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Journal of PRANATA HUKUM is intended as a medium of communication, education and scientific information in the field of legal science. Servings and packaging are sought communicatively through scientific language. The editor invites all elements of society, both academicians, practitioners, community institutions, and individuals interested in the field of law to participate in developing ideas, insights, and knowledge through writings to be published in this journal. Through PRANATA HUKUM is expected to occur the process of developing the field of law as an important part of a long series of processes to advance the nation’s society.
EXISTENCY ROLE OF THE GENERAL ELECTION SUPERVISORY AGENCY IN LAMPUNG LAW ENFORCEMENT OF THE 2019 ELECTION

Maimun¹, Rudi Santoso²

Abstract

The Lampung election supervisory body has performed its role effectively by processing these findings and reports. Although, in the process, only one criminal case reached a trial and was decided by the Court. The Lampung general election supervisory body has a number of obstacles faced in prosecuting 2019 Election violations. These include the inadequate role of the Integrated Law Enforcement Center (Gakkumdu). This is due to differences in backgrounds and good views between the General Election Supervisory Agency, the Police and the Attorney General’s Office in observing cases of election violations. Another factor is Human Resources. Human resources owned by the General Election Supervisory Agency are still very few, coupled with the number of budgets and inadequate facilities. In the process, only one criminal case has reached trial and is decided by the Court. The Lampung general election supervisory agency has a number of obstacles faced in prosecuting 2019 Election violations. These include the inadequate role of the Integrated Law Enforcement Center (Gakkumdu). This is due to differences in backgrounds and good views between the General Election Supervisory Agency, the Police and the Attorney General's Office in observing cases of election violations. Another factor is Human Resources. Human resources owned by the General Election Supervisory Agency are still very few, coupled with the number of budgets and inadequate facilities. In the process, only one criminal case has reached trial and is decided by the Court. The Lampung general election supervisory agency has a number of obstacles faced in prosecuting 2019 Election violations. These include the inadequate role of the Integrated Law Enforcement Center (Gakkumdu).

Keyword: Election Supervisory Body, Violation, Lampung

I. INTRODUCTION

General Elections are a concrete manifestation of democracy and democracy has an important meaning for society. The democratic process is realized through general election procedures to elect people’s representatives and other public officials.³ A democratic state is a state that is organized based on the

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³ Jimly Asshidiqie, Hukum Tata Negara dan Pilar-pilar Demokrasi, (Jakarta: Sinar Grafika), p. 200
will and will of the people, when viewed from an organizational point of view it means an organizing of the state carried out by the people because sovereignty is in the hands of the people.\(^4\)

Article 22E paragraph (5) of the 1945 Constitution of the Republic of Indonesia states that "Elections are held by an election management institution that is national, permanent and independent." National in nature means that election administration covers the entire territory of the Unitary State of the Republic of Indonesia. Permanent means that the Election Management Institution carries out its duties on an ongoing basis, even though its membership is limited by a certain term of office. Whereas independent means that in carrying out elections, the implementation of elections is independent and free from the influence of any party, and has clear accountability in accordance with statutory regulations.

Then Article 22E paragraph (5) of the 1945 Constitution becomes the basis for the establishment of an independent general election organizing institution. The government then implemented the mandate of Article 22E paragraph (5) of the 1945 Constitution by enacting a law that specifically regulates the implementation of elections, namely Law Number 3 of 1999 which is better than the previous law in regulating the implementation of democratic elections. In fact, although based on reports from election observers and the mass media about the handling of cases of election fraud in 1999, there were far more. However, referring to the Central Panwaslu report for the 1999 General Election, it can be seen that this institution is only able to resolve cases of administrative violations, while violations related to election crimes, including money politics, are not handled properly.

A total of 270 (two hundred and seventy) cases of election criminal violations were transferred to the police, but only 26 (twenty six) were processed until the court. None of the money politics cases were processed until the court even though the indications were very strong and they became a public issue. The election administration conditions changed after the third amendment of the 1945 Constitution which was ratified at the General Session-MPR in November 2001. Legislation which is a derivative of the amendment results is Law No. 12 of 2003 concerning General Election of Members of the House of Representatives, the Regional Representative Council, and Law No. 23 of 2003 concerning the General Election of President and Vice President. These two legal foundations made the performance of Election Supervisors in 2004 better than the previous elections.

