

**Looking at The Abolition of The State Civil Apparatus Commission After
The Revision of The State Civil Apparatus Law
From The Perspective of *Fiqh Siyasah***

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Abstract

*Law No. 1 of 2014 concerning ASN (State Civil Apparatus) regulates the establishment of an independent institution called the State Civil Apparatus Commission (SCAC). SCAC has the authority, duties, and functions to oversee the merit system in ASN management. However, on October 31, 2023, there was a revision of the ASN Law into Law No. 2023. The revision of the ASN Law abolishes the existence of SCAC and transfers its authority, duties, and functions to other ministries/agencies. This research aims to examine the importance of the ASN supervisory agency and to understand the supervision system as well as the impact of the transfer of its authority, duties, and functions. Additionally, this research aims to examine the abolition of SCAC from the perspective of *fiqh siyasah*. This research is a normative legal study that uses secondary data in the form of primary legal materials and secondary legal materials. The research found that monitoring the merit system is very important, as it can affect Indonesia's ranking in the Government Effectiveness Index (GEI), helping Indonesia move from the lower-middle-income category to the upper-middle/high-income category. The research found that the authority, duties, and functions of SCAC were subsequently transferred to BKN. The supervision system remains the same, but there is an innovation regarding the digitalization of handling neutrality cases in elections. Moreover, the abolition of SCAC through the Revision of the ASN Law had very minimal participation from parties knowledgeable about strengthening SCAC. The lack of participation does not align with the deliberative principle found in the principles of *fiqh siyasah*.*

Keywords: Abolition of SCAC; Civil Servants; Fiqh Siyasah; National Civil Service Agency; Revision of ASN Law.

Introduction

In order to carry out the administration of government, the state needs government employees to move the wheels of government.¹ Government

¹ Zaini Juniansyah D, "Efforts of the Regional Civil Service Agency to Implement ASN

employees in Indonesia are called State Civil Apparatus (ASN). ASN is a government employee consisting of 2 categories, namely Civil Servants (PNS) and Government Employees with Employment Agreements (PPPK). ASN is one of the important actors who has the duty and responsibility to assist the government in carrying out various fields of government administration.² The implementation of this government is in the form of public services; education services; health services; social services;³ administrative and bureaucratic services of the government; services and law enforcement; financial management; and various other fields. There are many fields that are the duties and responsibilities of ASN, so each civil servant and PPPK has its own field focus.

Every field occupied by government employees must be based on their individual qualifications, competencies, and performance or what is called the merit system. The merit system is used to ensure the professionalism and work efficiency of government employees.⁴ In the merit system, the main principle used to select and promote employees is based on their professional ability and achievements, not because of personal relationships, political affiliations, or forms of nepotism.⁵ To maintain and supervise ASN, as well as supervise the merit system, Indonesia established an institution called the State Civil Apparatus Commission (SCAC). SCAC is present and formed on the basis of Law No. 5 of 2014 concerning ASN. Based on the Law, the State Civil Apparatus Commission is a non-structural institution (LNS) that is independent and free from various political interventions. This institution has the authority to monitor and evaluate the implementation of ASN management policies to ensure the realization of the merit system, as well as

Discipline Policy in Managing Regional Finances in Agam Regency" 1, no. 2 (2021): 111–25.

² Eviva Nur Khobiburrohma, Priska Septiana Margareta, and MS. Habbie Hasbullah, "The Application of the Merit System in the Indonesian Bureaucracy to Realize Good Governance," *Transparency : Scientific Journal of Administrative Sciences* 3, no. 2 (2020): 139–48, <https://doi.org/10.31334/transparansi.v3i2.900>.

³ Government Regulation of the Republic of Indonesia, "Government Regulation of the Republic of Indonesia Number 2 of 2018 concerning Minimum Service Standards," *Ministry of Home Affairs*, no. 2 (2018): 1–35.

⁴ Nur Khobiburrohma, Septiana Margareta, and Habbie Hasbullah, "The Application of the Merit System in the Indonesian Bureaucracy to Realize Good Governance."

⁵ Agil Sabani et al., "The Importance of the Implementation of the Meritocratic System in Indonesian Government Agencies," *Activism: Indonesian Journal of Educational, Political and Social Sciences* 1, no. 3 (2024): 144–52, <https://doi.org/10.62383/aktivisme.v1i3.333>.

supervise the application of ASN principles and codes of ethics and behavior.⁶ In carrying out its duties and authorities, SCAC is the backbone to uphold the milestones of the merit system in Indonesia. SCAC has a central role in maintaining the neutrality, professionalism, transparency, and accountability of ASN.⁷

During the implementation of its duties and authorities, SCAC usually handles a different number of cases each year. In 2020-2021, it was the year with the most reports ever entered SCAC. Based on one of the news media antaranews, in that year SCAC received 2,043 incoming reports and 1,596 of them have been proven to have committed violations related to ASN neutrality in the general election (Election).⁸ In addition to maintaining the merit system in Indonesia, SCAC has a big role in supervising ASN so that it is clean and neutral in undergoing elections. Although in fact the task of election supervision is the task of the Election Supervisory Agency (Bawaslu).⁹

