

Reformulation of General Election Arrangement (Efforts to Avoid Loss of Life among General Election Officers)

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Abstract

The objectives of the current study are to: (1) understand and analyze whether the general election arrangement, stipulated in Law No. 7 of 2017 on General Election, contributed to the deaths of general election officers, particularly voting organizer group (Kelompok Penyelenggara Pemungutan Suara – KPPS) members, during the voting, tallying, and recapitulation stages; (2) to formulate solutions the government should take so that in the following election no general election officers, particularly voting organizer group (KPPS) members, loss their life during the voting, tallying, and recapitulation stages. The current study is normative legal research that requires data in the form of primary legal materials and secondary legal materials obtained through literature study. Once data were collected, they were classified and analyzed in a descriptive manner. Based on the research results, it can be concluded that: (1) the general election arrangement stipulated in Law No. 7 of 2017 on General Election did contribute to the deaths of general election officers, particularly KPPS members, during the voting, tallying, and recapitulation stages on account of excessive work load and lack of rest. As a result, some KPPS members experienced extreme fatigue to a degree in which those who had chronic diseases suffered relapses and ultimately passed away; (2) to avoid loss of general election officers life in future general election, a reformulation of the general election arrangement by lawmakers is necessary through the following process: first, reparate the implementation of the legislative election and the presidential/vice-presidential election; second, maintain the current simultaneous election with some improvements; third, hold two separate concurrent elections, i.e., concurrent national election and concurrent local election. Out of the three options above, the most plausible alternatives are the second and third since the first option contradicts the ruling of the Constitutional Court.

1. Introduction

The implementation of the 2024 concurrent general election to vote for presidential and vice-presidential candidates, House of Representatives of the Republic of Indonesia (*Dewan Perwakilan Rakyat* – DPR) member candidates, Regional Representative Council of the Republic of Indonesia (*Dewan Perwakilan Daerah* – DPD) member candidates, Provincial House of Representatives (*Dewan Perwakilan Rakyat Daerah* – DPRD) and Regional/Municipal DPRD member candidates had already been fulfilled. This is indicated by the inauguration of the members of DPR, DPD, provincial DPRD and regional/municipal DPRD who were elected in the 2024 general election on the 1st of October, 2024, and the inauguration of the president and vice-president elect for the 2024-2029 period on the 20th of October, 2024.

Members of DPR, DPD, DPRD, along with the president and the vice-president were truly joyful as were their families and supporters. But, underneath their excitement, some Indonesians were overwhelmed by grief because as many as 181 general election officers had died, the departed consisted of 6 members of the District Election Committee (*Panitia Pemilihan Kecamatan* – PPK), 23 members of the Voting Committee (*Panitia Pemungutan Suara* – PPS), and 152 members of the Voting Organizer Group (*Kelompok Penyelenggara Pemungutan Suara* – KPPS).¹ The number of general election officers who died in the 2024 general election did experience a decrease compared to the number of general election officers who died in the 2019 general election since there were 532 general election officers who passed away comprising 440 KPPS members and 92 General Election Supervisors.² The deaths of the general election officers commonly occurred during the voting, tallying, and ballot recapitulation stages.

General election, as the manifestation of the people's sovereignty, which is carried out once every five years by the General Election Commission of the Republic of Indonesia (*Komisi Pemilihan Umum Republik Indonesia* – KPU RI) to vote for the presidential and vice-presidential candidates, candidate members of DPR, DPD, provincial DPRD, and regional/municipal DPRD, should not result in any loss of life, including the life of general election officers, since the right to life is a basic human right.³ Every individual, including the state must guarantee or protect human rights. As consequence, the political contestation held by the state, including those carried out by KPU RI, should not be a cause for the loss of someone's life because it is the most

¹ Ketua KPU Ungkap Total 181 Anggota PPK KPPS Pemilu 2024 Meninggal Dunia [Chair of KPU Reveals a Total of 181 PPK KPPS Members of the 2024 General Election Passed Away], Detik.com, 2024, <https://news.detik.com/pemilu/d-7260232/ketua-kpu-ungkap-total-181-anggota-ppk-kpps-pemilu-2024-meninggal-dunia>.

² Total 554 Orang KPPS Panwas dan Polisi Tewas di Pemilu 2019 [A Total of 554 KPPS, Supervisory Committee, and Police Officers died in the 2019 General Election], CNN Indonesia.com, 2019, <https://www.cnnindonesia.com/nasional/20190507084423-32-392531/total-554-orang-kpps-panwas-dan-polisi-tewas-di-pemilu-2019>. Ini Penyebab Petugas Pemilu Meninggal Dunia dan Sakit [These are the Causes of General Election Officers' Deaths and Illnesses], Kemkes.go.id, 2024, <https://p2ptm.kemkes.go.id/kegiatan-p2ptm/pusat/ini-penyebab-petugas-pemilu-meninggal-dan-sakit>.

³ Majda El-Muhtaj, *Hak Asasi Manusia Dalam Konstitusi Indonesia* [Human Rights in the Indonesian Constitution], (Jakarta: Kencana, First Edition, 3rd Print, 2009), p. 64.

fundamental right afforded to human being since birth by the grace of the Creator, the One Almighty God.

