

COMPLETION OF CRIMINAL ACTIONS, ADMINISTRATION VIOLATIONS, ADMINISTRATION DISPUTES AND ELECTION RESULTS IN INDONESIA

Agus Wibowo, SH, M.Si

ABSTRACT

The problem of the current and subsequent election law enforcement must be able to and in accordance with the ideal electoral law enforcement system formulation, namely a system that does not violate democratic election standards, but still in accordance with Indonesia's conditions. This study began by remapping the problems of election law enforcement that occurred from elections to elections in Indonesia. Then compare it to the international standards of democratic elections, and look at the practice of electoral law enforcement in various countries. This study concludes there are four legal issues of elections, namely election crimes, election administration violations, election administration disputes and election results disputes. In an effort to establish a comprehensive law enforcement system, the four must be clearly defined, in order to facilitate the involvement of voters, participants, candidates, election monitors and organizers in the implementation of electoral stages.

Keywords: Elections, Violations, Law Enforcement

INTRODUCTION

Contemporary Indonesian political history notes, every time an election (election) is held, there are always protests that cast doubt on the process and results of the election. This not only happened in the elections during the New Order era, but also in the 1999 Elections and the 2004 Legislative Elections and Elections President 2004. Even the 1955 elections known as the cleanest elections were not silent from protests. Implementation of direct elections of regional heads (pilkada) Throughout 2005, the list of protest dissatisfaction with the election increased¹.

The emergence of protests of dissatisfaction with the process and outcome of the election, on the one hand, was due to the many violations of electoral regulations that were not resolved completely; on the other hand, due to feelings of unfair treatment by election organizers. In the 1955 Election, the Indonesian Election Committee was accused by opposition parties of deliberately stalling the formation of an election committee in the region in order to include people who could benefit government parties. In other words, opposition parties accuse the election committee in the region of the result of the formation of the Indonesian Election Committee is not independent².

During the New Order, elections were designed to win the government party so that violations of regulations were widespread. Since the 1982 Election the Election Supervisory Committee was formed, but its real function is to reduce dissatisfaction with the occurrence of violations, not to resolve the violations themselves³. While the results of the 1999 Election could hardly be legalized because most members of the General Election Commission (KPU) who came from political parties refused to sign the results of the national vote count. The reason is that in the implementation of the election there are many violations so the results cannot be passed⁴. Similar reasons were also carried out by a number of parties in responding to the results of the 2004 Legislative Election. In fact they demanded a re-enforcement even though the law did not regulate it⁵. While throughout the 2004

¹ Pilkada termasuk bagian pemilu atau bukan, sempat menjadi perdebatan serius sehingga Undang-Undang Nomor 32 Tahun 2004 tentang Pemerintahan Daerah yang menempatkan pilkada bukan bagian pemilu digugat ke Mahkamah Konstitusi. Perdebatan itu berakhir setelah Undang-undang Nomor 22 Tahun 2007 tentang Penyelenggara Pemilu yang menempatkan pilkada sebagai bagian dari pemilu, diberlakukan.

² Actually the accusation that the election committee in the non-independent region can be used as an excuse to reject the election results. But because of the political maturity of the party leaders at that time, this did not happen. See Herbert Feith, *Election 1955*, Jakarta: Popular Library of Gramedia, 1999. See also Alfian, *General Elections and Democratic Prospects in Indonesia*, in *Democracy and Political Processes*, Jakarta: LP3ES.

³ William Liddle, *Pemilu-Pemilu Orde Baru: Pasang Surut Kekuasaan Politik*, Jakarta: LP3ES, 1992, halaman 36-38. Lihat juga Alexander Irwan dan Edriana, *Pemilu: Pelanggaran Asas Luber*, Jakarta: Pustaka Sinar Harapan, 1995 dan Syamsuddin Haris (ed), *Menggugat Pemilihan Umum Orde Baru* Jakarta: Yayasan Obor, 1998.

