



Reconstruction of the Position and Authority of the Honorary Council of General Election Organizers (DKPP) as a QuasiEthical Court of Election Organizers

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ABSTRACT

The Honorary Council of Election Organizers (DKPP) is an institution responsible for resolving ethical violations committed by election organizers, established under the law as part of Indonesia's election system. As a state institution, the DKPP holds the authority to examine, summon, sanction, and adjudicate such violations through a court-like process, which includes witness examination, expert testimony, verification of evidence, and the issuance of rulings. Notably, DKPP decisions are final and materially binding. The quasi-judicial nature of its proceedings, combined with the finality of its decisions, places the DKPP in a unique legal position, often referred to as a "quasi-public court." In the Constitutional Court's interpretation, the DKPP functions as an integral part of the election administration alongside the General Election Commission (KPU) and the Election Supervisory Body (Bawaslu), forming a comprehensive election organizing body. This study explores the legal status and authority of the DKPP, particularly in its role as a quasi-public court. Through normative legal research with a descriptive and prescriptive approach, using legislative, conceptual, historical, and comparative methods, the study concludes that the DKPP, as an independent auxiliary state organ, functions similarly to a general court in enforcing the code of ethics for election organizers. The final and binding nature of its decisions has significant legal implications, reinforcing the DKPP's role in maintaining electoral integrity within Indonesia's constitutional framework.

Keywords: DKPP, Code, Election

INTRODUCTION

The Honorary Council of General Election Organizers, hereinafter referred to as DKPP, is a key institution within Indonesia's electoral framework, specifically responsible for overseeing and handling ethical violations committed by election organizers (Ruwiyono & Muhibbin, 2024). The DKPP plays a crucial role in maintaining the integrity of electoral processes by examining and deciding complaints and/or reports of alleged ethical violations by members of the General Election Commission (KPU), both at the national and local levels, as well as members of the Election Supervisory Body (Bawaslu). By receiving, investigating, verifying, and adjudicating these ethical complaints, the DKPP contributes not only to the accountability of election organizers but also to the overall efforts to safeguard democratic governance and electoral integrity in Indonesia. This research explores how the DKPP's quasi-judicial authority helps close gaps in

ensuring fair and ethical election practices, contributing to the preservation of Indonesia's democratic system (Atmaja et al., 2023a).

Based on the Constitutional Court Decision Number 11/PUU-VIII/2010, Article 22E paragraph (5) of the 1945 Constitution of the Republic of Indonesia states that the phrase "general election commission" does not refer to the name of an institution but to the function of organizing elections that are national, permanent, and independent. The function of election organization is carried out by the General Election Commission (KPU) (Amrizal et al., 2018), the function of election supervision is conducted by the Election Supervisory Agency (Bawaslu), and the function of handling violations of the code of ethics for election organizers is performed by the Honorary Council (at the time the decision was issued, the enforcement of the code of ethics was still handled by the KPU Honorary Council and the Bawaslu Honorary Council).

The Constitutional Court Decision No. 11/PUU-VIII/2010 serves as the legal foundation affirming that the Honorary Council holds a position as an election organizer based on Article 22E paragraph (5) of the 1945 Constitution of the Republic of Indonesia, which is national, permanent, and independent. The DKPP was established a year after the issuance of the Constitutional Court Decision Number 11/PUU-VIII/2010, regulated by Law Number 15 of 2011 concerning Election Organizers, and later reinforced by Law Number 7 of 2017 concerning General Elections.

Based on the Constitutional Court's decision above, it is clear that the DKPP is an election-organizing institution together with the KPU and Bawaslu. The position of the DKPP as the organizer of the election is that of a state organ or state institution formed by law. DKPP is included in the category of independent state auxiliary body.

The enforcement of the code of ethics for election organizers by the DKPP is held by convening like in a general court (Arsyad et al., 2023). The DKPP is authorized to inspect, summon, sanction, and decide on violations of the code of ethics committed by election organizers. The enforcement of the code of ethics for election organizers procedure for enforcing the code of ethics for election organizers, as stipulated in DKPP Regulation Number 3 of 2017, is close to the procedural law of trials in the general court.

The regulation that strengthens DKPP's authority lies in the final and binding nature of its decisions (Nisaq et al., 2024). In several rulings by the Constitutional Court (MK), this final and binding characteristic is interpreted as applicable to the President, the KPU RI, and Bawaslu RI, who are state administrative officials authorized to appoint and dismiss election organizers. However, in legal practice, the decisions of these state administrative officials when following up on DKPP rulings can still be appealed to the TUN Court. To ensure a more effective and coherent legal framework, further research is needed to explore how these findings can contribute to future legal reforms, ultimately enhancing the integrity and functionality of Indonesia's electoral system by addressing potential inconsistencies and improving the implementation of DKPP's authority.

