



The Influence of Ethical Decisions on the Democratic Process of Indonesia's Elections

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Abstract- The occurrence of democratic elections is contingent upon the presence of election organizers who possess integrity. The effectiveness of the General Election Commission (KPU) and the Election Supervisory Body (BAWASLU) in their role as election organizers can be evaluated based on the prevalence of fraudulent activities and violations perpetrated by participants in the electoral process. Nevertheless, the paramount aspect is in the adherence to ethical values exhibited by the constituents of the KPU and BAWASLU during the execution of their responsibilities. This article aims to examine the correlation between the decision made by the Election Organizer Honor Council (DKPP) and the frequency of ethical transgressions performed by the Election Commission (KPU) and the Election Supervisory Body (BAWASLU). Has the decision made by the DKPP (Election Supervisory Agency) resulted in a favorable influence on the organizational aspects of elections? The decline in the frequency of ethical transgressions perpetrated by the KPU and BAWASLU is evident. In addition, the author conducts an analysis of the influence exerted by the ethical enforcement procedure on the successful implementation of elections characterized by integrity. The correlation between the implementation of democratic elections and the ability of KPU and BAWASLU to uphold the code of ethics is noteworthy. The author's conclusion posits that the effectiveness of the democratic process in Indonesia hinges upon three key components: DKPP decisions, ethical infractions, and elections conducted with integrity. The present analysis is conducted through an examination of the decisions rendered by DKPP, alongside the ethical transgressions perpetrated by KPU and BAWASLU, which are evaluated within the framework of ethics and democracy.

Keywords: General Election Commission, Election Supervisory Board, Honorary Board of Election Organizers, Ethics, Democracy

I. Introduction

Since the advent of the general elections in 1955, Indonesia has been widely acknowledged for its adoption of the democratic framework, primarily characterized by its emphasis on electoral processes.[1] The reason for this is that the electoral procedure in 1955 was conducted in adherence to the ideals of elections as delineated in the 1945 Constitution, specifically the principles of direct, universal, unrestricted, confidential, and equitable. According to Juliet Pisch, Indonesia can be classified as a liberal democracy due to its successful transition from an authoritarian regime to a democratic system, exemplified by the consistent conduct of elections following this transition.[2] Nevertheless, the establishment of elections is fundamentally contingent upon a nation's determination to foster either a prosperous or unsuccessful democratic system. According to Agusti Bosch, the varying levels of success in implementing the democratic process across different countries can be observed through the efficacy of election organization.[3]

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The successful execution of democratic elections is inherently intertwined with the presence of organizers who possess unwavering integrity.[4] The KPU, serving as the election organizer in Indonesia, is regarded as the cornerstone of citizens' aspirations in facilitating democratic electoral processes. The imperative task at hand is to translate the electoral ideals enshrined in the 1945 Constitution into concrete legislation that effectively embody the fundamental concept of popular sovereignty.[5] In order to ensure that the KPU is able to effectively conduct elections in alignment with established norms, principles, and ethical standards, it is imperative to implement a system of monitoring, with particular emphasis on ethical considerations. The implementation of ethical oversight is necessary in order to mitigate the risk of KPU's potential transgressions of legal statutes, which could have detrimental consequences for the integrity and efficacy of the electoral process. Hence, the implementation of DKPP as a regulatory entity responsible for enforcing ethical standards among election organizers is anticipated to effectively mitigate and maybe preempt ethical transgressions prior to the occurrence of legal infraction[6][7]

The authority to police the ethics of election organizers is granted to DKPP by Law Number 15 of 2011, which pertains to General Elections. Within the legal framework, the DKPP is integrated with the KPU and BAWASLU during the electoral organization process, thereby imposing equivalent responsibilities on the DKPP, KPU, and BAWASLU to ensure the conduct of transparent and impartial elections.[7] Hence, the establishment of an ethics court is deemed conceptually imperative to bolster law enforcement efforts and uphold the integrity of outcomes within the broader electoral process.[8]

Several scholarly papers have been published in regard to the aforementioned difficulties, including an article by Jimly Asshiddiqie that explores the topic of ethical judiciary and constitutional ethics. Jimly asserts the significance of ethics in conjunction with the function of law within the judicial process. Jimly has underscored the notion that the 1945 Constitution serves not just as a legal reference but also encompasses a moral foundation.[6] In his work titled "Political Ethics in Elections: The Role of DKPP in Realizing Elections with Integrity," Rahman Yasin asserts that the significance of DKPP in the electoral process lies in its function as a custodian and enforcer of ethical standards.[7] According to his opinion, the primary criterion for upholding election standards characterized by integrity and quality is in the effective implementation of a sanction system designed to address infractions of the election code of ethics. According to a study conducted by Wirnyaningsih, there has been a notable rise in instances of contraventions of the code of ethics among election organizers, particularly in the context of the Covid-19 pandemic.[9]

