

**THE INDEPENDENCE AND INTEGRITY OF THE GENERAL  
ELECTION COMMISSION IN CONDUCTING GENERAL ELECTIONS:  
WITH SPECIAL REFERENCE TO REVIEW LAWS AND  
REGULATIONS**

**PUBLICATION PAPER**



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**Field of Study** : Constitutional Law

**FACULTY OF LAW**

**UNIVERSITAS MUHAMMADIYAH YOGYAKARTA**

**2018**

**APPROVAL PAGE**

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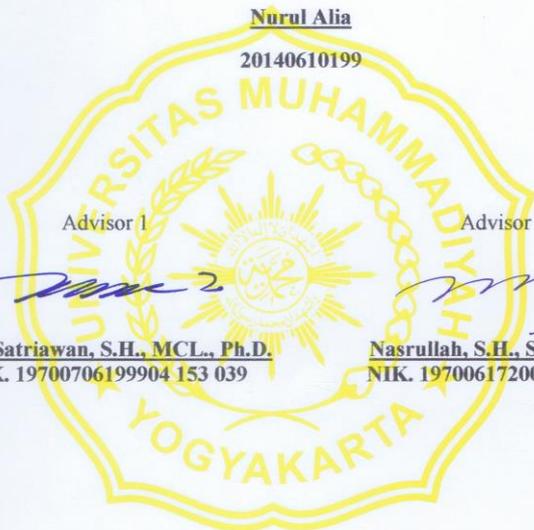
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**The Independence and Integrity of the General Election Commission in  
Conducting General Election: with Special Reference to Laws and  
Regulation on General Election of Indonesia**

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**ABSTRACT**

General Election is a tool that aims to provide an opportunity for the people to vote for and be elected as a political power rotation. This research has objective to evaluate whether laws and regulations on election are sufficient to guarantee the independence and integrity of The General Election Commission (KPU) in Indonesia. The research is a normative legal research with statute and case approach, by using juridical qualitative analysis. The research shows that Indonesia does not have sufficient laws and regulations that may guarantee the independence and integrity of the General Election Commission. There are some requirements to guarantee the independence and integrity of national election commission commissioners by providing some additional constraints. The first constraint is Streamline the implementation of the requirements of the commissioners not to be involved in political parties for the minimum 5 years before registration as candidate of the commissioners. The second constraint is by conducting good supervision to the KPU commissioners through the Election Supervisory Board (Bawaslu) and Election Organizer Ethics Council (DKPP). The last one is by providing particular constraints to the commissioners after they resign from the past such as they cannot be nominated in executive position after he/she resign, one period after the general election conducted by them. The research recommends that there is a need to do an amendment to the Law Number 7 of 2017 on General Election to include the rules about the prohibition of ex KPU commissioner to occupying the Executive position after he/she resign one period from the general election conducted by them, in order to avoid the affiliation which leads to a conspiracy between the KPU commissioner and executive body. It is expected that the independence and integrity of election commission commissioners will be more guaranteed.

**Keywords:** general election, the General Election Commission, independence and integrity.

## A. INTRODUCTION

The data of Election Organizers Ethics Council (hereinafter is referred to as DKPP) shows that there were 3586 violations made by the Election Organizer Bodies during 2012-2017.<sup>1</sup> One of the violations is related to the code of ethics especially on the independence and integrity of the General Election Commissioners. The joining of two members of KPU namely Anas Urbaningrum<sup>2</sup> in 2004 and Andi Nurpati<sup>3</sup> in 2010 into Demokrat Party have become a controversial phenomenon. Then, Hamid Awaludin<sup>4</sup> who was also the former member of KPU for the periode of 2003-2008 was appointed as a Minister of Law and Human Rights in the first period of President Susilo Bambang Yudhoyono's leadership.<sup>5</sup> These phenomenon become a concern for some political observers and societies regarding to the non-independence of KPU.

In 2010, there was a polemic related to the case of general election commission member who resigned before completing her position. Andi Nurpati has declared that she resigned from general election commission due to she was appointed as the chairman of Public Communications Division of Demokrat Party for period of 2010-2015.<sup>6</sup> Whereas, Andi's term as a member of KPU will end in the late of 2012 or still 2 more years away.

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<sup>1</sup> See Dewan Kehormatan Penyelenggara Pemilu Republik Indonesia, 2017, "DKPP Bahas Isu Strategis Terkait Revisi Kode Etik dan Pedoman Beracara Penyelenggara Pemilu", available at <http://www.dkpp.go.id/index.php?a=detilberita&id=2605> viewed on December 23<sup>rd</sup>, 2017, at 01.25 p.m.

<sup>2</sup> Anas Urbaningrum is the former chairman of Demokrat Party, the party who won general election in 2009. He was elected at the age of 40, he was one of the youngest party leaders in Indonesia.

<sup>3</sup> Andi Nurpati is the member of Panswaslu (General Election Supervisory Committee) of Lampung in 2004, the chairman of Local Election Supervisory Committee of Lampung in 2005, in 2004-2008 as Secretary of Perludem (The Association for Election and Democracy) of Lampung and the member of central Perludem. Then became the member of KPU until 2010.

<sup>4</sup> Hamid Awaluddin was the Minister of Law and Human Rights for the period of 2004-2007. Previously, Hamid was the ambassador of the Republic of Indonesia to the Russian Federation and Belarus between 2008 and 2011.

<sup>5</sup> Anonymous, 2004, "Jumlah Anggota KPU Kembali Berkurang", available at <https://news.detik.com/berita/228710/jumlah-anggota-kpu-kembali-berkurang> viewed on December 23<sup>rd</sup>, 2017, at 02.06 p.m.

<sup>6</sup> See M.Hernowo, 2010, "Ketika Andi Nurpati Kepincut ke Lain Hati", <https://ekonomi.kompas.com/read/2010/06/26/03455434/.ketika.andi.nurpati.terpincut.ke.lain.hati> viewed on December 23<sup>rd</sup>, 2017, at 1.47 p.m.

