

**UUMILC 2017**  
**9<sup>TH</sup> UUM INTERNATIONAL LEGAL CONFERENCE**

**ELECTION SUPERVISORY COMMITTEE'S AUTHORITY ON  
ELECTION MONITORING**

Ismail (a)\*

\*Corresponding author

(a) University of Jayabaya, Jl. Pulomas Selatan Kav. 23, Jakarta, Indonesia, email: ismail.bagas63@yahoo.com

***Abstract***

A general election which is independently and regularly conducted is one of the criteria for a democratic political system. According to Law No. 15 of 2011, the election organizer is the Election Supervisory Committee which is entrusted to supervise all stages of the general election. Hence, the Election Supervisory Committee authority needs to be optimized in order realize a democratic electoral system. Accordingly, this study aims to determine the Election Supervisory Committee's authority on election monitoring. The research method used in this study is normative juridical approach which is to examine the legal materials which have empirical nature. The analysis method used qualitative analysis, a method to examine object quality and then translated sentences in order to obtain the discussion or exposure to systematic and understandable. The results showed the effectiveness of the Election Supervisory Committee's authority in conducting preventive measures would reduce the general election violations and generate elections that are honest, fair and democratic.

© 2018 Published by Future Academy [www.FutureAcademy.org.UK](http://www.FutureAcademy.org.UK)

**Keywords:** Election Supervisory Committee, Election, Monitoring.



## 1. Introduction

Indonesia is third largest democracy in the world (Tyson & Purnomo, 2017), after democratization reached East Asia (Pietsch & Clark, 2015). It is seen from the general election as a manifestation of people's political participation in a democratic country accordance with the basic norms in Article 22E Paragraph 1 of the Constitution of the Republic of Indonesia 1945, stated that elections are held in a direct, public, free, confidential, honest and fair elections every five years. Thus, the state provides facilities for potential voters the opportunity to participate in the election (Burden & Gaines, 2015)

General election is a means of realizing people's sovereignty in order to create a democratic government based on Pancasila and 1945 Constitution Republic of Indonesia. Elections have an important role in democratic legitimacy (Thomassen, 2014), provide a special event in representative democracy, when citizens are given the opportunity to express their views for determine the nation future (Hooghe & Stiers, 2016), provide the maximum impact of direct elections (Fionna & Njoto-Feillard, 2015), can enhance democratic elections ability (Bowler et al., 2015).

The direct, public, free, confidential, honest and fair elections could be realized by General election organizer integrity, professionalism and accountability. Therefore, it is necessary to monitoring ensure that elections conducted based on general election principle. However, in general election extant a fraud or a criminal offense. In line with opinion of Van (2015), although electoral integrity varies widely (such as free and fair), but marred by manipulation and fraud. Meanwhile, according to Hyde (2011a), the election norms are getting converged. Many studies have measured elections integrity and progress relevance in conceptualizing it (Donno 2013; Simpser 2013; Davis-Roberts & Carroll 2010; Hyde 2012; Schedler 2013). Research agenda extends to electoral integrity in recent years (Norris, 2013), has noticed improvements in electoral quality and administrative processes (Birch, 2012; Alvarez et al., 2013), observation to prevent improper behaviour (Kelley, 2012; Herron, 2010), systematically analyse election administration impact to results at the polling station (Boyko & Herron, 2015) because at the local level (White, Nathan, & Faller, 2015), election organizer have the flexibility to manage electoral systems due to the lack of monitoring, time and resource constraints (Burden et al., 2012; 2013)

General elections rules about quality and integrity is necessary to improve rules by adding a rule, purpose affirmation and synchronization between the legislation. One of them is through complaints instruments creation for complete, accessible, open and fair electoral violations. More important is to make sure that the rules set are executed consistently. Concrete availability and implementative rules is important to ensure legal certainty and justice (elections have a strong legality and legitimacy foundation so government gets public support).

