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**Securing Free, Fair, and Peaceful General Election
For National Stability and Prosperity**

TOPICAL EDITION

Indonesia's General Election: An International
Perspective by Prof. Dr. Iman Djamarah, S.E., M.A.
Prof. Dr. Muhammad Ridwan, S.H., M.H.
and Mohammad Rizal

Design of Electoral System in Indonesia:
A Case Analysis of the 2014 Presidential
And Two Other Major Elections

Indonesia's 2019 General Election:
An Assessment, Test, and Powerful
Guidelines for National Stability and Prosperity
by Dr. Ahmad Zaki Rajab

Addressing Black Campaign in Social Media for Free,
Fair, and Peaceful General Election
by Dr. Firdaus Edyward Sengar

Analysis of Security Issues and Crimes
in General Election from Islamic Perspective
by Dr. Maria Alisya

POLITICAL EDUCATION TO DISPEL THE MISINTERPRETED NEGATIVE CAMPAIGN IN GENERAL ELECTION IN INDONESIA

By: Said Muhammad Rizky, Jeremy Jordan,
and Muhammad Ridwan

ABSTRACT

One of the tools that often used in political practice to gain the respect from the people is a campaign. Negative campaign is a method used to provide negative information about election candidates for the public. Unfortunately, people do not like the parties in a general election who are using this method. People often misinterpret the negative campaign as a black campaign. Contrary to the black campaign, the use of a negative campaign is very advantageous in providing negative actual facts about the candidates or political parties. Those facts can be used by the voters to reconsider which of the candidates that has the right to be elected in terms of representing the people in order to create prosperity for the community. This paper is written using the juridical-normative method. This research conclude that governments and political actors are supposed to build a standardization of political education and provide political educations to increase community's political awareness. So, the use of negative campaign methods can be exercised and bring good benefits for the nation's prosperity.

Keyword: General Election, Negative Campaign, Political Education, Government, Political Actor.

A. INTRODUCTION

1. Background of the Paper

Political activities can be found in state practices throughout the world. Politics does not only affect parties who are directly involved in politics. The definition of Politics itself is about matters and actions (policies, tactics, etc.) concerning government of the country or against other countries.¹ Politics also affects all individuals in society both directly and indirectly.²

With the influence of this politics on our society, politics can also affect the Indonesian welfare.

One of the tools that often used in political practice to gain the respect from the people is a campaign. The so-called campaign itself is an activity carried out by political organizations or competing candidates in order to get a voters in an election.³ Campaigns, in Indonesia, are things that can be done as long as they do not violate

¹ Kamus Besar Bahasa Indonesia, "Politik," <https://kbki.kemdikbud.go.id/entri/politik> (accessed August 12, 2018).

² Titus O. Pacho, "Necessity of Political Education," *International Journal of Innovative Research & Studies* (2014), 10.

³ Kamus Besar Bahasa Indonesia, "Kampanye," <https://kbki.kemdikbud.go.id/entri/kampanye>, (accessed August 12, 2018).

provisions such as questioning the Pancasila, carrying out activities that endanger the integrity of Indonesia, inciting and provoking individuals or communities, etc. as stipulated in Article 280 of Law Number 7 of 2017 concerning Election (hereinafter referred to as "Election Law").⁴

There is more than one method that could be done for campaigning and one of them is negative campaign technique. Negative campaign is a method used to provide negative information about election candidates for the public. This method could bring benefits to the community since it could be used to find out the bad side of the parties that being targeted by other parties that using negative campaign method.

However there are two problems that can be found in using this method. The first problem is that people do not like the parties who are using this method. Based on the research data that has been derived from Gina M. Garramone, it was found that the use of this method often made the users

get a negative response from the community.⁵ This negative response can certainly make it rarely used in political practice, even though the existence of negative facts from a particular party can be useful/helpful to provide consideration for selecting the candidates in an election. Although the channels used to use the negative campaign can also affect the level of public trust,⁶ it does not change the fact that the community has not clearly understood the function of the negative campaign method.

The second problem is that people often misinterpret the negative campaign as a black campaign. In consequence, the community does not want to accept the usage of negative campaign method. According to Wirdyaningsih, in Indonesia the term black campaign is also often used to refer to negative campaign activities.⁷ Thus, because the community often considers the negative campaign as a black campaign, the community grows a sense of dislike for those who do negative campaigns. Whereas the

⁴ Indonesia, *Law of General Elections*, Law Number 7 Year 2017, LN No. 182 Year 2017, TLN No. 6109, Article 280.

⁵ Gina M. Garramone, "Voters Responses to Negative Political Ads," *Journalism Quarterly* (1984), 250.

⁶ Fitri Hari, "Pengaruh Saluran dan Narasumber Kampanye Negatif terhadap Kepercayaan Isi Pesan: Studi Eksperimental Isu Korupsi Kandidat di Indonesia," *Jurnal Komunikasi Indonesia* (2016), 55.

⁷ Wirdyaningsih, "Permasalahan Black Campaign dalam Pemilihan Umum: Interview with Wirdyaningsih S.H., M.H.," <http://law.ui.ac.id/v3/permasalahan-black-campaign-dalam-pemilihan-umum-wawancara-dengan-wirdyaningsih-s-h-m-h/> (accessed August 13, 2018).

negative fact presented by the negative campaign method is not a baseless statement and can help the community to make a selection in the future election.

2. Problem Formulation

From the two main problems stated before, it can be seen that the point of the emergence of these problems is the lack of knowledge about the function of the negative campaign in Indonesia. The lack of public knowledge of this negative campaign ultimately causes users of the negative campaign method to have a bad impact or negative response from the community. As a result of these adverse effects, negative campaign method can be rarely used in political activities.

In fact, the use of a negative campaign is very advantageous in providing negative actual facts about the candidates or political parties. One of the main functions of using this method is to create negative feelings towards the intended candidate and create positive feelings towards candidates who use this method.⁸ Another function of the utilization of this method is the acquisition of

information in the form of actual facts that are important to be known by the people even though the information is negative for certain political organizations. This information can be used by the voters to reconsider which of the candidates that has the right to be elected in terms of representing the people in order to create prosperity for the community.

3. Research Method

The paper is written using the juridical-normative method. The type of data used in this paper is secondary data sourced from books, papers, scientific journals, articles, and electronic sources. Data analysis methods used are qualitative. The resulting writing is translated into four chapters with the following systematics: Introduction, literature review, analysis and synthesis, and closing.

4. Literature Review

This section describes each theories that related to negative campaigns.

a. General election

General Elections ("Elections") is a mechanism to elect members of

⁸ Gina M. Garramone, "Voters Responses to Negative Political Ads," *loc. cit.*

The House of Representatives ("DPR"), the President and Vice President, and to elect members of the Regional House of People Representatives ("DPRD"), which are carried out directly, publicly, freely, confidential, honest and fair ("LUBERJURDIL") in the Unitary State of the Republic of Indonesia that established based on Pancasila and the Constitution of the Republic of Indonesia.⁹ Election is one of the political activities that have been frequently practiced in Indonesia. In election activities, there are methods that can be used by political actors to generate votes. One of these methods are known as negative campaign methods and there are also methods known as black campaigns.

b. Negative Campaign

Negative campaigns are an information about candidates, which could be an information about corruption problem, criminal history, past history, or even some family matters, which are based on facts and can be justified.¹⁰ According to

Garramone, there are two kinds of effects from using the negative campaign method. The effect is divided into effects that is occurred by purpose and effects that are occurred not by purpose.¹¹ The effect that is occurred by purpose from the usage of this method is to create negative feelings towards the intended candidate and create positive feelings towards candidates who use this method.¹² Whereas the effect that are occurred not by purpose by the usage of this method is that it is can cause those who are the negative campaign target to get positive responses from the community and make people more likely to choose the target other than those using who are using the negative campaign method in the first place.¹³

c. Black Campaign

Black campaigns are often compared to negative campaigns, even though both types of campaigns have significant differences. Black campaigns are carried out by giving false

⁹ Indonesia, *Law of General Election*, Article 1 Number 1.

¹⁰ The Indonesian Institute, "Laporan Utama: Menyoroti Maraknya Kampanye Hitam Jelang Pilpres," *Update Indonesia VIII* (11) (June 2014), 3.

¹¹ *Ibid.*, 250-251.

¹² *Ibid.*, 250.

¹³ Gina M. Garramone, "Effects of Negative Political Advertising: The Roles of Sponsor and Rebuttal," *Journal of Broadcasting & Electronic Media* Vol. 29 (1985), 49.

statements or unproven allegations, while negative campaigns are carried out by providing weaknesses and errors that have been made by the target of this method based on the facts.¹⁴

The spreading of black campaigns could be done through print and electronic media made by the supporters or campaign teams from the election candidates.¹⁵ The dissemination of information can be categorized as a black campaign if its information contains slander, incitement ("adu domba" or bring into conflict), and insults to political opponents.¹⁶ Riswandi stated that the black campaigns use destructive seduction, innuendo, or rumors that try to create negative perceptions without reliable facts.¹⁷

The practice of black campaigns usually prohibited by an election law in many countries. British Columbia, a state in Canada, regulates the

campaign process carried out by election candidates, organizations, or individuals. To conduct a campaign to support their choices, they must first be registered or recorded in the list of sponsors for election candidates at that time.¹⁸ To those parties, they are bounded by the prohibition to provide false or misleading campaign information.¹⁹ In fact, if they violated the prohibition, its participation in the election will be revoked.²⁰

In USA, political campaigns are protected by freedom of speech under the constitution, but it is not unlimited. Candidates are prohibited to give "false claims of support" and barred from making misrepresentation.²¹ In Guam, according to Section 17120 Chapter 17 Election Campaign Contributions and Expenditures Law, disseminating false information or misleading information in the

¹⁴ Global Indonesian Voices, "Negative Campaign vs Black Campaign," <http://www.globalindonesianvoices.com/26001/negative-campaign-vs-black-campaign/> (accessed August 13, 2018).

¹⁵ Bayhaqi Febriyan & Nursiti, "Tindak Pidana Kampanye Hitam (*Black Campaign*) dalam Penyelenggaraan Pemilihan Kepala Daerah Walikota Banda Aceh Tahun 2017", *Jurnal Ilmiah Mahasiswa Bidang Hukum Pidana Fakultas Hukum Universitas Syiah Kuala* 1 (1) (Agustus 2017), 61.

¹⁶ *Ibid*, 56-58.

¹⁷ Riswandi, *Komunikasi Politik*, (Yogyakarta: Graha Ilmu, 2009), 30.

¹⁸ British Columbia, Canada, Bill 20 - 2014, Local Elections Campaign Financing Act, Section 13-41.

¹⁹ *Ibid.*, Section 65.

²⁰ *Ibid.*, Section 64.

²¹ Jrank.org, "Political Campaign Law", <http://law.jrank.org/pages/9253/Political-Campaign-Law.html>, (accessed December 2, 2018).

campaign can make the perpetrator convicted with a \$ 5,000 fine for each message that has been delivered.²²

Black campaign in Indonesia is prohibited in Point d Article 280 of the Election Law ("UU PEMILU").²³ In this provision, it was stated that the executors ("KPU"), candidates, and campaign teams in the Election were prohibited from engaging in incitement and bring into conflict of individuals or communities because of the black campaign. Further questions are to classify what kind of activities as inciting and bring the peoples into conflict, or as a black campaign activity. It can be answered in the provisions of Law Number 8 of 2015 which states that inciting and bring the peoples into conflict either it is an individual or community is a form of black campaign.²⁴

Furthermore, Indonesia also prohibits black campaigns through social media, such as Twitter,

Facebook, and Instagram. The prohibition is regulated in Article 27 paragraph (3) of Law Number 11 Year 2008 concerning Information and Electronic Transactions, namely black campaigns which contain elements of offense and /or defamation. Based on Article 45 paragraph (3) of Law Number 19 of 2016, black campaign perpetrators can be sentenced maximum up to 4 (four) years of imprisonment and/or fined maximum up to one billion rupiah.

Based on the explanation above, according to Topo Santoso's opinion, negative campaigns are allowed because the method will show the weaknesses and mistakes of the political opponents. In contrast, The black campaign is prohibited because it accuses the opposing party with false or unproven allegations, or through things that are not relevant to their capacity as a leader.²⁵

²² Supreme Court of Guam, "Compiler of Laws: Title 3," <http://www.guamcourts.org/CompilerofLaws/GCA/title3.html> (accessed December 2, 2018).

²³ Indonesia, *Law of General Elections*, Article 280 letter d.

²⁴ Indonesia. Law of Amendment to Law Number 1 of 2015 concerning the Stipulation of Government Regulation in Lieu of Law Number 1 of 2014 Regarding the Election of Governors, Regents, and Mayors Becomes Law, Law Number 8 year 2015, LN Number 57 year 2015, TLN Number 5678, Article c 69 letter c and its explanation.

²⁵ Amalia Salabi, "Perihal Kampanye Negatif dan Kampanye Hitam, Apa Bedanya?" <https://rumahpemilu.org/perihal-kampanye-negatif-dan-kampanye-hitam-apa-bedanya/> (accessed on December 2, 2018).

B. DISCUSSION

1. Value Investment of Negative Campaign as an Innovation

Information about electoral methods such as negative campaigns or black campaigns are not commonly known by the public. The easiest way to know about this method is to do an internet-browsing-search about candidates that are competing in the election. The result of the searching then being compared each to another, it can be seen that there are clear differences between negative campaigns and black campaigns. Agung Suprio stated what is meant by a negative campaign is the disclosure of lack of facts about a candidate or party, while a black campaign is an accusation that is not based on facts.²⁶ Wirdyaningsih stated that black campaigns were banned because they tended to be slanderous and spread false news related to certain candidates.²⁷

In contrast of that, negative campaigns are an important method that must be maintained in our society,

remembering that the method by revealing the facts of deficiencies regarding a candidate or party can increase public knowledge about the candidates or parties. The main function of the negative campaign for the community is to increase the political knowledge of the community. In addition to these functions, Johnson-Cartee and Copeland stated that negative campaigns also have the following functions: (i) increase public knowledge about candidates and their positions; (ii) assist voters in prioritizing issues in the candidate's political agenda; (iii) increasing public interest in campaigns and participation in public discussions; (iv) improve the quality of evaluations conducted by voters; and (v) ensuring that the evaluation of voters from candidates becomes polarized and thus can make elections simpler.²⁸ The community becomes aware of the vices that have been carried out by the candidate or party concerned, so that the public could make their decision wiser in the voting phase.

²⁶ Tribun News, "Ini Beda Kampanye Hitam dan Kampanye Negatif," <http://www.tribunnews.com/pemilu-2014/2014/04/08/ini-beda-kampanye-hitam-dan-kampanye-negatif> (accessed August 14, 2018).

²⁷ Wirdyaningsih, "Permasalahan Black Campaign dalam Pemilihan Umum: Interview with Wirdyaningsih S.H., M.H." <http://law.ui.ac.id/v3/permasalahan-black-campaign-dalam-pemilihan-umum-wawancara-dengan-wirdyaningsih-s-h-m-h/> (accessed August 14, 2018).

²⁸ Ioannis Kolovos and Phil Harris, "Does Negative Advertising Work?," <https://www.researchgate.net/publication/265656272 Does Negative Advertising Work> (accessed August 14, 2018).

Based on research conducted by David A. Houston, Kelly Doan, and David Roskos-Ewoldsen, often those who use negative campaigns actually create a negative atmosphere in the community and make voters won't choose those who use the negative campaign method.²⁹ In using this method there is an important note that must be considered, namely a decrease in the number of voters and voters who are disappointed with the actions of users of the negative campaign method.³⁰ With the decline in the number of voters, the use of this method is contrary to the main objective of the candidates, to be elected in an election, although there are still some parties who deliberately use this method to reduce the number of voters themselves.³¹

In Indonesia context, people in Indonesia have not had knowledge about the negative campaigns. This could lead candidates to avoid using this method. It is because people who could vote are most likely to create a negative atmosphere towards those who use this method. The existence of the atmosphere as mentioned earlier

could lead to a reduction in the number of voters and cause disappointment felt by voters that use the negative campaign method.³²

For this reason, the Indonesian people need to have an Value Investment of Negative Campaign method, so that when there are candidates who use the method, the Indonesian people do not create a negative atmosphere for those who use the method, because actually the method users only mention the facts and truths. With the introduction of the negative campaign method, it is hoped that the community will not create a negative atmosphere to its method users and there will be maintenance of the use of this method to help the community evaluate the candidates who want to lead the community in Indonesia.

In addition to these problems, there are also problems with understanding about negative campaigns and black campaigns in Indonesia. Wirdyaningsih explained that the term black campaign was used in Indonesia to refer to activities known as negative campaigns. In Indonesia is

²⁹ David A. Houston, Kelly Doan, dan David Roskos-Ewoldsen, "Negative Political Advertising and Choice Conflict," *Journal of Experimental Psychology: Applied*, vol. 5. (1999), 15.

³⁰ *Ibid.*

³¹ *Ibid.*

³² *Ibid.*

that currently the use of the negative campaign method is not prohibited in Indonesia, while the use of the black campaign method is prohibited from being carried out based on the provisions in Article 280 of the Election Law.³³ This situation illustrates that the law actually has differentiate the two actions, however most of Indonesian still do not have an adequate understanding about it. With this problem, it is increasingly necessary to invest values regarding negative campaigns so that the community can differentiate actions that are classified as negative campaigns and black campaigns. Both the introduction of negative campaign methods and the inclusion of negative campaign values can be done by providing political education to the community.

Political education is an innovation that could be applied to any country that have a community with low political education. Political education is the constant flow of information in a manner that encourages critical analysis of issues regarding the political system and the concepts of

politics.³⁴ Clive Harber defines political education as the attempt to create critical awareness of political phenomenon by open, balanced discussion and analysis of a range of evidence and opinions.³⁵ Practically, political education could be given by anyone, but the government also have to interfere in this matters in order to ensure people to have a great political knowledge.

Political education practices that is supported by the government has been implemented in Germany by their Federal Agency for Civic Education (Bundeszentrale für politische Bildung). They supported the political education by providing an information through website, publication, and providing funds to access education to study political, social, and economic issues.³⁶ These programs has improved the quality of campaigning in their general election. From the German point of view, unlike the United States of America, parties in the general election campaigning process are not exclusively just become a voting machine, but the people

³³ Indonesia, *Law of General Election*, Article 280.

³⁴ Uzma Quraishi & Farah Rahman, "Political Education for Democracy in Schools," *Gomal University Journal of Research*, 25-1:25-36 (2009), 31-32.

³⁵ Clive Harber, "International Contexts for Political Education," *Educational Review*, vol. 43 no. 3 (1991), 247.

³⁶ Federal Agency for Civic Education, "How we work: Key Activities," <http://www.bpb.de/die-bpb/138867/key-activities>, (accessed December 1, 2018).

become an important carriers of political-decision making in their democracy system.³⁷ From the political education system in Germany, we could learn that government held the key to success in giving political education.

2. The Negative Campaign Education by the Government as a Form of Political Education

The political educations are required to provide understanding of the negative campaign. However, negative campaign education will face a hardship, because the concept of political education itself isn't being introduced well. The parties that can play a significant role in providing political education in Indonesia are the Government and Political Actors.

The status quo of the provisions in the law that apply in Indonesia, it explained that the Government does not have an obligation to provide political education to its people. But if we look at the provisions in the Constitution of the Republic of Indonesia ("the Constitution of the Republic of Indonesia"), the state actually has an obligation to provide

education and political education. Article 28C of the Constitution of the Republic of Indonesia clearly states that the state gives the right to everyone in the country to get education and benefit from knowledge in order to create human welfare.³⁸ The people's right to get education regulated by the NRI Constitution has to be fulfilled by the government that runs the country. Thus the government actually has certain obligations to provide political education which is one form of education. The benefits of political education can be felt and can create prosperity for the people of Indonesia. However, until now Indonesia still does not have the provisions in an Act ("UU") which executes the mandate of Article 28 C of the Constitution of the Republic of Indonesia in terms of providing political education by the Indonesian government.

Other than the government, other parties who should help with the development of political education in Indonesia are the political actors themselves. Political actors actually have implemented political education.

³⁷ Federal Agency for Civic Education, "Professionalisierung," <http://www.bpb.de/politik/wahlen/wahlen-in-deutschland/249648/professionalisierung>, (accessed December 1, 2018).

³⁸ Indonesia, *the Constitution of the Republic of Indonesia 1945*, Article 28 C.

Usually they provide political education by conducting campaigns. Based on the provisions in Article 267 paragraph (1) of the Election Law, campaigns are categorized as part of political education.³⁹ Thus if we look at the provisions of Article 267 paragraph (1) of the Election Law, the campaigns carried out by political actors are classified as political education.

