., et al., 2023).

The fourth implication is administrative, manifesting as policy confusion at both central and regional levels of government. In the absence of normative guidelines on PPPK-to-PNS conversion, implementing agencies such as the National Civil Service Agency (BKN) and sectoral institutions lack a legal basis to design transition or affirmative appointment policies. This not only disrupts national ASN workforce planning, but also undermines institutional capacity-building programs that rely on workforce stability and loyalty. As a result, agencies are unable to flexibly develop career development frameworks for high-performing PPPK personnel, which in turn negatively affects long-term bureaucratic efficiency (Arifin, Z., 2023; Kusuma, D. R., 2023).

Fifth, from a legal-political perspective, this regulatory gap reflects ambiguity in legislative intent regarding the status of PPPK. On one hand, the law explicitly recognizes the rights of PPPK as ASN personnel equivalent to PNS. On the other hand, it lacks any normative follow-up to show actual support for status transition. This ambivalence reveals a tension between a strict meritocratic principle and the social demand to accommodate thousands of PPPK workers who have long served as the backbone of public services. From a juridico-political standpoint, the absence of a clear conversion mechanism risks politicizing

PPPK status, especially in the lead-up to major political events such as national elections (Fauzi, M. A., 2023).

In conclusion, the absence of explicit provisions in Law No. 20 of 2023 regarding the appointment of PPPK to PNS status alongside the lack of implementing regulations has resulted in serious juridical implications. These include legal uncertainty, inequality in legal treatment, potential constitutional disputes, policy stagnation at the administrative level, and inconsistency in political-legal direction. This situation calls for an urgent response from both legislative and executive branches to issue implementing regulations that uphold both procedural and substantive justice for PPPK, while remaining aligned with the meritocratic foundation of Indonesia's civil service reform. Without such corrective measures, this regulatory

### **3. The Perspective of Justice and Legal Certainty in the Policy of Converting PPPK to Civil Servants (PNS)**

An assessment of the policy concerning the conversion of Government Employees with Work Agreements (PPPK) to Civil Servants (PNS) from the perspective of Indonesia's positive law cannot be separated from the fundamental principles of administrative law and constitutionalism. When the provisions within Law Number 20 of 2023 on State Civil Apparatus (UU ASN 2023) do not explicitly regulate the possibility of converting PPPK status to PNS, the evaluation of such a policy must consider the general principles of good governance (Asas Umum Pemerintahan yang Baik/AUPB), including the principles of *rechtklarheid* (legal certainty), administrative justice, and the principle of equality before the law as guaranteed by the Constitution.

First, the principle of legal certainty is a crucial element in administrative law that aims to ensure that government actions and decisions have a clear, consistent, and predictable legal basis. In the context of converting PPPK to PNS, the absence of explicit provisions in the UU ASN 2023 results in ambiguity regarding the legal status of PPPK employees, despite their formal legal recognition as part of the ASN. Without regulation that governs the requirements, procedures, or limitations for possible status conversion, the implementation of the policy becomes uncertain and opens the door to administrative injustice. PPPK, as part of the ASN structure, are entitled to career certainty and non-discriminatory legal protection (Kusuma, D. R., 2023).

Second, from the perspective of justice both formal and substantive any policy that does not offer affirmative pathways or equal opportunities for PPPK who have demonstrated loyalty, competence, and long-term service, can be seen as violating the value of justice. While formal justice is reflected in equal treatment under the rules, substantive justice demands fair differentiation based on individuals' real conditions. In this case, PPPK who have served for years, particularly teachers and healthcare workers in underdeveloped regions, hold a *legitimate expectation* for special consideration in appointments to PNS, rather than being treated identically to new applicants in open recruitment. When the state

fails to accommodate such distinctive contributions, it creates a disparity between the value of service and the recognition granted by the state (Arifin, Z., 2023).

Third, the principle of equal treatment before the law, as guaranteed by Article 28D(1) of the 1945 Constitution of the Republic of Indonesia, must be interpreted not merely in a formal sense but also substantively. Equal treatment does not mean identical treatment for all individuals without considering their specific contexts and conditions. In this regard, equating long-serving PPPK employees with new applicants in CPNS selection processes without offering affirmative measures contradicts the principle of justice. Constitutional Court jurisprudence, such as Decision Number 84/PUU-XXI/2023, emphasizes the importance of the state ensuring social justice and protection for vulnerable groups in civil service policies. Therefore, policies regarding PPPK conversion to PNS should be designed differentially to address structural inequalities (Budianto, R., et al., 2024).

Within the framework of Indonesia's positive law, the UU ASN 2023 does establish a foundation for equality between PPPK and PNS in terms of employment rights. However, it does not normatively construct a legal bridge for status transition. Thus, administrative and constitutional legal principles can serve as *instrumental norms* to assess whether the policy meets the criteria of being just, legally certain, and non-discriminatory. In administrative law, unclear or disorganized implementing norms can lead to maladministration, resulting in legal harm to affected individuals. Furthermore, from the perspective of responsive legal theory, the law should not merely legitimize state power, but also function as a tool to meet societal needs. PPPK, as part of a modern ASN structure, deserve progressive legal treatment. The state's failure to establish implementing rules that bridge these practical needs reflects *normative passivism*, which contradicts the ideals of an active, socially just *rechtsstaat* (Susiani, D., 2019).

