

THE PANWASLIH PROVINCE OF ACEH DECISION THAT CONFLICT WITH KPU REGULATION

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ABSTRACT

The purpose of the research aims to analyse the validity of the decision by Panwaslih Aceh number 001/PS/SN.20/VII/2018 as opposed to article 60 section (1) letter j under KPU regulations number 14 in 2018. KPU regulations do not allow individual prospective candidates to participate in the regional representative board election whose former drug convicts, had committed sexual crimes against children, or had corruption before. the research is normative juridic research using theory and legislation approach. The result of the research showed the moment of decision was made, KPU regulations still applied. The decision of Panwaslih Aceh has already exceeded its own authority as a result of not accommodating KPU regulations. KPU regulations should be changed at first or being said by the supreme court that KPU regulations are contrary to the law. DKPP as electoral management body ethics council was expected to run its function more actively without a complaint first.

Key Words: elections; decision; kpu regulation; panwaslih.

INTRODUCTION

Democracy can simply be interpreted as government of the people, by the people, and for the people. However, to realize this meaning is not easy because democracy requires a long process and important stages that must be passed, such as the process of consolidating democracy (Zuhro, R. Siti, 2019). The consolidation of democracy in the national and state order is carried out by the President, Members of the People's Representative Council (DPR), Members of the Regional Representatives Council (DPD), Members of the Provincial People's Representative Council (DPRD) for Aceh Province called the Aceh People's Representative Council (DPRA), The Regency/City Regional People's Representative Council (DPRD) in Aceh Province is called the Regency/City People's Representative Council (DPRK) which is directly elected by the people

through the General Election (Election) process as well as Governors, Regents, and Mayors and the Election of Governors, Regents, and Mayors go through the Regional Head Election process, hereinafter referred to as Elections.

Elections are like the initial process of forming a model of government as desired by the people. Leaders who are "born" through the election process are a reflection of the nation on how the people assume elections, whether they are just an ordinary momentum that occurs every five years or interpret them as a matter of hope for a better life. The meaning of Elections and Elections is the stages that are strung together into one goal to give birth to leaders who are mandated by the people, leaders who are *rahmatan lil 'alamin*.

Elections are the main mechanism in the stages of state administration and government formation. Elections are seen as the most tangible form of sovereignty that is in the hands of the people in the administration of the state. Therefore, the election system and administration has always been the main concern of the government so that the guidelines from, by, and for the people are expected to actually be realized through the arrangement of the system and the quality of the election administration (Janedjri, 2012).

Elections in the State of Indonesia are carried out by 3 (three) Election Organizing institutions consisting of the General Election Commission (KPU), the General Elections Supervisory Agency (Bawaslu), and the General Election Organizing Honorary Council (DKPP) as an integral part of the Election Organizing function, as regulated in Article 1 point 7 of Law Number 7 of 2017 concerning General Elections.

Furthermore, apart from being a democratic country as stated in the provisions of Article 1 paragraph (2) of the 1945 Constitution of the Republic of Indonesia, the implementation of which can be seen from the existence of an election and election process, Indonesia is also a state of law as reflected in the provisions of Article 1 Paragraph (3) of the 1945 Constitution of the Republic of Indonesia. Indonesia as a state of law, has the consequence that the state must ensure that the legal

rules that regulate the life of the nation and state can protect all Indonesian people and the law is also formed in harmony and has certainty in its implementation.

In relation to the election as a form of implementing democracy, of course the election process must be carried out with full obedience to the law. The 2019 General Election in Aceh Province has been successfully carried out. In April 2019 Indonesia held simultaneous elections. Simultaneous elections are held for the first time since the 1955 elections were held, using Law Number 7 of 2017 concerning General Elections (hereinafter referred to as the Election Law) as the basis for its implementation. The implementation of simultaneous elections is the result of a material test conducted by Effendi Gazali with the Community Coalition for Simultaneous Elections. The proposed articles are Article 3 paragraph (5), Article 9, Article 12 paragraph (1) and (2), Article 14 paragraph (2) and Article 112 of Law 42 of 2008 concerning the Election of the President and Vice President (Yana Suryana , 2020). The Constitutional Court granted it with the provisions applicable to the 2019 elections on the grounds that: (a) the 2014 elections have been and are in progress and approaching the time of implementation; (b) Legislation, electoral procedures and technical preparations have been implemented; (c) The preparations for the 2014 election will be disrupted and cause the implementation of the 2014 election to be chaotic and create legal uncertainty which is not desirable because it is contrary to the 1945 Constitution.

