



Assessing the Challenges of Implementing the Merit System in Local Governance

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Abstract. The objective of this paper is to elucidate the obstacles and factors that arise inside the bureaucratic civil service during the implementation of the merit system. The inefficiency displayed by state civil apparatus officials in the execution of their responsibilities, within both institutional and governmental settings, can be attributed to the shortcomings of the existing merit system. This paper utilizes a qualitative research approach to investigate the substance, structure, and legal environment within which public officials operate. Content-based analyses are utilized. The research reveals several significant deficiencies in the regulations, as they fail to provide explicit guidance on the implementation of the merit system. Consequently, the implementation of alternative solutions for the merit system may pose challenges for authorized officials. The second component pertains to the structural aspect, specifically referring to the formal election system, the evaluation of which remains uncertain. Another significant issue to consider is the legal culture, which places a higher emphasis on subjective preferences rather than the competence of people seeking public office.

Keywords: merit system, bureaucracy, substance, structure and legal culture

1. Introduction

The management of bureaucracy is intrinsically tied to the functioning of the state apparatus. The human resources component of the bureaucracy plays a crucial role in its functioning. It is imperative to prioritize the ongoing development of this aspect, as the effectiveness and capabilities of government agencies are significantly impacted by the capabilities of the bureaucracy.[1] Therefore, the hallmark of credible government is in the enhanced fortification of the bureaucratic apparatus, which exhibits a growing level of transparency, efficacy, and dependability. In order to achieve this objective, a transformative change is required within the bureaucracy sector of Indonesia. Specifically, it is imperative that the recruitment of state civil apparatus is based on fundamental competencies and job performance, hence facilitating the realization of national objectives. While the practical implementation of state civil apparatus management has not undergone significant changes in terms of method and phases. The ongoing refinement of the administration of civil personnel during the reformation era is a subject of continued scholarly inquiry. The pursuit of this reform process persists as a means to address the occurring difficulties.

It is important to highlight that there has been a shift in the management of human resources, wherein there has been a departure from a staff administration

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approach and a move towards the adoption and implementation of human resource management methods. Human Resource Management refers to the systematic strategy utilized by firms to acquire the requisite human resources. This entails the cultivation and utilization of individuals' capacities, alongside the identification and acquisition of the most appropriate resources. Moreover, Human Resource Management involves the establishment of compensation schemes that are in line with the responsibilities and achievements of individuals within the organizational framework.

The management of human resources can be understood as a consequence of implementing a merit-based system for state civil apparatus.[2] The parameters employed in the execution of the merit system encompass the fulfilment of qualifications, competencies, and performance, which serve to bolster the effective management of human resources. The fulfilment of these three criteria engenders a sense of professionalism in the execution of tasks, hence exerting a positive influence on the practice of good governance. This condition pertains to the integration of professional job elements with the notion of human resource management, specifically emphasizing a merit-based system.

The application of the merit system has assumed a significant role in the local governance, primarily due to two underlying factors. First, the necessity of regulation, as outlined in Law No. 5 Year 2104 concerning the State civil apparatus, explicitly emphasizes the underlying philosophy of achieving the nation's ideals and fulfilling the objectives of the state, as articulated in the preamble of the Indonesian Constitution 1945. This entails the establishment of a state civil apparatus that possesses professionalism, integrity, neutrality, independence from political influence, cleanliness, and the ability to provide exceptional public service. This rationale is grounded in the significance of the merit system as a legal policy that has implications for the system of good governance. Second, the establishment of a civil state machinery serves as a crucial mechanism to enhance the efficacy in attaining governmental objectives, hence justifying its indispensability. The prioritization of implementing a merit-based system may arise from the notion that this approach has the potential to establish a favourable perception of management, or that it aligns with organizational principles such as honesty, ethics, and the dedication of the civil administrative body.