Hence, the reason is not merely accepted because it is considered to have violated the code of ethics of general election organizer that mentioned in the Law Number 22 of 2007 on General Election Organizer that the General Election Commission, Provincial KPU, and Regency/Municipality KPU members are resign due to pass away, permanently handicapped then unable to carry out the duties, obligations, or disrespectfully dismissed.<sup>7</sup> Therefore, Andi Nurpati still carried out her duty as commissioner of general election commission until the issuance of the letter of decree from Democrat Party. Consequently, Andi Nurpati left the KPU after being dismissed by the Honorary Board of General Election Commission (hereinafter is referred to as DK KPU) not due to her resignation.<sup>8</sup>

Therefore, the democratic general elections are not only determined by general election participants only, but also determined by the general election organizer. Institute for Democracy and Electoral Assistance (IDEA) formulates 7 general principles to ensure the credibility and professionalism of general election organizer; they are: independence, impartiality, integrity, transparency, efficiency, professionalism and service-mindedness.<sup>9</sup>

According to Professor Guy S Goodwin-Gill<sup>10</sup>, one of the basic requirements of democracy is free and fair elections which can be achieved if the available legal instruments that govern all of the election process are also able to protect the organizers, participants, candidates, voters, monitors, and citizens from fear, intimidation, violence, bribery, fraud, and other fraudulent practices that will affect the election result. Therefore, free and fair general election requires general

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<sup>7</sup> Article 29 of Law No. 22 of 2007 on General Election Organizer.

<sup>8</sup> Erlangga Djumena, 2010, "Bawaslu: DK KPU untuk Pecat Andi Nurpati", available at <https://nasional.kompas.com/read/2010/06/22/16281611/bawaslu.dk.kpu.untuk.pecat.andi.nurpati> viewed on December 23<sup>rd</sup>, 2017, at 02.08 p.m.

<sup>9</sup> Lutfi Chakim, "Desain Institusional Dewan Kehormatan Penyelenggara Pemilu (DKPP) Sebagai Peradilan Etik", Jakarta Pusat: 2014, 394-395.

<sup>10</sup> Professor Guy S. Goodwin Gill was formerly Professor of Asylum Law at the University of Amsterdam, served as a Legal Adviser in the office of United Nations High Commissioner for Refugees (UNHCR) from 1976-1988, and was President of the Media Appeals Board of Kosovo from 2000-2003.

election regulations and the apparatus which in charge of enforcing the general election regulations.<sup>11</sup>

As we know, general election is very important in the democratic state. So, the society has a great hope for the improvements of the implementation of general elections. That is why, a further study with special reference to the Indonesian prevailing laws and regulation to create a democratic election which is honest and fair through the independence and integrity of KPU members is really needed.

## **B. RESEARCH PROBLEM**

Based on the background above, it can be formulated that the research problem is how to guarantee the independence and integrity of the Election Commission in conducting election, with special reference to review laws and regulations

## **C. RESEARCH METHOD**

The type of the research is a normative legal research. Normative legal research is a legal research based on literature. The researcher used statute and conceptual approach, it means the research aims to know how the Indonesian Laws guarantee the independence and integrity of General Election Commission in conducting General Elections with special reference to review Laws and Regulations. Conceptual approach means the research referring to the views and doctrines which develop in the legal studies. The source is from secondary data that will be taken from literature: journals, books, encyclopedia, etc.

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<sup>11</sup> Topo Santoso, dkk, "Penegakan Hukum Pemilu Praktik Pemilu 2004, Kajian Pemilu 2009-2014", PERLUDEM, Jakarta, September, 2006.

## **D. FINDING AND ANALYSIS**

### **1. The Means to Guarantee Independence and Integrity of the General Election Commissioners**

#### **a. The Requirements of Being the General Election Commissioners**

The General Election commissioners at national level consist of 7 members, at Provincial level consist of 5 to 7 members, while at Regency/Municipal level consist of 3 to 5 members. The membership period of the General Election Commission at every level shall be 5 (five) years and after that can be re-elected only for one period.<sup>12</sup> The requirements to be a commissioner of General Election Commission (KPU) at national/provincial/regency/municipal are regulated in Article 21 of Law Number 7 of 2017 on the General Election and in Article 5 of General Election Commission Regulation Number 7 of 2018 on the Selection of Provincial General Election Commission and Regency/Municipality General Election Commission Members. Furthermore, the Article 22 E of 1945 Constitution requires, “The general election is organized by a general election commission which is national, permanent, and independent”.<sup>13</sup> The detail requirements are mentioned in the Article 21 of Law Number 7 of 2017 on the General Election, as follows:<sup>14</sup>

- a) A citizen of the Republic of Indonesia;
- b) At the registration, the age has been at least 40 (fourty) years old for the candidate members of General Election Commission of Republic of Indonesia, and the minimum age is 35 (thirty five) years old for the candidate members of Provincial General Election Commission and at least 30 (thirty) years old for the Regency/Municipality General Election Commission;
- c) Loyal to Pancasila as the fundamental principle of state, the 1945 Constitution, and the ideals of the Proclamation of August 17<sup>th</sup> 1945;

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<sup>12</sup> Article 10 of Law Number 7 of 2017 on General Election.

<sup>13</sup> Art. 22 E of 1945 Constitution.

<sup>14</sup> Arti. 21 of Law Number 7 of 2017 on the General Election.

- d) Having integrity, strong personality, honest, and fair;
- e) Having knowledge and expertise related to the enforcement of election;
- f) The lowest education is bachelor degree (S1) for the candidate member of KPU of Republic of Indonesia and Provincial KPU, also the lowest education is High School or the same level for the candidate members of Regency/Municipality KPU;
- g) Domiciled in the territory of Indonesia for the members of KPU and in the territory of Province concerned for the member of Provincial KPU, as well as in the Regency/Municipality for the members of Regency/Municipality KPU as evidenced by the Identity Card (KTP);
- h) Being able in physical, spiritual and free from narcotics abuse;
- i) Resign from the membership of political party at least 5 (five) years when register as a candidate;
- j) Resign from the political office, position in government and State-Owned Enterprises (BUMN)/Regional Owned Enterprises (BUMD) when registering as a candidate;
- k) Willing to resign from social organization which is incorporate and unincorporate if was elected as the member of KPU, Provincial KPU, and Regency/Municipality KPU;
- l) Has never been sentenced to imprisonment based on court decision that has obtained permanent legal force because commits a crime which is punishable by imprisonment for 5 (five) years or more;
- m) Willing to work full time;
- n) Willing not to occupy the political office, position in government and State-Owned Enterprises (BUMN) / Regional Owned Enterprises (BUMD) during the term of membership if she/he was elected;

**b. The Selection Process of Commissioner**

To appoint the member of KPU, the President forms the selection team, as mentioned in the Article 22 of General Election Law. The President establishes the membership of a selection team which amounts of at most 11

(eleven) persons by taking note of women representation at least 30 %. The selection team has a duty to assist the President to determine the candidate member of KPU which will proposed to the House of Representative (hereinafter is referred to as DPR) that consist of 3 government representatives, 4 of academicians element and 4 of society element.<sup>15</sup>

There are some requirements of being selection team, among others:

- a) Has a reputation and good track record;
- b) Has a credibility and integrity;
- c) Understand general election issues;
- d) Has the ability in conducting recruitment and selection;
- e) Not in office as general election organizer;
- f) The lowest education is bachelor degree (S1)
- g) The minimum age is 40 (fourty) years old;
- h) Prohibited to nominate as the candidate of General Election Commission (KPU) commissioner.