There are stages of the General Election which, according to the author, there are problems in it, which are related to the consequences of Article 60 paragraph (1) letter j of the Election Commission Regulation (KPU Regulation) Number 14 of 2018 concerning the Nomination of Individual Election Contestants for Members of the Regional Representative Council which regulates that in order to become a candidate for individual candidates Contestants for the Election of Members of DPD, one of whom must meet the requirements of not being a former convict of drug dealers, sexual crimes against children, or corruption.

One of the Candidates for Members of the Aceh Province DPD in the 2019 Election was hampered by his candidacy related to the article, because he was a former corruption convict, so he was later declared ineligible by the Aceh KIP. Furthermore, the Candidate Member of the DPD registers his petition to the Panwaslih of Aceh Province with the Respondent in the lawsuit being the Aceh KIP which consists of 1 (one) Chair, 1 (one) Deputy Chair and 5 (five) Aceh KIP Members.

The application is basically an objection to the publication of the Minutes of Aceh KIP Number 152/PL.01.4-BA/11/Prov/VII/2018 concerning the Verification Results of the Validity of the Document Requirements for Individual Candidates to Compete in the 2019 DPD Member Elections issued by the Aceh KIP on 20 In July 2018, the reasons for the petition according to the Petitioner were that KPU Regulation Number 14 of 2018 concerning the Nomination of Individual Election Contestants for Members of the Regional Representative Council was contrary to the law, so it could not be applied and the KPU could only make new technical rules in organizing Elections. However, the KPU does not have the authority to make rules that give rise to new legal norms as stipulated in Article 60 paragraph (1) letter g and j of KPU Regulation Number 14 of 2018, where the regulation causes the registration of the Applicant as a candidate for DPD member to be ineligible.

The Aceh Provincial Panwaslih with their legal considerations on the application then decided to: 1) Grant the Petitioner's Application in its entirety; 2) Canceling the Minutes of Aceh KIP Number: 152/PL.01.4-BA/11/Prov/VII/2018 concerning the Verification Results of the Validity of the Document Requirements for Individual Candidates to Compete in the 2019 DPD Member Elections; 3) To declare that Form BB.1-DPD made on behalf of the Applicant has met the requirements; 4) To order KIP Aceh to implement this decision no later than 3 (three) working days after this Decision is read out.

KIP Aceh, which has received the Aceh Provincial Panwaslih Decision, decided to hold a Plenary Meeting on August 12 2018. The Plenary Meeting decided to postpone the implementation of the Aceh Panwaslih decision Number 001/PS/Bawaslu-Prov.Ac/VII/2018 until the RI KPU received an official explanation from the Election Supervisory Agency (Bawaslu) regarding the Aceh Provincial Panwaslih Decision, this is as the KPU's order to the Aceh KIP in responding to the Aceh Province Panwaslih Decision.

Similar cases also occurred in several other provinces and became a national issue, in the end the Supreme Court issued Decision Number 30 P/HUM/2018 dated September 13 2018, where in the decision stated Article 60 paragraph (1) letter j KPU Regulation Number 14 of 2018 concerning the Nomination of Individual Election Contestants for Members of the Regional Representatives Council insofar as the phrase "former convicts of corruption" is contrary to Law Number 7 of 2017 concerning General Elections does not have binding legal force and is not generally applicable.

Against the Supreme Court's decision, the KPU then wrote to the Chairperson of the Aceh KIP/Chairman of the Provincial KPU and the Chairperson of the Regency/City KIP/KPU throughout Indonesia with Letter Number 1095/PL.01.4-SD/03/KPU/IX/2018 dated September 19, 2018 Decision Supreme Court. In the letter, the KPU, among others, ordered the Aceh KIP Chair/Provincial KPU Chairperson and the Regency/City KIP/KPU Chairperson to declare the status of qualified candidates who were former corruption convicts who were declared ineligible based on the provisions of KPU Regulation Number 14 of 2018 concerning Individual Nominations. Election contestants for members of the Regional Representatives Council as amended several times, most recently by KPU Regulation Number 26 of 2018, as long as the candidate concerned submits an application for registration to the Provincial Bawaslu and the decision states that the application is granted and re-enters it into the Permanent Candidate List (DCT).

