



## Fulfillment of Legal Certainty for Government Employees with Employment Agreements as State Civil Apparatus

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### Article Process Abstract

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The principle of the rule of law is explicitly stated in Article 1 paragraph (3) of the 1945 Constitution of the Republic of Indonesia, emphasizing the need for legal certainty, justice, and protection for all citizens, including Government Employees with Employment Agreements (PPPK) as part of the State Civil Apparatus (ASN). National development relies on the role of ASN, which includes both Civil Servants (PNS) and PPPK. However, despite carrying out equivalent duties and responsibilities, PPPK often face uncertainty regarding the continuity of their employment status. This research aims to analyze why PPPK, as State Civil Apparatus, are not yet guaranteed continued employment and how legal certainty can be fulfilled for them. The study employs an empirical juridical approach, utilizing descriptive-analytical methods through interviews, document studies, and observations. The findings reveal that the absence of guaranteed continued employment for PPPK stems from weaknesses in the normative framework, particularly the State Civil Apparatus Law, which does not adequately regulate employment continuity, rights, and obligations of PPPK. Additionally, institutional inconsistencies and a legal culture that differentiates PPPK from PNS contribute to the problem. To address these issues, legal reform is needed in terms of legal substance, legal structure, and legal culture to create a more comprehensive and equitable regulatory system. Such reform must align with the values of Pancasila and the 1945 Constitution, ensuring legal certainty and fair treatment for all components of the State Civil Apparatus, including PPPK. This research underscores the urgency of regulatory revisions to uphold justice and professional security for PPPK.

**Keywords:** Fulfillment, Legal Certainty, Government Employees, Work Agreements.

### I. Introduction

Indonesia, as a democratic and constitutional state, adheres to the principle of the rule of law (*rechstaat*), as enshrined in Article 1 paragraph (3) of the 1945 Constitution. This means all government actions, including employment arrangements within the public sector, must be grounded in legal certainty. Legal certainty is also reinforced in Article 28D paragraph (1) and

(2), which guarantee fair legal protection and equal treatment in employment. The State Civil Apparatus (ASN) in Indonesia consists of two categories: Civil Servants (PNS) and Government Employees with Employment Agreements (PPPK). However, despite being part of ASN, PPPK often face legal and institutional discrimination. This raises concerns about whether the constitutional promise of equality before the law is being fulfilled.<sup>1</sup>

The primary issue faced by PPPK lies in the lack of employment continuity and the absence of long-term legal guarantees. Although PPPK perform similar duties and obligations as PNS, their employment is based on fixed-term contracts that can be terminated without clarity on renewal procedures or career paths. This creates a precarious employment environment and psychological insecurity among PPPK personnel. The inconsistency in treatment between PNS and PPPK undermines the merit-based system intended by the ASN Law. Moreover, the legislative intent to professionalize ASN through PPPK recruitment has not been matched by concrete legal protection. This situation indicates a serious legal gap that requires academic and policy attention.<sup>2</sup>

In 2023, the Indonesian government passed Law Number 20 concerning State Civil Apparatus, which reaffirmed that ASN comprises both PNS and PPPK. While the law aims to strengthen the merit system and digitize ASN management, it fails to comprehensively regulate the employment rights of PPPK. Key legal aspects such as pension rights, promotion systems, job security, and protection from arbitrary dismissal remain either ambiguous or entirely unregulated. Government Regulation Number 49 of 2018 concerning PPPK Management is also insufficient to address these deficiencies. As a result, PPPK continue to experience uncertainty regarding their legal status, particularly in relation to contract renewal and long-term career prospects. The lack of normative clarity reveals a disjunction between the legal framework and practical implementation.<sup>3</sup>

This normative gap poses challenges not only for the government in managing its workforce but also for the fulfillment of constitutional guarantees. PPPK's lack of entitlement to pensions, inconsistent access to training and promotions, and the absence of legal protection mechanisms are among the core issues. Furthermore, although PPPK are often recruited to fill essential positions, especially in education and healthcare, their contributions are undervalued in terms of legal recognition. This reflects a disparity in the state's commitment to uphold justice and equity among ASN categories. Consequently, there is an urgent need to evaluate and reconstruct the legal framework governing PPPK. Such reform should align with Indonesia's constitutional mandates and international labor standards.<sup>4</sup>

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<sup>1</sup> Wandu, W. (2023). The Ideal Arrangement of Legal Protection for Informal Sector Workers in the Perspective of the Principles of Legal Certainty, Justice and Expediency. *International Journal of Law Reconstruction*, 7(2), 141-163. DOI: <http://dx.doi.org/10.26532/ijlr.v7i2.32321>.

<https://jurnal.unissula.ac.id/index.php/lawreconstruction/article/view/32321/8808>

<sup>2</sup> Muhammad, M. (2023). State Civil Apparatus in Indonesia in the Conception of Welfare State: A Study of Legal Material Law Number 5 Year 2014 on State Civil Apparatus. *Journal Asian Social Science*. 15(3), 64-72. DOI: <https://doi.org/10.5539/ass.v15n3p64>. Microsoft Word - Layout-articles-3753

<sup>3</sup> Asyraf, M. A., Dameria, E., & Basri, H. (2022). Analysis Of The Fulfillment Of Government Employee Needs With A Work Agreement (PPPK) According To PP No. 49 Of 2018 Concerning Management Of Government Employees Work Agreements (Research Study Of The Regional Personnel Agency Office Of Langkat Regency). In *Proceedings of Malikussaleh International Conference on Law, Legal Studies and Social Science (MICoLLS)*. 2(1), 1-10. DOI: <https://doi.org/10.29103/micolls.v2i.95>. View of Analysis Of The Fulfillment Of Government Employee Needs With A Work Agreement (PPPK) According To Pp No.49 Of 2018 Concerning Management Of Government Employees Work Agreements (Research Study Of The Regional Personnel Agency Office Of Langkat Regency)

<sup>4</sup> Maryono, D. (2022). Good governance: From state civil servants into government employment agreement (PPPK). *Journal of governance*, 7(2), 547-555. DOI: <http://dx.doi.org/10.31506/jog.v7i2.15696>. [https://jurnal.untirta.ac.id/index.php/jog/article/view/15696/pdf\\_99](https://jurnal.untirta.ac.id/index.php/jog/article/view/15696/pdf_99)

Several studies have addressed the issue of PPPK and their status under Indonesian law, but their scope has been limited. For example, Dewi & Setiabudhi (2023) examined the legal identity of PPPK based on the ASN Law, but did not delve into practical issues like career sustainability or pension entitlements. Another study by Saragih et al. (2022) explored normative legal protections for PPPK but focused more on institutional roles than legal certainty. A third study by Sihombing (2024) discussed PPPK from a human rights perspective but lacked empirical grounding. These studies have laid foundational insights but did not provide a holistic legal reconstruction framework. Moreover, few of them analyzed the interplay between legal substance, structure, and culture in shaping PPPK's status. This research intends to fill that gap.<sup>5</sup>