2. Problems

It is important to emphasize that the implementation of a merit-based human resource management system necessitates the fulfilment of certain conditions pertaining to qualification, competence, and performance standards. However, the implementation of the merit system continues to pose challenges in terms of legal structure, legal content, and legal culture. The paper highlights three intriguing facets that serve as the focal points for examining the application of the merit system, particularly within local government. These elements are crucial in understanding the primary cause of the issue at hand and can potentially contribute to future research and analysis.

3. Research Methods

The present study pertains to legal research, specifically concentrating on the examination of the merit system within the field of legal studies. The challenge lies in the utilization of two distinct approaches, namely the statutory method and the conceptual approach. The legal materials utilized in this study consist of primary legal materials, specifically laws and regulations pertaining to research issues, as well as secondary legal materials. The latter category encompasses legal resources that offer elucidations of primary legal materials, such as legal books, journals, and published magazines pertaining to the specific problem under investigation. The process of analysing legal materials involves several steps. Initially, the collected legal materials are identified. Subsequently, a description of these materials is provided. The materials are organized and categorized according to legal scientific theories, as well as legal concepts, principles, or principles of law. The analysis employs descriptive analysis, which relies on the systematic application of legal reasoning, legal interpretation, and legal argumentation in a cohesive manner. Moreover, Content-based analyses are utilized and in academic discourse, conclusions are typically derived through the deductive reasoning approach.

4. Discussion

The implementation of local government is intrinsically linked to the central government, as the administration of local government is an integral component of the organizational structure of the central government. The Central Government possesses the competence to delegate its functions to constituent entities, while also retaining the ability to rescind such delegation. A unitary system of government, in contrast to local autonomy, is characterized by a constitutional arrangement where all governmental authority is concentrated in the central government. The central government has the option to grant authority to constituent entities, but it also retains the power to revoke the delegated authority. According to Burns and Pltason, it is posited that under a state of unity, the Central Government possesses the entirety of power in theory.[3] The legislative policy continues to be formulated by the Central Government, while the central government retains responsibility for authority control and oversight over the autonomous regions.[4]

The allocation of authority in government execution is mirrored in the function of human resources, which plays a crucial part in achieving their objectives. According to a study conducted by Susanto, it was found that the attainment of organizational objectives is contingent upon the presence and effective utilization of human resources. The acquisition of competent individuals is of utmost importance for the prosperity of any given institution.[5] Inside the above framework, human resources management can be seen as a structured mechanism implemented inside an organization to optimize the utilization of available resources in order to effectively and efficiently attain the organizational objectives.

Merit-based human resource management is widely regarded as a strategy that has the potential to attract highly qualified individuals to an organization. This system provides equal opportunities for individuals to advance their careers based solely on their abilities, without any influence from factors such as gender, ethnicity, or other non-merit related considerations.[6] The implementation of a merit-based system is also widely thought to have a positive impact on economic growth and the mitigation

of corruption.

This condition may be construed as implying that in order to establish an efficient and effective bureaucracy, it is important to implement a system that can effectively oversee the selection and placement of highly qualified individuals in bureaucratic positions, encompassing the entire process from recruiting to assessment, sometimes referred to as state civil apparatus management. In accordance with the legislation denoted as Law no. 5 of 2014 concerning state civil apparatus, the management of the state civil apparatus encompasses a systematic approach aimed at enhancing the professionalism of state civil apparatus personnel and cultivating fundamental ethical principles within the state civil apparatus community. In order to achieve optimal functionality, it is important to adapt state civil apparatus management to a merit-based system.

The merit system is primarily a governing framework that regulates the recruitment and advancement of individuals based on their proven competence in fulfilling job duties, as opposed to relying on political associations or personal connections. The merit system is in opposition to the plunder system, when the allocation of public positions is predicated upon personal networks, familial relations, or political associations with the ruling party. The primary challenge encountered in human resource management in Indonesia pertains to the substandard quality of the state civil apparatus, which remains characterized by the persistence of rotten system practices within its management.

