

Impact of Structured, Systematic and Massive Violations In the General Election

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ABSTRACT

Authority in resolving disputes regarding the results of general elections is the authority of the constitutional court granted by the constitution. While the authority in resolving violations is structured, systematic and massive is the authority of the electoral supervisory body granted by law. In the dispute over the results of the general election, which was decided by the constitutional court, the constitutional court did not have the authority to test the petition filed on the basis of a structured, systematic and massive violation because the constitutional court only based on the dispute over the results as intended in its authority. The court verdict has been in accordance with the authority held according to the original instruction given by the constitution, which wants the implementation of elections that are sovereign and carried out on a direct, public, free, confidential, honest and fair basis.

Keywords: *Structured, Systematic And Massive Violations, Constitutional Court, General Election Supervisory Body*

INTRODUCTION

The study of structured, systematic and massive violations is still a new thing in the implementation of general elections in Indonesia, as well as in countries that adhere to the principle of democracy, this has not become a norm. Therefore, in all countries in the world in general in handling election issues use the term dispute or dispute that distinguishes the term violation. Nevertheless, in Indonesia itself has a mechanism for resolving disputes or disputes such as those in other countries, Indonesia also implements a mechanism called handling electoral violations.

This placement of violations of systematic and massive structured elections is part of the administrative violations that were formed in line with the establishment of a general election supervisory body to carry out tasks in examining, hearing and deciding reports submitted by citizens, participants and election observers generally are based on findings made by the Election Supervisory Body in accordance with the results of the supervisory attached as part of its authority.

The establishment of the Election Supervisory Body as the supervisor of the general election is an effort to maintain the implementation of popular sovereignty in choosing and determining choices that can be carried out in accordance with the principle of direct, general, free, confidential, honest and fair. Therefore, the presence of the Election Supervisory Body with all authority is held to ensure that all stages after stages of the holding of elections are free from violations and fraud which will disrupt the creation of democratic sovereignty of the people.

Indonesia as one of the democracies that implements a system of direct elections by involving every citizen with a large enough population (Tan, 2006) is very interesting to study, especially related to the authority of the Election Supervisory Body in deciding structured, systematic and massive administrative violations. In general, according to language, these violations can be described as follows, are structured, are violations committed by involving the organizers of the election. Systematically, because the violation has been planned far in

advance with good and mature coordination, and massive, because violations are carried out evenly almost in most electoral districts.

The granting of authority to the Election Supervisory Body is of course based on various aspects and considerations of the holding of general elections in the past, namely, matters that occur during the general election process regarding violations or fraud that are often found can be avoided. ("Beyond the Margin of Litigation: Reforming U.S. Election Administration to Avoid Electoral Meltdown," 2005) In general elections there are two institutions that have special powers to carry out electoral tasks, especially in dealing with and providing solutions to any problems that occur between the participants of the general election, between the participants and the organizers of the general election and the report and findings of alleged violations and disputes regarding the results of the general election. The institution is, first, the Election Supervisory Board, in addition to having the authority to carry out supervisory duties, it is also burdened with the task of handling every issue that arises during the process and the stages of the general election. While the second institution is, the constitutional court is given the authority to settle and decide disputes about the results of the general election. (Harijanti & Lindsey, 2006) The division of authority in each institution is best for the Election Supervisory Body by law and the constitutional court by the constitution, as the implementation of a system of checks and balances in general elections so that the authority of each institution does not clash with each other and has the authority of each of which is independent. (Blanchard et al., 1997)

The reason for establishing and giving the authority of the Election Supervisory Body in resolving violations is structured, systematic, and massive besides being mentioned previously, based on experience in several general elections that have been carried out, namely not infrequent violations and frauds, so that the presence of Election Supervisory Body is a permanent supervisory institution with all authority compared to before, it is more independent and independent. Moreover, this structured, systematic and massive violation is not only a result of the actions of the general election organizers by the general election committee, but also on other institutions that are governed by legislation to be neutral and impartial to either some general election participants for the sake of the realization of the

people's sovereignty desired and linked to the constitutional court ruling which refused to resolve the dispute about the results of the general election based on structured, systematic and massive violations.