Although political actors have carried out political education, but, there are still problems faced in conducting political education. The problem is the absence of standardization regarding the provision of political education. In the absence of standardization of political education at the moment, the quality of political education cannot be assessed properly even by the state. Thus, it will be hard for the people to know whether the usage of negative campaign would become an effective method as one of the strategies that could be used. That condition will surely put people in a doubt whenever they wanted to use the negative campaign method.

The solution to the problem that could be done to overcome these problems is by giving a role for the

government and political actors to share their roles in providing political education, as well as making regulations governing the standardization of political education in Indonesia. Political education is the process of recognizing and learning the values, norms, and political symbols that are considered ideal and good.⁴⁰ The government has a role in providing political education through formal education in schools and other socialization efforts. The political actors have a role when carrying out their programs, both during election campaigns and other activities.⁴¹

There are several ways to provide political education in Indonesia:

a. Facilitating Political Education for Young Generation

The government could provide political education to the community by facilitating it. Political education facilities are also important to be taught to the younger generation of the people. When the political education being taught to the young generation we could expect them to have a full awareness and to exercise their rights and obligations in participating in the political

³⁹ Indonesia, *Law of General Elections*, Article 267 Paragraph (1).

⁴⁰ Ramlan Surbakti, *Memahami Ilmu Politik*, (Jakarta: Gramedia Pustaka Utama, 1992), 117.

⁴¹ *Ibid.*

election;⁴² and using their right to become a political actor.

Providing access to formal education for Indonesian children is a great way to accelerate political education acceptable to the younger generation of Indonesia. First, the Government can regulate political education to be included in the school curriculum. The government can develop Citizenship Education in addition to the introduction of political actors, political campaigns, and political ethics. In fact, within the formal school environment, students have directly practiced politics, for example in the case of selecting a class leader until the election of the student council president. This is where the Government has reasons to include the political education into the school curriculum.

Second, the Government, which also become the election organizing institution (KPU, Bawaslu, and DKPP) can carry out political socialization by holding educational activities by coming over to the school. The activity will be focused

on the introduction of ethics, morality, and how to verify a news as a negative campaign which is in fact proven or black campaign as something that cannot be accounted for. Moreover, the election organizers can also provide information transparency about the election candidates so that the public can know their actual background and conditions.⁴³

Third, the Government must ensure to improve the quality of the education and make it accessible for everyone. This is because formal education is able to hone the mindset of the younger generation to be more critical and logical. Thus, the younger generation is able to sort, process, and verify the news they have obtained.

The Government also needs to utilize the modern technology for political education. In this case, the government needs to utilize the internet which broadly used by many people, including the young generation. In the internet, the role of mass media and citizen journalism is very important in

⁴² Firmansyah Noor Affandi, Tri Sulistyaningsih, & Yana S Hijri, "Pelaksanaan Pendidikan Politik dalam Meningkatkan Partisipasi Politik Generasi Muda," pemerintahan.umm.ac.id/files/file/Firmansyah%20Noor%20Affandi(1).pdf (accessed on December 2, 2018)

⁴³ Muhtar Haboddin, et al, *Ketika Mahasiswa Bicara Pilkada*, (Malang: UB Press, 2017), 85.

providing information and give critics of various public policies carried out by the Government and discourses rolled out by the opposition. This is where the Government needs to guard the press freedom and freedom of opinion as part of political education.

From the legal point of view, the Government can affirm that the use of negative campaigns is permissible but still limited by the ethics, giving a greater portion of the discussion of vision, mission, and work programs, and prohibiting black campaigns. Thus, political actors in campaigning and attracting the attention of the public can provide facts that can make the young generation and society think and compare among the choices of the candidates.

Political actors, in this case political parties, are also required to provide political education to the younger generation. First, by holding political education on cadres and candidates for political cadres. Second, through educational campaigns, they may conduct negative campaigns as an effort to

improve and facilitate introspection for opponents on the condition that they should not use the black campaigns method.

b. Political Socialization and The Election Indeed

The socialization that can be carried out includes understanding for the community related to political agendas, for example the purpose of holding elections, the schedule for conducting elections, the way to vote, and the knowledge of the votes that legitimate (count) and the votes that are not legitimated (won't be counted) Election dissemination here aims to increase public understanding of the political agenda. This political socialization can be done directly or through social media.⁴⁴

When there is a clear standardization of political education in Indonesia, political actors at least will exercise their obligation to do the political education in accordance with regulated standardization. But the role of government and political actors alone is not enough if it is not accompanied by community

⁴⁴ Firmansyah Noor Affandi, "Pelaksanaan Pendidikan Politik Dalam Meningkatkan Partisipasi Politik Generasi Muda," [http://pemerintahan.umm.ac.id/files/file/Firmansyah%20Noor%20Affandi\(1\).pdf](http://pemerintahan.umm.ac.id/files/file/Firmansyah%20Noor%20Affandi(1).pdf) (accessed August 17, 2018).

participation.⁴⁵ In accordance with the understanding of popular sovereignty or democracy, the people must also carry out the duties of participation. Communities can participate in political education activities held by government and political actors, for example by participating in election activities that being held by KPU.

The community will learn from the experience of participating in the election itself. In an election campaign that has been carried out by the election candidates, the public will observe and begin to compare the promises and behavioral patterns shown by election candidates. The promises and speech will be recorded in the people's memory and will be revealed when it turns out that the promise was not kept by the selected participants. This is where people experienced political education directly by starting to compare the track record of election participants in the next election event. The candidates' track record can become a negative campaign

material for other candidates, and it also become a topic discussed by political opponents while paying attention to the facts.⁴⁶

Those actions exercised so the community can have a good political education. That people also have enough knowledge to know about negative campaigns and can distinguish them from black campaigns. The high level of political knowledge that is owned by the community is expected to make the community not create a negative atmosphere on the parties who use the negative campaign method because they do not like the methods that are considered to show a weakness of candidates or political parties. A positive attitude from the community is needed for the maintenance of the use of the method. Maintenance of the use of these methods is important because the use of these methods will make the public aware of the negative facts possessed by a candidate or political party.

⁴⁵ Kantraprawira Rusadi, *Sistem Politik Indonesia: Suatu Model Pengantar*, ed. revisi, (Bandung: Sinar Baru Algesindo, 2004), 55.

⁴⁶ A. A. Oka Mahendra, "Kampanye Pemilu 2014 sebagai Bagian dari Pendidikan Politik Masyarakat", *Jurnal Legislasi Indonesia* 9 (4) (December 2012), 552-553

C.CONCLUSION

Build a standardization of political education and provide political educations are actions that should be done to increase community's political awareness. By educating peoples in community about politics, people could know and understand the methods in campaigns, one of which is negative campaign. Negative campaign is an important method to maintain its use to find out facts that can be used to consider the selection of candidates or existing political parties. In order for the community not to be negative towards the negative use of this campaign, the public needs to know the benefits of negative campaign usage and this condition will be created when the community has been given the knowledge of political education, and thus the use of negative campaign methods can be exercised and bring good benefits for the nation's prosperity.

Based on the paper above, we suggest about the use of negative campaign as follows:

1. Suggest the government to provide standardization about giving political education to help community development for understanding political practice for proper elected political candidates or political parties by the community.
2. Suggest the government to be more active to give political education and also obligate the political actors to give political education as appropriate as the standardization of political education so that people would have good political knowledge.
3. Recommend community to participate actively in political education that provided by the government as a political control that could affect social welfare in a country.

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DANGER OF POLITICAL DOWRY IN INDONESIA: AN EARLY ANALYSIS OF CORRUPTION

By: Tyas Dian Anggraeni

ABSTRACT

This article discusses the political dowry which is one of the causes or entrance of other corruption actions. Political justice cannot be justified, for whatever reason. This article uses normative legal research methods. The results of the study indicate that by giving political dowry to make candidates tend to commit acts of corruption. because they have to find replacement money for political dowry fees. Not to mention if the candidate intends to advance again in the next period, more funds must be collected. Political justice is not only a matter of candidates who contribute to election funding, but also must be seen from the main objectives of democratic elections and the moral and integrity issues of election participants. The government has provided several solutions both to anticipate the prevention of misuse of the resources of vulnerable countries to be politicized for elections such as the licensing sector with the Government Regulation (PP) of the Indonesian Republic of Indonesia Regulation No. 24 2018 concerning Electronic Integrated Licensing Trying to get permission from Ministers, Governors, Regents and other officials authorized by law are transferred to Online Single Submission (OSS) Institutions. even so, the heavy duty still needs to be resolved by the organizing agency and the election supervisor to be able to explore and uncover the alleged politics of the dowry. All parties are aware that it is very difficult to prove the allegations of political dowry even though there are many who know that such practices do exist.

Keywords: elections; political dowry; corruption; political parties

A. INTRODUCTION

Indonesia is currently characterized by popular sovereignty manifested in parliamentary and presidential elections every five years. The political year of 2018, however, will not be much different from the past, the dynamics of the simultaneous regional head elections (Pilkada serentak) in 2018 and the presidential and vice presidential election in 2019 are still colored by issues that are relatively similar to the previous elections.

Indonesian elections are plagued by business dealings colored as politics.¹ These conditions result the violations of campaign regulations are on the rise as Indonesia's legislative election approaches, and most violations related to money in election activities. Approaching of the general election, there were many reports of political dowry, political transaction and money political gifts.

¹ Politics in Indonesia: It's Business As Usual, by Muhammad Beni Saputra on January 24, 2018 <https://thediplomat.com/2018/01/politics-in-indonesia-its-business-as-usual/>, accessed 14 May 2018.

Politics in Indonesia is expensive and in many parts of the country, there are at least four sources of expenditure that cause high political costs of elections. First, nomination fees (uang tiket) commonly referred to as "political dowry" the latest is the news about the giving of political dowry by a vice-presidential candidate Sandiaga uno who initially acknowledged the giving of dowry.² Second, campaign funds include campaign attributes, winning teams, and the use of electronic and printed media.³ Third, the cost of consultation and survey through various consulting agencies and survey institutions.⁴ Fourth, money politics that is still found by prospective regional heads includes giving money before the election known as "dawn attacks", donations to voters' pockets, and others. In addition, a substantial amount of funds is about the existence of witnesses on the day of vote counting.⁵

With so many transactions, elections are costly to candidates and they will recover funds where they can. Many big business entrepreneurs make use of this, they often transfer large sums of money to promising candidates. In return for financial assistance, candidates will promise business protection to the entrepreneur after being elected, this condition is suspected to be one of the root of corruption.⁶ Although violations of the use of money in money politics are contrary to the law, most parties and political figures still practice it. on the other hand Supporters of the campaign Receive their help gladly.

The issue of violations and abuse of the use of money in elections is not new in Indonesia's post-reform elections, especially now that political parties tend to be quite pragmatic and oriented towards winning candidates. The consequence is that political calculations

² <https://seword.com/politik/sandiaga-uno-akui-mahar-politik-begini-daftar-kasus-mahar-politik-di-tubuh-gerindra-EgYDUBah6>.

³ <https://rumahpemilu.org/pilkada-mahal/>

⁴ The search for Kompas R & D shows something similar. The cost of provincial-level voter surveys ranges from Rp. 100 million to Rp. 500 million. The cost of political advertising for governor candidates through various mass media ranges from Rp. 1 billion to Rp. 5 billion per month. The cost of imaging the figure of a candidate for governor reached Rp 20 billion.<https://www.antikorupsi.org/id/news/konsultan-politik-biaya-politik-makin-mahal>

⁵ Processed from Political Corruption Outlook 2018: Corruption Threats Behind 2018 and 2019 Electionshttps://antikorupsi.org/sites/default/files/outlook_korupsi_politik_2018_110118.pdf

⁶ ICW researcher Donald Fariz said the prepaid and postpaid systems are usually carried out between regional head candidates and entrepreneurs whose business activities want to be secured politically. Regional Head Candidates who need a cash injection will accept the employer's offer to get a cash injection and will be repaid instead the regional head when it is definitely selected by streamlining a number of licenses for companies that have supported <https://www.cnnindonesia.com/pilkadaserentak/nasional/20180314205850-32-283043/modus-pra-dan-pascabayar-pengusaha-dengan-calon-di-pilkada>?

to win candidates are priority and become a burden that must be issued by candidates for election. In following political contestation, it is inevitable for candidates to follow the entire mechanism of the election in a "democratic" manner, both internal party mechanisms and external mechanisms in accordance with the rules that apply in the law. The mechanism for selecting candidates for regional heads within the party is often difficult to monitor and lack transparency because it is internal or merely a formality. So that this opens up opportunities for "buying and selling" transactions between party elites and prospective candidates to be carried by the party.

When a candidate decides to run as a regional head, they have to pay "ticket money". Ticket money goes to the political party they wish to run for. The amount that must be provided of the transaction depends on the office the candidate is running for. Gerindra Party chairman Prabowo Subianto suspected

asked La Nyalla Mattalitti for RP40 billion (US\$2.8 million) in exchange for nominating Mattalitti in the 2018 East Java gubernatorial race.⁷ The candidate has to pay extra if they want to run in a specific electoral district. Then same the issue of other ticket money as presented by Dedi Mulyadi, retired police officer Brig. Gen. (ret) Siswandi, and John Kristi.⁸ Vice Governor Sandiaga Uno was accused of paying IDR1 trillion (around US\$70 million) in political dowry to secure his nomination as Prabowo Subianto's running mate. Sandiaga has finally publicly denied the political dowry allegation and asked that the media not to blow it out of proportion.⁹

Political dowry, a phrase that is not right is actually true. The term "dowry" comes from Arabic, mahr, transliterated into Indonesian into a dowry that means "mandatory giving in the form of money or goods from the bridegroom to the bride when the marriage contract is held;

⁷ EDITORIAL: Costly democracy, <http://www.thejakartapost.com/academia/2018/01/16/editorial-costly-democracy.html>, accessed 9th June 2018.

⁸ Cash politics is commonplace across the political spectrum. The Prosperous Justice Party (PKS) has billed itself as an anti-corruption party. It has also asked for illegal payments from its candidates. PKS dropped Brig. Gen. Siswandi as its candidate for the election for Cirebon mayor. He had refused to pay the party the money the party asked for. All parties deny asking for illegal payments. There have been many high-profile testimonies from those who made donations. <https://www.aseantoday.com/2018/02/indonesias-war-on-cash-politics/>, accessed 17 June 2018.

⁹ VP candidate Sandiaga Uno on IDR1 trillion political dowry allegation: 'very untrue' <https://coconuts.co/jakarta/news/vp-candidate-sandiaga-uno-idr1-trillion-political-dowry-allegation-untrue/>, accessed 27 July 2018.

dowry" (KBBI online).¹⁰ Political dowry atau "mahar politik" in this case can be interpreted as a special gift in the form of money given to buy recommendations by decisions for certain political parties, with the intention that political parties nominate those elected in general elections, this kind of thing for candidates for Governor, members legislative, presidential and vice presidential candidates. Cost occurs throughout the entire nomination process until the election, divides the system into three levels pre-candidacy, candidate determination, and post election.

The practice of Political dowry allegedly is one of the reasons that makes the nomination process by political parties take a long time. Many parties take injury time to register their candidates for the KPU. This is allegedly related to the attractiveness of how much the dowry issued by each candidate, so that candidates with the least dowry can cancel nominated in the final seconds. This condition must certainly be criticized and become an important momentum to see that there are serious problems in the electoral mechanism that make the appeal of politics strengthened which can

ultimately lead to corrupt practices. In response, almost all political parties refused to recognize the practice of giving dowry as revealed.

Regardless of whether or not there is a dowry, there are things that must be addressed by political parties due to not being transparent in financial management. This then makes the issue of the existence of dowry appear in political contestation. This political dowry was initially asked to the candidates under the pretext of campaign costs, but later developed into political bargaining which led to a position capitalization.¹¹ This process then makes the party choose cadres or candidates with a measure of how much funds can be paid. Such practice has an impact on society where it is difficult for people to get candidates for regional heads who are in line with expectations when only measured by the amount of funds that can be paid.

Discussing dowry cannot be separated from discussing fraud in the process of organizing elections which must be carried out democratically. The process of holding a democratic election is marked by legal certainty in the

¹⁰ Agus Sutisna, Memilih Gubernur, Bukan Bandit! Demokrasi Elektoral dan Pilgub 2017 di Tanah Jawara, Penerbit Deepublish (Grup Penerbit CV Budi Utama), Yogyakarta, 2017.

¹¹ Artikel ini telah tayang di Tribunnews.com dengan judul Petaka Mahar Politik, <http://www.tribunnews.com/tribunners/2018/01/26/petaka-mahar-politik?page=3>.Editor: Samuel Febrianto, acccessed 9 August 2018

arrangement of each stage of the election which is formulated based on the principles of democratic elections. Many things must be evaluated based on the previous election so as not to repeat the mistakes and get a better form of elections. The practice of money fraud in elections brings serious consequences for the nation. The implication of money politics is extraordinary, it affects how the country will be run.

In addition, it is necessary to continue the realization of the integrity of the process and results of the election and the system for resolving violations and electoral disputes fairly. Political dowry has undermined the noble purpose of the election, because the owner of the money has been in control of democracy, and the people will be presented with candidates for the prescribed leader. The transactional and corrupt spaces have long-term consequences, such as the many heads of regions who abuse their power for corruption. So do not be surprised why many elected regional heads are ultimately involved in various corruption scandals. The system has to be improved because this kind of corrupt system is very expensive for good and potential people. It will be almost

impossible for Indonesia to elect independent, viable candidates without such reform.

Based on this, it is necessary to evaluate the arrangements for the provision of funds or financial assistance for political parties, if it is regulated, what is the effectiveness of the arrangement? and how is law enforcement against violations? Can organizers, supervisors and law enforcement process it completely? and how solutions are offered to reduce the practice of political dowry.

B. Discussion

1. Arrangement of Giving Funds to Political Parties

Political transactions run in daily political activities especially at the moment of election between candidates and citizens. However, political transactions run non-programmatically, are closed, violate the law (corrupt), and ignore the long-term interests of citizens. Candidates try to buy citizen support through short-term transactions such as giving money, goods and short-term populist programs. David Easton,¹² found that political life as a system of activities

¹² David Easton Known for Political systems theory Uploaded by Rika Nur Rahmatika http://www.academia.edu/26895604/David_Easton_Known_for_Political_systems_theory, accessed 8 July 2018.

that are interconnected and influence the way of making policy (policy decision), and the implementation of authoritative decisions in a country. Relationships and mutual influence between institutions are then referred to as political systems that are influenced by the external environment.¹³ Looking at the political events above, several questions need to be reorganized to overcome the problems of political life.

The law which is generally accepted is quite adequate, after going through a long series of rules about the current election there is Law No. 1 of 2015 concerning the Stipulation of Government Regulations in Lieu of Laws (Perppu) Number 1 of 2014 concerning the Election of Governors, Regents, and Mayors into law as amended by Law Number 8 of 2015 and Law Number 10 of 2016. This legal framework is indeed outside of Law Number 7 of 2017 concerning General Elections which regulates the election of the president, members of the DPR, DPD, and DPRD.

Within the legal framework, the prohibition on the practice of political dowry as well as legal sanctions when

committing violations has been regulated. This is an improvement considering that in the past, this practice was not touched by the law so that it only became a conversation without being able to be monitored, let alone being dealt with decisively. Political dowry is like an issue above the sky, which we know as gratitude-money to the Central Party Organizer in order to get a recommendation paper to complete the requirements for the district head registration to be given to political parties. Soundly we can hear the term of political dowry but there is no single proof concerning its existence. That is the sad story of individual nomination process. Because the individual candidates were unable to pay the dowry and finally they just moved forward with identity card and signature.

To maintain the integrity of the process and election results, a mechanism is needed to accommodate and follow up all complaints, complaints and claims effectively, fairly and on time. Election legitimacy and public trust in democratic institutions depends on how the state responds and follows up

¹³ A Systems Analysis of Political Life By David Easton. (New York : John Wiley and Sons, Inc., 1965). Pp. xvi, 507.

on community complaints. A credible election process is the foundation for a government that has legitimacy. So, the issue of political dowry is not a trivial matter that can be ignored by organizers, election supervisors, and law enforcement because it can reduce public trust.