Accordingly, I would like to raise this issue in order to find solutions and prevent any recurrences in future general elections by proposing two following questions: (1) did the general election arrangement provisioned in Law No. 7 of 2017 on General Election contribute to the deaths of general election officers, particularly KPPS members during the voting, tallying, and ballot recapitulation stages? (2) what efforts should be made by the government, including the KPU RI, so that no general election officers would lose their life during the voting, tallying, and ballot recapitulation stages?

2. Research Methodology

The present study is a normative legal study, i.e., research on legal principles, norms, or rules found in legislations governing the general election, including court rulings regarding the matter.⁴ In accordance with the research object, this study consequently required data in the form of primary and secondary legal materials.

The primary legal materials required were as follows: (a) 1945 Constitution; (b) Law No. 7 of 2017 on General Election; (c) Regulation of the General Election Commission (*Peraturan Komisi Pemilihan Umum* – PKPU) No. 8 of 2022 on the Formation and Working Procedures of the Ad Hoc Organizing Body for the General Election and Elections of the Governor and Vice-Governor, Regent and Vice-Regent, and Mayor and Vice-Mayor; (d) PKPU No. 25 of 2023 on the Voting and Tallying of Ballots in the General Election; (e) Ruling of the Constitutional Court (*Mahkamah Konstitusi* – MK) No. 14/PUU-XI/2013 on the Judicial Review of Law No. 42 of 2008 on the Presidential and Vice-Presidential General Election; (f) MK Ruling No. 97/PUU-XI/2013 on the Judicial Review of Law No. 12 of 2008 on the Second Amendment of Law No. 32 of 2004 on Local Government and Law No. 48 of 2009 on Judicial Power; and (g) MK Ruling No. 20/PUU-XVII/2019 on the Judicial Review of Law No. 7 of 2017 on General Election.

Additionally, the secondary legal materials required included legal materials that could provide further explanations on the primary legal materials, i.e., draft laws, books, journals, research reports, and other materials relevant to the object of study. These legal materials were collected by means of literature study then classified and analyzed using a descriptive method in order to understand and examine the concurrent general election phenomenon that resulted in the numerous deaths of general election officers.

3. Discussion

Concurrent General Election Arrangement Contributed to the Deaths of General Election Officers

To this date, no official announcement has been made by KPU RI regarding the causes of general election officers' deaths. The official announcement on this matter

⁴ Mukti Fajar ND and Yulianto Achmad, *Dualisme Penelitian Hukum: Normatif dan Empiris* [Dualism of Legal Research: Normative and Empirical], (Yogyakarta: Pustaka Pelajar, 1st Edition, 2010), p. 34.

was delivered by the Ministry of Health (MoH) of the Republic of Indonesia (RI). During the 2019 General Election, MoH RI stated that there were 13 illnesses that caused the deaths of general election officers, particularly during the voting, tallying, and ballot recapitulation stages, they are: myocardial infraction, heart failure, hepatic encephalopathy, stroke, respiratory failure, emergency hypertension, meningitis, sepsis, asthma, diabetes mellitus, kidney failure, tuberculosis, and multiorgan failure.⁵ Furthermore, during the 2024 General Election, MoH RI stated that heart disease was the highest cause of death experienced by general election officers.⁶

The various illnesses experienced by general election officers, including KPPS members, occurred due to excessive fatigue factors while assigned to work during the voting, tallying, and ballot recapitulation stages, which ultimately triggered the death of KPPS members.⁷ The following question subsequently emerges: did the tasks assigned to the KPPS exceed the normal limit and might have been the cause of various illnesses that (some) KPPS members had to relapse and consequently led to their death?

According to the provisions in Article 60 Law No. 7 of 2017 on General Election, KPPS is assigned with the following tasks:

1. to display their polling station's fixed voter list;
2. to provide a copy of the polling station's fixed voter list to each official supervisor and election contestant witness present at the polling station. In cases where an election contestant does not have a witness present, they shall still be provided with a copy of the polling station's fixed voter list;
3. to conduct voting and vote counting at the polling station;
4. to write a vote tabulation official report and vote counting certificate, to be provided for each election contestants' witness, polling station supervisor, and the PPK through the PPS;
5. to conduct other tasks instructed by the KPU, Provincial KPU, and Regional/Municipal KPU, PPK, and PPS in accordance with provisions of applicable laws and regulations;
6. to deliver invitation or announcement to vote at the polling station to each voter in the polling station's fixed voter list; and

⁵ *Begini Hasil Investigasi Meninggalnya Petugas Pemilu dari 4 Provinsi* [Here are the Results of the Investigation of the Deaths of General Election Officers in 4 Provinces], Kemkes.go.id, 2019, <https://www.kemkes.go.id/article/view/19051300001/begini-hasil-investigasi-meninggalnya-petugas-pemilu-dari-4-provinsi.html>.