INSTITUTION FOR RESOLVING GENERAL ELECTION PROBLEMS

In carrying out any activity, there are always problems that occur, either due to the intentional actions or negligence committed by certain parties so that it is deemed necessary to establish an institution with all its authority to resolve it. Likewise, in the conduct of general elections, there are certainly many problems that will occur, what is more by including every citizen in large numbers, such as in Indonesia. In organizing general elections like this, not a few various types of problems will arise and even the problems that occur are complex. Formation and authorization of institutions in resolving the problems of general elections, especially in this study is divided into, first, the institution that is given the authority to handle and resolve problems that occur during the process and the stages of general elections, namely Election Supervisory Body, while the second, institutions given authority in resolving problems at the final level, namely the existence of disputes about the results of general elections given to the constitutional court. The following will be adjusted about the two institutions.

1. Election Supervisory Body

Election Supervisory Body is one of the general election organizing institutions in Indonesia, which was formed in 2008 through Law Number 22 of 2007 concerning General Election Organizers with limited authority, when compared to the current authority through Law Number 7 of 2017 concerning elections. The authority obtained by the Election Supervisory Board up to now is a form of high appreciation and public trust in the performance carried out by the Election Supervisory Board while carrying out its duties. The authority of the Election Supervisory Board will be briefly explained below.

1.1. Supervision

Supervision carried out by the Election Supervisory Body covers, (i) supervising the preparation of general elections, consisting of planning and scheduling stages of elections, logistics procurement planning by electoral commissions, dissemination of general elections, and other preparations in holding general elections in accordance with

regulatory provisions legislation, (ii) Supervise the implementation of the stages of general elections consisting of updating voter data and stipulating the temporary voter list as well as the final voter list, arrangement and determination of electoral districts, determination of election participants, nomination up to the determination of candidate pairs, candidate members of the People's Representative Council, candidates regional legislative members, and prospective members of the regional legislature in accordance with the provisions of legislation, the implementation of campaigns and campaign funds, Procuring logistical elections and distributions, conducting voting and counting the results of elections in the polling station, ballot movement, the vote count report, and the vote count certificate, from the polling station level to the sub-district election committee, recapitulation of the results of the vote count, re-counting and voting, continued elections, and general elections Continuation, and determination of election results, (iii) Preventing the occurrence of money politics, (iv) Overseeing the neutrality of the state civil apparatus, neutrality of members of the Indonesian national army, and neutrality of members of the Indonesian republican police, (v) overseeing the implementation of decisions, consisting of: Election Organization Ethics Council verdict, court ruling regarding violations and disputes in general elections, Election Supervisory Body decisions, decisions of the electoral Commission, decisions of competent officials for violations of the neutrality of the state civil apparatus, neutrality of members of the Indonesian national army, and neutrality of members of the Indonesian republican police.

1.2. Violation Handling

This authority is the authority in handling any suspected violations of general elections originating from "direct reports from Indonesian citizens who have the right to vote, general election participants, and observers of the general election or from the results of active supervision by the Election Supervisory Board called findings at each stage of organizing general elections" In the case of reports and findings, the Election Supervisory Body will follow up through a mechanical subscription for administrative violations and handling criminal offenses in general elections. The choice of type of treatment depends on the violations reported and found.

Administrative violations include violations of procedures for procedures or mechanisms relating to the administration of general elections in every stage of the holding of general elections that can be imposed on participants or the general election commission. Sanctions that can be given due to this violation can be subject to administrative sanctions through the order of a decision issued by the Election Supervisory Board within 14 working days after the findings or reports are received and registered in the examination by the examining board. Election Supervisory Board ruling on election administration violations in the form of:

1. Improved administration of procedures, procedures or mechanisms in accordance with the provisions of the legislation.
2. Written warning
3. Not included at certain stages in the holding of general elections, and
4. Other administrative sanctions in accordance with the provisions in this law.

