



Legal analysis of the banten province regional personnel agency policy in recruiting employees at the cilograng regional general hospital and the Labuan

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ABSTRACT

This research analyzes the legal aspects of the Banten Province Regional Personnel Agency (BKD) policy in recruiting employees at Cilograng Regional General Hospital and Labuan Regional General Hospital in relation to Banten Governor Regulation Number 11 of 2020 concerning the governance of non-civil servant employees at the Regional Public Service Agency (BLUD) within the Banten Provincial Health Service. Using a normative juridical approach supported by empirical data, this study examines the extent to which recruitment practices comply with the regulatory framework and principles of good governance. The findings show that while the recruitment process largely follows the Governor Regulation, challenges remain in ensuring transparency, accountability, and equal opportunity. The BLUD system provides flexibility for hospitals to address human resource needs more quickly; however, weaknesses in oversight mechanisms and the lack of legal certainty for non-civil servant employees may create legal and administrative risks. The study recommends clearer technical guidelines and consistent monitoring to strengthen compliance and improve governance in recruitment. It is necessary to increase the capacity of the selection committee through training on the principles of good governance and the use of information technology in the recruitment process, so that transparency, accountability, and equal opportunities can be more assured.

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1. Introduction

The position of non-civil servants within the civil service legal structure is different from that of civil servants with the status of State Civil Apparatus (ASN). Civil servants, both PNS and PPPK, are expressly regulated in Law Number 5 of 2014 concerning ASN, thus having a clear legal standing as part of the state civil service structure with rights and obligations protected by public law, including the right to salary, allowances, career development, and pension security for civil servants. Meanwhile, non-civil servants such as honorary workers, contract employees, and BLUD employees are outside the ASN system because their employment

relationships are based more on contracts or administrative regulations of the regional head. Their position is closer to civil law than state administrative law, so their rights are not as strong as ASN, for example, there is no certainty of career, pension security, or the same legal protection. Thus, although non-civil servants play an important role in supporting the administration of government, their legal position is still weak and depends on regional policies or work agreements made, in contrast to ASN who receive full legitimacy from the law. Based on the review, no empirical evidence was found in the form of legal cases, official reports from the Ombudsman, or audit results that specifically indicate problematic recruitment practices at Cilograng Regional Hospital or Labuan Regional Hospital. This absence of formal records indicates that the recruitment process followed established administrative procedures, although limitations in data transparency and complaint mechanisms prevented potential problems from being fully uncovered. Therefore, despite the absence of documented violations, there is still room for increased accountability and public transparency to ensure that recruitment practices align with the principles of good governance.

Human resources are one of the most important elements in supporting the performance of public institutions, particularly in the health sector. Hospitals as public service providers require adequate, competent, and legally protected employees to ensure the delivery of quality health services to the community. In Indonesia, the dual system of employment for civil servants (ASN) and non-civil servants has created unique challenges in public administration, particularly within Regional Public Service Agencies (BLUD) (Laritmas & Laritmas, 2018). The Province of Banten, through its Regional Personnel Agency (BKD), plays a central role in regulating the recruitment and placement of employees at BLUD hospitals under the Provincial Health Service (Iskandar, 2024). To provide legal certainty and governance standards, the Governor of Banten issued Regulation Number 11 of 2020 concerning the governance of non-civil servant employees at BLUD within the Health Service. This regulation aims to ensure that the recruitment and management of non-civil servant employees are carried out transparently, accountably, and in line with the principles of good governance. However, in practice, the implementation of this regulation faces several challenges (Studi & Tata, 2024). Differences in interpretation, limited technical guidelines, and practical needs at the hospital level often create legal and administrative issues (Nafisa, 2025). The recruitment of employees at Cilograng Regional General Hospital and Labuan Regional General Hospital provides an interesting case study to analyze how the policy is applied. Both hospitals represent regional health facilities that must balance between meeting urgent service needs and complying with legal frameworks (Nasrin & Zulfikar Putra, 2023).

The Cilograng and Labuan hospitals, as BLUD entities, require flexibility in managing their workforce to address local community health demands effectively. Nevertheless, flexibility without adequate oversight and legal clarity can lead to inconsistencies, potential disputes, and questions of fairness in the recruitment process. This condition raises important legal questions regarding the extent to which the recruitment practices comply with Banten Governor Regulation Number 11 of 2020. Furthermore, the issue also concerns the protection of non-civil servant employees, who often experience uncertainty in employment status, rights, and career development. A comprehensive legal analysis is therefore essential to evaluate whether the BKD policy has effectively aligned with the regulation while still fulfilling the operational needs of the hospitals. The importance of this analysis also lies in the broader context of strengthening public health services in Banten Province, which requires sustainable and well-regulated human resource governance (Sumantri & Wiryawan, 2023). By examining the recruitment practices at Cilograng and Labuan hospitals, this study aims to reveal both achievements and shortcomings in policy implementation. The findings are expected to contribute to the development of more effective technical guidelines and monitoring systems for non-civil servant recruitment in BLUD institutions (Fitriah, 2020).