Article 1 paragraph (5) of Law Number 15 Year 2011 states that "Election Administrators are institutions that hold elections consisting of the General Election Commission and the Election Supervisory Body as a unitary function of election administration to elect members of the People's Representative Council,

\(^4\) Mahfud MD, 1999, *Tinjauan Substansial Reformasi Hukum*, Yogyakarta, p.17
Regional Representative Council, Regional People’s Representative Council, President and Vice President directly by the people, as well as to elect governors, regents and mayors democratically.”

In addition, Law Number 15 Year 2011 also mentions another institution, namely the Election Administration Honorary Council which has the task of overseeing behavior and enforcing the code of ethics of election administrators. The Election Supervisory Agency as an election management body in charge of supervising the administration of elections has the authority to, among others, oversee the implementation of election stages, receive reports of suspected election violations, and follow up on findings or reports to the competent authorities. In the framework of carrying out its duties and powers, the General Election Supervisory Body in accordance with the mandate of Law Number 15 Year 2011 then forms a Provincial Election Supervisory Board throughout Indonesia.

The general election supervisory agency as one of the election management bodies in charge of supervising the administration of elections has the authority to, among others, oversee the implementation of election stages, receive reports of alleged election violations, and follow up on findings or reports to the competent authorities. Over time, with the existence of laws and regulations regarding the implementation of new elections, namely Law Number 7 of 2017, there has been a strengthening of the authority of the General Election Supervisory Body in carrying out its duties and functions as an election supervisory agency.

One of the strengths is that the findings of the General Election Supervisory Body are no longer in the form of recommendations, but have become decisions, the General Election Supervisory Body now has the authority to decide administrative violations so that the findings of the election supervisors are not only recommendations but are decisions that must be implemented by the parties. General election supervisors are also given a basic mandate in the form of prevention and prosecution of election violations and election disputes. In addition, there are still a lot of strengthening of the powers of the General Election Supervisory Body in carrying out its duties and functions.\textsuperscript{6}

Since its formation on September 20, 2012, the Lampung Provincial Election Supervisory Body has handled and followed up on various allegations of violations either originating from the findings of election supervisors or from reports submitted by the public at election organizing, including in the elections for members of the DPR, DPD, and DPRD. 2014. Likewise with the 2019 Election, where there were still many violations. Judging from the type, the alleged violations handled by the Lampung General Election Supervisory Body and its staff can be classified into 3 (three), namely allegations of violations of the code of

\textsuperscript{5} See Act of Number 15 / 2011
\textsuperscript{6} See Article 95 Act of Number 7 / 2007
ethics in the administration of the Election, alleged administrative violations and alleged violations of Election Crime.

Law Number 8 of 2012 concerning the General Election of Members of DPR, DPD, and DPRD explains the definition of election violations as follows: (1) Violation of the Election Code of Ethics is a violation of the ethics of Election Implementation which is guided by oaths and / or promises before carrying out duties as Election Administration. Election Implementation Code of Conduct violations shall be resolved by the Election Administration Honorary Council (DKPP) with a settlement procedure implemented in accordance with the provisions of the law on Election Administration; (2) Election Administration Violations are violations that include procedures, procedures,

Allegations of administrative violations are forwarded to the KPU and its staff for follow-up not later than 7 (seven) days after being recommended by the Election Supervisory; (3) Election crime is a criminal act of violation and / or crimes against the provisions of election crimes regulated in Law Number 8 of 2012. Allegations of violations of election crimes are forwarded to the Indonesian National Police for follow-up since being recommended by the Election Supervisory Committee.

With regard to these various alleged election violations, the election supervisors should not continue to investigate the alleged violation at the latest within 5 (five) days from when the alleged violation was reported or found to be required by law to carry out a review process in order to make a decision to continue or not to continue the investigation of the alleged violation. If the decision is to continue the investigation, the election supervisor will issue a recommendation to the competent authority (police) to follow up on the investigation of the alleged violation.

During the 2019 General Election stage in Lampung Province, the number of findings of violations handled by the supervisory ranks of 155 regencies / cities in Lampung Province were 78 findings and 57 reports, so that the total violations were 107 reports and / or findings. The findings include 27 administrative violations, 1 case criminal, 4 cases of code of ethics, 7 other legal violations, 93 non-election violators and 3 cases not registered.