⁶ *Kemenkes Ungkap Penyebab Banyak Petugas KPPS Meninggal* [Ministry of Health Reveals the Causes of the Numerous Deaths of KPPS Officers], Cnbcindonesia.com, 2024, <https://www.cnbcindonesia.com/lifestyle/20240220094209-33-515884/kemenkes-ungkap-penyebab-banyak-petugas-kpps-meninggal>.

⁷ *Begini Hasil Investigasi Meninggalnya Petugas Pemilu dari 4 Provinsi* [Here are the Results of the Investigation of the Deaths of General Election Officers in 4 Provinces], Kemkes.go.id, 2019, <https://www.kemkes.go.id/article/view/19051300001/begini-hasil-investigasi-meninggalnya-petugas-pemilu-dari-4-provinsi.html>. Also see *KPU Sebut Faktor Kematian Anggota KPPS Karena Kelelahan di Pemilu 2024* [KPU States KPPS Members Deaths Caused by Fatigue during the 2024 General Election], Detik.com, 2024, <https://news.detik.com/pemilu/d-7198274/kpu-sebut-faktor-kematian-anggota-kpps-karena-kelelahan-di-pemilu-2024>.

7. to conduct other tasks in accordance with provisions of applicable laws and regulations.⁸

As indicated by the provisions above, it is apparent how onerous the tasks KPPS bears and when these tasks are carried out in real operations, extra energy as well as a relatively long amount of time would be required, i.e., a minimum of 3 consecutive working days with extremely nominal rest. The following passages describe the operational tasks of KPPS.

Prior to the day of the election, the KPPS members are required to deliver an invitation letter or announcement to each voter according to the fixed voter list registered to the polling station where they are assigned. Prior to delivering the invitation letter or announcement to the (fixed) voters, a maximum of 300 constituents, KPPS officers are required to write the letters manually then deliver them individually to each (fixed) voter by visiting their respective residence. Subsequently, once the fixed voter invitations are delivered the KPPS members are also required to prepare the polling station one day prior to the day of election at the latest,⁹ some among them are even assigned to ensure that the election logistics have arrived in their region, where some of the logistics may arrive in the middle of the night or even very early in the morning.

Subsequently, on the day of the election, KPPS members prepare the polling station for the voting to take place, exhibit the list of fixed voters at the polling station, and provide the list to the polling station supervisor and election contestant witness before the voting begins precisely at 7 a.m. local time. The voting is then held from 7 a.m. to 1 p.m. local time. Here, it is apparent that during the voting stage KPPS members are already working for a minimum of 7 hours without rest, starting work even before the 7 a.m. to 1 p.m. period.

Once the voting is concluded at 1 p.m. local time, KPPS members begin counting the votes in the five ballot boxes, i.e., ballots of the presidential and vice-presidential candidates, and ballots of candidates for members of the DPR RI, DPD RI, provincial DPRD and regional/municipal DPRD. The vote counting or tallying phase is the most time-consuming phase and it is extremely exhausting for KPPS members since the number of votes they need to count if all voters cast their votes are 5 (ballots) x 300 voters (maximum number for 1 polling station), totaling up to 1500 votes.

According to a statement made by M. Syahrizal, PPK Chairperson of North Kampar District, Kampar Regency, Riau Province for the 2019 and 2024 General Elections, “the average time required by the KPPS to count the votes is around 2.5 to 3 hours for each ballot box because they need to be really thorough to avoid any mistake and protest raised by the election contestant witness.¹⁰ In addition, KPPS members are sometimes required to walk around the polling station area to see/seek and mark the names of legislative candidates and/or names of general election contestants who

⁸ Article 60 Law No. 7 of 2017 on Regional Election. Compare to Article 30 verse (1) PKPU No. 8 of 2022 on the Formation and Working Procedures of the Ad Hoc Organizing Body for the General Election and the Elections of Governor and Vice-Governor, Regent and Vice-Regent, and Mayor and Vice-Mayor.

⁹ Article 7 verse (2) letter d, PKPU No. 25 of 2023 on Voting and Vote Counting in General Election.

¹⁰ Interview with M. Syahrizal, Chairperson of District Election Committee (*Panitia Pemilihan Kecamatan – PPK*) in North Kampar, Kampar Regency, Riau Province, at Kampar Regency, 9 October 2024.

were elected by their constituents on the recapitulation sheet, which is put up horizontally on the polling station wall.¹¹ This is why during the vote counting stage, KPPS requires a minimum of 2.5 hours x 5 ballot boxes, which means that the total amount of time required by KPPS to count the votes is 12.5 hours. As a result, the tallying of the votes that starts at 1 p.m. local time would finish after midnight at around 1.30 a.m. the following day.¹² Therefore, it is clear that on the day of the election, KPPS officers would have worked for over 18 hours, starting before 7 a.m. local time and finishing at 1.30 a.m. the next day. This working hour far exceeds the normal limit since normal working hours in a day is merely 7.5 to 8 hours.