The role of SCAC in implementing the merit system and following up on the neutrality of ASN in the implementation of general elections is very important. This important function must be maintained and strengthened by continuing to improve the existing ASN management system. This strengthening idea is supported by the results of short-term recommendations made in 2023 by the Legal Reform Acceleration Team from the Coordinating Ministry for Political, Legal and Security Affairs (Kemenkopolkham). The point of strengthening SCAC is contained in the results of recommendation number 30 which contains "strengthening the role of the State Civil Apparatus Commission (SCAC) to supervise the selection of regional public officials." There was even a discussion organized by the Domestic Government Research Center, National Innovation Research Agency (BRIN) on October 19, 2024 with the title "The Future of

6 President of the Republic of Indonesia, "Law of the Republic of Indonesia No.5 of 2014 concerning the State Civil Apparatus," Bpk.Go.Id, 2014, 1-104.

7 Sonia Ivana Barus, "Reformulation of the Regulation and Strengthening of the State Civil Apparatus Commission (Kasn) as External Supervisor in the State Civil Apparatus Bill," *Rechts Vinding Journal: National Legal Development Media* 11, no. 2 (2022): 283-97, <https://doi.org/10.33331/rechtsvinding.v11i2.934>.

8 Ayu Prameswari, "KASN: 1,596 Cases of ASN Proven to Have Committed Violations," *AntaraNews*, 2022, <https://www.kasn.go.id/id/publikasi/ksn-terima-417-laporan-dugaan-pelanggaran-netralitas-asn-sepanjang-pemilu-2024>.

9 Faisal Abdaud, "Revealing the Reality of Criminal Liability in Traffic Accident Cases That Result in the Death of the Victim," *Journal of Social Management Humanities (JIMSH)* 5, no. 1 (2023): 17-26, <https://doi.org/10.51454/jimsh.v5i1.896>.

Meritocracy of the Indonesian Government After the Revision of the ASN Law". The discussion invited experts and academics. In the discussion, several experts were worried about the future of meritocracy in Indonesia and they also said that what must be done is actually to strengthen the SCAC institution, not to abolish it.¹⁰

However, the strengthening that should have been sought was done the opposite. There is a serious plan to revise the ASN Law which will remove the duties, functions, and authorities of the SCAC itself. Actually, the plan to abolish SCAC has existed since 2020, namely in the Academic Text of the ASN Bill. In the conclusion of point 4 of the Academic Manuscript of the ASN Bill, it is written that the reason for the abolition of SCAC is "the view that the authority, duties, and functions regarding the supervision of the state civil apparatus are not running properly and in fact the authority, duties, and functions, of SCAC can be carried out by the ministry."¹¹ The certainty of the plan to abolish SCAC is clear when the implementation of the Revision of the ASN Law is completed. The clarity of the certainty of the abolition plan was seen on October 31, 2023, when the stipulation of Law No. 20 of 2023 concerning ASN was carried out. The law is the result of a revision of Law No. 5 of 2014 concerning ASN.

The presence of Law No. 20 of 2023 concerning ASN has implications for the invalidity of Law No. 5 of 2014 concerning ASN. Based on the new ASN Law, SCAC, its authority, duties, and functions will be abolished and then the function of supervising the merit system in ASN management will be handed over to the Ministry of State Apparatus Empowerment and Bureaucratic Reform (KemenPAN and RB) and its execution will be carried out by the State Civil Service Agency (BKN).¹² According to the Executive Director of the Monitoring Committee for the Implementation of Regional Autonomy (KPPOD), Herman N Suparman, "the abolition of SCAC is a setback of bureaucratic reform."¹³ This was revealed

¹⁰ PPRDN-BRIN, *The Future of the Meritocracy of the Indonesian Government After the Revision of the ASN Law*, 2023, https://www.youtube.com/watch?v=kh2v7d73_SA.

¹¹ House of Representatives, "Academic Text of the Draft Law on Amendments to Law Number 5 of 2014 concerning the State Civil Apparatus," *House of Representatives*, 2020.

¹² RIRIS KATHARINA, "The Dissolution of KASN and Bureaucratic Reform," *KOMPAS*, 2023.

¹³ KPPOD, "Abolition of KASN in the Latest ASN Law, KPPOD: A Step Back in Bureaucratic

because SCAC has been an important institution that is realizing the achievement of the goals of bureaucratic reform that have been regulated in Presidential Decree of the Republic of Indonesia No. 81 of 2010 concerning the Grand Design of Bureaucratic Reform 2010-2025. In addition, the elimination and handover of duties, as well as the authority of SCAC to the ministry, are dangerous to its independence. Because, by abolishing and handing over the duties and authorities of SCAC directly to the ministry, it has the potential to make the ASN supervision process no longer independent.