Of that number, the violations that occurred were violations of ASN neutrality, APK Violations, Campaign Violations without notification, APK damage, money politics and disputes over the results of votes. The trend of Election violations in 2019 is the neutrality of ASN, Campaign Props (APK), campaign activities without notification and campaigns by providing goods or materials

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7 See Act Of Number 8 /2012 concerning Election
8 Interview with Fatikhatul Khoiriyah, Bandar Lampung, 20 Agustus 2020.
9 Ibid
directly or indirectly. This study aims to determine the role of the Lampung Province general election supervisory agency in enforcing the 2019 Election Law in Lampung Province and to find out the obstacles faced by the General Election Supervisory Agency in enforcing the 2019 Election law.

II. DISCUSSION

Since the beginning of the formation of the Unitary State of the Republic of Indonesia, it has expressed its identity as a Democratic State. This can be seen about three months after independence was proclaimed by Soekarno and Muhammad Hatta. The provisional government led by President Soekarno and Vice President Mohammad Hatta wanted to hold elections in early 1946. Before becoming a democracy as it is today, Indonesia has tried several times to implement a different democratic system. Based on historical developments, democracy in Indonesia can be divided into four periods, namely the Parliamentary Democracy period, the Guided Democracy period, the Pancasila Democracy period, and the post-New Order Democracy period.

According to Harris G. Warren and friends, elections are: “Elections are the accostions when citizens choose their officials and decide, what they want the government to do. In making these decisions citizens determine what rights they want to have and keep.” This opinion is essentially argued that elections are an opportunity for citizens to elect government officials and determine what they want the government to do when they make decisions. Election administration institutions have been regulated in the 1945 Constitution after the amendment, it is stated in Article 22E paragraph (5) concerning elections that elections are held by a general election commission that is national, permanent, and independent. It can be conveyed several things.

First, whereas the implementation of elections includes broad powers as well as modern management functions which include planning, organizing, implementing and supervising internal-vertical and inherent in nature. Second, that the term “an election commission” which is written in lower case refers to a function and not an institution’s name (nomenclature). Third, it is national in nature intended to emphasize the scope of its duties and authorities covering the entire territory of the Unitary State of the Republic of Indonesia. Fourth, the permanent nature is intended to emphasize that the election management institution is an institution that is permanent in nature and not ad hoc in nature.

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10 Lampung Post, Badan pengawas pemilihan umum Lampung Tangani 71 Dugaan Pelanggaran Pemilu 2019, 12 April 2019.
13 See 1945 Constitution Article of 22E
Fifth, being independent is intended to protect the administration of elections from the intervention of various political forces and/or from government influence.\textsuperscript{14}

However, it needs to be emphasized that being independent also means being limited in terms of carrying out its duties and authority. Therefore this independence includes institutional independence, in the sense that the electoral administration institution is not part of another State institution, and independence in the process of policy making/decision making in the sense that it is free of intervention from any party. Based on the Decision of the Constitutional Court in the case of Law Number 22 of 2007 concerning Election which is contained in the Decision of the Constitutional Court Number 11 / PUU / VIII / 2010 provides legal considerations, namely that Article 22E paragraph (6) of the 1945 Constitution states further provisions regarding general elections. regulated by law. De facto and de jure, Law 22/2007 has regulated and formulated that a general election commission that holds general elections includes, firstly, the general election organizing institutions known as KPU, Provincial KPU and Regency/Municipal KPU; and second, the election supervisory agency known as the General Election Supervisory Board, Provincial and Regency/Municipal Panwaslu.\textsuperscript{15}

The view of the Constitutional Court emphasizes that the existence of an election management institution must have three main components, namely the KPU, the General Election Supervisory Body, and the Honorary Council. Therefore, of course it will be a concern in regulating the implementation of the three elements, although it is realized that supervision does not have to be horizontal-external in nature. In addition, Law Number 7 of 2017 concerning General Elections has formulated the existence of the KPU, the General Election Supervisory Body and the DKPP in one breath of harmony as a single function of organizing elections. These three institutions have been mandated by law to hold elections according to their respective functions, duties and authorities.

