

# CHAPTER ONE

## INTRODUCTION

### A. Background

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

1 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.

2 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.

3 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.

4 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.

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. Andi Nurpati has confessed that she was contacted by Anas Urbaningrum twice for asking her sureness in joining the Demokrat party.<sup>7</sup>

Hence, the reason is not merely accepted because it is considered to has 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

5 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.

6 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.

7 Pingit Aria, 2010, "Diminta Jadi Pengurus Partai Demokrat, Andi Nurpati Mengaku ditelepon Anas", <https://nasional.tempo.co/read/256473/diminta-jadi-pengurus-partai-demokrat-andi-nurpati-mengaku-ditelepon-anas> viewed on February 3<sup>rd</sup>, 2018, at 3.12 p.m.

KPU members are resign due to pass away, permanently handicapped then unable to carry out the duties, obligations, or disrespectfully dismissed.<sup>8</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>9</sup>

There was also a crucial case in 2004 general election, in that some members of the KPU had quited or resigned from their positions for various reasons. The most common reasons of their resignation were corruption. The KPU members were convicted of corruption in electoral logistics procurement. The former Chairman of KPU Nazaruddin Syamsuddin was convicted to involve in the procurement of insurance services for the members of KPU and quick fundraising for the KPU colleagues.<sup>10</sup>

Meanwhile, the Former member of KPU Mulyana Wira Kusumah was sentenced to jail for the procurement of ballot boxes and the seal of the ballot cover; and the former member of KPU Daan Dimara was found

<sup>8</sup> Article 29 of Law No. 22 of 2007 on General Election Organizer.

<sup>9</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>10</sup> BBC Indonesia, 2010, [http://www.bbc.com/indonesia/berita\\_indonesia/2010/06/100630\\_kpumembers](http://www.bbc.com/indonesia/berita_indonesia/2010/06/100630_kpumembers) viewed on December 24<sup>th</sup>, 2017, at 03.05 p.m.

guilty because of direct appointment of PT Royal Standard. In addition, the former member of KPU Rusadi Kantaprawira was sentenced by the Corruption Court in the procurement of the general election fingerprint ink.<sup>11</sup>

Furthermore, in 2018 the DKPP imposed the sanction of permanent dismissal to 2 (two) general election organizers, stern warning to 10 (ten) general election organizers, the sanction of warning to 19 (nineteen) general election organizers; while for 20 (twenty) general election organizers who were proven as not violating the code of ethics, the DKPP has rehabilitated their names. Here are the results of decision session of DKPP to 29 General Election Commissioners:<sup>12</sup>

Figure 4.1

The Result of Decision Session on Monday March 19<sup>th</sup> 2018

RESULT DECISION	N O	NAME	GENERAL ELECTION ORGANIZER
REHABILITATION	1.	Samsu Rizal Nusir	The Head of KPU Lahat Regency
	2.	Hasanudin	The Member of KPU Lahat Regency
	3.	Jalaludin	The Member of KPU Lahat Regency
	4.	Dwi Larasati	The Member of KPU Lahat Regency
	5.	Nana Priana	The Member of KPU Lahat Regency
	6.	Lalu Aksar Ansori	The Head of KPU NTB Province
	7.	Yan Marli	The Member of KPU NTB Province
	8.	Hesty Rahayu	The Member of KPU NTB Province
	9.	H. Ilyas Sarbini	The Member of KPU NTB Province
WARNING	1.	Ahmad Saparudin	The Head of KPU Lebak Banten Regency

<sup>11</sup>*ibid.*

<sup>12</sup>See Dewan Kehormatan Penyelenggara Pemilu, 2018, “DKPP Berhentikan Tetap Dua Penyelenggara Pemilu” <http://dkpp.go.id/index.php?a=detilberita&id=2870> viewed on December 24<sup>th</sup>, 2017, at 05.13 p.m.