The merit system predicated on the notion that work performance is the central element, with the primary objective being the enhancement or augmentation of job performance. The implementation of incentives or punishments within the framework of a merit system has the potential to yield favourable outcomes in terms of enhancing the work performance of the Human Resources department. Rewards serve as a stimulus for Human Resources, fostering the maintenance and potential enhancement of work performance. Conversely, the imposition of punitive measures elicits a response aimed at discouraging the manifestation or recurrence of behaviours that may contribute to subpar job performance. Hence, the concept of the merit system entails motivating Human Resources to attain elevated levels of work performance, thereby directly influencing the achievement of high performance within the Human Resources work unit. Ultimately, this will culminate in the overall attainment of high performance by the institution or organization. The aforementioned analysis elucidates that the purpose behind the adoption of a merit system in managerial practices is to enhance the efficacy of Human Resources, hence attaining elevated levels of production inside the institution or business, while ensuring its long-term viability. In order to ensure the effectiveness of the implementation of the merit system, several conditions must be fulfilled.

- a. Set high performance standards, because low expectations tend to become self-fulfilling prophecies. Peak achievements rarely result from mediocre expectations;
- b. Develop an accurate performance appraisal system, focusing on results-oriented and job-specific criteria;

- c. Train supervisors in performance appraisal mechanisms and in the art of providing feedback to subordinates. Ineffective performance must be managed constructively;
- d. Closely link rewards to performance by using semi-annual performance appraisals to grant or deny merit system increases; and
- e. Using a wide range of merit system increases by making salary increases more meaningful.

Currently, the fundamental concept of the merit system remains unresolved. The primary concern regarding the human resources issue among civil officials in Indonesia pertains to the substandard calibre of state civil apparatus, which may be attributed to the prevalent utilization of the spoil system in the management of the state civil apparatus. The Spoils System is intricately linked to the pervasive influence of political interests that shape the functioning of the bureaucracy. The correlation between political interests and administrative actors renders bureaucratic performance susceptible to anomalies. The escalating prevalence of the spoil system is a contributing factor to the elevated rates of corruption observed among politicians and state government official at the local level.

The aforementioned concerns indicate that legal policies are inherently connected to the actions of the government, and their manifestation takes the shape of legislation in its most comprehensive sense. The law, in essence, is a procedural mechanism that is subject to the effect of a "system". According to Black's Law Dictionary, a system is defined as an orderly combination or arrangement of particulars, parts, or pieces into a whole, particularly where such combination adheres to a rational concept.[7] According to Mertokusumo, the legal system can be conceptualized as a mosaic image, wherein a picture is fragmented into smaller parts and subsequently reassembled to provide the illusion of a whole and novel image.[8] Each component is not isolated from the other component, but rather interconnected with the other components. Each component lacks significance outside its integration within the whole. Unity eliminates the necessity for conflict or contradiction. In the event of a conflict, resolution will be facilitated by the internal mechanisms of the system. The topic of the "legal system" encompasses a vast and multifaceted subject matter.

The initial constituent of the legal system is the legal structure, encompassing many factors such as the quantity and dimensions of courts, their jurisdiction (i.e., the types of cases they handle and the methods and rationales behind their decisions), as well as the mechanisms for appealing from one court to another. The concept of structure encompasses various aspects, such as the organizational framework of the legislative, including the composition of its members, as well as the legal boundaries defining the powers and limitations of a president. Additionally, it encompasses the procedural guidelines followed by the police department, among other relevant considerations. Structure can be considered as a cross-sectional representation of the legal system. A form of static image that captures and immobilizes the motion. In the context of the legal process, the legal structure refers to the institutions of public authority that are responsible for the execution of the merit-based system. The state civil apparatus, operating within the agency, serves as the fundamental support structure for the functioning of the legal system. In the realm of staffing, several

challenges persist, including the absence of institutional preparedness to carry out transparent selection processes, the scarcity of accredited assessors and assessment centres, and the constraint of a capable, reputable, and impartial selection committee for the Public Service Commission.