Based on the various issues above, the abolition of SCAC in Law No. 20 of 2023 is an interesting discussion to discuss further. The author will discuss the importance of ASN supervisory institutions and discuss how the continuation of the ASN supervision system and the impact that will arise after its duties, functions and authorities are transferred to the Ministry of PANRB and BKN. In addition, this research will also look at the perspective *of fiqh siyasah* on the abolition of SCAC in the Revision of Law No. 5 of 2014 concerning ASN.

Previously, there have been several studies related to SCAC, its abolition and the impact it caused, including an article entitled "Institutional Strengthening of the State Civil Apparatus Commission as a Guardian of the Merit System in ASN Management in Indonesia" by Firna Novi Anggoro,¹⁴ "Considering the Impact of the Dissolution of the State Civil Apparatus Commission (SCAC) on the Neutrality of ASN in the Elections" by Salma Nayla Ayunda Kurniawan, et al.,¹⁵ and "Reformulation of the Regulation and Strengthening of the State Civil Apparatus Commission (SCAC) as an External Supervisor in the Draft Law on Amendments to Law No. 5 of 2014 concerning the State Civil Apparatus" by Sonia Ivana Barus.¹⁶ However, this study is different from previous studies. In addition to discussing

Reform," KPPOD, 2023.

¹⁴ Firna Novi Anggoro, "Institutional Strengthening of the State Civil Apparatus Commission as a Guardian of the Merit System in ASN Management in Indonesia," *Journal of Law and Human Rights Wara Sains* 1, no. 02 (2022): 206–12.

¹⁵ F. Prayunisa & M. Rasyidi, "Considering the Impact of the Dissolution of the State Civil Apparatus Commission (KASN) on the Neutrality of ASN in the 2024 Elections," *Scientific Journal of Wahana Pendidikan* <https://jurnal.unibrah.ac.id/index.php/JIWP> 7, no. 1 (2021): 24–28.

¹⁶ Barus, "Reformulation of the Regulation and Strengthening of the State Civil Apparatus Commission (Kasn) as an External Supervisor in the State Civil Apparatus Bill."

SCAC and the importance of ASN supervision institutions, this study will discuss the supervision system and its impact after the authority of SCAC is transferred to the Ministry of PANRB and BKN. In this study, the author will also look at the appropriateness of the abolition of SCAC using the perspective of *fiqh siyasah*.

Method

This study uses a normative legal research method with library *research*. In this study, the author uses secondary data consisting of primary legal materials and secondary legal materials. The primary legal materials used are in the form of the 1945 Constitution of the Republic of Indonesia, Law No. 5 of 2014 concerning ASN, Law No. 20 of 2023 concerning ASN and Presidential Decree of the Republic of Indonesia No. 92 of 2024 concerning BKN. Secondary legal materials used are in the form of scientific articles, literature books, and various scientific research works related to this research. The nature of the research is descriptive-analytical, namely by describing the importance of ASN supervisory institutions and ASN supervision systems. This research will also analyze the impact that will arise after its duties, functions and authorities are transferred to the Ministry of PANRB and BKN, and the author will analyze the abolition of SCAC based on *the perspective of fiqh siyasah*.

Results and Discussion

The Importance of ASN Supervisory Institutions in the Indonesian Government

Based on data collected from DataIndonesia.id, Indonesia has 4.4 million ASN as of 2023.¹⁷ This number increased by 0.1 million compared to the previous year, which was 4.3 million as of June 2022. This increase in number occurred because the government always strives to increase the effectiveness and efficiency of government services through the addition of government employees (ASN). With

¹⁷ Theresia Gracia Simbolon, "Data on the Number of State Civil Apparatus (ASN) in Indonesia in the Last 10 Years to 2023," DataIndonesia.id, 2024, <https://dataindonesia.id/tenaga-kerja/detail/data-jumlah- Aparatur-sipil-negara-asn-di-indonesia-pada-10-tahun-terakhir-hingga-2023>.

the increase in the number of ASN, it will help the government in providing fast services or minimizing the amount of workload from ASN itself. In the recruitment and election process of government employees, Indonesia adheres to a system called the merit system. This system is used because it has been proven to help strengthen the principle of neutrality and can minimize the potential for fraud or nepotism in the process of selecting and recruiting government employees.¹⁸

The implementation of the merit system is also carried out in order to carry out the mandate ordered in the Constitution of the Republic of Indonesia. Article 27 paragraph (1) of the 1945 Constitution of the Republic of Indonesia stipulates that every citizen has the same position in law and government, so no one should have special rights when they want to be in the government.¹⁹ Those in the government must be selected based on their quality, qualifications, and competence in their field of work.²⁰ Therefore, the merit system is very important in supporting the implementation of good governance.²¹ The recruitment or selection process based on the merit system will make government employees work according to their abilities and can provide maximum and effective work results.

Indonesia has implemented the merit system since the New Order era, but its implementation has not been as expected. A²² breath of fresh air regarding a clearer and more appropriate merit system was present when the Draft Law No. 5 of 2014 concerning ASN began to be discussed. The reason is that after the bill was passed into law, there is an article that regulates and mentions the explanation of the merit system. In the article, it is explained that the merit system is a rule in ASN

¹⁸ Deni Jaya Saputra, "The Urgency of the Principle of Neutrality and the Implementation of the Merit System as a Strengthening of the Principle of Neutrality of the State Civil Apparatus in General Elections Reviewed from Law Number 5 of 2014 concerning the State Civil Apparatus," *Civil Service* 16, no. 2 (2022): 26–42.

