

The Relevance Of Election Organizing Institutions In Resolving Presidential Election Disputes

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Article Info	Abstract
Received: 2024-3-12 Revised: 2024-12-29 Accepted: 2024-12-30 Keywords: democracy; election; election disputes; general election commission; people's sovereignty.	<i>The General Election Commission (KPU) is an election organizing institution that is national, permanent, and independent in organizing elections. Holding direct presidential elections is a democratic instrument to create a more democratic government and a step toward realizing people's sovereignty. In this research activity, the type of research used is normative juridical research (legal research), which prioritizes library research. However, along the way, various accompanying problems arose. Ultimately, these things must be considered challenges and part of the maturation process to create a more mature state government. As explained above, the various disputes in the final stages of voting for the elected candidate pairs in the Presidential Election show that we still have a lot of democratic agenda that needs to be resolved regarding regulations, institutions, and law enforcement. Thus, the disputes that occur should become part of the election maturation process as the period changes.</i>

I. Introduction

General elections are very closely related to political issues and changes in presidential terms in Indonesia (Haughton et al., 2022; Thesia, 2023). Because elections, politics, and the period of change in the President are interrelated. The General Election that was held was nothing more than a political issue related to the issue of changing the President's term of office. According to statutory regulations, presidential elections are held once every 5 (five) years; in each period, they are elected directly by the people of 38 provinces (Purnomo, 2022). The 2024 Indonesian Presidential Election, also called the 2024 Presidential Election, is the fifth general election in Indonesia, which aims to elect the President and Vice President of the Republic of Indonesia. Elections were held to determine the holders of the President and vice president positions for the 2024–2029 term. Theoretically, elections are the most important means and instrument for realizing popular sovereignty and implementing democratization in Indonesia.

The implementation of democracy will be felt directly by the public during the process

of holding general elections (Florina & Hartati, 2017) ns . General elections are held by the rules of Law that form the basis and principle of conducting direct presidential elections (Hidayatulloh, 2019; Rahmiz & Yasin, 2021; Ridho et al., 2021). Elections take place to determine the candidates for leadership who are worthy and deserve to hold the reins of government power. Presidential elections must also be direct, public, clean, honest, and fair (Safwan et al., 2021) . His is done to achieve the sovereignty of the Indonesian people, as expected. Holding presidential elections is expected to provide legal certainty, legal justice, and the Law's benefits. Direct elections are a system for electing political office holders in which voters directly cast their ballots for a candidate, pair of candidates, or political parties they wish to be elected (Kersting & Regalia, 2022; Saleh et al., 2022) .

The purpose of holding general elections is to elect People's Representatives and President and Vice President, as well as for a democratic, strong government supported by the people to realize the National Goals as mandated in the Constitution of the Republic of Indonesia Year 1945 Article 1 Paragraph (2) which reads: "Sovereignty is in the hands of the people and is exercised according to the Constitution" to realize this goal it is necessary to have election organizers and principles Organizers. General election organizers, as explained in Law Number 15 of 2011 concerning General Election Organizers in Chapter I General Provisions Article 1 point 5, namely: "General Election Organizers are institutions that organize General Elections consisting of the General Election Commission (KPU) and the General Election Supervisory Agency (Bawaslu).

As a unified function of holding General Elections to elect members of the People's Representative Council, Regional Representative Council, Regional People's Representative Council, and the President and Vice President directly by the people, as well as to democratically elect Candidates for Governor and Regent, and the Mayor." The KPU, as an election organizing institution, has a national, permanent, and independent nature (Simbolon, 2019, p. 83) . The existence of the KPU as an independent state institution in Indonesia is very important. The KPU must be independent or independent. Independent because it is an election management institution. Direct presidential elections are a form of democratic instrument that creates a more democratic government and prioritizes people's welfare in state, national, and, most importantly, constitutional life. People's affairs are the first topic, one of which can be a fair election (Sarbaini, 2020; Wibowo et al., 2022) .

With this system, it is believed that the hope of realizing people's sovereignty in the government system can be realized in its entirety, considering that the democratic system is a direct order mandated by the 1945 Constitution of the Republic of Indonesia. In its journey, the democratic system adopted by the Indonesian people is not free from various obstacles. This often leads to apathy among the wider community, who need help understanding the importance of participating in state politics. Democracy is popular sovereignty, meaning that the people must be the center of gravity of all political activities related to state administration. The progress of a country's democratic practice is marked by the extent to which society and its aspirations shape public policy and become the main reference for every institution tasked with fighting for the public interest. The manifestation of the democratic process in Indonesia can be seen in the general election process, which uses general election principles as the basis for holding general elections for candidate pairs chosen by the public. As a democratic tool, elections clarify the

abstract concept of popular sovereignty. The results of elections are elected people who represent the people and work for and on behalf of the people to give and accept the people's aspirations to achieve the sovereignty of the state and nation.