In Article 187 a, b, and c of Law Number 8 of 2015, contains two types of crimes related to money in the electoral process, namely money politics and political dowry, Article 187A reads as follows:

- (1) Anyone who intentionally commits an unlawful act promises or gives money or other material in return for Indonesian citizens either directly or indirectly to influence the Voters not to exercise their right to vote, exercise their right to vote in a certain way so that the vote is not legal, choose a particular candidate, or do not choose a particular candidate as referred to in Article 73 paragraph (4) shall be sentenced to a minimum of 36 (thirty six) months imprisonment and a maximum of 72 (seventy two) months and a fine of at least Rp 200,000,000,00 (two hundred million rupiah) and a maximum of Rp 1,000,000,000,00 (one billion rupiah).
- (2) The same crimes are applied to voters who intentionally commit unlawful acts to receive gifts or promises as referred to in paragraph (1).

This article prohibits promising or giving money or other material in return

for Indonesian citizens, either directly or indirectly, to influence voters not to exercise their right to vote, to exercise their right to vote in a certain way so that the vote becomes invalid, chooses a particular candidate, or do not choose a particular candidate. These provisions are often referred to as money politics. Not only the giver affected, the recipient is also exposed to the same criminal threat.

While in the current nomination stage, what is rife is the practice of "political dowry" in which people or institutions provide rewards to political parties or a combination of political parties in any form in the nomination process for governors, regents and mayors. Here is not explained for what the reward is, only referred to "in any form" and "in the nomination process". In practice, rewards are intended so that political parties or joint political parties are willing to propose someone for the nomination process, either as a candidate for governor, regent, or mayor. Not only is the giver affected by a criminal threat, the recipient, both from a political party and a combination of political parties, is also threatened with criminal sanctions even though there are differences in criminal sanctions, as stipulated in Article 187B as follows:

Members of a Political Party or a joint member of a Political Party who intentionally commits an unlawful act to receive compensation in any form in the process of nominating the Governor and Deputy Governor, Regent and Deputy Regent, as well as the Mayor and Deputy Mayor as referred to in Article 47 paragraph (1) shall be punished with criminal imprisonment of at least 36 (thirty six) months and a maximum of 72 (seventy two) months and a fine of at least Rp 300,000,000.00 (three hundred million rupiah) and a maximum of Rp 1,000,000,000.00 (one billion rupiah).

In Article 187 C stated as follows:

Every person or institution that is proven intentionally committing an unlawful act in return for the nomination process of the Governor and Deputy Governor, Regent and Deputy Regent, as well as the Mayor and Deputy Mayor, the determination as a candidate, elected candidate pair, or as Governor, Deputy Governor, Regent, Deputy Regent, Mayor or Deputy Mayor as referred to in Article 47 paragraph (5), shall be sentenced to a minimum of 24 (twenty four) months imprisonment and a maximum imprisonment of 60 (sixty) months and a fine of at least Rp 300,000,000.00 (three hundred million rupiah) and a maximum of Rp 1,000,000,000.00 (one billion rupiah).

In addition to the implication of a criminal form, if the decision is legally binding, there are administrative sanctions, namely the cancellation as a candidate for governor, candidate for regent, candidate for mayor. Even if there are already selected appointments can also be canceled. Not only that, even if you have served, it can still be canceled in accordance with Article 47 of the same law. In the event that a political party or coalition of political parties is proven to receive compensation, they are prohibited from submitting candidates in the next period in the same area. Thus, sanctions from the practice of political dowry are very heavy.

In addition to being regulated in Law No. 8 of 2015, political dowry is also regulated in Law Number 7 of 2017 concerning Elections, prohibiting pairs of presidential-vice presidential candidates from giving money or rewards to political parties to become presidential or vice presidential candidates, regulated in Article 228, as follows:

- (1) Political parties are prohibited from receiving compensation in any form in the process of nominating the President and Vice President.
- (2) In the event that a Political Party is proven to receive compensation as referred to in paragraph (1), the Political Party concerned is

- prohibited from submitting candidates in the next period.
- (3) Political parties that receive compensation as referred to in paragraph (2) must be proven by a court decision that has obtained permanent legal force.
- (4) Every person or institution is prohibited from giving compensation to Political Parties in any form in the process of nominating the President and Vice President.

That is, for future presidential or vice presidential candidates who have been proven to provide political dowry, until now they can still participate in the election and not get administrative sanctions. Whereas for political parties or a combination of Political Parties if they receive compensation in the process of nominating an election, they are not allowed to submit candidates in the next period in the same area. Political dowry received by political parties is always claimed as funds or costs that must be prepared by the party when proposing a candidate. Political parties always argue that the costs must be spent quite a lot while they do not have enough money.

The government try to respond to these conditions, to overcome the high costs that must be incurred by political parties, the government has provided assistance to political parties. Initially Based on Government Regulation

(Peraturan Pemerintah-PP) Number 5 of 2009 concerning Financial Assistance to Political Parties, as amended by PP No. 83 of 2012 concerning Amendments to Government Regulation Number 5 of 2009 concerning Financial Assistance to Political Parties, every legal vote obtained by political parties received Rp. 108, -. In its development, the Government has now raised aid funds for political parties to 10 times to Rp 1,000/votes obtained with Government Regulation No. 1 of 2018.

If government subsidies through aid funds for the party are managed properly, it is sufficient to finance the operations of political parties . So that political parties no longer have to worry too much about financing issues and are expected to reduce the practice of giving dowry to political parties. The government also hopes that this regulation should be a driver of political parties to concentrate more on carrying out higher quality cadre. A good cadre will attract the public to vote, so that more aid is obtained.

2. High Political Costs

Regulation regarding political dowry, are quite a lot and have quite severe sanctions, but the question is why the practice is still ongoing?

Previously, it was necessary to understand what was the cause and fertility of the practice of political dowry. Beginning with the high costs that must be incurred by political parties, starting from the preparation period, attribute and campaign costs, witness costs, paying political parties, etc. which are estimated to be tens to hundreds of billions depending on area, population and wet or dry areas.¹⁴

The reason for the elites' monopoly in Indonesia's political sphere is obvious: politics in Indonesia is in practice similar to business. In order to win an election, a candidate cannot help but prepare large capital. To become a village head it costs 130-150 million rupiahs; becoming a member of the People's Representative Council (*DPR*) costs 1.18 to 4.6 billion rupiahs, a mayor is from 20-30 billion rupiahs, a regent is 75 billion rupiahs, a governor ranges from 100 to 400 billion rupiahs, and president costs up to 7 trillion rupiahs! These fantastic figures are certainly far from the reach of the majority of

Indonesians, whose average income is only 47 million rupiahs per year.¹⁵

Based on FITRA's research, the budget spent in district elections ranges from 5-28 billion, while the provincial elections range from 60-78 billion. Such a large value is not comparable to the official income that will be received by the governor for example, who only gets a salary of Rp 8.6 million/month or a total of 516 million during the five years in office.¹⁶ These are things that can trigger corruption and coalitions (bad conspiracy) to be a way to extract the people's welfare resources. With a large initial capital, the orientation of the power that is owned later is how to return the capital that was previously issued. Facing this fact made the Regional Head intending to run again, tempted to commit corruption. The ease with which the regional head is tempted to commit corruption is due to a number of factors including power monopoly, policy discretion and weak accountability.

¹⁴ Artikel ini telah tayang di Tribunnews.com dengan judul Petaka Mahar Politik, <http://www.tribunnews.com/tribunners/2018/01/26/petaka-mahar-politik?page=4>. Editor: Samuel Febrianto, accessed 18 august 2018

¹⁵ <https://thediplomat.com/2018/01/politics-in-indonesia-its-business-as-usual/>, accessed 7 September 2018

¹⁶ This article has been published on Kompas.com with the title "Modus Korupsi 32 Kepala Daerah yang Sudah Ditangkap KPK", <https://nasional.kompas.com/read/2018/08/05/10101301/modus-korupsi-32-kepala-daerah-yang-sudah-ditangkap-kpk> Penulis : Dylan Aprialdo Rachman, accessed 19 August 2018

Responding to these conditions, the Corruption Eradication Commission (KPK) once told, especially for all candidates for regional heads not to do things that have the potential to violate election rules regarding the provision of money in the 2018 Simultaneous Regional Election. Moreover, if the source of funds is from corruption or from parties others must be replaced in the form of a compilation project after an examination due to corruption committed by the regional head. Many transactions, expensive elections for candidates. They will complete the funds where they can. Big business makes use of this. They often send money to promising publishers. In return for financial fortune, candidates will promise business freedom after being elected. Ending the practice of cash politics will help eradicate political corruption.

In two years, the mass media never stopped questioning the regional

head and legislative members by the Corruption Eradication Commission (KPK). There are or no areas recorded by the Corruption Eradication Commission and later named as suspects, first is Jombang Regent Nyono Suharli who is also determined to return to the Jombang Regency simultaneous election of regional heads and Ngada Marianus Sae Regent who is a candidate in the East Nusa Tenggara Pilgub. If combined with last year, the names were added to the list of heads in the 2018 election which had previously been captured by the Corruption Eradication Commission. (This article was made in June - September 2018). The following is a description of the table used as a suspect by the KPK from the beginning of the year to the middle of the year. Some of them was caught in sting operation (OTT) held by Corruption Eradication Commission (KPK).

Table 1

No	Name	Case	information
1	Abdul Latif, Regent of Hulu Sungai Tengah	Abdul Latief was named as a suspect with three other people namely, Barabai Fauzan Rifani Chairman of the Indonesian Chamber of Commerce and Industry (KADIN); President Director of PT. Sugriwa Agung Abdul Basit, and President	

No	Name	Case	information
		<p>Director of PT. Agung Pusaka Tower Donny Witono.</p> <p>The four of them were involved in the alleged bribery case from the procurement project for the construction of Damanhuri Hospital, Barabai, 2017 tax year.</p> <p>They were caught in sting operation (OTT) held by Corruption Eradication Commission (KPK) on January 4, 2018.</p> <p>Allegations of the cost of duties in construction projects of class I, II, VIP, and Super VIP Damanhuri construction projects, Barabai amounted to 7.5 percent or Rp. 3.6 billion. In this case, the alleged recipients of bribes were Abdul Latif, Abdul Basit, and Fauzan Rifani. Meanwhile, bribery is Donny Witono.</p>	
2	Mohammad Yahya Fuad, Regent of Kebumen	<p>Yahya Fuad was named a suspect after allegedly receiving bribes and gratuities related to a number of projects using the Regional Budget (APBD) in 2016. Determination of the suspect on January 23, 2018.</p> <p>According to KPK, Fuad together with the private sector received bribes and gratuities worth Rp 2.3 billion. The bribe is related to the procurement project of goods and services whose budgets are derived from the Kebumen District Budgets.</p>	
3	Nyono Suharli, Jombang Regent	<p>KPK assigned Jombang regent Nyono Suharli Wihandoko as a suspect in a bribery case related to the licensing of office in Pemkab Jombang. Nyono was arrested on February 3, 2018.</p> <p>Nyono allegedly received a bribe from Plt Head of District Health Office Jombang Inna Silestyanti for Rp 275 million. The bribe was given Inna for Nyono as regent set Inna as head of the health department definitive. KPK Deputy Chairman Laode M Syarief revealed that some of the bribe money was used by Nyono as a</p>	<p>Nyono is the incumbent candidate who re-nominated himself as Jombang Regent in the 2018 simultaneous election. According to the KPK, the bribe received by Nyono from the Acting Head of the Jombang Regency Health Office Inna Silestyanti was used for political expenses in the Pilkada.</p>

No	Name	Case	information
		campaign fund in the 2018 election.	
4	Marianus Sae, Ngada Regent	<p>KPK determined Marianus Sae and President Director of PT Sinar 99 Permai, Wilhelmus Iwan Ulumbu as a suspect. Marianus is suspected of accepting bribes from Wilhelmus over a number of projects in Ngada District, East Nusa Tenggara. Wilhelmus is known to be one of the contractors in Ngada District who often get projects in Ngada District since 2011.</p> <p>In this case, Marianus allegedly took a bribe of Rp 4.1 billion from Wilhelmus. Some bribes to Marianus are given in cash or by bank transfer. Marianus was arrested in a hand-held operation, Sunday (11/2/2018). Marianus is known to advance as a candidate for governor of NTT in Pilkada 2018 together with NTT cawagub, Eni Nomleni.</p>	
5	Rudi Erawan, Regent of East Halmahera	<p>Rudi Erawan was designated as a suspect after allegedly taking a bribe of Rp 6.3 billion from the former Head of the National Road Implementing Agency (BPJN) IX Maluku and North Maluku, Amran HI Mustary.</p> <p>The money is related to infrastructure projects under the Ministry of Public Works and People's Housing in 2016. The money for Rudi obtained Amran from a number of contractors of the project, one of which is President Director of PT Windhu Tunggal Utama, Abdul Khoir. Determination of the suspect was announced on January 31, 2018.</p>	
6	Zumi Zola, Jambi Governor	<p>KPK announce the Governor of Jambi, Zumi Zola Zulkifli Province as a suspect on 2 February 2018.</p> <p>Zumi was designated as a suspect with the Task Force of the Head of Public Works</p>	

No	Name	Case	information
		Agency of Jambi Arfan Province. Zumi Zola and Arfan allegedly took bribes worth Rp 6 billion. KPK suspect bribes received Zumi Zola is used to bribe members of parliament Jambi to attend the meeting ratification R-APBD Jambi 2018. Case involving the two suspects is the development of cases of bribery affidavit RAPBD Jambi 2018.	
7	Imas Aryumningsih, Subang Regent	Imas was caught in sting operation (OTT) held by KPK in Subang and Bandung, West Java on February 13, 2018. Imas was designated as a suspect with the Head of Licensing DPM PTSP Subang Regency, Asep Santika and private data, after allegedly receiving a bribe from a businessman named Miftahhudin. Miftahhudin allegedly gave a bribe to Imas and two other recipients to obtain a principal license to create a factory or place of business in Subang. The provision of bribes is done through people near Imas who act as fund-raisers. Allegedly, the Bupati and two other recipients have received bribes totaling Rp 1.4 billion. The commitment fee between the intermediary of bribery with entrepreneurs amounts to Rp 4.5 billion. The commitment fee between Imas and bribe brokers amounts to Rp 1.5 billion. Imas ran again as Subang Regent with Sutarno in 2018 election. The candidate pair was carried by the National Awakening Party (PKB) and Golkar Party.	

Source : from various sources

Based on the table above, illustrated some interesting facts about money politics in elections with a number of corruption cases committed by regional heads. Corruption mode a number of captured regional heads are

usually bribes related to infrastructure projects or procurement, filling positions, licensing, budget management and approval, ratification of regulations or APBD, transfer of forest functions and exchange of forest areas, and so on. Corruption Mode doesn't change much. Misuse of authority that causes bribery transactions is the most widely expressed form of regional head corruption, the case is still the case, about the trafficked authority.

Based on this, the KPK continues to remind regional heads who will compete again, to be more careful and not promising or provide political dowry so as not to fall into actions that lead to criminal acts of corruption. Because based on the results of research conducted by the KPK, many regional heads committed corruption to replace the funds that had been spent to provide political dowry. This is a common thread between political dowry in general elections and presidential and vice presidential elections, because not only in 2018 regional elections, the alleged giving of political dowry also occurs in the 2019

presidential and vice presidential elections.¹⁷

In relation to the holding of elections, of course this is a bad record of the democratic process that we are living, because in fact we hope the democratic process is not only procedural but includes substantial democracy. And one of them can be seen from the running of justice from the nomination process to the election of candidates with a process that does not injure democratic values. The phenomenon shows that despite the many rules that prohibit the giving and receiving of rewards in the process of nomination between political parties and candidates, the practice still happening. The high political costs and increasing competition in local elections are factors that drive corruption.

3. Report on Alleged Political Dowry Not Continued Law Enforcement

Political dowry problems often do not end completely, because law enforcers still have difficulty revealing what models, forms of political transactions or dowry. Therefore, serious efforts are needed from all stakeholders, including the Political Party, Bawaslu, PPATK, KPK, as well

¹⁷ <https://jurnalpolitik.id/2018/08/12/sandiaga-bantah-mahar-rp500-m-tapi-siap-sediakan-uang-untuk-kampanye/>, accessed 18 June 2018.

as the public and election officials. It is not easy to enforce the rules regarding political dowry even though it has been stated in various laws and regulations. In addition, efforts to resist Bawaslu will also be carried out in an extraordinary manner so that it is quite difficult to find witnesses to prove it.¹⁸

Even if there are witnesses, it is difficult to accept testimonies that can really reveal the veil of this case. Of course this is a big challenge for the Election Supervisory Body and other law enforcement agencies to deal with, process, and take action if this practice is proven. The determinant in the end is the courage, the willingness of the Election Supervisory Body to coordinate with law enforcement in dealing with the perpetrators because it is not uncommon for those involved are strong figures and institutions.¹⁹

There are many cases of buying politik

dowries that are not damaged, because this practice is a mutualism symbiosis between political parties and nominated candidates. Only candidates for regional heads who do not run as candidates will usually raise this issue to the surface. Therefore, to uncover this problem is fully the authority of Bawaslu. Bawaslu is the party most authorized to be disclosed can coordinate with law enforcers who also have authority in prosecutions such as the National Police and the KPK.

Indonesia Corruption Watch (ICW), a community social institution that is specifically engaged in investigating indications that leads to allegations of losses in state finances, is concerned about the rampant political dowry issues that have sprung up in the 2018 Simultaneous Regional Election and 2019 Presidential

¹⁸ The Chairman of the Indonesian Bawaslu said the main report number 01 / LP / PP / RI / 00.00 / VIII / 2018 stated that allegedly there had been compensation in the form of money to PAN and PKS in the process of nominating the President and Vice President could not be legally proven. <http://banjarmasin.tribunnews.com/2018/08/31/akhirnya-bawaslu-ri-tak-tindaklanjuti-dugaan-mahar-cawapres-sandiaga-uno-di-pilpres-ini-alasannya>. Editor: Rendy Nicko, accessed 23 May 2018

¹⁹ The accusation that the practice of "political dowry" in the 2018 Regional Election occurred in East Java, West Java, and other regions made the Provincial and Regency / City Election Supervisory Body be required to act and act decisively in accordance with their duties and authorities. In the East Java Pilkada, La Nyalla claimed to be asked for Rp. 40 billion by the General Chairman of the Gerindra Party, Prabowo Subianto. In the West Java Pilkada, Dedi Mulyadi had claimed to be asked to pay Rp10 billion by individuals in the Golkar Party. In the Cirebon Regional Election, Brig. Gen. (pol) Siswand admitted that he failed to be nominated by the Prosperous Justice Party because he was asked to dowry. Finally, there was a conflict within the Hanura Party, one of which was due to the issue of political dowry. But it is believed, there are many more practices of handover of political dowry that have not been revealed. In accordance with the procedures and mechanism for handling violations, after registration, the Election Supervisory Body conducts an inspection by inviting the reported party and witnesses to be clarified to hear information about the reported incident.