The selection team implements its duties openly by involving the society, and then the selection team is assisted by the institution which competent in their field. In selecting the member of KPU, the selection team run several stages of activities, they are:<sup>16</sup>

- a) Announce the resgistration of candidate of KPU in the mass media and national electronic mass media;
- b) Receive the registration of candidate of KPU;
- c) Conducting observation of the administration of candidate of KPU;
- d) Announce the result of administration of candidate of KPU;
- e) Conducting the written selection with the main material is regarding to general election;
- f) Conducting Medical Test;

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<sup>15</sup> Article 22 of Law No.7 of 2017 on General Election.

<sup>16</sup> Article 23 of Law NO. 7 of 2017 on General Election.

- g) Conducting a series of psychology test;
- h) Announce the name of candidate who passed the written selection, medical test, and psychology test to get the society responses;
- i) Conducting the interview which the material is the implementation of general election and conducting clarification for society responses;
- j) Determine the 14 (fourteen) names of candidate of KPU in the plenary meeting; and
- k) Deliver the 14 (fourteen) names of candidate member of KPU to the President. Then, the selection team report every single stages of selection to the DPR.

After the selection team deliver the 14 (fourteen) names of candidate of KPU to the President, the President proposed 14 candidate names or twice amounts of KPU member to the DPR, the DPR selected the member candidate of KPU based on fit and proper test. The DPR determined 7 (seven) of the highest ranks of candidate member of KPU from 14 (fourteen) selected candidate member of KPU who were proposed by the President.<sup>17</sup>

Meanwhile, for selection of the members of Provincial KPU and members of KPU at Regency/Municipality level, KPU will form the selection team which consists of 5 fully integrated members representing the elements of academician, professional, and society. These selection teams work openly with involvement of the society. The selection teams shall submit the result of selection (Provincial/Regency/Municipal KPU candidates two times of the required posts) to KPU to be finalized by the KPU through fit and proper test.

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<sup>17</sup> Article 25 of law No. 7 of 2017 on General Election.

### c. The Supervision

#### a) The Supervision by the Election Supervisory Board (Bawaslu)

In order to supervise and maintain the independence and the integrity of KPU in running the election and to ensure the election is run in a fair and just election, the KPU members' works have to be supervised. The institution provided to carry out supervision is the Election Supervisory Body (hereinafter is referred to as *Bawaslu*). Before the enactment of the Law No 7 of 2017 on General Election, the duties, functions and authorities of Bawaslu were limited. Among others, the structure of Bawaslu in the Regency/Municipality level is not permanent (*ad hoc*), the authority to resolve the general election dispute, handling the general election violations, and the enforcement towards general election violations does not end in Bawaslu and the decision of Bawaslu is not final and binding.<sup>18</sup>

Through enactment of the new general election law, Bawaslu has more authorities. Bawaslu has a lot of role in making effective supervision of general election, dispute resolution, handling, violation and offence prosecution to ensure the implementation of general elections which are free from fraud, and conflict of interest, fair, clean and democratic.<sup>19</sup>

Regarding the supervision authorities, the Bawaslu has authorities on the general election process which mentioned in the Law Number 7 of 2017 on General Election, as follows:<sup>20</sup>

- a) The planning and determination of general election stages schedule;
- b) The planning of logistics procurement by KPU;

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<sup>18</sup> See Maharddhika, 2017, "Rezim Penegakan Hukum Pemilu di Tangan Bawaslu yang Makin Kuat", available at <http://rumahpemilu.org/rezim-penegakan-hukum-pemilu-di-tangan-bawaslu-yang-makin-kuat/>, viewed on February 4<sup>th</sup>, 2018, at 10.22 a.m.

<sup>19</sup> *Ibid.*

<sup>20</sup> Arti. 93 of Law Number 7 of 2017 on General Election.

- c) The Socialization of General Election Enforcement;
- d) The implementation of other preparations in the implementation of General Elections in accordance with the provision of legislations.
- e) Supervise the implementation of General Election stages.
- f) Supervise the neutrality of State Civil Apparatus (ASN);
- g) Supervise the implementation of verdict/decision;
- h) Supervise the implementation of KPU regulation;

Then, the Article 95 of general election law mentions the other authorities of Bawaslu among others:<sup>21</sup>

1. Examine, review, and decide the violation of general election administration;
2. Examine, review, and decide the violation of money politics;
3. Examine, review, mediate or adjudicate and decide the general election dispute resolution.

**b) The Supervision by the Election Organizers Ethics Council (DKPP)**

The other institution provided to supervise the KPU Members (commissioners) as part of the general election organizers is The Election Organizers Ethics Council (hereinafter is referred to as *DKPP*).DKPP is an institution which has a duty to uphold the integrity and credibility of the general election organizers. The DKPP has an aim to ensure that the honor of general election organizer is maintained. As the general election organizer, DKPP has several duties which governed by the General Election Law (in Article 159):<sup>22</sup>

1. Receiving the complaints and/or reports of alleged violations of code of ethics conducted by the general election organizers; and

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<sup>21</sup> Art. 95 of Law No.7 of 2017 on General Election.

<sup>22</sup> Art.159 of Law No.7 of2017 on General Election.

2. Conducting investigations and verifications, also examination of complaints and/or reports alleged reports a violation of the code of ethics conducted by the general elections.

DKPP has the authorities to:

- a) Summon the general election organizers which suspected of violating the code of ethics to give explanation and defense;
- b) Summon the complainant, witness, and/or other parties concerned to be questioned, including to be asked for documents or other evidences;
- c) Impose the sanctions on the general election organizers which proven to violate the code of ethics; and
- d) Decide the code of ethics violations.

**c) The Supervision by the Political Parties/General Election Participants**

Regarding the supervision of general election by the political parties is regulated in the general election law. It is mentioned that:<sup>23</sup>

1. The implementation of voting is witnessed by the general election participant witnesses;
2. The monitoring of voting is implemented by the general election monitors which accredited by Bawaslu, Provincial Bawaslu, and Regency/Municipality Bawaslu;
3. The witness must submit the written mandate from pair of candidate/campaign team, political party of general election participants, or the candidate of DPD to KPPS;
4. The witness is trained by Bawaslu.

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<sup>23</sup> Art.351 of Law Number 7 of 2017 on General Election.

