



Legal Aspects of Indonesian Elections with the Digitalization System at Modern Era

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Abstract- The democracy that Indonesia has created has become a habit that is inherent in every personality of the persons at community, especially those who live daily and carry out the habits of life of the nation and state. One of the things that has become a habit every five years is the General Election of State leaders, held simultaneously throughout the region. The implementation of elections in Indonesia since the holding of the first election has actually used renewal methods from time to time. Related to planning or more precisely said to be a discourse regarding the use of technological advances that have developed quite rapidly in modern times has been quite strong which will be used for future elections. Planning accompanied by action efforts from various government agencies has been carried out to be able to realize the discourse.

Keywords: Digitalization, Indonesian Elections, Modern Era.

1 Introduction

Indonesia is one of the countries that follows the Democracy system, where in the implementation of its government prioritizes the aspirations of the people, especially all aspirations regarding criticism of the government are sourced from the people by the people and for the people. As one example of the implementation of a fair and beneficial democracy for the nation and state is the holding of elections every five years in Indonesia, which is based on Law Number 7 of 2017 which was amended to amend Law Number 7 of 2023 concerning General Elections. In its implementation, the voting of the people as a whole from each region is held carefully and synchronously. The course of the election majority run orderly as expected, but sometimes there are also many obstacles that occur in the implementation of elections in Indonesia in particular, such as cheating, the slow process of collecting votes, to the chaos in an area caused by various kinds of certain things outside the control of the government. With all the considerations, election organizers think of strategies that are expected to be able to overcome all the weaknesses in the implementation of elections, especially by utilizing digital technology in this modern era. Meanwhile, the number of internet users in Indonesia is also quite high. based on data data found, written by Kemp, states that Indonesia, with a total population of 265.4 million has 50% of internet users, of which half are digital natives.[1] The planning that is being worked on by the government and the ranks of the

election organizers must be based on a clear legal basis so that in its implementation it does not cause other problems and is able to launch more effective elections by utilizing digital technology. The implementation of elections simultaneously in 2024 is expected to be a proof of the digital transformation that is growing quite rapidly in this modern era. In the implementation, there must be a legal basis that strengthens it to run well and avoid any problems that occur. Strengthening legal aspects based on the highest legal basis in Indonesia, namely Pancasila, is believed to be able to prevent and overcome everything that will be faced in the implementation of future elections using the digitalization plan. What are the principles that the organizers, namely the General Election Committee, will try to adopt in organizing and arranging in such a way that the implementation of elections in the modern era by embracing and prioritizing digitalization will be successful? And what legal aspects can serve as reinforcement in legitimizing its implementation? These two questions are the basis and purpose of this writing to be able to know more about the implementation of General Elections in this modern era by embracing a legitimate Digitalization system in accordance with applicable legal regulations, namely sourced from Law Number 7 of 2017 which is updated for renewal, namely Law Number 7 of 2023 concerning Elections.

2 Research Methods

The type of research used is normative legal research, which analyzes formal legal rules such as laws, regulations, and theoretical literature related to the writing of this article. The approach method used is a statutory approach and a conceptual approach. Primary legal materials come from legal provisions governing elections. Literature study used to find various concepts, theories, principles, rules, documents related to research.[2] Literature study is an investigation of all books, essays and writings about the field of science, topics, symptoms or events. The rules of literature study that must be considered by researchers are a process consisting of: systematic identification of theories, literature discovery, and document analysis of information related to the research topic.[3] In addition, data collection is also carried out by field observation. Source The type and source of data used in this research is secondary data. Data is obtained from various existing sources. These sources include journals, books, magazines, reports. analyzing the data, researchers used the technique of content analysis technique. According to Krippendorff, content analysis is used to obtain valid inferences and then reexamined based on the context.[4]

The legal regulations referred to are Law Number 7 of 2023 concerning the Stipulation of Government Regulation in Lieu of Law Number 1 of 2022 concerning Amendments to Law Number 7 of 2017 concerning General Elections into Law, journals, scientific papers, articles, and other literature relevant to the legal issues to be studied.