Departing from the above, this study examined the position and authority of the DKPP based on a juridical approach, namely laws and regulations, Constitutional Court decisions, Supreme

Court decisions, and judicial bodies under it (Bima & Saputra, 2022a). The formulation of this research problem is how the position and authority of DKPP as an Election Organizer. This research uses a theoretical framework, including the theory of state institutions, the theory of authority, and the concept of election justice.

RESEARCH METHODS

This research is a legal study aimed at uncovering legal rules, principles, and doctrines to address the legal issues at hand. Normative legal research focuses on describing, interpreting, evaluating, and analyzing positive laws. In this context, the truth sought is pragmatic, relying on the consensus of expert peers. Additionally, a comparative approach is applied to examine similar quasi-judicial bodies in other countries, providing a broader perspective. However, a more detailed explanation of how the comparative analysis was conducted is recommended to enhance the rigor of this methodology.

The type used in this study is normative legal research, which is a scientific research procedure to find the truth based on the logic of legal science from the normative side. Based on its nature, this study is descriptive research. Descriptive research is a form of research aimed at describing existing phenomena, both scientific phenomena and man-made phenomena (Kadasah et al., 2022). Meanwhile, according to the angle of its form, this research is prescriptive research, which is research aimed at getting suggestions on what to do to overcome certain problems.

This research uses a statute approach, conceptual approach, historical approach, and comparative approach. In this study, the collection of legal materials was carried out by inventorying 1). Laws and also the minutes of its formation; 2). decisions of the Constitutional Court; 3). decisions of the Supreme Court and the judiciary under it; 4). DKPP decisions; and 5). DKPP regulations; 6) Minutes of the meeting of the House of Representatives (DPR) of the Republic of Indonesia in the context of discussing the Law; and 7) Journals, research results, proceedings, books, and printed and electronic information.

The analysis of legal materials is carried out by collecting primary, secondary, and tertiary legal materials (Alauddin, 2022). Furthermore, conduct an analysis of the legal materials. The analysis step first identifies legal facts and eliminates irrelevant matters to determine the legal issues to be solved. Furthermore, conduct a review of the legal issues that have been raised based on the materials that have been collected. Finally, draw conclusions in the form of arguments that answer legal issues and provide prescriptions based on arguments that have been built in the conclusion.

RESULTS AND DISCUSSION

The Position of DKPP in Indonesia's Constitutional System

Following the amendment of the 1945 Constitution, Indonesia's constitutional system has seen the formation of more than 50 auxiliary state institutions. These institutions are established based on various legal grounds: some, like the Judicial Commission and the General Election

Commission (KPU), are grounded in the 1945 Constitution, while others, such as the Broadcasting Commission, the Indonesian Corruption Eradication Commission (ICC), and the National Commission on Human Rights (Komnas HAM), are formed through laws. Additionally, institutions like the National Ombudsman are created through presidential decrees. In total, there are approximately 13 Independent State Commissions and 40 Executive State Commissions. This modern system diverges from the traditional Montesquieu model, which focuses on the separation of powers into three distinct branches: executive, legislative, and judicial. Today, Indonesia recognizes a broader interpretation of state functions, encompassing four branches of power: executive, legislative, judicial, and mixed functions. In this expanded framework, the role of auxiliary state institutions like DKPP plays a crucial part in ensuring checks and balances within the system (Atmaja et al., 2023b).

According to Syaefudin, the emergence of various forms of government organs includes very varied structures, including the central government, territorial ministries (territorial ministries), or intermediate institutions. The organ generally functions as a quasi-governmental world of appointed bodies, which is composed of non-departmental, single-purpose authorities and mixed public-private institutions. It is quasi-government or semi-governmental and is given a single function or sometimes a mixed function, such as one side as a regulator (Benali & Benali, 2019). However, punishments are like the judiciary mixed with the legislature.

The regulation in the 1945 Constitution of the Republic of Indonesia only stipulates one state institution, which is a state auxiliary body, namely the Judicial Commission, but outside the Constitution, other state auxiliary bodies are developed. Based on Asimov's opinion, state commissions can be distinguished into two categories (De Cooman & Petit, 2022). First, independent state commissions are state organs that are idealized to be independent and, therefore, outside the executive, legislative, and judicial branches of power. However, have a mixed function of the three. Second, ordinary state commissions (state commissions) are those that are part of the executive branch of power and do not have a very important role (Ludlow, 2018).

Theoretically, according to Mochtar, the presence of independent state institutions is one of the reasons for reducing direct disputes between the state and citizens. In the context of the DKPP, the DKPP is present to reduce disputes between election organizers and citizens regarding the code of ethics for election organizers, in addition to the argument that the presence of the DKPP is a need to accelerate democracy, especially in elections.

Supporting state institutions exist in independent and non-independent forms. An institution that is independent in the sense that it is not part of the three pillars of power (Burke & Stephens, 2018). These institutions are usually formed in branches of power such as the judiciary (quasi-judicial) and executive (quasi-public), whose function can be to supervise state institutions in the same sector or take over some authority of state institutions in the same sector. Syaefudin stated that supporting state institutions are generally quasi-government or semi-governmental and are given a single function or sometimes a mixed function on one side as a regulator, but also punishing

like the judiciary mixed with the legislature.