Wirnyaningsih underscored the presence of budgetary and organizational uncertainties during the epidemic, particularly in relation to regional elections, which were significantly impacted by the prevailing pandemic conditions. Hence, numerous individuals already holding office engaged in covert electoral strategies by offering aid to populations that were impacted. Furthermore, Wirnyaningsih's research reveals that the transgressions of ethical standards committed by election organizers and participants are in direct conflict with Islamic law, which exhibits a stringent commitment to protecting ethics and legal principles. Ni Wayan Widhiastini conducted study on the impact of the pandemic on election circumstances, revealing a concerning rise in electoral fraud. The widespread use of social media during this period has significantly contributed to the increased vulnerability for violations.[10]

The existing literature has not yet addressed the influence of ethical decision-making on violations perpetrated by election organizers, specifically the KPU and BAWASLU. The

author does an analytical investigation on the quantity of ethical punishments imposed by DKPP in relation to the number of violations perpetrated by KPU and BAWASLU. In addition, the author conducts an analysis of the notions of ethics and democracy in relation to the preservation of elections characterized by integrity. The author's conclusion posits a strong correlation between the three ideas, asserting that the ethical standards upheld by election organizers significantly influence the attainment of elections characterized by integrity. Hence, the presence of DKPP as a regulatory entity holds significance in relation to the essence of ethics. However, it is imperative that election organizers possess a comprehensive comprehension of ethics, considering it as a fundamental aspect of morality that warrants prioritization even prior to the enforcement of ethical standards by the DKPP.

II. Elections with Integrity: The Practice of Democracy and Ethics

Democracy can be conceptualized as a form of governance wherein the authority is vested in the populace, hence enabling them to exercise their agency in determining the composition and functioning of their government through a structured mechanism commonly referred to as elections.[11] The contemporary era has inherent challenges that render the implementation of direct democracy, as observed in ancient Greece approximately 2500 years ago, unfeasible. In contemporary democratic systems, the electoral process is invariably linked to the principle of representative democracy or indirect democracy, wherein individuals engage in the decision-making procedure by means of their elected representatives.[12] Hence, it is imperative to ensure that the electoral process is conducted in strict adherence to established regulations in order to yield representatives of utmost integrity. According to the research conducted by Ian McCallister and Stephen White, it may be posited that there exist a minimum of three discernible patterns that manifest during electoral processes. 1) Instances of fraudulent activities stemming from manipulative actions executed by the election organizing entity, spanning from the initial registration procedures to the final tallying of votes. 2) The election regulations established by the parliament possess the capacity to impose restrictions on the inclusion of new candidates in the electoral race, 3) The absence of adequate supervision about the integrity of the election organizers.[13] The aforementioned three conclusions constitute the primary factors influencing the outcome of elections within a nation. Muhlisin et al underscore the presence of disinformation as a factor that might diminish public trust in electoral processes, specifically by circumventing election organizers and undermining the credibility of the various phases of organization.[14]

The whole democracy that should be applied in a nation is much larger than the democratic process that is demonstrated during elections. After the election, a thorough democratic process can be observed in which the process is carried out not only by the election winner but also by the entire populace. This is referred to as public involvement in government.[15] Therefore, the outcome of credible elections influences the participatory democratic process. In order to achieve the desired election results, Andrew M. Daniller underlined that election organizers and participants must own the perception of fair elections. After an election, voters should not feel inclined to abandon democracy.[16] It is evident in practice that winners and losers will view the democratic process, participation, and government with distinct perspectives. To ensure that both voters and election organizers perceive elections as being conducted with integrity, it is essential to uphold ethics throughout the democratic process.