⁴ Muchlis Hamidi (ed), *Kajian Pemilu 1999*, Jakarta: Puskab, Depdagri, dan Biro Humas KPU, 1999; dan Panitia Pengawas Pemilihan Umum Tahun 1999 Tingkat Pusat, *Pengawasan Pemilihan Umum 1999: Pertanggungjawaban Panitia Pengawas Pemilihan Umum Tahun 1999 Tingkat Pusat*, Jakarta: Gramedia, 1999.

⁵ Panwas Pemilu, *Laporan Pengawasan Pemilihan Umum Anggota DPR, DPD dan DPRD*, Jakarta: Panwas Pemilu, 2004; dan Panwas Pemilu, *Laporan Pengawasan Pemilihan Umum Presiden dan Wakil Presiden*, Jakarta: Panwas Pemilu, 2004.

Presidential Election, Abdurrahman Wahid (along with his supporters) continued to protest after his name was not included in the KPU's list of presidential candidates. Finally, the implementation of the 2005 elections was colored by protests and even riots. In various regions, the supporters of the losing candidate pair launched anarchic actions because they felt cheated by other participants or by the organizers⁶.

Protests of dissatisfaction with the process and results of elections that are backed up by many violations that cannot be resolved, as well as the feeling of being treated unfairly by the organizers, indicate a problem of law enforcement in every election implementation. If not addressed immediately, on the one hand, it will continue to cause protests from parties who feel that their constitutional rights are violated, cheated, or treated unfairly; on the other hand, protests that emerged eventually could delegitimize election results. In an effort to realize an honest and fair election and also in order to avoid the delegitimation of the election in the future, the problems of the election law enforcement must be comprehensively resolved. The first step that needs to be done is to identify the causes of the emergence of law enforcement problems; then a comprehensive solution was sought to overcome the problem so that finally an electoral law enforcement system was realized that was able to guarantee the implementation of elections that were honest and fair.

Based on the experience of the practice of holding elections so far, the emergence of the problems of election law enforcement is due to several factors: first, the limitation of the occurrence of uncertain violations that lead to multiple interpretations that lead to controversy; second, the mechanisms and procedures for handling violations are unclear so that their handling is not easy; thirdly, election law enforcement agencies are not well prepared so that oversight in handling cases that occur; fourth, legal sanctions for violations are so mild that they do not give a deterrent effect.

International democratic election standards state that fair and fair elections (free and fair elections) can be achieved if a legal instrument is available which regulates all election implementation processes;⁷ as well as being able to protect the organizers, participants, candidates, voters, monitors and citizens in general from fear, intimidation, violence, bribery, fraud, and various other fraudulent practices that will affect the election results⁸. Therefore, an honest and fair election requires electoral legislation and the apparatus in charge of enforcing the electoral law.

In the context of building an electoral law enforcement system in Indonesia, in addition to needing to complete and reinforce the material of the legislation, it is equally important to question the effectiveness of the election law enforcement agencies. Election law enforcement officials consist of KPU / KPUD as election organizers who have the authority to impose sanctions against perpetrators of election administration violations; Election Supervisory Committee and Regional Election Supervisory Committee as supervisors who are authorized to ensure the existence of election violations and resolve non-election election disputes; The Constitutional Court assigned by the constitution to resolve disputes over election results; as well as the ranks of the police, prosecutors, and judicial institutions, each of which has the authority to investigate, prosecute, and convict perpetrators of election criminal offenses.

Some questions related to election organizers, for example, have the KPU / KPUD carried out its function as a sanction against perpetrators of administrative violations? Are the KPU / KPUD management structures and organizations effective enough to deal with cases of election administration violations? Are the decisions of the KPU / KPUD, both regulatory and determinant, can be corrected by the losers or those who feel they have been treated unfairly by the decision? So, where or what institution has the authority to correct the KPU / KPUD decision? Is it necessary to have a special election court in charge of examining the decisions of the KPU / KPUD in order to avoid the arbitrariness of the institution?