The Honorary Council of General Election Organizers (DKPP) within the scope of this category is included in the form of state auxiliary bodies with the type of independent state institutions (Perbawa, 2016). In accordance with its duties, DKPP is an institution that serves as an election organizer who handles violations of the code of ethics of election organizers.

Israel divides state institutions into 3 (three) categories: classification based on the legal basis of formation, classification based on function, and. classification based on their position. Based on this categorization, DKPP is a state institution formed based on law. Functionally, DKPP is included in the category of state institutions that carry out law enforcement functions, in this case, enforcing the code of ethics for election organizers. The description of the position of the DKPP in the internal constitutional structure is seen in the table below (Wijaya, 2016).

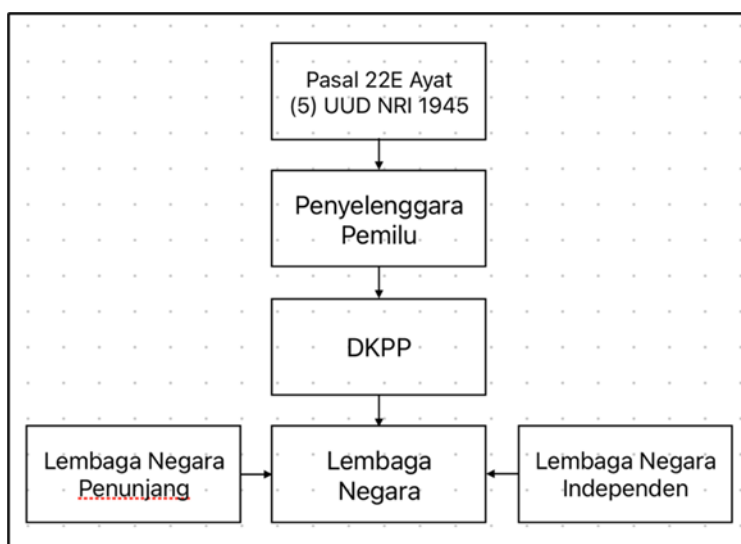


Figure 1. of DKPP Position in the Indonesian Constitutional System

Source: Research Results

The DKPP was established to examine and adjudicate complaints and/or reports regarding alleged violations of the code of ethics by members of the KPU, Provincial KPU, Regency/City KPU, as well as members of Bawaslu, Provincial Bawaslu, and Regency/City Bawaslu. In addition to its role in receiving complaints and/or reports, the DKPP is responsible for conducting investigations, verifying information, and examining these allegations. Moving forward, it is crucial to assess how potential changes to the DKPP's authority might influence the dynamics and interactions between other key electoral bodies, such as the KPU and Bawaslu, within Indonesia's broader constitutional framework.

Based on the decision of the Constitutional Court Number 11/PUU-VIII/2010 that Article 22E paragraph (5) of the 1945 Constitution of the Republic of Indonesia, the phrase "a general election commission" does not refer to the name of an institution, but refers to the function of

organizing general elections that are national, permanent and independent. The function of holding elections is carried out by the General Election Commission (KPU), the function of election supervision is carried out by the Election Supervisory Agency (Bawaslu), and the function of handling violations of the code of ethics of election organizers is carried out by the Honorary Council (at the time the verdict is read, the enforcement of the code of ethics of election organizers is still carried out by the KPU Honorary Council and the Bawaslu Honorary Council.

The Constitutional Court's Decision No. 11/PUU-VIII/2010 is a source of law that the Honorary Council has a position as an election organizer based on article 22E paragraph (5) of the 1945 Constitution of the Republic of Indonesia, which is national, permanent and independent. The DKPP was formed a year after the issuance of the Constitutional Court Decision Number 11/PUU-VIII/2010, which is regulated in Law Number 15 of 2011 concerning Election Organizers and finally regulated in Law Number 7 of 2017 concerning General Elections. According to Syaefudin, the norms contained in the binding constitution are understood, recognized, accepted, and obeyed by the subject of law bound to it, so the constitution is called a normative constitution.

Based on the Constitutional Court's decision above, it is clear that the DKPP is an election-organizing institution together with the KPU and Bawaslu. The position of the DKPP as the organizer of the election has legal problems related to the principles that govern it (Bima & Saputra, 2022b). Based on Article 22E paragraph (5) of the 1945 Constitution of the Republic of Indonesia, "General elections are held by a general election commission that is national, permanent and independent. The Constitution requires election organizers to have national, permanent, and independent principles.

It is national, which reflects that the work area of the general election commission as the organizer of the election covers the entire territory of the country. The nature of the election commission remains as an institution that carries out its duties continuously, even though a certain term of office limits it. The independent nature emphasizes that the institution of election organizers in organizing and implementing elections is free from the influence of any party (Suranto et al., 2019).