There are always a few standards that serve as a foundation in human life, including religious, legal, and ethical norms. Law enforcement is supported by ethical and religious standards so that it can take place following the application of these standards.[6] When someone has respected moral and religious standards, they have also inadvertently upheld the law. The three are created to be the unbreakable basis of life. Although there are many misconceptions about how these three principles should be used in practice. For instance, religious standards are occasionally set apart from legal standards and are managed independently. The application of laws is also the same, and it is occasionally not based on local religious customs. The same is true of ethical rules, which are occasionally exempt from the implementation of legal and religious norms. In actuality, one's religious affiliation and philosophical principles serve as the foundation for their ability to accept whatever demands made of them.[17] In other words, it backs up the legal system itself. Similar to how ethics, which is larger than the law, forms the foundation for the law's ability to be enforced.

Alghazali presented the idea of ethics from an Islamic viewpoint based on the idea that God's knowledge and will existed before creation even started.[18] Islam bases its ethical principles on the importance that man has as a creation of God. Ethics, which derives from the Greek term *ethos*, is a concept that refers to a habit, custom, character, feeling, and way of thinking. Ethics is a framework of information about what is typically done or knowledge connected to customary practices, according to philosophy. To be more specific, ethics can be categorized into three primary definitions: the science of what is good and moral obligations; a set of principles or values that grow with morality; and values about right and wrong embraced by a community or society.

With the demand for superior administration, the idea of ethics developed. As the necessity for effective governance increased, so did the idea of ethics. In order to achieve good governance, a public official must act ethically to promote transparent and accountable governmental management. Good administration, according to Nicholas Tarling, serves as a deterrent against corrupt behavior.[19] In addition to the law, which has established itself as a sound standard up to this point, ethical behavior is also essential in the administration of the state. Law and ethics are complementary and do not conflict. Even religion and beliefs are a source of how state officials behave when carrying out government. This is so that state officials, especially those chosen by the public in general elections, can still exercise their authority despite the existence of the law. This indicates that these state managers have a propensity to break the law due to their strong legitimacy. While every choice made by stakeholders will affect the lives of their constituents. Dennis F. Thompson breaks down each decision's form of accountability into three categories: hierarchical, collective, and individual responsibility. All three categories can be overcome by the morality of public servants.[20]

In Indonesia itself, there are high hopes for improvements to the state administration that are democratic, open, and accountable, as well as for the accomplishment of good governance and freedom of opinion, in the reform era.[2] Particularly, better accountability values are anticipated from the election organizers. This is because ensuring fair elections depends heavily on the election organizers, in this case the KPU and BAWASLU. The understanding of ethics held by election organizers is one of the conditions to be referred to as an election with integrity.[21] The creation of guidelines for the election organizers' code of ethics by DKPP embodies this notion of ethics.

By claiming that Indonesia has an intellectual foundation, specifically Pancasila, which is the center for sustaining ethics in the life of society and government, Jimly Asshiddiqie emphasized the importance of ethics in the life of the country.[22] Transparency and

accountability are two key components of successful governance, according to Prof. Bintoro Tjokroamidjojo.[23] To achieve excellent governance, ethics are required to uphold the ideals of accountability and transparency. Therefore, the DKPP's presence as a morally upright judicial organization has a significant impact on the outcomes of holding democratic elections as well. According to Jimly Asshiddiqie, ethical courts must adhere to certain rules, including the rules of *audi et alteram partem*, independence, impartiality, and transparency. Since everyone has a right to equal opportunity in the legal and judicial systems, adherence to these four principles is essential.

The practice of democracy and ethics in Indonesia can be seen at least in the organization of elections. Abubakar E Hara wrote in his article about democratic practice in Indonesia. According to Hara, there are three cases that show the democratization process in Indonesia, namely election, government system and political practices.[24] General elections are most prominent example of the transition from authoritarian to democratic rule. Even western countries make election as the main too to disseminate the idea of democracy. In Indonesia, the election holds in June 7th 1999 were considered free and fair, after the fair election in 1955 were also considered the most democratic. Although in 1999, there were still shortcomings such as length of time used to count the votes, the lack of training of the voting committee and the delay in the distribution of materials.