¹⁹ People's Consultative Assembly, "Constitution of the Republic of Indonesia of 1945," 2000, 1–28, <https://www.mkri.id/index.php?page=web.RegulationPIH&id=1&menu=6&status=1>.

²⁰ Meisi Kalesaran and KASN, "The Application of the Merit System Towards a Trustworthy Government (Research Study on the Regional Civil Service Agency of North Sulawesi Province)," *Journal of Equatorial Voice Government Science* VI, no. 01 (2023): 1–24.

²¹ Andry Prasetya Permana and Rahmad Taufik, "Implementation of Policies and Merit Systems in the Open Selection of Primary High Leadership Positions in South Bangka Regency," *Responsive* 6, no. 1 (2023): 15, <https://doi.org/10.24198/responsive.v6i1.42811>.

²² BKPP Bengkalis Regency, "Implementation of the Merit System for State Civil Apparatus," BKPP Bengkalis Regency, 2020, <https://bkpp.bengkaliskab.go.id/artikel/penerapan-sistem-merit-bagi-aparatur-sipil-negara>.

management whose application is based on using qualifications, competencies, and performance fairly and reasonably regardless of any background, both SARA elements and a person's physical condition.²³ The purpose of the presence of this article is clearly in order to make a good and reliable government.²⁴ To achieve this goal, the government not only makes rules regarding ASN management, but also creates an independent institution in charge of supervising ASN called the State Civil Apparatus Commission (SCAC).

SCAC as a supervisor of ASN has a very important role, based on its supervision history. In 2020-2022 in the evaluation conducted by SCAC, this institution recorded that it had handled 1,840 violations related to the code of ethics and the ASN code of conduct.²⁵ Meanwhile, related to ASN neutrality, in 2020-2021 in the news media released by antaranews, there were 2,043 incoming reports and 1,596 of them have been proven to have committed violations related to ASN neutrality in general elections (Elections).²⁶ In addition, recently during the 2024 election process, SCAC has received 417 reports regarding alleged violations of ASN neutrality. From the report, as many as 197 ASN were declared to have committed violations and received a recommendation from SCAC to be sanctioned by the personnel supervisory officer or PPK from each of their agencies.²⁷ Regarding the function of SCAC in supervising the implementation of the merit system, SCAC has supervised 597 government agencies in 2023. The details of the supervision include, namely supervision of 21 non-ministerial government institutions; 34 ministries; 34 provincial governments; and 508 regency/city governments.²⁸

²³ Republic of Indonesia, "Law of the Republic of Indonesia No.5 of 2014 concerning the State Civil Apparatus," 2014, 1–104.

²⁴ Kalesaran and KASN, "The Application of the Merit System Towards a Trustworthy Government (Research Study on the Regional Civil Service Agency of North Sulawesi Province)."

²⁵ KASN, "Evaluation of the Implementation of the ASN Code of Ethics in 24 Government Institutions," Kasn, 2023, <https://kasn.go.id/id/publikasi/kasn-evaluasi-penerapan-kode-etik-asn-di-24-instansi-pemerintah>.

²⁶ Prameswari, "KASN: 1,596 Cases of ASN Proven to Have Committed Violations."

²⁷ Arie Budhiman, "KASN Receives 417 Reports of Alleged Violations of ASN Neutrality Throughout the 2024 Elections," KASN.go.id, 2024, <https://www.kasn.go.id/id/publikasi/kasn-terima-417-laporan-dugaan-pelanggaran-netralitas-asn-sepanjang-pemilu-2024>.

²⁸ KASN, "Merit System in Figures for 2023 State Civil Apparatus Commission," 2023, https://storage.kasn.go.id/website-kasn/post_attachment/8a78e9b0-6095-410a-ac13-

At the end of 2023, SCAC has conducted an assessment of the implementation of the merit system for 587 government agencies. The results of the assessment showed that there were 92 agencies including the very good category, 222 agencies in the good category, 84 agencies in the poor category, and the remaining 189 agencies in the bad category. In assessing the implementation of the merit system, it is based on 8 (eight) aspects of assessment.²⁹ In the SCAC report, the aspects of promotion and mutation, as well as career development are the aspects with the lowest achievement, namely promotion and mutation 51% and career development 33.5%. In 2023 from January to November, SCAC received 391 incoming complaints regarding violations of the implementation of the merit system in filling positions. Of the complaints, it was stated that 46% were not under the authority of SCAC and 54% of the complaints were received. Based on the total complaints received, in November it was reported that 95% had been processed and 5% were still in the process of being resolved. The results of the report show that of the 95% that have been processed by SCAC, 46% have not been declared violations and 54% have been issued letters of recommendation because they have been proven to be violated.³⁰

Seeing the many cases regarding the neutrality of ASN and violations of the merit system, the role of ASN supervisory institutions is very important and needed. Because, effective supervision of ASN can create a professional and accountable bureaucracy.³¹ The supervisory role previously held by SCAC must be strengthened in the future, because the number of cases and violations committed by ASN is not small. The State Civil Service Agency (BKN) as the new ASN supervisor based on Presidential Decree of the Republic of Indonesia No. 92 of 2024 concerning BKN

34b2c48c1051/Rev - MERIT SYSTEM IN FIGURES FOR YEAR 2023_compressed (1).pdf.