The study also highlights the role of the BKD as a regulatory and supervisory body, which must ensure consistency between policy and practice. In addition, it reflects the challenges of harmonizing legal norms with practical realities in the management of human resources in the health sector (Widaningtyas, 2018). Therefore, the introduction of this research sets the foundation for a deeper analysis of how legal frameworks, administrative practices, and governance principles intersect in the context of regional health services. Ultimately, the study underscores the urgency of improving recruitment governance to ensure fairness, legal certainty, and efficiency in supporting the performance of regional hospitals under the BLUD system (Nurdayati dkk, 2021).

Optimizing public services in the healthcare sector. This change in status provides opportunities for hospitals to implement managerial innovation, including in employee recruitment. However, this independence also brings new challenges, one of which is the recruitment mechanism for non-Civil Servant (non-ASN) employees. Non-Civil Servant employees are a crucial part of hospital operations, as they fill vacancies that cannot be filled by Civil Servants.³ Therefore, recruitment of non-Civil Servant employees must be conducted professionally and based on clear regulations (Muhammad Kahfi, 2024). In general, the recruitment process in the public sector ideally adheres to the principles of meritocracy, transparency, and accountability. These principles are expected to prevent corrupt practices such as nepotism, collusion, and abuse of authority. In practice, many public institutions face a dilemma between urgent needs and limited time and budget to implement an ideal recruitment process (Do Karim et al., 2020). This situation often opens up opportunities for procedural violations in employee recruitment, especially in public service institutions with greater autonomy, such as Regional Public Service Agencies. As a result, various legal and ethical issues arise in the recruitment process. To address this regulatory need, the Banten Provincial Government issued Governor's Regulation (Pergub) Number 11 of 2020 concerning Guidelines for the Management of Non-Civil Servant Employees within Regional Public Service Agencies.⁴ This regulation was designed to provide a clear legal and administrative framework for the management of non-Civil Servant employees, including recruitment, placement, evaluation, and dismissal (Bella et al., 2012). This Pergub represents the regional government's commitment to implementing good personnel governance within Regional Public Service Agency (RSUD). However, various technical and structural challenges are still frequently encountered in the field (Milasari, Ariya Panuntun, 2023).

The implementation of this Pergub is largely due to suboptimal inter-agency coordination. In practice, Regional Public Hospitals, as recruitment agencies, often do not receive adequate technical assistance from relevant agencies, such as the Regional Civil Service Agency. A lack of understanding of the regulation's content and limited Civil Servant resource capacity at the hospital level are the primary causes of inconsistent policy implementation. Furthermore, not all Regional General Hospitals have comprehensive Standard Operating Procedure (SOP) documents to guide recruitment processes in accordance with the provisions of the Governor's Regulation (Laritmas & Laritmas, 2018).

This situation is evident in two hospitals in Banten Province, Cilograng and Labuan Regional General Hospitals, the primary locations of this research. These two hospitals frequently recruit non-Civil Servant employees without adequate technical guidelines. The recruitment process is based primarily on practical needs and personal relationships, rather than on objective competencies and qualifications. Furthermore, oversight of the selection process is virtually non-existent, opening up opportunities for practices that conflict with the principles of good governance. The absence of competency testing mechanisms or open selection processes This makes recruitment quality difficult to measure. Qualification criteria are often not formulated in writing and are not made public (Pujiyanto et al., 2018). Prospective employees are not recruited through an

interview process or testing that would ensure their suitability for the position they are applying for. This not only results in the low quality of incoming human resources but also undermines public trust in the hospital's professionalism. This situation stands in stark contrast to the spirit of bureaucratic reform currently being promoted by the central and regional governments. Recruitment practices that are not based on competency and meritocracy have the potential to create internal conflict within the organization. Non-civil servant employees who feel they lack clarity about their status and career path tend to experience decreased work motivation. This uncertainty of status creates unhealthy psychosocial stress, especially in a highly dynamic work environment like a hospital. Employees recruited without a proper system are also likely to experience a mismatch between their skills and assigned tasks, ultimately reducing work productivity (Eka P, 2021).