Election. ICW suspects political dowry. The nominated regional head candidates are used by political parties as the winning capital of the 2019 election.²⁰

Therefore, ICW encourages Bawaslu to be more proactive in following up on allegations of giving political dowry in the nomination process in the 2018 Simultaneous

Regional Election and 2019 Presidential Elections. Here are some data in the form of tables related to a number of parties claiming to be asked for money in the form of money by political parties in the exchange of nominations for 2018 regional elections and attitudes carried out by Bawaslu from various sources:

Table 2

Election	Issue	Bawaslu's actions	follow-up
East Java regional head election	La Nyalla M. Mattalitti claimed to be asked for money by political parties to be nominated in the East Java regional head election 2018.	on January 12, 2018, Bawaslu has summoned La Nyalla for the second time to ask him for a clarification regarding his statement saying that he was asked by Gerindra Party Chairman Prabowo Subianto to provide Rp40 billion for his candidacy in the 2018 East Java Gubernatorial election. But, he was absent failed to attend.	Bawaslu will not be in a rash in dealing with this issue. Bawaslu also needs to cooperate with the National Police and the Attorney General when the alleged violation met the criminal element.
Election of the regional head of Palangka Raya	Chairman of the East Waringin City DPRD, John Krisli-Maryono, said there was a need to pay large funds to get a recommendation for party nomination in the Palangka Raya Regional Election 2018.	the Election Supervisory Committee of Palangka Raya City sent a summons for clarification from	

²⁰ ICW Curiga Mahar Politik Pilkada 2018 untuk Biaya Pemilu 2019, <https://nasional.kompas.com/read/2018/01/16/14051741/icw-curiga-mahar-politik-pilkada-2018-untuk-biaya-pemilu-2019>, accessed 12 July 2018

Election	Issue	Bawaslu's actions	follow-up
	Jhon Krisli explained that Gerinda asked to open a joint account to reach billions of rupiah, which of course did not want to be filled with him. Different if asked to provide a budget for witness fees, the cost of coaching the party is still understandable. But, according to him, if you have to prepare a budget for a joint account, of course it is questionable. He refused on the grounds that there were no rules. And worry when it is later elected, forced to corruption because it has issued a large budget	Jhon Krisli / Maryono.	
West Java regional head election	Dedi Mulyadi said that he was asked to hand over compensation for the party in the amount of Rp. 10 billion (the news before that was officially nominated by the Golkar and Democrats) In connection with the political dowry request worth Rp10 billion related to his nomination in the West Java Pilkada, he claimed to have reported the dowry to his party, Golkar.	although they have not received official reports, Bawaslu has asked the ranks of Bawaslu in West Java to collect data. Although the Purwakarta Regent's statement has not been proven right now, Abhan said this could be used as initial information. Bawaslu will later monitor the next stage until the nomination process.	
Cirebon regional head election	Brig. Gen. (Pol) Siswandi-Euis Fety Fatayaty claimed to have failed to be nominated by a political party in the elections. Cirebon 2018 because it cannot meet the rewards requested by the party.	Bawaslu will collaborate with the prosecutors and police who are members of the Integrated Law Enforcement Center (Gakumdu) team Because it is a criminal domain, it will be discussed by Sentra Gakumdu. Who will judge the prosecutor	The Integrated Law Enforcement Team (Gakkumdu) has decided that there is insufficient evidence to be determined as an election crime. Based on the chairman Gakumdu's report, it was stated that in accordance with article 47 paragraphs 1 and 5, as well as articles 187 letters b and c of Law Number 10 of 2016, an act of giving and

Election	Issue	Bawaslu's actions	follow-up
		and police. They will assess whether the fulfillment of the elements of the criminal article concerning the political dowry is proven or not	receiving needs to prove the handover of the gift.
Presidential and vice presidential elections	Vice Governor Sandiaga Uno was accused of paying IDR1 trillion (around US\$70 million) in "political dowry" to secure his nomination as Prabowo Subianto's running mate. Sandiaga has finally publicly denied the political dowry allegation and asked that the media not to blow it out of proportion	Bawaslu followed up on the principal report number 01 / LP / PP / RI / 00.00 / VIII / 2018 stating that allegedly there had been monetary compensation in the form of Sandiaga Uno to PAN and PKS in the process of nominating the President and Vice President	Bawaslu decided that the vice president Sandiaga Uno would not make political dowry. This decision was taken after the Election Bawaslu said they could not proceed with the investigation because the key witness, Democratic Party Deputy Secretary General Andi Arief, who made the allegation public in the first place, has not been available for questioning.

Source : from various sources

Many acts of giving political dowry that have emerged but none have been investigated thoroughly by the Bawaslu. Bawaslu needs to announce the strengthening of authority to decide on the violation of the implementation of elections regulated in Law No. 7 of 2017 because all this time candidates are confused about who to complain to in relation to the political negotiations.

If Bawaslu feels that it is not ready to enter, many parties suggested that Bawaslu form a synergy with the Corruption Eradication Commission (KPK).²¹

On the other hand, non-governmental organizations that are active in the electoral field, the Association for Elections and Democracy (Perludem) added that the

²¹ This article has been published on Tribunnews.com under the title ICW: Bawaslu Must Handle Polemics Dedi Mulyadi, <http://www.tribunnews.com/nasional/2017/10/05/icw-bawaslu-hendak-tangani-polemik-dedi-mulyadi> , Author: Rizal Bomantama, Editor: Samuel Febrianto, accessed 26 September 2018

prohibition on giving compensation for the nomination process and recognition from several parties should be the entrance for Bawaslu to dismantle the transactional practices. As a supervisor and enforcer of electoral law, Bawaslu is a party that is very obliged to guard the election from any potential violations that injure the integrity of elections. The step of East Java Bawaslu who called La Nyalla to clarify the nomination transaction should be appreciated. Because, Bawaslu basically does not have to wait for a report. Bawaslu can start by making the recognition of prospective candidates as findings that need to be immediately followed up, Bawaslu then needs to call on all parties suspected of involvement, both witnesses, recipients, and even political party leaders concerned. Bawaslu must actively respond to this problem because the amount of political dowry required by political parties has the potential to direct the selected candidates later to practice corruption. Besides that, there is a political dowry,

also eliminating potential candidates with high integrity but limited in budget.

As stipulated in the legislation that campaign funding sources for presidential candidates (vice presidential candidates) and vice presidential candidates (vice presidential candidates), can come from three parties, namely the candidate pair itself, from the political party carrying the candidate pairs, and legitimate donations according to law from other parties. While the campaign funds that can be donated from each party has been regulated in Article 327 paragraph (1) and (2) of Law number 7 of 2017 concerning elections. The law limits individual campaign funds to a maximum of Rp 2.5 billion, while campaign finance contributions from non-government groups, companies or business entities must not exceed Rp. 25 billion. Of course this arrangement is strong enough to suspect the provision of funds that exceeds the rules as political dowry.²² Donation restrictions do not target specific parties specifically. The main objective of limiting donations is usually to

²² Further regulations are in the General Election Commission Regulation (PKPU) no.5 / 2017 article 7. The article states that campaign funds originating from political parties or combinations have a maximum value of 750 million. While donations from other parties have a maximum value of 75 million. For donations from other parties or groups / legal entities the maximum value is 750 million. This arrangement has not been able to reach the circle of practices of cross-corruption carried out by candidates for the candidate head / deputy regional head and the donors.

control the behavior of large donors who can influence the party/candidate and the whole political process it self.

4. Hope For Better Change

The hope that political parties will not be a trigger for corruption can be done by providing assistance to political parties. The addition of the budget for financial assistance to political parties (political parties) has been a discourse for a long time. As described above, the government has improved the provision of financial assistance to political parties, every legal vote obtained by a political party gets Rp108. This amount was raised through the revision of Government Regulations Number 83 of 2012 becomes Government Regulations Number 1 of 2018 to 1,078 rupiah per vote. The government hopes that the assistance will help political parties to avoid the practice of "buying and selling" candidate recommendations and can reduce the potential for alleged corruption gaps that have occurred to patch party finances. Because based on evaluation, political dowry is thought to have become one of the sources of funding for political parties, therefore the practice of giving dowry occurs a lot before the presidential or regional elections.

The provision of funding assistance to these political parties was accompanied by transparent conditions in reporting the use of funds and the involvement of financial supervisory institutions, such as the Supreme Audit Agency (BPK) and clarifying the mechanisms for reporting party accountability related to the use of these funds. Political parties have only reported to the Minister of Home Affairs, then political parties should be willing to open reports to the public with a transparent and accountable reporting system. For example, make reporting through their official website about the use of funds obtained from the APBN. When political parties are no longer busy looking for funds, they can concentrate more on carrying out higher quality cadres and developing administrative technocratic human resources. That way, political parties can prove to the public about their accountability as a public institution. This can be a momentum to increase the confidence of the people who have not been too trusting in political parties.

In addition to strengthening funding of political parties, the government also needs to realize plans to form schools for party cadres, because this program can encourage

cadres prepared by the party to be nominated to be good and high integrity leaders. So that the opportunity to become a leader is not only a monopoly for those who have money and are able to meet political costs, but also those who have been prepared to become future leaders.

Sanctions must also be imposed on parties that are proven to be irresponsible and their cadres are still corrupt in the regions or at the central level. There are two forms of sanctions that can be given to political parties. First, termination of funding for the party concerned within a certain period of time. Second, it is prohibited to participate in elections at the central or regional levels. And finally related to the funding of political parties, the need to make regulations regarding restrictions on campaign funds through regulation. There are no restrictions on spending on campaign funds in elections, both presidential elections (presidential elections) and legislative elections. Restrictions only apply to the receipt of campaign funds. Until now, there is only a local election that has restrictions on funds, which are limited

to the revenue and expenditure funds.²³

According to some studies despite some continuing concerns, signs point to a positive direction regarding local elections and exertion of democracy. Local elections are activities whereby constituents characterize themselves and how they want to be represented. With increasing participation and political awareness at the grass-roots level, local voters may be more politically knowledgeable and want to be engaged in political institutions. We may be seeing the evolution of voting behaviors, specifically in selecting candidates based on qualification, voters constraining themselves from receiving short-term incentives such as money politics, and proactively taking part in controlling the entire political process. After all, such engagement will underpin accountability between leaders and the constituents. On the other hand, from the perspective of national politics, the results of the last three local elections, especially in 2018, definitely convey alarming trends, including the ineffectiveness of political machines by political parties

²³ This article has been published on Kompas.com with the title "Tak Ada Batas Pengeluaran Dana Kampanye Pemilu", <https://nasional.kompas.com/read/2018/08/23/14513351/tak-ada-batas-pengeluaran-dana-kampanye-pemilu>. Penulis : Fitria Chusna Farisa Editor : Sabrina Asril

and polarization of public preferences over qualified technocrats/politicians. Actors and political parties should accommodate these trends to help them form strategies and maneuver in the upcoming 2019 legislative and presidential elections.

Dealing with transactions between the party and the candidate is just the tip of the iceberg. To completely tackle cash politics, attitudes have to change among the public too. Political education among the people will reduce the effectiveness of vote buying. There also have to be strict punishments on the parties who ask for cash from candidates. Likewise, candidates must be sanctioned if they engage in vote buying strategies.

For information, the government is now more serious in closing the road to corruption, which is carried out by many regional heads, especially to administer a permit. Through Government Regulation (PP) Indonesia Regulation Of The Republic Of Indonesia Number 24 2018 About Licensing Services Try Integrated Electronically gets the authority to give permission from the Minister, Governor, Regent and other officials authorized by law to be transferred to OSS Institutions. In addition to encouraging ease of investment, this

policy aims to establish a corruption prevention system in the licensing sector. This is important to reduce the existence of business agreements that are carried out before the general election as discussed.

C. Conclusion

Regulation regarding political dowry have been regulated both in the regional head election law and the presidential and legislative election laws. in the regional head elections law, the sanctions given are not limited to financial sanctions (imprisonment/fines), but also administrative. Offenders are prohibited from submitting candidates for regional heads/deputy regional heads for the next period. Other sanctions are cancellations for the determination of candidate pairs, elected candidates, and heads of regions that have been appointed. In the legislative and presidential elections law, sanctions are only limited to banning political parties from submitting presidential / vice-presidential candidates in the next period. The regulation does not mention the cancellation of the candidate pair, elected candidate, or dismissal of the president and vice president who has been appointed. Although regulations are sufficient to regulate political dowry, the process of proof is difficult.

The essence and purpose of political dowry are actually the same as money politics. Political Mahar is intended to get support from political parties to run for office, while money politics is intended to obtain support from voters. The problem of political dowry must be seen from a broader context than the impact. Not only the problem of candidates contributing to financing the election, but also must be seen from the main objectives of democratic elections and the moral and integrity issues of the electoral participants. The practice of giving and receiving political dowry cannot be separated from discussing fraud in the process of organizing elections which must be carried out democratically which is marked by legal certainty in the arrangement of each stage of the election which is formulated based on democratic principles. general election. The practice of giving political dowry has been detrimental to democracy because the owner of money has taken control of democracy, and people will be presented with a candidate who has been arranged. This broadly does not only potentially endanger the nation materially but is also not material and disrupts national/national ideals.

Solutions offered to reduce political dowry practices are all parties in Indonesia must work seriously to find the best solution. Some of the steps that must be followed up seriously are to provide political education to its citizens, impose harsh sanctions on rogue politicians, improve the hearing and election system. If Indonesia is not serious, democracy in the country will no longer come from the people, by the people, for the people, but from the elite, by the elites, for the elites. Both the DPR and the government must immediately stop the practice of political dowry by, among other things, imposing severe sanctions through the Government Law and the Election Law. For example, those who are proven to commit political dowry to get support from any party must be disqualified from the election. Strengthening political party financial transparency and political morality must be maintained, so that the public can filter out which candidates are qualified and which are only money capital. There is political education for voters will encourage voters not to vote with money. When society becomes more mature in politics, democracy does not become expensive.

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**ACT NUMBER 7 OF 2017 ON GENERAL ELECTION
FOR SECURING FREE, FAIR, AND PEACEFUL GENERAL ELECTION
FOR NATIONAL STABILITY AND PROSPERITY**

By: Achmadudin Rajab

ABSTRACT

Elections were deemed to be far from perfect and myriad shortcomings, while creating stability and peace is the great dream of every country and the elections can give birth to leaders who guarantee it. This is underlying the birth of the Act Number 7 of 2017 on General Election for freedom, justice, and peace in the election. The good exchange of power will achieve a good guarantee national stability and prosperity. Therefore in this essay we can find out how Act Number 7 of 2017 can securing free, fair, and peaceful general election and what excess of Act Number 7 of 2017. Writing methods used ini this essay is using normative juridical approach to legislation. In connection with the problems in this paper that the assessment done by analyzing the basis for the establishment of Act Number 7 of 2017. The Act Number 7 of 2017 It might be worthwhile to in achieving In essence, the Constitution Court Decision Number 14/PUU-X/2013. Therefore in 2019, we can achieve the freedom, justice, and peace in general election.

Keywords: *Elections, Act, Democracy.*

A. INTRODUCTION

Election is a process of peaceful change of power are performed periodically in accordance with the principles outlined by the constitution. The constitution, stated that every citizen is entitled to participate actively in every decision-making process in the state.¹

The election is a very important political activity in the process of power transition in a country that adheres to the principles of democracy. Through Election a government elected directly by the people and given mandate to take care of this nation for the sake of the

common good. Elections are also referred to as a pillar of democracy, because elections such as these will never be found in a monarchy or empire². Through the election a country can get the right leader to increase the prosperity of a nation as well as national stability. Therefore, it is important to safeguard freedom, justice, and peace for the stability of the State Election and prosperity of the State.

As for our country, the state of Indonesia shall be a state based on the rule of law. Furthermore, Indonesia using civil law principles that focus on writing

¹ Thaib Dahlan, Indonesian constitutional, constitutional perspective, the first printing, Total Media, Yogyakarta, 2009, p. 98.

² Jimly Asshiddiqie, Introduction to Constitutional Law Volume II, the Secretariat General and Registrar of the Constitutional Court of the Republic of Indonesia, Jakarta, 2006, p. 175.

regulations. Therefore the process to regulate and reform the general election is done through The Act Number 7 of 2017 on General Election. This act is the current law which regulates specifically general election in Indonesia. This act had been discussed for about 9 months with a number of dynamics during the discussion. It was eventually agreed in a plenary meeting on July 21, 2017 and finally enacted into The Act Number 7 of 2017 on August 16, 2017.

The Act Number 7 of 2017 which originally comes from the act before the promulgation of the General Election is actually also called the Act draft of the Election Book. It has been also included in the List of Priority Legislation 2016, which at number 26 with the title of the Code of Election Act. The idea for this act is to codify or compile a variety of election-related acts into a single act.

Furthermore, in accordance with Article 68 paragraph (3) b Act Number 12 of 2011 on the Establishment Regulation Legislation (Act No. 12 of 2011), Due to the Implementation of Election Bill was prepared by the Government, the Parliament set up a list of inventory problems. Therefore, in order for the discussion of this bill, Problem Inventory List (DIM) from each fraction was collected as a discussion which in total amounted to 3053 DIM. As at the end to

facilitate the discussion of the bill pattern is then chosen for the Implementation of Election classification method with crucial issues or cluster method. Of background research that has been stated above, as for the issues to be discussed are:

1. How do The Act Number 7 of 2017 can keep the peace, justice, and peace General Election?
2. What is the excess of Act Number 7 of 2017 that become the crucial points of this act?

B. WRITING METHOD

This writing method using normative juridical approach to legislation. In connection with the problems in this paper that the assessment done by analyzing the basis for the establishment of The Act Number 7 of 2017 as well as the crucial points in accordance with the experience of having experienced by the author as the designer assigned laws Skills Board meeting of Parliament in any discussion of the bill on this General Election. Problems and analysis in this paper is presented in descriptive analytical which provides a clearer picture of the basis for the establishment of The Act Number 7 of 2017 as well as the crucial points.

C. DISCUSSION

1. Basic Concepts Framework

a. Conception of the Establishment Act

Amendment to Article 5, paragraph (1) and Article 20 of the Constitution NRI 1945 (UUD 1945) brought important changes in the state system of Indonesia, particularly in terms of the power to make laws. Milestones of this change is characterized by changes in the power to make laws from the President to the House of Representatives (DPR). In a broader framework, these changes is the excess of the constitutional reform³which occurred in 4 (four) stages by arranging the substance of the Constitution diverse. In the context of the role and functions of Parliament, the changes implications improve the role and responsibilities of Parliament in the field of legislation making, both qualitatively and quantitatively.

In view of CF Strong, the legislature is a governmental authority in charge of law-making, as far as the law requires a power law (statutory force).⁴ Furthermore, Hans Kelsen

added, the legislative function is understood not as the establishment of all the general norm, but only the establishment of a common norm conducted by a special organ, called the legislature.⁵ General norms created legislature called "laws" (statutes) as distinguished from general norms created by an organ other than legislative.⁶ The result of the constitutional changes is authorized the Board of Representatives of the Republic of Indonesia as the holder of power of the legislators, have a political function very strategic as the determining agency policy direction of the state administration of the Republic of Indonesia. UUD 1945 constitutional changes made by the Assembly from 1999 to 2002 provides broad implications on the rearrangement of the executive and legislative o relationship and a shift of legislation making power.

In the era before the reform, the establishment of legislation carried out under the direction of the Outlines of State Policy Guidelines (Guidelines). After the reform, the draft laws

³ In 1945 before the change, the common explanation of the State Government System Key Thought II, known as the term "constitutional system" that the government, based on the constitution (basic law), not absolutism (unlimited power).

⁴ CF Strong, *Modern Political Constitution of An Introduction to the Comparative Study of Reviews their History and Existing Form*, (London: Sidwick and Jackson Ltd., 1975), p. 8.

⁵ *Ibid.*

⁶ *Ibid.*, p. 257.

stipulated in the National Legislation Program (Prolegnas). National Legislation Program was formulated in Act No. 12 in 2011. In Act No. 12 of 2011 which consists of 13 chapters and 104 chapters, there are also two (2) appendix that makes this law as a 'holy book' in the formation of legislation.

b. Concept of General Election

Elections are a constitutional order as provided in Article 22E paragraph (2) UUD 1945 which states that "*elections are held to elect members of the House of Representatives, Regional Representatives Council, the President and Vice President, and the Regional Representatives Council*". Elections are one of the main pillars of democracy. An important role of general election is to distinguishing whether a state is using a democratic system or not. One of the early modern conception of democracy proposed by Joseph Schumpeter (sect Schumpeterian) which puts the organization of free elections and periodically as the main criterion for a political system to be called

democratic.⁷ Arend Lijphart states that efforts to establish a democratic state is not easy work. Lijphart states that, "It is not a system of government that fully embodies all democratic ideals, but one that approximates them to a reasonable degree."⁸ For Lijphart whole idea of democratization are imaginative utopian concept (delusion) if applied rigidly, but the will to shape a democratic state that would be realized if placed to the lowest level possible (a reasonable degree). So that proper democratic government is not entirely government run by the people most. The good exchange of power will achieve a good guarantee national stability and prosperity, so we surely needed a good general election for securing the good within it.

General elections are generally used to fill positions in the legislature, the executive, even also for the judiciary, both at central and local levels. Turpin and Tomkins also explained the Election: In a general election is the election of members of Parliament to represent constituencies. In modern times,

⁷ See Joseph Schumpeter, Capitalism, Socialism, and Democracy (New York: Harper, 1947) p. 122. For a similar argument in a more contemporary scientific treasures, see Samuel P. Huntington, The Third Wave: Democratization in the Late Twentieth Century (Norman: Oklahoma University Press, 1991), p. 636.

⁸ Arend Lijphart, *Democracy in Plural Societies, A Comparative Exploration*, (New Haven and London, USA: Yale University Press, 1977), p. 4.

however, elections have become less about individual electing members of Parliament and more about electing a government.⁹

2. Analysis

a. General Election 2014 Violation

Even though the general election was already carried out to maximum efforts, yet it is difficult to release it from the high number violation that occurs in the general election. As in implementation of the general election 2014 ago, based on the data to exist in order to types of violations, for example administration violation non phase of general election there is 2 found guilty of a violation, 4 for violation covered by received report, and then 6 of it had been referred to the electoral commission (KPU), and 6 of it was acted upon by KPU¹⁰. For another example of administration violation in the phase of general election there is 3384 found guilty of a violation, 338 for violation covered by received report, and then 3722 of it had been referred to the electoral commission (KPU), 3242 of it was acted upon by KPU, and 480 not being acted upon by KPU¹¹.

The amount of violation above showed that is inevitability and therefore we need to find a solution for next general election.

