

Enforcement of the Code of Ethics for 2024 Election Organizers in Indonesia: A Substantive Justice Perspective

Didik Suhariyanto¹, Ade Sathya Sanathana Ishwara³, Sinta Dyah Kirana³

¹Universitas Bung Karno, Jakarta Pusat, Indonesia, Email: suhariyanto.didik@yahoo.co.id

²University of Mataram, Indonesia. Email: adesathya20@gmail.com

³School of Law, University of Sheffield, United Kingdom, Email: sintaa0904@gmail.com

Abstract

This study employs a normative legal research approach focusing on conceptual and legislative analysis. Its aim is to examine the dynamics of the enforcement of the electoral organizers' code of ethics by the Indonesian Election Supervisory Agency (DKPP) and to formulate a reconstruction of this enforcement aimed at achieving substantive justice. The findings assert that the enforcement dynamics of the electoral organizers' code of ethics by DKPP inherently pose two main issues. Internally, the enforcement requires oversight and public participation to ensure DKPP's credibility and integrity in upholding the code of ethics. Externally, issues arise regarding the final and binding nature of DKPP decisions, which have been undermined by Constitutional Court rulings, allowing for their annulment by judicial bodies such as the Administrative Court (PTUN). Reconstruction or reform efforts concerning the enforcement of the electoral code of ethics for electoral administrators, based on substantive justice, necessitate a clear affirmation of the independence of ethical norms, particularly those related to the conduct of electoral administrators. This includes ensuring that the enforcement of these ethical norms is immune from legal norms and external intervention. Additionally, there is a need for a revision of the electoral laws in Indonesia to enhance the appeal process for ethical judgments rendered by the Election Supervisory Board (DKPP), which are final and binding and cannot be overturned by the courts, especially the Administrative Court (PTUN).

Keywords: *Substantive Justice, Code of Ethics, Elections.*

1. INTRODUCTION

The 2024 general election (Pemilu 2024) is one of the democratic party events that has received serious attention from the public because in the 2024 Election one of the orientations is to elect the President and Vice President along with representatives of the people who sit in parliament. The 2024 elections as a manifestation of people's sovereignty certainly requires optimal enforcement efforts both from the aspect of law enforcement and in the perspective of enforcing the code of ethics.¹ Law enforcement and code of ethics enforcement are part of the efforts to ensure that the process of organizing the 2024 elections

¹ Susi Ramadhan Amancik, Putra Perdana Ahmad Saifulloh, Zainal Amin Ayub, Sonia Ivana Barus, "Choices of Law for Democratic Regional Head Election Dispute Resolution Institutions in Indonesia," *Jambura Law Review* 6, no. 2 (2024): 304–38.

runs optimally and can ensure that the political rights of the people can be channeled appropriately.²

The enforcement of the code of ethics, especially in the process of organizing the 2024 elections, is actually an important aspect to ensure that the organizers of the 2024 elections have guaranteed integrity and professionalism in organizing the 2024 elections. The enforcement of the code of ethics in the 2024 elections is also oriented towards the realization of transparency, justice and integrity of the organizers of the 2024 elections so that the results of the 2024 elections have strong legitimacy in the community.³ The importance of enforcing the code of ethics of the organizers of the 2024 General Election is actually in line with the purpose of the establishment of the code of ethics itself, which is to ensure the behavior of the organizers of the 2024 General Election with integrity and morality so that they become the front guard in the success of the 2024 General Election. The enforcement of the 2024 Election code of ethics is also in line with efforts to realize the seven criteria for election organizers to ensure the validity of the credibility and professionalism of the 2024 Election, which include: independence, impartiality, honesty, transparency, efficiency, professionalism, and service.⁴

The enforcement of the election organizer's code of ethics is generally carried out by the Election Organizer Honor Council (DKPP). In 2018, DKPP received 521 complaint and in the following year received around 509 complaints, especially in the 2019 elections.⁵ With the number of complaints to DKPP in 2018 and 2019 above, it can be seen that the number of complaints to DKPP is relatively stable, reaching 500 complaints, so it can be concluded that the number of violations of the code of ethics of election organizers can be said to be still quite high. Of the total number of trials above, 52.3 % of election organizers received rehabilitation, while 47.7 % received punishment. In addition, there were also 1,019 people who received warnings, 33 people were dismissed, 19 people received temporary dismissal sanctions, and 144 people received permanent dismissal sanctions.⁶ Based on this information, 3,227 election organizers or 44.6 % were sanctioned. This number confirms that violations of the code of ethics in the 2019 elections were still high, experienced by almost half of the election organizers.

The 2024 elections, like the previous elections, also have a fairly large and massive number of violators of the election organizers' code of ethics. This requires the process of enforcing the code of ethics of election organizers, especially by DKPP to be carried out optimally and optimally. Therefore, this study aims to analyze the dynamics of enforcement of the code of ethics of election administrators by DKPP and formulate a reconstruction of the enforcement of the code of ethics of election administrators by DKPP in realizing substantive justice.