KIP Aceh further stated that Abdullah Puteh's candidacy met the requirements and the KPU entered the name in question into the DCT of DPD Members from Aceh Province for the 2019 Election with serial number 21.

Based on the background described above, this research will legally review the Aceh Provincial Panwaslih Decision Number 001/PS/SN.20/VII/2018 which is contrary to the KPU Regulations and provide suggestions on what should be done from the side of the regulation of legislation and institutions, using the theory of authority and the theory of legal certainty as the test theory.

RESEARCH METHODS

This research is a normative juridical research. Normative juridical research is a legal research method conducted by examining library materials or secondary data (Soekanto & Mamudji, 1994; Sulaiman, 2018). The secondary data is obtained from textbooks, laws and regulations, as well as journals that have a relationship or relevance to the problem to be discussed, making it easier for researchers to carry out research due to limitations and focus on the object of research in the form of the Provincial Panwaslih Decision. Aceh and its relevance to KPU Regulations. The specification of this research is analytical prescriptive. Prescriptive in the sense that this study aims to examine or examine more deeply related to a legal issue (Loth M.A., 2007), regarding the validity of the Aceh Provincial Panwaslih Decision which is contrary to KPU regulations. Analytical in the sense that the results obtained by analyzing the data that have been collected, the way to analyze is done by reviewing the basis of the decision.

DISCUSSIONS AND ANALYSIS OF RESULTS

1) The Authority of Election Organizers

Initially, the Election Organizers in Indonesia only consisted of the KPU as mandated by Article 22E paragraph (5) of the 1945 Constitution of the Republic of Indonesia, but subsequently

the Election Organizers consisted of 3 institutional elements namely KPU, Bawaslu and the Election Organizers Honorary Council (DKPP) as last regulated in Election Law.

In the provisions of Article 2 of the Election Law, it is stated that in holding elections, election organizers must conduct elections based on direct, general, free, confidential, honest and fair principles. Furthermore, Article 3 states that the implementation must meet the principles of: a) independent, b) honest; c) fair; d) legal certainty; e) orderly; f) open; g) proportional; h) professional; i) accountable; j) effective; and k) efficient.

The KPU as an Election Organizing Institution guaranteed and protected by the 1945 Constitution of the Republic of Indonesia is categorized as a state institution that has what is called constitutional importance. The position of the KPU as a state institution can be considered equal to other institutions established by or by law. However, because of the existence of an Election Organizing institution which is explicitly stated in Article 22E of the 1945 Constitution of the Republic of Indonesia, its position as an Election Organizer that is national, permanent, and independent, inevitably becomes important and its existence is guaranteed and protected constitutionally in the 1945 Constitution of the Republic of Indonesia (Asshiddiqie, 2010).

The KPU is affirmed to be national, permanent and independent with the same institutional level as other institutions established by law. Election organizers must be neutral and impartial. The KPU may not be controlled by political parties or state officials who reflect the interests of political parties or participants or candidates for election participants (Asshiddiqie, 2006).

In relation to the General Election, the KPU acts as a planner and implementer for the implementation of the General Election, including drafting and stipulating KPU Regulations for each stage of the Election, so that each stage of the Election must be based on KPU Regulations related to the ongoing stages.

Furthermore, there is another Election Organizing Institution that plays a role in supervising each stage of the election, namely Bawaslu. Bawaslu consists of Bawaslu, Provincial Bawaslu,

Regency/City Bawaslu, Sub-district Panwaslu, Urban/Village Panwaslu, LN Panwaslu, and TPS Supervisors.

Bawaslu, in its role in supervising the stages of the general election, is tasked with preventing and taking action against election violations and election process disputes. In taking action against election process disputes, Bawaslu is tasked with: a) receiving applications for dispute resolution in the election process; b) verifying formally and materially the application for dispute resolution in the election process; c) mediate between the disputing parties; d) conduct the adjudication process for electoral process disputes; and e) decide on the dispute resolution of the election process.

Regarding the implementation and supervision carried out by the KPU and Bawaslu, respectively, there is an institution that has a role in handling violations of the Election Organizer's code of ethics, namely the DKPP. DKPP is established to examine and decide on complaints and/or reports of alleged violations of the code of ethics committed by KPU members, Provincial KPU members, Regency/Municipal KPU members, Bawaslu members, Provincial Bawaslu members and Regency/Municipal Bawaslu members. DKPP is formed no later than 2 months after KPU members and Bawaslu members take oaths/promises and consists of 7 people consisting of 1 ex officio and KPU element, 1 ex officio from Bawaslu element, and 5 community leaders.