#### **d) The Supervision by Press/Mass Media**

There are four political powers in the democracy, such as Executive, Legislative, Judiciary and Press/Media. The Chief Editorial Board of Jawa Pos states that the press as a media of information should inform the general election background, purpose and the aim of general election, the principle of general election, the general election stages, general election rule, the implementation general election, general election result and the sanctions of general election violation.<sup>24</sup> Regarding to the role of supervision by the press is mentioned in the Chapter II Article 3 and 6 of Law Number 40 of 1999 among others:<sup>25</sup>

- 1) National Press ha a function as information media, education, entertainment and social control;
- 2) Uphold the values of democracy, encourage the realization of legal supremacy, human rights and respect *Kebhinekaan*(heterogenity);
- 3) Develop the public opinion based on the information which is exact, accurate and true;
- 4) Carry out the supervision, critic, correction, and advice towards the things related to public interest;
- 5) Struggle for justice and truth.

#### **e) The Supervision by Society**

The Supervision and monitoring of general election is a unity of control efforts on the process of general election enforcement, both are the same functions as an effort to create an honest and fair general elections. Topo Santoso states that supervisors and monitors both carry out the mission of general election enforcement that are honest and fair. The differences are general election monitors only work to monitor the implementation, while the general election supervisors have a wider

<sup>24</sup> See Irwan, “Peran dan Fungsi Pers dalam Pengawasan Pilkada”, <http://bawaslu.go.id/id/berita/peran-dan-fungsi-pers-dalam-pengawasan-pilkada> viewed on April 26<sup>th</sup>, 2018, at 2.11 p.m.

<sup>25</sup> Law Number 40 of 1999 on Press

duties and authorities to resolve the disputes and violations of general election. Therefore, the monitoring work is a form of society participation that should be reported and forwarded to election supervisory board to be followed up.<sup>26</sup>

In the general election law mentions that the general election monitors are:<sup>27</sup>

- 1) Incorporated community organization foundation (organisasi kemasyarakatan berbadan hukum yayasan) or incorporated association which are registered in the government or local government;
- 2) General election monitoring institution from foreign country;
- 3) Foreign election institutions; and
- 4) Reperesentatives of sister city in Indonesia.

Furthermore, the monitors must fullfil the requirements as follows:

- 1) Independence;
- 2) Has clear source of funds;
- 3) Registered and has permit from Bawaslu, Provincial Bawaslu, or Regency/Municipality Bawaslu appropriate with the scope of monitoring area.

Before the new general election law, the accreditation of monitor is issued by KPU, but now through the Law No 7 of 2017 the accreditation is issued by Bawaslu.<sup>28</sup>

The society may conduct the supervision through participation in reporting all frauds and violations in the general election process. In reporting fraud the society may report to the general election supervisory body(Bawaslu and DKPP)through complaint procedure. The complaint procedure can be accessed through the DKPP's website which is also

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<sup>26</sup> Veri Junaidi, 2013, *Pelibatan dan Partisipasi Masyarakat dalam Pengawasan Pemilu*, Jakarta, Perkumpulan untuk Pemilu dan Demokrasi (Perludem) Berkerjasama dengan The Asia Foundation (TAF), p. 14.

<sup>27</sup> Art.435 Law No.7 of 2017 on General Election.

<sup>28</sup> Art .436 Law No. 7 of 2017 on General Election.

regulated in the Article 458 of Law No 7 of 2017 on General Election. In the website of DKPP complaint procedure that can be done by the community as follows:<sup>29</sup>

Complaint and/or Report of violations of the General Election Organizer's ethics code may be submitted directly or indirectly.

#### 1. Direct Complaint

Direct complaint to the DKPP: Reported is the member of KPU, Bawaslu, Provincial KPU or KIP Aceh (*Independence Election Commission Aceh*), Provincial Bawaslu, the member of Foreign Election Committee or Foreign Election Supervisory.

Direct complaint to the Provincial Bawaslu: Reported is the member of Regency/Municipality KPU or Regency/Municipality KIP, Regency/Municipality Panwaslu, PPK, District Panwaslu, PPS, Field Election Supervisor, KPPS.

#### 2. Indirect Complaint (Non-Electronic Media/Electronic Media)

**Non-Electronic Media:** Before making a complaint, the Complainant/Reporter may download the complaint form and send by written mail to: **Dewan Kehormatan Penyelenggara Pemilu (DKPP) Biro Administrasi DKPP - Bagian Pengaduan Jl. MH. Thamrin No. 14, Jakarta Pusat.**

**Electronic Media:** The Complainant/Reporter may make a complaint/reporting through electronic complaint media (e-Complaint), the Complainant/Reporter are register and verify via online to get username and password, the Complainant/Reporter are login into the e-Complaint system to conduct complaint/reporting electronically, Further information can send an e-mail to: [pengaduan@dkpp.go.id](mailto:pengaduan@dkpp.go.id).

In more detail, the complaint process is mentioned in the Article 458 of General Election Law as follows:<sup>30</sup>

<sup>29</sup> See <http://dkpp.go.id/index.php?a=panduan> viewed on March 27<sup>th</sup>, 2018, at 4.28.p.m.

<sup>30</sup> Art.458 of Law No.7 of 2017 on General Election.

- 1) The complaint about the allegation of violation of code of conduct of general election organizer submitted in written by general election Organizer, general election participants, campaign team, community and/or voter shall be equipped by the identity of the complainant to the DKPP;
- 2) The DKPP performs administrative verification and research on complaints. The DKPP shall deliver the first call to the General Election Organizer 5 (five) days before conducting DKPP session;
- 3) If the general election organizer concerned does not meet the first call, the DKPP may submit the second call 5 (five) days before conducting DKPP session;
- 4) If the DKPP has made two calls and the general election organizer does not fulfill the call for no acceptable reasons, the DKPP may immediately discuss and determine the decision without the presence of general election concerned;
- 5) The general election organizer concerned must come alone and cannot be authorized to others;
- 6) The complainants and the general election organizers who are reported may present the witnesses in the DKPP session;
- 7) The complainant and the reported general election organizer put forward the reason of complaint or defense in front of DKPP session;
- 8) The witness and/or other related parties provide the information before the DKPP session, include to be asked for the documents or other evidences;
- 9) The DKPP determines the decision after conducting research and/or verification of the complaint, listen to the defense and testimony of the witnesses, and consider other evidences;
- 10) The decision of DKPP in the forms of sanction or rehabilitation which is taken in the DKPP plenary meeting;

- 11) The sanctions may be written warning, temporary dismissal or permanent dismissal for the general election organizer;
- 12) The DKPP decision is final and binding;
- 13) The general election organizer must implement the DKPP decision.