## 2. Problem Statement

The constitutional basis of the general election in Indonesia is Article 22E Paragraph 2 of the 1945 Constitution states that the general elections is held to elect members of House of Representatives, Regional Representatives Council, President and Vice President and Regional House of Representatives. General Election according to Law no. 15 of 2011 means people sovereignty implementation held in a direct, public, free, confidential, honest and fair elections in Republic of Indonesia based on Pancasila and the 1945 Constitution.

In order to election accordance with the Law, it is necessary election supervisory institutions set forth in Article 1 paragraph 18 of Law No. 15 of 2011 states that the Election Supervisory Committee Regency/City, is a committee formed by Provincial Election Supervisory Board which supervise elections administration supervisory in the district / city. While Article 1 paragraph 19 of Law No. 15 of 2011 states that the Sub-District Election Supervisory Committee is a committee formed by the Supervisory Committee of Regency / City which supervise elections administration in the Sub-District or any other name. General Election violations are caused intentional elements or omissions committed by many parties and even all people could be potential to become election violations perpetrators. Several problems on Election Supervisory Committee role: (a) budget have not adequate (b) in conducting supervision, have not supported secretariat place (c) regulation has not given maximum authority.

### **3. Research Questions**

What is the Election Supervisory Committee authority on election monitoring?

### **4. Purpose of the Study**

This study aims to determine Election Supervisory Committee authority on election monitoring.

### **5. Research Methods**

Research method used Juridical Normative (Ibrahim, 2010) to examine various legal materials have empirical properties. Data collection method through library research using secondary data on primary legal materials form (Soekanto & Mamudji, 2010), secondary and tertiary law. The analysis method used qualitative analysis is a method to examine object quality and then translated sentences in order to obtain the discussion or exposure to systematic and understandable.

### **6. Findings**

#### **6.1.Election Supervisory Committee Authority on Election Monitoring**

In supervising general election stages of Members of House of Representatives, Regional Representatives Council, President and Vice President and Regional House of Representatives should be established Provincial Election Supervisory Board, Regency Election Supervisory Committee and Sub-district Election Supervisory Committee, Election Supervisory and Overseas Election Supervisors on general elections stage in respective working area (Article 91 Paragraph 1 of Act 15 of 2011). According to Article 4 paragraph 2 of Law No. 10 of 2008, general election stages include:

- a. Voter data updating and compilation of voter lists;
- b. Registration of election participants;
- c. Determination of election participants;
- d. Determination of seats number and the determination of electoral districts;
- e. Nomination of member of House of Representatives, Regional Representatives Council, Regional House of Representatives;
- f. Campaign period;
- g. Quiet period;

- h. Polling and counting votes;
- i. Determination of election results; and
- j. Oath or promise of members of House of Representatives, Regional Representatives Council, Regional House of Representatives.

Election Supervisory Board, Provincial Election Supervisory Board, Regency Election Supervisory Committee and Sub-district Election Supervisory Committee and Election Supervisors shall monitoring voter data updating, compilation and announcement of temporary voter list result, stipulation and announcement of permanent voters list, and a recapitulation of the final voters list held by Indonesian Election Commission, Provincial Election Commission, District/City Election Commission, Sub-district Electoral Committee and Voting Committee (Article 48 paragraph 1 of Law No. 10 of 2008). According to Article 11 Paragraph 2 and 3 No. 4 of 2008, the Election Supervisory actively election monitoring by: (a) Choose supervisory targets in each election stage considered to have great potential violations; (b) Randomly monitoring at the target area surveillance; (c) Request information required in electoral supervision context to election organizers and other relevant parties, and (d) Other activities which do not violate laws and regulations. While to maximize electoral supervision could (a) Promote the public to conduct electoral supervision; (b) Establish partnerships with various electoral monitoring organizations, civil society organizations, and professional organizations; (c) Establish communication with election participants; (d) Establish a synergy with the mass media, both print and electronic; and (e) Other activities which do not violate laws and regulations.