Based on the description above and so that the writing does not deviate from the title that has been determined, the author focuses the problem formulation in this writing on how to implement election strategies in realizing the meaning of democratic and people's sovereign elections and how to do it. The role of the KPU if there is an election dispute at the final stage of the voting results of the selected candidate pairs.

2. Research Method

The description of the legal research methods used in the article is in the form of research results, the results of which are written and published in this journal. Then, for articles that result from a conceptual study of research methods, there is no need to create a new chapter; include it at the end of the introduction. In this research activity, the type of research used is normative juridical research (legal research), which prioritizes library research. The normative juridical research method is a legal research activity in library studies carried out by reviewing library materials, as well as both primary and secondary data. There are several approaches to problems in legal research. Researchers will get information about the problems they seek answers to from these approaches. The approaches used in legal research are statutory, case, historical, comparative, and conceptual approaches (Marzuki, 2011, p. 133). Each approach will be used according to its needs in this research process.

3. Results and Discussion

Realizing Democratic and People's Sovereign Elections

Juridically, a direct presidential election in the country is a direct mandate from the 1945 Constitution of the Republic of Indonesia. When viewed from a historical juridical perspective, the 2004 election was the first election in which the people elected the President directly. The implementation of this regulation occurred after amendments to the 1945 Constitution. This election also ordered the Regional Representative Council (DPD) formation. Twenty-four political parties participated in the elections held on 5 April 2004 (Adjie Hari Setiawan, 2023). Even that change, undoubtedly not limited to granting authority to autonomous regions, is not limited to granting autonomy to autonomous regions. What is meant by autonomous regions or Maura swan-tantra regions is a region within a country with autonomous power or freedom from governments outside the region (Simamora, 2014, p. 125). However, along with the spirit of reform, it has brought a meaningful political wave in local democratization, namely regional elections.

The change in political paradigm, first and foremost in the Presidential election, which is always carried out in the legislative space, is currently being "handed over" to the people in their respective regions to exercise their sovereignty. Law Number 5 of 1974, concerning the Principles of Regional Government, and Law Number 22 of 1999, concerning Regional Autonomy, have yet to give the community the freedom to determine their regional leaders. Both still use the concept of representation in their presidential election. The process of changing the electoral system from a representative system through the DPRD route to a direct general election system that is handed over to the

people is not without a strong basis and basis The 1945 Constitution of the Republic of Indonesia Article 1 Paragraph 2, which reads:

"Sovereignty is in the hands of the people and is implemented based on the constitution." Strengthening popular sovereignty and direct participation in the implementation of democracy and public distrust of the representative system, often in line with the people's wishes, are the main reasons for changes to the presidential election system".

According to Mahfud MD, based on experience in Indonesia, there are at least two reasons why direct elections are considered necessary. First, direct elections open more opportunities for the emergence of leadership candidates by the will of most people. The second reason is to maintain the stability of the government so that it is not easily brought down halfway by parliament (Mahfud, 2007, pp. 133–135). Maswadi, In his 2005 paper, mentioned that there are at least four reasons direct elections need to be held: first, to build regional autonomy. Second, cultivate local leadership. Third, it increases public accountability and government transparency. The fourth is a very strong process of popular legitimacy (Rauf et al., 2009). Direct presidential elections are an expansion of people's political participation in determining their leader figures as a manifestation of people's sovereignty so that regional leaders who are born by the hopes and aspirations of the people and have strong political legitimacy are born. That is why the regional head and deputy regional head figure are needed to bring his region towards innovative, forward-looking, and ready to take and implement better changes for the benefit of the community concerned in the area he is leading.

In that, too, the hope of direct presidential elections has a very strategic role in the context of developing local democratic life, justice, equity, and people's welfare, and at the same time, maintaining the integrity and harmonious relations between the government and the people, regional governments and the central government to achieve the noble goals of a country with a system where the people get the point of struggle from a country is good welfare in social life and legal life by living amid these societies. However, direct presidential elections have averaged only one to two terms since 2005. This, whether we realize it or not, is a new "thing" in the political life of this nation-state, so in reality, the social facts have not worked as they should. From a political perspective, direct presidential elections as a local democratic event are undoubtedly one of the processes of structuring the political life of the Indonesian nation-state.

