

Comparative Analysis of Organizational Dimension and Arrangement of Education Requirements For Members of Independent State Institutions and Nonstructural Institutions

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Abstract. *In the reform era since 1998, which changed various aspects of state life, several independent state institutions or quasi-state institutions (state auxiliary bodies) and non-structural institutions have been formed. Among them are the General Election Commission (KPU), Central Information Commission (KIP), Indonesian Broadcasting Commission (KPI), Corruption Eradication Commission (KPK), Ombudsman of the Republic of Indonesia (ORI) and the State Civil Apparatus Commission (KASN). There are different arrangements in the law that formed it about the dimensions of the organization and the educational requirements that must be met by each prospective member in line with the characteristics of each of these institutions. This study uses normative juridical methods and literature review, which aims to elaborate on the regulation of organizational dimensions and educational requirements as stated in the law that established the six institutions. There are adequate and inadequate arrangements for the organizational dimensions of the six institutions. There are strict regulations of educational requirements that are in line with institutional characteristics, namely the law on the KPK, ORI and KASN. The vague setting is found in the regulation about KPU, and the unclear one is in the law that regulates KIP and KPI. It is necessary to improve the regulation of organizational dimensions and educational requirements in some of these laws.*

Keywords: *comparative analysis, education, organizational dimensions, independent state institutions, non-structural institutions.*

1. INTRODUCTION

Along with the spirit of democratization that has flowed strongly since the resignation of President Suharto from office, various state institutional arrangements have been made. This is done to strengthen democracy, human rights, public participation in various aspects of life, as well as to increase its weight as a legal state. One of them is the establishment of several independent state institutions and non-structural institutions. Among them are the General Election Commission (KPU), Central Information Commission (KI), the Indonesian Broadcasting Commission (KPI), the Corruption Eradication Commission (KPK), the Ombudsman of the Republic of Indonesia (ORI) and the State Civil Apparatus Commission (KASN).

Many things have been done by the six institutions to strengthen Indonesia as a democratic country and a state of law, as stipulated in Article 1 paragraph (2) and paragraph (3) of the 1945 Constitution. the public's right to information needs, guarantee of the public's right to receive quality broadcasting material, as well as more organized handling of corruption. In addition, the implementation of public services is increasingly being monitored, especially in the basic life sectors, as well as supervision of the performance management of the state civil apparatus.

However, the presence and functioning of these institutions, some of which are not equipped with adequate arrangements of organizational dimensions and institutional characteristics, such as KIP and KPI. Part of this is because the institutional

arrangements are not specifically regulated in the law that formed them, but are part of the substance of certain laws, such as KIP and KPI. Some of them do not regulate the types of ability or competencies of prospective members/commissioners who will later become the leaders of the institution, such as KIP and KPI. In addition, there are regulations of the educational requirements in disguise, namely the KPU. Likewise, the diversity of predicates that are attached, there are what are called state institutions, non-structural institutions and only institutions.

For the effective implementation of the duties, functions and authorities of these institutions, it is very important that adequate and explicit arrangements of organizational dimensions and institutional characteristics are essential. It is also important that there are clear arrangements about the least requirements for educational qualifications and types of ability for prospective members/commissioners. This is because the actions of the six institutions will greatly find the reputation, credibility and future of Indonesia as a state of law and democracy. Therefore, research on this matter is important as a form of scientific contribution to the life of the state.

This study aims to analyze comparatively the regulation of various organizational dimensions and the minimum educational requirements for prospective members/commissioners of the six state institutions in the laws that shape it.

2. LITERATURE REVIEW

2.1 Organization Dimension

Discussions about state institutions will not be separated from academic discussions about organizations. According to Robbins, the organization is a consciously coordinated social entity, with a relatively identifiable boundary, that functions on a relatively continuous basis to achieve a common goal or set of goals (1990:4). Narayanan and Nath (1993:4) define it as an arena where human beings come together to perform complex tasks so as to fulfill common goal(s). Organizations are referred to by Pfiffner and Presthus as the structuring of individuals and functions into productive relationships. Organization seeks a pattern of skills and responsibilities that will ensure coordination and unity of purpose through supervision (1960:5).