III. DKPP Decision's Effect on Elections with Integrity

Since its inception in 2012, the Election Supervisory Agency (DKPP) has rendered numerous decisions imposing punishments in response to ethical transgressions committed by the General Election Commission (KPU). The regulation governing the jurisdiction to render determinations pertaining to ethical transgressions is stipulated in Law Number 7 of the year 2017 on General Elections (Law Number 7 Year 2017 on Election, n.d.). This legislation outlines the authority of the Election Supervisory Agency (DKPP) as follows: 1) Summoning election organizers who are suspected of contravening the code of ethics to furnish clarifications and justifications, 2) Requesting the participation of the reporter, sanctions, and/or other relevant parties for the purpose of interrogation, which may involve the submission of documents or other forms of evidence, 3) The proposition entails the implementation of consequences onto election organizers who have been substantiated to have contravened the established code of ethics, specifically pertaining to the determination of infractions of said code. The DKPP is not only vested with the power to enforce the electoral code of ethics, but it is also obligated to adhere to the fundamental principles of justice, independence, impartiality, and transparency. In order to achieve this objective, it is imperative for DKPP to ensure that election organizers adhere to ethical principles and standards. In order to fulfill its responsibilities, the DKPP has formulated a code of ethics that is governed by the Election Organizer Honor Council Regulation Number 2 of 2017, which pertains to the Code of Ethics for General Election Organizers. The presented code of ethics encompasses a set of moral, ethical, and philosophical principles that impose both obligations and prohibitions onto election organizers.

The extent of ethical enforcement by the DKPP can be observed through an analysis of the quantity of complaints that have been lodged with the DKPP. In 2019, the number of complaints submitted to DKPP from January to December 5 was 506 complaints. Specifically throughout 2019, DKPP has sanctioned the KPU and Bawaslu Election Organizers and their

staff in the form of Permanent Dismissal of 43 people, Rehabilitation of 648 people, Warnings / Reprimands of 387 people, Temporary Dismissal of 3 people, Dismissal from the Chairmanship of 12 people, and Decree of 30 people.[25] From the sanctions given, it can be seen that very many election violations occurred throughout 2019.

In the year 2020, there was a decline in the number of complaints, resulting in a cumulative count of 415 complaints. In the meanwhile, the KPU and BAWASLU election organizers, together with their personnel, have faced various sanctions, including Permanent Dismissal for 26 individuals, Rehabilitation for 200 individuals, Warnings/Reprimands for 174 individuals, Temporary Dismissal for 67 individuals, and Dismissal from Position for 60 individuals.[25] Despite the prevailing epidemic conditions, it is believed that the incidence of violations may increase because to the evolving restrictions surrounding the electoral process, particularly with regards to campaign strategies employed by election participants, which predominantly rely on social media and internet platforms. Indeed, in light of the uncertain circumstances brought about by the ongoing pandemic, several suggestions to defer the elections, which were initially scheduled to be held concurrently, were put forth.[26]

In the year 2021, a total of 292 complaints were lodged, out of which 156 advanced to the trial stage. In addition, the DKPP issued a total of 39 ethical decisions in response to infractions committed by election organizers.[27] In terms of grievances, the DKPP has identified three primary kinds of often reported violations. These include instances of negligence within the electoral process, abuse of power or authority, and the lack of effective legal recourse. In terms of decision-making, the three predominant classifications of infractions include failure to fulfill tasks or exercise authority, neglect in the electoral process, and breaches of impartiality and partisanship. Hence, it is evident that election organizers continue to exhibit a lack of neutrality and impartiality. In addition, election organizers who engage in unethical conduct not only contravene the ideals of professionalism, legal certainty, and independence, but also undermine the integrity of the electoral process.

DKPP's process for issuing ethical decisions is not easy. According to Morales-Sanchez and Carbello-Medina, morals are an important element in the process of issuing ethical decisions. The four main values in determining ethical decisions, namely prudence, justice, fortitude and temperance, are the key to ethical decisions. Therefore DKPP member also have the responsibility to uphold the code of ethics so that the decisions issued are fair to all parties. Based on research conducted by Cawley, et al (2000), Wright and Godstein (2007) and Hannah et al (2011), the characteristics of an ideal ethical decision are; (1). Fair to all parties, (2). Exhibit the principle of prudence and consideration, (3). Appropriate and in accordance with the offense committed so that it is not excessive, (4). Based on the courage to uphold ethics despite the negative consequence of the decision.[28]

The application of this value is important considering the many types of cases of violations committed by the KPU and requires efforts that are not easy to decide on ethical sanctions. For example, in 2021 there was a complaint regarding alleged ethical violations committed by the Nabire KPU in the form of dishonesty in providing information about Form C which contains the minutes of the results of counting and voting at polling stations (TPS).[29] In addition, the Nabire KPU is also considered unprofessional because it does not follow up on the complainant's recommendation letter and BAWASLU's recommendation letter regarding the cancellation of votes in one of the districts in Nabire.