Improvement for the general election is so important to overcome because as we know together that the implementation of general election is a direct order of our constitution that is UUD 1945. We can see it in the article 22E paragraph (1) UUD 1945 that explicitly state that "*General elections shall be conducted in a direct, general, free, secret, honest, and fair manner once every five years*", and this was an ideal that we can achieve with for the general election. Therefore what is the simple indicator to create an ideal general election? Securing free, fair, and peaceful general election is the key indicator for it. The best solution for it as because our country using civil law principles that focus on writing regulations, so we can make a new act for the next general election.

b. The Act Number 7 of 2017 as a Solution to Safeguard The Freedom, Justice, and Peace Election

Stability and peace is the great

⁹ Colin Turpin and Adam Tomkins, *the British Government and the Constitution*, Sixth Edition, (Cambridge: Cambridge University Press, 2007), p. 507.

¹⁰ Harun Husein, the Indonesian general election, facts, figures, analysis, and educational studies, (club to general election and democracy: Jakarta, 2014)

¹¹ Ibid.

dream of every State and Elections can give birth to leaders who guarantee it. Elections were deemed to be far from perfect and have a lot of shortcomings. Therefore, it is important to make laws the new election so that can be freedom, justice, and peace in the election. Act Number 7 of 2017 is the solution which is also the codification of laws relating to electoral. This is based on the Constitutional Court Decision Number 14/PUU-X/2013. In essence, the Court Decision Number 14/PUU-X/2013 filed by Effendi Gazali, Ph.D., MPSID, M.Si and read out on Thursday, January 23, 2014 has canceled Article 3 (5), Article 12 paragraph (1) and (2), Article 14 paragraph (2), and Article 112 of Law Number 42 Year 2008 regarding the General Election of President and Vice President.

The emergence of the Constitutional Court order Number 14/PUU-X/2013 is a momentum for legislators to codify various laws relating to electoral into 1 (one) the text of the legislation. This codification was based on the thinking that currently law related to electoral arrangements are still scattered in a number of laws.

Starting from the Act Number 15 of 2011 on General Election Organizer (Act Number 15 of 2011), the Act Number 8 of 2012 on the General Election of Members of the House of Representatives, Regional Representatives Council, and Regional House of Representatives (Act Number 8 of 2012), and finally Act Number 42 of 2008 regarding the General Election of President and Vice President (Act Number 42 of 2008)¹². These three laws were born in different years and definitely has much differences because the law is always evolving, as an example, The Act Number 42 of 2008 are certainly up with the latest legislation among the three namely Act Number 8 of 2012, so that when the Constitutional Court ordered to unify the two kinds of these elections, for General Election of Members of the House of Representatives, Regional Representatives Council, and Regional House of Representatives (Pileg) and then for General Election of President and Vice President (Pilpres), so it is essential to synchronize the settings of general election act.

The command to do that

¹² See Academic Paper General Election bill submitted by the President through Presidential Letter No. R-66 / Pres / 10/2016 dated October 22, 2016 concerning the Submission of Draft Bill on Penyelenggaan NA elections.

codification is also implicit in the consideration of the Court in Constitutional Court Decision Number 14/PUU-X/2013 that is exactly in consideration of court numbers [3.20] b The Constitutional Court Number 14/PUU-X/ 2013, which states that: "In addition, with Article 3 (5) of Law 42/2008 and other provisions relating to procedures and Presidential Election requirements would require new rules as a legal basis to implement the Presidential Election and General Election of Representative Institutions simultaneously. Pursuant to Article 22E paragraph (6) 1945, further provisions on general elections should be governed by the Act. If the new rules were enforced to be made and completed to organize the presidential and Legislative Organization member election simultaneously in 2014, then by logical reasoning.¹³

c. Crucial Points Points Act Number

7 of 2017 on General Election

Presidential Letter Number R-66/Pres/10/2016 dated October 22, 2016 concerning the Submission of

Draft Bill on General Election implementation sent to the Chairman of the House of Representatives¹⁴. This is the entry point the start command to discuss the bill on the Implementation of the election. House of Representatives later in order to establish laws governing the general election formed a Special Committee on the Implementation of Election Bill (The committee).¹⁵

After examining 543 (five hundred and forty-three) chapters in Bill on Election Penyelenggaan sent to the House of Representatives, then each faction in the Parliament to make a list of inventory problems (DIM) for each of those chapters. And as stipulated by law conception of the formation of this set in article 68 paragraph (1) letter b Act Number 12 of 2011. Then, out of the total 3055 DIM collected from each of the fractions, then The committee agreed that using cluster or grouping system based on the issues that are considered crucial in the bill,¹⁶ The crucial points that are considered important to discuss the election in

¹³ See Court Consideration numbers [3.20] b The Constitutional Court No. 14 / PUU-X / 2013 85-86 thing.

¹⁴ See Letter of President of the Republic of Indonesia No. R-66 / Pres / 10/2016 dated October 22, 2016 for submission of the Draft Bill on Election Penyelenggaan which has been sent to the Speaker of the House.

¹⁵ See MD3 Act whereby The committee provided for in Article 156 of Law DPR fittings MD3 is temporary.

¹⁶ Implementation of Resolution committee bill Elections on 24 November 2017.

accordance with the concept itself is as follows: 1. The principle of the election; 2. Member Election System and regional parliaments; 3. The number of Members of Parliament Seats, Seat Allocation and Selection of the Regions and regional parliaments; 4. Requirements Becoming Party Political Party Election; 5. Summary of Sound; 6. Threshold Parliament; 7. Method of Converting Sound to Chair; 8. Election of the President and Vice President; 9. Election; 10. Integrated Law Enforcement Centers; 11. Disputes and Dispute Election Process Election State Administration; 12. Campaign and Political Money; 13. Dispute Management of Political Parties; 14. Dispute Election Results; 15. Implementation of Election Day; 16. Stages of the election; 17. Representation of Women; and 18. Other.¹⁷

Of 18 (eighteen) points are indeed crucial main points covered are revolving around five (5) crucial points that ultimately resolved as it is known in the House of Representatives plenary session by a majority vote feed mechanism (voting). However, outside

of the things the author of a political nature will try to discuss further matters Writer consider important and was an improvement on the previous election law for the sake of the next general election.

1) Merger of Pileg and Pilpres

When the Constitutional Court Decision Number 14/PUU-X/2013 states that the two types of General Elections that the Pilpres and Pileg combined, it is so new. The Court in the decision of the Court stated there are 3 (three) principal main reason that in order to strengthen the presidential system, the interpretation of the norms of Section 22E of the original intent of paragraph (2) UUD 1945, and the efficiency of budget election.¹⁸ Hence also in order to discuss this bill anyway then the House of Representatives Special Committee study visits to Germany and Mexico to get an idea of the simultaneous election anyway.

By adhering to the principle of why the election should be held simultaneously and always aligned with Elections concept itself. As

¹⁷ See related materials Crucial issues per 16-17 February 2017 based on the results of the committee meeting at the Intercontinental Hotel, Jakarta to discuss crucial issues cluster and Implementation Bill DIM elections.

¹⁸ View Constitutional Court Decision No. 14 / PUU-X / 2013 page 78-84.

previously described in the conceptual framework that Elections are one of the main pillars of democracy, then merging both types of elections is also done with caution. Associated with the campaign is the thing that is often a question of many parties when combining both types of these elections. However, because this election is simultaneously the two types of election campaigns is also simultaneously combined. It is being in tune with the formation of the future coalition of political parties that need to be implemented from the outset. Similarly, when voting on the D-day implementation of the Election itself. then the ballot paper there will be five (5) ketas punched sound directly on the same day.

Challenges in the framework of the merger of the two types of these elections is of the electoral law enforcement, though the discussion of the bill Implementation of this election is not the main focus of this case are discussed, but other ways to do in order to improve the quality of the election results anyway. The way is by doing a good renewal of

the election management with institutional strengthening and reinforcement of authority. This includes also the strengthening ascribed to DKPP it anyway. Indeed merger attempt two (2) types of Elections in a short time this is something that is not easy, however, the mandate of the decision of the Court must be implemented. The remaining time is awaiting the results of the Constitutional Court ruling because there are many things that are tested to the Court's related to the election law. However, this is a necessity, this is better because with the urge for the completion of this election law will sooner legal consequences lawsuit in the Constitutional Court. It is also expected with this acceleration anyway, whatever the outcome later this Constitutional Court ruling can be quickly and does not interfere with the stages of Election 2019.¹⁹

2) Updates for Election

General Election Commission (KPU) and the Election Supervisory Body (Bawaslu) in the election law has recently undergone institutional

¹⁹ See the article by Achmadudin Rajab, Urgency hastening Book Discussion draft Electoral Law, rechtsvinding Journal, which was published in

renewal. These reforms necessary for future challenges so great. Like for example in terms of the requirements for changing the age requirement which is up 5 (five) years, both the Commission,²⁰ Provincial KPU, Regency/City as well as Bawaslu, Provincial Election Supervisory Body, and Bawaslu Regency/City. The rise in the minimum age is also required because of the maturity in attitude and and horns are needed to face the challenges of the next general election.

The other thing as well as requirement to resign from the management of civil society organizations (CBOs) that are legal entities and not a legal entity if it has been elected to the KPU, provincial KPU, and Regency/City, as evidenced by a statement, as well as Bawaslu,²¹ This is because that the election organizers is expected to be more focused and independent because after the task to find the next leader is a mammoth task and only elected with this tough criteria that can presumably carry out the mandate it.

Terms Restructuring is also in tune with the requirement to work full-time and to some extent overlaps with the requirement of resignation of a political party at least five (5) years. Why is that? because after all it is undeniable that certain organizations which, although put forward the concept of peoplehood even have the potential to bersar the closeness to a particular political party. So expect this condition becomes a real breakthrough neutrality an election organizers, and it petrified anyway DKPP tasks in maintaining the dignity of election management bodies.

Other restrukturisai Membership Renewal KPU and Bawaslu. Wherein if the KPU and Bawaslu Center is still the 7 (seven) and five (5) members, but for the Provincial KPU and Bawaslu be numbered five (5) or seven (7) people. As for the Regency/City KPU and Bawaslu Regency/City consists of 3 (three) or 5 (five). Determination of the number of members of the Provincial Election Commission and Bawalsu provincial

²⁰ http://rechtsvinding.bphn.go.id/view/view_online.php?id=217, Accessed 24 November 2017.

See for example in Article 21 paragraph (1) letter b Law No. 7 Year 2017.

²¹ See for example in Article 21 paragraph (1) letter k Law 7 Year 2017.

and regency/city KPU and Bawaslu Regency/City is based on the criteria of population, area, and the amount of the government administration. It is, in terms of increasing the number of members, as well as institutional strengthening at the district level for the Election Supervisory Body/Supervisory Committee in the first regency/city became Bawaslu Regency/City. Even for Bawaslu also in Article 351 paragraph (8) of Act Number 7 of 2017 is also given a new mandate to train electoral political party witnesses financed by the state budget. Such things are a way in order to prepare for the general election held simultaneously which began in 2019 later.

Especially for Bawaslu also in Act Number 7 of 2017 is also stipulated that no new authority granted by the legislators. The authority is the authority in the framework of the electoral law enforcement Bawaslu decision and also kewenagan Bawaslu to take legal action if there is regulation organizers (in this case the Commission) that are considered contrary to the laws commanded.

Other things also which is a renewal in Act Number 7 of 2017 is

the organizer of the elections in Aceh. In this election law as stipulated in Article 557, 562, and 571 letter d of Act Number 7 of 2017 was a breakthrough. This breakthrough is in order to settle 'tangle' that have so far where one implication for example there are 2 (two) inspectors in there (Panwaslih) that formed by Aceh provincial parliament (DPR Aceh) and there is also Bawaslu Aceh province that being created by Bawaslu RI.

3) Strengthening the Role of DKPP

Strengthening the Honor Council Election (DKPP) in Act Number 7 of 2017 is indeed different from what is in the KPU and Bawaslu. If for example Bawaslu reinforced with the authority to issue its verdict Bawaslu or by permanent status of election supervisory in the level of regency/city from the previous Supervisory Committee of Regency/City becomes Bawaslu Regency/City, then DKPP not so ways to strengthen it. In contrast, for example with Bawaslu, DKPP since the beginning is an institution which perform the function of a mixture

(mix-function)²² the regulatory function, administrative and punitive function. DKPP as a new institution of this kind is in accordance with what was said by Prof. Dr. Asshiddiqie in his book Development and Consolidation of the State Institute of Post-Reformation. DKPP carry out administrative functions, as well as the nature of regulatory rulemaking overall binding code of conduct that election organizers and their staffs. DKPP will also have the function of punishment for DKPP could impose sanctions on the organizers of the election in violation of the Election Code.²³

As proposed by the author in the previous paper, that there needs to be encouragement for DKPP for the future. This is necessary in addition in order to deal simultaneously in the 2019 general election, but also in order to address the Constitutional Court ruling Number 31/PUU-X/2013. As a result of the discussion of the Bill on the Implementation of this election has

been discussed several things related to the enforcement of conduct which strengthens the role of the next DKPP which is as follows:

a) Institutional strengthening

Election 2019 Election future is special, because this is the first time the event Pileg and Pilpres rolled into one. For that also the reform momentum in the election organizers through the Constitutional Court Decision Number 14/PUU-X/2013 is so important. Taking into account the number of inputs through hearing (RDP) from a number of stakeholders were given the DKPP institutional strengthening. The institutional strengthening of the first is to strengthen the legal protection inspection team area. Initially, if based on Act Number 15 of 2011, the true is not expressed in the laws that exist in the area the inspection team formed by DKPP to assist the implementation of the tasks DKPP. This is because the

²² Asshiddiqie, Development and Post-Reform Konsolidasi State Institutions, Jakarta: Secretariat General and Registrar of the Constitutional Court, the 2006 case 339

²³ Achmadudin Rajab, the Power of Judicial Ethics Decision DKPP As in Restorative Justice Framework Post Constitutional Court Decision No. 115 / PHPU.D-XI / 2013 and the Constitutional Court Decision No. 31 / PUU-XI / 2013, Journal of Ethics and Election DKPP, volume 1 No. 2, August 2015, p. 89.

original idea when forming Act Number 15 of 2011 is a national DKPP so in the center only. However because the range is so vast that DKPP overall good election organizers following the KPU and Bawaslu entire staff, then DKPP through DKPP Regulation Number 2 of 2013 on the Inspection Violation of Code of Conduct in the Regional General Election Organizer (DKPP Regulation Number 2 of 2013). Given the important role of DKPP order to maintain the dignity and honor of the election organizers then legislators strengthen DKPP to provide a clear legal basis in Article 164 as well as in Article 459 of Act Number 7 of 2017. Given the important role of DKPP order to maintain the dignity and honor of the election organizers then legislators strengthen DKPP to provide a clear legal basis in Article 164 as well as in Article

459 of Act Number 7 of 2017.

Other institutional strengthening of the supporting system (support system), if based on Act Number 15 of 2011, as was rung in Article 115 states that "In exercising their duties, DKPP assisted by a secretariat attached to the Secretariat General Election Supervisory Body". This is then run for it in DKPP where the support system and the Election Supervisory Body DKPP be one and DKPP also currently one building with Bawaslu. Legislators after collecting a number of input and consideration of the independence DKPP because after DKPP and Bawaslu is two institutions, it is essential to a separation. As a result it is embodied in Article 163 of Act Number 7 of 2017.

b) Strengthening Duties

The role of maintaining the attitude and actions of the organizers is a terrifying task. This role is a true joint role because together that DKPP becoming stronger. Legislators see DKPP performance had been running so well and this would need to be increased, thus

requiring the support of various parties there. Hence also, because DKPP including an integral function of election as mandated by the Constitutional Court ruling Number 11/PUU-VIII/2010,²⁴ The KPU and Bawaslu needs be involved. Thus, it is in Act Number 7 of 2017 KPU and Bawaslu is also involved in verifying the ranks of the KPU and Bawaslu will be dismissed. Ethics enforcement duties so that this becomes a common task but still with DKPP as its leading sector.

c) Strengthening Of Side Products Institute

As mandated by the Constitutional Court decision Number 115/PHPUD-XI/2013 and Number 31/PUU-X/2013 decision expressly DKPP initially be final and binding according to the mandate of Article 112 paragraph (12) Act number 15 of 2011 and then developing values for redress (restorative justice) as

if he has lost his crown. This certainly affects DKPP itself, because Decision DKPP as an institution product no longer feared by the election organizers for legal certainty can be compared through Administrative Court Justice. This is not in accordance with the spirit of the lawmakers that the presence of the institutions that embody DKPP *formchecks and balances* between electoral management bodies.²⁵

Impact of the Decision that, in the Bill on the Implementation of the original election when sent through Presidential Letter No. R-66/Pres/10/2016 dated October 22, 2016 concerning the Submission of Draft Bill on Penyelenggaan NA and the elections, it can be seen that the product DKPP of the original in the Act number 15 of 2011 his name was ruling DKPP be "Decision DKPP".²⁶ It certainly has different implications for

²⁴ Refer to Constitutional Court Decision No. 11 / PUU-VIII / 2010, Testing Law No. 22 Year 2007 regarding the General Election Organizer of the Constitution of the Republic of Indonesia Year 1945, March 18, 2010, p 111.

²⁵ Achmadudin Rajab, "The Power of Decision DKPP As Judicial Ethics in Restorative Justice Framework Post Constitutional Court Decision No. 115 / PHPUD-XI / 2013 and the Constitutional Court Decision No. 31 / PUU-X / 2013", Journal of Ethics and Election DKPP, volume 1 No. 2, August 2015, p. 99.

²⁶ See Bill Implementation of General Elections on October 21, 2016 submitted along with the Presidential Letter No. R-66 / Pres / 10/2016 dated October 22, 2016 concerning the Submission of

different decision clear verdict. Legislators especially Parliament clearly see that it obscures the spirit and noble task DKPP itself. Hence also in addressing especially the Constitutional Court decision Number 31 / PUU-X / 2013, then remained DKPP products DKPP and nature sounds Decision adalah final and binding decision, as was rung in Article 458 paragraph (13) of Act Number 7 of 2017. So that the election organizers is compulsory to implement the decision of DKPP.

This is a form of open legal policy of the law, because what is considered bad by certain parties would have been true yet konsitutsi violations. The same thing when referring to the Opinion of the Court that in point [3.17] The Constitutional Court Number 51-52-59/ PUU-VI/2008, then in fact the norm that are open legal policies have felt bad if it is not an infringement by the constitution. Because despite what is judged it is bad and so then the Applicant can see that

what is said does not always mean bad violate the constitution, keduali if the norm is clearly in violation of morality, rationality and intolerable injustice.

Other things that also are is, when forming Act Number 7 of 2017 this addition, the lawmakers, especially the Parliament, represented by Bill Special Committee on the Implementation of Election've come to the Court on December 14, 2016 to consult on a number associated with the electoral verdict of the Constitutional Court, one of which is to ask the Constitutional Court ruling Number 31/PUU-X/2013. As for oral answer from the Court at a time when visited directly by the Special Committee on the Implementation of Election Bill is that is a real case of open legal policy (open legal policy of the legislators). Thus is steadily that the product of the proceedings DKPP in Act Number 7 of 2017 is still named Decision DKPP to the nature of the final and binding decision.

D. CONCLUSION

In order to realize stability and peace which is the great dream of every State will be established Act Number 7 of 2017 also is the Constitutional Court order Number 14/ PUU-X/2013. In essence, the Court Decision Number 14/PUU-X/2013 filed by Effendi Gazali, Ph.D., MPSID, M.Si and read out on Thursday, January 23, 2014 has canceled Article 3 (5), Article 12 paragraph (1) and (2), Article 14 paragraph (2), and Article 112 of Law Number 42 Year 2008 regarding the General Election of President and Vice President. With canceled a number of articles that the implementation of the General Election of President and Vice-President (Pilpres) as well as the General Election of DPR, DPD and DPRD (Pileg) were originally separate and then implementation.

Based on DIM of each fraction determine crucial points Implementation election bill in total amounted to 18 (eighteen) crucial issues. From a number of crucial points that some are considerably between points is the progress of the Act Number. 7 Year 2017's. In particular, these things that the incorporation of the Presidential Election

and Pileg itself, and the renewal of the election organizers, and not forget to also strengthening DKPP. Related to the first point that is on the incorporation of the presidential and Pileg, in truth it is the first time this has happened. Merger based on the decision of the Constitutional Court Number 14/PUU-X/2013 is based on three (3) things that in order to strengthen the presidential system, the interpretation of the norms of Section 22E of the original intent of paragraph (2) UUD 1945, and the efficiency of the election budget. Second, related to the renewal of the election organizers, there are many things to be addressed both in terms of peryaratan, institutional, and also authority. Finally, related to the strengthening DKPP, the legislators understand how great and noble task of DKPP in maintaining the dignity of the election organizers. Hence also in order to address Constitutional Court decision Number 31/PUU-X/2013 and in order to face the 2019 general election, the support system is strengthened. Inspection team also provided grounding regions clearly set out in legislation. And of paramount importance, the product is still called the ruling institution that has the power DKPP final and binding.

