

An Ideal Concept of Ad Hoc General Election Supervisors to Handle The Code of Ethics

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Abstract

It is crucial to establish a code of ethics for ad hoc General Election observers in order to guarantee the integrity, fairness, and transparency of the democratic process. The objective of this research is to identify and examine the optimal approach for addressing infractions of the Code of Ethics for Ad Hoc General Voter Supervisors. The research employed normative legal research methodology, specifically utilizing a statutory and conceptual approach. An effective approach to addressing violations of the code of ethics for ad hoc general voter supervisors is to withdraw the authority of The General Election Supervisory Agency in handling such violations. This is in accordance with Article 10 of DKPP Regulation Number 3 of 2017, which has been recently amended through Election Organizer Ethics Council (DKPP) Regulation Number 1 of 2021. The amendment establishes a Regional Audit Team at the Regency/City level to conduct inspections and address code of ethics violations committed by ad hoc general voter supervisors.

Keywords: Ideal concept, Handling Code of Ethics, Election Supervisor

INTRODUCTION

The status of election organizers is stated in Article 22E paragraph (5) of the Republic of Indonesia's 1945 Constitution, which stipulates that general elections are held by a national, permanent, and independent general election commission. This is done to avoid the co-optation of factors that could lead to non-neutrality in the electoral process. Following the staging of direct elections, election organizing institutions such as the KPU (General Elections Commission), BAWASLU (Election Supervisory Agency), and DKPP (Election Organizer Ethics Council) were founded to arrange democratic contestation on a regular basis.

To hold elections throughout the Unitary State of the Republic of Indonesia, the General Election Commission and the Election Supervisory Body will work together as one Election Organizing Unit. The General Election Supervisory Agency abbreviated as *BAWASLU* is the name of the Election Supervisory Agency. The authority and duties of BAWASLU in arranging elections are expressly stated in Article 93 of Law No. 7 of 2017. Apart from the KPU and BAWASLU as the primary organizers of elections, there is also an institution that is constitutionally mandated as an election organizing institution with the task of deciding and investigating alleged violations of the election organizers' code of ethics. The duties of the DKPP are explicitly outlined in Article 159 paragraph (1) of Law no. 7 of 2017 concerning General Elections to maintain the independence, integrity, and credibility of election organizers, which are then further regulated by DKPP Regulation Number 3 of 2017 as amended several times, most recently through DKPP Regulation Number 1 of 2021 concerning the Second Amendment Regulations on the Honorary Council for General Election Organizers.

The handling of violations of the code of ethics of ad hoc organizers is delegated to each election organizing institution at the Regency/City level by DKPP Regulation Number 3 of 2017 as amended by DKPP Regulation Number 1 of 2021 concerning the Second Amendment to the Regulation of the Honorary Council of General Election Organizers Number 3 of 2017 concerning Procedure Guidelines for the Code of Ethics of Election Organizers. Article 10 of DKPP Regulation No. 3 of 2017, as updated numerous times, most recently through DKPP Regulation No. 1 of 2021, is used to determine BAWASLU ranks.

Due to a conflict of norms between the Election Law and DKPP Regulations, a horizontal conflict or conflict 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, the examination is closed and very vulnerable. The aforesaid interpretation of the regulations means that it is difficult to make objective or professional decisions to apply the applicable regulations. In order to address violations of the code of ethics, it is necessary to explore or develop various alternatives to effectively handle such issues, particularly at the ad hoc level. The DKPP, as it has evolved, has become an ethical judicial institution that aims to foster trust in the community towards election organizers.

From the aforementioned issues regarding the implementation of the code of ethics for ad hoc general election supervisors, the author is particularly interested in employing a tool to identify areas of discussion in this paper. This tool is known as normative legal research, which involves examining library materials or secondary data, also referred to as doctrinal research. In this approach, the law is often defined as the content of statutory regulations (law in books) or as rules and norms that serve as a standard for socially acceptable human conduct.