Research that discusses the enforcement of the code of ethics of election organizers by DKPP has actually been carried out by several previous researchers, such as: (i)

2 Muhammad Bahrul Ulum, "Indonesian Democracy and Political Parties After Twenty Years of Reformation: A Contextual Analysis," *Indonesia Law Review* 10, no. 1 (2020): 29–44, <https://doi.org/10.15742/ilrev.v10n1.577>.

3 Muhammad Afied Hambali et al., "Feasibility Test Reconstruction of Ethical Enforcement Regulations for Election Organizers Based on the Values of Justice with Dignity," *Scholars International Journal of Law, Crime and Justice* 5, no. 1 (2022): 1–7, <https://doi.org/10.36348/sijlcj.2022.v05i01.001>.

4 Uu Nurul Huda, "The Position and Authority of the Election Supervisory Board in Indonesian Constitutional System," *UNIFIKASI: Jurnal Ilmu Hukum* 6, no. 1 (2019): 71–82.

5 Saeful Kholik, "Model Pengawasan Dewan Kehormatan Penyelenggaraan Pemilihan Umum (DKPP) Dalam Penyelenggaraan Pemilu Berbasis Partisipatif Masyarakat," *Yustitia* 8, no. 2 (2022): 200.

6 Syafrijal Mughni Mada, Firdaus Firdaus, and Mirdedi Mirdedi, "Problematisasi Pengawasan Tindak Lanjut Putusan Bawaslu Dan DKPP Dalam Penegakan Hukum Pemilu," *Jurnal Konstitusi* 19, no. 4 (2022): 909–32, <https://doi.org/10.31078/jk1948>.

research conducted by Agani, et., al. (2022) which discusses related to accountability by DKPP related to complaints of digital-based code of ethics enforcement. The novelty of this research is that DKPP needs to make legal breakthroughs related to digital-based code of ethics enforcement complaints. Further research was conducted by (ii) Pasalli, et., al. (2023) with the focus of discussion, namely the enforcement of the code of ethics of election organizers in Makassar City. The novelty of this research is that the enforcement of the code of ethics of election organizers in Makassar City will be relevant if combined with aspects of cultural values adopted by the people in Makassar City. Further research was conducted by (iii) Sandi et.,al. (2023) which discusses the importance of enforcing the code of ethics in the 2024 elections.⁷ The newness of this research is that the enforcement of the code of ethics of the organizers of the 2024 elections has an orientation so that the 2024 elections can be carried out fairly and with dignity by guaranteeing aspects of legal certainty and maintaining the integrity and professionalism of the organizers of the 2024 elections. Further research was conducted by (iv) Samosir (2023) with a focus on discussions related to the enforcement of the code of ethics of election administrators related to organizational behavior.⁸ The newness of this research is that the enforcement of the code of ethics of election administrators has an orientation related to realizing organizational behavior that is aware of the code of ethics so as to minimize various forms of ethical violations in the implementation of elections. The last research was conducted by (v) Saputra and Setiadi (2024), which focused its analysis on the implementation of good governance principles in the implementation of the 2024 General Election.⁹

Based on the five studies mentioned above, it is evident that the enforcement of the electoral code of ethics is generally focused on the aspects of authority and legal enforcement efforts by the ethics enforcement body (in this case, the DKPP). However, there are several research gaps that have not been addressed by these previous studies, which this research aims to explore, specifically related to the dimension of substantive justice concerning the enforcement of the electoral code of ethics. The dimension of substantive justice is crucial as it delves into electoral fairness from both a legal and ethical perspective. The five previous studies predominantly cover the enforcement of the code of ethics without extensively examining the broader dimension of enforcing the electoral code of ethics. This study will thus treat the enforcement of the code of ethics and legal enforcement as two critical aspects to achieve substantive justice in electoral processes.

The newness of this research is that the implementation of the principles of good governance in the 2024 elections will be optimal if combined with efforts to enforce the code of ethics in the 2024 elections. Of the five previous studies above, this research is original because specifically in the five previous studies have not discussed substantive justice in enforcing the code of ethics in the 2024 elections. This research is normative legal research that seeks to answer legal issues in the form of aspects of substantive justice in enforcing the code of ethics for organizers of the 2024 elections. The approach

7 Wildan Syahamata Ady I Dewa Kade Wiarsa Raka Sandi, Retno Saraswati, "The Urgency of Upholding the Election Organizer Code of Ethics in Facing Concurrent General Elections and Concurrent Regional Head National 2024," *International Journal of Social Science Research and Review* 5, no. 1 (2023): 159–65.

8 Osbin Samosir, "Serious Challenges To The 2024 Indonesian National General Election From The Serious Challenges To The 2024 Indonesian National General Election From The Aspect Of Election Organizer Behavior," *International Journal of Current Research* 15, no. 1 (2024): 23186.

