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Re-Voting And Re-Vote Counting: Differences, Causes And Impact Factors

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Abstract

This article examines the phenomenon of re-voting and recounting of ballots. The research method used is normative juridical method and by using statute approach and case approach. Re-voting and recounting ballots is likened to an unpredictable stage of the electoral process because on particular districts, besides that with the devotees not all doing this. Re-voting and recounting ballots will add or even repeat either part or possibly all of the work that has been done by the Electoral Commission. Re-voting and recounting ballots could be due to constitutional court rulings, recommendation of bawaslu, and the state of force majeure. This will have an impact on budget addition, logistical willingness, voter attendance, longer conflicts and the integrity and professionalism of the Electoral Commission at stake. If the re-vote and the recount of the ballots are included in the stages of the election process and determined the date will result if the Constitutional Court decides outside the schedule of the process stages then it is feared that the date is not in accordance with the stages, Meanwhile, if the re-vote and recount of ballots do not become mandatory stages in the election, it is feared that with the simultaneous elections in 2024 the impact that occurs cannot be anticipated properly by the Election Commission.

Keywords: *Revote of Ellection; Recount of Ballots; Simultaneous Elections 2024*

INTRODUCTION

The simultaneous general elections in 2024 are both a chance and a problem for the General Election Commission and the Election Supervisory Body, who are responsible for organizing the elections. It is an opportunity to make improvements, particularly in the stages of the election process, by employing technical sophistication to assist the job of election authorities or organizers, so that future elections do not claim as many lives. Simultaneous elections 2024 is the first simultaneous election to elect the President and Vice President, Legislative Elections (DPR RI, Provincial DPRD, Regency/City DPRD and DPD), and Regional Head Elections (Province, Regency) for one year, or it can also

be termed Election 7 (seven) box¹. Obviously, this will increase the weight of the election organizers' responsibilities, notably the KPU and Bawaslu.² Moreover, holding simultaneous elections in 2024 has the potential to increase the workload of organizers during the voting and counting phases. Reflecting on the previous 2019 simultaneous elections, a simulation of the five-box election was conducted to determine if the time allotted was sufficient to serve voting at TPS.³

Based on the simulation results, the KPU ultimately decided to reduce the number of voters in TPS, which was initially a maximum of 500 people, to 300 people.

In Article 167 of Law No. 7 of 2017, the stages of election organization that must be completed are outlined as follows. Planning programs and budgets and drafting regulations for conducting elections, preparation of voter lists, registration of prospective pairs of candidates, determination of pairs of candidates, determination of number of seats and electoral districts, nomination of election participants, campaign period, quiet period, voting and counting of votes, determination of election results, and taking oaths/pledges. The stages of the election process are lengthy and must be traversed by all election participants, including election organizers, political parties, candidate-pair combinations, and voters.

The Counting and Polling of Votes is one of the most significant stages of the election process since, at this time, all parties involved in the election are election participants (the competing candidates), voters, the winning team, and the General Elections Commission (KPU). Even for the election participants, this stage will determine their political fate for the next 5 (five) years. For the voters, this stage will determine the candidates who will win and, of course, they will feel happy and proud. For the team's success, if the champion wins, he or she will receive a strategic position.

Re-voting and re-counting of ballots are not included in the electoral process phases. However, the method is governed by Elections Law No. 7 of 2017 and KPU Regulation No. 3 of 2019, which includes voting at abroad polling locations, voting via mobile ballot boxes (KSK), re-voting, and recounting of ballots, as well as information systems and forms.

¹ As the name suggests, this is a "7-box" election, with ballots being cast for president and vice president as well as DPR RI, provincial and regency/city DPRD, and DPDs, governor and deputy governor, as well as regent and deputy regent/mayor and deputy mayor..

² Muhammad Amin, "OPINI : Peluang dan Tantangan Penyelenggara Pemilu 2024" (<https://jateng.tribunnews.com/2021/11/03/opini-dan-tantangan-penyelenggara-pemilu-2024> diakses tanggal 5 Maret 2022)

³ Khoirunnisa Nur Agustyati, "Kompleksitas Pemilu Serentak 2019 Dalam Pemungutan dan Penghitungan Suara" (Jakarta: Bawaslu, 2019), 59.