²⁹ Bunga Nur Khofifah, "The Role of the Cilegon City Government in the Implementation of the Merit System to Realize Professional Civil Servants in the Cilegon City Government Based on Law Number 5 of 2014 concerning the State Civil Apparatus," *Regulation* 1, no. 1 (2023): 62, <https://doi.org/10.51825/beleid.v1i1.24658>.

³⁰ KASN, "Merit System in 2023 Figures of the State Civil Apparatus Commission."

³¹ Dripsy Teresa Pugon Sapni, Dani Robert Pinasang, and Donna Kothalia Setiabudhi, "Law Enforcement Against the Neutrality of State Civil Apparatus in the Implementation of General Elections in North Sulawesi Province," *Journal of Faculty of Law Unsrat* 4, no. 1 (2023), <https://ejournal.unsrat.ac.id/index.php/administratum/article/view/51999%0Ahttps://ejournal.unsrat.ac.id/index.php/administratum/article/download/51999/44376>.

must have better quality and performance in handling these problems or at least have the same performance in eradicating these cases and violations. The role of the supervisory institution (BKN) in the future is very important, because the merit system and ASN management are one of the factors that can affect the indicators of national progress or the Government Effectiveness Index (GEI). In fact, Prof. Sofian Efendy, who is one of the Professors of State Administration at Gadjah Mada University, said that in essence, "Indonesia must be able to continue to improve the effectiveness of governance based on the implementation of the merit system, so that Indonesia can move out of a lower-middle-income country to an upper-middle/high-income country."³²

ASN Supervision System and the Impact Caused by the Transfer of Authority, Duties, and Functions of SCAC to Other Ministries/Institutions

Law No. 20 of 2023 concerning ASN is the beginning of the abolition of the State Civil Apparatus Commission (SCAC). In Article 26 paragraph (2) of the new ASN Law, it is written that the president delegates part of his authority to ministries or institutions that have duties and functions in the field of ASN supervision. Furthermore, based on Article 26 paragraph (5), the implementation of duties, functions, and so on is regulated in the Presidential Regulation. The Presidential Regulation that regulates this is Presidential Regulation of the Republic of Indonesia No. 92 of 2024 concerning BKN. In the Presidential Regulation, it is regulated that the authority to supervise the implementation of the merit system and ASN management is the State Civil Service Agency (BKN). BKN stands for State Civil Service Agency which is part of a non-ministerial government institution and its responsibility is direct to the president.³³ This institution has authority in the formulation and implementation of technical policies for the management of state civil servants and on the implementation of supervision in the implementation of

³² PPRDN-BRIN, *The Future of the Meritocracy of the Indonesian Government After the Revision of the ASN Law* (Indonesia: Domestic Government Research Center-BRIN, 2023), https://www.youtube.com/watch?v=kh2v7d73_SA.

³³ Yianne Gabrila Sriyanto, Angelina Yunita Munte, and Risma Wira Baharata, "ANALYSIS OF THE EFFECTIVENESS AND EFFICIENCY OF FINANCIAL PERFORMANCE IN THE STATE CIVIL SERVICE AGENCY IN 2018-2021," *Maneksi Journal* 12, no. 2 (2023): 368–77.

the merit system, as well as various other authorities.³⁴

The presence of Presidential Regulation of the Republic of Indonesia No. 92 of 2024 concerning BKN has implications for all authorities regarding the duties and functions previously held by SCAC to become the authority of BKN. The Presidential Regulation is also regulated since the Presidential Regulation takes effect (August 23, 2024), so the transfer of state goods/assets, employees, SCAC Secretariat documents, and various other matters in accordance with laws and regulations must be completed no later than 3 months after the Presidential Regulation takes effect. One of the tasks of BKN supervision is to maintain the neutrality of ASN, violations of ASN neutrality usually peak in political years. 2024 will be one of the years with the biggest political party and in October 2024 the Simultaneous Regional Elections will be held. In dealing with the neutrality violation, BKN initiated the creation of a joint handling system under the name of the Integrated Sharing System (SBT). Previously, this SBT was a system for handling ASN neutrality which was processed in an integrated manner by 5 ministries or institutions (Bawaslu, KemenPanRB, SCAC, Ministry of Home Affairs, and BKN). However, after the authority of SCAC was abolished in the new ASN Law, there are 4 institutions/ministries left that collaborate in this system. The hope of the SBT is to deal with neutrality violations committed by ASN can be monitored nationally.

