

## Quo Vadis Role of the Indonesian Election Supervisory Body In Monitoring the Neutrality of Civil Servants



Fifiana Wisnaeni<sup>1</sup>, Sekar Anggun Gading Pinilih<sup>2</sup>, Elisabeth Sihaloho<sup>3</sup>

<sup>1,2</sup> Lecturer of Faculty of Law Universitas Diponegoro, Indonesia

<sup>3</sup> Student of Master of Law Program, Universitas Diponegoro, Indonesia

**ABSTRACT:** Indonesian election as a form of democratic party, must be able to create a climate to pays attention for every principle of implementation of general elections. Such as, the principles of direct, general, freedom, confidential, honest, and fair without exception to state's civil service. Although there has been the election supervisory body, but in reality cases of state's civil servant non-neutrality are increasing in every period of election implementation. So, this article will examine and analyze how the form of supervision carried out by Indonesian Election Supervisory Body in case for maintaining the principles of general elections, especially to supervise civil servants. The research uses a normative judicial method with literature studies on law and regulations and other scientific writings that belong to the research topic. At the end, there are recommendation for the improvement of Indonesian Election Supervisory Body on order to increase the effectiveness of supervision over civil servants.

**KEYWORDS:** The Indonesian Election Supervisory Body, General Election, Neutrality, Civil Servant

### I. INTRODUCTION

Indonesia as a democratic rule of law country, positions people's sovereignty as the basic of the state and has the highest existence in the constitution. Put democracy in its essence, namely as a form of effort to realize a decision that must be taken by all members and each has the same rights in the decision-making process. Therefore, in a democratic county, it cannot be separated from the presence of general elections (Triningsih & Aditya, 2021)

As the party of the people's voice, general elections are the main mechanism found in the stages of the state administration and government formation. General elections are seen as the most tangible form of sovereignty in the hands of the people in the administration of the state. Through general elections that provide opportunities for the public to freely choose their leaders based on the choices provide by political parties (Setiya Muhammad Junaidi, 2020).

In organizing general elections as a form of cheating a fully guided government from, by and for the people, it is hoped that in its implementation it can realize the structuring of the system and the quality of the implementation of general elections that reflect the basic principles such as direct, general, freedom, secret, honest and fair (Hardiyanto, 2016). The long process of implementing general elections has always been a concern of many parties, both election participants, election implementers to all levels of society, including the role of the state civil apparatus well known as the Civil Servant, which of course must be maintained neutrality (Muradi, 2018).

Article 9 Paragraph 2 of Law No. 20 of 2023 concerning The State Civil Apparatus stated that every employee of the state civil apparatus must be free from the influence and intervention of all groups and political parties. Furthermore, article 24 paragraph 2 said that, the Civil Servant employees are obliged to maintain neutrality and violations of are all the subject to disciplinary violations.

The concept of neutrality is a vital principle in realizing the professionalism of the the Civil Servant so that it can remain fair, objective, unbiased and free from influence and intervention from any party. This is because the Civil Servant is not only related to political actions but has a major impact on the delivery of public services and the effectiveness of the running of the government.

However, in the practice of the implementing general elections in 2019, as data from the results of Indonesian Election Supervisory Body said that was approximately 1.906 cases of violation of the code of ethics related to the neutrality of the Civil Servant, Indonesian National Army, and the Indonesian National Police. The non-neutrality of these parties undermines the spirit

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and legitimacy of the election results which leads and impacts practical politics. These violations are possible because there are no rules regarding limits or concrete form in maintaining neutrality.

Indonesian Election Supervisory Body has the authority to supervise and discipline recommendations to the authorized the Civil Servant agency or in this case that Indonesian Civil Apparatus Commission which will later follow up any recommendations given by the Indonesian Election Supervisory Body for violations of the neutrality of the State Civil Apparatus (Rizki Indra Yanti Hasan, 2022).

The Election Supervisory Body has strengthened its position and authority. This was proven after the Constitutional Court decision no. 48/PUU-XVII/2019 concerning Review of the Regional Head Election Law against the 1945 Constitution of the Republic of Indonesia. This Constitutional Court decision provides a new interpretation regarding the district/city level of general election supervisory committee which was previously ad hoc in nature and has become a permanent institution and relates to filling positions according to legality based on the Election Law. Legal certainty for the General Election Supervisory Body is very important because the General Election Supervisory Body carries out law enforcement and supervisory functions (Latifah, Fifiana Wisnaeni, Sekar Anggun Gading Pinilih, 2023).