The legal gap identified in this research is the insufficient regulation concerning the long-term employment rights of PPPK. Although they are legally recognized under the ASN Law, PPPK still lack equal access to basic employment rights enjoyed by PNS. Their job contracts are subject to discontinuity without clear legal recourse. The absence of secondary legislation specifically governing the renewal of contracts, pension schemes, or career development mechanisms has created a regulatory vacuum. In addition, the lack of legal clarity has caused varied interpretations at the regional government level. This disparity results in unequal treatment across provinces and undermines national administrative consistency.<sup>6</sup>

The research gap is evident in the limited academic discussion that integrates normative legal analysis with institutional practice concerning PPPK. Most existing studies either focus on administrative law without normative critique or discuss labor rights without referencing the ASN system. There is also a lack of conceptual exploration of legal certainty in the context of contract-based civil service employment. This study aims to bridge that research gap by offering an in-depth normative analysis combined with philosophical and conceptual approaches. By doing so, it also contributes to theoretical development in the area of public law and civil service reform. This multidimensional approach strengthens the study's relevance to both academic and policy communities.<sup>7</sup>

This research uses a normative juridical method supported by a philosophical and conceptual approach to analyze the issue of legal certainty for PPPK. It seeks to answer two main research questions: (1) Why are Government Employees with Employment Agreements as State Civil Apparatus not yet guaranteed continued employment? and (2) How is legal certainty fulfilled for Government Employees with Employment Agreements as State Civil Apparatus? Through a review of primary and secondary legal materials, the study identifies normative gaps and proposes legal reforms. The research also incorporates philosophical reflections on justice and equality. This helps examine whether the unequal treatment of PPPK can be justified within a constitutional democracy. The approach allows for a critical evaluation of current laws and the development of proposals for regulatory improvement.<sup>8</sup>

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<sup>5</sup> Charisma, D. R. (2020). Legal and Human Rights Protection to Non Permanent Employees Pursuant to Law No. 5 Year 2014 About State Civil Apparatus. *International Conference on Law and Governance (ICLAVE 2019) Atlantis Press*, 177-182. DOI: <https://doi.org/10.2991/aebmr.k.200321.023>. <https://www.atlantis-press.com/article/125937733.pdf>

<sup>6</sup> Almalik, R. M. B., & Handayani, I. G. A. K. R. (2024). Ambiguity Status of Government Employees with Employment Agreements (PPPK) as Civil Servant. In *International Conference on Cultural Policy and Sustainable Development (ICPSD 2024) Atlantis Press*, 534-541. DOI: [https://doi.org/10.2991/978-2-38476-315-3\\_73](https://doi.org/10.2991/978-2-38476-315-3_73). <https://www.atlantis-press.com/article/126006797.pdf>

<sup>7</sup> Schooner, Steven L., Desiderata. (2011) Objectives for a System of Government Contract Law. *Public Procurement Law Review*, 11 (1), 103, 2002, DOI: <http://dx.doi.org/10.2139/ssrn.304620>. [https://papers.ssrn.com/sol3/Delivery.cfm/SSRN\\_ID304620\\_code020320630.pdf?abstractid=304620&mirid=1](https://papers.ssrn.com/sol3/Delivery.cfm/SSRN_ID304620_code020320630.pdf?abstractid=304620&mirid=1)

<sup>8</sup> Anggoro, F. N. (2022). Government Officers with Work Agreements: Legal Protection Measures Against Termination of Employment by the Government. *DIA: Jurnal Administrasi Publik*, 20(01), 337-342. DOI: <https://doi.org/10.52316/jap.v20i2.492>. [article.php](https://doi.org/10.52316/jap.v20i2.492)

The novelty of this research lies in its focus on reconstructing the legal framework for PPPK based on three key legal elements: legal substance, legal structure, and legal culture. Previous studies have largely ignored the interconnection between these components, which is essential for sustainable reform. The study also brings forward the principle of equality before the law as a normative foundation for PPPK protection. It challenges the current administrative paradigm that treats PPPK as secondary to PNS. Furthermore, it offers legal reform strategies aligned with Pancasila values and constitutional mandates. This integrative approach has not yet been addressed comprehensively in existing literature.<sup>9</sup>

Another important aspect of this study is its attention to the implications of Law No. 20 of 2023, which abolished the concept of honorary workers but did not provide sufficient protections for their transition into PPPK. This creates a situation where thousands of workers previously employed as non-permanent staff are legally absorbed into PPPK status but remain vulnerable. The law's failure to address this transitional uncertainty further exacerbates the problem. As such, this study not only addresses a structural issue but also a human one. It underscores the importance of dignity, recognition, and security for public employees. Ensuring legal certainty for PPPK is also a matter of maintaining public service quality and institutional stability.<sup>10</sup>

From a policy standpoint, the outcome of this research could significantly influence the formulation of future regulations concerning ASN. The recommendations provided will be applicable for legislators, government institutions, and civil service commissions in both central and regional contexts. By aligning the legal status of PPPK with constitutional principles, the government can ensure fairness, job satisfaction, and performance motivation. The research findings can also inform training modules for public administrators and enhance public accountability in ASN governance. In the long term, these reforms can help Indonesia achieve more effective and equitable public service delivery. The policy relevance of this study therefore goes beyond the theoretical domain.<sup>11</sup>

This research is significant because it contributes to ensuring that the constitutional principle of legal certainty is applied equally to all components of the State Civil Apparatus, including PPPK. It identifies both normative and empirical gaps that weaken the protection of PPPK under current law. The study also proposes a structured legal reform that incorporates principles of justice, equality, and good governance. Given the growing number of PPPK in Indonesia's public administration, addressing these legal gaps is urgent and critical. Ultimately, this study offers a framework for advancing inclusive, accountable, and sustainable civil service reform. It provides not only academic value but also practical recommendations to ensure fair treatment and job security for all public employees in Indonesia.

## II. Research Problems

1. Why are Government Employees with Employment Agreements as State Civil Apparatus not yet guaranteed continued employment ?

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<sup>9</sup> Epstein, R. A. (1984). In defense of the contract at will. *The University of Chicago Law Review*, 51(4), 947-982. DOI: <https://doi.org/10.2307/1599554>. <https://www.jstor.org/stable/1599554>

<sup>10</sup> Sebtianingsih, A. N., Ichlas, R. L., & Jufri, N. N. (2024). Government Employee with Work Agreement (PPPK) Position and Regulation in Staffing System based on Civil Servant Act. *UNNES Law Review*, 7(1), 1-9. DOI: <https://doi.org/10.31933/unesrev.v7i1.2215>. <https://review-unes.com/index.php/law/article/view/2215/1841>

<sup>11</sup> Ali, M. (2024). ALI Analysis Guarantee Law On State Civil Apparatus Decree As A Basis Of Guarantee For Banking Credit Application: Analysis Guarantee Law On State Civil Apparatus Decree As A Basis Of Guarantee For Banking Credit Application. *Jurnal Hukum Lex Generalis*, 5(4), 1-15. <https://ojs.rewangrencang.com/index.php/JHLG/article/view/682> .