Each ministry or institution that is a member of the SBT has its own authority over the handling of reports of violations of ASN neutrality. The report handling system in SBT is easy, simple, and fast. First, the incoming report on the SBT regarding violations regarding the neutrality of ASN will be jointly verified by the Ministry of PANRB, the Ministry of Home Affairs, BKN, and Bawaslu, they will follow up on the report with a deadline of 7 days. Second, Bawaslu will exercise its authority to review, verify, and validate with a deadline of 3 working days. Third, BKN will submit a report from the results of the audit that has been carried out by Bawaslu to the Personnel Supervisory Officer (PPK) from each reported agency

³⁴ Republic of Indonesia, "Presidential Regulation Number 92 of 2024 concerning the State Civil Service Agency," no. 211936 (2024).

and the ASN management auditor from BKN will monitor the follow-up carried out by the PPK of each agency. Fourth or finally, after the PPK from the reported agency has followed up on the results, the ASN will enter its data into the ASN disciplinary punishment reporting information system or the so-called *Integrated Discipline (I'DIS)* owned by BKN. However, if the results have not been followed up by the PPK, then BKN will issue a warning or reprimand and block ASN data on the State Civil Apparatus Information System (SIASN).

Innovation or new breakthroughs in the implementation of the digital system by BKN as the new ASN supervisor are positive and good things. The ASN supervision system has become transparent and integrated. When talking about the impact of the increased burden of ASN authority, it is inevitable. However, the addition of this authority will not hinder BKN in handling violations. Because, employees who previously served in SCAC were transferred to BKN to perform the same duties at the BKN Institution. This transfer process will definitely take time, because the two institutions need to synchronize so that they can run efficiently and effectively. The transfer of the authority, duties and functions of SCAC to other institutions certainly invites concerns about its independence. However, if we see that the supervisory authority of ASN is delegated to non-ministerial institutions (BKN), then its independence can be maintained. Because, ASN supervision is directly carried out by the BKN, not by the ministry directly which is usually led by political party leaders.

Looking at the Abolition of SCAC in the Revision of Law Number 5 of 2014 concerning the State Civil Apparatus from *the Perspective of Fiqh Siyasah*

The ratification of the Revision of Law No. 5 of 2014 concerning ASN is the end of the existence of the SCAC institution. Before the results of this revision were determined in the plenary meeting on October 31, 2023, the draft law had been discussed since January 18, 2021. The academic manuscript of the draft law has also been made since 2020. In the academic manuscript, it is written in the sub-chapter on the efficiency and effectiveness of SCAC which in essence states "regarding all provisions such as the duties, functions, and authorities of SCAC can

be carried out by the ministry, then SCAC needs to be deleted."³⁵ The plan to abolish SCAC is certainly not carried out quickly and shortly, because it takes 2.5 years, and has been discussed with various agencies. However, there should be a review and reconsideration, because on the other hand there are recommendations for strengthening SCAC made in 2023 by the Legal Reform Acceleration Team from the Coordinating Ministry of Politics and Security. The point of strengthening SCAC is contained in the results of recommendation number 30 which contains "strengthening the role of the State Civil Apparatus Commission (SCAC) to supervise the selection of regional public officials." ³⁶

The contradiction between the abolition and the strengthening makes the author want to look at the abolition of SCAC from the perspective of *fiqh siyasah*. *Fiqh siyasah* is a scientific concept based on sharia with the aim of benefiting the people.³⁷ *Fiqh siyasah* linguistically consists of 2 words, namely *fiqh* and *siyasah*. In *fiqh language*, it is "*al-Ilm*" or "*al-fahm*", which means knowing, understanding, or understanding something.³⁸ The second word is *siyasah*, *siyasah* is the masdar form of (*sasa*, *yasusu*, *siyasatan*) which has the meaning of organizing, managing, and commanding.³⁹

Meanwhile, according to scholars, in terms of *fiqh*, it is knowledge of sharia law that discusses practical law or amaliyyah worship which is excavated based on detailed evidences (Al-Quran and Hadith).⁴⁰ In terms of *siyasah*, it is interpreted as the act of organizing or leading with steps or methods based on the purpose of benefit.⁴¹ It can be understood that *fiqh siyasah* is interpreted as understanding or

³⁵ House of Representatives, "Academic Text of the Draft Law on Amendments to Law Number 5 of 2014 concerning the State Civil Apparatus."

³⁶ PPRDN-BRIN, *The Future of the Meritocracy of the Indonesian Government After the Revision of the ASN Law*, 2023.

³⁷ Adinda Dwi Putri et al., "Fiqh Siyasah in Islamic Learning," *MARAS: Multidisciplinary Research Journal* 2, no. 1 (2024): 218–30, <https://doi.org/10.60126/maras.v2i1.169>.

³⁸ Amhar Rasyid, "Hermeneutics and the Text of Ushul Fiqh," *Al-Risalah: Forum for Legal and Social Studies* 13, no. 01 (2018): 1–26, <https://doi.org/10.30631/alrisalah.v13i01.418>.