RESEARCH METHODS

Normative research primarily encompasses doctrinal legal study or theoretical legal research. The term "normative research" is used to describe a type of research that specifically examines written studies. This includes the use of secondary data sources such as statutory regulations, court decisions, legal theory, and legal principles. These sources are often the result

of scholarly scientific work. The areas examined in normative legal study encompass theory, history, philosophy, comparison, structure and composition, scope and substance, consistency, general elucidation, article-by-article explanation, formality, binding force of law, and the legal terminology employed.

In order to ensure that research is conducted in a methodical and logical manner, it is essential to adhere to systematic and rational approaches. This is crucial because research is a scientific endeavour that requires data to be valid and aligned with factual evidence. In the research conducted, the focus was on determining the optimal approach for managing the code of ethics for ad hoc election supervisors.

DISCUSSION

The DKPP, Election Organizer Ethics Council, Regulation No. 2 of 2017 governs the Code of Ethics and Code of Conduct for Election Organizers. This regulation is in line with the requirements of Article 157 paragraph 1 of Law Number 7 of 2017. Its purpose is to uphold integrity, honor, and independence, as well as to maintain the credibility of various election organizing bodies such as KPU (The General Elections Commission), Provincial KPU (Regional General Elections Commission), PPK (District Election Committee), PPS (Voting Committee), KPPS (Voting Organizing Group), Subdistrict of Election Supervisory Committee, the village Election Supervisory Committee, Overseas Election Supervisory Committee, and TPS (Polling Station) Supervisors.

Regulation No. 2 of 2017 encompasses several significant regulations, specifically pertaining to the principles, foundations, principles, and oaths of election organizers, as well as behavioral instructions for election organizers. As an election organizer, it is crucial to uphold integrity and professionalism by following the principles of election organizers to ensure the execution of honest and equitable elections. The concepts of the code of ethics for election organizers are derived from Election Organizer Ethics Council Regulation No. 2 of 2017, which specifically addresses the Code of Ethics and Code of Conduct for Election Organizers. The code of ethics for election organizers is guided by the ideals of honesty, independence, fairness, accountability, legal certainty, accessibility, orderliness, openness, proportionality, professionalism, effectiveness, efficiency, and the promotion of public interest.

3.1. Procedural Code of Ethics Guidelines for General Election Organizers

DKPP Regulation (Election Organizer Ethics Council) number 1 of 2021 pertains to the second modification of the Regulation of the Honorary Council of Election Organizers No. 3 of 2017, which deals with the guidelines for procedural matters. The Code of Ethics for General Election Organizers was created to enforce the regulations stated in Article 38 paragraph (4), Article 137 paragraph (1), and Article 160 of Law Number 7 of 2017 regarding General Elections. In order to provide procedural guidelines for the Code of Ethics, the DKPP is required to establish Regulations on the Honorary Council of General Election Organizers. It is necessary to make adjustments to certain provisions in DKPP Regulation No. 3 of 2017, which deals with the procedural guidelines for the Code of Ethics of General Election Organizers. These adjustments should reflect the latest developments in addressing violations of the code of ethics by election organizers. The amendments were made through DKPP Regulation No. 2 of 2019.

Overall, Regulation No. 1 of 2021 encompasses several regulations, including the principles governing code of ethics hearings, the handling of complaints and/or reports, the investigation of complaints and/or reports, the conduct of trials, regional examination hearings, and the process of decision making. In addition to incorporating the code of ethics procedural guidance material, the regulation of ethical code procedural guidelines at DKPP also includes processes for complaints and/or reports. Foundational concepts or fundamental beliefs that guide actions or decisions. The code of ethics hearing held by DKPP is carried out on the idea

of being swift, open and uncomplicated. Complaints, complaints, and prosecutions concerning alleged violations of the Election Organizer Code of Ethics are exempt from any fees.

The procedure for filing complaints regarding violations of the Election Organizer's Code of Ethics is outlined in DKPP Regulation No. 1 of 2021, which amends the Election Organizer's Honorary Council Regulation No. 3 of 2017. This regulation provides guidelines for the proceedings related to the Code of Ethics for General Election Organizers. The discussion regarding procedures for addressing violations of the election organizer's code of ethics encompasses the following aspects:

- a) Submission of complaints and/or reports;
- b) Specifications and protocols for submitting complaints and/or reports;
- c) Evaluation of complaints and/or reports (including administrative verification, material verification, registration, and scheduling of hearings);
- d) Regional sessions for further examination;
- e) Final determination of the decision.

