

Regulations on the Use of State Facilities in the Implementation of General Election Campaigns

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Abstract

General elections (*Pemilu*) play a crucial role in the democratization of politics in Indonesia. As a democratic country, Indonesia adopts a political system based on power that comes from and for the people. becomes a forum for elections where citizens can directly elect their representatives at the national and regional levels. However, the implementation of elections is faced with various challenges, especially related to honest, fair, and transparent implementation. One of the main issues that arises is the scope of state facilities in election campaigns. This study aims to investigate ways of supervision that can prevent the protection of state facilities in election campaigns. The research method used is normative research with an approach to laws, conceptualization, and case studies. The research findings show that effective supervision of the use of state facilities in elections is a crucial step to ensure integrity and fairness in the democratic process. Legal steps and sanctions applied in accordance with the Election Law are expected to reduce violations and maintain the integrity of elections in Indonesia.

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INTRODUCTION

General Elections (*Pemilu*) are defined as an important tool in a democratic system. In a representative system, elections are a reflection of procedural democracy that allows people to directly take part in their country's political process. Elections in Indonesia are not only a process of electing people's representatives at the national and regional levels but are also an important moment to determine the direction and goals of the country in political, economic and social development. In this context, elections become a kind of "people's party" that involves various preparations from candidates and political parties to gain support and mandates from the people. The provisions of Law Number 7 of 2017 concerning General Elections outline that general elections are held based on the principles of direct, general, free, secret, honest and fair in accordance with the 1945 Constitution, and their implementation is required to meet the principles of independence, honesty, fairness, legal certainty, orderly, open, proportional, professional, accountable, effective and efficient (Siagian, 2022). The community has a crucial role in determining and running national life. The establishment of the General Election Commission is based on public demands for an independent institution specifically to manage general elections. This is different from the previous general election institution which was considered undemocratic and still influenced by government intervention.

Elections have a crucial role in the democratization of politics in Indonesia (Rusli, 1991). General elections are the main means for the people to channel their political aspirations, elect the best representatives in legislative institutions, as well as the President and Vice President peacefully. Success in holding elections and building a solid democratic

system requires this nation to be able to manage politics and government in accordance with the mandate of the nation's founders. Although political rights and civil liberties are guaranteed by the constitution and political participation of the community is increasingly widespread, empirically, elections have still not succeeded in realizing full sovereignty for the Indonesian people (Zuhro, 2019).

The meaning of popular sovereignty is that the people have the sovereignty, responsibility, rights, and obligations to democratically elect leaders who will form a government to manage and serve all levels of society. The people also elect people's representatives to oversee the running of the government. Popular sovereignty is realized through elections as a means to directly elect the President and Vice President in one pair, as well as to elect members of the DPR, DPD, and DPRD. The functions of these people's representatives include supervising the government, channeling the people's political aspirations, making laws as a basis for all parties in the Republic of Indonesia to carry out their duties, and formulating a budget to support the implementation of these functions (Anindi, 2023).

As a democratic country, Indonesia has a political system based on power that comes from the people and for the people. In this case, elections are the main means by which people can directly elect their representatives both at the national and regional levels. Voter participation is an important indicator in assessing the success of an election. The higher the level of voter participation, the stronger the legitimacy of the elected government. Therefore, the government and related institutions need to continue to increase political awareness and public participation in the general election process. The implementation of elections also faces a number of challenges, especially in terms of honest, fair, and transparent implementation. Controversy often arises regarding the existence of an independent and effective election monitoring institution in overseeing the election process and addressing possible violations. Political campaigns are the main means for candidates and political parties to convey their vision, mission, and programs to the population. Through this campaign, they seek to convince voters of their ability and commitment to lead and represent the interests of the people. The campaign team is responsible for planning and implementing political campaigns. They use a variety of strategies and media including direct meetings, distribution of campaign materials, social media, and advertising in the mass media. However, in carrying out the campaign, election participants must comply with the rules stipulated in the Election Law, including the prohibition of unethical or unlawful political practices.

The KPU and Bawaslu play a crucial role in organizing fair and transparent elections. The KPU is responsible for planning, preparing, and implementing elections, while Bawaslu is tasked with overseeing the election process and taking action against violations that occur (Isnaini, 2018). In carrying out their duties, the KPU and Bawaslu must act independently and professionally without any political intervention or external pressure. They must also be equipped with adequate resources and effective mechanisms to handle disputes or violations that arise during the election process. In Article 71 paragraph 1 of the KPU regulation concerning the 2023 campaign rules. However, there are still violations that are often related to the installation of campaign media at these locations, although they are not fully known to the general public. This has resulted in many campaign media being placed in schools, places of worship and government offices.