DKPP Authority in Laws and Regulations

Authority is often aligned with the term authority. Formal power comes from legislative or administrative executive power (given by law). Meanwhile, authority is a legal act regulated and given to a position based on the applicable laws and regulations governing the position concerned.

The main pillar of the state of law is the principle of legality, so based on this principle, it is implied that the government's authority comes from laws and regulations, namely the source of authority for the government, namely laws and regulations (Azzahra, 2023). In theory, authority derived from laws and regulations is obtained in three ways: authority obtained through attribution, authority obtained through delegation, and authority obtained from mandates.

The authority obtained from absolute attribution comes from the law's mandate, which is explicitly directly contained in the redaction of certain laws or articles. Delegation authority is the

delegation of existing government authority (from attribution authority) from government organizations to other government organizations. Mandate authority is the authority given by government agencies/institutions to other agencies/institutions on their behalf and with the permission of the authority holder, usually in routine relationships that occur between superiors and subordinates (Nasution et al., 2022).

Based on the above theory of authority, the DKPP, as a state institution organizing elections, has a source of authority sourced from the law, namely Law Number 15 of 2011 and amended by Law Number 7 of 2017. Based on article 159, paragraph (2) of Law Number 7 of 2017, the DKPP is authorized to:

- a. summoning Election Organizers who are suspected of violating the code of ethics to provide explanations and defences;
- b. summoning reporters, witnesses, and/or other related parties for questioning, including for documents or other evidence;
- c. sanctioning Election Organizers who are proven to violate the code of ethics and
- d. to decide on violations of the code of ethics.

Based on the above provisions, the DKPP has four (four) general authorities: summoning, inspecting, sanctioning, and deciding. The DKPP convened to investigate alleged violations of the code of ethics of election organizers. The trial of code of ethics violations resembles a trial in the general court.

The code of ethics trial by the DKPP was held with the principles of speed, openness, and simplicity. The principles of fast, open, and simple proceedings in the DKPP have similarities with the principles that exist in the general justice system (Singaraju, 2022). However, in the general justice system, there is a more structured and clear mechanism for balancing the speed of the process with the need for a thorough examination. The general justice system also has stricter rules related to openness and confidentiality and more detailed procedures for handling complex cases.

Every Indonesian citizen has a legal standing as a complainant/reporter of alleged ethical violations of election organizers. In the case of alleged ethical violations, parties with a position as complainants/whistleblowers can submit complaints or reports directly or indirectly (Ankamah, 2018). Direct complaints are complaints submitted directly to the officer who receives the complaint, while indirect complaints are those submitted through electronic or non-electronic media.

The objects that are complained/reported are the KPU and Bawaslu and their ranks at the Regency/City level, while for ad hoc organizers at the sub-district, village/sub-district level to TPS, the Regency/City KPU and the Regency/City Bawaslu are authorized to conduct investigations and decide on alleged ethical violations.

Complaints/reports received by DKPP are administratively verified with the aim of ensuring the completeness of the complaint requirements. Complaints/reports that have met the

requirements for administrative verification, then material verification is carried out. Material verification aims to determine the eligibility of the complaint for trial. Complaints/reports that have passed the administrative verification and material verification stages are then registered as cases. In the case of a complaint/report that has been registered, the complaint/report cannot be revoked.

The trial of ethical violations aims to prove and examine legal facts. The trial is held openly, as in the general court. The stages of the trial include examining the legal position of the Complainant/Reporter, listening to information from the Complainant/Reporter, the Complainant/Reported, witnesses, experts, and related parties, as well as examining and certifying evidence. Evidence in the trial of ethical violations by the DKPP includes:

- 1) Witness statements;
- 2) Expert testimony;
- 3) Letter or writing;
- 4) Instructions;
- 5) Statement of the parties;

After the session is completed, the DKPP will hold a plenary meeting no later than 10 days after the examination hearing is declared closed. The plenary meeting aims to hear the submission of the trial results, listen to the considerations of the DKPP members, and then determine the verdict. Based on Article 458 paragraph (13) of Law Number 7 of 2017, the DKPP decision is final and binding.

Based on a study of the minutes of the discussion session on the text of Law Number 7 of 2017 in the House of Representatives of the Republic of Indonesia, it was found that in the philosophical aspect, the ratio of the legislative arrangement of the DKPP decision is final and binding in order to realize a general election with integrity, because based on the minutes of the session, the author concluded that the rule of law is actually used to maintain the quality of elections. and the rule of ethics is used to maintain the integrity of the election.

In the juridical aspect, the arrangement of the DKPP decision is final and binding in order to provide legal certainty to the justice seeker because, in the minutes of the hearing, it is revealed that if the nature of the DKPP decision is not final, then the justice seeker will take it to the State Administrative Court. If this is done, the legal certainty aspect will fade. Meanwhile, from a sociological perspective, the regulation of the final nature of the DKPP decision is to maintain public trust in implementing the general election.