3.2. Mechanism for Handling Violations of the Code of Ethics for Ad Hoc General Election Supervisors

The Bawaslu Regulation Number 4 of 2019. Concerning Mechanisms for Handling Violations of the Code of Ethics for Subdistrict General Election Supervisory Committees, Subdistrict/Village General Election Supervisory Committees, and Polling Place Supervisors, established with the aim of implementing the provisions of Article 10 of DKPP Regulation Number 3 of 2017 as amended several times. the last time through DKPP Regulation Number 1 of 2021 concerning the Second Amendment to the Regulations on the Honorary Council of General Election Organizers which reads "In the case of a Defendant and/or Reported Party, namely the Election Organizer who serves as:

- a) PPK members;
- b) members of the District Panwaslu;
- c) PPS members;
- d) members of the Election Supervisory Committee;
- e) KPPS members; or
- f) "Polling Place Supervisor, Complaints and/or Reports are submitted directly to DKPP or Regency/City Bawaslu."

The Regulation of the General Election Supervisory Agency of the Republic of Indonesia Number 4 of 2019. Concerning Mechanisms for Handling Violations of the Code of Ethics of District General Election Supervisory Committees, Subdistrict/Village General Election Supervisory Committees, and Polling Place Supervisors regulates the flow and procedures for handling violations of the code of ethics of ad organizers hoc by the Regency/City Bawaslu, starting from receiving reports, inspections, and imposing sanctions on ad hoc organizers who violate the election code of ethics.

In accordance with the mandate of the Election Law, DKPP Regulation No. 5 of 2017 concerning Regional Audit Teams as amended by DKPP Regulation No. 1 of 2019 was issued to implement the provisions of Article 459 of Law No. 7 of 2017 concerning Elections, however this regulation was later amended with the consideration that it was based on evaluation Procedures for dismissal of the District Election Committee, Voting Committee, Voting Organizer Group, District Election Supervisory Committee, Subdistrict/Village Election Supervisory Committee and Polling Place Supervisors, need to stipulate Regulations on the Honorary Council for General Election Organizers regarding Amendments to the Regulations on the Honorary Council for General Election Organizers Number 5 of 2017 concerning Regional Audit Teams. There are a number of provisions in it, namely;

- a. Regional Audit Team Objectives, Position and Membership;
- b. Regional Audit Team Duties, Authorities and Obligations;

- c. Regional Audit Team Requirements, Appointment and Dismissal and;
- d. Examination Session in the Region

As in the previous explanation in the Election Law, the DKPP was formed to examine allegations of violations of the code of ethics for regional election organizers. The TPD (Regional Audit Team) functions as a regional judge to assist and/or accompany DKPP members in conducting investigations for violations of the code of ethics for regional election organizers. Apart from having the authority to examine, TPD can decide on violations of the code of ethics committed by PPK, PPS, KPPS, Subdistrict Panwaslu, Village/Subdistrict Panwaslu and TPS Supervisors. And in DKPP Regulation No. 5 of 2017 concerning Regional Audit Teams as amended by DKPP Regulation No. 1 of 2019, the purpose of establishing a Regional Audit Team is explained.

The TPD was formed to assist the implementation of DKPP's duties in examining alleged violations of the code of ethics for election organizers in regions located in the provincial capital. Based on Article 4 of DKPP Regulation No. 5 of 2017 concerning Regional Audit Teams as amended by DKPP Regulation No. 1 of 2019, the TPD Team consists of;

- a. 1 DKPP member;
 - b. 1 member of the Provincial KPU;
 - c. 1 Provincial Bawaslu person;
 - d. 1 member of society who comes from academics, community leaders or practitioners who have knowledge of elections and ethics, domiciled in the work area of the Regional Audit Team
- As the article above states, the Regional Audit Team is only located in the provincial capital, while the Regional Audit Team has quite broad authority to handle violations of the code of ethics committed by ad hoc organizers. This will be difficult for reporters who come from other regions. The geographical location is far from the provincial capital to submit its report so that the existence of the Regional Audit Team is not effective, therefore a Regional Audit Team must also be formed at the Regency/City level.