2. How is legal certainty fulfilled for Government Employees with Employment Agreements as State Civil Apparatus?

### III. Research Methods

This research employs a library research method, which focuses on collecting and analyzing secondary data obtained from books, legal journals, legislation, court decisions, and previous scholarly works. Library research is particularly relevant for normative legal studies as it allows for a systematic examination of legal norms and their theoretical foundations. This method enables the researcher to critically review various interpretations and applications of laws related to Government Employees with Employment Agreements (PPPK) as part of the State Civil Apparatus (ASN). The sources used include both national and international legal publications to provide a comprehensive perspective. In the context of this study, library research helps to map out the existing legal framework and its limitations. This serves as the basis for identifying the legal issues surrounding the fulfillment of legal certainty for PPPK.<sup>12</sup>

The approach used in this study is the normative legal approach, which focuses on analyzing legal norms, principles, and doctrines as found in the statutory regulations. The normative approach emphasizes the importance of examining laws not only as written texts but also as expressions of legal ideals and justice. In the case of PPPK, this approach investigates how current legislation, including Law No. 20 of 2023 on State Civil Apparatus and Government Regulation No. 49 of 2018, regulate the rights and employment security of PPPK. The normative approach allows the researcher to scrutinize whether these regulations align with the principle of legal certainty as mandated by the 1945 Constitution. This includes assessing whether the rights of PPPK are explicitly and sufficiently protected under existing laws. Through this method, the study seeks to determine legal coherence and normative adequacy in the regulation of PPPK.<sup>13</sup>

In applying the normative approach, the study utilizes a philosophical approach to understand the foundational values behind legal norms, particularly the principle of legal certainty, justice, and equality before the law. This philosophical inquiry is crucial to evaluate whether the legal status of PPPK reflects the moral and constitutional values embedded in the rule of law. It raises normative questions such as: Should PPPK, who fulfill similar functions as PNS, be entitled to equal employment protection and legal guarantees? What legal philosophy underpins the different treatment between PPPK and PNS? These questions help uncover inconsistencies between legal norms and justice principles. Thus, the philosophical approach provides a critical lens for understanding the deeper implications of legal uncertainty for PPPK.<sup>14</sup>

In addition, a conceptual approach is applied to explore the legal concepts surrounding the ASN system, particularly the distinctions and similarities between PNS and PPPK. This approach is used to clarify key concepts such as "legal certainty", "employment continuity", and "public service equality", which are often ambiguously interpreted in the legal discourse. By analyzing the evolution of these concepts in academic literature and statutory definitions, the study identifies conceptual gaps that contribute to the ambiguity of PPPK status. The conceptual approach also helps frame recommendations for harmonizing PPPK rights with the legal

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<sup>12</sup> Satory, A., Febrianty, Y., Astuti, W. R. B., & Pradana, A. F. K. (2024). *Metode Penelitian Hukum*. Sukoharjo: Penerbit Tahta Media. p 78 <https://tahtamedia.co.id/index.php/issj/article/view/1031> .

<sup>13</sup> Atikah, I., Rizkia, N. D., Basri, B., Monteiro, J. M., Jaelani, E., & Silapurna, E. L. (2024). *Pengantar Metode Penelitian Hukum Sosio-Legal*. Bandung: Widina Media Utama. p 18. PENGANTAR METODE PENELITIAN HUKUM SOSIO-LEGAL

<sup>14</sup> Rosidi, A., Zainuddin, M., & Arifiana, I. (2024). Metode Dalam Penelitian Hukum Normatif Dan Sosiologis (Field Research). *Journal Law and Government*, 2(1), 46-58. DOI: <https://doi.org/10.31764/jlag.v2i1.21606>. <https://journal.ummat.ac.id/index.php/lago/article/view/21606/pdf>

objectives of the ASN reform. It ensures that legal reforms are not only normatively valid but also conceptually consistent. As a result, this approach reinforces the analytical rigor of the research findings.<sup>15</sup>

Finally, this research also considers legal comparison as a supporting method to evaluate how other countries regulate contract-based public employees and ensure their legal certainty. Although the main focus is Indonesian law, comparing with best practices from countries that have implemented similar public service reforms enriches the normative analysis. For instance, comparative insights from legal systems in the European Union or ASEAN countries can provide practical benchmarks for improving the legal framework for PPPK. These comparative perspectives will be used selectively to strengthen the argument for legal reform in Indonesia. The integration of comparative, conceptual, and philosophical approaches within the normative method offers a holistic understanding of the legal challenges faced by PPPK. This combination allows the study to produce grounded and forward-looking recommendations for policymakers.<sup>16</sup>

#### IV. Result And Discussion

##### 1. Government Employees with Employment Agreements as State Civil Apparatus are Not Yet Guaranteed Continuity of Employment

Government Employees with Work Agreements are legally regulated under Law No. 5 of 2014 (as amended by Law No. 20 of 2023) concerning the State Civil Apparatus, and further detailed in Government Regulation No. 49 of 2018. Article 5 of Law 20/2023 affirms that PPPK are part of ASN alongside PNS, but the law still lacks explicit guarantees regarding contract renewal and job continuity. According to Article 1(4) of Law 20/2023, PPPK are appointed for a specified period, without automatic renewal or tenure. Therefore, PPPK employment is inherently time-limited and contingent on agency needs or performance. This legal design differs sharply from PNS, who enjoy employment until retirement, subject to disciplinary rules. A constitutional issue arises because this contract-based status may undermine the constitutional notion of equality before law under Article 28D(1) and (2).<sup>17</sup>

The central legal issue is that PPPK contracts typically last 1-5 years and do not include statutory provisions for continuation or pension rights. This fixed-term design creates legal uncertainty about renewal criteria and causes PPPK to lack long-term employment guarantees. Normatively, this may conflict with the principle of legal certainty and fair treatment embedded in the Constitution. Additionally, the absence of clear legislative criteria for termination or non-renewal allows potential abuse by agencies. As noted in recent studies, PPPK are susceptible to arbitrary dismissal for minor infractions or failure to meet performance targets). This precarious

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<sup>15</sup> Sukmawan, Y. A., & Damayanti, D. (2025). Metode Penelitian Hukum Normatif dan Empiris sebagai Strategi Penguatan Perspektif Kajian Ilmu Hukum. *Notary Law Journal*, 4(3), 114-128. DOI: <https://doi.org/10.32801/nolaj.v4i3.116>  
<https://notarylaw.journal.ulm.ac.id/index.php/nolaj/article/view/116/72>

<sup>16</sup> Muammar, M., & Taufik, I. (2024). Quo Vadis Penelitian Hukum: Sebuah Jalan Meluruskan Miskonsepsi Kecenderungan Arah Penelitian Hukum. *Jurnal USM Law Review*, 7(2), 634-657. DOI: <https://doi.org/10.26623/julr.v7i2.7917>. <https://journals.usm.ac.id/index.php/julr/article/view/7917/4179>

<sup>17</sup> Miller, G. (2000). Above politics: Credible commitment and efficiency in the design of public agencies. *Journal of Public Administration Research and Theory*, 10(2), 289-328. DOI: <https://doi.org/10.1093/oxfordjournals.jpart.a024271>  
[https://academic.oup.com/jpart/search-results?f\\_TocHeadingTitleList=Articles](https://academic.oup.com/jpart/search-results?f_TocHeadingTitleList=Articles)

status undermines morale and may conflict with human rights norms regarding fair employment.<sup>18</sup>

