



# The Influence of The Thoughts of John Austin, Hans Kelsen, and Hart on Political Power and Ethical Politics in The Organization of General Elections

Dewi Iriani<sup>1</sup>, Muhammad Fauzan<sup>2</sup>, Sri Hastuti Puspitasari, Esti Ningrum<sup>4</sup>, Arief Budiono<sup>5</sup>

<sup>1</sup> Doctoral Program in Law Faculty of Law Universitas Islam Indonesia, Indonesia.

<sup>2</sup> Faculty of Law, Jenderal Soedirman University Purwokerto, Indonesia.

<sup>3</sup> Faculty of Law Indonesian Islamic University Yogyakarta, Indonesia.

<sup>4</sup> Faculty Of Law University Wijayakusuma Purwokerto, Indonesia.

<sup>5</sup> Faculty of Law Muhammadiyah University of Surakarta, Indonesia.

dewiiriani@iainponorogo.ac.id

**Abstract-** The law is inseparable from the commands of the authorities as the lawmakers. The authority's power to make decisions/policies are based on political power and ethical politics. This paper aims to answer the following questions: (1) How do the thoughts of John Austin, Hans Kelsen, and Hart influence political power and ethical politics on the authority of Commissioner for General Elections (KPU) and Election Supervisory Body (Bawaslu) as general election organizers? and (2) How does the General Election Organizer Ethics Council (DKPP) resolve cases of ethical violation in general elections? This was legal research which was conducted using literary studies, where the researcher studied books on legal theory according to John Austin, Hans Kelsen, and H. L. A. Hart. The authors also analyzed journals on the influence of these figures' thoughts on political power and ethical politics on the general election organization. Results showed that: (1) The influence of the thoughts of John Austin, Hans Kelsen, and Hart on political power and ethical politics on the authority KPU and Bawaslu as general election organizers are as follows: First, Austin defines the law as a command of the sovereign. KPU and Bawaslu have legal powers to make policies. Second, Kelsen states that the law is one's behavior to comply with commands and prohibitions (sanctions). KPU and Bawaslu's behavior in using power in the organization of general elections is that they must use the power in a civilized and ethical manner. Third, Hart's thought is that the law and morality are a command from the authorities to follow the stipulations of legal regulations. As general election organizers, the KPU and Bawaslu carry out tasks and authorities according to Law No. 7 of 2019. (2) In resolving ethical cases in the general election, DKPP has the authority to decide on such cases committed by the KPU and Bawaslu in organizing the general elections. DKPP can give sanctions in the form of oral and written warnings and terminate the perpetrators as general election organizers based on Law No. 7 of 2017 on the General Election. Meanwhile, criminal law violations in general elections committed by KPU and Bawaslu are sanctioned according to Law No. 19 of 2019 on the Crime of Corruption.

**Keywords:** Influence of thought, John Austin, Hans Kelsen, and Hart

## 1. Introduction

The law is inseparable from the legal positivism theory. Legal positivism is influenced by the thought of John Austin in his book *Province of Jurisprudence Determined* which stated that the law is a coercive order. Hans Kelsen's theory of pure legal positivism is a legal order of norms that regulate human behavior to act well. Meanwhile, Hart states that the law is sourced from constitutional regulations.[1] The law is inseparable from the orders of those in power as policymakers. The authority's power to make decisions or policies is based on political power and ethical politics.

Since before its independence, political power and ethical politics are inseparable from Indonesia's political history. Historically, ethical politics of power started with the arrival of the Spanish and Portuguese colonialists, formerly known as *Vereenigde-Oostindische-Compagnie* (VOC).[2] Political power had absolute control in regulating its dominion. Meanwhile, ethical politics had personal interests. Queen Wilhelmina applied political power and ethical politics on September 1901, when she made a speech in the Indonesian territorial area, stating that the Dutch government were going to repay the people of the Dutch East Indies. Dutch East Indies was the name of the state of Indonesia when it was still colonized by the Netherlands.[3] Since then, under the rule of Queen Wilhelmina, the Dutch government greatly influenced legal development in Indonesia.[4] But in its development, political power and ethical politics in the current era are carried out by the Indonesian government as opposed to the colonial government, as Indonesia gained its independence in 1945.