The Regional Audit Team carries out its duties for 1 (one) year and can be extended according to needs. To carry out audit purposes, as in Article 6 of DKPP Regulation No. 5 of 2017 concerning Regional Audit Teams as amended by DKPP Regulation No. 1 of 2019, TPD has 2 (two) main authorities, namely;

- a) Investigating infractions of the ethical code perpetrated by the Provincial KPU, Regency/City KPU, Bawaslu, Provincial Bawaslu, and Regency/City Bawaslu;
- b) Investigating infractions of the ethical code perpetrated by members of the PPK, Subdistrict Panwaslu, PPS members, Subdistrict/Village Panwaslu, KPPS members, TPS Supervisors if conducted jointly with members of the Provincial KPU, members of the Provincial Bawaslu, members of the Regency/City KPU, members of Regency/City Bawaslu.

As previously mentioned, the Regional Inspection Team at the Provincial level already possesses the jurisdiction to address violations of the code of ethics committed by PPK members, Subdistrict Panwaslu, PPS members, Subdistrict/Village Panwaslu, KPPS members, and TPS Supervisors. However, the presence of the Regional Inspection Team solely at the Provincial level poses a significant obstacle. This is because reporters in remote areas have limited access to submit reports to the Regional Inspection Team at the Provincial level. Consequently, reporters prefer to report such violations to the General Election Supervisory Agency which has been granted delegated authority by the DKPP.

Avoiding this situation is crucial due to concerns that reports submitted to the Regency/Municipal Bawaslu for examination may be subject to closure and susceptible to conflicts of interest. This is because the Regency/Municipal Bawaslu has a hierarchical relationship with the ad hoc Election Supervisor. Consequently, there is a risk of creating legal uncertainty regarding reports and findings managed by the General Election Supervisory

Agency. Therefore, the most effective solution for addressing violations of the code of ethics by ad hoc organizers at the Regency/City level is the establishment of a Regional Audit Team.

The effectiveness of addressing the numerous violations committed by regional election organizers will not be enhanced by granting Regency/City BAWASLU more jurisdiction to receive, scrutinize, and adjudicate on breaches of the election organizer's code of ethics. Additionally, the Regency/City Bawaslu has been granted extensive powers to oversee every aspect of the general election. Hence, establishing a Regional Audit Team at the Regency/City level is the optimal approach to address breaches of the code of ethics by ad hoc institutions, and to rescind the authority previously granted to Regency/City Bawaslu in handling violations of the code of ethics by ad hoc administrators.

CONCLUSION

The ideal concept in handling violations of the code of ethics for ad hoc general voter supervisors is to revoke the authority of Regency/City BAWASLU in handling violations of the code of ethics for ad hoc organizers as regulated in Article 10 of DKPP Regulation Number 3 of 2017 as amended several times recently through the DKPP Regulation Number 1 of 2021 concerning the Second Amendment to the Regulations on the Honorary Council for General Election Organizers and forming a Regional Audit Team at Regency/City level to carry out inspections and handle violations of the code of ethics by ad hoc general voter supervisors so that they are in line with Article 459 paragraph (3) of Law 7 of 2017 Regarding the General Election, states "The regional audit team as referred to in paragraph (1) has the authority to examine and can decide on violations of the code of ethics committed by PPK (District Election Committee), PPS (Voting Committee), KPPS (Voting Organizing Group), Subdistrict of Election Supervisory Committee, the village Election Supervisory Committee, and TPS (Polling Station) Supervisors" Making changes to the Regulations on the Honorary Council for General Election Organizers of the Republic of Indonesia Number 1 of 2019 concerning Amendments to the Regulations on the Honorary Council of General Election Organizers Number 5 of 2017 concerning Regional Audit Teams to add several norms governing the formation of Regional Audit Teams (TPD) at the Regency/Regency level. City.

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