Once the votes are counted and recapitulated, KPPS members will then prepare a vote tabulation official report and vote counting certificate to be written manually and provided for each election contestants' witness, polling station supervisor, and the PPK through the PPS. The submission to the PPK through the PPS is to be done at the District Office along with the handover of the sealed ballot boxes containing ballots cast by voters and the vote counting certificate, which is in line with the provisions in Article 62 letter e and Article 390 verse (5) Law No. 7 of 2017 on General Election, stating that it must be done on the same day of the election, i.e., before 12 a.m. local time. As a result, in that very night, before the end of the election date, KPPS officers are required to submit sealed ballot boxes complete with the necessary contents, some KPPS (during previous general election) were only able to submit the sealed ballot boxes complete with the required contents early the next morning before the sound of the call to the morning prayers because at midnight, 12 a.m. local time, they were unable to finish tallying and recapitulating the votes.

I posit that the provisions in Article 62 letter e and Article 390 verse (5) of the Law on General Election are among the reasons requiring KPPS members to work day and night, exerting all their energy and skills while having very little rest in order to maintain the constitutionality of the concurrent general election results so that they align with applicable laws and regulations.

The Constitutional Court (*Mahkamah Konstitusi* - MK) via ruling No. 20/PUU-XVII/2019 on the Judicial Review of Law No. 7 of 2017 on General Election, annulled the provision in Article 383 verse (2), which requires the tallying of the votes in the polling station to be finished on the day of the election. MK, via its ruling, even allows KPPS, in cases where vote counting has not been finalized on the day of the election, to have a 12-hours extension period given that the tallying be done without pause.¹³ This means that in cases where the counting and recapitulation of votes at the polling station, starting at 1 pm local time, were not finished by 12 a.m. or 24:00 on the 14th of

¹¹ *Ibid.*

¹² The duration of time spent by KPPS to count the voters' ballots is in line with the vote counting simulation conducted by KPU RI on 16 April 2019 before the 5 ballot boxes general election was initially done. KPU: *Berdasarkan Simulasi, Penghitungan Suara Bisa Melebihi Pukul 24:00* [KPU: According to the Simulation, Vote Counting May Exceed 12 a.m.], Kompas.com, 2019, <https://nasional.kompas.com/read/2019/04/16/22311821/kpu-berdasar-simulasi-penghitungan-suara-bisa-melebihi-pukul-24.00>.

¹³ Ruling of MK No. 20/PUU-XVII/2019 on the Judicial Review of Law No. 7 of 2017 on General Election.

February, 2024 (2024 General Election), then KPPS could continue the tallying and recapitulation of votes until 12 p.m. or 12:00 on the 15th of February, 2024.¹⁴

Unfortunately, the annulment of the legal norm contained in the provision of Article 383 verse (2) Law No. 7 of 2017 above is not supported by the annulment of the legal norm contained in the provisions of Article 62 letter e and Article 390 verse (5) of the same Law. As a result, KPPS members still needed to do extra work day and night in order to finish the tallying and recapitulation of votes before 12 a.m. or 24:00 local time on the 14th of February, 2024 because it would be impossible to have the ballot boxes sealed and completed with the necessary contents then handed over by the KPPS to the PPK through the PPS if the tallying and recapitulation of votes have not been completely finalized at the polling station.

MK Ruling No. 20/PUU-XVII/2019 was then further revised by KPU RI through PKPU No. 25 of 2023 on Voting and Counting of Votes in General Election. Article 49 verse (1) and (2) of the PKPU state that, "The time for counting votes at the polling station begins once the voting is done (after 1 p.m. or 13:00 local time-author), and ends on the same day of the election. However, in cases where the vote counting has not finished within the time stipulated in verse (1), the vote counting period may be extended without pause no later than 12 (twelve) hours since the end of the election day."

Therefore, if KPPS officers had not finished the counting and recapitulation of votes by 12 a.m. or 24:00 local time on the 14th of February, 2024 (2024 General Election), then they were not allowed to leave the polling station and return home to rest. Consequently, KPPS officers had to keep working and continue with the tallying and recapitulation of votes at the polling station, which they had been doing since 1 p.m. or 13:00 local time until they finished, although it would have been well past midnight. Such conditions had led to many KPPS officers experiencing excessive fatigue, subsequently resulting in those with a history of certain chronic disease relapsing and some even ended becoming fatal as elaborated in the previous passages.

Voting for the presidential and vice-presidential candidates as well as the candidates for the members of DPR, DPD, and DPRD in the general election constitutes a basic human right in the political field¹⁵ for every citizen eligible to vote, and it is a manifestation of the popular sovereignty principle that Indonesia adheres to. However, the voting process should not result in the loss of other basic human rights, including the basic rights of the election officers such as the loss of election officers' life during the voting, tallying, and ballot recapitulation stages in the 2019 and 2024 General Elections. Article 28A of the 1945 Constitution states that every individual has the right to live and to maintain their life and livelihood.

One of the goals of the founding of the state of Indonesia, as stipulated in the Preamble of the 1945 Constitution, is to protect all the people of Indonesia. As a consequence, the state or the organs of state should not violate basic human rights,

¹⁴ The purpose of counting the votes without pause is to guarantee the constitutionality of the results of the concurrent general election, and results of simulation done by KPU RI indicated that finishing vote counting before 12 a.m. or 24:00 local time (on the day of the election) will be a difficult feat.