After the amendment to the Election administration law from Law Number 15 of 2011 concerning the Implementation of General Elections which has been amended to Law Number 7 of 2017 concerning General Elections, is stated in Article 1 Number (7) of Law Number 7 of 2017 regarding General Elections that: "Election Administrators are institutions that hold elections consisting of the General Election Commission, the Election Supervisory Board and the Election Administration Honorary Council as an integral part of the Election Administration to elect members of the People’s Representative Council, members of the Regional Representative Council, the President and Vice President, and to elect members.


\textsuperscript{15} Putusan Mahkamah Konstitusi Number 11/PUU-VIII/2010.
Regional People's Representative Council directly by the people."

Based on its authority, the General Election Supervisory Body as stipulated in Law No. 15 of 2011 strives to work optimally so that the general elections run in an abundant and fair manner and in accordance with election principles. According to the electoral law, the Election Supervisory Agency is actually the name of the national election supervisory agency. Meanwhile at the provincial level it is called the Provincial Election Supervisory Agency, at the Regency / City level it is called the Regency, and at the sub-district level it is called the District Panwaslu.

Election Supervisory is an ad hoc institution that is formed before the first stage of an election (voter registration) begins and is dissolved after a candidate elected in the election is inaugurated. Election Supervisors are formed to oversee the implementation of the election stages, receive complaints, and handle cases of administrative violations and election criminal offenses. Lampung Province is an area that is in the spotlight at both the local, national and even international levels because in the 2014 General Election for DPR, DPD and DPRD members, Lampung Province became the Pilot Project for the implementation of the Legislative and Executive Elections simultaneously, thus requiring the Implementation of both the Election Commission and the supervisory board. general elections go the extra mile in order to carry out their duties and functions maximally.

The General Election Supervisory Agency for Lampung Province began to carry out supervisory duties following the Decree of the General Election Supervisory Agency of the Republic of Indonesia Number 595-KEP of 2012 dated 20 September 2012 concerning the Appointment of Members of the Lampung Province General Election Supervisory Agency. The main duties of the Provincial Election Supervisory Body are to oversee the implementation of elections in their respective provincial areas, receive and follow up on findings and reports of suspected election violations, and report them to the General Election Supervisory Body of the Republic of Indonesia. Since its formation on September 20, 2012,

Judging from the type, the alleged violations handled by the Lampung General Election Supervisory Body and its staff can be classified into 3 (three), namely allegations of violations of the code of ethics in the administration of the Election, alleged administrative violations and alleged violations of Election Crime. Law Number 8 of 2012 concerning the General Election of Members of DPR, DPD, and DPRD explains the definition of election violations as follows: (1) Violation of the Election Code of Ethics is a violation of the ethics of Election Implementation which is guided by oaths and / or promises before carry out duties as Election Administration.

Election Administrators Code of Conduct violations shall be resolved by the Election Administration Honorary Council with a settlement procedure implemented in accordance with the provisions of the law on Election Administration; (2) Election Administration Violations are violations that include...
procedures, procedures, and mechanisms related to the administration of election implementation in every stage of the election administration outside of election crimes and violations of the code of ethics in the election administration.

Allegations of administrative violations are forwarded to the KPU and its staff for follow-up not later than 7 (seven) days after being recommended by the Election Supervisory; (3) Election crime is a criminal act of violation and / or crimes against the provisions of election crimes regulated in Law Number 8 of 2012. Allegations of election crime violations are forwarded to the National Police of the Republic of Indonesia to be followed up after being recommended by the Election Supervisor.

The results of election supervision and the projection of monitoring readiness for the 2014 election for members of DPR, DPD, DPRD are to determine the extent to which the quality of the elections in Lampung Province is running in accordance with the laws and regulations and to what extent the performance of the Election Supervisory Body and its staff in carrying out their duties as an organizer guided by election administration principles such as being independent, honest, fair, legal certainty, orderly, public interest, openness, proportionality, accountability, efficiency and effectiveness as well as complying with the prevailing laws and regulations.