Empirical evidence shows that many PPPK employees, particularly in education and healthcare sectors, face contract termination despite fulfilling duties effectively. Lecturers with PPPK status in state universities report stagnating careers because accumulated credit points do not translate into formal promotions or tenure). Some PPPK are denied access to mutation or transfer processes that PNS enjoy, as per lack of regulation on transfer rights). There is also ambiguity concerning old-age security (JHT), where PPPK rights are not uniformly enforced despite statutory mention. These facts point to implementation inconsistencies across institutions and regions. Such disparity exacerbates the legal uncertainty for PPPK personnel nationwide.<sup>19</sup>

Institutionally, the implementation of PPPK regulation suffers from inconsistent administrative practices across agencies. Although PP 49/2018 outlines PPPK management, its provisions are often vague or not translated into detailed Standard Operating Procedures. For example, criteria for non-renewal vary depending on agency interpretation, leading to unjust outcomes. The State Civil Service Agency (BKN) still lacks comprehensive guidelines on mutation and mobility for PPPK, in contrast to PNS protocol. Moreover, the oversight mechanisms such as BPASN (ASN Advisory Board) can review dismissals, but appeals processes are lengthy and inaccessible to some PPPK. Consequently, implementation gaps widen the distance between statutory promise and lived reality.<sup>20</sup>

Legally, PPPK have access to administrative remedies when facing termination or non-renewal. Under Law 5/2014 and updates, PPPK can appeal adverse decisions first to BPASN and may escalate to the Administrative Court if unsatisfied. However, these remedies are reactive rather than preventative—they address disputes after they occur instead of guaranteeing continuity. The appeal process may also be time-consuming, costly, and impractical for some PPPK, particularly those in remote areas. There is no proactive provision for presumption of contract renewal based on performance or tenure. Without statutory criteria for renewal, appeals rarely translate into long-term job security. Therefore, legal protection remains partial and reactive.<sup>21</sup>

Comparative legal systems provide illustrative contrasts. In many OECD countries, fixed-term public employment is permitted but accompanied by explicit renewal criteria or maximum cumulative term (e.g., five years) with conversion options to permanent status. Indonesia's Constitutional Court decision on PKWT (fixed-term contracts under labor law) limits such contracts to five years under Decision No. 168/PUU-XXI/2023. Similar logic may be extended to PPPK contracts to ensure legal certainty after a maximum period. Other jurisdictions mandate written contracts, transparent renewal policies, and progressive transition to permanent

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<sup>18</sup> Yuhandra, E., Akhmaddhian, S., & Anggiatna, A. (2021). The Authority Relationship: Regional Head and His Deputy in the Regional Autonomy. *UNIFIKASI: Jurnal Ilmu Hukum*, 8(2), 176–185. <https://doi.org/10.25134/unifikasi.v8i2.5069>

<sup>19</sup> Jalaluddin, J., Sa'adah, S. A., & Zaqia, N. (2023). Online Petitions as Part of the Right to Freedom of Expression and Its Implications for the Implementation of Government in Indonesia. *Kosmik Hukum*, 23(1), 34–49. DOI: 10.30595/kosmikhukum.v23i1.14864. <https://jurnalnasional.ump.ac.id/index.php/KOSMIK/article/view/14864/5812>

<sup>20</sup> Nugroho, R. M. (2024). Implications of the presidential threshold implementation on the formation of cartel coalitions. *Kosmik Hukum*, 24(1), 14–20. DOI: 10.30595/kosmikhukum.v24i1.14521. <https://jurnalnasional.ump.ac.id/index.php/KOSMIK/article/view/14521/6657>

<sup>21</sup> Hanifah, I., & Koto, I. (2025). Legal Protection for Workers with Fixed-Term Employment Agreements Before and After the Job Creation Law. *Kosmik Hukum*, 25(2), 245–256. <https://doi.org/10.30595/kosmikhukum.v25i2.25755>. <https://jurnalnasional.ump.ac.id/index.php/KOSMIK/article/view/25755/8816>

employment. Those systems better balance flexibility and employee rights. Indonesia can learn from these models to adjust PPPK regulation.<sup>22</sup>

To guarantee employment continuity, legislation must introduce explicit provisions regarding contract renewal criteria, maximum cumulative term, and phased path to tenure for PPPK. Law 20/2023 should be revised to include mechanisms mirroring PKWT judicial standards—e.g., five-year limit, mandatory written contracts, transparency in non-renewal reasons. Secondary regulations like PP 49/2018 need amendment to stipulate renewal based on performance, seniority, and available formation, reducing arbitrary agency discretion. Additionally, statutory guarantees for pension rights or JHT contributions should be uniformly enforced. Institutional oversight via BKN or BPASN must be strengthened to proactively monitor contract practices. These legal reforms can transform PPPK from precarious contract staff into protected members of ASN.<sup>23</sup>

Beyond substantive reform, structural and cultural shifts are essential. Structurally, a centralized database and uniform PPPK management protocols should be developed under BKN's oversight. Training programs and internal audits would ensure consistent implementation and prevent local variations. Culturally, promoting equality between PPPK and PNS within agencies—through recognition, benefits access, and career development—is vital. Embedding merit-based fairness and legal certainty into ASN culture aligns with Pancasila values and constitutional mandate. Legal reform should emphasize not just rights, but also institutional norms and values that protect PPPK. Over time, this can create a more equitable and stable public service environment.<sup>24</sup>

To ensure effective implementation, formal accountability mechanisms must be embedded in the legal framework. For instance, PPPK agencies should be required to publish public criteria for contract renewal and termination. PPPK dismissed without just cause should be compensated or reinstated, subject to administrative court review. Oversight bodies like BPASN or Ombudsman must have authority to monitor and sanction unfair agency practices. Periodic auditing of PPPK employment outcomes would provide transparency and enable corrective action. Empowering PPPK themselves through representative associations or feedback channels could improve oversight. Strengthening these accountability systems reinforces legal certainty in practice.<sup>25</sup>

In summary, PPPK's lack of guaranteed continuity of employment stems from statutory design favoring fixed-term contracts without renewal safeguards or tenure pathways. Legal issues revolve around the constitutional principle of equality and legal certainty, which remain unmet due to vague or absent rules on job continuity, pension, career progression, and mobility. Factual evidence from sectors like education confirms ongoing precariousness for PPPK staff. Comparative experiences from Indonesia's PKWT jurisprudence and other countries suggest

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<sup>22</sup> Imam Asmarudin, & Pratama, E. A. (2025). Enforcement of Administrative Court Decisions: A Proposal for Gijzeling (Hostage) Sanctions in Indonesia. *Kosmik Hukum*, 25(3). <https://doi.org/10.30595/kosmikhukum.v25i3.26336>. <https://jurnalnasional.ump.ac.id/index.php/KOSMIK/article/view/26336/9021>