9 Wicipto Setiadi Saputra, M. Reza, "Implementation of General Principles of Good Government in Decision Number 8/G/2013/PTUN-KPG," *International Journal of Law and Society* 3, no. 1 (2024): 825–31, <https://doi.org/10.57235/qistina.v3i1.2429>.

used is a conceptual and statutory approach. The primary legal materials used are the 1945 Constitution of the Republic of Indonesia and Law No. 7 of 2017 concerning General Elections (Election Law). Secondary legal materials are research results and journal articles that discuss the enforcement of the election organizers' code of ethics. Non-legal materials are language dictionaries. Analysis of legal materials is carried out qualitatively-prescriptively by focusing on efforts to answer existing legal issues.¹⁰

2. ANALYSIS AND DISCUSSION

2.1. Dynamics of Enforcement of the Election Organizer Code of Ethics by DKPP

2.1.1. The Problem of Dynamic Enforcing, Internally Code Of Ethics Election Organizers

Enforcement of the code of ethics is an important part of organizing elections. This is because by upholding the code of ethics of election organizers, this can contribute to the success of election contestation as a reflection of democracy.¹¹ In the view of Henry B. Mayo, elections are a reflection of democracy in a country where if the holding of elections takes place accompanied by fraud and lack of integrity, then the holding of these elections has actually harmed elections as a manifestation of democracy.¹² In this context, the enforcement of the code of ethics is particularly relevant when it comes to efforts to maintain the integrity and professionalism of elections.

The enforcement of the code of ethics of election organizers has actually been regulated in Article 155-Article 166 of the Election Law which mandates DKPP as an institution authorized to enforce the code of ethics of election organizers. DKPP as an institution authorized to enforce the code of ethics of election organizers is historically a development of the DK-KPU institution that previously existed.¹³ The presence of DKPP to replace DK-KPU is actually not just a difference in the name and nomenclature of the institution, but is part of an effort to optimally enforce the code of ethics of election organizers.¹⁴ The replacement of the DK-KPU institutional nomenclature to DKPP was described by Jimly Asshidiqie for three reasons, namely¹⁵: First, the replacement of the DK-KPU institutional nomenclature to DKPP is actually an extension of efforts to maintain the code of ethics of election organizers as a whole. The DK-KPU nomenclature is generally only limited to the KPU code of ethics, but with the DKPP nomenclature, all election organizers can be subject to efforts to enforce the election code of ethics, including the KPU, Bawaslu, and other election organizers.¹⁶ Second, the formulation of the DKPP institution is oriented as an enforcer of the election organizer's code of ethics, which is intended as a form of adoption of the development of ethical-practical

10 Hari Sutra Disemadi, "Lensa Penelitian Hukum : Esai Deskriptif Tentang Metodologi Penelitian Hukum," *Journal of Judicial Review* 24, no. 2 (2022): 289–304, <https://jurnal.unigal.ac.id/>.

11 Muhammad Syafei and Muhammad Rafi Darajati, "Design of General Election in Indonesia," *Law Reform: Jurnal Pembaharuan Hukum* 16, no. 1 (2020): 97–111, <https://doi.org/10.14710/lr.v16i1.30308>.

12 Tom Tabori, *A Practical Guide to Election Law* (Somerset: Law Brief Publishing, 2020).

13 Muhammad Anwar Tanjung Tanjung, Retno Saraswati, and Lita Tyesta A.L.W, "Constitutional Democracy and National Legal Instruments in Resolving Regional Election Disputes," *Lex Publica* 7, no. 1 (2020): 95–109, <https://doi.org/10.58829/lp.7.1.2020.95-109>.

14 Hambali et al., "Feasibility Test Reconstruction of Ethical Enforcement Regulations for Election Organizers Based on the Values of Justice with Dignity."

15 Jimly Asshiddiqie, "Memperkenalkan Peradilan Etika," *Jurnal Konstitusi Dan Demokrasi* 1, no. 1 (2021): 1–7.

16 Muhammad Rinaldy Bima and John Tumba Jacob, "The Age Threshold for Presidential Nominations in the Perspective of Dignified Justice Theory: Why Is There a Court of Family (Mahkamah Keluarga) Issue?," *Jurnal IUS Kajian Hukum Dan Keadilan* 11, no. 3 (2023): 403–22, <https://doi.org/10.29303/ius.v11i3.1301>.

conceptions that require every public interest organizing institution to formulate a code of ethics and its enforcement process so as to increase public trust. Third, the formulation of DKPP as an election code of ethics enforcement body is intended as a form of institutionalization of the conception of the “Ethics Court” introduced by Jimly Asshiddiqie, where the orientation of the “Ethics Court” is to carry out the process of enforcing the code of ethics openly and can be supervised by the public, except for cases related to decency that can be carried out behind closed doors.¹⁷ The formulation of the concept and practice of “Ethics Court” in DKPP is also expected to become a pilot around the world related to the implementation of electoral ethics courts that are carried out openly and can be known by the public as court processes in general.