During the 2019 General Election stage in Lampung Province, the number of findings of violations handled by the supervisory ranks of 155 regencies / cities in Lampung Province were 78 findings and 57 reports, so that the total violations were 107 reports and / or findings. The findings include 27 administrative violations, 1 case criminal, 4 cases of code of ethics, 7 other legal violations, 93 non-election violators and 3 cases not registered.16 Of that number, the violations that occurred were violations of ASN neutrality, APK Violations, Campaign Violations without notification, APK damage, money politics and disputes over vote results.17

The role of the Lampung general election supervisory agency in law enforcement

The 2019 General Election is a new chapter for the Election Supervisory Body. A number of new powers have been granted by Law No.7 of 2017 concerning Elections. The Election Law was promulgated on August 16, 2017 and was initially expected to be the basis for regulating the 2019 simultaneous elections. As an Election supervisory agency, the General Election Supervisory Body has received extraordinary additional powers so that some argue that this is the strongest General Election Supervisory Body in its history. The additional authority is new as executor and court of cases as referred to in Article 94 paragraph (2) and (3).

16 Interview by Fatikhatul Khoiriyah, Bandar Lampung, 20 Agustus 2020.
17 Ibid
In the 2019 simultaneous elections, elections which include the president, vice president, and DPR, DPD, Provincial DPRD, and Regency / City DPRD are held during the campaign period from 23 September 2018 to 13 April 2019, and elections or voting in Indonesia are held simultaneously on April 17, 2019. As well as the vote acquisition recapitulation process which was carried out from May to July 2019. In relation to the holding of the 2019 simultaneous elections, there are still records in the form of reports and findings of violations that have colored the Election of Members of the DPR, DPD, Provincial DPRD and Regency / City DPRD. The meaning of the findings is the result of supervision by the Lampung general election supervisory agency and its staff that contain allegations of election violations.

Based on data on findings and reports on alleged violations of the 2019 Election, as many as 27 administrative violations, the Lampung general election supervisory body is all followed up by the general election supervisory agency to the KPU. Then, as many as 88 alleged election crimes, only 1 election criminal violation was decided by the District Court. Then there were seven other legal violations, 1 of which were followed up by the State Civil Apparatus Commission (KSN). In this study, researchers specifically wanted to see the role of the Lampung general election supervisory agency in prosecuting 2019 Election violations. Of the many cases, the general election supervisory agency was able to bring this case to court and the perpetrators were found guilty. This case is a case of finding allegations of criminal election violations in Tanggamus Regency.

**Constraints Faced by Lampung's general election supervisory agency**

The implementation of the handling of violations by the election supervisory ranks in Lampung Province, especially by the General Election Supervisory Board of Lampung Province, has its own problems, where there are still many obstacles and obstacles for the general election supervisory ranks in enforcing democratic law, although it can be said that the Lampung Provincial Election Supervisory Body and its supervisory ranks the elections listed below have made optimal efforts in preventing potential violations. In carrying out its duties, the Election Supervisory Body must be able to create a solid, strong and close togetherness foundation for the Election, especially in the General Election of DPD, DPR, Provincial DPRD members.

In carrying out and securing existing interests for the purpose of upholding democracy that has been mandated by the law in accordance with the vision and mission as well as the principles of election, in understanding the rules and working in accordance with the applicable rules, enforcing the code of ethics, and carrying out duties accordingly existing main duties and functions. Work according to standard procedures, build work motivation by means of transparency, accountability and professionalism. In implementing the process of handling
violations at the DPR, DPD, DPRD and Presidential and Vice-Presidential Elections in 2019, the Lampung Provincial Election Supervisory Body encountered obstacles and obstacles in carrying out the violation handling process, namely:

**Election Criminal Action**

Alleged violations in the form of election crimes are the responsibility of the Supervisory Agency and Law Enforcement Officials. So that the General Election Supervisory Agency of the Republic of Indonesia, the Indonesian Police, and the Attorney General’s Office made an agreement, the Gakkumdu Center was formed in accordance with Article 486 Paragraph (1) of Law Number 7 of 2017 concerning General Elections, which explains that “To equalize understanding and patterns of handling election criminal acts, The general election supervisory agency, the Indonesian National Police, and the Attorney General’s Office of the Republic of Indonesia form Gakkumdu “. The existence of the Gakkumdu Center (integrated law enforcement) between the election supervisory agency, the police and the prosecutor's office is expected to be able to handle criminal cases for the election of DPR, DPD, DPRD as well as the 2019 Presidential and Vice Presidential Elections.