¹⁵ Widiada Gunakaya, *Hukum Hak Asasi Manusia* [Human Rights Law], (Bandung: Andi Offset in collaboration with the Bandung School of Law (STHB), 2018), p. 18.

both actively and passively, including violating the right to live and maintain life. The state is considered to have actively (act of commission) violated basic human rights if the organs of state took direct action or made efforts that harm basic human rights, which are guaranteed by the constitution and laws. Moreover, the state is considered to have violated basic human rights passively (act of omission) if the organs of state overlook basic human rights violation perpetrated by other parties.¹⁶

I believe that in the case of the deaths of election officers during the voting, tallying, and ballot recapitulation stages of the 2019 and 2024 General Elections, the state of Indonesia is considered neither actively nor passively involved in violating basic human rights due to the following reasons: (a) no organs of the state of Indonesia took direct action or made efforts that caused the loss of election officers' lives; (b) the state of Indonesia also did not overlook basic human rights violation perpetrated by other parties, because in the case of the deaths of election officers during the voting, tallying, and ballot recapitulation stages, there was no other party that took action or made efforts to cause the loss of election officers' lives.¹⁷

Nonetheless, if such conditions are left as they are then repeated in the following general election, the state of Indonesia can be considered violating basic human rights passively as it overlooks the loss of election officers' lives caused by inhumane general election arrangement. Therefore, improvements or reformulation of general election arrangements, as discussed in the passages below, are deemed necessary to avoid the loss of election officers' lives in the next general election and so that the state of Indonesia may avoid being accused of violating basic human rights.

Reformulation of General Election Arrangement: Efforts to Avoid Loss of Life among General Election Officers

There are several alternatives that the government, including KPU RI, can pursue in order to avoid the loss of life among general election officers in the coming election.

First, reparate the legislative election and the presidential/vice-presidential election in the future because separating the two elections would drastically alleviate the work load of election officers, including the work load of KPPS. In 2013, the idea of a concurrent election was proposed by Effendi Gazali and his colleagues by submitting a claim to the Constitutional Court challenging Law No. 42 of 2008 on the Presidential and Vice-Presidential Election¹⁸ with aims of strengthening the presidential system, making the election more effective and the state budget more

¹⁶ See Eko Riyadi, *Hukum Hak Asasi Manusia* [Human Rights Law], (Jakarta: Rajawali Press, 2018), p. 69-71.

¹⁷ Compare with Widiada Gunakaya, *Op.Cit*, pp. 163-164.

¹⁸ Muhammad Jufri, "Konstitusionalitas Periodeisasi Pemilu Serentak Analisa Terhadap Beberapa Putusan Mahkamah Konstitusi," [Constitutionality of Concurrent General Election Periodization Analyses on Several Constitutional Court Rulings] *Jurnal Bawaslu DKI Jakarta*, April Edition (2020): pp. 5-7. <https://library.jakarta.bawaslu.go.id/index.php/jurnal/11-jurnal-bawaslu-provinsi-dki-jakarta-edisi-april-2020>. Hamdan Zoelva, *Pergulatan Konstitusi* [Struggle of the Constitution], (Jakarta: Konstitusi Press, 1st Print, 2015), p. 159.

efficient, and avoiding money politics,¹⁹ without considering loss of life among general election officers in the concurrent election process.

Upon completion of the 2019 and 2024 concurrent general elections, the aim of election effectiveness was indeed achieved since the legislative election and the presidential and vice-presidential election were held simultaneously. Before the concurrent general elections were held, voters had to go to the polling station twice at different times to cast their votes, which resulted in a tendency of reduced public participation in past elections. Today, the votes are only cast once in a simultaneous manner, thereby leading to an increase in public participation.²⁰ However, the aims of strengthening the presidential system, making the budget more efficient, and avoiding money politics are still far from where it should be because even today, when the president of Indonesia is already elected via concurrent election, the president remains hostage to political parties when having to determine various state policies. Furthermore, during the 2019 and 2024 concurrent general elections, practices of money politics did not decline but became even more massive than past elections instead.²¹ This was also the case with the general election budget. The 2019 concurrent general election budget was 25.59 trillion rupiahs²² while the 2024 concurrent general election was 71.3 trillion rupiahs²³, which is seven times greater than KPU RI's budget realization for the presidential and vice-presidential election and legislative election of 2014, with a total expenditure for both at 10.1 trillion rupiahs.²⁴ Hence, it is apparent that the purposes Effendi Gazali and his colleagues had in mind for the concurrent general election in Indonesia were not achieved.

Second, maintain the current simultaneous general election process as it is with some notes of improvement.