In the re-counting of ballots for the 2014 legislative elections, the candidate for legislative member (caleg) of the Southeast Sulawesi Provincial DPRD went berserk at the Kendari KPU office by kicking the ballot box while the Voting Organizer Group Officer Vote (KPPS) is recounting ballots at 86 polling stations in Kadia District, Kendari. This move was taken because Hasidic Pidansa did not locate any C1 and C1 plano forms in the envelope and asked election officials to match the votes by displaying the hologram and the C1 form for recapitulation.⁴ In a different election, the Yalimo Pilkada held in December 2020, when the Constitutional Court ordered the Yalimo KPU to conduct a second re-vote, the KPU and the Yalimo Bawaslu rejected on the grounds that it would cause greater danger and horizontal conflict between communities than the re-vote. First, the chairman of the KPU, Bawaslu Yalimo, resigned because he was unable to carry out his duties in accordance with the Constitutional Court's ruling because regional conditions did not ensure the safety of election organizers.⁵

From the two examples of re-voting (hereinafter abbreviated as PSU) and re-counting of ballots (hereinafter abbreviated as PSSU) above, PSU and PSSU can be compared to the unpredictable stages of the election process because not all polling stations conduct these procedures. These two terms appear identical, but have different meanings. as well as the other causal components that will be discussed in this essay.

METHOD

This article is a legal study that focuses mostly on the general election process, particularly the phenomenon of re-voting and re-counting of ballots conducted by a Democratic State as a means of leadership turnover.⁶ This research requires secondary data in the form of library materials such as books, journals, articles, and online news as well as legislation, namely Law No. 7 of 2017 Regarding General Elections and General Election Commission Regulation No. 3 of 2019 Regarding Voting and Counting, making it a normative legal study.

The methodologies utilized in normative legal study are the statute approach and the case approach. The statutory approach utilizes statutes and regulations.⁷ While the case approach is a strategy including the study of cases involving re-voting and ballot re-counting, it is not the only approach. This study was undertaken by examining the existing conditions in the field to determine the actual scenario and correlating them with

⁴ [Penghitungan Ulang, Caleg PDI-P Mengamuk di KPU - Kompas.com](#) accessed on May 30, 2022.

⁵ [Ketua KPU dan Bawaslu Yalimo Tolak Putusan MK, Pilih Mundur karena Takut Terjadi Kerusuhan \(inews.id\)](#) accessed on 30 May 2022.

⁶ Soehino, "Ilmu Negara", (Yogyakarta: Liberty, 2013), 240.

⁷ Peter Mahmud Marzuki, "Penelitian Hukum", (Jakarta: Kencana, 2008), 97.

the law. The method of data analysis employed is qualitative research analysis, which lacks aspects of math and statistics and is therefore descriptive and analytical.

RESULT AND DISCUSSION

1. Legal Basis for Re-Voting and Re-Counting

Law No. 7 of 2017 pertaining to Elections and KPU Regulation No. 3 of 2019 strictly govern the legal foundation for voting and the counting of ballots. Ballots are a sort of voting equipment in the form of sheets of paper with a specific design, used by voters to grant voting rights, which often include the number, name, and photograph of the candidate / candidate pair.

Article 372 of Law No. 7 of 2017 stipulates that voting can be repeated if: (a) the results of the examination and examination of the TPS Supervisor show that conditions such as the opening of ballot boxes and/or voting files and vote counting were not carried out in accordance with the laws and regulations; (b) KPPS officers determine that conditions such as the opening of ballot boxes and/or voting files and vote counting were not carried out in accordance with the laws and regulations. The PSU requirement must be suggested by KPPS, including the circumstances that led to the holding of the PSU, before being forwarded to the PPK and submitted to the Regency/City KPU for consideration.⁸ In addition, the other requirements of the PSU, particularly the requirements for the second number of points (a), (b), (c), and (d), are confirmed in court and implemented following the Constitutional Court's decision and the Election Supervisory Body's recommendation.