In the Big Indonesian Dictionary, the word authority means: The right of authority; The right and power you have to do something. Meanwhile, the word authority means: (1) The right and power to act with authority; (2) The power to make decisions, order, and delegate responsibilities to others (KBBI, 1989).

Authority (authority, gezag) is what is called a special 'formal power' that comes from legislative power (given by law) or from executive/administrative power (Prajudi Admosudirdjo, 1981). These powers are bound and free. Sources of authority include attribution, delegation and mandate. "Attribution authority is the source of authority that is most often exercised, so often this

method is carried out through the Constitution, so that the Constitution is said to be nothing more than 'een regulation van attribute' (Akhmad, 1996).

Philipus M. Hadjon explained three competencies, namely, attribution is the authority attached to a position, delegation, namely in the case of a transfer / transfer of an existing authority, while the mandate is to obtain authority on behalf of the ruler (Hadjon & Martosoewignjo, 1999). Attribution exists when the Constitution and the Law (in a formal sense) grant to an agency with its own power and responsibility (independent) the authority to make/form laws and regulations, while delegation exists when an agency (organ) has the authority to independently make laws and regulations. Legislation (attributive authority) submits (overdragen) to an agency for its own power and responsibility the authority to make/form laws and regulations (Manan, 1993).

In the concept of constitutional law, authorization or authority is described as legal power. In public law, there is a small difference between authorization and authority regarding power. Authorization is something referred to as formal power that comes from the law or legislature. While the authority is only about a certain part of the authorization. Authorization in the field of judicial power or judicial power is commonly called competence or jurisdiction (Hadjon, 1997).

Law Number 7 of 2017 provides details on the authority of each Election Organizer. Article 13 of Law Number 7 of 2017 states that the KPU for Stipulating Provisions: a) stipulates the working procedures of the Provincial KPU, Regency/Municipal KPU, PPK, PPS, KPPS, PPLN, and KPPSLN; b) to stipulate KPU Regulations for each stage of the General Election; c) determine Election Contestants; d) determine and announce the results of the recapitulation of the national vote count based on the results of the recapitulation of the vote count at the Provincial KPU for the Election of President and Vice President and for the election of members of the DPR as well as the results of the recapitulation of the vote count at each Provincial KPU for the Election of DPD members by making an official report on the vote count and certificate. vote counting; e) issue KPU decisions to ratify the election results and announce them; f) determine and announce the number of

seats for members of DPR, members of provincial DPRD, and members of Regency/Municipal DPRD for each Election Contesting Political Party for DPR members, Provincial DPRD members, and Regency/Municipal DPRD members; g) determine standards and requirements for procurement and distribution of equipment; h) establish Provincial KPU, Regency/Municipal KPU, and PPLN; i) appoint, foster, and dismiss members of Provincial KPU, Regency/Municipal KPU members, and PPLN members; j) imposing administrative sanctions and/or temporarily disabling Provincial KPU members, Regency/Municipal KPU members, PPLN members, KPPSLN members, and KPU Secretary General who are proven to have taken actions that have disrupted the implementation of the ongoing Election based on Bawaslu decisions and/or regulatory provisions. legislation; k) establish a public accounting firm to audit election campaign funds and publish reports on election campaign funds; and l) exercise other authorities in the Implementation of Elections in accordance with the provisions of laws and regulations.

The provisions of Article 95 of Law Number 7 of 2017 state that Bawaslu has the authority to: a) receive and follow up on reports relating to alleged violations of the implementation of laws and regulations governing elections; b) examine, review, and decide on election administration violations; c) examine, review, and decide on money politics violations; d) receive, examine, mediate or adjudicate, and decide on the dispute resolution of the election process; e) recommend to the relevant agency regarding the results of supervision on the neutrality of the state civil apparatus, the neutrality of the members of the Indonesian National Armed Forces, and the neutrality of the members of the Indonesian National Police; f) take over temporarily the duties, authorities, and obligations of Provincial Bawaslu and Regency/Municipal Bawaslu in stages if the Provincial Bawaslu and Regency/Municipal Bawaslu are temporarily absent due to sanctions or other consequences in accordance with the provisions of the legislation; g) requesting required information from relevant parties in the context of preventing and taking action against administrative violations, violations of the code of ethics, alleged election crimes, and election

process disputes; h) correcting the decisions and recommendations of the Provincial Bawaslu and Regency/Municipal Bawaslu if there are things that are contrary to the provisions of the legislation; i) establishing Provincial Bawaslu, Regency/Municipal Bawaslu, and LN Panwaslu; j) appoint, foster, and dismiss members of Provincial Bawaslu, Regency/City Bawaslu members, and LN Panwaslu members; and k) exercise other authorities in accordance with the provisions of laws and regulations.