From the three reasons for the establishment of DKPP above, it can be understood that the change in the nomenclature of the DK-KPU institution to DKPP is not only based on “term” issues, but there are substantive arguments as an effort to form a process of enforcing the election code of ethics for election organizers. This is because election organizers have institutional and personal duties that are closely related to ethics. The status of each election organizer, including the KPU and Bawaslu, is related to their sense of personal responsibility. At the same time, the importance of election organizers as a crucial tool of democracy is related to the concept of institutional responsibility.¹⁸ Elections must be conducted with the principles of electoral democracy upheld and demonstrated at every opportunity. Election organizers must be honest to achieve this expectation and they must also be able to support honest elections both within their own organizations and as individuals.¹⁹ In its particular context, an election remains legitimate if domestic stakeholders can accept the results, even if they do not fully match the ideal of democracy.²⁰ Therefore, electoral integrity can be assessed before, during and after the national vote count. Acceptance of dispute resolution results is another criterion used to assess electoral integrity. During the electoral cycle, which includes the pre-election phase, campaigning, polling day, vote counting, and dispute resolution if there are objections to the election results. Electoral integrity refers to a set of international conventions and universal standards related to elections that represent global norms applicable to all countries around the world.²¹

A number of requirements must be met in order to do this. The importance of understanding the responsibilities and roles of election management bodies is demonstrated by several studies on the ethics of election management conducted in various countries. Election organizers in the 2024 simultaneous elections need to be able to draw and analyze from past cases of unethical behavior. Repeated patterns and trends of violations should be avoided to achieve the desired results. This method not only identifies patterns of repeated violations, but also reviews preventive measures that can be taken by election organizers in the event of ethical violations in future elections. The workload of organizers at all levels, from the national level (Central KPU) to the KPPS level is affected by the 2024 simultaneous elections due to the

17 Jimly Asshiddiqie, *Peradilan Etik Dan Etika Konstitusi*, Revisi (Jakarta: Sinar Grafika, 2017).

18 Dicky Eko Prasetyo Hananto Widodo, “Penataan Kewenangan KPU Dan Bawaslu Dalam Melakukan Pengawasan Dan Menangani Sengketa Proses Pemilu,” *Perspektif Hukum* 21, no. 2 (2021): 17–38.

19 Rosalina Indah Sari, Hendri Hidayat, and Ratna Sari, “The Role of the Constitutional Court in Resolving Election Disputes From the Perspective of Justice,” *International Journal of Sociology, Policy and Law* 04, no. 02 (2023): 113–28.

20 Amri Yusra Firman Noor, Sarah Nuraini Siregar, Ade Wiharso, “Opposition in Contemporary Indonesia Post-2019 Presidential Election,” *Journal of Social and Political Sciences* 5, no. 4 (2022): 55–62.

21 Christopher Linebarger and Idean Salehyan, “Electoral Integrity and Election-Related Conflict,” *Democracy and Security* 16, no. 3 (July 2020): 260–80, <https://doi.org/10.1080/17419166.2020.1787158>.

heavy election procedures and overlapping stages as mentioned earlier.²² According to Article 456 of the Election Law, a violation of the election organizer's code of ethics is defined as a betrayal of the oath, promise, or other commitment made by the election organizer before carrying out their duties and obligations. Therefore, the democratic system can be implemented in accordance with its spirit if the elections have been carried out properly, democratically, and with quality. The phrase "flawed elections" also refers to how elections are conducted.²³ The main conclusion from this is that the election was not conducted in a manner that was in keeping with its purpose or spirit. The election was not properly conducted as a result of a number of anomalies and incidents.

In relation to electoral ethics, there are three basic definitions of ethics, namely: (1) the science of morality and duty, (2) a set of common ideas or values on which morality is based, and (3) moral standards shared within a community or culture.²⁴ Teguh Prasetyo argues that ethics is more closely related to the science of right and wrong.²⁵ Code of conduct is a more general name for ethics. The essence of morality includes all concepts and/or values relating to right and wrong. It is concerned with the rule of good conduct, which states that one should be competent in all endeavors. What is good determines the tangible expression of that positive mindset and the second is the rule of justice, which is a principle of equality that still takes into account the demands of others.²⁶ Each member must bear the same burden of equality, according to their respective levels. Therefore, election administrators must adhere to a set of moral, ethical, and philosophical principles that govern their behavior. These principles are in the form of obligations, prohibitions, actions, and/or speech that organizers must or must not do. The Code of Ethics for Election Organizers is based on DKPP Regulation Number 2 of 2017 concerning the Code of Ethics and Code of Conduct for Election Organizers. The ethical practices of election organizers can be classified as an ethical approach that comes from decisions made by judges and in this case DKPP commissioners who adjudicate cases of ethical violations of election organizers.²⁷

2.1.2. The Problem of Dynamic Enforcing Externally Code Of Ethics Election Organizers

The purpose of regulations relating to the code of ethics and conduct of election administrators is to improve the organizational standards of election administrators. Not only DKPP regulations related to the code of ethics of election organizers can be used to describe or apply material ethics in enforcing the code of ethics, but the Election Law regulations on the principles of organizing elections can also be used as

22 Moch. Nurhasim, "Potensi Pelanggaran Etik Pada Pemilu Paralel 2024," *Etika Dan Pemilu* 7, no. Juni (2021): 25–45.

23 Taufik Hidayat and Miftahul Hidayah, "Islam Dan Politik Identitas Menjelang Pemilu 2024," *Jurnal Agama Dan Perubahan Sosial* 7, no. 2 (2024): 267–83.