3. Results and Discussions

1. Principles of using the Digitalization system in Indonesian Elections

E-voting is an acronym for electronic voting. As has been explained simply e-voting is closely related to e-government, which is an information technology system developed by the government to facilitate access to information and services. information technology system developed by the government to facilitate access to information and services.[5]

In addition, E-voting also leads to the goal of E-Government which shows the purpose of the implementation of the ITE law. E-voting also leads to the goal of E-Government, which shows the purpose of the implementation of the ITE law so that it has been adapted to the objectives of the 1945 Constitution.[6]

Furthermore, the Agency for the Assessment and Application of Technology (BPPT) as the pioneer in the development of e-voting in Indonesia defines electronic voting (e-voting) as a method of voting and vote counting in a democratic process.

voting and vote counting in an election using electronic devices. In detail and operationally, BPPT defines an e-voting system as a system that utilizes electronic devices and processes digital information for voting creating ballots, casting votes, counting votes, sending vote results, displaying votes, maintaining and generating audit trails.

The implementation of elections in the era of fast developing information technology should be utilized to facilitate the performance of election organizers and minimize the possibility of human error on data errors and is expected to be reduced.[7] Not only at the central level, but also at the regional level. Therefore, the role of government supervision is needed to increase participation and quality in future elections.[8]

Digitalization systems that are increasingly advanced and can be accessed easily should be followed by the professionalism of the performance of Human Resources in supervision which involves not a few people at all levels. Therefore, it needs support by improving the quality of Human Resources from the internal side first. To protect data and data security, it is necessary to use independent internal information media and not only depend on third parties or other public information so that later there will be no obstacles that occur and make problems to the public where it can embarrass the government and make people's trust decrease in the implementation of elections.

The adoption of digital technology in active elections has the benefit of realizing effectiveness and efficiency in the process of legitimate political contestation both in the stage voters, verification of voter identity, voting, vote counting to transmission and tabulation of election results.[9]

The important role of social media in the implementation of general elections makes it easy to deliver information from the government or election organizers or interested parties in conveying something that is useful for the general public. Social media is one of the media that users can use to interact with each other on the internet or online. This is closely related to this modern era, especially the digitization system of social media such as Facebook, Twitter and Instagram which is able to fully support the implementation of elections in this modern era. Although the presence of social media has many positive impacts, the presence of social media itself still has some shortcomings. Negative uses of social media can create misunderstandings that can lead to divisions, such as the existence of irresponsible individuals in communicating information about hoax news and events to the social media public (audience).

Weaknesses in the implementation of the E-voting system in Indonesia. The weakness in Indonesia in using the internet is that the network is still not optimal. In fact, Indonesia is among the top 10 countries with the slowest internet connection in the world, report 10 countries with the slowest internet connection in the world. From the tenth list, Indonesia is one of them. From the results of this study took a sample of more than 1 million OpenSignal users to describe about 19 billion internet users. The sample spread across 87 countries with implementation time from November 2016 to January 2017.[10]

Based on the facts, the number of users and uses of new media has increased. Almost all activities can be completed through various kinds of easy internet access, such as e-commerce, online transportation, e-tolls, e-learning, and various contributions to the development of new media access, such as e-commerce, online transportation, e-toll, e-learning, and various contributions to the development of internet sophistication used in human daily life. Development of internet sophistication that is used in human daily life. Looking at the the data that shows that Indonesia is ranked sixth as the world's in the world.[11]

Seeing from the description of the implementation of the Indonesian election and associated with the number of internet users in Indonesia, as well as reflecting on several countries such as India, Brazil, which have successfully implemented e-voting systems. have successfully implemented e-voting systems, both Indonesia and India are democratic countries that have the most Indonesia and India are democracies that have challenging, diverse population landscapes, coupled with logistical challenges (home logistical challenges. Looking at the advantages and disadvantages of e-voting, it is feasible and possible to be implemented in Indonesia.