Ensuring that the placement of campaign equipment is carried out in an orderly manner in the appropriate place is expected to create a safe and prosperous atmosphere where there is no excessive support for legislative candidates. Therefore, it is important to enforce discipline in installing banners, billboards, or campaign speeches in places of worship and schools. Campaign practices that use state facilities are serious violations in the election process.

Law Number 7 of 2017 concerning Elections regulates the use of state facilities in campaigns, as explained in Article 304 paragraph (1). The law strictly prohibits the president,

vice president, state officials, and regional officials from utilizing state facilities in political campaign activities. The facilities in question include official vehicles belonging to state officials and employees and other official vehicles. However, there is a need for further clarification regarding accountability for these violations. This arises in the form of fundamental questions regarding how the law regulates accountability for the use of state facilities in the implementation of political campaigns that violate laws and regulations. State facilities include facilities and infrastructure funded through the State Budget (APBN) and the Regional Budget (APBD) whose use is regulated by State Officials and is not included in state assets that have been separated. Misuse of state facilities for campaign purposes often occurs. Candidates are often considered to be utilizing "regional promotion" billboards that should be used to introduce the region, as a means of disguised campaigning. Although it is difficult to separate disguised campaigning from the implementation of the duties of a regional head, this action is still a violation. In this black campaign, there are two types of violations: administrative violations related to the use of billboards and violations of the use of state facilities for campaign purposes.

State facilities that are prohibited from being used include official vehicles, including official vehicles of state officials and employees, as well as other official transportation. In addition, restrictions also apply to the use of office buildings, official residences, and official residences owned by the central and regional governments, except in remote areas by considering the principle of justice. Generally, telecommunications and code equipment in the regional government environment such as radio, internet transmitters, postal services, software and hardware for coding, cables, optics, and other code processes are also included in the prohibition. State officials are also prohibited from using office facilities, regional radios, and telecommunications equipment owned by the regional government and their equipment.

Therefore, this issue is a strong basis for conducting legal research to find concrete answers and appropriate solutions related to this problem. Legal research is important to ensure fair and transparent law enforcement in dealing with violations of this kind, as well as to strengthen the integrity and public trust in the election process. This study will discuss the oversight mechanism to prevent misuse of state facilities in carrying out general election campaigns.

RESEARCH METHODS

The method used in writing this thesis is the normative research method. This method is used to determine the rules, principles, and legal doctrines to answer legal problems. Three approaches are used as a basis for building the right arguments in this study. The statutory approach, conceptual approach, and case approach are also used. The case approach takes various types of legal materials, such as primary, secondary, and tertiary. In the data collection process, sources of legal materials, laws and regulations, literature books, and research reports related to the problem are used. In addition, the author collects, studies, and processes library documents and other relevant documents.

ANALYSIS/DISCUSSION

1. Supervisory Mechanism to Prevent Misuse of State Facilities in Implementing Election Campaigns

Monitoring the use of government facilities during election campaigns is an important step in ensuring integrity and fairness in the democratic process. This supervisory system aims to prevent misuse of power and public resources for certain political interests, in accordance with Article 280 Paragraph 1 Letter h of the Parliamentary Election Law Number 7 of 2017 concerning fines. Implementers, participants, and campaign teams are threatened with several years in prison and a maximum fine of IDR 24 million (based on Article 521).

The judicial procedures related to election crimes, including investigations, prosecutions, and trials, are regulated in Law Number 8 of 1981 concerning Criminal

Procedure Law unless otherwise regulated in the Election Law (Article 477). The procedures for handling criminal acts are explained in Articles 476 to 484 of Law Number 7 of 2017 which include the stages of receiving reports, investigations, prosecutions, and trials until the implementation of the final decision. This process involves law enforcement officers from the regular criminal justice system and Bawaslu which issued Perwaslu Number 7 of 2018 concerning Handling of Findings and Reporting of Election Violations. This Bawaslu Regulation regulates the initial procedures for handling violations based on findings and reporting to returning officers, and although it has been replaced by Perbawasuru Number 7 of 2022 concerning Handling of Findings and Reporting, this provision remains in effect in the 2019 Election. Modified without any technical changes.