According to Elections MDP (2009), duties and authorities of Election Supervisors are (1) Election monitoring stages, (2) Accept alleged electoral legislation violation, (3) Report findings to Indonesian Election Commission, Provincial Election Commission, District/City Election Commission, Sub-district Electoral Committee or other agencies to be follow-up, (4) Monitoring follow-up recommendations (5) Monitoring elections socialization and (6) Carry out duties and other authority established law (for Election Supervisory Board, Provincial Election Supervisory Board, Regency Election Supervisory Committee and Sub-district Election Supervisory Committee)

Election Supervisor is activities to observing, reviewing, checking and evaluating organizing General Election process according to legislation (Article 1 of Law No.4 of 2008). Election Supervisor aims to ensure election implementation of members of House of Representatives, Regional Representatives Council, President and Vice President and Regional House of Representatives are directly, public, free, confidential, honest and fair elections (Article 3 Law No. 4 of 2008). The main duties and authorities of Election Supervisors are to supervise all election stages, received reports of election law violations, resolve disputes that do not contain criminal elements, forwards reports or findings to authorized agencies.

Election Supervisory reported monitoring elections results which contains findings of earliest election violations evidence such as letters or documents election, fake ballot papers, tapes, witness statements, campaign props, a record for experience a person or group and evidence of other election violations (Elections MDP, 2009).

## **6.2. Analysis of Election Supervisory Committee Authority on Election Monitoring**

From the election supervision stage referring to Law No. 15 of 2011 and Law No. 4 of 2008, there are two aspects have received strict supervision, namely:

### **a. Data updating stage**

In this stage there is often an error or even fraud and inaccurate data (dead population, address change, no voting rights, no voting rights such as Indonesian National Police or Indonesian National Army) so the voter list remains invalid. This is due to quality of voter data voting officers, but most dangerous factor are officers who are not neutral, they are denying someone right to be recorded (have a political interest).

### **b. Campaign stage**

In this stage there are many violations involving children, campaign props instalation that violate rules, outside schedule campaigns, campaign funds violations and more dangerous is money politics. The most crucial stage is voting and counting votes (a lot of cheating and data manipulation), therefore Election Supervisory Committee have a specific strategy in the counting votes stage. According Enikolopov et al (2013), election officials must calculate and collect votes accurately, as a feature of free and fair elections in modern democratic government (Callen et al., 2016).

To avoid various election violations, electoral organizers must have integrity, understand and respect citizens political rights. As several studies have shown positive effect from election monitoring (Enikolopov et al., 2013, Hyde 2010, 2011b), other studies have found a negative impact on elections process (Kelley 2012; Simpser & Donno 2012). Electoral organizers weakness has potential obstruct qualified General Election according to Constitution of 1945. Electoral organizers has held general elections with institutional task national, permanent and independent. One important factor for general elections success is on readiness and professionalism, namely the Indonesian Election Commission, Election Supervisory Board and Honorary Council of General Elections as an integral function of elections administration. All three institutions have been mandated by law to organize general elections according to their functions, duties and authorities.

## **7. Conclusion**

The main Election Supervisory Committee authority is to monitoring all elections, stages starting from updating data, campaigns, polling and counting vote's results up to the determination of selected candidates. Therefore, the more effective Election Supervisory Committee authority will be to create elections that are honest, fair and democratic and will increase public confidence in Election Supervisory Committee institutions.

## **References**

- Alvarez, R. M., Atkeson, L. R., & Hall, T. E. (2013). *Evaluating elections: A handbook of methods and standards*. Cambridge University Press.
- Birch, S. (2012). *Electoral Malpractice*. Oxford University Press, Oxford
- Bowler, S., Brunell, T., Donovan, T., & Gronke, P. (2015). Election administration and perceptions of fair elections. *Electoral Studies*, 38, 1-9.