In conclusion, an analysis of the policy of converting PPPK to PNS through the lens of administrative law and constitutionalism reveals that the current policy does not yet provide adequate legal protection. The state must urgently formulate affirmative legal policies based on positive law that reflect substantive justice, legal certainty, and balanced treatment. This step is crucial not only to ensure PPPK's career certainty, but also to strengthen the legitimacy of a civil service system that is adaptive, inclusive, and grounded in a humane meritocracy.

#### **4. Normative Recommendations Regarding the Opportunity for Status Conversion of Government Employees with Work Agreements (PPPK) to Civil Servants (PNS)**

When a legal norm does not explicitly regulate a condition that becomes an urgent need in the practice of state administration, there arises a normative and moral obligation for policymakers to formulate legal instruments capable of filling that legal vacuum. In the context of the opportunity for status conversion of Government Employees with Work Agreements (PPPK) to Civil Servants (PNS), Law Number 20 of 2023 on State Civil Apparatus (UU ASN 2023) has given rise to a significant legal gap. While the law equalizes

employment rights between PNS and PPPK in terms of welfare, legal protection, and competency development, it does not normatively regulate the possibility of status conversion whether through administrative affirmation, direct appointment, or special pathways based on work experience. This omission creates legal uncertainty, policy fragmentation in the field, and the potential for unequal treatment in public administration.

To bridge this gap, normative recommendations are required based on the principles of legal certainty, fair treatment, and good governance. The first recommendation is that the government must promptly formulate an implementing regulation in the form of a Government Regulation (Peraturan Pemerintah/PP) that explicitly governs the possibility and mechanisms for PPPK-to-PNS status conversion, while adhering to meritocracy principles. This PP could introduce an internal selection scheme based on performance and length of service, rather than open recruitment that equates PPPK with general applicants. In doing so, PPPK employees' rights to career clarity and legal protection can be preserved without undermining objectivity in the civil service recruitment process (Rahman, L., 2023).

Second, an affirmative legal policy grounded in substantive justice can be formulated as a special appointment track for PPPK who meet certain criteria such as a minimum of five years of service, an excellent performance record, and possession of essential competencies needed by their institutions. This can be designed as a form of administrative affirmation, as recognized in modern civil service legal systems, without dismantling the foundations of a merit-based system. Such a policy would embody the principle of *equal recognition* in modern administrative law, where the state is obliged to acknowledge and fairly treat civil servants who have demonstrated high dedication particularly in strategic sectors such as education, health, and regional development (Andi, S., et al., 2024).

Third, the strengthening of regulations based on administrative justice must also be accompanied by robust oversight and accountability mechanisms. The principle of good governance requires that every policy grounded in public law be transparent and subject to scrutiny both by internal supervisory bodies such as the Inspectorate General, and external bodies such as the Indonesian Ombudsman and the State Civil Apparatus Commission (KASN). Therefore, derivative regulations concerning PPPK-to-PNS status conversion must be coupled with control instruments to ensure there is no abuse of power, conflict of interest, or politicization of appointments. This is crucial, given that ASN status is not merely an administrative matter but also one that pertains to the integrity and neutrality of the national bureaucracy (Fauzi, M. A., 2023).

Fourth, as part of efforts to harmonize national policy, there is a need for synchronization between the UU ASN 2023 and other relevant legal frameworks, including legislation in the fields of education, healthcare, and regional autonomy. PPPK in these sectors often work within more complex operational and socio-economic contexts, which means status conversion policies must be sector-specific and context-sensitive. Such policy models may adopt a *multi-level governance* approach, wherein the central government provides the

regulatory framework while regional governments implement localized adaptations based on field realities (Putra, Y. S., et al., 2024).

In principle, the formulation of normative recommendations and legal policies to address this legal vacuum must uphold the core tenets of administrative justice, legal certainty, and institutional efficiency. According to modern administrative legal theory, a policy framework that is unresponsive to the practical needs of civil servants leads to bureaucratic stagnation, demotivates public servants, and ultimately deteriorates the quality of public services. Therefore, recognition of the contributions made by PPPK should not only be implemented through equality of rights but also through *career security* that provides structural incentives for high-performing civil servants.

## CONCLUSION

The regulation regarding the opportunity for status conversion of Government Employees with Work Agreements (PPPK) to Civil Servants (PNS) has not been explicitly stipulated in either the relevant legislation or its implementing regulations. This normative gap creates significant legal uncertainty, particularly for long-serving PPPK who seek career certainty within the state employment system. The absence of transition or affirmation mechanisms based on tenure and performance in Law No. 20 of 2023 on State Civil Apparatus (UU ASN 2023) has resulted in an imbalance between the principles of formal equality and substantive justice in administrative law. This situation undermines the principles of legal certainty, justice, and equal treatment as guaranteed by the Constitution and the general principles of good governance (Asas Umum Pemerintahan yang Baik, AUPB).

Within the framework of Indonesia's positive law, such regulatory ambiguity has the potential to weaken the legitimacy of the ASN system, which is oriented towards meritocracy yet remains sensitive to the social needs of the bureaucracy. Therefore, policy intervention in the form of clear and affirmative implementing regulations is necessary to normatively govern the criteria, mechanisms, and scope of affirmation allowing PPPK to be converted into PNS based on objective and transparent criteria. This policy must be designed while upholding the principles of good governance, including transparency, accountability, and efficiency, and aligned with administrative justice that positions ASN as the cornerstone of public service delivery. Accordingly, the formulation of responsive regulations addressing PPPK needs will not only strengthen legal certainty but also accelerate bureaucratic transformation towards a professional, integrity-driven, and inclusive civil apparatus.

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