In the event that the counting of ballots can be repeated if: (1) there is a riot that prevents the vote count from continuing; (2) both votes were counted behind closed doors when they should have been counted publicly; (3) the counting of votes is conducted in an area that is poorly lit or does not receive light; (4) the fourth vote count is conducted with unclear votes; (5) the fifth vote count is recorded in unclear writing; and (6) the six witnesses participating in the e-vote are unable. The witness participating in the election or the TPS supervisor may propose a recount of the ballots at the affected TPS if any of the aforementioned conditions are met.

2. The difference between re-voting and re-counting

Re-voting is an activity performed by the General Elections Commission to carry out the steps of the re-voting procedure. This may be the result of a judicial ruling (Constitutional Court), recommendations from the Election Supervisory Body, or conditions of force majeure, such as lost votes that have been punched as a result of fires,

⁸ Article 373 of Law Number 7 of 2017 concerning General Elections.

floods, landslides, etc. In the meantime, re-counting of ballots refers to the re-counting of ballots conducted by the General Elections Commission in response to a ruling by the Constitutional Court or a recommendation by the Election Supervisory Body. Consequently, PSSU ballots already exist but are recalculated owing to particular criteria. According to this view, there is a distinction between PSU and PSSU, specifically that in PSSU there is no cause due to force majeure because in PSSU the products, in the form of punched ballots, are still present but are recalculated due to the concern of counting errors.⁹

The difference in ballots, in the instance of PSSU, was that the election ballots for that period were still used, then the results of the recount were computed and a new C1 Plano was created (record of vote count results). whereas the PSU uses ballots from the post-election results and conducts the voting, counting, and other processes.

In terms of logistics, the PSU made more preparations than the PSSU because the PSU had to make the same preparations as when voting, but depending on how many TPS the PSU did, it could be the same or only a few TPS, namely preparing TPS, ballot boxes, letters. vote, ink, voting equipment, security officers, KPPS, etc. Despite the fact that PSSU just reopened and recounted the voting boxes, security agents were on hand in case of anarchy.

This KPU decision must be communicated to the Constitutional Court or not, depending on the Constitutional Court's decision, if the results of the PSU or PSSU are in the form of a General Election Commission decision determining which pair of candidates are elected. Because this is essentially an order. Nonetheless, if the Constitutional Court decision does not state that it must be notified, the General Elections Commission can immediately determine the selected pair of candidates based on the results of the PSU or PSSU and continue the oath/promise of the picked couple.

3. Factors that cause re-voting and re-counting of ballots

- a. PSU and PSSU due of the Constitutional Court's decision; PSSU includes PSSU at TPS and PSSU at KDP, for example. PSSU is conducted at TPS if the number of votes on the certificate of vote counting results from TPS differs from the number of votes on certificates of vote counting results from TPS, sub-district level witnesses, witnesses at TPS, Sub-district Panwaslu, Kelurahan/Village Panwaslu, or TPS Supervisor. This PSSU was once used when the Nasdem Party submitted the Constitutional Court's decision number 199-05-12/PHPU.DPR-DPRD/XVII/2019 challenging the results of the 2019 parliamentary general election. In its decision, the

⁹ Interview with M. Anam Rifai (Sub Coordinator for Law and Human Resources of KPU Tulung Agung Regency) on 10 February 2022 at 13.00 WIB.

Constitutional Court ordered the General Elections Commission to perform data pairing on Form C1 with Form C1 Plano for TPS-TPS in Telaga Murni Village, Cikarang Barat District, Bekasi Regency, where data pairing had not been performed in accordance with the agreement dated April 23, 2019, within fourteen (14) working days of the issuance of the Decision.

- b. PSU and PSSU as a result of Bawaslu's suggestions; for instance, PSU was conducted in multiple regions during the simultaneous 2020 Regional Head Elections (Pilkada). This was due to the fact that the KPU and Bawaslu uncovered irregularities in the field, specifically 11 polling stations run by PSU in West Sumatra, including three in Pasaman, two in West Pasaman, and one each in Limapuluh Kota, Bukittinggi, Agam, Solok City, Tanah Datar, and Pesisir Selatan. This PSU is a recommendation from Bawaslu. The violation is that there are voters who are not local residents exercising their voting rights and voters who cast ballots without using the letter A.5 KWK. In the meanwhile, this occurred in 8 TPS in Asmat Regency, Papua, due to a video recording showing unscrupulous KPPS members punching blank votes, which went viral on social media. Bawaslu Papua performed a search and confirmed that the video was accurate, allowing 8 TPS to be voided. PSU was responsible for one TPS in the Akat District, three districts in the Asmat District, one TPS in the Kopai District, and six TPS in the Agats District.¹⁰