³⁹ Sulthon, "Methodology and Theoretization of Islamic Politics," *Al-Daulah: Journal of Islamic Law and Jurisprudence* 9, no. 1 (2019): 25–51, <https://doi.org/10.15642/ad.2019.9.1.25-51>.

⁴⁰ Nurhayati Nurhayati, "Understanding the Concepts of Sharia, Fiqh, Law and Ushul Fiqh," *Journal of Sharia Economic Law* 2, no. 2 (2018): 124–34, <https://doi.org/10.26618/j-hes.v2i2.1620>.

⁴¹ Wahijul Kadri and Nurul Hidayah Tumadi, "SIYASAH SYARIYAH & FIIQH SIYASAH Wahijul," *Siyasah: Journal of Constitutional Law* 5, no. II (2022): 55–65.

knowledge that studies the regulation of government and state. The application of *Fiqh siyasah* aims to bring and achieve benefits based on the postulates of the Quran and Hadith.⁴² To achieve this goal, in *fiqh siyasah* there are several basic principles that are used as the basis for forming Islamic political law.⁴³

In looking at the abolition of SCAC from the perspective of *fiqh siyasah*, the author will take the principle of deliberation as the foundation. This principle is used, because the principle of deliberation is very important to find solutions or solve problems related to the problems of the people.⁴⁴ To solve the problem, if there is no nash to regulate it, then the leader is allowed to set rules by deliberation.⁴⁵ Because, the Prophet PBUH applied the principle of deliberation to make the Medina Charter with the companions.⁴⁶ The principle of deliberation is used as a foundation, because this principle is also in line with the mandate ordered by the Constitutional Court (MK). The Constitutional Court mandates that in every formation of laws and regulations, it is mandatory to fulfill *meaningful participation*, namely everyone has the right to be heard and their opinions considered, and they have the right to get an explanation for the answers or opinions conveyed.⁴⁷

Meaningful participation has similarities with the principle of deliberation in *fiqh siyasah*, namely there is the role of others to formulate or make a decision. In the study of *fiqh siyasah*, deliberation is a form of *mashdar* from the verb "*syawara*,

⁴² S Kartika, Deni Yolanda, and Helma Maraliza, "Fiqh Siyasah's Perspective on the Role of Social Services in Handling Street Children in Bandar Lampung City," *AS-SIYASI: Journal of Constitutional Law* 1, no. 2 (2021): 62–73.

⁴³ MUTIARA FAHMI, "Basic Principles of Islamic Political Law in the Perspective of the Quran," *Petita : Journal of Law and Sharia Studies* 2, no. 1 (2017): 47, <https://doi.org/10.22373/petita.v2i1.1814>.

⁴⁴ Ahmad Agis Mubarak, "Deliberation in the Perspective of the Quran," *MAGHZA: Journal of Qur'an Science and Tafsir* 4, no. 2 (2019): 147–60, <https://doi.org/10.24090/maghza.v4i2.3550>.

⁴⁵ M Edwar Rinaldo and Hervin Yoki Pradikta, "Analysis of Fiqh Siyasah Dusturiyah in the Formation of Regulations on Trading in Influence in Positive Law in Indonesia," *As-Siyasi : Journal of Constitutional Law* 1, no. 1 (2021): 63–84, <https://doi.org/10.24042/as-siyasi.v1i1.8955>.

⁴⁶ Muslihun, "The Early History of the Formation of the Basic Structure of Islamic Society through the Medina Charter," *Al-Mada: Journal of Religion, Social, and Culture* 5, no. 2 (2022): 298–311.

⁴⁷ Fiqih Rizki Artioko, "Adoption of Meaningful Community Participation in Law Number 13 of 2022 concerning the Second Amendment to Law Number 12 of 2011 concerning the Formation of Laws and Regulations," *Al-Qisth Law Review* 6, no. 1 (2022): 52, <https://doi.org/10.24853/al-qisth.6.1.52-83>.

yusyawiru" which means to appear and offer or take something.⁴⁸ In terminology, deliberation means asking for opinions from other people or the ummah regarding a matter.⁴⁹ From these two understandings, the author summarizes that deliberation is interpreted as a process in which there is the delivery of opinions and decision-making regarding the affairs of the people. Deliberations are carried out together with the aim of achieving common benefits.⁵⁰ The benefits will be felt to the maximum by the community, when their aspirations and needs can be conveyed or channeled. The problem point of the abolition of SCAC in the Revision of the ASN Law is that experts and academics who have knowledge of the importance of strengthening SCAC are not included in the preparation of the draft Revision of the ASN Law.