24 Naylawati Bachtiar Roy Pole Pasalli, Muh Akmal Ibrahim, Suryadi Lambali, "Ethical Standards and Accountability of Election Organizers in Handling Code of Ethics Violations in Makassar City," *Jurnal Analisis Kebijakan Dan Pelayanan Publik* 9, no. 2 (2023): 121–32.

25 Teguh Prasetyo, *Pemilu Bermartabat Reorientasi Pemikiran Baru Tentang Demokrasi* (Depok: Rajawali Press, 2017).

26 Raju Moh Hazmi, Asep Saepudin Jahar, and Nurul Adhha, "Construction of Justice, Certainty, and Legal Use in the Decision of the Supreme Court Number 46 P/HUM/2018.," *Jurnal Cita Hukum* 9, no. 1 (2021): 159–78, <https://doi.org/10.15408/jch.v9i1.11583>.

27 Rian Adhivira Prabowo Muhlisina, Luqman Haki, "Pertautan Yang Legal Dan Yang Etis: Pemaknaan Regulasi Kpu Dan Bawaslu Dalam Putusan DKPP," *Electoral Governance Jurnal Tata Kelola Pemilu Indonesia* 4, no. 1 (2022): 125.

aspects of material ethics in enforcing the code of ethics.²⁸ So the DKPP institution is present to maintain the integrity, independence, and credibility (ethics) of election organizers to maintain their code of ethics.²⁹ This makes DKPP an institution that is not related to anything and its decisions become binding.

According to Rosnawati, there are advantages and disadvantages to having DKPP as a separate organization that enforces the code of ethics of election administrators.³⁰ This institution is needed to keep election organizers within their authority and to ensure that elections are carried out honestly. In accordance with Article 458 paragraph (13) of the Election Law, DKPP's decision is final and binding. Therefore, the State Administrative Court (PTUN) does not have the authority to carry out a correction process for DKPP decisions. Binding refers to the directly binding and compelling nature of the decision, which indicates that all state power organizing institutions, including judicial institutions, are obliged and required to implement DKPP decisions as appropriate. One example of this case is the decision to permanently dismiss Mrs. Evi Novida Ginting from her position as a member of the KPU RI related to this can be seen in DKPP Decision Number 317-PKE-DKPP/X/2019.³¹ The individual concerned took legal action because he felt hurt and dissatisfied with the DKPP decision. The KPU member carried out legal resistance in response to the DKPP decision and not against it through Presidential Decree of the Republic of Indonesia (Keppres) No. 34/P of 2020 issued by President Joko Widodo.

It appears that DKPP's decision is not the same as a final decision that must be followed by other courts. DKPP decisions must be understood as final and binding decisions for the president, KPU, provincial KPU, district / city KPU, and Bawaslu. Implementing DKPP decisions is an internal device of the election organizers recognized by law. In order to provide legal clarity and uniformity in the application of laws and regulations relating to the technical procedures of DKPP in responding to any ethical violations committed by election organizers, it is important to have special arrangements in the Election Law. There are other cases such as the KPU being sued by the People's Party Adil Makmur (PRIMA or PRIMA Party) for alleged violations of the Election Organizer Code of Ethics (KEPP). DKPP has warned the KPU and Bawaslu of possible violations of KEPP in this case, especially with regard to the verification of the PRIMA Party's improvements. Although the PRIMA Party's lawsuit against the KPU regarding the 2024 election stage was ultimately rejected by the DKI Jakarta High Court, this case illustrates how the election organizer's code of ethics can be violated.

Another case also occurred on the evidence of providing different treatment in the 2012 DKI Jakarta Governor and Deputy Governor Elections by the Chairperson of the DKI Jakarta Provincial Panwaslu on behalf of Mr. Ramdansyah, with the result of the decision being to revoke the membership of the DKI Jakarta Provincial Panwaslu. As the joint regulation of the KPU, Bawaslu, and DKPP in Number 1, 11, and 13 of 2012 concerning the Code of Ethics for Election Organizers clearly states that the Chairman of Panwaslu violates Articles 5 to 9 of the code of ethics. This is proven in

28 Yunas Derta Luluardi and Ayon Diniyanto, "Political Dynasty in Law and Political Perspective: To What Extent Has the Election Law Been Reformed?," *Journal of Law and Legal Reform* 2, no. 1 (2021): 109–24, <https://doi.org/10.15294/jlrr.v2i1.44321>.

29 Holly Ann Garnett and Toby S. James, "Cyber Elections in the Digital Age: Threats and Opportunities of Technology for Electoral Integrity," *Election Law Journal: Rules, Politics, and Policy* 19, no. 2 (June 2020): 111–26, <https://doi.org/10.1089/elj.2020.0633>.