Regarding the nature of the final and binding DKPP decision, testing has been carried out 2 (two) times to the Constitutional Court, namely through the Constitutional Court Decision Number 31/PUU-XI/2013 and the Constitutional Court Decision Number 32/PUU-XIX/2021. The Constitutional Court believes that the decision of the DKPP cannot be equated with the final and binding decision issued by the judiciary in general. The position of the DKPP, which is not a judicial institution, makes the DKPP enter into the function of government; in other words, the

DKPP is a State Administrative organ that should be subject to the principles of State Administrative officials, so it is very possible to be questioned in the State Administrative Court (PTUN) if it is considered to be contrary to the applicable laws and regulations and the general principles of good governance. Therefore, the Constitutional Court's decision Number 32/PUU-XIX/2021 states that:

"The phrase" in Article 458 paragraph (13) of Law 7/2017 is intended to be binding for the President, KPU, Provincial KPU, Regency/City KPU, and Bawaslu is a decision of TUN officials that is concrete, individual, and final, which can be the object of a lawsuit in the TUN Court."

Based on the author's study of several TUN Court Decisions on disputes over decisions of state administrative officials as a follow-up to the DKPP decision, it was found that the TUN Court limited the scope of the examination of the procedure or procedural law of the trial at the DKPP and the examination did not include the material aspects or substance that became the domain of the trial at the DKPP. For example, in the Jakarta TUN Court Decision Number 82/G/2020/PTUN-JKT, the dispute between Evi Novida Ginting and the Decree of the President of the Republic of Indonesia Number 34/P. The year 2020 concerning the Disrespectful Dismissal of Evi Novida Ginting as a Member of the KPU RI for the 2017-2022 Term of Office as a follow-up to the DKPP Decision Number 317-PKE-DKPPX/2019, in the part of considering the PTUN decision it is stated as follows:

Considering that based on the provisions above, a fundamental question arises related to the actual situation in this dispute, namely if the decision of the object of dispute is understood as a declarative decision, and the decision of the DKPP underlying the issuance of the object of dispute is seen as a constitutional decision, then whether automatically, the validity (legality) of the issuance of the object of dispute is determined absolutely by the validity (legality) of the DKPP decision.

Considering that since the validity of the Presidential Decree and the DKPP decision in the context of this dispute cannot be separated from each other, furthermore, to test whether the decision on the object of the dispute has been issued in accordance with laws and regulations and the general principles of good governance, the juridical test by the Court will be limited from the aspect of authority and procedural aspects alone, while the substance aspect is exempted from the test, among others, based on respect for the DKPP as a TUN organ that carries out quasi-judicial functions, this respect is an attitude of self-restraint based on the principle of margin of appreciation, marginal toetsing so that the limitations of the validity assessment focus on the formal aspects of the authority and procedures for the issuance of the Presidential Decree on the object of dispute and/or the issuance of DKPP decisions.

Based on the analysis of the PTUN decision above, it can be seen that the PTUN does not examine the substance of the DKPP decision but only examines the authority and procedural aspects of the trial of alleged ethical violations in the DKPP. This confirms that the DKPP Decision

is final and materially binding but not final from the formal aspect.

The arrangement of each person having a position as a complainant/reporter proves that violating the code of ethics of election organizers is within the scope of public law. Public law is defined as a law regulating the interaction between citizens and the state (Levinson, 2016). The difference between public law and private law is that public law aims to regulate or protect the interests of the state. In contrast, private law aims to regulate or protect the interests of individuals. The conclusion taken by the author that by regulating, everyone can become a complainant/reporter without having to require individual losses for a violation proves that the enforcement of the code of ethics for election organizers is within the scope of public law.

Election organizers are in the public interest, and violations by election organizers have an impact on the public interest, so this is interpreted as election violations entering the public domain. The Constitutional Court's Decision Number 21/PUU-XVII/2019 in the consideration section expressly states that the settlement of violations of the code of ethics of election organizers is in the area of public jurisdiction, which is as follows:

Legally, the main task of the DKPP in ethical enforcement is to examine and decide on alleged ethical violations committed by election organizers. As an institution in the realm of election organizers, the formation of the DKPP is based on the provisions of Article 22E paragraph (5) of the 1945 Constitution. By placing the DKPP as a unit of the function of organizing elections, the DKPP is not an institution that is outside the realm of the institution of organizing elections. According to the Court, it is in this perspective because the holding of elections is in the public interest, and the acts allegedly violated by the election organizers have had an impact on the interests of the public (public), so such things have entered the public jurisdiction. Therefore, the principles that are used as a reference for solving problems in the event of alleged violations committed by election organizers, although limited to the realm of ethics, must still be guided by the quasi-"procedural law" of public justice.

Based on the study of the Constitutional Court's decision above, it can be concluded that the institutional DKPP is in the realm of election organizers, who are authorized to enforce the code of ethics of election organizers, which is the territory of public jurisdiction. Therefore, the enforcement of the code of ethics by the DKPP is a manifestation of the state's interest in realizing direct, public, free, secret, honest, and fair elections.