¹⁹ Achmad Edi Subiyanto, "Pemilihan Umum Serentak yang Berintegritas Sebagai Pembaruan Demokrasi Indonesia," [Concurrent General Election with Integrity as a Renewal of Indonesian Democracy] *Jurnal Konstitusi*, Volume 17, No. 2, June (2020), p. 366-367, <https://doi.org/10.31078/jk1726>. Compare with Sri Asriana Al Maida et al., "Pemisahan Penyelenggaraan Pemilu Serentak Tingkat Nasional dan Daerah," [Separation of Concurrent General Election at the National and Regional Levels] *Jurnal Risalah Hukum*, Volume 18, No. 1, June (2022), pp. 27-28. <https://doi.org/10.30872/risalah.v18i1>.

²⁰ Before the 2019 concurrent general election, voters going to the polling station to cast their votes (2014 general election) was at 75.11%. See KPU: *Partisipasi Pemilih di Pemilu Legislatif 2014* [KPU: Voters' Participation in the 2014 Legislative Election], *Kompas.com*, 2014, <https://nasional.kompas.com/read/2014/05/10/0211249/KPU.Partisipasi.Pemilih.di.Pemilu.Legislatif.2014.Capai.75.11.Persen>. Meanwhile during the 2024 concurrent general election the number was at 81%. See *Tingkat Partisipasi Pemilih Pemilu 2024* [2024 General Election Voters' Participation Level], *Antara.news.com*, 2024, <https://www.antaraneews.com/infografik/4029990/tingkat-partisipasi-pemilih-pemilu-2024>.

²¹ *Tebar Uang Menjelang Pencoblosan* [Distributing Cash Leading Up to the Election], *Koran Tempo.co*, 2024, <https://koran.tempo.co/read/hukum/487253/kasus-politik-uang-pemilu-2024>.

²² *Naik 61% Dibandingkan 2014, Anggaran Penyelenggaraan Pemilu 2019 Capai Rp 25,59 Trilyun* [61% Increase Compared to 2014, Budget for 2019 General Election Reaches IDR 25.59 Trillion], *Setkab.go.id*, 2019, <https://setkab.go.id/naik-61-dibanding-2014-anggaran-penyelenggaraan-pemilu-2019-capai-rp2559-triliun/>.

²³ *Ternyata Segini Besaran Anggaran Pemilu 2024* [Here is the Amount of the 2024 General Election Budget], *Detik.com*, 2024, <https://www.detik.com/sumut/bisnis/d-7190793/ternyata-segini-besaran-anggaran-pemilu-2024>.

²⁴ *Realisasi Anggaran Tahapan Pemilu 2014 Tahun Anggaran 2014* [Budget Realization of the 2014 General Election 2014 Fiscal Year], *Kpu.go.id*, 2014 <https://www.kpu.go.id/page/read/383/laporan-realisasi-anggaran-kpu>.

- a. Tightening the selection process for general election officers, including KPPS member candidates. Upon observation of the requirements to become a KPPS officer, as stipulated in Article 35 letter g of PKPU No. 8 of 2022, one of them is to have healthy mental and physical capabilities and be free of any drug abuse.²⁵ The requirement of mental and physical capabilities should be improved by requiring a written certificate as proof of physical and mental health capabilities provided by a government physician. The objective is to rule out candidates who are elderly and have chronic illness(es) from becoming KPPS officers.
 - b. Removing the General Election Law provision that specifies the deadline for the completion of vote counting and the deadline for the submission of the sealed ballot box with the necessary contents. If its arrangement is still deemed necessary, then a PKPU level arrangement should suffice, after KPU RI conducts a simulation of the voting, tallying, and ballot recapitulation processes so that the duration of time required to finish these three stages are truly accurate and in line with the reality that election officers will encounter on the field.
 - c. Managing a tight schedule of implementation for voting, tallying, and ballot recapitulation by giving enough time for election officers, including KPPS members, to rest because the human physical endurance is not without limit. Within 24 hours, the human body, ideally, can work continuously without stopping for merely 8 hours, light or casual work for 8 hours and time for rest and sleep for 8 hours.
 - d. Implementing electronic voting (e-voting). By implementing e-voting, the work load of general election officers would automatically be much reduced as there would no longer be any need for printing, distribution, counting, and recapitulation of ballots in a manual fashion. The number of voters and the election results can immediately be known without having to do a tiered ballot recapitulation, which was the case during the 2019 and 2024 general elections that took weeks even months. However, the use of e-voting is not without demerits. There are some disadvantages to using e-voting, e.g.: the election results may be hacked by an irresponsible party as was the case of e-voting in Canada;²⁶ the polling stations need to have good electrical current with sufficient internet network that is not intermittent; and procurement of e-voting implements require a significant amount of cost.
- If e-voting were to be used in future Indonesian general elections, then the 5 ballot boxes provided for each polling station should be made into 7 ballot boxes with 2 additional ballot boxes to vote for candidates of provincial head (governor) and

²⁵ Article 35 letter g of PKPU No. 8 of 2022 on the Amendment of the Regulation of the General Election Commission No. 3 of 2018 on the Formation and Working Procedure of the Ad Hoc Organizing Body of the General Election and the Elections of the Governor and Vice-Governor, Regent and Vice-Regent, and Mayor and Vice-Mayor.