Political power and ethical politics have two meanings, namely: (1) how to practice good political ethics without committing fraud or misusing power and (2) the power that has been obtained through lack of ethics, i.e., the politics of remuneration towards the people who are deemed as meritorious to the authority. Ethics are crucial for everyone. Behaviors are reflected through ethical actions. A good institution certainly requires ethical leaders that are honest, trustworthy, and responsible. This is to achieve good integrity in that institution. Unfortunately, the integrity of general election organizers has been smudged by the behaviors of individuals that have a lack of integrity. In this case, the lack of integrity was carried out by the Commissioner for General Elections (*Komisioner Penyelenggara Pemilihan Umum/KPU*) and the Election Supervisory Body (*Badan Pengawas Pemilihan Umum/Bawaslu*).

The ethical violations in general elections committed by KPU and Bawaslu are processed and judged by General Election Organizer Ethics Council (*Dewan Kehormatan Penyelenggara Pemilihan Umum/DKPP*). The researcher obtained information from the DKPP that it had made decisions on 29 general election cases with a total of 73 defendants. The authors found that the data on general election violations in 2019 and 2020 were as follows: in 2019, there were two violation cases in the general election and 2020, there were six violation cases in the head of the region election. Concerning whether or not the organization was non-stage, in the organization of the 2019 general elections and the 2020 head of the region elections, where there was a total of 21 cases. Then, according to DKPP's data on the 2019 general elections and the 2020 head of the region elections, DKPP has decided upon 240 cases with a total of 921 defendants. The classifications were as follows: there were six cases with 33 defendants, concerning the organization of the 2019 general elections with 193 cases and 821 defendants. In the organization of the 2020 head of the region elections, there were 41 cases and 67 defendants in the organization of the non-stage

of general elections.[5] Violations of general election ethics by general election organizers are implemented and judged by DKPP.

Concerning the violation of general election ethics against political power and ethical politics it is closely related to the law and is influenced by authority power by John Austin and moral ethics that is influenced by the pure theory of law by Hans Kelsen. Meanwhile, Hart regulates that the law originates from constitutional regulations. Thus, the organization of the general elections in Indonesia is regulated in Law No. 7 of 2017 on General Elections, as in Hart's theory that the law originates from the combination of laws. Thus, the writer is interested in further analyzing the influence of the thoughts of John Austin, Hans Kelsen, and Hart in political power and ethical politics in the general election organization.

## **2. Research Problems**

1. How do the thoughts of John Austin, Hans Kelsen, and Hart influence political power and ethical politics on the authority of KPU and Bawaslu as general election organizers?
2. How does the General Election Organizer Ethics Council (DKPP) resolve cases of ethical violation in general elections?

## **3. RESEARCH METHOD**

Soerjono Soekanto and Sri Mamuji explain the meaning of normative law which is called literary studies. This is done by analyzing literature material or secondary data. This article is a doctrinal legal research based on the thoughts of three figures, namely: John Austin, Hans Kelsen, and Hart as an analytical tool for discussing political power and ethical politics in the administration of elections.

## **4. RESULTS AND DISCUSSION**

### **4.1. The Influence of the Thoughts of John Austin, Hans Kelsen, and Hart on Political Power and Ethical Politics on the Authority of KPU and Bawaslu as General Election Organizers**

In achieving political power, the application of political ethics must be based on knowledge. In this case, knowledge means ratio, which is crucial to achieving power. To hold powerful positions in the Indonesian government, there is a need for a voting process through the general elections. These elections are applied to appoint presidents, heads of the regions, and legislative members. General election organizers, especially KPU and Bawaslu must be able to maintain morals and ethics to prevent committing violations. The researchers found data on some violations committed by KPU and Bawaslu as follows:

Data on the allegation of ethical code violations by general election organizers showed that there were 167 cases. These cases were reported to DKPP from January to December 3<sup>rd</sup>, 2022. The Defendants were 45 staff of City/Regency Bawaslu (54,21%) and 30 people (36,14%) that were staff of the City/Regency KPU. Then, in 2021, general election organizers that were reported to the DKPP were City/Regency KPU (441 people/47,88%) and City/Regency Bawaslu (307 people/33,33%).[5] These data showed ethical violation cases received by DKPP on the violations committed by KPU and Bawaslu.