The provisions of Article 159 of Law Number 7 of 2017 state that DKPP has the authority to:

a) summon Election Organizers suspected of violating the code of ethics to provide explanations and defenses; b) summon the complainant, witnesses, and/or other related parties for questioning, including for documents or other evidence; c) impose sanctions on Election Organizers who are proven to have violated the code of ethics; and d) decide on violations of the code of ethics.

The authorization must have the basis of the existing legal provisions (the constitution), so that the existing authorization is a legitimate authorization. Officials or organs in issuing decisions are supported by sources of authorization. The authority for government officials or institutions (organs) is divided into 2, namely attributive (original) authorization, namely the granting of government authority by lawmakers to government organs. Attributive authorization is permanent or persists as long as the law regulates. In a sense, it is the authority attached to a position. Attributive authorization refers to the original authority on the basis of the constitution/UUD or statutory regulations and non-attributive (non-original) authority, which is the authorization obtained from the delegation of authority from other officials. This authority is given by an official as a superior to his subordinates to assist in carrying out his duties and obligations (Ridwan HR, 2010).

Panwaslih, which is part of Bawaslu, is one of the bodies established by law, including as an agency with attributive authority. It is stated in Law Number 7 of 2017 Article 89 paragraph (1) that Bawaslu was formed to supervise the implementation of elections. Panwaslih is formed by a

national level supervisory committee and is permanent. Performing dispute resolution is one of the attributive powers of Panwaslih.

2) The Authority of Aceh Province Panwaslih in Making Decisions

Based on the theory of authority, the research will focus on the existence of a KPU Regulation on the Panwaslih decision which discusses the requirements for candidates for DPD members. The Panwaslih's decision by using its attributive authority should be determined based on the applicable laws and regulations. The decision of the Aceh Provincial Panwaslih which does not accommodate the provisions of Article 60 paragraph (1) letter j of KPU Regulation Number 14 of 2018 regarding the requirements for DPD candidates which stipulates that in order to become an individual candidate for a DPD Member Election, one of them must meet the requirements of not being a former drug dealer convict, sexual crimes against children, or corruption.

According to the Election Law, which contains a breakthrough in strengthening the authority of Bawaslu in enforcing election law. In addition to election crimes, the authority to take action and decide on administrative violations in the trial mechanism at Bawaslu to the Regency/City level, which was previously the authority of the Constitutional Court (MK) is now given to Bawaslu. In the previous law, the conclusion that an action was considered a violation was issued in the form of a recommendation. Now the conclusion is issued in the form of a decision. Regency/City Bawaslu can issue decisions that are final and binding and the decisions cannot be assimilated. For example, Bawaslu received a report that a certain regional head candidate had committed an administrative violation. Bawaslu will present the reporter and the reported party to explain each other's reports and defenses. After that, Bawaslu can conclude that the action is a violation through a decision like a court decision, not a recommendation, if the recommendation can be implemented or not, now the decision is like a court decision, where the KPU is obliged to implement this decision.

Dispute resolution through adjudication is a new electoral dispute resolution pathway that has not been used in previous elections. The trial of adjudication is a new legal product in alternative election dispute resolution. In practice, through adjudication hearings, Bawaslu has issued many contradictory decisions and invalidated the decisions issued by KPU. One of them is *Partai Bulan Bintang* (PBB) which was passed by Bawaslu to be able to participate in the 2019 election. Through the adjudication session, Bawaslu overturned the KPU's decision not to pass PBB, and PBB became the only election participant who participated through the Bawaslu adjudication session.

Article 469 paragraph (1) of the Election Law contains a phrase that explains that Bawaslu's decision regarding the resolution of electoral process disputes is final and binding, except for decisions on election process disputes relating to: 1) Verification of Election Contesting Political Parties; 2) Determination of the permanent list of candidates for members of DPR, DPD, Provincial DPRD and Regency/Municipal DPRD; 3) Determination of candidate pairs. Basically, the dispute resolution of the election process must be related to the verification of the political parties participating in the election, the determination of the DCT of the members of the DPR, DPD, Provincial DPRD, and Regency/Municipal DPRD or the determination of candidate pairs, so the adjudication decision of Bawaslu will never be final and binding because the adjudication decision made Bawaslu issued must be related to things that are excluded in the Election Law (Kaban, 2018).

