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Analysis of Handling the Code of Ethics for Ad Hoc Supervisors in Constitutional Law

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ABSTRACT

Handling of ethical violations by Ad Hoc supervisors is in accordance with Article 3 Paragraph (2) of Bawaslu Regulation Number 4 of 2019 concerning the Mechanism for Handling Violations of the Code of Ethics of the District Election Supervisory Committee, Village/Sub-district Election Supervisory Committee, and Polling Station Supervisors. In this article, the Regency/City Bawaslu handles violations of the code of ethics committed by Ad Hoc supervisors. This study raises 3 (three) formulations of the problem, namely: first, What are the legal regulations regarding the code of ethics of election organizers according to the Law?, second, What is the Authority of the Regency/City Bawaslu in Implementing Bawaslu Regulation 4 of 2019? And third, How is the Implementation of Bawaslu Regulation 4 of 2019 by the Regency/City Bawaslu in the process of Handling Violations of the Code of Ethics of the Ad Hoc Election Supervisory Committee?. The research uses the nature of the research used is descriptive analytical, the type of research used in this study is normative juridical, the data collection tool in the research that will be used in this study uses Library Research. The data analysis used is by using a qualitative method that produces descriptive-analytical data. Based on the results of the study, with the delegation of authority from the DKPP given to their respective superiors based on DKPP Regulation No. 3 of 2017 as amended several times, most recently through DKPP Regulation No. 1 of 2021, the authority given by the DKPP to the Regency/City Bawaslu is in accordance with the constitutional law system in Indonesia.

Violation of Code of Ethics, Ad Hoc Supervisor, Constitutional Law.

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INTRODUCTION

General elections (elections) are the process of electing people to fill certain political positions. The general election system has a democratic mechanism and process which is a manifestation of the sovereignty of the people as guaranteed in the constitution. Article 2 paragraph (1) of the 1945 Constitution of the Republic of Indonesia states that sovereignty is in the hands of the people and is implemented according to the Constitution. The meaning of

sovereignty being in the hands of the people in this case is that the people have sovereignty, responsibility, rights and obligations to democratically elect leaders who will form a government to manage and serve all levels of society, and elect people's representatives to oversee the running of the government.

Legislative General Elections (Pemilu) are basically a means of implementing people's sovereignty in the Unitary State of the Republic of Indonesia based on Pancasila and the 1945 Constitution of the Republic of Indonesia. Legislative Elections are held to elect members of the People's Representative Council (DPR), Regional Representative Council (DPD), Provincial People's Representative Council (DPRD), and Regency/City DPRD from political parties. The election of people's representatives who will sit in this legislative institution is a manifestation of Indonesian democracy that adheres to a party system through political parties. The implementation of general elections, especially for members of the Regional People's Representative Council, abbreviated as DPRD, is a process of replacing members of the Regency/City DPRD in the Unitary State of the Republic of Indonesia based on Pancasila and the 1945 Constitution of the Republic of Indonesia.

The direct election of legislative candidates from political parties indicates that the people's voice is the determinant in the implementation of government and political life, because political parties are the channel for people's aspirations. A more important effort is to empower political parties, so that the parties are stronger and more independent, thus producing party policies that are oriented towards the interests of the people. The people in the discourse of a democratic state are the central point because in essence democracy is a government that is carried out from, by and for the people.

Elections have an important meaning in a democratic country, because they are related to its three main functions, namely Political legitimacy, Through elections, the legitimacy of the government or ruler is confirmed because the elected government is essentially the choice of the majority of the people who have sovereignty. Circulation of political elites. With elections, the circulation or change of power elites is carried out more fairly, because citizens are the ones who directly determine who is still considered qualified as a political elite and who is not. Political education. Elections function as a tool for providing political education for citizens so that they can understand their political rights and obligations. By being involved in the election implementation process, it is hoped that citizens will receive direct lessons on how citizens should play a role in a democratic system.

Efforts made to create quality elections are to create integrity and professionalism of election organizers. The commitment to holding elections with integrity that has been built nationally must not be damaged by individual interests and momentary interests of certain organizers. Every violation committed by the organizers, even if it is categorized as a minor violation, must still be subject to sanctions.

It is important to provide a warning to every organizer that the General Election Commission (KPU) will continue to monitor and evaluate the performance of the organizers in a hierarchical manner. Integrity and professionalism are absolutely owned by all levels of election organizers. Organizers must have resilience against any temptations that come from outside, including temptations that come from candidates who participate in the election. The implementation of hierarchical supervision must be improved to ensure the performance of organizers in districts/cities, sub-districts, villages/sub-districts and Polling Stations (TPS) in accordance with the established Standard Operating Procedures (SOP).