Then, researchers obtained data from the DKPP on ethical violations against the principles of professionalism, independence, order, and neutrality from January 1<sup>st</sup> to

December 3<sup>rd</sup>, 2022 as follows: 47 defendants were punished, 32 defendants (68 %) violated the principle of professionalism, 7 defendants (14,9 %) violated the principle of order, and 4 defendants (8,5 %) violated the principle of independence. Then, the top three violation categories were as follows: (1) failure to carry out tasks/authorities, where there were 17 defendants (36 %), (2) negligence in the general election/head of the region election process, which amounted to 12 defendants (25,5 %), and (3) the violation of neutrality/partiality and the violation of social orders, each with 5 defendants (10,6 %). From the 73 defendants that were examined and were given a verdict by the DKPP, 26 defendants (35,6 %) were declared as not guilty of violating general election organization ethical codes and were rehabilitated.[5] The data from the DKPP showed the number of violations of the professionalism, independence, order, and neutrality principles committed by KPU and Bawaslu.

Then, there is a relevance between the data on the violations committed by KPU and Bawaslu and the influence of the thoughts of John Austin, Hans Kelsen, and Hart on the political power and ethical politics of the general election organization. Concerning this, the writer will discuss the thought of these three figures.

a. Austin's Thought on the Province of Jurisprudence Determined

Austin simply defined the legal concept into commands and customs. In his book *Province of Jurisprudence Determined*, Austin wrote about his doctrine on law, i.e., a command that is accompanied by threats to be complied with. In England, commands are made by legislators from the highest parliament in that country. These commands apply to subordinates. The Queen or King of England in the parliament cannot comply with the regulations made by the English parliament legislators. This is because the Queen or King has higher positions and he/she has the highest power in the monarchy government. This becomes a custom in England.[6] The stipulations of British criminal law contain commands that are accompanied by threats. The criminal code differentiates certain behaviors that are prohibited by the regulation and the sanctions that are meant to prevent the occurrence of such actions. The legal system is carried out by the court. Customary laws are not a written legal system and it only orally applies in customary societies.[7] The contents of the criminal law must be fulfilled as an obligation. If such laws are not complied with, the violator is deemed to have violated the law and therefore declared guilty.

Austin is known for his thought on legal positivism. He explained his thought on legal positivism using the approach of the posited law legal theory, where the law is made by lawmaking institutions, such as parliaments and courts. Legal positivism emphasizes determined laws.[8] Austin, an influential figure on legal positivism, differentiated legal substance and existence from morality values, merit, and demerit. The law does not consider substance, but it considers the lawmaker, i.e., the state. Austin's claim of thought[9] is that the law is the command of the sovereign. Austin also claims that the law is a command of the lawgiver. The law is part of the product of those in power. The law is a product of independent power. Austin's power is often called the command theory. For a command to become the law, it must consist of three elements, namely wish, communication, and sanction. Wish or intention is no mere intention, it is the wish of someone's intention to do or not to do certain things.[10] The highest holder of power is a command from the authority that must be complied with

(the law is a command of a lawgiver) because the authority holds the highest level of sovereignty.

The advantage of John Austin's thought on legal positivism is divided into two: First, the law originates from God in the form of laws determined by God to do good and right deeds according to religious beliefs. Second, the law is made by humans in the form of positive legal regulations. Legal positivism is placing legal justice as the purpose of the law.[6] Then, in the law with a characteristic of a closed logical system, the law separates good and bad values from justice. The law is improperly so-called. This law is made by humans but not as something that has the political authority or in carrying out the rights they have.[11] Politics is a method to obtain a desired thing. But many parties regard that politics not only oscillate in the environment of the state or in actions carried out by the state authority. Politics always regard public goals rather than private goals.[12] Politics involve the activities of various groups, including political parties and individual activities.

The 1945 Constitution regulates three state powers, namely the executive, legislative, and judicial elements. The Indonesian state administration also regulates independent institutions, including those which organize general elections, consisting of KPU, Bawaslu, and DKPP. General election participants register to become prospecting candidate leaders in the executive realm (head of the region or presidential candidates) and in the legislative realm (legislative house members/regional legislative house members, regional representative assembly members). The registration and verification of prospecting candidate participants of the general election are carried out in KPU. Meanwhile, Bawaslu is an agency which supervises the organization of the general election. Bawaslu handles general election violations committed by prospecting candidates, supporting parties, and success teams. DKPP has the highest position in the general election organization. It has the role of an agency of ethical codes which handles ethical violations committed by KPU and Bawaslu. Political power must not only be involved in political parties. But it must also be involved in power positions that have political interests in the results of the decision in the forms of regulations and policies made by the leaders.