30 Teguh Prasetyo, *DKPP RI: Penegak Etik Penyelenggara Pemilu Bermartabat* (Depok: Rajawali Pers, 2018).

31 Dicky Eko Prasetyo, "Etika Pemilu Pasca Putusan MK" (KISP, 2022), <https://kisp-id.org/08/2022/tulisan/etika-pemilu-pasca-putusan-mk/> (Diakses Pada Tanggal 19 Agustus 2022).

the Constitutional Court Decision number 31/PUU-XI/2023. The proof of the case is also in line with data from DKPP regarding violations of the Election Code of Ethics from 2012 to 2020 showing an increasing trend, while some conclusions and claims are still not proven. This is caused by:

- a. Weak laws relating to proving election violations, such as those that limit the topic to certain parties only. In the case of money politics, election violations are the responsibility of all campaign implementers, so actions taken by someone who is not a campaign implementer cannot be accepted.
- b. The ability of election organizers to thwart certain allegations of election irregularities is still limited.
- c. The ignorance of the complainant, lack of evidence, or witnesses who deny or are unaware of the events told, and there are other stories that do not have sufficient evidence.
- d. A significant number of people still refuse to testify about alleged election crimes due to concerns about their families or lack of witness protection.

In the DPR, DPD, and DPRD elections, criminal charges are officially handled and resolved by the general courts. As stated in Law No. 8 Year 2012, the procedural law applied is based on Law No. 8 Year 1981 which regulates the Criminal Procedure Code. The clause regarding the grace period for resolving the prosecution of criminal charges is one of the unique things in the Law relating to election crimes. Law No. 8/2012 has a shorter grace period compared to KUHAP in the settlement of general criminal offenses, which provides up to 51 days for parties handling election crimes to handle and resolve the case before the decision becomes final at the appeal level at the High Court.³² An example is the campaign period, which is one of the most important phases of election preparation. In terms of legal content, there are many problems with the way Law No. 8/2012 formulates the articles governing campaign restrictions. The way in which the articles governing election campaigns are applied has complexities that need to be examined.

The Panel also considered the relationship between Article 14 letter (m) of the Election Law and Article 54 paragraph (2). As a result, the proposition that there is no room to review State Administrative Decisions issued by DKPP Decisions is pragmatically recognized and taken for granted, thus locking access to justice in this dispute and other disputes involving similar issues in the formal legalistic legal system. Legal accountability always follows the use of authority because law enforcement and ethics are intertwined, and juridical control is a basic requirement for any government structure operating under the principles of the rule of law.³³

Law enforcement in the 2024 elections needs to be a concern because the simultaneous elections that will take place in Indonesia for the first time will be different from the 2019 simultaneous elections, both in terms of ideas and practices. First, the 2024 simultaneous election is the holding of two practically simultaneous election models whose practical, philosophical, and regulatory aspects are different, but in theory they are still elections. Elections for legislative positions (DPR, DPD, and DPRD), President and Vice President, and regional heads (Governors, Regents, and Mayors), all follow different conceptual frameworks. The main differences are the different

32 Mizan Malik S, "Rekonstruksi Penegakan Hukum Tindak Pidana Pemilu," *Huma Betang Demokrasi* 1, no. 1 (2021): 113–33.

33 Riris Ardhanariswari et al., "Upholding Judicial Independence through the Practice of Judicial Activism in Constitutional Review: A Study by Constitutional Judges," *Volkgeist* 6, no. 2 (2023): 183–207, <https://doi.org/10.24090/volkgeist.v6i2.9565>.

regulatory bases and all stages occurring simultaneously in the same year. Therefore, the possibility of ethical violations may not be much different from the incidents of ethical violations that often occurred in previous elections. A number of situations have the potential to repeat themselves, based on data analysis of cases and trends in ethical violations that occurred in the previous simultaneous regional elections or the Presidential and Legislative Elections last period.

In the electoral legal framework, the Election Law is the substantive component. These rules and regulations were implemented in the 2014 elections: (1) Law on Election Organizer Number 15 Year 2011, (2) Law Number 8 Year 2012 on General Election of Members of DPD, DPRD, and DPR, and finally (3) Article 42 of Law Number 42 Year 2008 on General Election of President and Vice President. In addition to the previously mentioned laws, the election organizers have also issued regulations, including KPU and Bawaslu regulations. Election crimes, election administrative violations, and violations of the election code of ethics are three categories of election violations separated in the Election Law related to election law enforcement.

As stated in Article 251 of Law No. 8/2012, it defines violations of the code of ethics by election organizers as violations committed by election organizers who do not take an oath or promise before carrying out their obligations. The majority of complaints of violations of the code of ethics of election organizers at DKPP center on: (1) violations of DKPP's ethical procedures; (2) violations related to the norm of legal certainty, and (3) violations involving the principle of independence. Many cases are related to professionalism issues, where election organizers are sometimes negligent or "ignorant" of things that are considered unimportant and trivial. Access to C1 data and information during the vote counting and recapitulation stages is the most common complaint to DKPP. The most complained aspect is professionalism. The organizer's core ethical values are related to this professionalism.