In terms of handling election criminal offenses, the question is how is the role and function of the police, prosecutors and judges effective? Are procedures for handling election criminal offenses easily carried out by these three institutions? Then, what about the position of the election supervisor who becomes an intermediary institution and is tasked with clarifying the presence or absence of election violations? Should the intermediary institution be maintained or will the intermediary function be eliminated so that cases of administrative violations are directly handled by the KPU, while cases of criminal violations are directly handled by the police, prosecutors and judges? If indeed the last resort is chosen, who is handling the cases of non-election election disputes that have been handled by election supervisors?

PROBLEM

What is the settlement of criminal acts, administrative violations, administrative disputes, and disputes over election results in Indonesia?

DISCUSSION

A. Important Requirements for Election Law Enforcement

⁶ Lihat laporan *Konflik dan Kekerasan Massa dalam Pilkada yang disusun Komite Independen Pemantau Pemilu (KIPP)*, 30 Juni 2005.

⁷ International Institute for Democracy and Electoral Assistance (IDEA), *Standar-standar Internasional Pemilihan Umum: Pedoman Peninjauan Kembali Kerangka Hukum Pemilu*, Jakarta: International IDEA, 2002 dan Guy S Goodwin-Gil, *Pemilu Jurdil: Pengalaman Standar Internasional*, Jakarta: Pircac dan The Asia Foundation, 1994.

⁸ Topo Santoso, *Tindak Pidana Pemilu*, Jakarta: Sinar Grafika, 2006.

Regarding compliance with the rules and law enforcement, there are a number of requirements that form the basis for the development of a good electoral law enforcement system. The requirements are: (1) The existence of effective legal mechanisms and solutions; (2) There are rules regarding penalties for election violations; (3) There are detailed and adequate provisions to protect voting rights; (4) There are rights for voters, candidates and political parties to complain to the EMB or court institutions; (5) There is a decision to prevent the loss of voting rights from an EMB or court institution; (6) The right to appeal; (7) There is a decision as soon as possible; (8) There are rules regarding the time needed to decide a lawsuit; (9) There is clarity regarding the implications for violations of election rules on election results, and; (10) The existence of processes, procedures and prosecutions that respect human rights.

The 10 conditions above will be used to explain how to resolve violations and resolution of election complaints in Indonesia.

B. Classification of Election Law Problems

As previously explained, legal issues in elections can be classified into four types: first, election crimes; second, election administration violations; third, election administration disputes; and fourth, disputes over election results⁹. Election crime is a violation of the provisions stipulated in the electoral law that are threatened with criminal sanctions¹⁰. Not all criminal acts that occur during elections are classified as election crimes. For example, criminal acts of traffic violations, murder of political opponents, persecution and so on, even though occurring during the election period is not an election crime, but a general crime.

Violations related to administrative regulations, requirements and procedures for conducting elections are also not election crimes. Such violations need to be regulated and sanctioned, but not criminal sanctions but administrative sanctions (eg revocation, revocation of permits, refusal). For example, is a violation of the time of voting and closing, polling stations, completeness of election equipment, voter registration, or voting procedures and vote counting.

Administrative violations in Law No. 12/2003 is defined as a violation of the requirements and procedures established by law. This understanding is so broad that it seems to be able to include all violation practices, such as a person registering as a candidate but lacking a diploma requirement. The relevant candidate is indeed lacking in requirements, but the person does not need to be considered as committing a violation. Suffice it that the nomination is not accepted. The case was only a violation if the officer still accepted the nomination of the person, even though the requirements were not met. In fact, it can be an election criminal case if the candidate uses a fake diploma. In short, the meaning of violations here must be limited as a violation of election regulations that are threatened by election administration sanctions.