However, there are still many regions that require special attention from the government in terms of facilities and infrastructure to support the e-voting system. facilities and infrastructure to support the e-voting system, for example in terms of electricity, internet network, experts for the e-voting system and internet, experts for e-voting systems, and people who are not yet computer literate.[12]

Nevertheless, with all the limitations, e-voting through the initiation of BPPT has attempted to contribute concretely and significantly to the development of e-voting systems. Based on BPPT RI data from 2013 to 2017, e-voting has been implemented in 683 village head elections in 12 districts.[13]

Countries that have not successfully implemented e-voting are countries where, after evaluation, there are there are a number of obstacles and even received rejection from the community and furthermore, the implementation of e-voting was stopped.[14]

Administration and Cost of Election (ACE) Project suggests that every election organizer pay attention to the principles of using technology, especially regarding digitalization in this modern era in elections, namely:[15]

1. A holistic assessment of technological advances. As an instrument or tool, the use of technology requires review and consideration of the choice of what technology to use, for what needs, and at what stage of the election. It is also important to review the applicable legal framework;
2. Considering the impact of technology implementation. When technology is to be deployed or a new system is to be implemented to replace another system, an evaluation of the previous system is necessary in order to measure the impact and value of the

change, including whether or not the objectives of using the technology will be achieved;

3. Maintaining transparency and ethics. A key question that must be answered before applying information technology in elections is the extent to which the system is capable of generating transparency and being easily accessible to the public. This is important in order to build public trust in the information system;

4. Paying attention to and ensuring the security of Technology. The level of security should be the first priority of the electoral technology used, the security system must be tested and shown to the public so that the system can be trusted;

5. Measuring the resulting accuracy. Technology measurements must be tested for accuracy in order to minimize manipulation;

6. Ensuring secrecy. The principle of secret elections at the voting stage must be achieved when the choice of a particular technology is applied. Voters' personal data including the results of voters' choices in the voting booth must be well preserved and can be ensured that it cannot be seen by any party;

7. Ensure inclusiveness. The use of technology should be accessible and easy to use by anyone. For this reason, consultation with all stakeholders such as voters is very important in order to ensure that there are no disadvantages and difficulties in the use of electoral technology;

8. Considering cost-effectiveness. Before deciding on the use of technology, one aspect that needs to be considered is the amount of costs that will be incurred. Consideration of the range of use and the time period of utilization can be used as an indicator of whether the amount of costs incurred is commensurate with the use of the technology;

9. One of the main purposes of using technology is to create efficiency. This question must be properly answered when making a choice on a particular technology. For this reason, it is important to ascertain whether the technology system used is more efficient than the previous system;

10. Evaluate the sustainability of the technology. Does the technology have a long lifetime of use? Or is it disposable? These two questions are important to ask because they concern the principle of efficiency and also the amount of costs incurred. If a technology can be used continuously from one election to the next, then the technology can be said to be efficient and effective to be applied in the long term;

11. Flexibility of technology with election regulations. The selection of technology to be applied must be able to adjust/flexible with the context of election regulations applied in a country in the midst of an election regulation situation that is often dynamic or can change from election to election;

12. Easy to use and trusted by the public. The way technology works should be easy for voters to understand and easy to use. This ease of use will encourage electoral trust in the technological system built by the election organizer. It is hoped that there will be no resistance or rejection of the system used.

2. Legal Aspects of Indonesia Elections with the Digitalization System at Modern Era

Democracies place public interest above private interest. Democracy, then, means a form of government in which policy formulation is determined, directly or indirectly, by a majority vote of the citizens. is determined, directly or indirectly, by the votes of the majority of the citizens who are in an electoral forum. The administration of state government, including local government, must be based on democratic principles.[16] Democracy is a continuous process towards perfection in a nation. Democracy is defined as the transformation or process of achieving a democratic system.[17] The concept of democracy developed in Indonesia is in line with the nation's philosophy of life.[18] In this sense, direct parliamentary elections are a strategic political process towards a democratic political life and an effort to produce good leaders.[9]

The use of information technology that facilitates people's lives can also be used as a tool for election organizers to make the election process more efficient and transparent so as to increase public trust in elections and election organizers. Therefore, as an instrument of democracy, elections and the electoral process, in its implementation, require information technology tools to support the work of organizers. As a tool that supports the organizers' activities, the information technology used by the organizers should require legal instruments that serve as the basis for legitimizing the use of information technology in organizing elections and regional elections.