Based on an analysis of the three-year period spanning from 2019 to 2022, it can be observed that there has been a discernible decline in the number of complaints lodged by

members of the public in relation to the operational efficacy of the DKPP. This observation indicates that the ethical enforcement responsibilities of DKPP are well executed. Furthermore, the idea of democracy entails that the democratic process should extend beyond elections and be present in the subsequent governance phase. This can be observed by the involvement of the community in the next electoral procedure. The Secretariat Cabinet of the Republic of Indonesia has recently disclosed data pertaining to the progressive enhancement of voter engagement in successive general elections. Specifically, the voter participation rate in the 2014 presidential election stood at a mere 64%. However, in the subsequent 2015 regional head election, this rate experienced a notable surge, reaching 70%. Furthermore, in the most recent 2019 presidential election, the voter participation rate witnessed a significant upswing, soaring to 81.9%. [30] The observed rise in this numerical value provides support for the association between the decline in instances of ethical transgressions and the consequent advancement of the democratic process.

Apart from the decreasing quantity of violations, the impact of ethical sanctions can be seen in terms of the quality of organizing elections. The integrity can be seen from how professionally the KPU organizes the elections in accordance with the vision of the KPU, which is to become an independent, professional and dignified election organizer for the realization of elections that are direct, public, free, secret and fair. [31] Why can this ethical decision have an impact on the KPU's integrity? Because the ethical decision issued by DKPP will have a negative effect on the KPU. Public trust will decrease along with the many ethical sanctions against KPU commissioners. Even the bigger impact is that KPU as the election organizing institution will be considered bad by the public with the increasing number of ethical sanctions received. The loss of public trust in the KPU can have an impact on the loss of voters' interest in participating in the election. Not only voters, the election participants also become reluctant to take part in the election competition because the KPU is considered unprofessional in organizing an honest and fair election. KPU may be considered not neutral because it has been proven to get ethical sanctions, especially in cases related to the validity of ballots or minutes of events.

Besides from the problem of public trust, the most severe ethical sanction, namely dismissal, will have an impact on changes in the KPU management structure. This has happened in 2020 where as many as 20 ad hoc election organizers were dismissed for violating ethics. [32] It is even more worrying if this happens in the middle of an election period that requires the role of the KPU. The replacement of KPU members is not easy. To be able to arrive at the inauguration as a member of the KPU alone requires a long process.

Thus, the ethical decision issued by DKPP is actually a decision that is actually issued on the basis of in-depth consideration. Law Number 15 of 2011 concerning the implementation of general elections regulates that DKPP is an integral part of organizing elections. [33] Therefore, DKPP also has the responsibility to realize the implementation of elections with integrity. The loss of public trust is certainly the focus of DKPP before ethical sanctions are issued to KPU.

As stated by Ian McCallister and Stephen White, the important things that must be considered in elections are regulations, violations and supervision. Supervision in this case can be seen from the DKPP function as an ethical enforcer seen from the sanctions issued by DKPP against election organizers. Violations can be seen from the number of codes of ethics violated by election organizers. Meanwhile, regulations can be seen from how the DPR as a lawmaker formulates rules that are able to direct election organizers to have integrity.

Hence, it is imperative to substantiate the presence of DKPP in order to uphold and enforce the ethical standards of election organizers, thereby preventing any ethical transgressions and legal infractions from taking place during the electoral proceedings.

IV. Closing

The deterioration in ethics and morals is posited as the underlying cause for the crimes perpetrated by election organizers, leading to the normalization and integration of illicit activities and behaviors within society. Money politics is widely recognized as a prevalent phenomenon among election organizers, with bribery no longer carrying the stigma it once did. Furthermore, instances of fraud in the voting process are occurring openly and unabashedly. The primary objective of the DKPP is to effectively implement the established code of ethics for election organizers. Nevertheless, the significance of DKPP would be rendered inconsequential in the absence of a profound comprehension of the underlying principles and theories of ethics. The interconnection between ethics, democracy, and integrity is evident, since the ethical conduct exhibited by election organizers significantly influences the attainment of elections characterized by integrity. Hence, the presence of DKPP as a regulatory entity holds significance in relation to the essence of ethics. However, it is imperative that election organizers possess a comprehensive comprehension of ethics as a fundamental moral framework that warrants prioritization, preceding the enforcement of ethical standards by the DKPP. The decrease in the quantity of grievances and infractions perpetrated by election organizers serves to bolster the constructive influence of the DKPP in its pursuit of conducting elections characterized by integrity.

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