General election organizers, namely KPU, Bawaslu, and DKPP, have different powers. Each has its own tasks and responsibilities. The KPU, Bawaslu, and DKPP institutions have full power in carrying out their tasks and responsibilities as regulated in Law No. 7 of 2017 on the General Election. This is according to the legal theory of legal positivism that is influenced by the thought of John Austin. Therefore, the writer will analyze political power according to John Austin's opinion. Austin defined the law as a command of the sovereign. Concerning the sovereign, the writer defines this as leaders of a governmental institution. Leaders as governmental authorities have the political power to make policies. According to the writer, political power is a facility to achieve ideals through the vehicle of political parties through the general election process. The power obtained from the executive and the legislative influences policies and decisions of society in general. Then, at the judicative level, the governmental authorities mean courtly institutions that give jurisprudence or judicial decisions on the results of courtly decisions.

b. The Thoughts of Hans Kelsen on the Pure Theory of Law

Hans Kelsen's pure theory of law is a legal theory of positivism on the doctrine of positive legal norms. According to Kelsen, the constitution is a special characteristic of the positive law. The constitution is the highest level of positive law. The constitution is understood as a group of positive norms that regulate legal norms carried out by individuals and is created through the legislative. The constitution is a written regulation in the form of the constitution or other legal regulations.[13] Further, according to Kelsen, general legal norms from the legal regulations were applied by law enforcers, i.e., the court and the governmental organs. The category of legal norms consists of formal and material legal norms. Formal legal norms regulate organizations, courts, and governments related to the civil, criminal, and administrative processes. Meanwhile, the material legal norms contain courtly decisions and administrations including civil law, criminal law, and administrative law.[1] Hans Kelsen used the teachings of the legal norms, i.e., the formal legal norms and material legal norms.

According to the writer's analysis of the influence of Hans Kelsen's thought, it is a person's behavior to follow orders and prohibitions (sanctions). This concerns behaviors in using power in the leadership using civilized and ethical methods to achieve the goals of power, which is creating justice and bringing benefit to society. The power obtained must also be based on conscience rather than arbitrariness. By using the conscience, the behaviors and attitudes of the authorities that organize the general election becomes good. They will have good political ethics.

The writer suggests that the occurrence of violations committed by KPU and Bawaslu, including ethical and criminal violations in the general elections, may be prevented through the following methods: First, ethical politics can be defined as a method of good political ethics without fraud or misuse of power. Second, ethical politics can be defined that the power obtained is achieved through wrong ethics, i.e., the politic of repayment to the people that are deemed as meritorious to those in power. According to legal theory, political power and ethical politics is a logical knowledge to gain power. In undergoing good political ethics to achieve power, there must be knowledge and science. Therefore, the power is not misused as it is applied using good ethics.

c. The Thought of Hart on the Imposition of Legal Regulation Sanctions

H. L. A. Hart's thought is influenced by the positivist thought of Austin. Individual or collective power (such as orders from the king or the people who have full political sovereignty) can be deemed as an institution that has the right to give sanctions.[14] The opinion of Austin on sovereignty/power of individuals or groups has their own characteristics, i.e., citizens have compliance with the command of those in power and the people with power do not want to comply with orders of other people.[15] The analogy of Hart on the commands of sanction imposition has legal and command differences. First, commands only apply to the people commanded, as Austin explained that criminal sanctions apply to everyone including the people that made those regulations. Second, regulations are not a command, but it is a regulatory power made by those in power. Third, regulations

do not always become legal regulations. Hart acknowledges that the law, justice, and morality must be interrelated between the legal, natural, and administrative aspects.[16] The application of law and morality exists on absolute power/full power and the compliance of law is based on the belief on morality.

Legal compliance is not determined by morality. But it is because there are applicable regulations. It is defined as regulations that contradict the sense of justice and morality that still apply in legal regulations. The law is not based on morality, if morality is based on the law, thus there will be arbitrariness. But Hart's thought that is not in line with this is said to contradict morality. According to Hart, a deviant law is protected by morality.[17] Therefore, the law and morality have a very strong connection, as with the presence of morality, legal deviance is maintained.