Roscoe Pound, stated that law is a tool of social engineering. In the above meaning, Pound explained that the drafter of regulations must place the law as an instrument to encourage social change for the better. Law must be seen as a tool to change society. To be able to fulfill the role of law as seen by Pound above, a classification is made of the interests that must be protected by law, namely: first, public interest or (public interest) where there is the interest of the state as a legal entity and the interest of the state as the guardian of the interests of society. The second classification is the interests of the community or (social interest), namely the interest in peace and order, the protection of social institutions and the prevention of moral decline and the prevention of violations of rights. The third group is private interests, namely the interests of individuals, families and property rights. The development of information technology has changed the system of political life and democracy of a country. These developments have also changed the legal policy of a democratic legal state. In accordance with Roscoe Pound's teaching about law that functions as social engineering of society or as a means of controlling society, the law must always guarantee the security of every development of society including information technology.

The government and election organizers need to ensure the security of the use of information technology applied in elections. The application of information technology and the adoption of a digitalization system in elections by the KPU should pay attention to basic principles, among others: maintaining transparency and ethics, ensuring security to be applied, ensuring the accuracy of data generated by technology, effectiveness and cost efficiency, technological sustainability, flexibility and young to use and trusted by the community. The application and adoption of information technology is very appropriate for archipelagic countries such as Indonesia because this will greatly save time and

costs, not to mention the importance of confidentiality and security. If confidentiality and security are met, then the application of information technology is very appropriate to use. The application of information technology is related to more precise and accurate results and minimization of human error cases as long as the system built is guaranteed from various criminal threats. To strengthen the legal framework as the basis for the application of election information technology, in addition to the arrangements in the Election Law and the Election Law, as well as KPU Regulations that regulate the technical implementation of each stage, one of the legal instruments that form the basis for the application of information technology by the KPU is the promulgation of KPU Regulation Number 5 of 2021 concerning the Implementation of the Electronic-Based Government System of the General Election Commission. This KPU Regulation was issued as an implementation of Article 60 paragraph (1) of Presidential Regulation Number 95 of 2018 concerning Electronic-Based Government Systems. PKPU 5/2021 regulates: SPBE governance, SPBE management, information and communication technology audits, SPBE organizers, and SPBE monitoring and evaluation. It is explained that an Electronic-Based Government System (EBS) is a government administration that utilizes information and communication technology to provide services to EBS users. Meanwhile, Information and Communication Technology (ICT) is an electronic-based technique used by the KPU for collecting, processing and securing, disseminating, and using data and information. To implement the provisions in PKPU 5/2021, the KPU RI has stipulated several decisions, namely: 1) KPU RI Decree Number 13/TIK.03/14/2022 concerning the Electronic-Based Government System Plan Map of the General Election Commission for 2021-2025; 2) KPU RI Decree Number 12/TIK.03/14/2022 on the Architecture of the Electronic-Based Government System of the General Election Commission for 2021-2025.

The KPU Regulation and KPU Decisions related to SPBE are also mandated to be the legal basis for the application of information technology by the KPU. So, from the aspect of legal framework to legalize the implementation of elections that apply information technology or digitalization system in this modern era, in the implementation of general elections, KPU has increasingly received legal guarantees in its implementation.

Regarding the detailed legal rules governing the implementation of election digitalization especially in Indonesia, until now there has been no regulation that firmly regulates the progress of the digital system. The discourse is that in the next general election, Indonesia is able to carry out elections with a digitalization system that is immediately able to overcome all fraud in the implementation and can be valid in accordance with the election rules that have been in effect so far.

4. Conclusions

The organization of elections and regional head elections must adapt to the development of information technology and follow the all-digital system in this modern era. Among other things, these adjustments are intended so that the technical implementation of elections can run more effectively and efficiently, both in terms of energy and time. As well as from the legal aspect to validate the digitization system carried out, the use of technology must be protected or have a legal basis in its use. Without paying attention to the applicable legal

aspects and examining more deeply the possible risks that will occur, the application of technology or even the use of a new system, namely the digitization system, has the potential to cause legal problems that can disrupt the course of an election stage, and the worst possibility can harm many parties, both the government and the community. Until now, there are no regulations that strictly regulate the progress of the digital system. The discourse is that in the next general election, Indonesia is able to carry out elections with a digitalization system that is immediately able to overcome all fraud in the implementation and can be legal in accordance with the elections rules that have been in force so far.

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