While, in the Article 454 of general election law adds that the reports of general election violations is the direct reports from the citizen of Republic of Indonesia which has the vote rights, the participants of general election, and general election monitor to the Bawaslu, Provincial Bawaslu, Regency/Municipality of Bawaslu, District Panwaslu, village Panwaslu, foreign Panwaslu, and/or the supervisor of polling station (TPS) in each stages of general election stages. Then, the result of supervision shall be submitted no longer than 7 (seven) days since found the violations of general election.<sup>31</sup>

## **2. The Problem Facing in Ensuring the Independence and Integrity of General Election Commission**

### **a. The Requirements of Being the General Election Commission Commissioner**

The general election law should close the opportunity of political party members to being the commissioner of KPU. That is why in the Article 21 i of Law Number 7 of 2017 mentioned that the candidates must resign from the membership of political party for the minimum of 5 years.<sup>32</sup> According to Constitutional Court, the determination of grace period of five years is appropriate, because it coincides with the periodic of general election.<sup>33</sup> While, Mahfud Md states that the political party members cannot be the general election organizer unless they have been resigned for five years based on two reasons. First, through the Constitutional Court decision Number 81 of 2011, Constitutional Court (MK) wants to maintain the

<sup>31</sup> Art. 454 of Law No.7 of 2017 on General Election.

<sup>32</sup> Article 21 i of Law Number 7 of 2017 on General Election.

<sup>33</sup> R. Nazriyah, "Kemandirian Penyelenggara Pemilihan Umum (Kajian terhadap Putusan Mahkamah Konstitusi No. 81/PUU-IX/2011)", *Jurnal Hukum*, Vol. 18, 2011, p.124.

independence of general election organizer, either KPU or Bawaslu. Second, in order to our legal politic is consistent.<sup>34</sup>

The other reason is the KPU has had bad experience in 1999 due to the involvement of political party members in the institutional of KPU. The involvement of political party members in the membership of election commission has happened in Indonesia in the 1999 general election where the general election commission consisted of 48 political representatives and 5 government representatives.<sup>35</sup> In 1999 general election there were many disputes which have appeared such as in the plenary meeting, the result of the election was not signed by the representatives of political parties. The result is only signed by the government representatives.<sup>36</sup>

Another problem occurred was the distribution of the remaining seats. The Islamic political parties did *stembus accord*<sup>37</sup> (vote merging), according to the calculation of Indonesian election committee (PPI) only get 40 out of 120 seats. On the other hand, 8 of Islamic political parties that make *stembus accord* claimed to get 53 seats from the remaining 120 seats.<sup>38</sup> With regard to that case, Prof. Miriam Budiarjo stated: “The election commission has been developed into a dispute arena among political parties which only fight for the interest of their parties or personalities. The image of the politicians has reached to zero level, so the public opinion emerges

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<sup>34</sup> *Ibid.*

<sup>35</sup> See Rakhmat Nur Hakim, 2017, “Politisi PAN: DPR Wajib Jaga Independensi dan Kemandirian KPU”, available at <http://nasional.kompas.com/read/2017/03/28/12032081/politisi.pan.dpr.wajib.jaga.independensi.dan.kemandirian.kpu>, viewed on October 20<sup>th</sup>, 2017 at 3.22 p.m.

<sup>36</sup> See Komisi Pemilihan Umum Republik Indonesia, 2008, “Pemilu 1999”, available at <http://Kpu.go.id/index.php/pages/detail/2008/11/Pemilu-1999> viewed on March 29<sup>th</sup>, 2017 at 1.36 p.m.

<sup>37</sup> *Stembus Accord* is a cooperation or agreement between two or more political party in election to help each other by utilization the rest of vote which is not end up divided by the Election Number Divider (Bilangan Pembagi Pemilihan), where has a possibility that the total of votes which is obtained by the party can produce the additional seats.

<sup>38</sup> See Komisi Pemilihan Umum Republik Indonesia, 2008, “Pemilu 1999”, available at <http://Kpu.go.id/index.php/pages/detail/2008/11/Pemilu-1999> viewed on March 29<sup>th</sup>, 2017 at 1.36 p.m.

that in upcoming general elections the general election commission should be composed of independent, free and impartial members.”<sup>39</sup>

If we look at the case of Hamid Awaluddin (the former KPU commissioner), he was appointed by Susilo Bambang Yudhoyono (SBY) the former president in the period of 2004-2004 as the Ministry of Law and Human Rights while Hamid Awaluddin still taking an office as the commissioner of KPU.<sup>40</sup> Then, the leadership of SBY is the results of general election which is conducted by the KPU in the period of Hamid Awaluddin as the commissioner of KPU in the period of 2003-2008. So, it has caused a suspicion and speculation among society and political observer if there is closeness between Hamid Awaluddin with Susilo Bambang Yudhoyono and allegations of the non-independence of KPU.<sup>41</sup>

Accordingly, there needs to be prohibition for the commissioner either before taking an office, in office or after taking an office of KPU commissioner to occupying the public official especially which is related to the Executive branch in the grace period of 5 years. In order to avoid the affiliation between the commissioner and Executive branch.

#### **b. The Selection Process of Commissioner**

With regard to the selection mechanism, the authority of DPR to elect the member of KPU through fit and proper test has caused the independence of KPU is doubtful due to the members of DPR representing the interests of their political parties. In this case a conflict of interests could happen if the members of KPU are elected by the DPR who are from political parties which will be the participant in the upcoming general

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<sup>39</sup> Winardi, “Menyoal Independensi dan Profesionalitas Komisi Pemilihan Umum Daerah dalam Penyelenggaraan Pemilu Kepala Daerah”, *Jurnal Konstitusi*, Vol. III, No. 2, November 2010, p.63.

<sup>40</sup> Anonymous, 2004, “Jumlah Anggota KPU Kembali Berkurang”, available at <https://news.detik.com/berita/228710/jumlah-anggota-kpu-kembali-berkurang> viewed on December 23<sup>rd</sup>, 2017, at 02.06 p.m.