Concerning the writer's analysis of Hart's thought on sanctions in legal regulations, Hart defines command in the form of commands from the authorities, i.e., leaders in a state institution (government) to make power sovereignty as policies in a written form through legal regulations that must be complied with by citizens (society). Morality and ethics in an individual highly influence the formation of law, even though the law does not specifically mention the term morality. Legal regulations certainly have a philosophy-based juridical goal. Authorities that make legal policies have full sovereignty/power to make commands that are defined in legal regulations.

Then, concerning the writers' analysis of Hart's thought on political power and ethical politics of general election organizers that KPU and Bawaslu have full power and political power as the organizing agencies of general elections in Indonesia. Unfortunately, some individuals from central-level general election organizers, i.e., KPU and Bawaslu, and regional-level general election organizers, i.e., regional KPU, regional Bawaslu, Election Supervisory Committee (*Panitia Pengawas Pemilihan Umum/Panwaslu*) were involved with cases of criminal law and ethical violation. Thus, law and morality regarding the violations committed by the general election organizers are influenced by the thought of Hart, where he explained that a command from the authorities is in the forms of policies and rules from legal regulations. In this case, general election organizers committed general election violations in the form of ethical and criminal law violations. They must comply with Law No. 7 of 2017 on General Elections. Because of that, general election organizers should have the obligation to follow commands and legal regulations, by emphasizing morality to comply with the law. To make sure that general election organizers have good morality, there needs to be the formation of the integrity mentality of general election organizers.

#### **4.2. How the General Election Organizer Ethics Council (DKPP) Resolves Ethical Cases in General Elections**

The Republic of Indonesia has regulated human rights which guarantee that Indonesian citizens can participate in the implementation of the general elections. This is regulated in Article 1 clause (2) and clause (3), Article 28D clause (3), Article 28E clause (3), Article 28J clause (1) and clause (2) of the 1945 Constitution which states that "Sovereignty is in the hands of the people and the state of Indonesia is a state based on law".[18] Then, it is also regulated in Article 43 clause (1) of Law No. 39 of 1999 on the Human Rights which state,

“Indonesian citizens have the same opportunity in the government on the freedom to associate, gather, and express opinions. The state guarantees and acknowledges as well as respects the rights and freedom of citizens justly by considering the religious, moral, decency, security, and order values in society. Every citizen has the right to be chosen and to choose through the general elections that are direct, public, free, confidential according to the law.”[19] Then, Article 1 number 1 and number 7 of the Law No. 7 of 2017 on the General Election explains, “The general election is a facility to choose people’s representatives through the general elections of the government, the legislative general elections to elect legislative members, regional legislative members, and regional representative assembly members, and the general elections of heads of the regions, i.e., governors, regents, and mayors. The organizers of the general elections encompass Commissioner for General Elections (KPU), Election Supervisory Body (Bawaslu), and General Election Organizer Ethics Council (DKPP)”.[20] The general election is a right of Indonesian citizens that is guaranteed by the state according to the applicable legal regulations.

General Election Organizer Ethics Council which is abbreviated as DKPP is an institution that is tasked to handle ethical code violations committed by general election organizers are regulated in Articles 158 and 159 of Law No. 1 of 2017 on the General Election. DKPP's tasks encompass: receiving complaints and/or reports of the alleged occurrence of ethical code violations by KPU, members of the provincial KPU, or members of the City/Regency KPU. This also applies to ethical code violations committed by Bawaslu, members of Bawaslu, members of provincial Bawaslu, and members of city/regency Bawaslu. The DKPP will undergo investigation and verification. It will also examine complaints and/or reports of the alleged occurrence of ethical code violations by KPU, members of the provincial KPU, or members of the City/Regency KPU; Bawaslu, members of Bawaslu, and members of provincial Bawaslu and members of city/regency Bawaslu to make a decision and deliver the decision to the related parties to be followed up with. DKPP has the authority to: summon the KPU, members of the provincial KPU, or members of the City/Regency KPU; Bawaslu, members of Bawaslu, members of provincial Bawaslu and members of city/regency Bawaslu that are deemed to commit ethical code violations to provide explanation and defense; summon plaintiffs, witnesses, and/or other related parties to be inquired for further information, including asking for documents or other evidence; and impose sanctions to general election organizers that are proven to violate ethical codes.