The following are some examples of serious cases of incidents that took place in the stages of organizing elections:

a) Voter Registration Stage

Serious violations are manipulation of voter data (for example concerning age and domicile), multiple identity cards, falsification of voter identity, deliberately not registering citizens who are entitled to vote. Other violations that might arise are intimidation so as not to register and manipulate the voter list. These violations are violations that contain elements of election crimes or election crimes. Non-criminal election violations can occur, for example, registrations that do not comply with the provisions. Subjects or parties who can commit this violation are citizens, PPS / PPK, or registrants. The result of violations at this stage can spread to violations in other stages, namely in the form of multiple voters (occurring at the voting stage).

b) Registration and Determination of Election Participants

Serious violations are data manipulation (eg, fictitious supporting identities, fictitious offices, fictitious management), intimidation / violence related to registration and determination of election participants, bribery related to registration and determination of election participants (to pass / not pass candidates for election participants). These violations constitute election crimes. Non-criminal election violations can occur, for example, registration that does not comply with the provisions. Subjects or parties who can commit this violation are the administrators of political parties, candidate candidates, and organizers election.

c) Campaign Phase

Serious violations include violence / threats / intimidation, bribery (money politics), humiliation / pollution / black campaigns, abuse of positions and facilities for the benefit of the campaign, and irregularities in campaign finance¹¹. These are some

⁹ Disputes over election results are the authority of the Constitutional Court to resolve them

¹⁰ Until now there is no definition given by a law in Indonesia concerning what is called an election crime. See understanding of criminal acts of election more complete in Topo Santoso, Criminal Election, (Jakarta: Sinar Grafika, 2006).

¹¹ Regarding criminal acts 'off-schedule campaigns' which usually always occur before or after the campaign stage, it needs to be more clearly regulated. We recommend that not all activities of political parties or prospective candidates be banned because they will only add to the list of problems / violations and are very busy with the work of election organizers, election supervisors, and election monitors. What needs to be regulated and cannot be done (outside of the schedule) is only activities involving the masses (whether coordinated by the party, candidates, or on the will of the citizens themselves) that can be light or disguised as a form of campaign. Such meetings can be restricted (for example, not done 6 months before the mass campaign). The ban does not include a limited number of party meetings. Party meetings must be reported and licensed by the election organizer. What about the campaign period? Setting the campaign schedule during the campaign period only regulates open campaigns / general meetings or other forms involving large masses. Other forms of campaigns can be carried out throughout the

examples of campaign violations that are threatened with criminal sanctions by electoral law so that they can be called election crimes. Violations of campaign provisions that are not threatened with criminal sanctions can also be regulated by laws or regulations below, such as violating the provisions of the installation of campaign props related to location, number, size, duration, and so on. For this type of violation, the law and regulations should regulate the form of sanctions, for example in the form of revocation of props, campaign restrictions for a certain period of time, written reprimands, announcements to the public, or termination of the campaign. Subjects or perpetrators of violations are (administrators) political parties, candidates, campaign teams, citizens, and the mass media.

d) Voting and Vote Counting Phase

Serious election violations include choosing twice, causing loss of voting rights (for example by not distributing voter cards), intentionally cheating in counting, blocking voters, committing violence / threats / intimidation so that people choose or not vote, bribery (money politics), bribing election organizers, manipulation of calculations. The above acts constitute election crimes. Other actions that can also be included here are to use party / candidate clothing / symbols near the TPS or prevent legitimate witnesses from following the vote / counting process. Non-criminal violations at this stage include violations of the procedure for unintentional counting (eg counting in places that are not permitted, counting in less bright places, counting in a place that is less visible to witnesses, negligence in counting, not using the specified equipment). In such cases, violations that occur can result in non-criminal sanctions such as repeating a vote or counting votes. Such violations by authorized parties can be resolved if there are reports or if found. The other way is through objections raised by the injured party. Subjects or perpetrators of such violations in general are (administrators) political parties, candidates, witnesses, citizens in general, and election organizers.

C. Criminal Settlement and Election Administration Violations

1. Election Criminal Settlement

Criminal acts must be resolved by the criminal justice system (SPP). In general, SPP consists of components: police - prosecutors - courts (general). In special crimes, this component may be different. For example in the case of corruption consisting of: police / prosecutors / KPK - prosecutors / KPK - courts (general / corruption);
in fisheries cases, the police / PPNS / TNI AL - prosecutors - fisheries ad hoc courts.