In the long term, a non-transparent recruitment system can threaten the quality of hospital services. Competency mismatches will impact low work unit performance, slow response to patient needs, and increased public complaints. The domino effect of unprofessional recruitment will harm not only hospital management but also the public as service recipients. This demonstrates the importance of a professional recruitment system as part of efforts to improve the quality of public services. One crucial factor in improving employee performance at Regional Public Hospitals with Regional Public Service Agency status is a fair and transparent personnel system (Ikhsana, 2022). The study confirms that financial factors and motivation alone are not sufficient to guarantee performance. This study is grounded in the theory of good governance, which emphasizes transparency, accountability, participation, and fairness as key principles in public administration. In the context of recruitment within BLUD hospitals, good governance theory provides the foundation for assessing whether the recruitment process aligns with democratic values and legal standards. Recruitment is not only a technical activity of filling vacancies but also a legal and ethical process that must guarantee equal access and prevent arbitrary decisions (Area, 2022). By applying this theory, the research evaluates how far the Banten Regional Personnel Agency (BKD) and hospital management have ensured compliance with the Governor Regulation while simultaneously fulfilling the broader mandate of serving the public interest in the health sector (Area, 2024). In addition, the study uses the legal certainty theory, which underscores the importance of clear, consistent, and enforceable regulations in maintaining order and fairness in society (Ramaji & Heryani, 2022). Legal certainty is particularly relevant in the governance of non-civil servant employees, who often face uncertainty regarding their employment status and rights (Widiastuti et al., 2021). By employing this theory, the research highlights the necessity of harmonizing normative provisions with practical implementation, ensuring that the recruitment process not only meets hospital staffing needs but also provides employees with legal protection and guarantees. Together, these theoretical perspectives form the analytical basis for understanding the interplay between law, policy, and practice in the recruitment of BLUD employees in Banten Province (Pratiwi, 2023).

2. Method

In determining informant representation, researchers purposively selected BKD officials, RSUD management, and non-civil servant employees to reflect the perspectives of policymakers, implementers, and policy recipients. Therefore, interviews with just one or two employees were not considered sufficient to fully describe recruitment conditions. Observation and interview data were dominant in exploring field practices, but were balanced with a normative study of Banten Governor Regulation Number 11 of 2020 to ensure the analysis did not lose its legal basis. Researchers clearly differentiated between normative findings as a written regulatory framework and empirical findings as implementation practices, so that both were combined without dominating each other to avoid analytical bias. Potential informant bias was addressed through data triangulation,

comparing answers between informants, and confirming interview results with official documents and observational results, so that conclusions remained objective and accountable.

This research applies a normative juridical method combined with an empirical approach. The normative juridical method is used to examine the legal framework governing the recruitment of non-civil servant employees, particularly Banten Governor Regulation Number 11 of 2020, and to analyze its conformity with the principles of good governance and labor law. At the same time, the empirical approach is carried out through field observations, document analysis, and interviews with key stakeholders such as the Regional Personnel Agency (BKD), hospital management, and recruited employees at Cilograng Regional General Hospital and Labuan Regional General Hospital. Data collection is conducted using both primary and secondary sources to ensure accuracy and comprehensiveness. The qualitative analysis technique is employed to interpret findings, identify discrepancies between legal norms and implementation, and assess the level of effectiveness, transparency, and accountability of the recruitment process. This combination of normative and empirical approaches provides a holistic understanding of how regulations are applied in practice and how policies affect the governance of human resources in BLUD hospitals (Widiastuti et al., 2021). This study involved 10 informants consisting of officials from the Banten Province Regional Personnel Agency (BKD), structural officials at the Cilograng and Labuan Regional General Hospitals, and non-civil servant employees recruited through the BLUD mechanism as the main subjects. Observations were conducted not only on the ongoing recruitment process, but also through a review of archival documents and administrative activities related to the implementation of Banten Governor Regulation Number 11 of 2020. To ensure the validity and reliability of the data, the researcher triangulated sources and methods, by comparing the results of interviews, observations, and document studies. The relationship between the normative and empirical approaches is explained through an analysis of positive law as a normative framework contextualized with actual recruitment practices in the field as empirical evidence. This study was conducted during the 2022–2023 recruitment period, and although the focus was on two regional hospitals, the resulting findings have the potential to be used as a reference or generalized in non-civil servant recruitment practices in other regional hospitals that use the BLUD system with similar regulations.