The link between professional election organizers and the nine ethical criteria that have been established is seen in Article 6 Paragraph (3) of DKPP-RI Regulation No. 2/2017. In this context, professionalism refers to two things at once: first institutionally related to the work of organizing elections and second individually (and intrinsically related to the role) related to understanding and managing administration. The professional standards mentioned above, which are often encountered by organizers who complain to DKPP, are related to one or more violation corridors. Election organizers, including the KPU and Bawaslu, must learn a lot from the ethical hearing cases held by DKPP until last year. Anticipate every possibility related to the ethical rules that are most often violated. The commitment of election organizers to professionalism is one of their greatest potentials. For some reason, the professionalism of the organizer is a fundamental ethical argument because most stages of an election are determined by this factor, which is also the most salient factor. Capable election organizers who are aware of their roles and responsibilities are required at almost every stage of the process. One of the requirements is that good and bad election administrators can be easily interpreted based on their institutional and personal aptitudes.

Some examples of standards of behavior included in professional principles are: (i) maintaining and defending the honor of the EMB, (ii) performing duties in accordance with the vision, mission, goals, objectives, and programs of the LPP, (iii) performing duties in accordance with the roles and jurisdictions established by the 1945 Constitution, regulations and laws, as well as election-related decisions, (iv) prohibiting the abuse of position, authority, and responsibility in any way, either directly or indirectly, (v)

ensures that voters and election participants receive quality services in accordance with the professional standards of election organizers, (vi) behave in accordance with the sop and fundamentals of the electoral administration field, (vii) carry out the tasks of organizing elections with high commitment, and (viii) abide by the responsibilities outlined by the EMB organization.

In this context, improving the recruitment process of election organizers is one of the mitigating factors needed to ensure the realization of professional and ethical election organizers. This process should be free from inherent weaknesses in recruitment, such as political affiliations and individuals with strong leanings towards a particular party. The credibility of elections and the organizations that conduct them, for example, can be undermined by allegations relating to perceived unfairness in elections, which tend to favour the party in power. As with other ethical violations discussed previously, the professionalism of election organizers is decisive. In order to meet the organizers of the 2024 elections, this aspect of professionalism needs to be prioritized. Electoral knowledge relates not only to the general and specific aspects of elections, but also the organizers' understanding of the essence of elections and the moral precepts that make them an important democratic institution. Making DKPP ethics hearing cases a component of organizational risk reduction is another expectation that needs to be met by the KPU, Bawaslu, and their staff. Thus, the nature of the electoral goals is to be a fair election and an honorable democracy. That means that the formation of contemporary election management organizations cannot be separated from these goals.

Reducing the likelihood of ethical violations can increase EMBs' confidence in their ability to run elections as reasonably honest institutions. As part of electoral reform, strengthening LPP governance will include the establishment of two institutions: an institution that upholds ethics and integrity and an EMB that is large enough to be visible from institutional norms. It is imperative for the LPP organization to strengthen its institutional deficiencies in order to meet the clear requirements set by the election organizers, KPU and Bawaslu, to adhere to the nature, values and ethics of elections as regulated.

From the description above, the dynamics of enforcing the code of ethics of election organizers by DKPP actually still cause two problems, namely internally, the enforcement of the code of ethics of election organizers by DKPP also requires public supervision and participation to ensure that DKPP is an institution that is trusted and has integrity in an effort to enforce the code of ethics of election organizers. External problems related to the code of ethics of election organizers by DKPP are related to the final and binding character of the DKPP Decision, which has actually been reduced by the Constitutional Court Decision, which then makes DKPP Decisions can be canceled by the court, in this case by the PTUN.

2.2. Reconstruction of the Enforcement of the Election Organizer Code of Ethics by DKPP in Realizing Substantive Justice

The concept of substantive justice is generally an important dimension in legal science because substantive justice relates to the existential aspects of a legal subject. The idea of substantive justice is often contrasted with the idea of procedural justice which emphasizes certain mechanisms and procedures.³⁴ Mechanisms and procedures that seem more rigid and detailed have implications for not fulfilling the dimensions

34 Wawan Andriawan, "Pancasila Perspective on the Development of Legal Philosophy: Relation of Justice and Progressive Law," *Volksgeist: Jurnal Ilmu Hukum Dan Konstitusi* 5, no. 1 (2022): 1–11, <https://doi.org/10.24090/volksgeist.v5i1.6361>.

of substantive justice. In relation to efforts to fulfill substantive justice, Roscoe Pound argues that substantive justice can be realized if there are efforts to control humans so that each human being acts based on morality.³⁵ In this context, Roscoe Pound placed morality as the most important aspect of substantive justice.³⁶ Another view relating to substantive justice is as asserted by John Rawls that justice is determined by the system that organizes and implements it and not solely on the results.³⁷ Therefore, an outcome that is “perceived” as fair may actually be unfair if it is not matched by a fair and proportional system.