	2.	C.R Nurdin	The member of KPU Lebak Banten Regency
	3.	Ace Sumirsa Ali	The member of KPU Lebak Banten Regency
	4.	Apipi	The member of KPU Lebak Banten Regency
	5.	Sri Astuti Wijaya	The member of KPU Lebak Banten Regency
	6.	Yulius Gobai	The Head of KPU Paniai Regency
	7.	Syarifudin	The Head of KPU Palembang
	8.	Abdul Karim Nasuiton	The member of KPU Lebak Banten Regency
	9.	Rudiyanto Pangaribuan	The member of KPU Lebak Banten Regency
	10.	Devi Yulianti	The member of KPU Lebak Banten Regency
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STERN WARNING	1.	Firamon Syakti	The member of KPU Lebak Banten Regency
	2.	Herman	The Head of KPU Konawe Selatan Regency
	3.	Ashadi Cahayadi	The Member of KPU Konawe Selatan Regency
	4.	Muhammad Syafaruddin	The Member of KPU Konawe Selatan Regency
	5.	Seni Marlina	The Member of KPU Konawe Selatan Regency
	6.	Harmidyawati	The Member of KPU Konawe Selatan Regency
	7.	Aila	The Secretary of KPU Konawe Selatan Regency
	8.	Sunaida	The Secretariat Staff of KPU Konawe Selatan Regency
	9.	Ilham Alihi Sinta	The Secretariat Staff of KPU Konawe Selatan Regency
	10.	Jawaluddin	The Secretariat Staff of KPU Konawe Selatan Regency

Those cases show that the General Election in Indonesia are still weak. Because of the many cases involving the General Election Commissioners, the independence and integrity of General Election Commission are doubted. Meanwhile, the public trust is measured from the success of general election. Therefore, the General Election Commission should create the general election which is honest and fair.<sup>13</sup>

13 Suparman Marzuki, "Peran Komisi Pemilihan Umum dan Pengawas Pemilu Untuk Pemilu yang Demokratis", *Jurnal Hukum*, Vol.15 No.3, 2008,p.395.

The general election is not the only instruments of democracy. It is clearly stated by Powell: “Elections are not the only instruments of democracy. It must be supported by the other organizations and rules that encourage communication and cooperation. However, elections are critical democratic instruments. They claim of establishing a system that compels or greatly encourages the policy makers to pay attention to citizens. There is a widespread consensus that the presence of competitive elections, more than any other feature, identifies a contemporary nation-state as a democratic political system.”<sup>14</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>15</sup>

14 Topo Santoso, “Settlement of Election Offences in Four Southeast Asian Countries(With Special Reference to The Indonesian General Elections)”, *Faculty of Law University of Malaya (-2009)*: 10.

15 Lutfi Chakim, “Desain Institusional Dewan Kehormatan Penyelenggara Pemilu (DKPP) Sebagai Peradilan Etik”, Jakarta Pusat: 2014, 394-395.

According to Professor Guy S Goodwin-Gill<sup>16</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 election regulations and the apparatus which in charge of enforcing the general election regulations.<sup>17</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

<sup>16</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 Kososvo from 2000-2003.

<sup>17</sup> Topo Santoso, dkk, "Penegakan Hukum Pemilu Praktik Pemilu 2004, Kajian Pemilu 2009-2014", PERLUDEM, Jakarta, September, 2006.

Election Commission in conducting election, with special reference to review laws and regulations.

### **C. Objectives of Research**

The objectives of the research are as follows:

1. to describe on the independence and integrity of the Election Commission in Indonesia.
2. to analyze whether the current Laws and Regulations are sufficient to guarantee the independence and integrity of the Election Commission in conducting election in Indonesia.
3. to propose recommendation for a better concept of independence and integrity of Election Commission in conducting election in Indonesia as an independent institution in Indonesia.

### **D. Benefits of the Research**

The benefits of the research are as follows:

1. Theoretical Benefit  
This research will provide the understanding on General Election Commission, and the independence and integrity of General Election Commission. This research will enrich the view of the proper implementation of election in Indonesia by Election Commission.
2. Practical Benefit  
Proposing recommendation for a better concept of independence and integrity of Election Commission in conducting election in Indonesia as an independent institution.