What about election crimes? The handling of election crimes is no different from a general criminal act, which is resolved by SPP: police - prosecutor - court. It's just that in the 1999 elections and the 2004 elections, before the police carried out the investigation, there was a report screening process / findings by the election supervisors. Even so, election supervisors are not authorized to investigate (let alone demand) so that they are not included in the SPP. In summary, the handling of criminal acts of elections through the process: election supervisors SPP (police - prosecutor - court). In the 1999 Election, election crimes were handled as other crimes. In the 2004 Election, election crimes were settled in accordance with the applicable criminal procedure law, but there were different provisions (generally shorter: some were completed in the PN, some were completed at the PT, no one went to MA).

Before police investigations, reports are processed by the election watchdog, but the police checks are often repeated from the beginning. Even sometimes the format of reports from election supervisors is not accepted (because the police have their own format). In addition to forwarding reports received from the public, election supervisors also reported themselves the alleged election crimes. Therefore, election supervisors are often examined as reporting witnesses, which often complicates the position of the election supervisors themselves. In some cases election supervisors who report or forward reports from citizens to the police are instead made suspects in defamation cases¹².

Many cases have stopped because of different perceptions between election supervisors and the police or cases that cannot be handled because they are considered to have expired. In the future, the election crime report should be delivered directly by the injured party or citizens to the police, without going through the election supervisor. In addition to shortening criminal proceedings and avoiding expiration, so that various parties (citizens, monitors and candidates / campaign / witness teams) can be more proactive in monitoring elections and reporting election crimes to the police. For the sake of the effectiveness of the investigation and investigation of cases of election crime, it is recommended that a special police unit be trained to handle election crimes. Because, the handling of election crimes, in addition to requiring general knowledge of criminal acts, also requires special knowledge because elections are a political process in which various modes of election crime are very subtle or very complicated, for example money politics carried out in the mode of donation, compensation, competition prizes , price discounts, salary increases, or cheating in reporting campaign funds.

From the police the case file is handed over to the prosecutor. It is also expected that a special unit of prosecutors will be established to handle election criminal cases. The consideration, as in the investigation process, the prosecutor for election criminal cases also needs to provide knowledge about the election.

campaign period more freely, as long as they comply with the provisions regarding the campaign. With this provision, the election organizer is not preoccupied with reprimanding or overseeing the sticking campaign pictures, discussions, advertisements, door to door, dissemination of campaign material, dialogue, and so on.

¹² In the 2004 Legislative Election, Head of Election Panwas of Central Java Province Nurhidayat Sardini was named a suspect in the defamation case of the Solo City PDIP administrator due to the Central Java Election Supervisory Committee, which he led reported the PDIP officials to the Solo police.

The case of an election crime leads to a court that will settle the case according to the time specified¹³.

Here it is also expected that there will be special judges who handle election crimes because in giving consideration and decisions regarding election crimes, extensive knowledge is needed regarding the law and the electoral process. Long ago, it was expected that judges had studied the law and the electoral process as well as cases of election crimes that had existed before. Indeed in the 1999 elections and the 2004 elections there was a letter from the Supreme Court so that each court would determine judges who would hear election criminal cases. However, this needs to be followed by an in-depth briefing on the law and the electoral process as well as the settlement of election crimes, for judges who have been determined to hear election criminal cases.

To increase the effectiveness of the settlement of election crimes, need integration in the criminal justice system. All components in this system - besides mastering legal knowledge and skills in general - must master the law and the electoral process. Thus the components that work in the special criminal justice system to deal with the election crimes are: first, the police (ie the special team that handles election crimes); second, the prosecutor (ie a special team that handles election crimes; and thirdly, the court (ie special judges handling election crimes).

2. Completion of Election Administration Violations

Regarding election administration violations, election legislation must clearly regulate the forms of violations and what sanctions are, then who is authorized to impose sanctions, as well as the mechanism for resolving these violations.

In the 2004 Election such regulations were so lacking that there were often cases where it was not clear whether it was the authority of the election supervisor, KPU / KPUD, local government, or other agencies. As a result there is an overlapping action or no one takes action. In the 1999 Election administrative violations (including electoral procedures) were settled by KPU / PPI. Especially for campaign violations, election supervisors have a number of authorities to handle violations (for example, giving a warning or stopping a campaign).