Problematic Position and Authority of DKPP

Based on the description of the position and authority of the DKPP as a state institution organizing elections based on Law Number 7 of 2017 concerning General Elections, there are several legal issues that can be identified, namely as follows.

First, the problem of the position of the DKPP from the basic aspect of election organizers. As stipulated in Article 22E paragraph (5) of the 1945 Constitution of the Republic of Indonesia, the principle of organizing elections is National, Permanent, and Independent. The DKPP, as the organizer of the election, is only based in the state capital, meaning that the DKPP is not national

like the KPU and Bawaslu.

Second, the membership of the DKPP was formed based on the proposal from the President amounting to 2 (two) people and the proposal from the House of Representatives amounting to 3 (three) people. This membership-filling mechanism can cause the DKPP to be institutionally not independent as the principle of election organizers. Compare it with the mechanism for filling the membership of the KPU and Bawaslu or other independent state institutions through open recruitment by involving a competent selection team.

Third, the proposing institution can change DKPP membership at any time, as stipulated in Article 156 paragraph (4) of Law No. 7 of 2017, which regulates that "Every member of the DKPP from any element can be replaced between times." This arrangement is a consequence of filling the DKPP membership, which comes from the proposal of the President and the House of Representatives.

Fourth, the DKPP procedural procedure has weak validity of proof. As a public law scope, the DKPP plays the role of the representative of the state in terms of exercising its authority. The absence of a preliminary examination before entering the trial has implications for the strength of proof in the trial at the DKPP (Agani et al., 2023).

Fifth, the form or type of sanction in the DKPP decision does not have legal certainty. As described in the previous chapter, DKPP sanctions do not have a degree or level, so an election organizer can get a stern warning sanction many times.

Sixth, the final and binding DKPP Decision can still be appealed to the TUN Court. The appeal effort against the object of the TUN Decision is a follow-up to the DKPP Decision.

Seventh, the position of the DKPP secretariat does not reflect the principle of independence as an election organizer. DKPP is an independent state institution, but an independent secretariat like the KPU and Bawaslu does not support it. The DKPP Secretariat, headed by the DKPP secretary, is appointed and dismissed by the Minister of Home Affairs.

Conclusion on the problematic position of the DKPP in terms of position and authority, as explained above. In the aspect of the problematic position of the DKPP in the scope of national and independent principles, both DKPP membership and secretariat are involved. Meanwhile, the aspect of authority is related to the authority to examine, prove, and decide and the nature of the decision.

The mapping of the strengths and problems of the DKPP in terms of position and authority, as above, is summarized in the table below.

Table 1.
of Strengths and Problems of the Position and Authority of the DKPP

DKPP	Strength	Problematic
Position	1. DKPP institutions are permanent 2. DKPP institutions are independent or independent	1. DKPP is not national (national principle)

		<ol style="list-style-type: none"> 2. Filling DKPP membership is not an open selection 3. The membership of the DKPP can be changed between times by the proposing institution (the President and the DPR) 4. the position of the DKPP secretariat does not reflect the principle of independence
Authority	<ol style="list-style-type: none"> 3. The procedure for resolving ethical violations is in the form of proof and public examination as in the general court 4. The DKPP's decision is final and binding 5. DKPP is authorized to sanction the permanent dismissal of KPU and Bawaslu members 	<ol style="list-style-type: none"> 1. DKPP procedural procedures that are weak in the validity of proof 2. The form or type of sanction in the DKPP decision does not have legal certainty 3. The final and binding decision of the DKPP can still be appealed to the TUN Court

Reconstruction of DKPP as a Quasi-Ethical Court for Election Organizers

Based on the description above, it is necessary to make efforts to reconstruct the position and authority possessed by the DKPP. The purpose of the reconstruction is to strengthen the general election system in order to realize elections with integrity and fairness.

1) Reconstruction of the position of the DKPP

First, amendments to the 1945 NRI Constitution were made. Referring to the Constitutional Court Decision No. 11/PUU-VIII/2010 in the consideration section emphasizes that Article 22E paragraph (5) of the 1945 Constitution does not refer to the name of an institution but refers to a single function of organizing elections, namely the KPU, Bawaslu and DKPP. The reconstruction offered by the author is to revise Article 22E paragraph (5) of the 1945 Constitution, which previously reads:

A national, permanent, and independent general election commission organizes the general election."

The phrase "a general election commission" should be replaced so that the formulation of Article 22E paragraph (5) of the 1945 Constitution of the Republic of Indonesia becomes:

"The General Election Commission (KPU), the Election Supervisory Agency (Bawaslu), and the Honorary Council of Election Organizers (DKPP) jointly hold general elections as a national, permanent, and independent task force."

Second, referring to the principle of "National" as stipulated in Article 22E paragraph (5) of the 1945 Constitution of the Republic of Indonesia, the DKPP as the organizer of the election should be formed at least at the provincial level so that it can be interpreted as a national institution. This reconstruction is by changing article 459 of Law Number 7 of 2017 concerning Elections, which basically the Regional Audit Team (TPD) was eliminated and replaced with a Provincial

Level DKPP, which has the authority to examine and decide violations of the code of ethics by-election organizing institutions which are ad hoc.