<sup>41</sup> Yuman Nur Rozak, 2010, “KPU: Independensi dipertanyakan”, available at <http://kampus.okezone.com/read/2010/06/22/95/345480/independensi-yang-dipertanyakan> viewed on December 23<sup>rd</sup>, 2017, at 02.10 p.m.

election..<sup>42</sup> If so, it contradicts to the Article 22 E of 1945 Constitution which expect the general election shall be organized by a general election commission which is independent, it means free from any interference.<sup>43</sup>

The mechanism of the selection of KPU membership with involvement of DPR shows the legislative heavy in the parliament which result the doubtfulness to the independence of KPU. As the statement of Jimly Asshiddiqie that the electoral system that prioritizes the interests of political elite which incidentally was involved in the general election Law making process it will lead to a dominant political power in decision making.<sup>44</sup>

Accordingly, Saldi Isra recommends that to limit the intervention from another parties, the legislation should limit the authority of DPR to only give confirmation or approval to the choices of the selection team which has been elected by the president.<sup>45</sup> The restriction is needed to build a balance between the DPR and the President in filling the public officials. Since the power of President has limited by the necessity in establish the selection team. So, there is no centralization of power in the general election such as adagio of Lord Action “Power tends to corrupt, absolute power corrupts absolutely.”<sup>46</sup>

### c. The Supervision

#### 1. The Supervision by the Election Supervisory Board (Bawaslu)

In the Law Number 7 of 2017 on General Election, the authority of Election Supervisory Board (Bawaslu) has been expanded. In the previous Law, as supervisor the result of investigation by the Bawaslu are concluded as recommendation. The Bawaslu makes recommendation to

<sup>42</sup> Lusy Liany, “Kewenangan DPR dalam Seleksi Komisioner KPU”, *Jurnal Hukum*, Vol7 No.1, p.69.

<sup>43</sup> Winardi, *Opcit*, p.66.

<sup>44</sup> Jimly Asshiddiqie, 2013, *Menegakkan Etika Penyelenggara Pemilu*, Jakarta, PT RajaGrafindo Persada, p.1.

<sup>45</sup> Lusy Liany, *Opcit*.

<sup>46</sup> Admins, 2013, “Meluruskan Kuasa DPR”, available at <https://www.saldiisra.web.id/index.php/tulisan/artikel-koran/11-artikelkompas/239-meluruskan-kuasa-dpr.html> viewed on February 24<sup>th</sup>, 2018, at 10.32 a.m.

the KPU, then the recommendation can be conducted or not by the KPU.<sup>47</sup>

Nowadays, Bawaslu has not only as a supervisor but also as a executor judge which can decide the case or can be called as judiciary institution which is the decision is final and binding.<sup>48</sup> The bawaslu no needs to make any recommendation, the Bawaslu can decide the case by itself without continue to the KPU instead the KPU must carry out the decision of Bawaslu.<sup>49</sup>

Another striking authority is the authority of Bawaslu to deal with the money politics cases, previously the Bawaslu only gave recommendations and then continued the settlement at Gakkumdu. But now for general election participants who are proven to have committed money politics, based on Article 73 paragraph 2 of Law No. 10 of 2016 the Bawaslu is authorized to disqualify its candidacy in the Local Elections who are committed money politics.<sup>50</sup> Hence, Bawaslu expected may conduct firm action, effective, and be a fair in taking the decision.

However, these authorities still be a pros and cons among political observer. Didik Supriyanto in his interview said that the Bawaslu cannot has double function (supervisory and judiciary). It is beacuse as the supervisor the Bawaslu has certain assesment which will influence the decision in the trial. Didik also recommends that if the Bawaslu still be judiciary institution it must release the supervisory function. Then the supervision may handed over to the society or the other institutions. Contrarily, if the Bawaslu still be supervisor it must release

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<sup>47</sup> Erwin Prima Rinaldo, "Penguatan Kelembagaan Pengawas Pemilu dalam Penyelenggaraan Pemilihan Kepala Daerah dan Wakil Kepala Daerah", *Jurnal Hukum*, Volume 10, 2016, p. 478.

<sup>48</sup> Art. 469 paragraph 1 of Law No. 7 of 2017 on General Election.

<sup>49</sup> Art. 14 letter j of Law No. 7 of 2017 on General Election.

<sup>50</sup> Art. 73 paragraph 2 of Law No. 10 of 2016 on The Stipulation of Government Regulation in the Replacement of Law No. 1 of 2014 on the Selection of Governor, Regent and Mayor into Law.

the judiciary function then it replaced with a special court such as General Election Court as long as it is simple and effective.<sup>51</sup>

Didik said that because he reflects to the political parties information system (sipol) case. Where there is a disagreement between KPU and Bawaslu in assessing sipol. Previously, based on the result of the political parties information system (sipol), the KPU dismiss the registration of 13 political parties for the 2019 legislative election due to the management and membership requirements are not complete.<sup>52</sup>

The provision about sipol was regulated in the General Election Regulation (PKPU) No. 11 of 2017 on the registration, verification, and determination of political parties participant in the 2019 General Election.<sup>53</sup> Meanwhile, the Bawaslu declared that sipol is contradicted to the Law No. 7 of 2017 on General Election, then the Bawaslu claimed that any results from sipol is invalid. Indirectly, the Bawaslu was reviewed the PKPU which is who has the right to review the PKPU is only Supreme Court.<sup>54</sup> Hence, the action of the Bawaslu has troubled.<sup>55</sup>

Regarding to the authority of Bawaslu that given by the new election law is getting stonger, it does not avoid the possibility of conflict or violation. Therefore, the Bawaslu is expected can be more responsive and proactive in supervise and implement its authorities maximally. Then, as judiciary institution the Bawaslu is expected can increase the quality and competence of Human Resource of its members due to the wider authority. Moreover, to increase the public trust towards the

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<sup>51</sup> Maharddhika, 2017, "Didik Supriyanto: Fungsi ganda Bawaslu Merisaukan", available at <http://rumahpemilu.org/didik-supriyanto-fungsi-ganda-bawaslu-merisaukan/> viewed on February 24<sup>th</sup>, 2018, at 10.52 a.m.

<sup>52</sup> Didik Supriyanto, 2018, "Putusan Bawaslu Tidak Mengejutkan, tetapi Merisaukan", available at <https://nasional.kompas.com/read/2017/11/16/15424781/putusan-bawaslu-tidak-mengejutkan-tetapi-merisaukan?page=all> viewed on February 27<sup>th</sup>, 2018, at 12.19 p.m.

<sup>53</sup> General Election Regulation No. 11 of 2017 on the registration, verification, and determination of political parties participant in the 2019 General Election.

<sup>54</sup> Art. 76 paragraph 1 of Law No. 7 of 2017 on General Election.