Meanwhile, in the 2004 Election the authority to resolve administrative violations was held by the KPU / KPUD, while the election supervisors only supervised and forwarded the reports to the KPU / KPUD. The experience of the 2004 Election proved that many reports of administrative violations that were forwarded by election supervisors were not handled by the KPU / KPUD or at least there were no reports on how to resolve them. At that time there was also no clear mechanism for how KPUP / KPUD handled reports of administrative violations and what their decisions were. Therefore, in the future it is necessary to make special provisions regarding the settlement of this administrative violation and its standard operation procedure (SOP).

In some EMB countries, they have special sections / units to receive complaints / complaints and investigate and resolve election violations and impose sanctions. This study recommends that in the future the role of the KPU / KPUD be increased to resolve non-criminal election violations, for example by forming a special section / unit tasked with receiving and examining and imposing sanctions for election administration violations. What if this kind of violation is carried out by the election organizer or election organizer element? Such violations must be reported to and resolved by the election organizers at the top level, or a mechanism for filing election complaints is made.

D. Settlement of Administrative Disputes and Election Results Disputes

This section will discuss the resolution of electoral administration disputes, the institution that finalizes, and the mechanism. In accordance with democratic election standards, parties who feel aggrieved (for example because they lose their voting rights or not qualify as candidates) have the opportunity to examine the election organizers' decisions through an objective testing process. The aggrieved party has the right to file a complaint, so that the decision of the election organizer that is deemed inappropriate can be corrected.

This issue is of particular concern in Indonesia because the election law (on the grounds of the electoral process must be fast) confirms that the KPU / KPUD's decision is final on several important issues (voter registration, determination of election political parties, determination of candidates, counting and vote recapitulation) . Even if there are objections, the final decision goes to the decision maker itself. There are two reactions to this provision: first, the appearance of anger (because there are no other means for complaint), and; second, keep filing a lawsuit with the court, for example to the District Court (PN) or to the State Administrative Court (PTUN). In fact, none of the provisions in the electoral law justify the completion of the two types of justice institutions.

Arrangements regarding this matter are also important to give satisfaction to the public who question: who should supervise the organizer election (especially if election supervisors are abolished)? In short, question this can be answered: election organizers are supervised by objection mechanisms submitted by parties who feel aggrieved. If the decision or action of an election organizer is deemed wrong or violates the provisions of electoral legislation, the sanctions are in the form of cancellation or changes in the decision or action of the election organizer.

¹³ Many court decisions on election crimes turned out to be in the form of probation, even though the electoral law threatened a minimum imprisonment penalty for all election crimes. This happened because Law No. 12/2003 and Law No. 23/2003 does not state that specifically for criminal acts election election cannot be punished. If such clauses exist then the judge cannot impose a criminal trial. This is an exception / special rule because in the Criminal Code it is stated that judges can impose probation if they impose a sentence under 1 (one) year.

This study proposes the settlement of electoral administrative disputes that occur pre-announcement of election results, especially regarding objections of citizens who have lost their right to vote, objections of political parties that fail to become election participants, objections of someone who fails to become a candidate / candidate member of DPR / DPRD / DPD, and objections candidates / political parties regarding vote counting at TPS, PPS, PPK, or KPUD.

There are several institutions that handle election complaints, namely: KPU / KPUD, High Court (election judge in PT), and Supreme Court (election judge in MA). Election judges, both at PT and at MA, consist of career judges and also legal experts (especially election law or those related to elections).

Handling objections to elections requires the need for clear rules of the game.

a) Voter Registration

According to Law No. 12/2003 and Law No. 23/2003, citizens whose names are not listed in the provisional voter list (DPS) can propose improvements to the election organizer (PPS) so that their names are flat. However, the law only states that the PPS is making improvements and after that the KPUD determines the permanent voter list (DPT).