PSU Due to force majeure and Indonesia's location in the ring of fire, natural calamities are unavoidable. During the election stage, disasters have occurred, including the 2006 Merapi earthquake, the 2006 Aceh Tamiang flash flood, the 2014 Mount Sinabung eruption, and the 2017 Buleleng flood, as well as opposition from election participants and requests for the postponement of the Pilkada in Yogyakarta 2006.¹¹

4. Impact of Re-voting and Re-counting

a. Budget Increase

The occurrence of PSU or PSSU will result in an automatic budget increase for these activities. The required budget is at a minimum sufficient to cover the consumption of officers, honoraria for KPPS and security / security guards, the cost of producing TPS, etc.¹²

¹⁰ <https://amp.kompas.com/regional/read/2020/12/13/16454971/sederet-fakta-pemungutan-suara-ulang-di-sejumlah-daerah>. Retrieved March 6, 2022.

¹¹ Dumasari Riameinda Br. Surbakti, *"Tata Kelola Pemilu Di Daerah Bencana (Studi Kasus Penyelenggaraan Pemilu di Karo Sumatera Utara)"*, (Electoral Governance Tesis: Bunga Rampai Tata Kelola Pemilu Indonesia, Edisi 2, September 2020) p. 232.

¹² Hamdan Kurniawan, *"Pemungutan Suara Ulang: Menyoal Batas Waktu dan Faktor Penyebab"*, (Journal.kpu.go.id)

b. Logistics provision

After the decision of the Constitutional Court or the recommendation of the Bawaslu ordering the KPU to automatically carry out PSU or PSSU, logistics such as ballot boxes, ballot papers, ink, voting booths, seals, voting tools, and polling stations must be provided immediately due to the implementation of PSU or PSSU. is limited to a maximum of ten (ten) days after the decision.¹³

c. Participation of voters

The degree of voter participation at the PSU could increase or decrease depending on the circumstances at the time. In various instances, however, the existence of PSU has a negative effect on community engagement. Prior to the PSU, there were 737,742 legitimate and invalid votes cast in the 2013 elections for the Pati Regency, but there were 678,900 valid and invalid votes cast following the PSU. Voter turnout at the time of the PSU could be decisive in determining the victor of the election. For instance, the implementation of a re-vote based on the Constitutional Court's Ruling No. 33/PHPU.D-IX/2011, dated 13 April 2011, with this decision, the respondent in this action, the KPU, held a PSU in the Tebo Regency Election on Sunday, 5 June 2011, and summarized the results. PSU Pilkada Tebo Regency. Based on the Recapitulation of Vote Count Results for the Tebo Regional Election at the KPU level of Tebo Regency, dated 10 June 2011, the following are the results of the votes earned by the 2011 Tebo Regency Regent and Deputy Regent Candidates:¹⁴

1. 78,754 votes were cast for H. Sukandar, S. Kom., M.Sc. vs Hamdi, S. Sos., MM.
2. 5.836 votes were cast for H. Ridham Priskap, S.H., M.H., MM. - Eko Putra, S.H., M.Sc.
3. 72,656 votes were cast for Yopi Muthalib, BBA., MBA. - Ir. H. Tri Sapto Eddy, MTP.

With the existence of the PSU, there was a change in the composition of the vote acquisition based on the results of the recapitulation of the vote count before the PSU, which was initially candidate pair number 3 (Yopi Muthalib, BBA., MBA - Ir. H. Tri Sapto Eddy, MTP) who ultimately received the most votes after being carried out PSU pair number 1 as the winner of the election for the Tebo district for the 2011-2016 period, namely H. Su. Consequently, there are two (2) Constitutional Supreme Court decisions associated with this case: Interim Decision Number 33/PHPU.D-IX/2011 dated April 13, 2011 which contains a re-vote and Final Decision Number 33/PHPU.D-IX/2011 dated

¹³ Interview with M. Anam Rifai Sub Coordinator for Law and Human Resources of KPU Tulung Agung, 10 February 2022 at 13.00.