²⁶ 5 Negara Ini Sudah Terapkan Pemilu E-Voting, Antara Berhasil dan Kapok [These 5 Countries Applied E-Voting Election, Between Success and Despair], Idntimes.com, 2019, <https://www.idntimes.com/tech/trend/izza-namira-1/negara-yang-sudah-menerapkan-evoting-dalam-pemilu>.

regional/municipal head (regent/mayor). As such, the general election in Indonesia would truly be concurrently held only once every five years.

Third, separate the concurrent election into two, i.e., concurrent national election and concurrent local election. The concurrent national general election would be held to vote for: (a) presidential and vice-presidential candidates; (b) candidates of DPR RI members; and (c) candidates of DPD RI members, which would consequently require 3 ballot boxes provided in each polling station. Meanwhile, the concurrent local general election would be held to vote for: (a) provincial head candidates (i.e., governor and vice-governor); (b) regional/municipal head candidates (regent and vice-regent or mayor and vice-mayor);²⁷ (c) candidates of provincial DPRD members; and (d) candidates of regional/municipal DPRD members, which would consequently require 4 ballot boxes provided in each polling station.

I believe that repositioning or including the election for the provincial and regional/municipal DPRD members into the concurrent local election regime is in line with the concept of a unitary state and it does not contradict both the MK Ruling and the applicable laws and regulations because: (a) DPRD, either the provincial or the regional/municipal, under the concept of unitary state are included in the Unitary State of the Republic of Indonesia (*Negara Kesatuan Republik Indonesia* – NKRI, and they are not legislative institutions. In a unitary state, only one legislative institution exists, namely the central legislative institution that is situated in the center of the government;²⁸ (b) Law No. 23 of 2014 on Local Government, Article 95 verse (1) and Article 148 verse (1), does not define provincial and regional/municipal DPRD as legislative institutions but as elements of local government administration;²⁹ (c) MK Ruling No. 97/PUU-XI/2013 indirectly distinguishes between the (national) general election regime and the local general election regime.³⁰ Given the elaborations above, repositioning or including the election for the provincial and regional/municipal DPRD members into the concurrent local general election regime is a constitutional measure, and according to Syamsuddin Haris, as cited by Widodo, it would actually be more appropriate and acceptable according to the constitutional norms stipulated in Article 18 of the 1945 Constitution.³¹

If this alternative is considered an option, then the concurrent national general election and concurrent local general election should not be held in the same year and a 2.5 years gap between the two should be given in order to avoid, or at the very least minimize, excessive political turmoil. As an example, if the concurrent national general

²⁷ Direct election of local leaders constitutes a material general election to implement Article 18 of the 1945 Constitution. See Denny Indrayana, *Negara Antara Ada dan Tiada Reformasi Hukum Ketatanegaraan* [The State Between Existence and Nothingness Constitutional Legal Reform], (Jakarta: Kompas, 2008), p. 147.

²⁸ Miriam Budiardjo, *Dasar-Dasar Ilmu Politik* [Fundamentals of Political Science], (Jakarta: Gramedia Pustaka Utama, Revised Edition, Fourth Print, 2009), pp. 270-271.

²⁹ Article 95 verse (1) and Article 148 verse (1) Law No. 23 of 2014 on Local Government.

³⁰ MK Ruling No. 97/PUU-XI/2013 on the Judicial Review of Law No. 12 of 2008 on the Second Amendment of Law No. 32 of 2004 on Local Government and Law No. 48 of 2009 on Judicial Power.

³¹ Wahyu Widodo, "Pelaksanaan Pemilu Serentak Tahun 2019 Ditinjau Dari Perspektif Politik dan Hukum," [Implementation of the 2019 Concurrent General Election Analyzed from Legal and Political Perspectives] *Jurnal Meta-Yuridis*, Volume 1, No. 1 (2018), p. 32. <https://journal.upgris.ac.id/index.php/meta-yuridis/article/download/2903/2394>.

election were to be held in February 2024, then the concurrent local general election would be held 2.5 years after, i.e., in July or August 2026.

This general election model, I believe, will be able to reduce the work load of election officers during the voting, tallying, and ballot recapitulation stages because the work load of the election officers is distributed proportionally. The greatest and most complicated work load born by election officers is the voting, tallying, and ballot recapitulation stages in the legislative election. By separating the concurrent general election into two, namely national and local general elections, the 4 ballot boxes (DPR, DPD, provincial DPRD and regional/municipal DPRD) required in each polling station during legislative elections will be evenly distributed. 2 ballot boxes (DPR and DPD) during the concurrent national general election and 2 ballot boxes (provincial DPRD and regional/municipal DPRD) during the concurrent local general election.