Decisions issued by the Election Supervisory Board on the subscription of violations must be followed up by the election commission within three working days from the date the verdict was read.

Whereas in carrying out the authority to handle violations of criminal offenses in general elections, the Election Supervisory Body is assisted by the Police and Executing Agency which is incorporated in the Integrated Law Enforcement Center. Reports or findings before entering the inspection process by the Integrated Law Enforcement Center must first be examined the requirements of reports and findings and then proceeded to the plenary meeting of the Election Supervisory Board leadership to determine whether the report or findings can be forwarded to the examination by the Integrated Law Enforcement Center. If in the Election Supervisory Body plenary meeting it determines that the report or findings can be forwarded to the Integrated Law Enforcement Center, within 14 days the Integrated Law Enforcement Center works to clarify by calling parties, both the reporter, the reported party and witnesses to hear his statement under oath.

If the 14-day period is to expire, the Integrated Law Enforcement Center immediately reports and submits the results of clarification to the Election Supervisory Body for the second discussion and through the plenary meeting of the Election Supervisory Board leadership to determine whether or not the report can be carried out through the investigation process at the prosecutor's office in the trial at the District Court. If the report or finding does not contain elements of the violation, then at each stage it can be stopped and declared cannot be continued. The Integrated Law Enforcement Center clarification activity can be compared with the process of investigating the police, namely a series of activities in an effort to find the alleged crimes reported that there is a criminal element of the general election or not. At this stage, the parties mentioned in the reporter's report, the Integrated Law Enforcement Center, do not have the power to forcibly call if they have been called but do not fulfill the intended call.

Regarding the authority to handle structured, systematic and massive violations by Election Supervisory Body is a violation that is included in administrative violations obtained through orders of Article 463 paragraph (1) of Law Number 7 of 2017 concerning General Elections, namely in the event of violations of electoral administration as where is stated in article 460 which occurs in a structured, systematic, massive manner, the Election Supervisory Board receives, checks, and recommends administrative election violations within a maximum of 14 working days. The handling of these violations is carried out through a trial process by the examining panel, which is the same model as handling administrative violations regarding the procedures, procedures, and mechanisms that are held in trials that are open to the public.

Reports and findings of violations are structured, systematic and massive before entering into the hearing by the examining board first examined on the completeness of the formal and material requirements of the report or findings, which will then be handled as in court proceedings in general by calling the parties to listen to the report. Answers to reports, examining evidence, witnesses, and experts presented before the hearing until the hearing panel decides on the violation whose decision will be recommended to the electoral commission for further action

1.3. Electoral Dispute Resolution

In resolving disputes in the electoral process mentioned in Article 466 of Act Number 7 of 2017 concerning General Elections, "disputes over the electoral process include disputes between general election participants and disputes over general election participants with the organizers of the general election as a result of the election commission decision" This authority is a newly acquired authority if compared with the previous conditions, according to the law, the Election Supervisory Body does not yet have the authority to resolve the dispute process. When interpreted in depth the birth of this authority as a form of supervision in controlling the actions of the electoral commission in issuing decisions about the stages and process of the general election must be based on the provisions of the applicable legislation because, the decision issued has an impact, especially the emergence of losses for election participants so that the action in issuing the decision can be arbitrary.

The object in the dispute over the electoral process is a decision that affects one or all participants of the general election so that participants feel disadvantaged and can submit an application to the Election Supervisory Body. Applicants in a process dispute with the Election Supervisory Board are submitted by participants in the general election. Election participants according to article 1 paragraph (27) of the General Election Law, namely (i) political parties for legislative candidates, (ii) candidates for regional legislative members, and (iii) pairs of candidates for president and vice president. In resolving process disputes, the products produced by the Election Supervisory Board are in the form of decisions that are final and binding for the parties, except decisions that relate to verification of political parties participating in the general election, fixed list of candidates, members of the House of Representatives and the House of Representatives provincial, district and city areas, and determination of candidate pairs. The Election Supervisory Board decision must be carried out by the election commission.