General election organizers, in this case, the KPU, Bawaslu, and DKPP have a role in the organization of the general election. General election violations are often committed by general election participants, i.e., head of the region candidates, legislative member candidates, and success teams of the general election participant candidates. The violations committed may be in the form of black campaigns, money politics, accepting and giving bribes to certain parties to obtain votes, etc. But in the development in the next year, such as that which was described in the background above, the violation cases committed by general election organizers, i.e., Bawaslu dan KPU, have increased. These are the violations committed by general election organizers:[5]



Table 1. The violations committed by general election organizers

General Election Implementation	Violating General Election Organizers	Type of Violation	Details
1. Legislative General Election of 2014	Panwaslu of Medan	Criminal law violation in the general election: manipulation of general election results	30 cases
2. Head of the Region General Election 2012-2018	Bawaslu and KPU	Code of ethics violation, leading to trials with the DKPP	2.986 complaints, 351 in North Sumatra, 339 in Papua, 190 in East Java, 131 in West Java, and 128 in Aceh.
3. General Elections from 2012 to 2018	Bawaslu and KPU	Code of ethic trials in DKPP	In the decision, 491 were permanently terminated, 28 were terminated as leaders (their positions were shifted with members), 1.184 obtained written warnings, and 2.276 organizers had their good name rehabilitated as they were not proven to commit violations.
4. General election of 2019, DKPP trial with the case numbers 96/PKE.DKPP/V/2019; 98/PKE.DKPP/V/2019; 99/PKE.DKPP/V/2019; 100/PKE.DKPP/V/2019; 127/PKE/DKPP/VI/2019.	KPU of Bukittinggi City, Head of KPU South Solok Regency, Members of KPU of Mentawai Islands Regency, Head of KPU Dharmasraya Regency.	Violating the principle of legal certainty, public interest, and the revocation of personal rights.	Violators are prohibited from becoming general election organizers in the next period as regulated in Article 11 letter I of Law No. 7 of 2017 on the General Election.
5. Organizers of the general election 2020 were proven to commit criminal law violations.	Wahyu Setiawan KPU Commissioner caught from the arrest operation of the Corruption Eradication Commission ( <i>Komisi Pemberantasan Korupsi/KPK</i> )	Received bribes concerning the organization of the interperiod shift of Legislative House Members from the Indonesian Democratic Party of Struggle ( <i>Partai Demokrasi Indonesia Perjuangan/PDIP</i> )	The perpetrator was processed in the KPK as he violated the Law on the Crime of Corruption

Then, in Article 155 and Article 163 of Law No. 1 of 2017 on the General Election, there is the Regional Examiner Team which examines allegations of ethical code violations committed by general election organizers in the regions; examines the ethical code violations committed by KPU, members of the provincial KPU, or members of the City/Regency KPU; Bawaslu, members of Bawaslu, members of provincial Bawaslu, and members of city/regency Bawaslu, District Election Committee (*Panitia Pemilihan Kecamatan/PPK*), (*Panitia Pemoting Committee (Panitia Pemungutan Suara/PPS)*), Voting Organizing Group (*Kelompok Penyelenggara Pemungutan Suara/KPPS*), District Panwaslu, Village/Sub District Panwaslu, and voting venue supervisor, DKPP elements, provincial KPU, provincial Bawaslu, and societal elements according to the needs. The characteristics of DKPP's decisions are final and binding. Further, the sanctions imposed by DKPP are regulated in Article 458 of Law No. 1 of 2017 on the General Election. It also states that DKPP's decisions are final and binding. DKPP determines the decision after undergoing research and/or verification towards that complaint, listening to the plea and information from witnesses, as well as considering other evidence. DKPP's decisions in the form of sanctions or rehabilitation are taken from the DKPP plenary meeting. The sanctions imposed by DKPP on the general election organizers are in the forms of written warnings, temporary termination or permanent termination.

In the case where general election organizers that were sued do not fulfill the first summon, DKPP delivers the second summon five days before holding the DKPP trial. In the case where the DKPP has summoned twice and the general election organizers do not fulfill the summoning without an acceptable reason, the DKPP may immediately discuss and determine the decision without the arrival of the concerned general election organizers. The sued general election organizers themselves must come and they cannot be represented by other people. The complainant and the general election organizers may bring witnesses to the DKPP trial. In the DKPP trial, the complainant and the sued general election organizers are asked to express the reasons for the complaint or plea, meanwhile, witnesses and/or other related parties are asked for information, including being asked for documents or other evidence. DKPP determines the decision after undergoing examination and/or verification towards those complaints, listens to the plea and information from witnesses, as well as considers the evidence.