<sup>55</sup> Didik Supriyanto, Opcit.

performance of Bawaslu is by utilize the authority of Bawaslu as judiciary institution by acting decisively, give deterrent effect which can have an impact on prevention aspect.<sup>56</sup>

## 2. The Supervision by the Election Organizers Ethics Council (DKPP)

Ida Budhiati delivered in the socialization of Regulation No.. 2 of 2017 on the Ethics Code and guidelines for General Election Organizer and Regulation No. 3 of 2017 on the Guidelines of Court Session for General Election Organizer. Related to the data that confirmed by the DKPP since 2012 till November 2017 the amount of reported has investigated is 3586 persons. Ida emphasized that the data may become reflection for the general election organizers due to still many societies that unsatisfied with the service of the organizers, then also Ida expected regarding to the tagline of “serve (melayani)” from the KPU then the complaint in the DKPP become zero.<sup>57</sup>

Ida explained that the challenges and obstacles the 2018 Local Elections and 2019 General Election for the organizers is the regulation itself. The law has just been enacted but two months later has entered the Local Election and General Election stages. This kind of situation has a huge potential for the disputes if all parties do not understand the general election rules either the organizers or participants.<sup>58</sup> It is usually occurred in the regencies or small regions, as the statistic data

The chairman of DKPP Harjono states that “Becoming a general election organizers means that you are aware of the consequences that you will be borne, included being bound by oaths and appointments when elected. Does the promise of general election organizers, either the KPU

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<sup>56</sup> Nanang Masaudi, 2017, “Problem dan Tantangan Bawaslu Pasca –UU Pemilu”, available at <http://rumahpemilu.org/problem-dan-tantangan-bawaslu-pasca-uu-pemilu/> viewed on February 27th, 2018, at 12.49 p.m.

<sup>57</sup> Diah Widyawati, 2017, “Ida: Penyelenggaraan Pemilu Semoga Sukses Tanpa Ekses”, available at <http://dkpp.go.id/index.php?a=detilberita&id=2689> viewed on March 1<sup>st</sup>, 2018, at 09.21 a.m.

<sup>58</sup> *Ibid.*

or the Bawaslu is independent and impartial, is not it? Therefore, we will watch it are they consistent with that promise”.<sup>59</sup>

The number of complaint received by the DKPP does not mean that this institution is successful, the number of complaints shows that the general election organizers are still in trouble. In this regard, Harjono said that the DKPP’s achievements were not due to the many cases were decided or the number of general election organizers were dismissed. The DKPP is considered successful if the general election organizers are committed to being independent and professional.<sup>60</sup>

### **3. The Supervision by the Political Parties/General Election Participants**

The political parties are one of ways for a group of individuals to gain a power and one of the most important components in the political dynamics of a nation. Aristotle said that the only way to maximize the individual’s ability and to achieve the highest form of social life is through political interaction with others in an institution which designed to solve social conflict and to shape the collective goals of the state.<sup>61</sup>

However, in achieving the highest power sometimes the political parties tend to concern more on their groups interest only. It often occurred in every local election when the political parties entrust someone to join the selection of Local General Election Commission (hereinafter referred to as KPUD) with aim to win the pair of candidate which is supported. It was found in 2013 in Demak. Based on the testimony of witness and also examination, the member of Bawaslu of Central Java Teguh Purnomo stated that the selected member of the KPUD Demak which is known has initial SI is a member of *Partai*

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<sup>59</sup> Teten dan Irma, “Majalah Dialektika Untuk Kemandirian, Integritas dan Kredibilitas Penyelenggara Pemilu”, Vol. 1 No. 1, 2018, p.11.

<sup>60</sup> *Ibid.*

<sup>61</sup> Elly Rosana, “Partai Politik dan Pembangunan Politik”, *Jurnal TAPIS*, Vol.8 No.1, 2012, p.169-160.

*Demokrasi Indoneisa Perjuangan* which also as a participant in the 2009 Legislative General Election.<sup>62</sup>

The Commissioner of the DKPP Ida Budhiarti said that the dismissal decision towards the KPU commissioner usually is caused by the Commissioners which committed the violations such as having affiliation with the political party, sexual harassment, bribery or the Commissioner does not carry out the duty in a long period. Then, Ida admitted that the highest cause of dismissal of the KPU member is due to the Commissioner has been proven to have affiliation with the political party.<sup>63</sup> Hence, the involvement of political parties in the General Election Commission shows the non-independence of General Election Commission.

Robert Michels states that every political parties has oligarchy authorization, here is his full statement “The organization that produced the elected domination over the voters, between the mandator and the buyer of mandate and between the recipient of power with the buyer. Anyone who talks about the organization then actually talks about oligarchy.”<sup>64</sup>

#### **4. The Supervision by Press/Media**

Usually the independence and credibility of press/media<sup>65</sup> and journalist will be tested in general election period. In fact, the media and journalist are not capable yet in controlling the political process even trapped in the interest of political elite. Political journalist in general election is identical with the bourgeois journalism that is journalism

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<sup>62</sup> See Rofiudin, 2013, “Anggota Parpol Jadi Anggota KPUD”, <https://www.google.co.id/amp/s/nasional.tempo.co/amp/528496/anggota-parpol-jadi-anggota-kpud>, viewed on May 9<sup>th</sup>, 2018, at 10.17 a.m.

<sup>63</sup> See Denisa .T, Fuad .R, Fadli .M, 2018, “Strategi Membentengi KPU dari Intervensi Parpol”, <https://validnews.co/Strategi-Membentengi-KPU-dari-Intervensi-Parpol-hdn> , viewed on on April 26<sup>th</sup>, 2018, at 11.13 a.m.

<sup>64</sup> Artis, “Eksistensi Partai Politik dan Pemilu Langsung dalam Konteks Demokrasi di Indonesia “, *Jurnal Sosial Budaya*, Vol.9 No.1, 2012, p.68

<sup>65</sup> The press here means printed media, electronic media,etc. The press is the one of means to realize the freedom of association and assemble, express the thoughts orally and writtenly.

which subject to the capitalist which take an advantage in general election to maintain the continuity of their business or political career.<sup>66</sup>

The relationship between media and general election cannot be separated from the position of the media that is not neutral in politics. As happened in the 2014 Presidential general election, with the emergence of media conglomeration because the owners of the media are known as figures in the general election such as Abu Rizal Bakrie, Surya Paloh, Chairul Tanjung dan Harry Tanoesoedibjo.<sup>67</sup>

Hence, the involvement of media owners in politic influences the content of news. In relation to political issues, the media sometimes is not neutral. In addition, the media also become money oriented because they earn money from advertising revenue. Therefore, the advertisers may influence media content that will be presented. Surely, it is contrary to the editor in maintaining the independence and ideology in reporting the news. Not infrequently was won by the marketing division that pursued the value of media objects and also the media is called as the power sphere which means the media is supported by the authorized regime.<sup>68</sup>

Then, the issue of independence is also influenced by the informants, where the journalism practices is very dependent on the informants or can be regarded as political tolerance. This is what makes the media want to maintain a good relation with the informants then led to the phenomenon of a paid journalist which means the journalist who writes the news in accordance with the order of informants.<sup>69</sup>

Accordingly, in order to make the independence and credibility of press/media as mentioned in the general election law, the supervisory

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<sup>66</sup> Musfialdy, "Peran Media Massa Saat Pemilihan Umum Mengawasi atau Diawasi", *Jurnal Risalah*, vol 26 No.2, 2015, p.75.