The position of KPU Regulations in the implementation of Elections is clearly regulated in Article 75 and Article 76 of Law Number 7 of 2017, these provisions, among others, stipulate that in order to conduct elections, the KPU shall establish KPU Regulations and KPU decisions. The said KPU regulation is the implementation of statutory regulations and in the event that the KPU establishes a KPU Regulation relating to the implementation of the stages of the General Election, the KPU is obliged to consult with the DPR and the Government through a hearing meeting.

The process of forming and stipulating the KPU Regulation states that the KPU Regulation cannot simply be set aside in its implementation. Election organizers and contestants are required to

comply with the provisions stipulated in the KPU Regulation, especially since the KPU Regulation has passed the consultation process with the DPR and the Government. KPU Regulation Number 14 of 2018 concerning the Nomination of Individual Election Contestants for Members of the Regional Representative Council with the State Gazette of the Republic of Indonesia of 2018 Number 515 is also a positive law that must be obeyed, especially in the nomination of individual Election Contestants for members of the DPD.

Panwaslih Aceh Province through Decision No. 001/PS/SN.20/VII/2018 has exceeded its authority, the decision is contrary to the provisions of Article 60 paragraph (1) letter j of KPU Regulation Number 14 of 2018. In Article 76 paragraph (1) and paragraph (2) of the Law Number 7 of 2017 concerning Elections states: (1) In the event that a KPU Regulation is alleged to be in conflict with this Law, the examination shall be carried out by. Supreme Court; (2) Bawaslu and/or parties who are harmed by the enactment of the KPU Regulations have the right to become applicants to submit a review to the Supreme Court as referred to in paragraph (1).

3) Legal Certainty in the Implementation of Elections

Certainty is a matter (state) that is certain, provisions or stipulations. The law must essentially be certain and fair. It must be a code of conduct and fairness because the code of conduct must support an order that is considered reasonable. Only because it is fair and carried out with certainty the law can carry out its functions. Legal certainty is a question that can only be answered normatively, not sociologically (Rato, 2010).

Normative legal certainty is when a regulation is made and promulgated with certainty because it regulates clearly and logically. It is clear in the sense that it does not cause doubt (multi-interpretation) and is logical. It is clear in the sense that it becomes a norm system with other norms so that it does not clash or cause norm conflicts. Legal certainty refers to the application of a clear, permanent, consistent and consequent law whose implementation cannot be influenced by

subjective circumstances. Certainty and justice are not merely moral demands, but factually characterize the law. A law that is uncertain and does not want to be fair is not just a bad law (Kansil, Christine, Engelen, Palandeng & Mamahit, 2009).

Legal certainty is a guarantee of law that contains justice. Norms that promote justice must really function as rules to be obeyed. According to Gustav Radbruch, justice and legal certainty are permanent parts of the law. He argues that justice and legal certainty must be considered, legal certainty must be maintained for the security and order of a country. Finally, positive law must always be obeyed. Based on the theory of legal certainty and the value to be achieved, namely the value of justice and happiness (Ali, 2002).

In a legal regulation, there are legal principles that form the basis for its formation. Satjipto Rahardjo said that legal principles can be interpreted as the "heart" of legal regulations (Rahardjo, 2012). Indeed, the existence of the principle of legal certainty is interpreted as a condition where the law is certain because of the concrete power of the law in question (Mario Julyano & Aditya Yuli Sulistyawan, 2019). The existence of the principle of legal certainty is a form of protection for justice (seeking justice) against arbitrary actions, which means that a person will and can get something expected under certain circumstances (Mertokusumo, 1993).

The KPU regulation which was a positive law at the time the Aceh Provincial Panwalih issued Decision No. 001/PS/SN.20/VII/2018 and not accommodated in the said decision, is a form of lack of legal certainty in the decision. To achieve legal certainty, the overall positive law must always be obeyed, behind this obedience there will be justice in the law. The Election Law should provide strict regulations regarding sanctions for election organizers who exceed their authority. One of the strengths of a law is the existence of a sanction for violation of the matters regulated in it.