In carrying out this authority, the Election Supervisory Body was given twelve working days to decide on a dispute request process which was preceded by a mediation session led by a mediator attended by each party for two days to ask the parties to submit their responses and

wishes to the object of the dispute issued by the election commission. If in the mediation an agreement is reached and the parties to the dispute because the respondent accepts the request of the applicant, the head of the mediation will make a deed regarding the agreement reached by all parties including the mediator. But if in mediation the parties persist with their respective opinions and no agreement is reached, the dispute will be continued through adjudication hearings such as in the trial process in general by bringing back the parties to respond and submit evidence in the form of documents and letters, witnesses, and experts until the decision is made by Election Supervisory Board for no more than twelve working days.

2. *Constitutional Court*

The constitutional court was formed based on changes to the three constitutions of the Republic of Indonesia in 1945. The idea of forming a constitutional court was adopted into the constitution as a new constitutional organ with an equal position with the Supreme Court. The function of the constitutional court was even constitutionally instituted since August 2003, namely with the provisions of article III of the transitional regulation stating "the constitution of the constitution was established no later than August 17, 2003 and before any authority was established by the Supreme Court.(Undang-Undang Dasar, 1945)

Establishment of the Constitutional Court. Done because of changes to the 1945 Constitution. The amendment adopted new principles in the constitutional system, namely the principle of separation of powers and checks and balances as a system of prior parliamentary supremacy. The position of the constitutional court is regulated in article 24 paragraph (2) Amendments to the provisions of the 1945 Constitution, namely:

Judicial power is carried out by a Supreme Court and a judicial body under it in the general court environment, the religious court environment, the military court environment, the state administrative court environment, and by a constitutional court.

The authority and obligations of the constitutional court granted by the constitution are contained in article 24C paragraph (1) and paragraph (2) of the 1945 constitution.

- (1) The constitutional court has the authority to adjudicate at the first and final level whose decisions are final in order to test the law against the constitution, decide the authority of state institutions whose authority is granted by the constitution, decide upon the dissolution of political parties, and decide disputes about the election results.
- (2) The constitutional court is obliged to give a decision on the opinion of the legislature regarding the alleged violation by the president and or vice president according to the constitution.

The constitutional court in terms of resolving disputes regarding the results of general elections is the authority granted by the constitution, which is further stipulated in the law and through constitutional court regulations. Regulations in carrying out the authority to settle disputes concerning the results of general elections are regulated technically through a constitutional court regulation Number 4 of 2018 concerning Procedures in the Case of Presidential and Vice Presidential Results of Disputes, the parties including the Petitioner, Respondent (General Election Commission), and Parties Related (Candidate pair of President and Vice President).

The object in the dispute about the results of the general election is the decision of the General Election Commission regarding the election of the president and vice president's influential votes, the presidential and vice-presidential candidates who are eligible to take part in the second round of presidential and vice-presidential elections and the vice president can be submitted within three days after the determination of the vote results of the general election of the President and Vice-President by the General Election Commission.

STRUCTURED, SYSTEMATIC AND MASSIVE VIOLATIONS

General elections in Indonesia as explained earlier are carried out directly by the people by involving every citizen as a form and manifestation of the complete surrender of sovereignty which is a manifestation of the desired will by the constitution (Tierney, 2009), in the hope that the state government must be based on popular sovereignty. Submission of sovereignty to the people through elections in a heterogeneous structure of Indonesian society, both in the fields of social, economic, cultural, education, including in terms of background and political views becomes something very interesting to study, especially when it is

associated with structured, systematic violations and massive which become the authority of the Election Supervisory Body.

