

## **CHAPTER TWO**

### **LITERATURE REVIEW**

#### **A. General Election**

The general election is the means of people sovereignty to elect the members of the House of Representatives (*Dewan Perwakilan Rakyat*), members of the Regional Representative Council (*Dewan Perwakilan Daerah*), the President and Vice President, and to elect members of Regional House of Representatives (*Dewan Perwakilan Rakyat Daerah*), which is implemented directly, publicly, freely, secretly, honestly and fairly within the unitary state of the Republic of Indonesia based on Pancasila and the 1945 Constitution.<sup>18</sup>

The general election is an important aspect of democracy which is used in the process of changing the political power on a regular and continuous basis by involving broad public political participation, with the aim to turn the political power over democratic procedures and the consent of the people.<sup>19</sup>

#### **B. General Election Organizer**

General Election Organizer is an institution which organize the General Elections that consist of General Election Commission, Election

<sup>18</sup> Law No. 7 of 2017 on election Article 1 number 1 ( Undang-Undang No. 7 tahun 2017 tentang Pemilihan Umum Pasal 1 angka 1).

<sup>19</sup> Agus Riwanto, 2016, *Hukum Partai Politik dan Hukum Pemilu di Indonesia*, Yogyakarta, Thafa Media, p.32.

Supervisory Board, Election Organizers Ethics Council as a unity of functions of Election Organizer Body to elect the members of House of Representatives, the members of Regional Representative Council, President and Vice President, and to elect the members of Regional House of Representatives directly by the people.<sup>20</sup>

The Election Organizer Body shall not be subject to the direction of any other party, whether the authorities or the parties of political party. The organizer body must work without political presumptions or alignments. Therefore, interference or any suspicion of manipulation should be avoided from the Elections Organizer's activities because they could affect the credibility of the Organizer Body and also the process and General Election results.<sup>21</sup>

### **1. General Election Commission**

The General Election Commission (hereinafter is referred to as KPU) shall be the national election management institution which is national, permanent, and independent in conducting the General Elections.<sup>22</sup> The

KPU is the name given by the law on general election to the general

<sup>20</sup>Article 1 Number 3 of the Election Organizer Ethics Council Regulation Number 2 of 2017 on Code of Ethics and Code of Conduct of the General Election Organizer.

<sup>21</sup> Nurrahmawati, "Integritas Penyelenggara Pemilu Dalam Perspektif Peserta Pemilu (Studi Deskriptif Komisi Independen Pemilihan Aceh Pada Pilkada Gubernur/Wakil Gubernur Aceh 2017)", *Jurnal Politik Indonesia*, Vol.2, No.1, Juli-September, 2017, p.30-31.

<sup>22</sup>Article 1 number 8 Law No. 7 of 2017 in conjunction with Law number 3 of 1999 on election (Pasal 1 angka 8 Undang-Undang No. 7 tahun 2017 perubahan atas Undang-Undang Nomor 3 tahun 1999 tentang Pemilihan Umum).

election organizer. The 1945 Constitution amendment of Article 22 E explains that the name of general election organizer is not required to be named KPU, but general words to call the general election organizer, therefore actually the Law can give another name to call the general election organizer.<sup>23</sup>

## **2. Election Organizers Ethics Council**

The Elections Organizers Ethics Council hereinafter referred to as DKPP is an institution which in charge of handling the violations of code of conduct of the Election Organizers Body.<sup>24</sup>The Election Organizer Ethics Council Regulation regulate on Code of Ethics and Code of Conduct of the General Election Organizer. The code of ethics of the General Election Organizers consist of unity of moral, ethical, and philosophical principles which aims to guide the conduct of the General –Election Organizers whether obligated or prohibited, and also the actions or utterances which are eligible -or not to be conducted by the General Election Organizers.<sup>25</sup>

According to Article 159 Law Number 7 of 2017 on General Election, the DKPP was formed to examine and decide on complaints and/ or reports on

23 Fachrudin L, Daud M.Liando, Johny P.Lengkong, "Kualitas KPU Kota Manado Sebagai Penyelenggara Pemilihan Walikota dan Wakil Walikota Tahun 2015", available at <https://ejournal.unsrat.ac.id/index.php/politico/article/view/15660/15197> viewed on December 24<sup>th</sup> 2017, at 1.32 p.m.