Responding to this growing view, the government proposed that the presidential election be returned to the Regional People's Representative Council. This proposal is certainly very regrettable. After all, returning the Presidential election system to the Regional People's Representative Council is just a step backward for democracy in the country. Even though Article 18 paragraph (4) of the 1945 Constitution states that gubernatorial candidates are elected democratically, the political choices of the lawmakers have narrowed its meaning to direct elections as a legal policy, even though the meaning of legal policy is not included in the constitution. Sometimes, it contains rules that specifically and expressly regulate the constitutional basis of public policy, providing the basis for open legal policy choices. Contained in article 56 of Law Number 32 of 2004 concerning State Government states that regional heads are elected democratically based on the principles of direct, general, free, confidential, honest, and fair. In a broader context,

lawmakers' legal policy interprets the phrase "democratically elected" as direct elections as a concrete manifestation of the principle of popular sovereignty.

It must be admitted that the current direct election system often gives rise to several political problems. The widespread practice of money politics and the potential for horizontal conflict in society has become a bad existence that cannot be avoided by some individuals who still play a role in organizing elections in the Presidential election, which is carried out directly by the President. Government. This bad situation cannot be separated from the attitude of the governor candidate, who often clashes with the situation and conditions of society with personal interests in the world of direct electoral politics. Along with the frequent problems that accompany the direct election of regional head candidate pairs who will lead Indonesia, the public's skepticism and apathy have become an unavoidable derivative effect and a very dangerous ingredient for the progress of the election. Election. The process is carried out according to the period determined by Law (Simamora, 2011).

This causes many people to choose to be white (abstain), especially first-time voters who have just had the right to vote, following the world of elections to become more dominant, choosing to be apathetic towards a government system dominated by political elites. which tends to cause political problems that disrupt the electoral process. Implementing a democratic system in the regions often only becomes an arena for power struggles, and the interests of some elite groups are at stake. This wrong interpretation often affects candidate pairs who are disadvantaged at the Presidential election stage. When they are declared unfit to fight in the presidential election or even lose when the democratic party is held, various violations of the Law are often committed. However, despite these weaknesses, it must also be acknowledged that holding direct presidential elections provides several positive contributions.

The strengthening of the legitimacy of regional heads is clear evidence that the current presidential election system is still worthy of follow-up. The level of confidence of regional heads in carrying out their public service duties is increasingly being formed because they have gained direct trust from the public through the successful process of holding elections in Indonesia. So, it is not surprising that, after the direct presidential election system was implemented, regions that excelled in developing the concept of autonomy began to become more balanced. All of this is inseparable from the level of freedom inherent in each regional head after receiving a direct mandate from the results of the Presidential election from the people of each region (Simamora, 2012).

The political agreement that used to be evenly distributed when the Regional People's Representative Council's role still dominated the regional heads' determination is slowly eroding. The Regional People's Representative Council's arrogance in overseeing the running of the government is also approaching normalization. Even though we still see various shortcomings that often characterize the local democratic process, this should be interpreted as one part of the democratic learning process toward a level of maturity. These various shortcomings can be seen in efforts to change the system towards better change. In developing democracy, it is not as easy as turning the palm of your hand. A transition towards a process of perfection is very necessary, at least approaching a better direction than previous times in the democratic system in Indonesia. This negative impact should be a reference in organizing and building a better future by implementing a higher-

quality democratic system. Horizontal conflicts arising from holding presidential elections and various other problems must be interpreted as part of the process towards maturity to achieve the noble goals of a democratic system, which is the basis for holding presidential elections as a form of democracy. The sovereignty of the people as the people must be felt as a form of trust in the regional head candidate pair.

Since the first election in Indonesia was held in 1955, the country's efforts to hold elections of quality and integrity have begun. Normatively, the principles of holding elections based on honesty, confidentiality, calm, and direction are guaranteed. Thus, this shows that the Indonesian state is very willing to facilitate the community as the holder of the highest pillar of popular sovereignty to exercise their political rights in a conducive atmosphere (Simamora, 2013). The meaning, apart from elections of quality and integrity, is summarized in democratic elections, which require at least two things: free and fair elections. However, in the course and development of a dynamic democratic system, many parties feel dissatisfied with these two democratic criteria.