The handling of structured, systematic and massive electoral violations is one of the authorities owned by the Election Supervisory Board as stated in Law Number 7 of 2017 concerning General Elections, namely the Election Supervisory Board has the authority to resolve violations that occur in a structured, systematic and massive manner in accordance with the provisions Article 463 paragraph (1) states that "in the event of a violation of the electoral administration as referred to in article 460 which occurs in a structured, systematic and massive manner, the Election Supervisory Board receives, checks and recommends violations of electoral administration within fourteen working days."

Structured, systematic, and massive administrative violations are violations involving the organizing element and perfect coordination has been carried out beforehand which occurs in almost a number of electoral districts, so that the impact of these violations can cause election participants to receive cancellation sanctions as potential participants as well as elected candidate. Judging from the types of violations, for this reason, these violations can be categorized as gross violations compared to other administrative violations because the organizers should act neutral and impartial in carrying out their authority and do not help or facilitate certain participants, especially if the organizers are involved for general election participants so that every policy or decision issued can disrupt or influence the substance of the holding of general elections. Therefore, the organizer must be fair in treating each participant.

The authority to resolve structured, systematic and massive violations are the authority possessed by the Election Supervisory Body as explained earlier, not being the authority of other institutions which are also given the same authority in handling and resolving electoral disputes such as the Constitutional Court. The constitutional court is only given the authority to resolve disputes over the results of general elections not at the stages or processes which certainly have differences with the handling of violations that are under the authority of the Election Supervisory Body. Election Supervisory Board violations are carried out on the basis of reports submitted by citizens, participants, and election observers on the alleged violations

or because of findings obtained by the Election Supervisory Body as a result of supervision by first meeting the formal and material requirements of a report so that they can be forwarded through a mechanism of inspection of the examining panel.

The conditions that must be completed so that the report can be processed by the Election Supervisory Board by submitting and loading the identity of the reporter, the identity of the reported person in this case is a general election participant, then the reporter must describe the time, place of the incident, witnesses, evidence and description of events and the latest is that the reporter lists the matters that will be asked to be decided by the Election Supervisory Body. In the event that the report submission is one of the conditions that must be fulfilled, the reporter makes a report to the Election Supervisory Board not exceeding the time limit of seven days after the violation is known by the reporter, because if the report has passed the deadline no longer qualifies as a report or has considered expired.

Seeing the authority in handling structured, systematic and massive electoral violations against the entire set of procedures that must be taken by the reporter including those who are given the power to be able to make a report, clearly what has been described, shows the existence of differences in procedure with a resolution of outcome disputes in the constitutional court, which can be the party requesting to submit a dispute over the outcome of the constitutional court can only be carried out by participants in the general election. Such matters are the basis of the constitutional court in the legal considerations of disputes over election results disputes Number 01 / PHPU-PRES / XVII / 2019 in paragraph three page 1810 which refuse to settle applications based on qualitative issues relating to structured violations, systematic, and massive, at the request of the applicant in the dispute over the results of the presidential and vice-presidential elections by stating "that as for administrative violations that are structured, systematic and massive, the handling in the form of examinations and decisions is only carried out by Election Supervisory Board (Konstitusi, 2019)" besides the constitutional court the provisions of article 24C paragraph (1) of the 1945 Constitution, namely one of the authorities of the constitutional court is to decide on disputes regarding the results of general elections in addition to other authorities granted by the constitution.

The verdict of the constitutional court provides a limit as well as a measure of the authority of each institution in general elections to deal with and resolve certain matters that are considered to be the same and similar so that there is no attraction between the institutions. With the rejection carried out by the constitutional court in the decision affirming the position of Election Supervisory Body as the only institution that has been given authority in resolving violations that are structured, systematic and massive, although the existence of the constitutional court as the highest institution in guarding and guarding the constitution cannot automatically interfere and even take over the authority of other institutions. This is in line with the concept and application of the principle of separation of powers that exist in each state institution according to their respective authorities (Bradley & Morrison, 2012).