Good election implementation must be able to work in accordance with applicable laws and regulations as stated in Law Number 7 of 2017 concerning the General Election of Members of the People's Representative Council, Regional Representative Council, and Regional People's Representative Council, that the principles of election organizers that must be used as guidelines for every election organizer, namely independent, honest, fair, legal certainty, orderly election organizers, public interest, openness, proportionality, professionalism, accountability, efficiency and effectiveness. Honest and fair elections require election regulations and officers tasked with enforcing these election regulations.

Jimly Assiddiqie explained that the election organizers must be neutral and free from intervention from political parties or state officials that reflect the interests of political parties or participants or prospective participants in the general election. The election participants are (i) political parties and their members who can become candidates in the election; (ii) candidates or members of the People's Representative Council; (iii) candidates or members of the Regional Representative Council; (iv) candidates or members of the DPRD; (v) candidates or President and Vice President; (vi) candidates or Governor and Deputy Governor; (vii) Candidates or Regent and Deputy Regent; (viii) candidates or Mayor and Deputy Mayor; because they are elements that have direct or indirect interests in the decisions of the General Election Commission (KPU).

Regulation of the Election Organizer Honorary Council Number 3 of 2017 concerning Guidelines for the Code of Ethics of Election Organizers, handling of violations of the code of ethics of ad hoc organizers is delegated to be handled by each election organizing institution at the Regency/City level. For the Bawaslu ranks. Based on Article 10 B of DKPP Regulation No. 3 of 2017 as amended several times, most recently through DKPP Regulation No. 1 of 2021, it explicitly states: In the case of the Defendant and/or Reported Party, namely the Election Organizer who serves as a member:

- a. Sub-district Election Supervisory Committee;
- b. Village/Sub-district Supervisory Committee;
- c. Polling Station Supervisor,

Complaints and/or reports are submitted directly to the Regency/City Bawaslu by referring to the Bawaslu Regulation. With the delegation of authority, it can actually create legal uncertainty because there is a horizontal conflict of rules between Article 459 paragraph (3) of Law 7 of 2017 and DKPP Regulation No. 3 of 2017 as amended several times, most recently through DKPP Regulation No. 1 of 2021, and the authority delegated by the DKPP to the Regency/City Bawaslu is then examined in a closed manner and is also very susceptible to conflicts of interest, because the Regency/City Bawaslu has a hierarchical relationship with the ad hoc Election Supervisors.

Thus, the Regency/City Bawaslu, which has the task of providing guidance and supervision to ad hoc election supervisors, has the potential to not provide fair decisions regarding violations of the code of ethics committed by ad hoc election supervisors.

Therefore, with these problems, there are actually still several alternatives for regulating and designing the authority and institutions for handling violations of the code of ethics, especially at the ad hoc level, because if we look at the existence of the DKPP, in its development it is increasingly transforming into an open ethical judicial institution in order to build public trust in the election organizers.

RESEARCH METHOD

The type of research used by the author is normative legal research. Normative legal research uses normative case studies, namely legal behavior, for example studying laws. The main topic of study is law which is conceptualized as a norm or rule that applies in society and becomes a threat to the behavior of every person. So that normative legal research focuses on the inventory of positive law, legal principles and doctrines, legal discovery in

cases in concreto, legal systematics, synchronization levels, comparative law and legal history.

Legal research recognizes several approaches as follows, the types of research approaches are: Statute approach is an approach that uses legislation and regulations. Legal research recognizes several approaches used to study a particular problem. In conducting research to obtain the desired results for further writing, the author conducts research using the juridical-normative approach method based on the main legal material by examining theories, concepts, legal principles and laws and regulations related to this research. Case Approach, The case approach is an approach carried out by examining cases related to the legal issues faced. Conceptual approach, The conceptual approach will bring up interesting objects from a practical knowledge perspective so that it can determine its meaning precisely and can be used in the thought process by identifying existing principles, views and doctrines to then give rise to new ideas.

This study uses the method of collecting materials in library research. Library research or document study includes the study of legal materials consisting of primary legal materials, secondary legal materials, and tertiary legal materials. The library study technique is carried out by searching, citing, recording, inventorying, analyzing, and studying data in the form of library materials that are needed.