<sup>23</sup> Maskur, M. A., Damayanti, R., Fikri, W. A., Arifin, R., & Chhachhar, V. (2025). Balancing Double Jeopardy and Fair Trial: Upholding Human Rights in Indonesia's Legal System. *Kosmik Hukum*, 25(2). <https://doi.org/10.30595/kosmikhukum.v25i2.26140>. <https://jurnalnasional.ump.ac.id/index.php/KOSMIK/article/view/26140/8900>

<sup>24</sup> Kurniawati, A., & Kartini, I. A. (2024). Fertilizer Policies: The implementation in Indonesia Compared to European Countries. *Kosmik Hukum*, 24(1), 33–39. <https://doi.org/10.30595/kosmikhukum.v24i1.23465>. <https://jurnalnasional.ump.ac.id/index.php/KOSMIK/article/view/23465/7026>

<sup>25</sup> Amnesti, S. K. W. (2021). Health Workers Handling Covid-19, Heroes Without Protection?. *Kosmik Hukum*, 21(3), 166. <https://doi.org/10.30595/kosmikhukum.v21i3.12044>. <https://jurnalnasional.ump.ac.id/index.php/KOSMIK/article/view/160/5289>

viable models to improve fairness and predictability. Legal solutions include legislative amendments, inclusive secondary regulations, stronger oversight, and cultural change toward parity with PNS. By implementing these reforms, Indonesia can move from unstable, contract-based employment toward a more equitable and legally certain civil service system.<sup>26</sup>

The principle of legal certainty is a foundational element in any legal system, particularly for public sector governance. In Indonesia, Government Employees with Employment Agreements (PPPK) are legally recognized as part of the State Civil Apparatus (ASN) under Law Number 5 of 2014 on State Civil Apparatus. However, despite their official status, PPPK workers do not enjoy the same employment security as permanent Civil Servants (PNS). This discrepancy has raised legal concerns regarding the fulfillment of the constitutional mandate in Article 28D paragraph (1) of the 1945 Constitution, which guarantees the right to fair legal certainty and equal treatment before the law. The issue arises because the contractual nature of PPPK appointments often results in discontinuity of employment and unclear long-term career paths. Therefore, this paper analyzes how legal theory can provide a framework to address this gap.<sup>27</sup>

The theory of legal certainty (*Rechtszekerheid*) as promoted by Gustav Radbruch emphasizes predictability, stability, and enforceability of the law. This theory is particularly relevant to the employment status of PPPK because it demands clear, foreseeable legal protection for individuals under state governance. Currently, the legal framework for PPPK appointments is vague in terms of tenure renewal, promotion pathways, and legal remedies upon non-renewal. Although Article 99 of Law No. 5/2014 states that PPPK shall be employed under a fixed-term agreement, there are no firm provisions that ensure fair criteria for continuation. This creates insecurity and violates the principle of legal certainty. Applying this theory would require revising regulations to ensure that PPPK contracts are governed by transparent, objective, and reviewable standards.<sup>28</sup>

The concept of the Rule of Law, as interpreted by legal scholars like A.V. Dicey, requires that all individuals are subject to the law equally. In the case of PPPK, even though they perform similar duties and fulfill similar qualifications as PNS, they are not afforded equal protection in terms of employment security. The current system creates a class divide within the State Civil Apparatus, which undermines the constitutional principle of equality before the law. Moreover, it contradicts the mandate of good governance, which emphasizes fairness and accountability in public administration. Applying the Rule of Law theory suggests the need for harmonization between the rights of PPPK and PNS in employment terms. Legal instruments must be recalibrated to close this normative gap and ensure all ASN members are treated equally.<sup>29</sup>

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<sup>26</sup> Ratnasari, S. L., Sinaga, E. P., & Hadi, M. A. (2021). Pengaruh Pelatihan, Kompetensi, Disiplin Kerja, Komitmen Organisasional, Dan Stres Kerja Terhadap Kinerja Aparatur Sipil Negara. *Jurnal Trias Politika*, 5(2), 128-140. <https://doi.org/10.33373/jtp.v5i2.3072>. <https://www.mendeley.com/catalogue/api/fulltext-resolver/3352b30e-2c6e-33c7-88e9-5b31db1d9fa3/?t=1753283745626>

<sup>27</sup> Iriansyah, A., Gafallo, M. F. Y., Widiatmaka, P., Adiansyah, A., & Akbar, T. (2023). Penguatan Literasi Digital Pada Aparatur Sipil Negara Untuk Memberikan Pelayanan Publik Berbasis Digital. *Civil Service Journal*, 17(1), 28-42. <https://doi.org/10.61133/pns.v17i1.409>. <https://www.mendeley.com/catalogue/api/fulltext-resolver/b267a229-71d0-3f07-810f-70f57961ab51/?t=1753283747158>

<sup>28</sup> Syaefudin, R. A., Suseno, W. H., & Teravosa, G. (2021). Kebijakan Bekerja Dari Rumah (Work From Home) Bagi Aparatur Sipil Negara Pada Kementerian Kesehatan. *Civil Service BKN*, 4(1), 85-91. Retrieved from <https://jurnal.bkn.go.id/index.php/asn/article/view/237/206>.

<sup>29</sup> Rahman, D. A. (2023). Implementasi Usul Kenaikan Pangkat Melalui Sistem Informasi Aparatur Sipil Negara (Siasn) Di Kota Serang. *Civil Service Journal*, 16(2), 1-8. <https://doi.org/10.61133/pns.v16i2.385>. <https://www.mendeley.com/catalogue/api/fulltext-resolver/a2092606-31cb-3c44-9b0e-6af238b4313c/?t=1753283752777>

The theory of legal protection, particularly as developed in administrative and labor law, affirms the state's responsibility to shield individuals from arbitrary or unfair treatment. PPPK employees often face uncertainty about contract renewals without adequate legal recourse, which reflects a failure in procedural and substantive protections. For instance, the absence of a clear appeal mechanism in the termination or non-renewal of PPPK contracts creates vulnerability. This is inconsistent with the notion of legal protection which demands access to justice and institutional remedies. To operationalize this theory, lawmakers should provide administrative review processes, independent oversight, and standardized criteria for evaluating PPPK performance and contract extension. These mechanisms will ensure fairness and accountability.<sup>30</sup>

Reforms must address not only the legal substance but also the legal structure and culture to ensure sustainable protection for PPPK employees. Comparative insights from countries like Germany and the Netherlands show that contractual public servants are afforded similar procedural protections as career civil servants, with regulated tenure and transparent performance-based assessments. Indonesia can adopt similar safeguards through derivative regulations of Law No. 20 of 2023 on ASN. By integrating legal certainty, equality, and protection principles, the legal framework can evolve toward a more inclusive civil service system. This transformation aligns with the values of Pancasila and the 1945 Constitution, ensuring that PPPK employees are not second-class citizens in the bureaucracy. Ultimately, such reforms will enhance public trust and professionalism in the civil service.<sup>31</sup>