Out of the three alternatives presented above, the first alternative to reseparate the legislative election from the presidential and vice-presidential election as it was before the 2019 concurrent election is difficult to achieve as it contradicts MK Ruling No. 14/PUU-XI/2013, which requires concurrent general election to be held in Indonesia. Accordingly, the most plausible option to avoid any loss of life among election officers is the second and third alternatives. However, I am partial to the third alternative, which is to separate the concurrent general election into two, i.e., concurrent national general election and concurrent local general election, based on the following reasons:

First, MK via Ruling No. 97/PUU-XI/2013, as previously stated, has indirectly separated the general election regime into two, namely the national general election and the local general election. *Second*, MK via Ruling No. 14/PUU-XI/2013 has never firmly declared that concurrent general election is to be held as it was during the 2019 and 2024 general election, which combined the presidential and vice-presidential election together with the election for DPR, DPD, provincial DPRD and regional/municipal DPRD members.³² I am of the opinion that this is simply a single interpretation made by lawmakers when they attempted to put the MK ruling above into operational practice. The interpretation space to define what concurrent general election means remains widely open. It can be classified by national and local election, and it can also be categorized by legislative and executive elections.³³ Concurrent elections are commonly defined as general elections that are held to vote for a number of democratic institutions simultaneously at the same period of time.³⁴

According to the definition above, concurrent elections can also be interpreted as a (concurrent) national general election to vote for presidential and vice-presidential candidates that is held simultaneously with an election of DPR RI and DPD RI member candidates. The positions of the three institutions (president, DPR, and DPD) must be

³² Ruling of the Constitutional Court (MK) No. 14/PUU-XI/2013 on the Judicial Review of Law No. 42 of 2008 on the General Election of the President and Vice-President.

³³ Janedjri M. Gaffar, *Politik Hukum Pemilu* [The Politics of Electoral Law], (Jakarta: Konpress, First Edition, 2012), p. 71.

³⁴ Lusin Tammu et al., "Analisis Yuridis Konsep Pemilihan Umum Serentak di Indonesia," [Juridical Analysis of the Concept of Concurrent General Election in Indonesia] *Doktrina: Journal of Law*, Volume 6, No. 2, October (2023), p. 131. <https://doi.org/10.31289/doktrina.v6i2.10023>.

filled by means of a concurrent national general election as the three bodies constitute organs of the national government. Meanwhile, the provincial and regional/ municipal DPRD are organs of the local government, making it sufficient for the election of their membership to be held by way of a concurrent local general election together with the election of provincial leaders (governor and vice-governor) and regional/ municipal leaders (regent and vice-regent or mayor and vice-mayor).

4. Conclusion

The 2024 General Election has finished, yet it left sorrow in a number of Indonesians because as many as 181 election officers lost their life during the voting, tallying, and ballot recapitulation stages, and this is partly caused by the arrangement of the quite significant number of KPPS assignments given during the voting, tallying, and ballot recapitulation stages, which in practice resulted in extremely heavy workload for KPPS officers with little time for rest. As a consequence, some KPPS members experienced excessive fatigue that led to relapses of chronic illness(es) they already had, then ultimately ending in their death.

A reformulation of the general election arrangement in Indonesia is thus necessary to avoid any loss of election officers' lives in the coming elections, and to prevent the Indonesian State from being accused of violating basic human rights. There are several alternative options that the government, including KPU RI, can pursue to achieve this end. *First*, reseparate the legislative general election from the presidential and vice-presidential election as it was prior to the 2019 and 2024 concurrent general elections. *Second*, maintain the concurrent general election as it was held in 2019 and 2024 with some improvement notes, namely: (a) tightening the requirements and selection of KPPS officer candidates. One of the requirements for KPPS member candidates is having sound mental and physical capabilities to conduct duties, which should be changed to having sound mental and physical capabilities substantiated by a written certificate issued by a government physician so that KPPS officer candidates who are aged and have a history of chronic illness(es) would not be accepted. (b) Removing the General Election Law provision that arranges the deadline of the vote counting and submission of sealed ballot box with its necessary contents. This provision should be arranged sufficiently by means of PKPU after KPU RI initially conducts a simulation of voting, tallying, and ballot recapitulation processes so that the amount of time required is truly in line with the actual conditions that election officers face on the field; (c) managing the schedule of the voting, tallying, and ballot recapitulation stages in a strict manner so that enough time may be given for KPPS members to rest; (d) implementing an e-voting system.

Third, divide the concurrent general election into two parts, i.e., the concurrent national general election and the concurrent local general election. The concurrent national general election is held to vote for presidential and vice-presidential candidates, as well as member candidates for DPR RI and DPD RI. Meanwhile, the concurrent local general election is held to vote for: provincial leaders (governor and vice-governor), regional/ municipal leaders (regent and vice-regent or mayor and vice-mayor), and members of provincial and regional/ municipal DPRD. Election of

provincial and regional/municipal DPRD member candidates is included in the concurrent local general election because according to Law No. 23 of 2014 on Local Government the DPRD are elements of local government administration or organs of local government, and this is in accordance with the norms stipulated in Article 18 of the 1945 Constitution.

Out of the three alternatives presented above, the most plausible to apply in order to reduce the loss of life among election officers in the future during the voting, tallying, and ballot recapitulation stages is the second and third options. As for the first alternative, it is difficult to achieve as it contradicts MK Ruling No. 14/PUU-XI/2013 on the Judicial Review of Law No. 42 of 2008 on the General Election of President and Vice-President.

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