Third, changes should be made to the DKPP membership recruitment pattern. The recruitment pattern that was originally proposed by the President and the House of Representatives has become a recruitment pattern for open selection systems such as the KPU and Bawaslu. With a pattern like this, it is hoped that the DKPP can be more independent or independent as one of the principles of election organizers regulated in Article 222E paragraph (5) of the 1945 Constitution of the Republic of Indonesia. Provisions accompany changes to the recruitment system on qualification requirements to become DKPP members, which are currently not regulated by the law.

Fourth, changes to the DKPP secretariat structure. Currently, the DKPP secretariat is led by a secretary who is appointed and dismissed by the Minister of Home Affairs. Changes should be made so that the independent DKPP secretariat is not under the Ministry of Home Affairs.

Fifth, delete article 156 paragraph (4) of Law No. 7 of 2017, which reads: "Every member of the DKPP from every element can be replaced between times." With the change in recruitment patterns through open selection, the change of DKPP members is carried out based on the sequence number below. This is to maintain the DKPP's independence, which will have problems if the President and the House of Representatives can replace each other.

2) Reconstruction of the authority of the DKPP

The reconstruction of the DKPP's authority aims to strengthen the DKPP as an election-organizing institution with a role as a quasi-ethical judiciary. The reconstruction is as follows.

First, the DKPP has the authority to investigate. Based on Article 159 paragraph (2) of Law No. 7 of 2017 concerning Elections, it reads:

Carry out investigations and verifications, as well as examine complaints or reports related to alleged violations of the code of ethics by election organizers.

Investigations can be conducted before or during the trial. Before the trial, an investigation is carried out on the results of material verification that the evidence is not strong, and then the DKPP can conduct an investigation for the purpose of proof. Investigation at the time of the trial, when it is found that the conditions in the examination hearing are considered to have facts that still need to be deepened evidentiary, then the DKPP can postpone the trial (score) to investigate the facts of the examination that are considered to need deepening or strengthening evidence.

The thing that needs to be emphasized is that the investigation by the DKPP is only on complaints or reports of alleged ethical violations received by the DKPP, so it is interpreted that the DKPP remains passive, namely, not conducting supervision to find alleged ethical violations.

Second, the nature of the DKPP decision must be reconstructed. The DKPP decision is final and binding, but in practice, the TUN Decision as a result of the DKPP decision becomes the object of law in disputes in the TUN Court.

For the sake of realizing legal certainty and referring to several decisions of the

Constitutional Court (MK), the author recommends amendments to Article 458 paragraph (13) of Law No. 7 of 2017 and the addition of one article after it so that it reads as follows:

"The decision, as referred to in paragraph (10), is binding for the President, KPU, Provincial KPU, Regency/City KPU, and Bawaslu is a decision of TUN officials that is concrete, individual, and final, which can be the object of a lawsuit in the TUN court";

Furthermore, between articles 13 and 14 of Law No. 7 of 2017, an article is added that reads as follows:

"The juridical test by the TUN Court, as referred to in paragraph (13), limits only to the aspect of authority and procedural aspects alone, while the substance aspect is excluded."

CONCLUSION

Based on the analysis of the DKPP's position, authority, and comparison with other institutions, it can be concluded that the DKPP is an independent state institution responsible for organizing elections and serving as a quasi-ethical judiciary. The DKPP's status as an election organizer is supported by the Constitutional Court Decision Number 11/PUU/VIII/2010, which interprets Article 22E paragraph (5) of the 1945 Constitution. To strengthen its role, policymakers need to establish clearer regulations to expand its authority and enhance its independence.

The DKPP has the authority to summon, inspect, and impose sanctions on election organizers for ethical violations. This process resembles a general court trial, involving the hearing of complaints, witness testimonies, and evidence examination. Its decisions are final and binding, as affirmed by the Constitutional Court Decisions Number 31/PUU-XI/2013 and Number 32/PUU-XIX/2021. In summary, the DKPP holds a unique position as the only ethical judicial body with such authority, functioning similarly to the general judiciary. The comparison shows that DKPP has a stronger position and authority than other state institutions enforcing ethical standards. This model could inspire the future establishment of a State Administrator Ethics Court. Further research on this idea is recommended.

REFERENCES

- Agani, M. H. A., Mustari, N., Harakan, A., & Hartaman, N. (2023). Responsibility of Digital-Based Complain Services at the Honor Board of Election Organizers of the Republic of Indonesia (DKPP RI) During Pandemic. *Jurnal Studi Pemerintahan*, 188–221.
- Alauddin, R. (2022). Environmental Legal Aspects In Protection Of Natural Resource Management. *Legal Brief*, 11(4), 2426–2435.
- Amrizal, D., Yusriati, Y., & Lubis, H. (2018). The Role of General Election Commission (KPU) in Increasing Voters' Participation in Langkat, Medan, Indonesia. *Budapest International Research and Critics Institute-Journal (BIRCI-Journal)*, 1(2), 13–24.