In addition, the constitutional court in its legal consideration of its decision in the second paragraph of 1814 states, "the examination of qualitative applications in the process context is not in the sense that the court will examine and decide all alleged violations postulated. Because, if this is done, then the court will actually become a judicial body that will handle all legal issues of the general election, even though the limits of the court's authority are limited to resolving disputes over election results. In addition, such a step will certainly nullify the role of institutions mandated by law to be involved and given authority to resolve legal issues in elections. In this case, the court can enter into the qualitative territory if the institutions granted authority in law No. 7 of 2017 to resolve violations of general elections and disputes over the electoral process do not exercise their authority. However, if the institutions are given the authority, regardless of whatever decision has been given to the general election participants who submitted the application, the Court is not authorized to examine and decide the qualitative permissions referred to."

The implementation of the authority of other institutions as referred to in the ruling of the constitutional court, the Election Supervisory Body has handled this structured, systematic and massive violation of general elections, for reports submitted by the applicant who postulated the alleged violation registered with number 01 / LP / PP / ADR / TSM / RI / 00.00 / V / 2019. Based on the examination carried out by the Election Supervisory Body for the report on the formal and material conditions the report was declared accepted so that it could be forwarded to the examination stage by the bustle examining panel at the trial open to the

public. The proposition submitted by the applicant stated that the candidate pair president and vice-president number 01 had committed a structured, systematic and massive violation so that as the provisions of the laws and regulations stipulated this violation, general election participants could be declared null and void as candidates. Likewise, the request of the applicant in the report petit asks the participant related to the violation to be declared disqualified.

At the hearing by the panel, the parties, both the reporter and the reported party, called candidate pair presidential and vice presidential candidate number 01 to submit their opinions and responses as well as proof of the reports handled within fourteen working days to determine the final results of the report. Examinations conducted in addition to having heard the opinions of each and all the evidence, especially those submitted by the reporter for alleged structured, systematic, and massive customer, were examined and assessed by the Election Supervisory Board, so that the decision rejected the applicant's report due to the evidence presented to the trial was declared not sufficient to prove the existence of structured, systematic, and massive fraud and violations committed by the reported party, Considering that the evidence submitted by the applicant was in the form of online news print out of fraud done not supported by other evidence so that the evidence could not stand itself, but must be supported by other evidence such as documents, letters and videos that show the existence of massive acts committed by the reporting party.

The existence of a constitutional court as intended in the original intent of the constitution's will, in carrying out its authority, the constitutional court has a wider reach because it is given the freedom to interpret every problem at hand (Graber & Graber, 2014), if this is understood and interpreted in exercising its authority to test the constitutionality of the law against The constitution and even against this constitutional court can make a legal breakthrough in the form of ignoring, overruling, forming even specifically can remove the enactment of a legal norm and revoke the product of the law that has been made (Ackerman, 2007).

Likewise, for example, there is an authority dispute between state institutions which also becomes the authority of the constitutional court to test it. Authority disputes between

state institutions can occur due to the lack of authority or the authority has not been regulated in the existing institutions so that problems arise in the implementation, namely, each institution claims to be an institution that has more authority over it, and according to the constitutional order as a provision the basis of the implementation of the state government that the constitutional court must be able to give a decision in resolving the problems that occur through interpretation based on the constitution.

Another thing that is under the authority of the constitutional court is the dissolution of political parties that are not given authority to other state institutions, namely the constitutional court must go through a way of interpretation as well as to determine whether a political party can be dissolved because it contradicts the basic values that exist or not? based on the constitution and even according to the basic principles contained in the fundamental norm. If all the authority possessed by the constitutional court is examined both to examine the law against the constitution, decide on disputes over the authority of state institutions given by the constitution, or decide on the dissolution of political parties, the whole is carried out based on interpretation according to the constitution, It means that all decisions made in exercising that authority, the constitutional court is solely to carry out the basic values of the life of the state as an institution that upholds the law and the constitution (GinsburgC, 2003).