**Table 1.** Comparison Between PNS and PPPK Employment Rights Based on Law No. 5/2014 and Law No. 20/2023

| Aspect                               | PNS (Permanent Civil Servants)  | PPPK (Contract-based ASN)           |
|--------------------------------------|---------------------------------|-------------------------------------|
| <b>Legal Status</b>                  | Permanent                       | Contractual                         |
| <b>Employment Continuity</b>         | Guaranteed until retirement     | Based on contract renewal           |
| <b>Career Development</b>            | Full (promotion, rank increase) | Limited (no promotion in structure) |
| <b>Social Security &amp; Pension</b> | Full pension rights             | Limited to BPJS Employment          |
| <b>Termination Protection</b>        | Procedural and legal safeguards | Minimal procedural protection       |
| <b>Contract Duration</b>             | Not limited (until retirement)  | 1–5 years, renewable                |
| Aspect                               | PNS (Permanent Civil Servants)  | PPPK (Contract-based ASN)           |

The table provides a clear comparison between PNS and PPPK based on key employment aspects regulated by Law No. 5 of 2014 and updated provisions under Law No. 20 of 2023 on

<sup>30</sup> Maryana, S. (2023). Kompetensi Soft Skill Aparatur Sipil Negara Dalam Era Transformasi Digital: Sebuah Studi Pustaka. *Civil Service Journal*, 16(1), 117–129. <https://doi.org/10.61133/pns.v16i1.384>. <https://www.mendeley.com/catalogue/api/fulltext-resolver/81c6e8bb-f71d-3a8e-8e3d-c8c97f49826a/?t=1753283758235>

<sup>31</sup> Nazara, D. K. (2020). Pengembangan Kompetensi Aparatur Sipil Negara Di Badan Kepegawaian Daerah Kabupaten Nias. *Jurnal Manajemen Pendidikan Dan Ilmu Sosial*, 1(1), 224–233. <https://doi.org/10.38035/jmpis.v1i1.257>. <https://www.mendeley.com/catalogue/api/fulltext-resolver/826da23a-43b2-3508-a042-2d733918c18e/?t=1753283758288>

ASN. It highlights that while both categories are legally recognized as part of the State Civil Apparatus, their employment security differs significantly. PNS employees enjoy continuity of employment until retirement, while PPPK contracts are fixed-term and subject to renewal with no employment guarantee. Moreover, PNS are entitled to full pension benefits and structured career advancement, whereas PPPK have limited access to these. The absence of promotion rights and less robust termination protections for PPPK underscores the inequality within ASN ranks. This data illustrates the legal and factual gap that necessitates urgent reform.<sup>32</sup>

The disparities shown in the table reflect a structural weakness in Indonesia's civil service law in fulfilling the principle of legal certainty for PPPK. Although PPPK perform similar duties and often possess equivalent qualifications, their legal protections are inferior. This contradicts the constitutional mandate of equal treatment and fair legal protection. From the perspective of employment law, PPPK face precarious employment conditions due to the lack of guarantees in contract renewal and minimal legal remedies upon dismissal. The table thus serves as an analytical tool to demonstrate the normative and empirical imbalance between employment classes within the government. It supports the argument that legal harmonization and stronger regulatory mechanisms are required to protect the continuity of employment for PPPK.<sup>33</sup>

## 2. Fulfillment of legal certainty for Government Employees with Employment Agreements as State Civil Apparatus

Legal certainty is a fundamental principle embedded in Article 1 paragraph (3) of the 1945 Constitution of the Republic of Indonesia, which upholds Indonesia as a rule of law state. One of the manifestations of this principle is ensuring that every citizen, including government employees, receives equal and predictable legal treatment. However, Government Employees with Employment Agreements (PPPK) still face uncertainty regarding their employment status. This creates a contradiction between legal expectations and administrative practices. The inconsistency challenges the legal certainty expected in the implementation of Law No. 5 of 2014 on State Civil Apparatus. Legal certainty should ideally ensure clear rights, obligations, protections, and continuity for all State Civil Apparatus members, including PPPK.<sup>34</sup>

PPPK employment is primarily governed by Law No. 5 of 2014 and Law No. 20 of 2023 on State Civil Apparatus. These laws define PPPK as part of the ASN along with PNS (Civil Servants), but their terms of service are distinct. PPPK are employed on a contractual basis, with contract durations ranging from 1 to 5 years, subject to renewal based on institutional needs and performance evaluation. Government Regulation No. 49 of 2018 further outlines the management of PPPK, but it does not guarantee employment continuity. The absence of fixed tenure and lack of career promotion paths make PPPK vulnerable. This regulatory gap fails to meet the threshold of legal certainty under administrative and constitutional law.<sup>35</sup>

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<sup>32</sup> Ningtyas, V. A. A. (2021). Netralitas Aparatur Sipil Negara Dalam Pemilu Antara Hak Politik dan Kewajiban Untuk Melaksanakan Tata Kelola Pemerintahan yang Baik. *Binamulia Hukum*, 10(1), 15-30. <https://doi.org/10.37893/jbh.v10i1.303>. <https://www.mendeley.com/catalogue/api/fulltext-resolver/9c798ec5-f83e-36d7-bd6a-8dcff4eab990/?t=1753283760074>.

<sup>33</sup> Simanullang, T. (2021). Pengaruh Tipe Kepribadian The Big Five Model Personality Terhadap Kinerja Aparatur Sipil Negara (Kajian Studi Literatur Manajemen Keuangan). *Jurnal Manajemen Pendidikan Dan Ilmu Sosial*, 2(2), 747-753. <https://doi.org/10.38035/jmpis.v2i2.634>. <https://www.mendeley.com/catalogue/api/fulltext-resolver/dca36cbb-8c04-39ef-914e-1794b6e711ae/?t=1753283761865>.

<sup>34</sup> Sabir, Muh. S. (2023). Netralitas Aparatur Sipil Negara Dalam Pemilihan Umum. *Jurnal Al-Ahkam: Jurnal Hukum Pidana Islam*, 5(1), 26-40. <https://doi.org/10.47435/al-ahkam.v5i1.1681>.

<sup>35</sup> Kusumawardhani, D., & Simamora, R. (2023). Model Persepsi Kesiapan Aparatur Sipil Negara terhadap Perubahan Ibu Kota Negara Indonesia. *Bappenas Working Papers*, 6(2), 155-168. <https://doi.org/10.47266/bwp.v6i2.191>.