What if it turns out that the name in question still doesn't appear in DPT? Of course this is very detrimental because the voting rights are lost. In accordance with democratic election standards, the law must regulate the protection of voting rights and make rules regarding how the aggrieved party can fight for that right.

Therefore, this study proposes that citizens who have submitted repairs to PPS / PPK turns out that their names are still not included in the DPT can raise objections to the higher parties (a kind of appeal against the decision of the PPS / PPK). This objection is submitted by citizens who have the right to vote but are not registered. An objection request is submitted to the Regency / City KPU to get a final decision.

Based on this decision, the voter list must be adjusted by the election organizer. However, it should also be limited to the time for filing an objection, for example no later than 20 days before the vote, the Regency / City KPU checks and decides this objection no later than 7 days after the objection is received. After the period of filing this objection ends, there is no more process for filing an objection regarding voter registration.

b). Registration and Determination of Election Participants

The legislation governing the 2004 Election states, research and determination of political parties for election participants as well as individuals of DPD member candidates is carried out by the KPU and its final decision. The mechanism available to correct the KPU's mistake on this matter can only be done before the KPU's decision is made, namely the opportunity to complete a number of shortcomings.

After the KPU's decision came out there were no more attempts to correct. Of course this is very detrimental to political parties or individual candidates for DPD members, especially political parties or the person does not qualify to be an election participant because of a mistake from the KPU / KPUD.

In accordance with democratic election standards, it should be given the opportunity for the injured party to submit an appeal. This mechanism also controls the implementation of KPU / KPUD duties to avoid the tendency to act arbitrarily. This objection is submitted by political parties who are candidates for election participants or individual candidates for DPD members who are deemed not qualified as election participants by the KPU. Applicants can file an objection to the Supreme Court through PT. MA (especially election special judges) must examine objections to the KPU's decision within 14 days of receipt.

Objection must be submitted no later than 3 (three) days after the KPU's decision regarding the political parties participating in the election. Based on this decision, the KPU must adjust its decision regarding election participants.

c). Determination of Candidates

UU no. 12/2003 and Law No. 23/2003 authorizes KPU / KPUD to examine and decide upon candidates or candidates for members of DPR, DPRD, DPD, or candidates for president and vice president with final decisions. As in the determination of election participants, the mechanism available to correct KPU's mistakes on this matter can only be done before the KPU's decision is made, which is an opportunity to complete a number of lack of requirements. After the KPU's decision came out, there was no room for correction. Of course this is very detrimental to the prospective candidates who failed to become candidates because it could be a failure due to the mistakes of the KPU / KPUD.

In accordance with democratic election standards, for disadvantaged parties given the opportunity to appeal. Therefore, this study proposes a mechanism for filing an objection to the decision of the KPU / KPUD regarding the determination of candidates or candidates for members of the DPR, DPRD, DPD, and candidates for president / vice president to the judiciary.

This objection is proposed by prospective DPR / DPRD members and not candidates for president / vice president based on the KPU / KPUD's decision to fail to become candidates for DPR / DPRD, DPD, and candidates for president / vice president. Applicants can file objections to the Supreme Court (especially election judges) through PT. The Supreme Court (especially election special judges) must examine objections to the KPU's decision within 14 days of receiving the objection. While the objection must be submitted no later than 3 (three) days after the KPU's decision regarding candidates for DPR / DPRD, DPD, and presidential / vice presidential candidates. Based on this decision, the KPU must adjust its decision.

d). Campaign

In the 2004 elections, it was regulated about election violations during the campaign period and there were also election disputes during the campaign. In fact, what happens is a lot of violations that constitute election crimes and which are administrative violations.

What is considered a dispute was indeed recorded by the election supervisor, but the essence is a violation committed by one party and the other party submits it as a dispute. This study wants to change the understanding of campaign disputes with new terms, namely election objections related to the campaign. These objections are submitted by political parties and individual candidates for election or presidential / vice presidential candidates or their campaign teams for a decision from the election organizer (which is considered detrimental) to the election organizers on it (for example, the Regency / City KPU's decision is submitted to the Provincial KPU, or above Provincial KPU decision is submitted to KPU). What about the KPU's decision? Objection can be submitted to an election judge in MA.