Wein Arifin, Sukamto Satoto, A. Zarkasi

- Ankamah, S. (2018). *When Do Anti-Corruption Agencies Need Society? A Study of the Nature and Effectiveness of Interactions between Horizontal Accountability Agencies and Social Accountability Actors in Three Australian States*. Griffith University.
- Arsyad, N., Idris, A. R., Rahman, S., Nawir, S., & Djanggih, H. (2023). Alternate Dispute Resolution (ADR), social media, Online platform disputes, Jurisdiction, Individuals and Business. *Russian Law Journal*, 11(3), 2474–2484.
- Atmaja, A. P. E., Erliyana, A., Simatupang, D. P. N., & Oppusunggu, Y. U. (2023a). Supreme Audit Institution Recommendations and the Legal System: The Case of Indonesia. *Accounting, Economics, and Law: A Convivium*, 0.
- Atmaja, A. P. E., Erliyana, A., Simatupang, D. P. N., & Oppusunggu, Y. U. (2023b). Supreme Audit Institution Recommendations and the Legal System: The Case of Indonesia. *Accounting, Economics, and Law: A Convivium*, 0.
- Azzahra, A. (2023). Implementation Of Good Governance in Public Services at Local Government. *International Journal of Social Service and Research*, 3(7), 1899–1906.
- Benali, L., & Benali, L. (2019). Three Main Drivers of Electricity-Sector Reforms. *Electricity-Sector Reforms in the MENA Region: Evaluation and Prospects*, 37–69.
- Bima, M. R., & Saputra, I. E. (2022a). Implication of the Constitutional Court Ruling on the Binding Character of the Election Organizer Ethics Council Decision. *Daengku: Journal of Humanities and Social Sciences Innovation*, 2(6), 769–776.
- Bima, M. R., & Saputra, I. E. (2022b). Implication of the Constitutional Court Ruling on the Binding Character of the Election Organizer Ethics Council Decision. *Daengku: Journal of Humanities and Social Sciences Innovation*, 2(6), 769–776.
- Burke, M. J., & Stephens, J. C. (2018). Political power and renewable energy futures: A critical review. *Energy Research & Social Science*, 35, 78–93. <https://doi.org/10.1016/j.erss.2017.10.018>
- De Cooman, J., & Petit, N. (2022). Asimov for lawmakers. *J. Bus. & Tech. L.*, 18, 1.
- Isra, S. (2020). *Lembaga negara: konsep, sejarah, wewenang, dan dinamika konstitusional*. Rajawali Pers.
- Kadasah, S. F., Abd Al Galil, F. M., Kolhe, B., & Shinde, S. M. (2022). *Scientific research methodology principles, methods, and techniques*. Book Rivers.
- Levinson, D. J. (2016). Looking for power in public law. *Harv. L. Rev.*, 130, 31.
- Ludlow, P. (2018). The European Commission. In *The New European Community* (pp. 85–132). Routledge.

Wein Arifin, Sukamto Satoto, A. Zarkasi

- Mochtar, Z. A. (2016). Lembaga negara independen: dinamika perkembangan dan urgensi penataannya kembali pasca amandemen konstitusi. PT RajaGrafindo Persada.
- Nasution, L. R., Kaharuddin, K., & Cahyowati, R. R. (2022). Investigative Audit Authority of the Supreme Audit Agency in Auditing the Management and Responsibility of State Finances. *International Journal of Multicultural and Multireligious Understanding*, 9(3), 319–328.
- Nisaaq, R. C., Haruni, C. W., & Anoraga, S. (2024). The Concept of Legal Certainty in The Final and Binding Decision of The Election Manager Honorary Council (DKPP). *Audito Comparative Law Journal (ACLJ)*, 5(1), 1–17.
- Perbawa, K. S. L. P. (2016). The Construction of Election Organizer Institution in Indonesia. *International Journal of Research in Social Sciences*, 6(4), 52–82.
- Ruwiyono, R., & Muhibbin, M. (2024). Authority Of District/City Bawaslu In The Process Of Handling Violations Of The Code Of Ethics For Ad Hoc General Election Supervisors. *International Journal of Social Service and Research*, 4(05).
- Singaraju, R. E. M. (2022). Establishment Of A General Election Court System In Indonesia. *Prophetic Law Review*, 4(1), 48–69.
- Suranto, S., Nasrullah, N., & Nailam, T. (2019). Recruitment Models Of Independent Election Organizing Institution In Yogyakarta Special Region. *Prosiding IcoGiss 2019*, 484–500.
- Syaefudin, M. (2019). Kewenangan Dewan Kehormatan Penyelenggara Pemilu (DKPP) Dalam Menegakan Kode Etik Pelanggaran Pemilihan Umum. *Jurnal USM Law Review*, 2(1), 104–120.
- Wijaya, P. M. F. K. (2016). The role of the constitutional court in securing constitutional government in Indonesia.