The second element pertains to the legal content, which encompasses the specific regulations, norms, and behavioural patterns demonstrated by persons inside the system, usually known as the "*formele normenstelsel*." Friedman extended his research to include not just legal frameworks, but also patterns of social conduct and societal standards in his scholarly work.[9] Through this action, he included social ethics into his approach, encompassing essential ideals such as truth and fairness.[10] The legislation in question comprises the stipulations established by the competent regulatory bodies within the domain of civil service. Furthermore, this criterion encompasses both explicit and implicit legal underpinnings, as previously mentioned. The primary issue pertaining to the adoption of a merit-based system is in the management and oversight of concurrent merit systems. The policy under consideration raises various concerns. To begin with, a notable deficiency exists in the presence of well-defined or easily obtainable standards for evaluating the proficiency of persons in their particular roles. Furthermore, the assessment of competency is restricted to individuals who have participated in the process of appointing these authorities. Furthermore, a comprehensive examination has not been undertaken to identify potential gaps in competence that may be present. Furthermore, the enhancement of proficiency has not been specifically designed to effectively address the aforementioned shortcomings.

The legal culture, as conceptualized by Friedman, encompasses individuals' attitudes towards the law and legal system, encompassing their beliefs, values, ideas, and expectations.[9] The legal culture can be defined as the prevailing social mindset and societal dynamics that shape the utilization, evasion, or exploitation of law. The legal system lacks dynamism in the absence of a legal culture. Similar to a lifeless fish resting in a container, as opposed to a vibrant fish gracefully navigating its natural aquatic habitat. The constraints imposed on legal consciousness can also be applied to a legal culture. The notion of "legal consciousness" was initially introduced by J.J. von Schmid, who contrasted it with the concept of the "sense of law". According to the individual in question, the concept of law is formed through an inherent evaluation by a society, which is inherently subjective.[11] On the other hand, the comprehension of law is mostly derived from intellectual processes, such as critical thinking, logical reasoning, and discourse, predominantly conducted by professionals in the legal field. While the legal culture emphasizes the significance of a merit-based system, there are challenges in implementing human resource management practices that adhere to this principle, particularly in the appointment of high-ranking officials within local government departments. These challenges include the absence of a competitive environment and the lack of commitment to merit-based principles among state civil apparatus. Additionally, the performance management system is weak, political interference in the management of state civil apparatus is prevalent, and appointments to high leadership positions are often made without considering qualifications, competence, and performance.[12]

To achieve this objective, the implementation of the merit system subsystem requires the incorporation of four fundamental policies. These policies encompass the following aspects: firstly, the policy pertaining to performance appraisal; secondly,

the policy concerning compensation; thirdly, the policy addressing career development; and finally, the policy focusing on training. The achievement of stated targets is contingent upon the staff's high work motivation, which serves as a driving force for work performance. Motivation can be conceptualized as a catalyst that has the potential to enhance an individual's work performance and productivity. Motivation is a psychological phenomenon that instigates within an individual, compelling them to enhance their performance and achieve optimal outcomes. The fundamental human inclination to preserve one's own existence is universally regarded as a paramount priority among all individuals. Human beings engage in labor with the objective of procuring sustenance, as the act of consuming food is fundamental to the preservation of life. The aspiration for a particular position, the third motivating factor that compels individuals to engage in employment is the aspiration to attain a specific occupational status. The pursuit of recognition represents the final element within the spectrum of human needs and desires that can serve as a motivational force for individuals to engage in work-related activities. Therefore, individuals strive to fulfill their aspirations through diligent effort. The motivation of employees in doing their job duties stems from their individual desires. In order to effectively advance the objectives of an institution or organization, it is imperative for its leader to engage in a comprehensive research of the desires and motivating factors of its employees. By doing so, the leader can gain valuable insights into the specific needs and aspirations of the staff, enabling them to effectively align these elements with the goals of the institution/organization.