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COMBATING BLACK CAMPAIGN IN SOCIAL MEDIA FOR FREE, FAIR AND PEACEFUL GENERAL ELECTION

By: Fritz Edward Siregar

ABSTRACT

Social media shifts how people campaign during election. It makes campaign become easier, cheaper, and faster. Although campaign in social media did not always end up in a good way, since election participants and their sympathizers could possibly use social media to boost up black campaign. Black campaign could take shape as hate speech or disinformation. Badan Pengawas Pemilihan Umum (Bawaslu) as a product of electoral reform in Indonesia was built to forestall violations during the election. Therefore, it is Bawaslu's role to supervise the whole process of the election, including campaign in social media. Social media is not a private sphere, it already becomes a public sphere. As a public sphere, social media needs the presence of Bawaslu to maintain order especially to minimize hate speech and disinformation during the election time. Bawaslu's authority to conduct supervision in social media is regulated in Bawaslu Regulation Number 12 Year 2018 on Campaign Supervision. This regulation authorizes Bawaslu to supervise election participants' social media account that registered to General Election Commission and unregistered social media account during election time. In order to supervise social media, first of all Bawaslu made an election vulnerability index. Election vulnerability index would show Bawaslu which part of Indonesia needs more attention in terms of social media campaign. Bawaslu would also set a prevention strategy to reduce black campaign in social media, such as spread a positive campaign in social media. Finally, Bawaslu would take bold action if Bawaslu finds black campaign in social media during election time by taking down the post or the account.

Keywords: Bawaslu, social media, black campaign, supervision, hate speech

A. Introduction

There is a major change in Indonesia election these days. We could possibly see many fresh faces or new political parties during election, but it is not the only thing that changed in Indonesia election. There is a more fundamental change that happened in Indonesia election. Ten years before now, it is very possible election participants never think if there is a possibility for them to do campaign that could influence not just people in their own regional but all across

Indonesia. Ten years before now, election participants still use the conventional ways to campaign, for example they would use banners or stickers to campaign. Recent days, the conventional ways to campaign by using stickers, banners or t-shirts were actually never really abandoned by election participants' campaign. Although recent days they also get a new alternative to campaign. This new way to campaign is cheaper and faster compared to the conventional ways. This new alternative

called social media. Social media makes it easy for election participants to campaign, because with one post they could influence much wider audience or voters in a matter of seconds. This influence could not be found if election participants use the conventional ways.

Social media changes election in Indonesia and several other countries. For example, during US Election 2016, President Trump relied heavily on his Twitter account (which possessed almost 10 million followers) for campaign, even he admitted Twitter really helped him elected as US President.¹ Beside Trump, the next President of Brazil, Jair Bolsonaro also used social media heavily during his campaign. Although he did not rely on Twitter or Facebook, he relied heavily on WhatsApp.² He would send his campaign message in WhatsApp group. It is very effective, since people that join his WhatsApp group would spread the campaign message to their peer. In Indonesia, social media also shift the way people campaign, especially in urban area, for example during Presidential Election in 2014, both candidates used social media to reach millennials voters,

such as Instagram, Facebook, and Twitter. It also happened during Jakarta Gubernatorial Election in 2017.

Sometimes in politics, campaigning against other candidates is something ordinary. But the content of campaign sometimes rises a problem in the middle of society. For example, during Jakarta Gubernatorial Election in 2017, there is a phenomenon in social media since there were a massive used of hate speech and disinformation during campaign in social media. This kind of campaign contribute to social unrest in society. Beside social unrest, this situation could also influence voters' choice, although the voters' choice mainly decided by their subjective consideration. The used of disinformation or hate speech could be called as black campaign. The nature of social media made it easier and faster to spread black campaign in their platform.

What could Indonesia do to combat black campaign in election? In other country, maybe it would be hard because they do not have a body which specialized in supervise the election, but in Indonesia we have an election supervision body called Bawaslu. It would

¹ Nolan D. Maccaskill, "Trump credits social media for his election", <https://www.politico.com/story/2017/10/20/trump-social-media-election-244009>, accessed on December 6th 2018.

² Aljazeera, "Social media: The new battleground in Brazil's election", <https://www.aljazeera.com/programmes/listeningpost/2018/10/social-media-battleground-brazil-election-181006112106125.html>, accessed on December 6th 2018.

be Bawaslu's role to supervise campaign. Bawaslu would make sure all of the campaigns conduct according to law whether in social media or the other platform. Besides, in order to maintain free, fair, and peaceful election, Bawaslu as a body which supervise the whole process of the election should take bold action to reduce black campaign in social media.

There are two main questions that would be answered in this paper:

1. How does the regulation regulate black campaign?
2. How is Bawaslu's role as an election supervision body to combat black campaign in social media?

B. Electoral Reform in Indonesia

During the 1955 Election, there was no official state body that supervise the whole process of election, therefore it was not easy to spot any infringement conducted by the election participants. In the surface, the frictions that happened during the elections was merely because of ideological differences between political parties, thus in reality it was more than that. Consequently, the government realized there should be an official body to supervise the electoral procedure

whether it has accommodated all voters right and preserved the democratic electoral.

In 1982, the government was triggered by public distrust on election and finally decided to establish a supervisory body. The emergence of public distrust caused by government's intervention to election process on 1971 and 1977. Therefore, parliament introduced (a) The Supervisory Committee on Central Election (*Panitia Pengawas Pelaksanaan Pemilu Pusat*, **(Panwaslakpus)**), (b) Election Supervisory Committee Level I (*Panitia Pengawas Pelaksanaan Pemilu Tingkat I*, (Panwaslak I)), (c) Election Supervisory Committee Level II (*Panitia Pengawas Pemilu Tingkat II*, (Panwaslak II), and (d) Election Supervisory Committee on District Level (*Panitia Pengawas Pemilu Tingkat Kecamatan*, (Panwaslakcam) to supervise the whole process of election and answer and reassure the public distrust. It was regulated on Article 8 (4b) Law No. 2 of 1980³ that Panwaslakpus consisted of Attorney General who acted as chairman, government official, army, and political parties that existed on 1982 such as *Partai Golongan Karya*, *Partai Demokrasi Indonesia*, and *Partai*

³ Law No.2 of 1980 on Amendment of Law No.15 of 1969 on Election of Parlement Member in Lieu of Law No.4 of 1975.

*Persatuan Pembangunan.*⁴ According to Law No. 2 of 1980, Panwaslak is subordinate of Indonesia General Election Committee (also known as **KPU**), consequently it made Panwaslak could not wage their job independently.⁵

Reformation era brought an idea to have an independent election supervisory body. During the 1999 election for the first time, election supervisory body became an independent organization which consist of academicians, public figures, and Non-Government Organisations.⁶

This new membership of election supervisory body was a step forward compare to Panwaslak. During the 2004 election, election supervisory body was called Election Supervisory Committee (*Panitia Pengawas Pemilu*, **(PPP)**). Its members were chosen by KPU.⁷ PPP was a temporary body which established before the whole sequence of election process was started and it would be dismissed after the candidates were chosen and inaugurated.⁸

After 2004 election, many opinions arose that suggest Indonesia should have stronger election supervisory body, in

order to forestall violations during election. Those opinions moved parliament members to examine the possibility of establishing an election supervisory body permanently. At last, in 2005 parliament members prepared draft of general election which (one of them) consisted of the establishment of permanent election supervisory body.⁹ During discussion of the new election law, establishment of permanent election supervisory body kept going stronger since there was growing concerns that KPU would become a super body if there was not any independent and permanent body to supervise them.¹⁰ Effective election supervision would not materialize, if election supervisory body still acted under supervision of KPU. Eventually, after two years of long discussions, parliament members finally approved the new election law. Law No. 22 of 2007 made election supervisory body as an independent body that called Indonesia Elections Supervisory Board (*Badan Pengawas Pemilihan Umum* (**Bawaslu**)) which is equal to KPU. Bawaslu was authorized to supervise

⁴ GunawanSuswantoro, *MengawalPenegakDemokarsi; Di Balik Tata Kelola Bawaslu dan DKPP*, (Jakarta: Publisher Erlangga, 2016), p. 19.

⁵ Indonesia, Law No. 2 of 1980., Article 8 (4b).

⁶ Suswantoro, *MengawalPenegakDemokrasi*, p. 20.

⁷ *Ibid.*

⁸ General Election Commission, *PemiluuntukPemula*[s.l.: s.n., s.a.], p. 30.

⁹ Suswantoro, *Mengawal Penegak Demokrasi*, p. 20.

¹⁰ *Ibid.*, p. 21.

election supervisory body in provinces, districts, sub-districts, and aboard which were still a temporary body. Bawaslu's authority on Law No. 22 Year 2007 was set to supervise the whole process of election, started from confirmation of voters until approval of voting results. However, in practice Bawaslu was hitting a brick wall due to some limitation of its authority, moreover because their temporary status.

In 2009, parliament members did not satisfy with the quality of election. Therefore, parliament made a new law on election, Law Number 15 Year 2011. This new law granted election supervisory body in provinces became a permanent body.¹¹ Under the new law, Bawaslu's authority was progressing, since Bawaslu got the authority to supervise KPU started from election preparation such as approval of election schedule.

In order to reinforce of supervision on the upcoming general election in 2019 which will be consisted of election both president and parliamentary member, parliament member drafted a new election law. By virtue of Law No.7 of 2017, Bawaslu received wider authority to resolve election dispute and permanent

status from provisional monitoring to the regency.¹² This is breakthrough movement from the government, that Bawaslu is no longer able to monitor but also capable to enforce the law against violations of administrative or election-related crimes, more over to put down a sanction. This new task grants Bawaslu even more powerful than before and becomes a quasi-judicial body.¹³ This new task is a preparation for Bawaslu to become an election court, sometime in the future. Based on the report and field inspection, Bawaslu found 355 administrative violations during the period of 2017 to 2018. Therefore, this new election law gives a breath of fresh air to force the law and flexibility to conduct its duty but on the same time this new power becomes a new challenge that Bawaslu should immediately overcome.

Nowadays, Bawaslu has gained more expectation of its performance and integrity. Along with Bawaslu's new motto "*Bersama rakyat awasi Pemilu. Bersama Bawaslu tegakkan keadilan Pemilu*", Bawaslu hopes that not only its member will improve their work but also to encourage Indonesian people to be more

¹¹ Indonesia, Law No. 15 of 2011 on Implementation of General Election, Article 69 (2).

¹² Indonesia, Law No.7 of 2017, Article 93 b.

¹³ Bawaslu, "*UU Pemilu Memperkuat Kewenangan Bawaslu*", <https://bawaslu.go.id/id/berita/uu-pemilu-memperkuat-kewenangan-bawaslu>, accessed on May 29, 2018.

pro-active in supervising the electoral process.

C. Countering hate speech and negative content in social media during the elections process

Public sphere in digital world

Homo homini lupus from Thomas Hobbes, *Leviathan* (1665) is like a mantra. Almost everyone knows that anecdote. Hobbes represented human as a wolf, wolf have the tendency to prey each other, vice versa with human. In *Leviathan*, Hobbes tried to give solution to that state of nature. According to Hobbes every single person should give their rights to nation and nation would regulate those rights. It would result in peaceful society.

The development of technology changes many main aspects of people's life, one of them is public sphere. Usually, people related public sphere as a "physical sphere" that could be seen and feel with senses. The development of technology brings public sphere to a new place. It brings public sphere to digital world, to be specified it multiplies public

sphere into unlimited amount in digital world.¹⁴ Economic process takes its part in this fiasco by excluding all of the information that is not relevant in the eye of economy.

Technology makes people see information is not as a logical structure, but now people see it whether the information is right on the target or not. Without doubt it separates information from its context, it obscured the line between reality and fiction.¹⁵ It could be imagined how sometimes information that circulated in internet could be one-sided. The flow of information also becomes a major problem, since it would make people easily forget what about on topic and swiftly jump to the other topic.¹⁶ People are over flowed by information that is irrelevant to their concern.¹⁷ It made them joined on fabricated conversation, and when their voice was needed the most they do not raise their voice, since they are not get used to deep conversation.

This development of human as a homo digitalis, when human acted not only as a user of smartphone but also find their existence through digital world.¹⁸

¹⁴ Karlina Supeli, "Ruang Publik Dunia Maya" on *Ruang Publik: Melacak "Partisipasi Demokratis dari Polis sampai Cyberspace*, ed. F. Budi Hardiman (Yogyakarta: PT. Kanisius, 2010), p. 342.

¹⁵ Albert Borgmann, *Holding onto Reality. The Nature of Information at the Turn of Millennium* (Chicago: University of Chicago Press), p. 192.

¹⁶ Supeli, *Ruang Publik Dunia Maya*, p. 343.

¹⁷ *Ibid.*

¹⁸ F. Budi Hardiman, "*Homo Digitalis*", *Kompas* (1 Maret 2018), p. 6.

They maintain their existence in digital world by uploading, chatting, and posting.¹⁹ This new development makes people not only control the digital world, but also being control by the digital world. People take their parts to fabricate information in the new public sphere called digital world.

Indonesia is still standing straight and tall, but in the other side it is being consume by hoax and hate speech that developed in digital world. It leads to horizontal conflict in the society. Digital world is an area which has not been touched by the government. In digital world, people gain their freedom again, that once gone because it was given to the government (according to Hobbes' theory) to maintain order. It becomes a place when people become god and judge to other people, while ignoring their rationality and logic at the same time as long as their post is provocative enough to maintain their existence in digital world.²⁰ When everyone is acting god and judge, it could be predicted that there would be chaos and brutality. As a public sphere, digital world could not be left unmaintained by the government. The government needs to maintain order in digital world by regulate rules and

patrolling in digital world, moreover during the election time.

Indonesia already experience how bad it would cost the nation to lose control of digital world. Governor of Jakarta Election in 2017 is a solid example how people in digital world could rise chaos in digital world and bring it to "actual world", how they could swift someone's opinion to other through hoax and hate speech. Democracy that should be maintained during election time was badly compromised. For that reason, as an election supervisory body, Bawaslu should take a lead to maintain order in digital world during the election time.

Electoral Vulnerability Index of 2018 Head Regional Elections

As part to attain effectiveness and efficiency, Bawaslu has created electoral vulnerability index (*Indeks Kerawanan Pemilu (IKP)*) for the Regional Head Elections in 2018 and further for the 2019 General Elections. This program has been started back in 2014 and well preserved as to date. Through IKP, Bawaslu can mapping each region together with the type of electoral violations. Each year, Bawaslu will evaluate the condition and potential

¹⁹ Ibid.

²⁰ Ibid.

vulnerability and develop it according to the current electoral dynamic.

The purpose of IKP, in particular the 2018 IKP is expected as:

1. Mapping tools, potential measurement, prediction, and early detection to determine priority areas identified as vulnerable areas in the democratic election process.
2. A tool for identifying and identifying the characteristics, characteristics, and categories of vulnerability of the various regions that will hold elections.
3. Source of referral data, information, and knowledge as well as recommendations in making decisions. This is particularly the case for anticipatory measures that may hamper and disrupt the election process in various regions of Indonesia.

Bawaslu uses IKP to monitor and develop its strategies in order to optimize the prevention of election violations and disputes, taking into account the character and conditions in their respective regions. Bawaslu has conducted intensive communication and coordination with KPU and other election stakeholders, especially local governments, regional police, comrades, and religious figures and community leaders, in order to obtain data and information and streamline collaborative

work to prevent election violations, especially related to the anticipation of the use of issues of SARA (Tribe, Religion, Race, and Intergroup) which well spread through media social, Bureaucratic Politicization, Political Identity, and Money Politics.

As mentioned above, Bawaslu also has been very active to involve the participation of community groups in Local Election surveillance activities to detect and report alleged violations mainly related to voter lists, use of SARA issues in campaigns, money politics, bureaucratic politicization, and identity politics. This IKP is not only designed to support Bawaslu's duty, but also to assist other EMB to have better approach for every electoral issue.

Based on the data address in the 2018 IKP, Bawaslu encourages for the press to hold onto journalistic and broadcasting ethical codes in order to ensure that elections are fair, fair and democratic, including not spreading sensitive issues that trigger conflict in the community, on the agenda of elections, not spreading news or hoaxes that trigger public conflict, especially between candidate pairs. Bawaslu also hope that press can also fair information by presenting coverage and covering both sides in the context of providing productive information to the public. Of

course, some discussion have been made initiated by Bawaslu to address this issue and build a solid cooperation with the press.

The trend of using black campaign in social media to kill politic competitor

When referring to findings in the field, the level of social media use related to election issues, including related issues of identity politics is almost rampant in all regions of different degrees. A total of 38 districts (25%) fall into the category of high social media usage rates for regional head election issues at the district / city level. While most are in the medium category as much as 63 regions (41%). Areas with moderate and high categories are among potential vulnerable to tension in social media related to election issues. The rest, only 53 regions (34%) are categorized as low rate of social media usage related to election issues.

There are 38 regions that fall into the category of high vulnerability in social media, two regions with the highest vulnerability scores are Tabalong District, part of South Kalimantan Province, and Konawe Regency, part of Southeast Sulawesi province. In which are influenced by the high vulnerability of

indicators of material substance campaigns in various forms and prospective political media and kinship. The high score in these two areas is influenced by the rise of issue on tribalism and the native status within the region. In addition, the areas of these two districts are mining areas, so there is a risk of mobilizing workers from outside the two regions if the elected leaders are not the local people.

The 2014 Presidential Election and 2017 Jakarta Governor Election could be seen as other examples of growing number of black campaign in social media. According to Kompas, 81.3% respondents are worries with the possibility of black campaigns in social media during Jakarta Local Election, only 14.9% respondents who are not worries with the possibility.²¹ Bawaslu could not leave those worries unanswered.

Hate Speech – Between Human Rights and Violation

Restrictions on one's human rights are essentially permitted under international law, but must be tested first, so as to whether or not they can be implemented. The way that can be used

²¹ Topan Yuniarto, Be Wary of Rage in Virtual Life "Mewaspada Kegaduhan di Dunia Maya" *Kompas*, (16 April 2018), p. 5.

to test a person's rights restriction is by a three-part test, which is as follows.

1. restrictions must be exercised only by law;
2. restrictions are only permitted on the legitimate purposes mentioned in Article 19 paragraph (3) of the International Covenant on Civil and Political Rights; and
3. Such restrictions are absolutely necessary to guarantee and protect such legitimate purposes.²²

Vasu Mohan, in his explanation stated that it is important for everyone to give their opinion freely, because it has become a consensus in the international world and it must be protected.²³ Such freedom is no exception include in the conduct of elections. The same thing happens in other countries, so there are many good cases in the implementation. However, today's challenges in Indonesia and some other developing countries are very real for freedom of expression in the context of elections, especially with the media that cannot be restricted without strong ground. Vasu added that the new condition, at least in the last ten years, is

social media that can load hate speech content and false news over and over again. This is due to the absence of strict rules on what is happening in social media, and the absence of universally applicable rules regarding it.²⁴

Hate speech has a diverse definition in every regulation or opinion of scholars. The Council of Europe's committee of Ministers consider that hate speech is all forms of expression that spread, incite, promote, justify racial hatred, xenophobia, anti-Semitism, or all forms of hatred based on intolerance, including: intolerance expressed by nationalism and ethnocentrism aggressive, discriminatory and hostile towards minorities, migrants, and immigrant descendants. Hate speech includes comments that are always directed at a particular person or group.²⁵ While Anne Weber, in Manual on Hate Speech explains hate speech is as follows,

The incitement of racial hatred or, in other words, hatred directed against a person or group of people on the ground of race, an incitement to hatred on the basis of unity, Incitement to other forms of hatred based on intolerance and expressed

²²Supriyadi W. Eddyono dan Erasmus A.T. Napitupulu, *Policy Paper: Penghinaan dalam Rancangan KUHP 2013* (Jakarta: ICJR, 2014), hlm. 9

²³ Vasu Mohan, presented in the Negative Content Discussion in the Online Media at the Implementation of the Regional Head Election Campaign, organized by Bawaslu in Jakarta, 10 April 2018.

²⁴ Vasu Mohan, presented in the Negative Content Discussion in the Online Media at the Implementation of the Regional Head Election Campaign, organized by Bawaslu in Jakarta, 10 April 2018.