Considering the campaign period is quite short, settlement of complaints during this campaign period is also carried out in a short time. Filing an objection is done no later than 3 (three) days after the decision of the KPU / KPUD is issued. Settlement is carried out by those authorized to decide within no later than 7 (seven) days from receipt of the objection.

e). Voting and Vote Counting

Political parties and individual election participants who feel aggrieved by the election executor's decision to handle the collection and calculation so that the votes obtained lost or reduced can raise objections. All objections in this area must be supported by accurate documents, to clarify to whom the complaint was filed. The objection form is provided by TPS / PPS / PPK officers.

Objection must contain information as appropriate as standard election complaints which include the name of the complainant, description of events, witnesses, and so on. After receiving the objection, the PPS / PPK entered the objection to the official report. PPS / PPK must file an objection together with the official report no later than 2 (two) days after the vote count has been carried out by the Regency / City KPU. Subsequently the Regency / City KPU checks the complaint within 5 (five) days. The form of Regency / City KPU's decision on objections can be in the form of re-voting, recounting, canceling the vote, canceling the vote count, or rejecting objections because the election executor has carried out the duties correctly.

The results of the decision of the Regency / City KPU are binding on all parties related to voting and counting of votes and are used if there are disputes over election results in the Constitutional Court related to the case. Objection to vote counting / recapitulation conducted by Regency / City KPU can be submitted to the Provincial KPU.

The party submitting an objection (political party / witness / candidate) submits an objection no later than 2 (two) days after the vote counting / recapitulation is carried out by the Provincial KPU. Provincial KPU checks the complaint within 5 (five) days from the receipt of the objection. The form of the Provincial KPU's decision on the objection may take the form of a recount or strengthen the decision made by the Regency / City KPU.

The objection to the vote count / recapitulation conducted by the Provincial KPU can be filed an objection to the KPU. The party who filed an objection (political party / witness / candidate) filed an objection no later than 2 (two) days after the vote counting / recapitulation was carried out by the KPU. KPU checks the complaint within 5 (five) days of receipt of the objection.

The form of the KPU's decision on objections can take the form of recounting or strengthening decisions made by the Provincial KPU. In examining the objections filed, KPU, Provincial KPU, or Regency / City KPU can summon witnesses, examine all documents, open ballot boxes, and so on which all complaints resolution mechanisms are regulated in special provisions concerning this matter. The results of this decision bind all parties related to voting and vote counting and are used if there is a dispute over election results in the Constitutional Court related to the case.

Against the results of the recapitulation carried out by the KPU and the determination of the objection cannot be filed, but it is carried out through the mechanism of disputes over election results to the Constitutional Court.

02. Settlement of Disputes After Announcement of Election Results

Objection after the announcement of election results by the KPU (especially in elections for members of DPR / DPRD including objections regarding the determination and announcement of election results by the KPU and the determination of elected candidates for DPR / DPRD members.

COVER

Conclusion

This study began by remapping the problems of election law enforcement that occurred from elections to elections in Indonesia. Then compare it to the international standards of democratic elections, and look at the practice of electoral law enforcement in various countries. This study concludes there are four legal issues of elections, namely election crimes, election administration violations, election administration disputes and election results disputes. In an effort to establish a comprehensive law enforcement system, the four must be clearly defined, in order to facilitate the involvement of voters, participants, candidates, election monitors and organizers in the implementation of electoral stages. That means the laws that regulate the election must be refined, then the institutions that handle the electoral legal issues must be strengthened and reorganized.

Suggestion

Considering the existing conditions, this study recommends that the development of an electoral law enforcement system should be carried out gradually, from the 2009 Election to the 2014 Election. Hopefully the results of this study can really be used by the designers and legislators to be used for regulate the organization of upcoming elections.

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Agus Wibowo, SH, M.Si

Email : hajiagus922@gmail.com

UNIVERSITAS 17 AGUSTUS 1945 SEMARANG