The Election Integrity Group, comprising 15 retired Supreme Court judges and former election organizers from 13 countries, including Indonesia, proposed electoral fairness as a parameter for democratic elections. According to the Electoral Integrity Group, Electoral Justice which was declared with the title Towards an International Statement of Principles of Electoral Justice in Accra, Ghana, 15 September 2011, consists of 10 principles. A series of elections will be categorized as fair if they have high integrity, involve many citizens, are based on high legal certainty, are impartial and fair, professional and independent, Transparent, on time according to plan, and without violence or free from threats and violence; orderly; Election participants accept that losing or winning is normal. Indonesia, as one of the largest democratic countries in the world, has established six steps for holding democratic elections: direct, general, free, secret, honest, and fair. This is stated in Article 22E, paragraph 1 of the 1945 Constitution.

The Election Law and the Election Implementation Law, which are its derivatives, add several more criteria, such as transparency, accountability, order, and professionalism. The institutional arrangements and membership of the KPU have been improved. Eliminating the KPU's obligation to delegate responsibility for organizing elections to the President realizes the KPU's constitutionality as a national, permanent, and independent institution. The KPU institution is hierarchical. The Executive of the Election Organizing Task Force is responsible in stages in its duties.

Dispute Resolution of Presidential Election Results

In democratic literature, elections are intended to carry out the change of power through peaceful mean (Budiyo, 2015) s . As a manifestation of procedural democracy, general elections are not just carried out routinely by abandoning the principle of free and fair elections. Indonesia has experienced a long phase of elections that pretended to be democratic in the New Order era. The electoral apparatus is completely created but far from the principle of direct, general, free, secret, honest, and fair elections. Fair and democratic elections have at least seven criteria (Surbakti, 2014), including equality between citizens, legal certainty formulated on the principle of democratic elections, free and fair competition between election contestants, participation of all stakeholders in the general election stages, professional, independent and impartial election organizers, the

integrity of collection, counting, tabulation, and reporting, and dispute resolution fair and timely elections.

Among these seven criteria, the existence of complete regulations is a must to guarantee legal certainty. When there is no legal certainty in holding elections, it is almost certain that democratic chaos will occur. Voting and counting votes is one of the crucial stages for the KPU, voters, and election participants. This stage is the culmination of a long election process; even for some election participants, the angel of death determines their future political fate. For the KPU and all its staff, the professionalism and integrity of the election is at stake. Bright, bold, and detailed settings will make this stage easier. The process of voting and counting votes at TPS is explained clearly and completely in KPU Regulation 3 of 2019 concerning Voting and Counting Votes in General Elections. Implementation time, procedures for voters to use their votes, preparation of polling stations by the Voting Organizing Group, voting equipment, division of tasks for the Voting Organizing Group, procedures for holding voting meetings, voting methods, and vote counting mechanisms and resolving objections, announcing voting results, and closing with an explanation regarding re-voting and re-counting votes.

Law Number 7 of 2017 concerning General Elections article 372 paragraph (1) regulates that voting at TPS can be repeated if a natural disaster or riot occurs, which results in the voting results not being used or the votes not being counted. Go out. Apart from that, paragraph (2) states that voting at the TPS must be repeated if the results of research and examination by the TPS supervisor prove that the following conditions exist: (a). Opening of voting boxes or files and counting of votes is not carried out according to the procedures specified in the provisions of the laws and regulations; (b). The Voting Group Officer asks voters to mark the ballot paper, sign, or write their name or address on the ballot paper that has been used; (c). The Voting Group Officer destroys more than one ballot paper used by the voter so that the ballot paper becomes invalid, and d. Voters still needing an electronic identity card are registered in the permanent and additional voter lists.

Apart from the requirements for the cause of the occurrence, the Law also regulates the deadline for implementing the PSU by 10 days after voting based on the decision of the Regency/City KPU. General Election Commission Regulation Number 3 of 2019, concerning Voting and Vote Counting in General Elections, divides repeat voting into two categories. PSU is because voters with electronic KTPs outside the region can exercise their voting rights at other polling stations even though they have registered with the DPT according to the electronic KTP address, without needing to process it—previous vote transfer form. If we look closely, the reason for carrying out PSU is that these factors are not included in the qualifications required by Law or PKPU.

Holding a re-vote has two consequences at once. On the one hand, PSU is a procedural mechanism that guarantees the constitutionality of laws. Even though it has not satisfied all parties, the PSU results are acceptable to the parties. But PSUs still bring some problems. First, extra budget. At least a budget of approximately six million rupiah is needed to implement PSU at each polling station. The main budget components are the salaries of KPPS and 2 security officers, costs for building TPS, and consumption. As an illustration, in Bantul Regency, which has 15 PSUs, a budget of 90 million rupiah is needed for implementation. The KPU must revise the budget if the budget for voting is no longer

available.