²⁵ Anne Weber, *Manual on Hate Speech* [s.l.: Council of Europe Publishing, s.a.], p. 3.

by aggressive nationalism and ethnocentrism.²⁶

Vasu Mohan in his presentation said that there is no definite nomenclature of hate speech in the Declaration of Human Rights. First, the term hate speech appears in the discrimination rule. In Article 20 paragraph (2) of the ICCPR states that "The implementation of the Article has been done in various countries, but often encounters two problems, ie. there is a failure in conducting the implementation of the Act on hate speech; and there are applications that are too broad, overzealous, and politicized. The ban on hate speech is also regulated in the International Convention on Elimination of All Forms Racial Discrimination (ICERD). Under the Convention, there are also arrangements on criminal sanctions for all hate speech on race, ethnicity and color.²⁷

In the Indonesian context, there are 3 laws that govern the hate speech. The third law are the Criminal Code (KUHP), Law No. 40 of 2008 on the Elimination of Racial and Ethnic Discrimination, and Law Number 19 of 2016 on Amendment of Law Number 11 of 2008 on Information and Transactions Electronic. The

Criminal Code is contained in Article 156 which states that,

"Anyone who publicly expresses feelings of hostility, hatred or contempt for any or some of the Indonesian people is punishable by a maximum imprisonment of four years or a fine of four thousand five hundred rupiah."

And Article 157 which states that,

"(1) Any person who broadcasts, performs or attaches a publication or writing, containing contents of feelings of hostility, hatred or humiliation between or against the factions of the Indonesian people with a maximum imprisonment of two years and six months or the maximum fine many four thousand five hundred rupiah.

(2) If the offender commits such crimes while conducting his or her search and is not yet within five years of his conviction being permanent because of such crimes, the person may be prohibited from conducting the search."

Article 4 letter b jo Article 16 Law no. 40 of 2008 on the Elimination of Racial and Ethnic Discrimination provides that,

"Anyone who deliberately shows hatred or hatred to people because of racial and ethnic differences in the form of:

- 1. make any posts or drawings to be placed, pasted, or disseminated in public places or other places that others can see or read;*
- 2. make a speech, express, or throw a certain words in a public place or other places that others may hear;*

²⁶Ibid.

²⁷Ibid.

3. put something on her in the form of objects, words, or pictures in place public or other place that can be read by others.

shall be imprisoned with a maximum imprisonment of 5 (five) years/or a maximum fine IDR 500.000.000,00 (five hundred million rupiah). "

While in Article 28 paragraph (2) jo Article 45 a paragraph (2) of Law no. 19 of 2016 on Amendment of Law no. 11 of 2008 on Information and Electronic Transactions stipulates that,

"Every person intentionally and without right to disseminate information aimed at generating a hatred or hostility of certain individuals and/or community groups based on ethnicity, religion, race and intergroup (SARA) shall be subject to a maximum imprisonment of 6 (six) years and / or a maximum fine of Rp1,000,000,000.00 (one billion rupiah)"

In view of a content there must be further criteria that can ensure a content in the online medium is included in hate speech. One of them is the criteria proposed by ECHR, which is as follows,

1. *Intention or purpose;*
2. *Content or substance;*
3. *Context;*
4. *Target profile;*
5. *Publicity and potential impacts; and*
6. *The nature and crunch of the limits applied.*

In addition, there are other criteria for determining content in the online medium included in the hate speech, which is based on the Rabat Plan of Action.²⁸ In the document describes some of the indicators used to assess hate propaganda prohibited by law, as follows.²⁹

Negative content in election or election perspectives often occurs in the campaign stage. In essence, the campaign is an activity to convince the voters by offering the vision, mission, program and self-image of the candidates. The use of online media as a strategy in the campaign is considered more effective than the conventional way in this millennial era. However, as previously discussed, the presence of negative content in the stages of election campaigns and elections is inevitable. Bawaslu as the agency authorized to deal with alleged violations occurring in the campaign including the use of campaigns in online media, need to have an indicator to determine whether a content belongs to negative content or not. In that case, many views that can be taken into account by Bawaslu to determine the negative content, among others, are as follows:

²⁸ United Nations, Rabat Plan of Action.

²⁹ Imparsial, *Penebaran Kebencian: Studi tentang Pengaturan di Indonesia dan Perbandingan di Negara Lain* (Imparsial: Jakarta, 2015), p. 26-29.

1. Determining who the actors are doing / creating the negative content in the campaign material?
2. Is there any intent or intention to remove the rights of others in the negative content it creates, in this case done during the campaign period in the online media?
3. Content that is indicated as negative content is it against the growing value of society? And is there any provocative tendency in the content?
4. The extent to which the negative content impacts.

After the above mentioned has been made into consideration by Bawaslu, Bawaslu can conclude whether a content belongs to a campaign violation or not. However, it is important to realize that the rules that can be used as a basis for cracking down on such matters are not sufficient to accommodate current challenges, and there is even an opinion that many 'rubber articles' are cracking down on negative content in the online media. Of course, this is a challenge for Bawaslu to take action.

Bawaslu Regulation No. 12 of 2017 regarding supervision of campaign only regulate supervision of candidates' social media which registered to KPU.³⁰ It

already becomes a public knowledge that candidates' social media which registered to KPU would not spread any black campaign. However, unregistered social media account who would spread all of the hoaxes and hate speeches. Through Bawaslu Regulation No. 12 of 2017, Bawaslu could not do anything to the growing number of unregistered social media account which spread black campaign all over digital world. Hence, Bawaslu issued a new regulation as a revise Bawaslu Regulation No. 12 of 2017 named Bawaslu Regulation No. 12 of 2018, which in the new regulation Bawaslu has the authority to supervise social media accounts beside social media accounts that have been registered by candidates.³¹

Bawaslu is taking preventive action against the violation of campaign, that is by conducting a positive content campaign. Thus, in addition to preventing the occurrence of violations, Bawaslu can focus more on positive content. Bawaslu will socialize the usage of positive content for the campaign, so the candidates will no longer have the space to use hate speech as their campaign tools.

The emergence of new authority encouraged Bawaslu to cooperate with

³⁰ Indonesia, Bawaslu Regulation No.12 of 2017 on *Supervision of Election Campaign Governor and Deputy Governor, Regent and Deputy Regent, and Mayor and Deputy Mayor*, Article 19 (1).

³¹ *Ibid.*, Article 19 (5).

several social media platforms, such as Facebook, Google, and Twitter to take action on social media account which spread black campaign. Beside cooperation with several social media platforms, Bawaslu also made a direct link to report hate speech, incitement, and hoax on social media that could be used by public. So far (from February-May 2018) Bawaslu already received 52 violations reports and now are under Bawaslu investigation.

D. Conclusion

Bawaslu as an election supervisory body would take a lead to maintain order in social media during the election time,

since in 2017, Bawaslu realized the election quality was compromised by hate speech and hoax that developed in digital world. Therefore, Bawaslu issued a new regulation that allows Bawaslu to supervise every social media account during election beside social media account that has been registered by candidates. Bawaslu also maintains close relationship with social media platform in order to coordinate with them to take down negative contents. Bawaslu also develops a preventive action to counter hoax and hate speech by spreading positive content on social media and campaigning against hoax and hate speech.

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FREEDOM OF SECURITY, JUSTICE AND SECURITY IN GENERAL ELECTIONS FOR STATE STABILITY

By: Maria Alfons

ABSTRACT

Elections have become the mainstream of modern countries. The election is based on the principle of equality, namely that every citizen has the same rights and position in the Government, therefore every citizen has the same power to govern. This people's power is the source of legitimacy and legality of state power. Freedom, Security, Justice and Peace in General Elections must be obtained by all Indonesians in essence. This certainly cannot be realized if there is no national stability. Elections do not only rely on the State or the military, but involve the strength and role of individual citizens including non-governmental or private organizations. In order to realize elections that are safe, fair and peaceful in the General Election, a full participation space and mechanism must be created, whereby citizens form a democratic mechanism and have the power to make decisions in accordance with the wishes of their own citizens, without any seduction or intimidation from the parties who have an interest, because the idea of democracy that is echoed is actually quite simple, namely to protect the rights of citizens in exercising the freedom to express opinions. National stability development needs to be developed with several approaches that can build the collective awareness of the Indonesian people to defend the State. Among other things, the State defense education is a basic need that cannot be bargained. The spirit of nationalism is a basic spirit or collective consciousness that can encourage a strength of security stability. For this reason, Freedom, Security, Justice and Peace in the General Elections must be guarded by the government and the government must develop the stability of the country in the implementation of the general elections well.

Keywords: Freedom, Security, Justice, Peace, General Election of State Stability.

A. INTRODUCTION

Elections have become the mainstream of modern countries. The election is based on the principle of equality, namely that every citizen has the same rights and position in the Government, therefore every citizen has the same power to govern. This people's power is the source of legitimacy and legality of state power.

In most democratic countries, elections are considered symbols, as well as a measure of democracy. Election

results held in an atmosphere of openness with freedom of opinion and freedom of association are considered to reflect accurately the participation and aspirations of the community. With the Election expected to produce representatives of the people who are able to understand the aspirations of the people, especially in the process of formulating public policy with a system of power rotation. Elections also provide opportunities for a number of political parties to bounce off the parliament in

each subsequent election. So that the power in forming the Law does not necessarily make political parties in parliament forget so that every political party cannot maintain its power.

Election participants are political parties. Political parties submit candidates in elections to be elected by the people. The political party itself, based on Law Number 2 of 2008 concerning Political Parties, is an organization that is national in nature and is formed by a group of Indonesian citizens voluntarily on the basis of the common desire and aspiration to fight for and defend the political interests of members, communities, nations and state, and maintain the integrity of the Unitary State of the Republic of Indonesia based on Pancasila and the 1945 Constitution of the Republic of Indonesia. The election is an arena of competition to fill political positions in the government based on formal elections of citizens who fulfill the requirements. The election is universally an instrument to realize the sovereignty of the people who intend to form a legitimate government and means to articulate the aspirations and interests of the people. The general election is one way to determine the representatives of the people who will sit in the legislative institutions, then naturally there are various electoral systems.

The State of Indonesia is a country based on popular sovereignty, in accordance with Article 1 paragraph 2 of the 1945 Constitution which explains: *Sovereignty is in the hands of the people and carried out according to the Constitution*. Sovereignty owned by the people, among others, were reflected in the implementation of general elections in certain times. General elections are one of the very basic human rights of citizens. Therefore, in the framework of implementing human rights, it is a necessity for the government to carry out general elections. In our constitution the 1945 Constitution regulates the existence of elections in chapter VIIB Article 22E which is about General Elections. In accordance with the principle that the people are sovereign, everything must be returned to the people to determine it. It is a violation of human rights if the government does not hold elections or slow down general elections without the consent of the people's representatives.

These people's representatives acted on behalf of the people, and the people's representatives determined the pattern and manner of governance, and what goals were to be achieved both in a relatively short time, and in a long period of time.

In its development, democracy as a government by the people was entirely

possible only in countries whose territory and number of citizens were very small, such as in the city state (*polis*) in the days of Ancient Greece. This gives rise to a representative democratic system that aims to keep the interests and will of citizens to be able to make decisions through the people who represent them. In the idea of representative democracy the highest power (sovereignty) remains in the hands of the people, but is carried out by representatives of the people who are elected by the people themselves. In order for these people's representatives to truly act on behalf of the people, the people's representatives must be determined by the people.

Constitutional representation democracy is a way to implement democracy. Dahl argued that representative democracy is a form of democracy on a large scale that requires certain political institutions as a guarantee of the implementation of democracy, namely:¹

1. elected officials
2. Free, fair and periodic general elections
3. Freedom of speech
4. Alternative sources of information

5. Associational autonomy
6. Right to inclusive citizenship.⁶

Representative democracy is a democracy that is made to be practiced for a long time and covers a wide area. According to Hans Kelsen as quoted by Janedjri M. Gaffar stated, "that in representative democracy, the function of government is transferred from citizens to state organs, to fill state organs through democratic nominations, namely general elections."²

As a key element implementation of democracy, of course Elections must be held democratically as well. Elections must reflect the principles and values of democracy, and can be a way for the implementation of democracy itself. The democratic nature of elections is needed to ensure that elections as a democratic mechanism can achieve the objectives to be achieved. Through the General Election, the people not only choose the person who will be his representative in organizing the country, but also choose the program that is desired as state policy in the next government.

The purpose of the election is the election of the people's representatives

¹ Robert A. Dahl, *Perihal Demokrasi: Menjelajah Teori dan Praktek Demokrasi Secara Singkat*, Judul Asli: *On Democracy*, Penerjemah: A. Rahman Zainuddin, Yayasan Obor Indonesia, Jakarta, 1999, p. 18-19.

² Janedjri M. Gaffar, *Demokrasi dan Pemilu di Indonesia*, Konpress, Jakarta, 2013, p. 3.

and the implementation of a government that is truly in accordance with the people's choice. Elections that are not able to achieve that goal will only be formality as giving legitimacy to the holders of state power, such elections are elections that lose the spirit of democracy.

In accordance with the principle of popular sovereignty adopted in the 1945 Constitution of the Republic of Indonesia, elections for the Indonesian people have a very important meaning in the administration of the state. An election is said to be successful not only seen from the implementation of all stages until the filling of the elected positions, namely members of the DPR, DPD, DPRD, President and Vice President, as well as Regional Heads and Deputy Regional Heads. It cannot be said as a successful election, if they are elected through ways that are full of violations and fraud which are contrary to the principles of Luber and Jurdil.³

The principles of direct, general, free and confidential are related to the way voters convey their voices, which must be directly and without representation generally applicable to all citizens, carried out freely without coercion, and in secret. Honest principles mean that elections

must be carried out in accordance with the rules to ensure that every citizen who has the right can vote according to his will, and every voter vote has the same value to determine the people's representatives who will be elected. In accordance with the principle of honesty, there can be no manipulated voter votes. Whereas the principle of fairness is the same treatment of participants in the General Elections and voters, without any privileges or discrimination against participants in certain Elections or voters.

The principle of honesty and fairness is binding not only on voters or election participants, but also on election organizers. Honest and fair principles are not only manifested in the procedural mechanism for the implementation of elections, but also must be realized in all the implementation actions, participants, voters, and even government officials. Thus, the principle of honesty and fairness is the spirit of the overall implementation of the General Election. Asshiddiqie said "the principle of overflowing concerns the nature of the objective that must exist in the implementation process or mechanism Elections, especially when a person exercising the right to vote, while the

³ Topo Santoso dan Didik Supriyanto, *Mengawasi Pemilu, Mengawal Demokrasi*, Murai Kencana, Jakarta, 2004, hal. 155.

principle of Jurdil primarily related to the attitude of subjective organizer and executor election must act honestly and fairly."⁴

To ensure that all citizens who have the right to vote can use their rights certain procedures are needed. Procedures are also needed to avoid the possibility of election fraud that contradicts the principles of Luber and Jurdil, such as the possibility of a voter using his voting rights more than once. In addition, procedures are also needed as a unified planning for the implementation of elections related to Election logistics in determining the distribution of polling stations, as well as logistics distribution. However, the establishment of procedures must not prevent substantial things, namely fulfilling the right of voters to vote.

One of the procedural problems that surfaced both in the Legislative Election and in the Presidential Election was the issue of DPT which drew a lot of criticism from various parties. The criticism came due to weaknesses in the DPT composition, namely the existence of citizens who were registered more than once in the DPT, on the other hand many

citizens had voting rights but were not registered in the DPT.

This condition has the potential to result in the violation of the right to vote of citizens which is a constitutional right guaranteed by the 1945 Constitution. This is certainly contrary to the substance of democracy as a system of administering people's governance through an election mechanism.

On the other hand, the aim of the development process itself is actually the operationalization of the goals of the State, namely to protect the entire Indonesian nation and the whole of Indonesia's bloodshed and to advance the general welfare, educate the life of the nation and participate in preserving world order based on independence, lasting peace and social justice. This shows that the development process in Indonesia, in addition to being interpreted as a process, is also a system related to aspects of community life, nation and state.

National stability is an important problem in building the sustainability of a nation. Although the world today is not in the cold war, efforts to help Freedom of Security, Justice and Peace in the General Election remain a necessity. Because actually the threat to all of them

⁴ Jimly Asshiddiqie, *Konsolidasi Naskah UUD 1945 Setelah Perubahan Keempat*, Pusat Studi HTN FH UI, Jakarta, 2002.

is latent and can appear suddenly when the general election takes place. Because of the efforts to build national stability as an effort to help nationalism awareness so that a collective awareness of all elements of the nation and the State of Indonesia is formed to maintain the integrity of the nation and the State of Indonesia through free, safe, fair and peaceful elections.

Along with this, the efforts to understand Freedom Of Security, Justice and Peace in the General Elections need to be continuously evaluated and renewed, so as to achieve the ideal formula of the national security system that is able to protect the entire Indonesian nation and the entire Indonesian bloodshed.

Among these major problems, as a large archipelagic country, Indonesia is faced with a fairly complex defense area, both in terms of geopolitical, economic, border areas and the strength of the national defense personnel themselves. On the other hand, the threat to the resilience of the Indonesian state often surfaces, with different intensity and quality. This threat to national stability is not only due to changes in the map of the world after the cold war (US-US) but because of the existence of an electoral system that is not free, unsafe, unfair and not peaceful in the General Election.

From the above author's description, the problems can be formulated are: (1) How is freedom of security, justice and peace in the General Election? And (2) How to build the stability of the country in the implementation of elections?

B. DISCUSSION

1. Freedom of Security, Justice and Peace in General Elections

A government is called a democratic government if the government places the highest authority in the hands of the people, the authority of the government must be limited, and individual rights must be protected. However, in practice there are still many weaknesses and inconsistencies with the principles in countries that claim to be democratic. The application of democratic principles in each country is conditional, meaning that it must be adjusted to the situation of the country and the conditions of the people concerned.

For modern democracies, the General Election (Election) is the main mechanism that must exist in the stages of state administration and the formation of government. Linking elections with democracy can actually be seen in simple relationships and formulations, some say that elections

are one of the most tangible forms and ways to implement democracy, if democracy is defined as government from, by and for the people, then the way of the people to determine governance it is done through elections.

Election is the main means to realize democracy in a country. The Election Substance is the delivery of people's voices to form representative institutions and governments as state administrators. The people's voice is manifested in the form of voting rights, namely the right to choose representatives from various candidates. As a right, the right to vote must be fulfilled and in accordance with the constitutional mandate.

In the history of the Indonesian state administration, elections have been held several times with different characters. The first election in the Old Order Era, which was implemented in 1955, the democracy of the Indonesian State was more directed to liberal democracy. In 1955 there were 2 periods, the first election on September 29, 1955, where the Indonesian people elected members of the DPR. Then the Second period on December 15, 1955 elected Constituent Assembly members from

30 Political Parties as election

participants and constituent candidates who were chosen by more than one hundred lists of assemblies and individual candidates, but after the election Indonesia's political conditions were filled with various conflicts. So that the next election schedule should be carried out in 1960, but it cannot be held. So that President Soekarno issued a presidential decree on July 5, 1959, the contents of which dissolved the DPR and the Constituent Assembly from the results of the 1955 Election and formed the DPR GR, MPRS which all members were appointed by the President. During the reign of the old order. Although the Election in 1955 was seen as a democratic election at the time, it was not without problems. The 1955 elections gave rise to political stability, which actually led to the birth of authoritarianism in the era of guided democracy. In contrast to the New Order elections, there is undeniably a structured, systematic and massive fraud, so there are those who say that the General Elections during the New Order era were only to

be a tool to strengthen the legitimacy of the existing power.⁵

Through hegemonic political power in an authoritarian political configuration, the New Order Government has created unfair elections from the start, due to rations or ruling rights for a large number of DPR and DPRD members. Where in the arrangement of the composition of the membership of the undemocratic representative institution. In the New Order era, which was only attended by three Political Parties, namely: PPP, Golkar and PDI, the participation rate of citizens was almost 100 percent, because the doctrine of rulers to citizens that choosing was an obligation. Those who do not vote are considered to have been against the state (subversion) and criminalized. Most of the votes were escorted to Golkar as the sole ruler at that time. Two other political parties are only "complementary sufferers". In the implementation of the election there were many violations and fraud that could be said, never been resolved legally. According to Topo Santoso and Didik Supriyanto from 1995 to

1999 there were 5 (five) election criminal cases that were tried, but only 3 (three) perpetrators were sentenced, the position of election supervisors and law enforcers was only to decorate the five-yearly democratic party. Election results that have been planned and then announced by the Government must all be accepted as true results, despite many cases and many victims of various violations.⁶

Then in the reform era, there were strong clumps of aspirations and lawsuit so that the election as the most tangible means for the implementation of democracy must be carried out in a truly direct, public, free, confidential, honest and fair manner. So that in the 1999 elections there were relatively *fair* and clean elections, especially when compared to the elections in the New Order. But the problem or threat to the implementation of the improved General Election began to emerge again at the beginning of this era, namely the implementation of the 1999 Election, the problem arose from the election results by the Election participants because there were several political parties that still

⁵ Aurel Croissant, *Politik Pemilu di Asia Tenggara dan Asia Timur*, Freidrich-Ebert-Stiftung, Singapore, 2002, p. 102 & 104.