The data obtained from document studies and literature searches are made using qualitative analysis methods. Then the results of the collected data are in the form of descriptive data stated in writing. According to Zainuddin Ali Qualitative Research refers to Legal Norms in Legislation or other sources of rules that are developing in society.

RESULT AND DISCUSSION

Challenges in Implementing the Code of Ethics for Ad Hoc Supervisors

Legal regulations regarding the code of ethics for election organizers are the legal regulations regulated in Law Number 7 of 2017 concerning General Elections, Election Supervisory Body Regulation Number 4 of 2019 concerning the Mechanism for Handling Violations of the Code of Ethics for the District Election Supervisory Committee, Village/Sub-district Election Supervisory Committee, and Polling Station Supervisors. Regulation of the Election Organizer Honorary Council Number 2 of 2017 concerning the code of ethics and guidelines for the behavior of election organizers, and Regulation of the Dkpp Number 1 of 2021 concerning the Second Amendment to the Regulation

of the Election Organizer Honorary Council Number 3 of 2017 concerning Guidelines for the Procedure of the Code of Ethics for Election Organizers.

Procedural Law for Handling the Code of Ethics of Ad Hoc Supervisors

In Law Number 7 of 2017 concerning General Elections, there is also authority in the case of violations of the code of ethics committed by ad hoc organizers, namely in Article 15 Paragraph (1) of Law No. 7 of 2017 concerning General Elections, which also explicitly outlines the duties of the DKPP: Article 159 Paragraph (1) The DKPP is tasked with (a) Receiving complaints and/or reports of alleged violations of the code of ethics committed by Election Organizers; and Conducting investigations and verifications, as well as examinations of complaints and/or reports of alleged violations of the code of ethics committed by Election Organizers. In order to maintain the independence, integrity, and credibility of Election Organizers down to the lowest level, the DKPP can form a Regional inspection team consisting of elements of the DKPP, Provincial KPU, Provincial Bawaslu and community elements as needed. The authority of the Regional Team is in accordance with Article 459 Paragraphs (2) and (3) of Law No. 77 of 2017 concerning General Elections, as follows: Article 459 (2) The Regional Inspection Team as referred to in paragraph (1) has the authority to examine violations of the code of ethics committed by the Provincial KPU, Regency/City KPU, Provincial Bawaslu, and Regency/City Bawaslu. (3) The Regional Inspection Team as referred to in paragraph (1) has the authority to examine and can decide on violations of the code of ethics committed by the PPK, PPS, KPPS, TPS. With the delegation of authority from the DKPP given to their respective superiors based on DKPP Regulation No. 3 of 2017 as amended several times, most recently through DKPP Regulation No. 1 of 2021, the authority given by the DKPP to the Regency/City Bawaslu where the examination is closed Because there is a hierarchical relationship between the ad hoc election supervisors and the Regency/City Bawaslu.

Analysis of Handling of the Code of Ethics for Ad Hoc Bawaslu District/City Supervisors

Handling of ethical violations by Ad Hoc supervisors is in accordance with Article 3 Paragraph (2) of Bawaslu Regulation Number 4 of 2019 concerning the Mechanism for Handling Violations of the Code of Ethics of the District Election Supervisory Committee, Village/Sub-district Election Supervisory Committee, and Polling Station Supervisors. In this article, the Regency/City Bawaslu handles violations of the code of ethics committed by Ad Hoc supervisors. The imposition of various sanctions on election organizers has various purposes. Written warnings to educate election organizers,

temporary dismissal to save the election stages, while permanent dismissal from office as a way to improve the governance of election organizer institutions. Based on the data explained above, the implementation of Bawaslu Regulation 4 of 2019 concerning handling the code of ethics of ad hoc supervisors at the Regency/City Bawaslu level has been running, although we assess that in the process there are still many conflicts of interest between ad hoc supervisors and Regency/City Bawaslu commissioners.

CONCLUSION

Based on the results of the discussion, several conclusions can be drawn as follows:

1. There is a need to conduct a lot of socialization regarding the regulations governing the code of ethics for election organizers and how to handle violations so that this will increase the awareness and compliance of election supervisors in carrying out their duties.
2. In the process of handling violations of the code of ethics committed by the Regency/City Bawaslu, supervision needs to be carried out and carried out openly so that there is no conflict of interest so that handling of violations can be carried out properly.
3. Bawaslu Regency/City should issue a firmer and more measured decision so that the ad hoc organizers do not act arbitrarily in carrying out their duties as ad hoc election supervisors. Severe and firm punishment will certainly increase public trust in the Bawaslu institution amidst negative issues that befall the election supervisory institution.

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