It was second, providing fast logistics. The maximum period for holding a PSU is 10 days, forcing the Regency KPU to provide PSU logistics quickly. The most urgent types of logistics are ballots and forms. For example, PSU implementation takes time to meet the deadline. In this case, the Regency KPU has sufficient time to condition and organize KPPS, PPS, and PPK, prepare old election logistics that are still suitable for use, such as boxes, booths, voting tools, and mats, as well as other equipment, and invite voters. To attend the polls. Third, there is a decline in the number of voters at polling stations. Almost all polling stations that held PSU experienced a decrease in the number of voters at the polling stations.

The occurrence of violations in the implementation of the Presidential Election was partly due to the Presidential Election regulations, which had many shortcomings, including too light sanctions for violations of the Presidential Election rules and the absence of rules regarding restrictions and transparency. Presidential Election Funds. The philosophy of electoral legal sanctions, including the Law that oversees the Presidential Election Law, is based on the assumption that elections celebrate democracy. Therefore, as a party, there are expected to be many violations so that the sanctions will not be increased. Likewise, restrictions and transparency on campaign funds, including sanctions for violations, are not strictly regulated; the sanctions are light because the political party that created this Law does not want any regulations that make things difficult for political parties and presidential election participants.

Because of this philosophy, in practice, it is unavoidable that massive, even systematic, and structured violations occur because participants and candidates know for sure that sanctions for violations committed will not have fatal consequences for the candidate, even if violations are discovered. The high number of violations in various elections is equivalent to the victory of a political party in those elections. Of the thousands of election violations discovered or reported, only a few were prosecuted and sanctioned. The sanctions given are very light and do not have an alarming effect on potential winners who commit violations, as well as transparency in presidential election participants' finances and campaign funds. The Law regulates the obligation to report and announce donations amounting to IDR 2,500,000, but this needs to be implemented effectively. Reporting only concerns accounts, initial funds, and final reports of participants' campaign funds to the KPU. This reporting cannot be monitored effectively, apart from the weak organizational capacity of the KPU and Panwas and the public's closed access to candidate campaign funds. This is also due to the absence of strict sanctions for candidates who do not comply. Rule. Candidates' campaign funds are much larger than their actual spending, and it is estimated that many sources of funds need to be clarified. The Law also does not limit the maximum amount of campaign funds and expenditures each candidate allows.

As a result, apart from the need for very large and unlimited election funds, there is also an unequal battle between candidates with large funds and candidates with limited funds. Each candidate tries to obtain as many funds as possible despite unfavorable circumstances and methods that are against the Law, such as providing or promising to provide licensing facilities and regional projects to entrepreneurs. Another consequence is the violation of money politics in various ways in the implementation of the presidential election. There must be strict sanctions for candidates who violate campaign finance rules

by discriminating against candidate pairs.

Another thing that is not explicitly regulated in the regulation is that there are no strict sanctions for candidates found to be coercing and using bureaucratic officials and state civil servants to help potential winners. The Law prohibits civil servants from being involved in nominating candidates. This leaves bureaucratic officials and civil servants trapped between their fate and careers and the prohibitions of the Law. Furthermore, looking at presidential election violations, the types of violations in state government law are grouped into administrative and criminal violations. Administrative violations are violations of election law, not election criminal provisions, and violations of other provisions regulated in KPU regulations.

If you pay attention, this formula has a broad scope so it will take work. For example, the chaos in the Permanent Voter List means that some citizens do not have the right to vote, which is just an administrative matter and a violation. However, if we look closely, this could be a criminal election violation if it can be proven that there was an element of intent as regulated in the criminal provisions of the state government law.

4. Conclusion

General elections are a very civilized process in selecting leaders and state administrators. Leaders are replaced or elected every five years during the presidential election by the laws and regulations in force in Indonesia. Therefore, seriousness is needed in the strategy for holding elections in Indonesia based on applicable Law. The various disputes that occurred in the final stages of the voting results for the elected candidate pairs in the Presidential Election, as described above, show that we still have many democratic agendas that must be resolved regarding regulations, institutions, and law enforcement. Thus, the disputes that occur should become one of the maturation processes during the election change period. If the head of government for a candidate pair changes at the final voting stage, the public will have full confidence in the votes given to the candidate pair to be elected in the general election. Disputes that occur must not become bad things that damage trust, as the applicable Law protects every process of holding elections.

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