From the views related to substantive justice above, in relation to efforts to realize substantive justice in elections, John Rawls’ ideas are relevant because they emphasize that substantive justice begins with efforts and procedures that seek to ensure that people’s rights are fulfilled. In the context of elections, people’s rights that are then manifested in elections must actually be maintained and respected so that this is what makes the need for regular restrictions and supervision of election organizers. The orientation towards substantive justice in Indonesian elections generally emphasizes the need to strengthen both legal enforcement and the enforcement of the code of ethics. Legal enforcement related to elections is specifically regulated through various mechanisms such as electoral offenses, administrative election actions, and disputes over election results, which are to be resolved by the Constitutional Court. However, the enforcement of the code of ethics remains comparatively weak and is primarily asserted by the DKPP (Election Supervisory Board). Furthermore, Constitutional Court Decision No. 32/PUU-XIX/2021 has clarified that DKPP decisions can be subject to review by the Administrative Court. This underscores the challenges related to the implementation of the code of ethics by the DKPP, particularly when DKPP decisions can be annulled by the Administrative Court. While this issue is case-specific, the ability of the Administrative Court to overturn DKPP decisions represents a regression in the enforcement of the code of ethics for electoral organizers.

One of the efforts to ensure elections with integrity and optimality is to ensure the implementation of optimal and maximum enforcement of the election code of ethics. The enforcement of the election code of ethics carried out by DKPP is actually an important aspect in addition to ensuring elections with integrity, it also ensures that election organizers are carried out professionally by referring to the applicable laws and regulations and codes of ethics.

Even so, factually, the problem of enforcing the code of ethics of election organizers is still a common problem for all election organizers. The first problem in the context of enforcing the code of ethics of election organizers is the lack of legal awareness and legal culture for election organizers. There is still an assumption from some election organizers that the important thing is not to violate the law, whereas as election organizers obeying the law is not enough but must be balanced with adherence to the code of ethics. The second issue regarding the enforcement of the Code of Ethics for electoral administrators pertains to the binding force and legal status of the electoral code of ethics in relation to the electoral legal system in Indonesia. The

35 I Dewa Gede Atmadja, “Legal Ideology on Social Justice Perspective,” *Journal Equity of Law and Governance* 1, no. 2 (2021): 158–63, <https://doi.org/10.55637/elg.1.2.4345.158-163>.

36 Dicky Eko Prasetyo Adam Ilyas Felix Ferdin Bakker, “Membangun Moralitas Dan Hukum Sebagai Integrative Mechanism Di Masyarakat Dalam Perspektif Hukum Progresif,” *Mimbar Keadilan* 14, no. 2 (2021): 128–38.

37 Yati Nurhayati M. Yasir Said, “A Review On Rawls Theory Of Justice,” *Int’l Journal of Law, Environment, and Natural Resources (INJURLENS)* 1, no. 1 (2021): 30.

Code of Ethics for electoral administrators is often perceived as a set of behavioral guidelines focused on propriety, and consequently, it is frequently regarded as less significant compared to legal norms. In practice, electoral administrators often prioritize legal compliance over adherence to ethical standards, with violations of the code of ethics being considered more tolerable. This is evidenced by the fact that sanctions for breaches of the electoral code of ethics are often minimal, such as verbal warnings.

To address these issues, it is necessary to undertake a reconstruction or reform regarding the enforcement of the electoral code of ethics for electoral administrators, based on substantive justice. In this context, substantive justice aims to uphold the integrity and professionalism of electoral administrators by equating ethical norms, specifically the ethics for electoral administrators, with the enforcement of legal norms within the electoral process. Therefore, it is imperative to affirm the independence of ethical norms, particularly those concerning electoral administrators, and to ensure that their enforcement is not subject to legal norms or external intervention. Additionally, there is a need to revise the electoral laws in Indonesia to optimize the appeal process against the final and binding decisions of the Election Supervisory Board (DKPP), which cannot be overturned by the administrative courts, particularly the Administrative Court (PTUN). Efforts to revise the Electoral Law can be further reinforced by updating and strengthening the enforcement of the code of ethics by the DKPP (Election Supervisory Board). It should be emphasized that the DKPP is an ethical judicial body whose decisions are binding and cannot be subject to legal challenge in the judiciary.

3. CONCLUSION

The dynamics of enforcing the code of ethics of election organizers by DKPP actually still cause two problems, namely internally, the enforcement of the code of ethics of election organizers by DKPP also requires public supervision and participation to ensure that DKPP is an institution that is trusted and has integrity in an effort to enforce the code of ethics of election organizers. External problems related to the code of ethics of election organizers by DKPP are related to the final and binding character of the DKPP Decision, which has actually been reduced by the Constitutional Court Decision, which then makes DKPP Decisions can be canceled by the court, in this case by the PTUN.

Reconstruction or reform efforts concerning the enforcement of the electoral code of ethics for electoral administrators, based on substantive justice, necessitate a clear affirmation of the independence of ethical norms, particularly those related to the conduct of electoral administrators. This includes ensuring that the enforcement of these ethical norms is immune from legal norms and external intervention. Additionally, there is a need for a revision of the electoral laws in Indonesia to enhance the appeal process for ethical judgments rendered by the Election Supervisory Board (DKPP), which are final and binding and cannot be overturned by the courts, especially the Administrative Court (PTUN). Based on the findings of this study, it is highly recommended that future researchers conduct specific investigations into the reformulation of the ethical adjudication system for elections. Such research should emphasize the establishment of the DKPP (Election Supervisory Board) as an independent and autonomous ethical adjudicatory body whose decisions cannot be overturned by judicial institutions.

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