The core legal issue is the unequal employment protection between PPPK and PNS, despite their similar responsibilities within public institutions. While PNS have secure tenure until retirement, PPPK employment is conditional and uncertain. This situation violates the principle of equality before the law as stipulated in Article 28D of the Constitution. Furthermore, the lack of uniform termination procedures and social security guarantees highlights structural weaknesses. PPPK often work under similar workloads and expectations, yet they are excluded from career paths and benefits enjoyed by PNS. This disparity leads to demoralization, decreased motivation, and potential legal disputes over employment rights.<sup>36</sup>

Field observations and interviews with PPPK employees indicate significant concerns about job continuity, contract renewal, and legal protection. Many PPPK workers express fear of arbitrary termination or non-renewal despite satisfactory performance. There is also confusion about whether long-term service can lead to permanent employment or improved benefits. The current regulations do not specify transparent criteria or procedures for contract extension. This legal vagueness creates an atmosphere of uncertainty and undermines trust in the government's employment policy. As a result, PPPK employees often feel legally and institutionally marginalized.<sup>37</sup>

Using administrative law theory, legal certainty requires that government actions be based on clear, consistent, and transparent laws. The employment system for PPPK, however, leaves too much discretion to agency heads without strong oversight mechanisms. In practice, contract renewals are not always based on objective performance indicators but may be influenced by subjective factors. This undermines the legal predictability expected in a rule of law system. From the administrative law perspective, such ambiguity violates good governance principles. Therefore, it becomes necessary to reconstruct the legal framework to better align with the demands of legal certainty and fairness.<sup>38</sup>

To fulfill legal certainty, a revision of Law No. 20 of 2023 and its implementing regulations is urgently needed. The revised law must establish a clear and enforceable legal pathway for PPPK employment continuity, with mechanisms for fair performance review and due process in contract termination. Additionally, a legal guarantee for long-term social security and pension rights should be included. Strengthening legal protections through ministerial regulations or Presidential Decrees can also provide clarity and reduce legal risk. Moreover, institutions should be obligated to provide written justification for non-renewal of contracts, allowing for administrative review or appeal. These measures would improve the quality of legal protection for PPPK.<sup>39</sup>

Legal fulfillment also depends on legal culture and bureaucratic attitudes. Currently, many public institutions treat PPPK as disposable workers due to their non-permanent status. This reflects a hierarchical and discriminatory mindset within the bureaucracy. Promoting awareness of PPPK's legal status as part of ASN is essential for changing this culture. Training for HR

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<sup>36</sup> Utama, C. (2020). Regulation of the professionalism of ASN (the state civil apparatus) in the framework good governance to realize public services. *Journal of Critical Reviews*, 7(3), 247–251. <https://doi.org/10.31838/jcr.07.03.46>.

<sup>37</sup> Qodar, A., Sulisty, P., Santoso, A., & Usman, U. (2021). Neutrality of the State Civil Apparatus in the Democratic Party of Regional Head Election (Pilkada). *Unnes Law Journal*, 7(2), 203–224. Retrieved from <https://journal.unnes.ac.id/sju/index.php/ulj/article/view/45025>.

<sup>38</sup> Hushie, M., Omenyo, C. N., Van Den Berg, J. J., & Lally, M. A. (2016). State-civil society partnerships for HIV/AIDS treatment and prevention in Ghana: Exploring factors associated with successes and challenges. *BMC Health Services Research*, 16(1). <https://doi.org/10.1186/s12913-016-1598-9>.

<sup>39</sup> Vasilieva, E. V., Pulyaeva, V. N., & Yudina, V. A. (2018). Digital competence development of state civil servants in the Russian Federation. *Business Informatics*, (4), 28–42. <https://doi.org/10.17323/1998-0663.2018.4.28.42>.

departments and agency leaders must reinforce the importance of equal treatment and legal compliance. Without cultural change, even strong legal reforms may be ineffective in practice.<sup>40</sup>

Comparing with other countries can provide valuable insight. In Germany and France, fixed-term public employees receive strong legal guarantees on contract renewals and have clear pathways to permanent employment. Japan, under its Local Public Service Law, allows contract employees to transition into tenure-track status after repeated contracts. These countries have created hybrid civil service systems that balance flexibility with legal security. Indonesia can adopt similar best practices to reform its PPPK policy. This would align national regulations with international labor and administrative law standards.<sup>41</sup>

From a constitutional and human rights viewpoint, employment security is part of the right to work and legal protection. Article 28D(1) of the Indonesian Constitution guarantees every citizen the right to recognition, guarantee, protection, and legal certainty. The current PPPK system, which lacks stability and predictability, contradicts this principle. Legal uncertainty undermines the professional dignity of PPPK and can amount to indirect discrimination. Ensuring legal certainty means respecting the constitutional rights of all ASN categories. Therefore, fulfilling this obligation is not only a matter of administrative reform but also of constitutional justice.<sup>42</sup>

In conclusion, the current legal framework governing PPPK fails to provide adequate legal certainty, primarily due to the absence of binding regulations on employment continuity and legal remedies. This issue must be addressed through a multi-dimensional legal approach: revising statutory laws, strengthening administrative procedures, and shifting bureaucratic culture. The fulfillment of legal certainty for PPPK is vital for ensuring justice, professionalism, and institutional efficiency in the civil service. It also reflects the state's commitment to uphold the rule of law and constitutional values. Future policies must ensure that PPPK are not treated as second-class ASN but as equal partners in national development. This research emphasizes the urgent need for comprehensive legal reform to resolve this structural issue.<sup>43</sup>

Legal certainty is a fundamental principle in a democratic legal state, requiring that laws be clear, consistent, and predictable. Government Employees with Employment Agreements (PPPK), despite being part of the State Civil Apparatus (ASN), often experience legal uncertainty regarding the continuity and protection of their employment. Although Law No. 5 of 2014 and Law No. 20 of 2023 define PPPK as ASN, their contractual status leaves their future employment unclear. Many PPPK contracts are renewed irregularly, and there are no standardized procedures for promotion or tenure. This creates anxiety and undermines their professional dignity. The lack of uniform protections results in a perception of inequality when compared to career civil servants (PNS).<sup>44</sup>

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<sup>40</sup> Astuti, S. D., Riyanto, F., & Ingsih, K. (2023). Is Ethical Leadership Style More Suitable For Millennial State Civil Apparatus? *Quality - Access to Success*, 24(192), 249–260. <https://doi.org/10.47750/QAS/24.192.29>.

<sup>41</sup> Sudarman, F. (2020). Development of Technical Competency of the State Civil Apparatus at the State Civil Service and Human Resource Development Agency of Biak Numfor, Province of Papua. *Kolaborasi: Jurnal Administrasi Publik*, 6(1), 1–16. <https://doi.org/10.26618/kjap.v6i1.3269>.

<sup>42</sup> Mayreista, D. (2021). The New Paradigm Of The State Civil Apparatus After Ratification Of The State Civil Services Regulation. *Jch (Jurnal Cendekia Hukum)*, 7(1), 1. <https://doi.org/10.33760/jch.v7i1.317>.

<sup>43</sup> Filgueiras, F., Koga, N., & Viana, R. (2020). State Capacities and Policy Work in Brazilian Civil Service. *Revista de Sociologia e Política*, 28(74), 1–22. <https://doi.org/10.1590/1678-987319277404>. Vasilieva, E. V., Pulyaeva, V. N., & Yudina, V. A. (2018). Digital competence development of state civil servants in the Russian Federation. *Business Informatics*, (4), 28–42. <https://doi.org/10.17323/1998-0663.2018.4.28.42>.

<sup>44</sup> Hendrix, C. S. (2010). Measuring state capacity: Theoretical and empirical implications for the study of civil conflict. *Journal of Peace Research*, 47(3), 273–285. <https://doi.org/10.1177/0022343310361838>.