24 The Election Organizer Ethics Council Regulation Number 2 of 2017 on Code of Ethics and Code of Conduct of the General Election Organizer.

25 Article 1 Number 4 of the Election Organizer Ethics Council Regulation Number 2 of 2017 on Code of Ethics and Code of Conduct of the General Election Organizer.

the alleged of violations of code of conduct by Election Organizers, namely Election Commission (KPU) to the lowest level and the Election Supervisory Board (BAWASLU) up to the lowest level.<sup>26</sup>

### **3. Election Supervisory Board**

The Election Supervisory Board (hereinafter is referred to as Bawaslu) is the general election organizer which supervise the implementation of general election in the territory of Republic of Indonesia.<sup>27</sup>

### **C. Independence**

In *Bahasa Indonesia*, the word independence also means freedom or autonomy. Therefore, independence is a situation or position that is not tied to any party and does not carry the interests of certain parties or organizations.<sup>28</sup>

Based on KBBI (stand for The Great Dictionary of the Indonesian Language), independence is stand-alone, free-spirited, unbound, independent, free.<sup>29</sup> Meanwhile, according to some scholars' opinion can

26 Article 159 Law Number 7 of 2017 on General Election.

27 Art.1 number 17 of Law No.7 of 2017 on General Election.

28 Moh. Sugihariyadi dan Joni Rahardjo, "Menakar Profesionalisme Penyelenggaraan Pemilu 2014 di Kota Garam: Analisis Kepemimpinan, Integritas, Independensi, dan Kompetensi Kepemiluan", STAIN Kudus Jawa Tengah, Indonesia, ADDIN, Vol. 9, No. 1, Februari, 2015, p.123.

29 The Great Dictionary of the Indonesian Language (Kamus Besar Bahasa Indonesia)

be concluded as independent, in the sense of freedom from influence, will, or control of the branch of executive power.<sup>30</sup>

According to Jimly Ashhidqie, indicator that can be used to measure the independence of Election Commission is all the members of Election Commission are prohibited to be partisan, they should be fair to all parties and in taking the decisions should be in accordance with the mechanism which regulated in the legislations and also it is not influenced by the other parties.<sup>31</sup>

#### **D. Integrity**

In English integrity means perfection or whole and the word integrity is also derived from the Latin adjective *integer* means whole, complete. In the context of general election, integrity is acting consistently in line with the policy or laws, codes, and regulations of the general election organizers.<sup>32</sup>

The integrity is a foundation of public trust and as a reference for the test examiner in taking a decision to be honest and transparent, brave, wise,

30 Gunawan A. Tauda, 2012, *Komisi Negara Independen Eksistensi Independent Agencies sebagai Cabang Kekuasaan Baru dalam Sistem Ketatanegaraan*, Yogyakarta, Genta Press, p. 99.

31 Komisi Pemilihan Umum Jawa Timur, "Mewujudkan Penyelenggara Pemilu Berintegritas", *Jurnal Ide Inspirasi Demokrasi*, Edisi 13 November, 2016, p.12.

32 Moh. Sugihariyadi dan Joni Rahardjo, *Opcit.* p.120.

and responsible in carrying out the examination. These four elements are the foundation which is needed to build a trust in the decision-making.<sup>33</sup>

Moreover, the Election Organizer Bodies can be said have an integrity if the action is in accordance with the values, beliefs, and the principles. Then, the conformity of their conducts with the responsibility and in accordance with the laws and regulations which regulate on General Elections.<sup>34</sup>

33 Mufidah, “Analisis Pengaruh Independensi, Obyektifitas, Integritas, Kompetensi, Pengalaman Kerja dan Skeptisisme Profesionalisme Terhadap Kualitas Hasil Pemeriksaan di Lingkungan Inspektorat Provinsi Jambi”, *Jurnal Ilmiah Universitas Batanghari Jambi* Vol.15 No.2, 2015, p.15.

34 Komisi Pemilihan Umum Jawa Timur, *Opcit.* p.3.