Based on the mandate of Law Number 7 of 2017 concerning Elections and Article 7 of the General Election Supervisory Body Regulation Number 31 of 2018 concerning Integrated Law Enforcement Centers. The provincial Gakkumdu organizational structure consists of:

a) Provincial Gakkumdu Advisor
b) Provincial Gakkumdu Advisor
c) Provincial Gakkumdu Coordinator
d) Members of the Provincial Gakkumdu

The problems faced in the handling of election criminal offenses through the Gakkumdu center include:

1) Regarding election regulations, there are still many gaps in law enforcement efforts, for example the absence of compulsion to make inquiries.

2) Regarding reports or findings of general election criminal acts which in terms of regulations or statutory regulations still cause multiple interpretations of the implementation in every general election case, especially for Sentra Gakkumdu

3) Report on Alleged Election Violations shall be submitted to Election Supervisors no later than 7 (seven) days after the discovery of the suspected Election Violation, the applicable time is in the General Election Supervisory Body Regulation Number 7 of 2018 concerning Handling of Findings and Reports of Election Violations. Election Supervisors make a preliminary review of the Report on Alleged Election Violations as outlined
in form B.5, no later than 2 (two) days after the report is received.

The initial Election Supervisory Study of the Report on Alleged Election Violations is an activity to analyze the fulfillment of the formal and material requirements, the type of violation, the determination of whether the report can be registered or not, the delegation of reports according to the location where the alleged Election Violations occur and / or the Report on Alleged Election Violations according to their level. The formal requirements referred to include the identity of the Reporting Party / party entitled to report, the Reported Party, the Reporting time shall not exceed the maximum 7 (seven) days since the discovery and / or discovery of the alleged Election Violation and the suitability of the signature in the Report on the Alleged Violation Report with a sign card. electronic resident and / or other identity card.

Aspects of Human Resources

Apart from being involved in the handling of election criminal offenses, in the duties of the General Election Supervisory Body, there are also obstacles that arise from the internal election supervisory agency. The obstacle is from the aspect of Human Resources. The human resources owned by the Lampung general election supervisory agency, among others, have a number of deficiencies, including a lack of human resources in each division, so that secretariat staff must have concurrent jobs, so that they are not efficient and maximal in doing the work given. Lack of human resources that are suitable for competence, as well as placement of human resources in handling violations that are not in accordance with scientific competence. Lack of understanding of the coordination pattern among members of the Gakkumdu center, in several areas in Lampung Province.

III. CONCLUSION

Based on the description of the discussion regarding the Existence of the Role of the Lampung Election Supervisory Agency in Carrying Out the 2019 General Election Violations in the previous chapters, the conclusions of this study are as follows: 2019 Election Violations that occurred in Lampung Province have many diverse features, ranging from administrative violations, up to election crimes. This can be seen from the number of reports and findings in the General Election for Members of DPR, DPD, DPRD and the 2019 General Election of President and Vice President which have been handled by the ranks of the Lampung General Election Supervisory Body, totaling 107 cases of reports and findings against General Election Supervisory Agency Regulation Number 7 of Year 2018 concerning Handling of Findings and Reports of Election Violations. The number of reports and findings in the General Election Supervisory Agency Regulation Number 8 of 2018 concerning the Resolution of Election
Administration Violations totaled 28 cases. In this case, the Lampung general election supervisory agency performed its role effectively by processing each of these findings and reports. Although, in the process, only one criminal case reached a trial and was decided by the Court.

The Lampung general election supervisory agency has a number of obstacles faced in prosecuting 2019 Election violations. These include the inadequate role of the Integrated Law Enforcement Center (Gakkumdu). This is due to differences in backgrounds and good views between the General Election Supervisory Agency, the Police and the Attorney General's Office in observing cases of election violations. Another factor is Human Resources (HR). Human resources owned by the General Election Supervisory Agency are still very few, coupled with the number of budgets and inadequate facilities.

Suggestions that can be given by researchers to improve the quality of future elections in Lampung Province in this study are as follows: The Lampung general election supervisory agency needs to strengthen the capacity of human resources in handling election violations intensively and comprehensively. This is so that election supervisors can develop more creative methods of supervision and optimize supervisory cooperation with the public and related parties. The central government and regional governments should allocate sufficient budget to the Lampung general election supervisory agency and its staff so that the number of election violations can be suppressed and the process of handling election violations can be more effective.

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