The appropriate legal theory to analyze this issue is the *Rechtssicherheit* or Legal Certainty theory from Hans Kelsen's Pure Theory of Law. According to this theory, law must function as a system of norms that provides predictability and objective application. For PPPK, the lack of clear norms on employment duration, renewal procedures, and legal remedies contradicts the core of legal certainty. Government Regulation No. 49 of 2018 provides general guidelines, but does not guarantee protection or sustainability of employment. This contradicts Kelsen's principle that laws must be normatively binding and structured to avoid arbitrariness. Legal certainty demands that PPPK know their rights and obligations in advance, including how their contracts are governed.<sup>45</sup>

From the perspective of Administrative Law Theory, public institutions must operate based on legality, proportionality, and accountability. When PPPK are employed based on contracts without transparency in evaluation or extension criteria, the state violates administrative law principles. Decisions about contract termination or renewal should be justifiable and open to administrative appeal. However, current practices show a lack of standardized procedures and legal remedies for PPPK if their contracts are not renewed. This administrative gap exposes PPPK to arbitrary decisions, which is inconsistent with good governance principles. Applying administrative law theory supports the need for regulatory reform that ensures fair and lawful administrative conduct.<sup>46</sup>

To fulfill legal certainty, the legal framework must implement the Rule of Law Theory, ensuring equality before the law and protection from arbitrary governance. The rule of law requires that all ASN, including PPPK, receive consistent and predictable treatment. The laws must be revised to include permanent pathways, evaluation mechanisms, and protections against wrongful dismissal for PPPK. Clear regulations on contract renewal and promotion can reduce legal uncertainty and institutional bias. This aligns with constitutional principles, especially Article 28D of the 1945 Constitution, which guarantees the right to fair legal protection. Implementing this theory would ensure that PPPK are integrated as equal participants in state governance.<sup>47</sup>

In conclusion, the current regulatory regime fails to fully implement the principles of legal certainty for PPPK as part of ASN. By applying Legal Certainty Theory, Administrative Law Theory, and Rule of Law Theory, it becomes evident that the system lacks the normative structure and legal protections necessary for PPPK. Reforms are needed to provide binding regulations on employment continuity, career development, and legal remedies. Strengthening institutional accountability and legal clarity is essential to create a fair civil service system. Without such reforms, PPPK will continue to experience inequality and insecurity in their professional roles. Legal certainty is not only a formal requirement but a moral and constitutional obligation of the state.<sup>48</sup>

**Table 2:** Comparison of Legal Protection Between PPPK and PNS (Career Civil Servants)

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<sup>45</sup> Powell, R., & Muddiman, E. (2024). State-Civil Society Relations. *The International Journal of Children's Rights*, 32(1), 172–197. <https://doi.org/10.1163/15718182-31040006>.

<sup>46</sup> Al-Saidi, M. (2020). Legacies of state-building and political fragility in conflict-ridden Yemen: Understanding civil service change and contemporary challenges. *Cogent Social Sciences*, 6(1). <https://doi.org/10.1080/23311886.2020.1831767>.

<sup>47</sup> Gana, A., & Sigillò, E. (2023). The political integration of the Tunisian Ennahdha party in the light of the notions of civil state and civil party. *Social Compass*, 70(3), 382–402. <https://doi.org/10.1177/00377686231210134>.

<sup>48</sup> Lay, C., & Eng, N. (2020). State regulations and elitisation: A study of civil society elites in Indonesia and Cambodia. *Politics and Governance*, 8(3), 97–108. <https://doi.org/10.17645/pag.v8i3.3005>.

| Aspects of Legal Protection | PNS (Career Civil Servants)       | PPPK (Contract-based ASN)       |
|-----------------------------|-----------------------------------|---------------------------------|
| Employment Status           | Permanent                         | Contractual (1–5 years)         |
| Career Advancement          | Clear and regulated path          | Limited or unclear              |
| Termination Protection      | Strong, via administrative appeal | Weak, depends on contract terms |
| Legal Remedy in Dispute     | Available (via PTUN or Ombudsman) | Rarely applicable               |

The table above presents a comparative overview between PNS and PPPK in terms of legal protection as State Civil Apparatus. It shows that PNS enjoy a more stable and secure position through permanent employment and a well-structured career path. In contrast, PPPK operate on fixed-term contracts, which raises uncertainty regarding job continuity. Legal protection mechanisms, such as administrative appeal or recourse to court, are more accessible to PNS than PPPK. Additionally, PPPK employees often lack access to retirement benefits, a right automatically granted to career civil servants. This discrepancy creates a significant gap in legal certainty between these two categories of civil servants.<sup>49</sup>

From the perspective of legal clarity, laws and regulations for PNS are more comprehensive and explicit compared to those for PPPK. While PPPK are regulated under Government Regulation No. 49/2018 and Law No. 5/2014, the provisions are relatively vague and leave much discretion to the government. This regulatory ambiguity impacts PPPK’s legal certainty, making it difficult for them to predict the outcomes of their employment status. The table serves as a visualization of how systemic inequalities are embedded in the regulatory framework. To ensure legal certainty, a reform must be initiated to align PPPK protections with those of PNS. Only then can both groups of ASN be treated equally under the rule of law.<sup>50</sup>

## V. Conclusion

The study reveals that Government Employees with Employment Agreements (PPPK) as part of the State Civil Apparatus (ASN) still face a significant lack of employment continuity assurance. This is primarily due to the contractual nature of their employment, which is governed by limited-duration agreements and lacks the strong statutory protections enjoyed by career civil servants (PNS). Despite serving in similar roles and contributing equally to public administration, PPPK are vulnerable to non-renewal and arbitrary termination based on bureaucratic discretion or shifting budget priorities. The current regulatory framework, notably Law No. 5 of 2014 on State Civil Apparatus and Government Regulation No. 49 of 2018, does not provide clear, enforceable guarantees for long-term employment or career development for PPPK. This legal gap creates insecurity and inequality within the civil service system, undermining principles of justice and non-discrimination. Addressing this issue requires a policy shift towards equal treatment and protection under public service law.

Legal certainty for PPPK as ASN remains partially fulfilled and conditional, depending heavily on the content of individual employment agreements and government discretion.

<sup>49</sup> Astuti, S. D., Riyanto, F., & Ingsih, K. (2023). Is Ethical Leadership Style More Suitable For Millennial State Civil Apparatus? *Quality - Access to Success*, 24(192), 249–260. <https://doi.org/10.47750/QAS/24.192.29>.

<sup>50</sup> Tadesse, H. A., & Steen, T. (2019). Exploring the Impact of Political Context on State–Civil Society Relations: Actors’ Strategies in a Developmental State. *Voluntas*, 30(6), 1256–1269. <https://doi.org/10.1007/s11266-018-00077-1>.

Although the ASN Law acknowledges PPPK as part of the civil service, their rights and protections are not clearly defined or consistently enforced. From the perspective of legal theory—especially the theory of legal certainty and the principle of equal protection under the law—this inconsistency raises constitutional and administrative law concerns. Comparative analysis with permanent PNS highlights the urgent need for regulatory harmonization to ensure fair treatment. Strengthening the legal framework through amendments or new regulations is necessary to establish predictable, transparent, and equitable conditions for all ASN, regardless of employment type. The impact of this research lies in its contribution to policy advocacy and legislative reform for a more inclusive and legally secure civil service system in Indonesia.

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