### **II. RESEARCH METHOD**

The approach method used in this research is normative juridical. An approach that positions the law as a system of norms. The system of norms in question is about the principles, norms, and rules of law (Fajar Mukti, 2010). The statutory approach is carried out by examining all law and regulations that are properly related to the legal issues raised (Susanti, 2014), with an assessment of legal principles and legal norms. The specification in this research is descriptive-analytical, because of this research describes the applicable legislation relating to legal science theories and a certain situation or object factually and accurately, which then analyzes the data obtained from the research.

This research used secondary data, that obtained from research on regulations or writings related to research material, namely primary legal materials such as the 1945 constitution, Indonesian Election Supervisory Body regulations, and the Civil Servant regulations, that accompanied by secondary legal materials including literature studies, official documents, books and research results.

### **III. RESULTS AND DISCUSSION**

#### **1. Forms of Supervision by the Indonesian Election Supervisory Body on neutrality of the Civil Servant in the 2024 General Elections**

The Indonesian Election Supervisory Body is a general election organizing body that it tasked with overseeing the entire stages of general elections throughout the territory of the Republic of Indonesia. Some of the obligations possessed by Indonesian Election Supervisory Body, include the preparation of standards for supervisory procedures, conducting prevention and prosecution, supervising the preparation of general elections, supervising the implementation of the general election stages, preventing the practice of money politics, and supervising the neutrality of the Civil Servant and providing recommendations for relevant agencies.

Law No. 20 of 2023 concerning the The Civil Servant regulates about civil servants and Government's employees with work agreements. Based on Article 9 Paragraph 2 mandates that every the Civil Servant must be free from the influence and intervention of all groups and political parties. The Civil Servant is prohibited from approaching or building relationships with political parties, declaring their participation in campaigns and supporting candidates participating in general elections.

In simple terms, the supervision carried out by Indonesian Election Supervisory Body based on Law Number 7 of 2017 is divided into 3 stages including:

- a. Pre-election phase (Preventive Supervision)
- b. phase during elections (Direct Supervision)
- c. Post-election phase (Monitoring of violations and ethical rules)

In preventive supervision efforts, Indonesian Election Supervisory Body took action to socialize and remind to all the Civil Servant supervisors to maintain neutrality through social media and policies to work ethics (Musfualdy, 2012). In direct supervision carried out by Indonesian Election Supervisory Body, it is carried out by recording alleged violations of abuse of authority, use of budgets, and use of government or regional government facilities and through supervision of violations of voter mobilization.

Article 3 paragraph 1 of the Indonesian Election Supervisory Body regulation No. 6 of 2018 concerning Supervision of the Civil Servant, Indonesian National Army, and the Indonesian National Police Members, explain that:

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- a. Indonesian Election Supervisory Body supervises decisions and/or actions that favor or harm one of the election participants during the campaign period, and
- b. Optimizing supervision of activities that lead to partiality toward election participants before, during and after the campaign period.

Indonesian Election Supervisory Body can monitor the neutrality of the Civil Servant with efforts:

- a. Identify potential abuse of authority, use of budget and use of facilities;
- b. Identify the potential involvement of the Civil Servant employees, Indonesian National Army and Indonesian National Police members;
- c. Coordination with Indonesian National Army, Indonesian National Police Members, and the civil servants commission.
- d. Cooperation with election monitors and mass media and the public to monitor.

In addition, Indonesian Election Supervisory Body has also collaborated by making a cooperation agreement with the Civil Servant Commission, the Ministry of Home Affairs, the National Personnel Agency, and the Ministry of Administrative Reform and Bureaucratic Reform, which states that energy and unity in efforts to oversee the Civil Servant neutrality.

Indonesian Election Supervisory Body is also responsible for making a study of alleged violations of the Civil Servant neutrality, until later Indonesian Election Supervisory Body provides recommendations which will be forwarded to the the Civil Servant Commission in following up on these recommendations and imposing sanctions / penalties on employees of the agencies concerned.

When examined, the legal regulations governing the nature and context of supervision by Indonesian Election Supervisory Body to the Civil Servant are considered quite good when viewed from the point of view of normative regulations. However, based on the practice of implementing general elections in 2019, as data on results by Indonesian Election Supervisory Body said there were approximately 1.096 case of violations of the code of ethics related to the neutrality of the the Civil Servant, Indonesian National Army and Indonesian National Police.