DKPP as one of the Election Organizers mentioned in the Election Law is one of the efforts to maintain the quality of the election administration. This institution should be able to optimize its

function. So far, because the DKPP law orders only acts when it receives a complaint or report, this should be changed so that DKPP can take action not only when there is a complaint or report, but also at the initiative of DKPP based on its initial study there are indications of violations by the election organizers.

DKPP in Article 159 paragraph (3) of the Election Law has the obligation to: a) apply the principles of maintaining justice, independence, impartiality, and transparency; b) enforce ethical rules or norms that apply to election organizers; c) being neutral, passive, and not taking advantage of cases that arise for personal popularity; and d) submit the decision to the relevant parties for follow-up. In connection with the obligation of DKPP to enforce ethical rules or norms that apply to Election Organizers, it is fitting that the enforcement of these ethical rules or norms should not only arise from complaints or reports, but also arises from the spirit of DKPP to be active in finding indications of election violations.

In the case of alleged violations of the code of ethics by the Election Organizer, such as the Aceh Provincial Panwaslih Decision, which contradicts the KPU Regulations and has exceeded the authority of the Panwaslih itself, the DKPP should be able to come to provide a solution. The solution, of course, must first be amended in the Election Law, specifically covering the authority of the DKPP which should be able to take action without any prior reports or complaints. This is so that there is legal certainty in the implementation of the General Election, if there are election violations committed by the Election Organizer.

CONCLUSIONS

The position of KPU Regulations in the implementation of Elections is clearly regulated in Article 75 and Article 76 of Law Number 7 of 2017, these provisions, among others, stipulate that in order to conduct elections, the KPU shall establish KPU Regulations and KPU decisions. The said KPU regulation is the implementation of statutory regulations and in the event that the KPU

establishes a KPU Regulation relating to the implementation of the stages of the General Election, the KPU is obliged to consult with the DPR and the Government through a hearing meeting.

The process of forming and stipulating the KPU Regulation states that the KPU Regulation cannot simply be set aside in its implementation. Election organizers and contestants are required to comply with the provisions stipulated in the KPU Regulation, especially since the KPU Regulation has passed the consultation process with the DPR and the Government. KPU Regulation Number 14 of 2018 concerning the Nomination of Individual Election Contestants for Members of the Regional Representative Council with the State Gazette of the Republic of Indonesia of 2018 Number 515 is also a positive law that must be obeyed, especially in the nomination of individual Election Contestants for members of the DPD.

Panwaslih Aceh Province through Decision No. 001/PS/SN.20/VII/2018 has exceeded its authority, the decision is contrary to the provisions of Article 60 paragraph (1) letter j of KPU Regulation Number 14 of 2018. In Article 76 paragraph (1) and paragraph (2) of the Law Number 7 of 2017 concerning Elections states: (1) In the event that a KPU Regulation is alleged to be in conflict with this Law, the examination shall be carried out by. Supreme Court; (2) Bawaslu and/or parties who are harmed by the enactment of the KPU Regulations have the right to become applicants to submit a review to the Supreme Court as referred to in paragraph (1).

The implementation of the stages of the General Election must be further refined in terms of its arrangements, so that there is no disharmony between one rule and another. The role and authority of the Election Organizing Institution must also be carried out optimally. The Panwaslih of Aceh Province, which is the hierarchy of Bawaslu, should not exceed its authority in disputes over the election process or in any of its supervisory functions.

KIP Aceh as the implementer of the General Election in Aceh should defend the decision it has taken which was later annulled by the Aceh Provincial Panwaslih. KIP Aceh should file legal action to the state administrative court as referred to in Article 469 paragraph (1) and paragraph (2)

of Law Number 7 of 2017 which among other things stipulates that the Bawaslu Decision regarding the dispute resolution of the election process is a final and binding decision, except for decisions on election process disputes relating to: a) verification of the Election Contesting Political Parties; b) determination of the final list of candidates for members of DPR, DPD, Provincial DPRD, and Regency/Municipal DPRD; and c) determination of Candidate Pairs.

In the case of alleged violations of the code of ethics by the Election Organizer, such as the Aceh Provincial Panwaslih Decision, which contradicts the KPU Regulations and has exceeded the authority of the Panwaslih itself, the DKPP should be able to come to provide a solution. The solution, of course, must first be amended in the Election Law, specifically covering the authority of the DKPP which should be able to take action without any prior reports or complaints. This is so that there is legal certainty in the implementation of the General Election, if there are election violations committed by the Election Organizer.

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