General election organizers that are proven to commit criminal law violations of the general election may be imposed with Law No. 19 of 2019 on the Crime of Corruption. As written in Article 11, every person who, with the aim of bringing profits to themselves or other people or a corporation, misuse authorities, opportunities, or facilities that they have due to their positions or roles that may bring losses to the state finance or economy, is imprisoned with life imprisonment or imprisonment for at least a year and at most twenty years and or with a minimum fine of Rp. 1.000.000.000,00 (one billion rupiahs).

KPU is the spearhead of the general election organization and Bawaslu has the right to supervise the organization of the general election in case there is a violation. Then, as one of the general election organizers, DKPP has the important role of ethically warning, acting upon, or trying KPU and Bawaslu that commit general election violations. The hindrance of KPU and Bawaslu in undergoing their tasks as general election organizers is that the two have very long terms of office. Thus, as general election organizers, KPU and Bawaslu have known the prospecting candidate participants of the general election. Therefore, political lobbies may happen between prospecting candidate participants of the general election and the general election organizers.[21] KPU and Bawaslu maintain their independence as

general election organizers so that they can refrain from political lobbies carried out by prospecting candidate participants of the general election to maintain political power and ethical politics.

KPU and Bawaslu have the power as general election organizers in a civilized and ethical manner to emphasize justice and benefit for society. The power obtained by KPU and Bawaslu is based on conscience. They must pay attention to their attitudes and behaviors as general election organizers. It is hoped that general election organizers have good political ethics and they do not commit any violations, including ethical or criminal violations. If KPU and Bawaslu are proven to violate ethics and criminal law, as general election organizers that maintain independence and integrity, they must be cooperative and they must bear all the risks of their actions. They must be given sanctions according to the applicable legal regulations.[22] General election organizers, i.e., KPU and Bawaslu have the full power to manage the organization of the general election. Unfortunately, some individuals misuse their power. The writer defines political power as the making of policies on the power from the position one has. Meanwhile, misuse of power is an ethical violation. KPU, Bawaslu, and DKPP as state institutions that are trusted by the government and society to organize the general election in a direct, public, free, confidential manner are deemed by the writer as ethical politics. Thus, integrity is highly required from general election organizers, i.e., KPU, Bawaslu and DKPP.

## Conclusion

1. The influence of the thoughts of John Austin, Hans Kelsen, and Hart in political power and ethical politics on the authority of the KPU and Bawaslu as general election organizers are: first, John Austin defines the law as the command of the sovereign. KPU and Bawaslu have the political power to make policies. Second, the influence of Hans Kelsen's thought is that the law is one's behavior to comply with orders and prohibitions (sanctions). KPU and Bawaslu's behavior in using power in the organization of general elections is that they must use the power in a civilized and ethical manner. Third, Hart's thought is that the law and morality are a command from the authorities to follow the stipulations of legal regulations. As general election organizers, the KPU and Bawaslu carry out tasks and authorities according to Law No. 7 of 2019.
2. In resolving ethical cases in the general election, *Kehormatan Penyelenggara Pemilihan Umum* (DKPP) have the authority to decide on such cases committed by the KPU and Bawaslu in organizing the general elections. DKPP can give sanctions in the form of oral and written warnings and terminate the perpetrators as general election organizers based on Law No. 7 of 2017 on the General Election. Meanwhile, criminal law violations in general elections committed by KPU and Bawaslu are sanctioned according to Law No. 19 of 2019 on the Crime of Corruption.

## Recommendation/Suggestions.

1. In the case of political power and ethical politics, as general election organizers, KPU, Bawaslu, and DKPP, can adopt the thoughts of the three figures. First, John Austin implements power based on the applicable legal stipulations. Second, Hans Kelsen implemented power using conscience, morals, and ethics. Third, according to Hart,

authority is legal protection in implementing tasks and authorities based on the applicable regulations.

2. DKPP should act decisively towards general election organizers that are proven to commit violations. Individual general election organizers that committed the violation should be black-listed for life. They must not register as prospecting candidates of KPU and Bawaslu commissioners at the regional and central levels.

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