The oversight mechanism to prevent misuse of state facilities in the general election campaign includes several important steps. First, there needs to be a clear determination of rules in related laws and regulations. Furthermore, the formation of an independent supervisory body that is responsible is very crucial. This body must actively monitor the use of state facilities. In addition, transparency in the use of state facilities must be encouraged and sanctions and law enforcement for violators must be enforced firmly. Education and socialization to the public about the rules and consequences of using state facilities are also important to do. By implementing this mechanism effectively, it is hoped that misuse of state facilities can be prevented and integrity and transparency in the implementation of the general election can be guaranteed.

a. The Role of Supervisory Institutions in Identifying and Taking Action Against Violations of the Use of State Facilities

Elections are basically a way for citizens to determine their government so that almost all democratic countries in the world hold them. Elections are held to ensure that the change and transfer of power takes place in a democratic manner (Ramadhan, 2019). The active role of supervision by the state is very important in the implementation of general elections to anticipate potential violations or legal problems that may occur. For this purpose, the state forms an institution known as the Election Supervisory Body of the Republic of Indonesia (Bawaslu) which operates nationally. Similar to the General Election Commission (KPU) (Bambang, 2021), Bawaslu has a structure down to the Polling Station (TPS) level and even coordinates election supervision abroad. In the context of legal developments in Indonesia, legal issues related to general elections become complex, especially during the election period. Law Number 7 of 2017 concerning General Elections identifies at least six types of legal problems that often arise in the context of general elections including ethical violations by election organizers, administrative election violations, election disputes, criminal election violations, and other legal problems. The importance of the state's active role in supervising the implementation of elections cannot be denied. The main goal is to prevent potential violations in general elections or the possibility of legal problems arising. Therefore, the state formed the General Election Supervisory Body (Bawaslu) which has a national scope. Bawaslu faces a serious challenge to prove its relevance in maintaining the integrity of the election both now and in the future.

According to the Election Law, Bawaslu has the main responsibility in implementing an election supervision system that is considered effective in reducing the potential for violations is important to maintain a balance between the prevention and enforcement functions by Bawaslu. This is crucial because it has an impact on fairness in the election for all parties. The democratic process is highly dependent on the active participation of the people in electing competent leaders through the general election process regulated by law is one way to realize the sovereignty of the people, where elections are a means for citizens to determine their leaders and oversee the running of the government. Therefore, fair and democratic elections are a prerequisite for the creation of a healthy political life that allows the election of quality leaders and a government that is responsible for the interests of the people.

It cannot be denied that the sovereignty of the people in the form of the

implementation of elections is vulnerable to being disturbed by violations committed by various parties, both election participants, organizers, and voters, which results in damage to the integrity of the election process. Therefore, law enforcement is the best solution to strengthen the sovereignty of the people. By implementing elections with integrity, it means that citizens exercise their voting rights fairly and honestly, this will have a positive influence on the future of Indonesia. However, the implementation of clean and transparent elections cannot be separated from the principles of honest and fair democracy.

Indonesia as a country of law emphasizes the importance of honesty and justice in its legal system, although there are still citizens who have not fully received access to justice. The essence of elections in the context of democratic political life is as a mechanism to replace power with clear rules, transparent procedures, and maintained ethics. The history of the implementation of elections in Indonesia which began in 1971 shows a crisis of trust in election officials due to alleged manipulation by them. Regulations regarding elections in Indonesia are regulated in various laws ranging from the constitution to regional head election regulations. However, there are still several issues in the legal framework for elections, such as the unclear definition of campaign, administrative violations of elections that are not specified in detail and disputes between election participants that are not explained enough. Therefore, legal certainty is very important in ensuring the integrity of elections.

b. Law Enforcement Efforts against Cases of Misuse of State Facilities in General Election Campaigns