The use of a merit system in local government can yield several advantages in institutional management, particularly in the Public Service sector. One primary benefit is the potential for merit systems to enhance productivity, reduce production expenses, and augment revenue generation. Furthermore, the implementation of the merit system necessitates close oversight, particularly at specific levels, in order to uphold the necessary standard of quality. Moreover, it has the potential to incentivize employees to minimize time wastage and enhance the effectiveness of time utilization and equipment usage. Fourthly, the implementation of a merits system can contribute to a more precise assessment of officer's expenses. Additionally, fifthly, the merits system has the potential to incentivize employees to enhance their performance, as they are aware that exemplary performance will be duly recognized and rewarded. This is the factor that subsequently facilitates the establishment of a reliable system of governance. The measurement of a trustworthy government can be conceptualized by assessing the extent of public confidence in the government across three distinct levels. Trust is intricately connected to the political institutions and the operational dynamics of democracy at the macro level. At the meso level, trust is associated with policymaking, specifically referring to the capacity of governments to effectively control economies and address social concerns, while fostering optimistic outlooks regarding future welfare. Finally, on a micro level, confidence can be seen as the influence exerted by the government on individuals' day-to-day existence through the provision of services.

5. Conclusion

The implementation of a merit-based approach in human resource management within local government agencies is crucial in fostering an effective and efficient

bureaucracy. However, the primary issue revolves around the need for enhanced inter-agency coordination to ensure the efficient implementation of the merit system. This is crucial in order to proactively address potential issues related to the misapplication of legal substance, structure, and culture. That's why the use of a merit system in local government can yield trust advantages in institutional management, particularly in the public service sector.

References

- [1] T. Sudrajat, *Hukum Birokrasi Pemerintah: Kewenangan dan Jabatan*. Jakarta: Sinar Grafika, 2018.
- [2] Sofyan, T. Haning, and T. Abdullah, "Merit System Principle: A Missed Opportunity for Fairness in Indonesia's Civil Service," 2023. doi: 10.2991/978-2-38476-052-7_57.
- [3] J. W. P. James MacGregor Burns and T. E. Cronin, *Government by The People*. London: Prentice-Hall International Inc, 1978.
- [4] M. Fauzan, *Hukum Pemerintahan Daerah: Kajian tentang Hubungan Keuangan Pusat dan Daerah*. Yogyakarta: UII Press, 2006.
- [5] E. Susanto, "Change in paradigm of civil servant management in Indonesia : from a traditional toward a strategic approach: Opportunities and challenges," *Int. J. Policy Stud.*, 2017.
- [6] C. McCrudden, "Merit Principle," *Oxf. J. Leg. Stud.*, vol. 18, no. 4, pp. 543–579, 1998.
- [7] H. C. Black, *Black's Law Dictionary*, 6th ed. Saint Paul: West Publishing Company, 1990.
- [8] S. Mertokusumo, *Mengenal Hukum (Suatu Pendahuluan)*, 3rd ed. Yogyakarta: Liberty, 1990.
- [9] L. M. Friedman, *American Law: An Introduction*. New York: W.W. Norton & Co, 1984.
- [10] T. Sudrajat and D. K. Sugiharti, "Konsep Keadilan Dalam Sistem Promosi Jabatan : Pencarian Makna Berdasarkan Evaluasi Substansi Uu-Asn Dan Perbandingan Dengan Negara Singapura," *Civ. Serv.*, 2016.
- [11] C. F. G. S. Hartono, *Peranan Keadaran Hukum Masyarakat dalam Pembaharuan Umum*. Bandung: Bina Cipta, 1976.
- [12] T. Nirwana, "Analysis of Merit System in the Open Promotion of High Leadership Positions for Women in The Ministry of Home Affairs," *J. Gov. Public Policy*, 2021, doi: 10.18196/jgpp.v8i3.12208.

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