<sup>67</sup> See Anonymous, 2014, "Menonnton Konglomerat Media Berperang di Pemilu 2014", [https://www.kompasiana.com/nusantara\\_mulkan/menonton-konglomerat-media-berperang-di-pemilu-2014\\_552b95806ea8341c1c8b45c8](https://www.kompasiana.com/nusantara_mulkan/menonton-konglomerat-media-berperang-di-pemilu-2014_552b95806ea8341c1c8b45c8) viewed on April 26<sup>th</sup>, 2018, at 2.43 p.m.

<sup>68</sup> Wasito Raharjo Jati, "Politik Persuasif Media: Peran Media dalam Pemilu Presiden Indonesia 2001-2009", *Jurnal Penelitian Politik*, Vol.10 No.2, 2013, p.18.

<sup>69</sup> *Ibid.*

institution of media such as Indonesian Broadcasting Commission (KPI) and Press Council are obliged to conduct supervision for news release, broadcasting, and general election campaign advertisement which are conducted by broadcasting institution or print media.<sup>70</sup>

### 5. The Supervision by Society

The obstacle of the supervisory process by the society is that the people are still reluctant to report the fraud to DKPP and Bawaslu.<sup>71</sup> The lack of public awareness in supervising the general election is alleged due to complication in reporting the process of monitoring results, the distance between society and general election supervisor, the inconvenience when dealing with the law, the regulation that limits the reporting time and low trust level to the organizers. The limitation of reporting time caused so many reports from society that were expired and cannot be followed up. Moreover, the violations are occurred in the regions. Therefore, the reporting limit of violations since the occurrence of violation must be extended. Thus, the reports from region to the center are not constrained by the time.<sup>72</sup>

Based on the monitoring result in the 2014 Presidential general election, the society also has an obstacle in attaching the evidence. Sometimes the society found a violation, but they cannot bring an evidence or has not enough evidence to be reported to the supervisory institution. Hence, based on the monitoring result of 2014 Presidential general election, from the 354 finding violations which were found by the supervisory institution, there were only 210 cases which had been reported by the observers or society to the supervisory institution.<sup>73</sup>

Muhammad Afiffudin stated on the data of the Voter Education Network for the People (JJPR), the participation of society to become

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<sup>70</sup> Art.296 of Law Number 7 of 2017 on General Election.

<sup>71</sup> Novembri Yusuf Simanjuntak, "Pemantauan dalam Proses Penyelenggaraan Pemilu", *Jurnal Bawaslu*, Vol. 3 No.3, 2017, p.308.

<sup>72</sup> Anonymous, 2014, *Laporan Pemantauan Pemilu 2014*, Jaringan Pendidikan Pemilih untuk Rakyat (JPPR), Jakarta Selatan, p.108.

<sup>73</sup> *Ibid*, p. 101.

volunteer of general election monitor tends to decline. In the 1999 general election the volunteer monitors were 220.000, and in 2004 general election decreased to 140.000 volunteer monitors, while 2009 Legislative general election only 3000 volunteer monitors and in Presidential general election 10.500 voluntary monitors. It is known that because of the reporting process of monitoring results is complicated, the distance between society and general election supervisor.<sup>74</sup>

While in South Kalimantan, the Head of Bawaslu South Kalimantan Mahyuni expressed about the low awareness of the people of South Kalimantan in reporting fraud in the general election process. In the 2014 legislative and presidential general elections, Bawaslu found about 14.000 reports on the allegation of general election fraud but that comes from society reports are not up to 1 percent. Furthermore, Mahyuni received about 200 violation reports during the 2015 local general election and only 50 reports came from societies. It is known that the society feel the inconvenience when dealing with the law.<sup>75</sup>

Therefore, to build the awareness and participation of society is really needed. Especially with technological developments has also opened up the public opportunities to involve themselves in monitoring, supervision and follow up to the supervisory institutions. However, this development must be balanced with an easy process and mechanism, so that the community has no difficulty in supervising.<sup>76</sup>

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<sup>74</sup> See Anonymous, "Masyarakat Enggan Awasi Pemilu" <https://nasional.sindonews.com/read/840553/113/masyarakat-enggan-awasi-pemilu-1393788462/> viewed on on March 27<sup>th</sup>, 2018, at 5.21.p.m.

<sup>75</sup> See Anonymous, "DKPP dorong Masyarakat Laporkan Politik Uang di Pilkada", <https://www.google.co.id/amp/s/pilkada.tempo.co/amp/823163/dkpp-dorong-masyarakat-laporkan-politik-uang-di-pilkada> viewed on March 27<sup>th</sup>, 2018, at 5.34.p.m.

<sup>76</sup> Fadli R, Veri Junaidi and Ibrohim, "Desain Partisipasi Masyarakat dalam Pemantauan Pemilu", *Kemitraan Bagi Pembaruan Tata Pemerintahan di Indonesia atas Kerjasama dengan Perkumpulan untuk Pemilu dan Demokrasi (Perludem)*, 2015, p.114.

## **F. CONCLUSION AND SUGGESTION**

### **3.1 Conclusion**

Based on the discussion above, it can be concluded that there are some requirements to guarantee the independence and integrity of national election commission commissioners by providing some additional constraints. The first constraint is Streamline the implementation of the requirements of the commissioners not to be involved in political parties for the minimum 5 years before registration as candidate of the commissioners. The second constraint is by conducting good supervision to the KPU commissioners through Election Supervisory Board (Bawaslu) and Election Organizer Ethics Council (DKPP). The last one is by providing particular constraint to the commissioners after they resign from the past such as they cannot be nominated in executive position after he/she resign, one period after the general election conducted by them.

### **3.2 Suggestion**

Based on the problem that has been discussed, related to the absence of particular constraint rule, there is a need to revise the Law Number 7 of 2017 on General Election to contain the rules about the prohibition of ex KPU commissioner to occupy the Executive position after he/she resign one period from the general election which is conducted by them. In order to avoid the affiliation which leads to a conspiracy between the KPU commissioner and executive branch. To guarantee its integrity, the Bawaslu or DKPP has to strengthen the supervision especially in the implementation of code of ethic through enforcing a code of ethic with the zero tolerance principle to the the KPU commissioners.

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