¹⁴ Heru Widodo, *"Hukum Acara Perselisihan Hasil Pilkada Serentak Di Mahkamah Konstitusi"*, (Jakarta, Sinar Grafika, 2015), 88-89.

July 21, 2011 which contains the determination of the results of the PSU in the Pilkada of Tebo Regency.¹⁵

d. The conflict is prolonging

The implementation of PSU and PSSU has the potential to prolong conflict between election participants and election organizers, for example, re-voting in Sampang Regency, Polres Sampan East Java, mapping the northern region of the district prone to conflict during re-voting (PSU), which is colored by conflict between supporters of candidate pairs; therefore, the public is prohibited from bringing sharp weapons to the voting site.¹⁶ In Yalimo Regency, Papua, the Constitutional Court has twice ordered the implementation of the PSU; the last decision which decided the total PSU and the disqualification of one candidate for regent resulted in the burning of a number of public facilities and residents' houses; the masses set fire to a number of government building offices, including the KPU Office, Bawassu Office, BPMK Office, and the BPMK Office; and the KPU Office, Bawassu Office.¹⁷

e. The integrity and competence of election administrators are at risk

PSU and PSSU put the stereotype of the integrity and professionalism of election administrators at risk if the substance of the Constitutional Court's decision states that PSU and PSSU were carried out due to the involvement of election administrators, such as inflating or reducing votes, supporting one candidate pair, etc.

Nonetheless, if the PSU or PSSU are caused by election participants who commit structured, systematic, and massive fraud (TSM), this will not affect the integrity and professionalism of election organizers.

CONCLUSION

Re-voting is an activity to repeat the stages of the voting process carried out by the General Elections Commission due to the decisions of the judiciary (Constitutional Court), recommendations from the Election Supervisory Body, as well as force majeure circumstances, such as the loss of punched ballots due to circumstances beyond their control, such as a fire, flood, or landslide. In contrast, re-counting of ballots is the practice of redoing the counting of ballots by the General Elections Commission in response to a ruling by the Constitutional Court or a proposal by the Election Supervisory Body.

¹⁵ Heru Widodo, *"Hukum Acara Perselisihan Hasil Pilkada Serentak Di Mahkamah Konstitusi"*, (Jakarta, Sinar Grafika, 2015), 79.

¹⁶ <https://m.medcom.id/jawa-timur/peristiwa-jatim/0kpszgBDN-sampang-rawan-konflik-dalam-pemungutan-suara-ulang> accessed March 6, 2022.

¹⁷ https://regional.kompas.com/read/2022/02/2015/065833178/pilkada-yalimo-tak-kunjung-usai-3-kali-gugatan-di-mk-hingga-masyarakat-jadi?page=all&jxconn=1*95b2pk*other_jxampid*QndQQXFPU0dCZEluY1NjSVdiSm1iOXRmLXVBU2tyZUN1ZEZ5ZFhfVWlxM19IYQ..#page2 accessed March 6, 2022.

The difference between PSU and PSSU is that the initial phase of PSU is longer than the first phase of PSSU since PSU requires more preparation for logistics. Both PSUs utilized post-election ballots and carried out the phases beginning with voting, counting, recapitulation, etc., whereas PSSU used election ballots and recalculated and created a new C1 plano based on the results of the recount. The PSU could have been caused by the Constitutional Court's ruling, the Bawaslu recommendation, and force majeure, but the PSSU was caused by the Constitutional Court's decision and the Bawaslu recommendation alone. The outcomes of the PSU and PSSU are identical, namely the KPU's determination of the election winner. Re-voting and re-counting votes have the following effects: more budget, provision of logistics, voter turnout can change the winner of the election, the duration of conflict increases, and the integrity and professionalism of election organizers are at risk. The stages of the election process do not incorporate the most recent PSU and PSSU election laws and regulations. If the PSU and PSSU are included in the stages of the election process and the date is set, it will result in two outcomes. First, if the Court makes a decision outside the schedule for the stages of the process, it is feared that the date will not correspond with the stages. If PSU and PSSU do not become required election stages, they will provide a more concrete legislative framework that the General Election Commission can anticipate.

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