The amount of data on cases of non-neutrality of the Civil Servant in accordance with the previous explanation is influenced by several factors that hinder supervisory actions carried out by the Indonesian Election Supervisory Body, including:

- a. The supervision system and synergy of cooperation with the Civil Servant Commission are not yet optimal;
- b. The attitude and character of the Civil Servant who are still subject to officials above them affiliated with political parties or support candidates for general elections;
- c. A sense of "reluctance" among co-workers and the community in reporting non-neutral the Civil Servant; and
- d. The recommendations of Indonesian Election Supervisory Body and the Civil Servant Commission still not optimal because they are ignored by the relevant Government's employees with agreement. (Rizki Indra Yanti Hasan, 2022)

This all show that the supervision of the neutrality of the Civil Servant is far from being maximized and needs improvement. Through this scientific article, increasing the status of legal force on recommendations given by Indonesian Election Supervisory Body to the Civil Servant Commission, because the nature of the recommendation is that it can be implemented or not, because it does not have binding and forced power. The next breakthrough step that can be taken is to supervise the execution of decisions or recommendations by the Civil Servant Commission in order to ensure responsibility for the neutrality of the Civil Servant.

### 2. Implications of Non-neutrality of the Civil Servant for Fulfilling the Principles of Organizing General Elections

According to Law No. 5 of 2014, the Civil Servant employees are part of the human resources that drive the government as well as determining the success of government administration through dedication, dedication to service to the community in achieving general welfare for all people as mandated in the constitution.

In the implementation of general elections, the involvement of the Civil Servant is usually marked by a form of involvement in practical politics. Conditions when the Civil Servant openly and/or secretly becomes the success team of candidates participating in the general election (presidential and vice-presidential candidates, legislative candidates and regional head candidates)

This will degrade the concept of neutrality as a vital principle in realizing the professionalism of the Civil Servant so that it can remain fair, objective, unbiased and free from influence and intervention from any party. This all because the Civil Servant is not only related to political actions but has a major impact on the delivery of public services and the effectiveness of the running of the government (Akny, 2014).

The existence of the Civil Servant is faced with conflicting conditions and situations, on the one hand the Civil Servant is required to maintain neutrality in order to create a bureaucratic climate for good government management, but on the opposite side, every the Civil Servant has political rights as a basic right inherent in them, namely the right to associate, accumulate and express opinions (Pradono, 2019). These two things spur debate in the life of the the Civil Servant so that becomes easy to be influenced by political interests.

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As for the right to vote, basically it is also not included in the basic rights that cannot be limited or is not an absolute right, as stated in the International Covenant on Civil and Political Rights (ICCPR) which was ratified in Law No. 12 of 2005 said that every the Civil Servant although the right to vote in elections is a form of a fulfillment of human rights, but the right is not a right that can be limited, in the other words, the use or non-use of the right to vote by each individual does not have legal consequences, only politically and sociologically they have lost their contribution and interference in determining the direction of important policies and decisions in order to achieve the goals of the state (Jamaluddin, 2021).

General elections as a form of democratic party must be carried out by paying attention to the principles contained there. Article 22E of the Indonesian Constitution in 1945 has mandated for general elections must be held in a direct, general, freedom, secret, honest and fair manner. Fulfillment of the six principles must not only be obeyed by the parties organizing general elections such as General Election Commission and Election Supervisory Body, but also to all general election participants, especially for political parties, and presidential-vice presidential candidates, regional head candidates, and for legislative candidates. In addition, the public and the Civil Servant must pay attention and maintain these principles so as not to degrade the constellation of general elections.

One of the principles that is violated if the Civil Servant not neutral is the principle of confidentiality/honest. The Civil Servant who are unable to maintain their neutrality will indirectly ask their family and friends surrounding them to vote according to the Civil Servant's choice. If considering the position of the Civil Servant to making them follow suit. It is not uncommon for some the Civil Servant policies that can demonize if the community chooses the opposite party. This is what will harm and damage the ideals and the spirit of democracy in Indonesia General Elections.

The implications if the Civil Servant are not able to maintain their neutrality are, the interest of the civil are distorted, services are not optimal, the placement of the Civil Servant positions tends to see political involvement, allowing bureaucratic positions to be filled by incompetent the Civil Servant (Thoha, 2007).

#### IV. CONCLUSION

General elections as a form of people's sovereignty in the context of a democratic state, must be able to create a climate that takes into account every principle of the implementation of general elections such as the principle of direct, general, freedom, secret, honest, and fair without exception to the Civil Servant who have vital position in the bureaucracy of government management. Therefore, Indonesian Election Supervisory Body has a significant role and responsibility in conducting preventive supervision and direct supervision to against the Civil Servant that unable to maintain their neutrality. Thus, improving the legal strength of the Indonesian Election Supervisory Body and the Civil Servant Commission recommendation need to be improved and providing optimal supervision of the execution.

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