Election law enforcement involves a series of steps to deal with allegations of fraud in the election process starting from receiving reports and findings to evaluating and providing recommendations. Information regarding alleged election fraud comes from reports and findings made by monitoring officers such as Bawaslu, Provincial Bawaslu, Regency/City Bawaslu, Sub-district Panwaslu, Sub-district/Village Panwaslu, and TPS Supervisory Agency. Criminal law actions are taken to ensure the effective implementation of legal norms as a guide to behavior in social and political life. In this context, law enforcement can be carried out generally and specifically by various parties, with the impact covering individuals or legal entities in all aspects of community life that are subject to applicable laws. Understanding law enforcement can also be seen from the perspective of its object, namely its legal aspect. In this context, its meaning can be inclusive or exclusive. In general, law enforcement includes aspects of justice that are reflected in applicable legal norms and in social practices. However, specifically, law enforcement may only refer to the application of formal and concrete legal rules. Therefore, in Indonesian, the term "law enforcement" can include a broader meaning while the term "regulation enforcement" is more specific. The distinction between formal written legal provisions and the concept of justice contained therein can also be found in English, as in the terms "the rule of law" versus "the rule of just law" or "the rule of law and not of man" versus "the rule by law". "The rule of law" refers to the principle of government based on law, which includes the values of justice, while "the rule by law" describes a government controlled by individuals who use the law solely as a tool for control (Asshiddiqie, 2016).

One of the topics discussed regarding the Use of government facilities such as nameplates and official vehicles in the context of holding regional head elections at the state and district/city levels must comply with the provisions of Law Number 1 of 2015 concerning Regional Head Elections. which stipulates that violations of regulations regarding the use of state facilities can be subject to criminal penalties ranging from 1 to 6 months in prison, as well as fines ranging from IDR 100,000 to IDR 1,000,000. However, many violations are not reported to the legal realm due to the lack of socialization and information from the General Election Supervisory Body (Bawaslu) to relevant stakeholders, such as the General Election Commission (KPU), Regional Government, Police, and Satpol PP. the cause is the limited budget for Supervision of the use of state facilities carried out by Bawaslu exclusively conducting unilateral socialization without coordinating with relevant

stakeholders regarding the form of supervision to the public (Ardenolis et al, 2020).

Efforts to enforce the law against cases of misuse of state facilities in general election campaigns are an important step to maintain integrity and justice in the democratic process. Effective law enforcement must begin with the establishment of clear rules in related laws and regulations. This regulation must regulate in detail the limitations on the use of state facilities by public officials, political parties, and candidates during the campaign period. The Election Supervisory Agency needs to be strengthened as an independent institution that has broad authority to supervise, take action, and provide recommendations for sanctions against violations of the use of state facilities. Active monitoring through field inspections, media monitoring and receiving reports from the public is very important and information technology can be utilized to facilitate reporting of violations quickly and easily. When violations are detected, law enforcement must be carried out firmly and openly. in-depth investigations, collection of strong evidence, and a fair and fast judicial process. Sanctions against violators must be in accordance with the seriousness of the violation and can be in the form of fines, revocation of political rights, or imprisonment. Transparency in the law enforcement process is very important to maintain public trust so that all steps from investigation to final decision must be carried out openly and can be accessed by the public. Education and socialization to public officials, candidates, political parties, and the general public about the rules and consequences of misuse of state facilities are very important, as well as close cooperation between Bawaslu, KPU, police, prosecutors, and courts to ensure effective law enforcement. Thus, misuse of state facilities can be minimized and public trust in the election process can be maintained, strengthening democracy in Indonesia.

c. Election Supervision Mechanism in Indonesia

Supervision in its meaning focuses on the evaluation and correction of the results that have been achieved, with the aim of ensuring that the results are in accordance with the plan. Therefore, supervision is not carried out during the activity process, but after the activity is completed and the results have been achieved. According to George R. Terry as quoted by Muchsan SH, supervision is a process that determines the achievement of goals, evaluates results, and takes corrective actions as needed to ensure that the results are in accordance with the plan. The main focus of supervision is on the evaluation and improvement of the results that have been achieved so that they are consistent with the initial plan. The supervision process is carried out after the activity is completed, not during the activity process, and aims to evaluate the effectiveness of task implementation. Government organizations are one type of public organization, in addition to private (corporate) organizations. These two types of organizations have differences, one of which is that public organizations tend to have a longer life, while private organizations have a fluctuating life cycle, can experience progress, decline, or even dissolution. This is due to the resilience of public organizations to environmental changes supported by power, while the survival of private organizations is highly dependent on their ability to respond to changes and environmental conditions. The following are the stages of the election process that must be passed:

1. Registration and Verification of Political Parties
Political parties participating in the election must register with the KPU in accordance with Law Number 10 of 2008. After successful examination, the KPU determines them as election participants. This process is required to end no later than 9 months before the election date.
2. Creation and Determination of the Permanent Voter List
Indonesian residents who are 17 years of age or older or who are married have the right to vote and must be registered on the permanent voter list. Population data is provided by the government and compiled by the KPU into a DPT no later than 12 months before the activity takes place
3. Registration of Candidates for DPR, DPRD, and DPRD
Political parties participating in the election conduct selection of candidates for DPR,

- provincial DPRD, and district/city DPRD members in accordance with applicable regulations.
4. **Preparation and Verification of the Preliminary Candidate List**
Candidates who pass the verification will be added to the Preliminary Candidate List by the KPU at the national, provincial, and district/city levels based on Article 61 of Law Number 10 of 2008.
 5. **Determination and Announcement of the Permanent Candidate List**
The KPU determines and announces the permanent candidate list for members of the DPR, provincial DPRD, and district/city DPRD based on Article 65 of Law Number 10 of 2008.
 6. **Determination and Announcement of the DPD Candidate List**
DPD candidate members who meet the requirements are then verified by the KPU. This process is monitored by Bawaslu and Panwaslu in accordance with Law Number 10 of 2008 Article 70.
 7. **Campaign**
The campaign is carried out by party administrators, prospective party members, campaigners, and appointed organizations. The implementation of the campaign is monitored by Bawaslu to ensure compliance with regulations in accordance with Article 78 of Law Number 10 of 2008.
 8. **Voting**
Voting is carried out simultaneously for all levels of elections on the day determined by the KPU. Election Supervisors are required to supervise the implementation of voting, and provide suggestions for improvement if there are deviations in accordance with Law No. 10 of 2008 Articles 148 and 169.
 9. **Vote Counting**
Vote counting is carried out at the TPS by the KPPS supervised by the Election Supervisor and witnessed by witnesses of election participants. Objections to the counting can be submitted and corrected immediately in accordance with Law No. 10 of 2008 Articles 172 and 178.
 10. **A summary of the vote counting process is as follows:**
 - a. **At the sub-district level**
The PPK receives and summarizes the results of the TPS vote count witnessed by sub-district witnesses and the Legislative Panwaslu. The results are then sent to the district/city KPU in accordance with Article 182 of Law No. 10 of 2008.
 - b. **At the district/city level**
The district/city KPU receives the vote count results from the PPK and summarizes them in a meeting attended by witnesses and Panwaslu members of the district/city council. The results are then announced in accordance with Article 187 of Law Number 10 of 2008.
 - c. **At the provincial level**
The provincial KPU receives the vote count results from the district/city KPU and summarizes them in a meeting attended by witnesses and the national Panwaslu. The results are then sent to the Central KPU in accordance with Article 192 of Law Number 10 of 2008.
 - d. **At the national level**
The central KPU receives the vote count results from the provincial KPU, counts them in a meeting attended by witnesses and Bawaslu, and determines the final results in accordance with the provisions of Law Number 10 of 2008, Article 194.
 11. **Determination of Election Results**
The KPU determines the election results nationally for members of the DPR, DPD, provincial DPRD, and district/city DPRD in an open plenary session attended by witnesses of election participants and Bawaslu in accordance with Law Number 10 of 2008 Article 200.

12. Determination of Seat Acquisition and Elected Candidates

The KPU determines the acquisition of seats and elected candidates for members of the DPR, DPD, provincial DPRD, and district/city DPRD in an open plenary session in accordance with Law Number 10 of 2008 Articles 204 and 213.

The election supervision process involves various stages starting from the registration of political parties to the determination of election results. These stages include verification, compilation of voter lists, candidate registration, campaign, voting, vote counting, recapitulation and finally determination of seat acquisition and elected candidates. The role of Bawaslu and Panwaslu is very important in overseeing each of these stages to ensure compliance with regulations and prevent violations.

CONCLUSION

Supervision of the use of state facilities in election campaigns is important to maintain the integrity of democracy. Clear regulations, active role of Bawaslu and transparent law enforcement prevent abuse of power and public resources. Education of public officials, candidates and the public about the rules on the use of state facilities is important to ensure compliance. Bawaslu identifies and takes action against violations through direct monitoring and collaboration with the KPU and law enforcement. With an effective oversight mechanism, it is hoped that it can strengthen the integrity of elections and democracy in Indonesia..

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