⁶ Topo Santoso dan Didik Supriyanto, *Mengawasi Pemilu, Mengawasi Demokrasi*, Murai Kencana, Jakarta, 2004, p. 156.

considered fraud. Although the holding of the General Election at that time came from representatives of political parties, the election results could not be validated because of differences of opinion. Finally the results of the 1999 Election were passed by the President.⁷

In addition, in the implementation of the General Election in the reform era, there are still various forms of violations, both during campaigns, money politics, verification, and determination. Violations in the form of money politics were specifically written by Herman Sulistyo and A. Kadar. This money politics is practiced in various forms, including:

- a. Abuse of power and authority in the form of the use of state finances for the purpose of political parties' direct or indirect gain.
- b. Disbursing funds unlawfully within the framework of "political persuasion" against people, groups or organizations, to achieve the victory of certain political parties.
- c. Provision of money and receipt of money that aims to illegally influence election processes, such

as the determination of candidates, voting and counting of votes, and determination of election results.⁸

Whereas the fraudulent practices occur are the low level of human resources, both the participants of the General Election itself, because they deliberately commit fraud that utilizes community ignorance, then the number of people's economy is very low, so it is very vulnerable to be influenced by luring money without seeing the person or program in the future for the nation and state. Cheating called money politics (*money politics*) is very influential on the results of the election, both the legislative elections, as well as the President and Vice President and the election of Regional Heads. Not to mention fraud committed by election organizers. The question arises as to what steps and steps should be taken so that the implementation of the elections called the Democratic Party can be carried out as well as possible so that the democratic rights of the people are guaranteed? That is by increasing public awareness is an important indicator to diminish the development

⁷ Janedjri M. Gaffar, *Op. Cit.*, p. 11.

⁸ Hermawan Sulistyo dan A. Kadar, *Uang dan Kekuasaan Dalam Pemilu 1999*, KIPP Indonesia Jakarta, p. 4 & 5.

of the practice of *money politics* because most people only think of their own benefits without realizing the effects that arise in the future.

The practice of *money politics* can destroy the future of this country because the practice of money politics will be enough to drain the finances of a party or individual running for election so that after being elected in the election will trigger intentions for corruption. The perpetrators of this practice of money politics exploit the economic situation of the people which is increasingly difficult so that the public should not be easily tempted by the profits received temporarily. It is better if the government holds a clean and free money politic election socialization to the wider community so that the level of community participation in democracy directly increases. Need seriousness in counseling political education to the community by planting values that are safe, peaceful, honest and conducive in choosing.

This can help to awaken the public to choose based on conscience without being tempted by the practice of money politics that can destroy democracy and violations of political rights, namely the right to vote, because someone uses their voting

rights not on the basis of awareness, but because of persuasion with some money or intimidation from the authorities to be forced to vote.

Improving human resources is the responsibility of the government as stated in the Preamble of the 1945 Constitution, which is to educate the lives of the nation. So if the Indonesian people are smart, so they are not easily influenced because they have thought and determined the people who will be chosen to lead this country. By increasing Human Resources, of course the economy also increases, so that when channeling its aspirations at the time of the general election can be carried out without any influence and also for the participants of the Election and the organizers of the General Election will run in accordance with the provisions.

Ideally, to realize elections that are free to be safe, fair and peaceful in the General Election, a full participation space and mechanism must be created, in which citizens form democratic mechanisms and have the power to make decisions in accordance with the wishes of their own citizens, without any seduction or intimidation from interested parties, because the idea of democracy that is echoed is actually quite simple, namely

to protect the rights of citizens in exercising the freedom to express opinions.

2. Building State Stability in Implementing General Elections

a. The Importance of National Stability

Building national stability in the General Election, is often associated as a problem in the military. Because in fact the military is a core force or major force in building and developing a national defense system to realize national stability. Therefore, identifying the problem of resilience as a military problem is not new and is not a form of logical error. This perspective is a form of real, empirical, rational and contextual contest. Even such a view is a form of proportionality of thought regarding the duties and functions of a State institution.

Whether we realize it or not, this nation still has a fairly long job including fixing the implementation of the election and its external problems. This nation needs security and security. The army is one of the nation's important assets in realizing the defense of the Republic of Indonesia.

Undeniably, military power is one of the important pillars for the sovereignty of the State. In fact, in this

world, countries that have strong military support will raise diplomatic authority and international political prestige. Military power is one of the barometers of the strength of a country. If the military is strong, believe that the country has a strong bargaining position with other countries. Of course military strength alone will not be enough to make a country survive and thrive, it also needs strong economic and political power as its support.

The socio-political dynamics that exist today, have a good influence on the structure and culture of government in managing the nation and the State. The latest political policy provides information that in building national resilience not only requires major strengths, but there are other supporting forces that can strengthen and strengthen Indonesia's national security. The supporting power is the people.

The people's factor in building national resilience or national security and national stability has been proven in the history of the world and in the history of Indonesia. The role of the people in building national security is both in the context of supporting the effectiveness of national security and being a supporter in building national

security. Even in Indonesian National history the hero against imperialism and colonialism has its roots in popular resistance which later became the embryo of the birth of the Indonesian national army. This shows that the country's resilience cannot be separated from social security in showing nationalism and its sincerity in maintaining the integrity of the Unitary Republic of Indonesia. In other words, in building the country's resilience it needs to involve efforts to build national resilience based on the collective consciousness of the Indonesian people to build Indonesia's future.

b. Building The National Stability

1945 Constitution states that every State must not sit idly by. Every citizen is not only entitled to, but must participate in the State's defense efforts. In carrying out this State defense effort, it needs to be done by using the system of defense and security of the people of the universe (Sishankamrata). For the implementation process, the main strength of Sishankamarata is the TNI and Police, while the people are positioned as a supporting force, meaning that if there are problems related to security and defense, if they are still able to be handled by the TNI

or Police, then the people should not be used arbitrarily. Thus the power of the people is a social weapon for the defense of the State.

In carrying out this defense business, the TNI and Polri are not independent. State Defense is not a stand-alone field but must be integrated with the development agenda to achieve people's welfare. In other words, the security approach must be integrated with the prosperity approach.

While at the sociological level, there are many examples that can be put forward as arguments in supporting people's power as a national defense force. To simply remind the collective consciousness of our nation, it can be argued that the resilience and victory of the defense of the Indonesian army in the struggle and the period of maintaining sovereignty cannot be separated from the unity of the role of the army and the people. Not surprisingly, a symbol appeared in the phrase "Indonesian soldiers are the army of the people, and the people are the Indonesian Army". Such historical experience is a concrete example of the efficacy of the people in positioning themselves as a basic force in the State defense system.

Security issues have always been a long debate. Conceptual clarity, legality and factual action on security solutions in our country are factors that must be resolved because all this time the handling of various cases that threaten security is inadequate. Regarding the series of demonstrations and security threats that have plagued the Indonesian nation lately, poses a danger or threat to the lives of others, destroys property, eliminates personal freedom, creates a sense of fear in individuals and the wider community, and decreases public trust in the government. The point is that there is security instability. Politically, economically, various riots and demonstrations will potentially increase the power of investors to invest in our country. The withdrawal of foreign investors, and the quantity reduction of foreign tourists to Indonesia.

What is the anticipation of the security, especially the police? It is recognized that the subscription to various phenomena that threaten and disrupt domestic security has not been fully overcome. Some of these causes are backed up by a number of things:

1. Ideally, the addition of the national police force has not been fulfilled to reach a ratio of 1: 750.
2. The existence of regional expansion due to the implementation of regional autonomy has not been followed by the development of a national level police organization.
3. The ability of our defense technology is proven that it is still unable to counteract and overcome it. For the latter, the ability of the domestic defense industry is still very limited in supporting the needs of facilities and infrastructure.

Most of the police equipment as well as TNI defense equipment are old and still far from adequate conditions and depend on the foreign defense industry. Budget support for the procurement and maintenance of alutisista is very minimal due to the limited financial capacity of the State, while education and training facilities and other supporting facilities are inadequate.

Besides these three issues, at least to this day it requires conceptual clarity about national security. The concept of security and public order and security, in addition to having conceptual differences also implies the

division of tasks and women whose form in the field can be of a continuum and broad nature, not just a defense issue but concerning all aspects of the state's life (ipolesosbudhankam). Whereas security related to internal security (kamdagri) is the duty of the police as the guardian of public discipline and the enforcement of kamtibmas. The enemy of the police is crime and lawbreakers. Whereas regarding military assistance given to the police solely in the context of upholding kamtibmas at the request of the National Police. But on the field often when conditions and escalation peak, the National Police have not requested military assistance.

Referring to the analysis developed above, it can be concluded that the people and values that grow in society are social capital that provides positive support for the stability of the State, a army and a government will not be effective in building the resilience of the country, if not supported by social solidity high at the community level. This is a thought thesis that can be found in this discourse.

c. National Defense Awareness, Key to National Stability

To support the efforts to build National Resilience, several

approaches need to be developed that can build the collective awareness of the Indonesian people to defend the State.

First, State defense education is a basic need that cannot be bargained. The spirit of nationalism is a basic spirit or collective consciousness that can encourage a strength of security stability. In the history of the struggle for independence, the Indonesian people have been able to prove themselves the accuracy of nationalism in helping the unity of the nation. Even though the imperialism or colonialism had more sophisticated weapons than the Indonesian nation, they were not able to withstand the Indonesian guerrilla attack which was driven by the spirit of self-determination. This is the nationalism of our nation's struggle in building the country's resilience.

Often with this, Harry Tjan Silalahi explained that nationalism can build strong social cohesion, so that it can provide encouragement in the process of national and state development participation. In other words, in facing the challenges of the present and the future, Indonesia needs a formula of nationalism that fits the needs and challenges of the times.

Secondly, there needs to be an effort to consolidate and coordinate socially, so that there is a solid and strong social integration. The condition of social disintegration is an open space that can be covered by foreign interests which can then lead to the collapse of a nation without war.

Third, political communication and cultural communication in a single monotheistic framework harmonized with the spirit of regional autonomy, are one of the main keys to building security stability in the Indonesian people. In this spirit of pluralism, willingness to be open, willingness to share, and willingness to cooperate become a social glue in building together Indonesian people. Ethnocentrism, cultural egoism is more about arousing local Buddhist radicalism without the awareness of Bhinneka Tunggal Ika, in fact it will only cause loss and weak Indonesian national security.

The final implication, if the security stability of the Indonesian nation is fragile, let alone to be invited to fight against the invaders, only to consolidate internal forces will also experience fundamental difficulties in facing the challenges of the future. Therefore, building the country's resilience, does not increase TNI

personnel without regard to security stability or the strength of supporting the country's own resilience. In this discourse, national stability is considered as a real need or necessity for the development process. National stability is an important part of fostering national insight as well as implementing national development.

Usman orphaned the thought that "the issue of stability is still relevant to our attention and not wrong if we refer to the policies adopted such as the New Order period. Of course, the repressive impression, as is often blamed on the New Order era, no longer needs to emerge but with more emphasis on persuasive handling. However, the authorities' firm stance remains indispensable because we see that now under the pretext of freedom of democracy, many people or groups tend to ignore the importance of national stability."

There are at least three conditions, the need for national stability for the national development process.

First, national stability is the precondition of planning, and the initiation of the national development process. This nation will run out of energy, and waste energy, if the development process is accompanied by national instability. Instability has a

high cost in the context of development. In fact, with national stability, it is not only late, but development agendas can be stagnant or backward. Therefore, national stability is a precondition for planning and initiating development. Political turmoil, as happened in Thailand (2010) and / or the Indonesian Nation in the beginning of the reform, became a reflection that social-political instability gave a real influence on the stagnation of the national development agenda. It also appears in countries that are still in situations of conflict, both civil war (for example in the Middle East and Thailand), as well as conflicts with the outside (Palestine - Israel).

Second, national stability constitutes social capital for the process development. Development capital does not only come from natural resources (natural resources), human resources (intellectual resources), intellectual capital, or virtual capital, but requires national stability. In this context, national stability is social for the development process. National stability is also a "crystal" of strong and strong nationalism in every element of the nation.

Finally, national stability is the end of a development process. the development designed by the Indonesian people is a situation of national and state life "that is free, united, sovereign, just and prosperous". This is the situation of national stability at the target point.

Of all that, the awareness of defending the State is very important. Law No. 3 of 2002 concerning National Defense, in Chapter III article 9 mandates:

- a. Every citizen has the right and obligation to participate in efforts to defend the State which is realized in the implementation of State defense.
- b. The participation of citizens in efforts to defend the State, as referred to in paragraph (1) is carried out through: (a) citizenship education; (b) compulsory military basic training; (c) Service as a TNI TNI soldier voluntarily or compulsorily; (d) Devotion in accordance with the Profession.

State Defense Awareness is part of strengthening the country's defense. As we all know, the current state of defense power seems to be inadequate to secure the vast Republic of Indonesia which extends from Sabang to Marauke; from Miangas to

Rote Island with more than 17,000 islands. In addition, the population has reached 140 million, while the main component (TNI), until 2008 the strength of TNI personnel to only 379,391 soldiers consisting of 281,556 Army Soldiers; 68,767 Navy Soldiers; and 29,068 TNI Air Force Soldiers, as well as the condition of TNI defense equipment, mostly aged between 25 and 40 with technology lagging behind.

On the other hand, there is a shift in global power-global power shifting which presents several phenomena, among othersFirst, geopolitical structures dominated by several world powers, including the United States, Russia, Japan, the European Union and the PRC.

Second, Economic Development is often followed by progress in building military power. Asian countries that are advancing their economic development, also build their military strength, even continued with the mastery of nuclear weapons technology. On the other hand, the possibility of friction between the interests of the nation and the fulfillment of energy needs for food and water-food, energy, and water competition is a factor that triggers global security stability.

Third, the dynamics of the international economy of trade instability, and the fragility of economic architecture (international economics architecture) have the potential to be a source of conflict.

Fourth, an unusual security threat (non traditional security threats) in the form of poverty, radicalism and unemployment. There is a link between poverty and unemployment with the phenomenon of transnational crime, drugs, human trafficking and terrorism, and

Fifth, several other dimensions of potential security threats such as epidemics of infectious diseases, natural disasters, and climate change impacts (typhoons, storms, droughts and floods). The number of victims can equal or even greater than victims of war.

From all of that, it takes awareness of defending the country with several approaches. First, political approach (political approach); The main instrument in an integrated national security system, which includes (1) efficient management of potential and resources to effectively address security issues; (2) The promotion of democratic practices; (3) the realization of good governance - good governance; (4) the establishment of a

democratic civil society - good civil society, (5) Utilization of partnerships and cooperation with friendly countries in advancing the quality of national security; (6) Participation in international peace and security, international peace and security, and (7) actively involved in enhancing international peace and security cooperation, global cooperation and partnership in peace and security.

Second, the economic approach, economic approach, covers the management of natural resources, monetary, fiscal and trade management through high-growth economic development with equity, growth with equity, occupying an important role to reduce the threat of non traditional threats, in the form of unemployment and ignorance.

Third, the Psychological approach, psychological approach, includes efforts to develop a sense of national unity, nationalism, patriotism, militancy to grow the seeds of racism and terrorism.

Fourth, the technology approach, technology approach, includes the development of defense equipment dimensions, information systems, coding systems, integrated early warning systems, and the existence of a strong and competitive defense

industry that is able to provide support for defense and security needs, reduce dependence from other countries, and

Fifth, military approach, military approach, covering defense security posture supported by professional soldiers, defense equipment and reliable and self-produced equipment, effective defense and security management, strong, professional and respected military leadership, development of early warning systems that can provide accurate and comprehensive data and intelligence information.

One other important approach is the effort to provide an understanding of awareness about the interpretation of the right gamma ajarana, especially in understanding jihad among Muslims. Often jihad is misguided and is not in line with the actual interpretation, in this regard, efforts to radicalize religious teachings are important.

For example, the Suicide Bombing incident carried out by M. Syarif at the Cirebon City Ad Dzkira Mosque on April 15, 2011 when Friday prayers began, was a wrong interpretation of the perpetrators of the meaning of jihad. From any point of view, carrying out a bomb in a place of worship and cannot be justified.

From the point of view of Islamic teachings, according to Dr. Muhammad Tha'mah Al-Qadah in the Book of "Al Mughammar bi an-Nafsi fi al-Qital wa Hukmuha fi al-Islam (Al 'Amaliyyat al Istisyhadiyyah)" which was translated into Indonesian with the title "Action of the Shah's Bombing in the Islamic Law View "There are some very strict main requirements that one can carry out suicide bombings, among others:

First, Suicide Bombing actions can only be done in the Battlefield with sincere intentions Because Allah SWT, based on the words of the Prophet Muhammad SAW:" Whoever fights and upholding the word of God, then he is in the way of Allah.

Secondly, suicide bombings should be aimed at freeing the Muslims from the grip of the enemy, as well as safeguarding the wealth and dignity of the Muslims, in accordance with the words of the Prophet Muhammad SAW: "Whoever is bodied for defending his tyrannical property, he is a martyr".

Third, suicide bombing can be carried out if there is no other effective way to fight the enemy, other than by suicide bombing. If there are other ways besides sacrificing yourself, then

that method takes precedence, such as using weapons from a distance.

Fourth, suicide bombing actions must weaken the enemy, frighten the enemy, destabilize the enemy, and destroy power (both weapons and the economy); and

Fifth, suicide bombing actions must be regulated by the government who are in a state of war, with the balance of the profits achieved must be greater than the losses sacrificed.

In the Indonesian national history stage, the Suicide Bombing according to the above criteria was carried out by two young heroes namely Muhammad Toha and Muhammad Ramdan on July 11, 1946 who blew themselves up in the mesium warehouse of the Dutch army headquarters in Dayehkolot, South Bandung with the aim of destroying the strength of the Dutch army, the five criteria above were met.

Muhammad Ramdan as a member of the Hezbollah Army and Muhammad Toh from the Republic of Indonesia (BBRI) fortress line intends Ikhlas because Allah is to establish the Word of Allah SWT, freeing the Muslims from the enemy (Dutch); there is no other way to deal with stronger enemy forces, because of the very limited TNI and Iasykar weaponry, which can weaken the Dutch army power base in

Brat Java, and be carried out when the State is in a state of war (during the Independence War 1945-1949; when the Republic of Indonesia facing the Dutch Colonial Army).

While what was done by M. Syarif and previous homeland suicide bombers, there were no single criteria that could be fulfilled as stated above, because the State was safe and peaceful, not under conditions of war, the Muslims were not in a state of oppression, and none of the scholars stated that the action was an act justified by Religion. So the actions taken by M. Syarif and the previous suicide bombers, including acts of intihar or suicide which are forbidden in Islamic teachings as well as destroying and damaging the image of Islam as a religion that carries the rahmatan lil alamin mission. This is where the importance of instilling awareness in religious teachings.

C. CLOSING

1. The Conclusions

Freedom of Security, Justice and Peace in General Elections must be obtained by all Indonesians essentially. This certainly cannot be realized if there is no national stability. Elections do not only rely on the State or the military, but involve the strength and role of individual

citizens including non-governmental or private organizations. In order to realize elections that are safe, fair and peaceful in the General Election, a full participation space and mechanism must be created, in which citizens form a democratic mechanism and have the power to make decisions in accordance with the wishes of their own citizens, without any seduction or intimidation from the parties. interested parties, because the idea of democracy that is echoed is actually quite simple, namely to protect the rights of citizens in exercising the freedom to express opinions. National stability development needs to be developed with several approaches that can build the collective awareness of the Indonesian people to defend the State. Among other things, the State defense education is a basic need that cannot be bargained. The spirit of nationalism is a basic spirit or collective consciousness that can encourage a strength of security stability.

2. Advice

Statein maintaining the freedom of citizens to speak out and argue using their voting rights in the democratic process, then:

1. The government must improve human resources, to lead intelligent people.

2. The government must guarantee the rights of the people in democracy, of course by upholding the law as its protective shield.
3. Freedom of Security, Justice and Peace in General Elections must be guarded by the government.
4. The government must build the stability of the country in the implementation of the General Election well.

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