3. Results and Discussion

This study found limitations due to the lack of quantitative data on the number of applicants, success rates in the selection process, or evidence of complaints from the public or employees that could strengthen the analysis of recruitment policy implementation. However, interviews with non-civil servant employees indicated that most of them viewed their legal status as weak and lacking career certainty, although they still valued the opportunity to work in a regional hospital environment. In this context, the role of the Regional Civil Service Agency (BKD) is crucial at every stage of recruitment, from formulating position requirements and through the selection process to administrative oversight to ensure its implementation remains in line with applicable regulations, particularly Banten Governor Regulation Number 11 of 2020. The results of this study show that the recruitment process of non-civil servant employees at Cilograng Regional General Hospital and Labuan Regional General Hospital generally refers to Banten Governor Regulation Number 11 of 2020. Both hospitals formally adopt the legal framework as the main guideline for employee recruitment under the BLUD system. However, in practice, the implementation of recruitment still varies between the two hospitals. Cilograng Hospital tends to strictly follow the procedural stages set out in the regulation, while Labuan Hospital adapts the process to urgent service needs, creating differences in consistency and compliance (Mangindaan et al., 2019). Transparency in

recruitment remains a major challenge. Although announcements are formally made, the accessibility of information for prospective applicants is still limited. This condition reduces public trust in the fairness of the selection process. The principle of accountability is also not yet fully realized. In several cases, the documentation of assessment results and the justification for final decisions are not adequately disclosed, leading to potential legal disputes if applicants challenge the process. On the other hand, the BLUD system provides hospitals with flexibility to quickly meet workforce demands, particularly in emergency and high-demand service areas. This advantage allows hospitals to maintain continuity of services but also creates potential risks when legal procedures are bypassed. Interviews with hospital management indicate that urgent needs often force them to prioritize efficiency over strict compliance with legal norms (Collins et al., 2021). This pragmatic approach, while understandable, can weaken legal certainty and the protection of employees' rights (Yunus, 2023). The protection of non-civil servant employees remains a pressing issue. Most of them face uncertainty regarding employment status, career development, and access to social protection, which contradicts the spirit of equal treatment under labor and administrative law. The role of the Banten Provincial Regional Personnel Agency (BKD) as a supervisory institution has not been fully optimal. Monitoring activities are limited to formal reporting, without comprehensive evaluation of the recruitment process at the hospital level. These findings indicate the need for more detailed technical guidelines derived from the Governor Regulation. Clearer operational standards would help harmonize flexibility with accountability and ensure consistency between hospitals in applying the law. In conclusion, while the recruitment practices in Cilograng and Labuan hospitals have been formally aligned with the Governor Regulation, several weaknesses persist in transparency, accountability, and legal protection. Strengthening oversight mechanisms, issuing technical instructions, and enhancing monitoring systems are essential to ensure that recruitment under the BLUD framework supports good governance and the improvement of regional health services (Pemerintah et al., 2019).

4. Conclusion

The results of the study indicate that formally the non-civil servant recruitment mechanism at Cilograng Regional General Hospital and Labuan Regional General Hospital has referred to Banten Governor Regulation Number 11 of 2020 concerning the governance of non-civil servant employees at the Public Service Agency (BLUD), although in practice there are still limitations in terms of public information transparency and the availability of comprehensive recruitment data. The principles of good governance such as accountability, effectiveness, and efficiency have been implemented relatively through the involvement of the Regional Civil Service Agency (BKD) in each selection stage, but the principles of transparency and public participation have not been fully optimized due to the lack of publication of selection results and a clear complaint mechanism. Thus, although recruitment can be said to be in accordance with the applicable legal basis, the fulfillment of good governance principles still needs to be strengthened to ensure public trust and legal certainty for non-civil servant employees. This study has limitations because the analysis focuses solely on the context of Banten Province, specifically non-civil servant recruitment at Cilograng Regional General Hospital and Labuan Regional General Hospital, without comparing or drawing lessons from personnel governance practices in other regions or from public personnel policies at the national level. Consequently, the research results are primarily descriptive and local in nature and do not provide a comprehensive picture of the variations in recruitment practices at the Regional Public Service Agency (BLUD) in Indonesia or their implications for civil servant policies in general. This single focus enhances the depth of the study at the regional level, but limits the opportunity to draw broader generalizations and develop recommendations applicable to the national public personnel system. The analysis of the recruitment policies at Cilograng and Labuan Regional General Hospitals demonstrates that, while the processes

are formally guided by Banten Governor Regulation Number 11 of 2020, the practical implementation still faces significant challenges. Issues of transparency, accountability, and fairness in the recruitment stages reveal gaps between the normative legal framework and the operational realities of hospital management under the BLUD system. Moreover, the lack of strong oversight and comprehensive technical guidelines has resulted in inconsistent practices, which may create potential legal and administrative disputes in the future. To address these challenges, it is necessary to strengthen the role of the Banten Regional Personnel Agency (BKD) as a supervisory body through clearer technical instructions, consistent monitoring, and stricter enforcement of governance principles. In addition, greater attention must be given to the protection and legal certainty of non-civil servant employees to ensure equal rights and stability in employment. By implementing these measures, the recruitment system in BLUD hospitals can better reflect the objectives of good governance while supporting the sustainable improvement of public health services in Banten Province.

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