- Boyko, N., & Herron, E. S. (2015). The effects of technical parties and partisan election management bodies on voting outcomes. *Electoral Studies*, 40, 23-33.
- Burden, B. C., & Gaines, B. J. (2015). Presidential Commission on Election Administration: Absentee and early voting: Weighing the costs of convenience. *Election Law Journal*, 14(1), 32-37.
- Burden, B. C., Canon, D. T., Lavertu, S., Mayer, K. R., & Moynihan, D. P. (2013). Selection Method, Partisanship, and the Administration of Elections. *American Politics Research*, 41(6), 903-936.
- Burden, B. C., Canon, D. T., Mayer, K. R., & Moynihan, D. P. (2012). The effect of administrative burden on bureaucratic perception of policies: Evidence from election administration. *Public Administration Review*, 72(5), 741-751.
- Callen, M., Gibson, C. C., Jung, D. F., & Long, J. D. (2016). Improving electoral integrity with information and communications technology. *Journal of Experimental Political Science*, 3(1), 4-17.
- Donno, D. (2013). *Defending democratic norms: International actors and the politics of electoral misconduct*. Oxford University Press.
- Davis-Roberts, A., & Carroll, D. J. (2010). Using international law to assess elections. *Democratization*, 17(3), 416-441.
- Enikolopov, R., Korovkin, V., Petrova, M., Sonin, K., & Zakharov, A. (2013). Field experiment estimate of electoral fraud in Russian parliamentary elections. *Proceedings of the National Academy of Sciences*, 110(2), 448-452.
- Elections MDP. (2009). *Pedoman Pengawasan Pemilu 2009*. Jakarta: Bawaslu
- Fionna, U., & Njoto-Feillard, G. (2015). Junctures of the Old and New: The 2014 Indonesian Elections. *Southeast Asian Affairs*, 2015(1), 139-153.
- Herron, E. S. (2010). The effect of passive observation methods on Azerbaijan's 2008 presidential election and 2009 referendum. *Electoral Studies*, 29(3), 417-424.
- Hooghe, M., & Stiers, D. (2016). Elections as a democratic linkage mechanism: How elections boost political trust in a proportional system. *Electoral Studies*, 44, 46-55.
- Hyde, S. D., & Marinov, N. (2012). Which elections can be lost?. *Political Analysis*, 20(2), 191-210.
- Hyde, S. D. (2011a). Catch us if you can: Election monitoring and international norm diffusion. *American Journal of Political Science*, 55(2), 356-369.
- Hyde, S. D. (2011b). *The Pseudo-Democrat's Dilemma: Why Election Monitoring Became an International Norm*. Ithaca, NY: Cornell University Press.
- Hyde, S. D. (2010). Experimenting in democracy promotion: international observers and the 2004 presidential elections in Indonesia. *Perspectives on Politics*, 8(2), 511-527.
- Ibrahim, Johnny. (2010). *Teori dan Metodologi Penelitian Hukum Normatif*. Malang: Bayumedia Publishing
- Kelley, J. (2012). *Monitoring Democracy: When International Election Observation Works and Why it Often Fails*. Princeton, NJ: Princeton Univ. Press
- Norris, P. (2013). The new research agenda studying electoral integrity. *Electoral Studies*, 32(4), 563-575.
- Pietsch, J., & Clark, M. (2015). Critical Citizens: Attitudes towards Democracy in Indonesia and Malaysia. *Japanese Journal of Political Science*, 16(2), 195-209.
- Schedler, A. (2013). *The politics of uncertainty: Sustaining and subverting electoral authoritarianism*. OUP Oxford.
- Simpser, A. (2013). *Why governments and parties manipulate elections: theory, practice, and implications*. Cambridge University Press.
- Simpser, A., & Donno, D. (2012). Can international election monitoring harm governance?. *The Journal of Politics*, 74(2), 501-513.
- Soekanto, Soerjono & Sri Mamudji. (2010). *Penelitian Hukum Normatif (Suatu Tinjauan Singkat)*. Jakarta: Rajawali Pers
- Thomassen, J. (Ed.). (2014). *Elections and democracy: Representation and accountability*. OUP Oxford.
- Tyson, A., & Purnomo, B. (2017). President Jokowi and the 2014 Obor Rakyat controversy in Indonesia. *Critical Asian Studies*, 49(1), 117-136.
- White, A. R., Nathan, N. L., & Faller, J. K. (2015). What do I need to vote? Bureaucratic discretion and discrimination by local election officials. *American Political Science Review*, 109(1), 129-142.