One of them, such as Muhammad Nur Ramadhan as a researcher from the Center for Constitutional Law Studies (PSHK), he said "The preparation of the Revision of the ASN Law is very minimal from participation and the ASN Law is a form of ignoring the results of the recommendations of the Coordinating Ministry of Law Acceleration Team (which contains from experts)." In addition, the lack of participation in the preparation of the Revision of the ASN Law was strengthened by a statement delivered by Prof. Agus Pramusinto as Chairman of SCAC 2019-2024. Prof. Agus said that in essence, "As a party who is very aware of the importance of ASN supervision and is undergoing this authority, he is not even involved in the preparation of the Revision of the ASN Law, and in fact, Prof. Agus and SCAC have prepared a strengthening for SCAC in recommending decisions and strengthening in terms of budget." Based on his presentation, the aspirations that should have been conveyed by Prof. Agus and SCAC just ended like that. There is also an opinion that is in line with Prof. Agus and Muhammad Nur, namely from

⁴⁸ Alfin Nuril Laili STAI M. Burhanuddin Ubaidillah, "Maqosid Syar'iyah Theory from the Perspective of Moder and Contemporary Ulama," *JAS MERAH Journal of Law and Ahwal Al-Syakhsyiyah* 1 (2021): 1–15.

⁴⁹ Paradise Paradise, "Deliberation in the Perspective of the Qur'an," *Al-Mubarak Journal: Journal of Qur'an Studies and Tafsir* 4, no. 2 (2020): 72–81, <https://doi.org/10.47435/al-mubarak.v4i2.224>.

⁵⁰ Dudung Abdullah, "Deliberation in the Qur'an (A Study of Thematic Interpretation)," *Al Daulah : Journal of Criminal Law and Constitutional Affairs* 3, no. 2 (2014): 242–53, https://journal3.uin-alauddin.ac.id/index.php/al_daulah/article/view/1509.

Riris Katharina as the Principal Expert Researcher of the National Innovation Research Agency (BRIN). Riris Katharina said that "Finding the draft of the ASN Law Revision was very difficult, I was told to look for the Head of the Secretariat Section. However, the Head of the House instead told him to ask his members."⁵¹

The findings from the statements of the above experts and academics are proof that the preparation of the ASN Law Revision is very minimal from participation. The lack of participation indicates that the principle of deliberation is not carried out properly. Seeing this, it can be said that there are imperfections in the process of forming the law. Because, the process of forming laws must be carried out transparently so that the public can participate in making the rules.⁵² In fact, the principle of deliberation (community participation) has a very good purpose, namely to influence the legislature so that they pay attention, consider, and formulate legal materials based on the wishes of people or groups.⁵³ By applying the principle of deliberation (community participation) can increase the satisfaction of many parties regarding the results of their policies.⁵⁴ Based on this, it means that in the abolition of SCAC in the Revision of the ASN Law, the principle of deliberation (community participation) is not applied properly. So, this indicates that the abolition of SCAC is not in accordance with *fiqh siyasah*.

Conclusion

This study emphasizes the importance of monitoring neutrality and the implementation of the merit system for the State Civil Apparatus (ASN), especially in the face of an increase in violations of ASN neutrality during the general election

⁵¹ PPRDN-BRIN, *The Future of the Meritocracy of the Indonesian Government After the Revision of the ASN Law*, 2023.

⁵² Talita Sembiring et al., "An Analysis of the Importance of Community Participation in the Formation of a Law," *Journal of Law and Social Sciences* 2, no. 1 (2024): 17–24, <https://doi.org/https://doi.org/10.51903/hakim.v2i1.1538>.

⁵³ Muhamad Khoirul Wafa, "The Role and Participation of the Community in the Formation of Laws," *Siyasah Journal of Constitutional Law* 3, no. 1 (2023): 85–100, <https://doi.org/10.32332/siyasah.v3i1.6883>.

⁵⁴ Sembiring et al., "Analysis of the Importance of Community Participation in the Formation of a Law."

process and regional heads. The revision of Law No. 5 of 2014 concerning ASN abolishes the State Civil Apparatus Commission (SCAC) and transfers its authority, duties, and supervisory functions to other ministries/institutions. Based on its implementing regulations, namely Presidential Decree No. 92 of 2024 concerning BKN provides a new role for BKN in supervising ASN.

The role of BKN as the new supervisor of ASN is very important, because the implementation of the merit system and good management of ASN can affect Indonesia's ranking in the Government Effectiveness Index (GEI) which can help Indonesia get out of the category of lower-middle-income countries, towards upper-middle/high-income countries. In addition, innovations such as the Integrated Sharing System (SBT) developed by BKN show their commitment to strengthening ASN supervision, especially in terms of transparency and efficiency in handling neutrality violations. On the other hand, the independence of BKN as the new supervisor of ASN does not need to be worried. Because, the status of BKN is a non-ministerial institution whose responsibility is directly to the president, so that its independence can be maintained.

However, even though its independence can be maintained. This study shows that the abolition of SCAC through the Revision of the ASN Law is proven to be inconsistent with the principle of deliberation in *fiqh siyasah*. This is due to the lack of participation from parties who know the importance of strengthening SCAC in the revision process. As conveyed by parkars, experts, and academics such as Muhammad Nur Ramadhan, Prof. Agus Pramusinto, and Riris Katharina. Thus, it shows that this policy does not apply the principle of deliberation that prioritizes the public interest and community participation. So that it can be concluded that the abolition of SCAC after the revision of the ASN Law is not in accordance with *fiqh siyasah*.

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