In terms of deciding disputes about the results of general elections, which are also one of the authorities of the constitutional court in addition to the other three authorities mentioned previously have the same position. However, if it is seen the implementation of authority in all matters which are specifically resolved on the three authorities of the constitutional court apart from the authority to settle disputes about the results of all general elections based on the constitutional court's position as guardian and guardian of the constitution, this is not the same as the settlement Outcome disputes associated with violations are structured, systematic, and massive which are nothing but an inseparable part and become a unified whole with disputes over election results.

The constitutional court's decision to reject the petitioner's request because the authority to deal with violations is structured, systematic and massive constitutes the authority

of the electoral authority, the constitutional court only relies on what is provided by the constitution, which only tests disputes about the results of general elections. However, in the other three authorities, the constitutional court can interpret and apply the principles far from that without meeting the boundaries as meant in the letter of understanding of the constitution. The examination of disputes over the results of the general election of the constitutional court through its decision has placed a limited position, meaning that it is not given a broad space to interpret the meaning of the sentence about disputes about the results of elections in the authority granted by the constitution like the other three authorities.

The granting of authority for each institution to resolve disputes over the results of the constitutional court and the handling of violations of the Election Supervisory Body is used as a guideline in giving birth to democracy and sovereignty, general elections in accordance with the direct, general, free, confidential, honest and fair principles. The principle of holding elections is as a guiding star for the realization of basic ideals according to the will of the constitution because, those principles have very deep and in accordance with the spirit of the nation (*volksgeist*) used in guiding every citizen, organizer and participant to submit Carry out general elections desired by the constitution.

The terminology of the meaning of general election principles can be described below, namely: *the direct principle*, that general elections and the involvement of every citizen are carried out directly by the person concerned and cannot be represented or replaced by others (Carole Pateman, 1970). Provisions cannot be represented or replaced by others to grant this right to be determined as an act that can be imposed as a criminal offense in the general election (Hart, 2006). anyone cannot act on behalf of another person who is not himself in giving the right to vote except only and for himself stipulated in the provisions of Article 533 of the General Election Law, which states that "everyone who deliberately claims to be someone else and / or cast more than one vote in one voting place or more with a maximum of one year and six months imprisonment and fine.

The general principle is the principle that gives equal opportunity and position for every citizen who has fulfilled the requirements in the general election to exercise his rights both to choose and to be elected who cannot be obstructed by anyone (Urbinati, 2000). This

right is highly protected by the state because the basic principle of state sovereignty is in the hands of the people carried out through general elections (Habermas, 2001). Therefore, the implementation of the voting rights and the choice of every citizen is very important as stipulated in Article 510 of the General Election Law.

Furthermore, *the principle is free*, namely the principle that is closely related to the structure of society in every country where every citizen can choose and make choices calmly without any coercion or pressure from other parties (Ferree, Gamson, Gerhards, & Rucht, 2002) because, the principle is free, new can be adjusted to the structure of the community in each country or every country has the same and equal position in all matters as social beings towards welfare, opportunities, examining and understanding other things, making it possible to enrich each country according to choice . Freedom in this case is carried out consciously and does not depend on the pressure to determine the democratic suffrage that is applied in Indonesia through general elections involving a large number of citizens with diversity factors that can increase freedom. A political system with many people, such as modern countries, by the people government must be largely indirect (*Ware12.pdf*, n.d.). People participate mainly by choosing policymakers in competitive elections (Croissant, 2000). Such elections are instruments of democracy insofar as they influence the people on policy making (Welzel & Inglehart, 2008). This opinion can be interpreted that the implementation of general elections involving every citizen in large numbers can lead to various violations and fraud.

The secret principle is a guarantee for every citizen of the right to vote that has been granted is unknown to others protected by law (Aliens, Of, & Suffrage, 1992). The form of protection that can be given to the secrecy of one's voting rights is the obligation for others not to notify other parties of the right to vote for others they know. Notifying other people of their voting rights to the public is an act of criminal election. That is, someone who knows the voting rights of others is obliged to keep the secrecy mentioned in article 500 of the electoral law stating "everyone who helps voters who deliberately inform voters of their choices to others is punished with a maximum of one year imprisonment and fines. Provisions concerning assisting this voter stipulated in article 364 states that "net disability voters, physical disabilities, and those who have other physical obstacles when voting can be assisted by others at the request of voters with the obligation to keep voters' choices confidential.

Finally, *the principle of honesty and fairness*, this is the most important principle in determining the implementation of good elections (Reynolds, 2000). To be able to realize the principle of honesty and fairness, every citizen organizer and also participant of the general election must place this as the most important part to be shown so that general elections are held without fraud and violations. Understanding, honest and fair for the organizers, namely, treating all election participants in the same and equal position without exception, and not involved in helping or being part of one of the participants in the general election, either directly or indirectly. Meanwhile, honest and fair for general election participants is to carry out the entire process and stages of the general election by taking into account all provisions by not cheating, violating, and not using methods that are not desirable or even affecting the organizers to become part of the violations and fraud.

Hope with all existing principles can give birth to good and quality elections. However, the situation that is expected to be possible because of violations and fraud in the general election ignores the basic principles of democracy. Regarding structured, systematic and massive violations that are closely related to the principles of honesty and fairness as previously described, every citizen, organize, and participate in the general election has the same rights and obligations, especially when the organizer must be neutral. The issue of neutrality in the general election is not only given to the organizers namely the Election Supervisory Body and the electoral commission, but this is also given to other institutions such as the State Civil Service, Indonesian National Police, and Indonesian National Army as in one of the reporter's arguments in a report that has been examined and decided by the Election Supervisory Body.

The order of neutrality to these institutions is intended not to be part of the general election participants, both institutionally and personally, to become a campaign team or to carry out campaign activities and campaign for and on behalf of and interests of certain participants, especially for the Indonesian republican police and also to the Indonesian national army not only orders to be neutral in general elections, but at the same time are not given the right to vote. This does not apply to the state civil apparatus that are still given the right to vote even though they must be neutral during the campaign period. The prohibition on

these institutions in the hope that the violations and fraud will not occur in particular for violations that are structured, systematic and massive because of the hierarchical position of these institutions from the central level to the regions so that they can influence the results of the general election.

Indonesia is a democratic legal state. The implementation of state principles based on law can be carried out in line with the principle of popular sovereignty adopted by the 1945 constitution, one of which is reflected in the judicial power institution is the constitutional court whose duty is to guard and guarantee that the basic norms contained in the constitution are true that is, the scope of the constitutional court's authority is not limited to the understanding of the letter of authority that has been given, but rather the substance desired in the original constitution. Likewise with the general election of various types of violations, the constitutional court should be able to act far beyond that to determine democratic quality through general elections based on the basic values of a country.

CONCLUSION

General elections are the embodiment of popular sovereignty as stated in the constitution, which is carried out every five years, according to the principle of direct, general, confidential, honest and fair. This principle is the basis and guide in the holding of general elections, but violations and fraud still occur so that institutions need to be formed specifically to solve any problems that arise, both structured, systematic and massive violations and disputes over election results. The general election law clearly regulates and gives authority to the Election Supervisory Body to resolve structured, systematic and massive violations, while the dispute over the results of the elections becomes the authority of the constitutional court granted by the constitution. Settlement of outcome disputes by the constitutional court can be derived from the petition submitted by the applicant because of a structured, systematic and massive violation which should include and become part of the authority of the constitutional court to test it, like other authorities, the constitutional court in the decision is made through the way of interpretation according to the basic essence contained in the constitution. That is, whether the disputed general election results in the constitutional court have structured, systematic and massive violations in achieving them.

Therefore, the constitutional court with its position as guardian and guardian of the constitution has the power to assess the dispute over the results of the general election in line with or contrary to the constitution as the basic value of the life of the nation and the state.

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