Theoretically, the organizational dimension according to Daft consists of a structural dimension and a contextual dimension. The structural dimensions according to him provide labels to describe the internal characteristics of an organization. They create a basis for measuring and comparing organizations. It was further stated that the structural dimensions consist of specialization, hierarchy of authority, and professionalism, and personnel ratios'. Furthermore, it is stated that contextual dimensions characterize the whole organization. Among them are size, and goals. They describe the organizational setting that influences the structural dimensions (1992:13).

Each structural dimension is explained by Daft (1992:13-14) that specialization is the degree to which organizational tasks are subdivided into separate jobs. The hierarchy of authority describes who reports to whom and the span of control for each manager (1992:13-14). It was further stated that professionalism is the level of formal education and training of employees. Professionalism is considered high when employees require long periods of training to hold jobs in the organization (1992:13-14). Based on Daft's view it is clear that the existence of these multiple organizational dimensions is very important for analyzing the complete posture of the organization.

In human life, there will be various types of organizations. Talcot Parsons, as quoted by Narayanan and Nath, mentions that there are four types of organizations, namely production organizations, political organizations, integrative organizations, and pattern maintenance organizations. It was further stated that political organizations are concerned with ensuring that society as a whole achieves its objectives (1993:4).

2.2 State institutions

In the political and constitutional system so far, it is known the existence of state institutions, both those regulated in the constitution and by law. Entering the reformation era after the cessation of President Suharto from his position, state institutions outside the constitution grew like mushrooms in the rainy season. With definitions that are not exactly the same, all of them are often called independent state institutions, quasi-state

institutions, non-structural institutions or supporting state institutions. According to Ramadani, this is a trend whose development in the post-amendment era of the 1945 Constitution led to the formation of new state institutions that ideally had an independent character (2020:171).

According to Abdillah and Rico Novianto, this is related to the development of the concept of state institutions which are no longer based on classical state power distribution such as *trias politica*, but also the presence of supporting state institutions (2019: 111). Independent state institutions seen from their nature and authority in some constitutional law literature are often called the fourth branch of government power. Being between the political infrastructure and the political superstructure as a bridge between the society and state power (Arbani, 2018:36).

According to Furqon, the existence of functions and authorities can decide the position of state institutions, so that there are groups of main state institutions and auxiliary state institutions. Independent state institutions are not only centered on one branch of state power but also other branches of state power, including judicial power (2020:79). In many literatures, according to Asshiddiqie (2011) there are also those who use terms in English, namely 'independent bodies', 'auxiliary agencies', 'self regulatory bodies', and so on. In order to be general in nature, these institutions, due to their special nature outside the usual ministry structure, can be called special agencies.

According to Arliman, the background for the presence of independent state institutions is the crisis of trust in existing state institutions. This crisis was initially due to a failure in carrying out its functions or due to widespread deviations from the state institutions from their functions during the New Order government (2020:1035). Non-structural institutions according to the State Administration Institute (2015) are independent institutions established by law to carry out certain tasks which due to the nature of their duties cannot be contained in the form of existing ministries/institutions, where institutional membership involves elements outside government and its existence is funded by the state budget.

3. METHODOLOGY

In accordance with the level of explanation, this research is a descriptive research. One type of descriptive research is library and documentary research (Nazir, 2011:55). This type of research is basically a combination of normative juridical research and literature study. According to Marzuki, it is classified as legal research (2015:47), or normative legal research or library law which is carried out by examining library materials or secondary data (Soekanto and Mamudji, 2015:13). Research is conducted on information that is documented in the form of regulations so that it is commonly known as document analysis research or content analysis.

4. RESULTS AND DISCUSSION

4.1 Institutional Legal Basis

KPU as institution is regulated in Article 6 to Article 76 of Law Number 7 of 2017 about Elections, which was ratified on August 16, 2017. This law which consists of 573 articles revokes and declares that three other laws are invalid, namely Law Number 42 of 2008 about Presidential and Vice-Presidential Elections, Number 15 of 2011 about Election Organizers, and Law Number 8 of 2012 about Elections for Members of the DPR, DPD, and DPRD, as well as two articles in Law Number 11 of 2006 about the Government of Aceh. This is the first law on elections that integrates and simplifies several earlier laws. With a total of 573 articles, this is a simpler matter compared to the total number of articles of the three replaced laws, which is 727 articles.

KIP as institution are regulated in Article 1 point 4, as well as Articles 23 to 34 of Law Number 14 of 2008 about Openness of Public Information. This law, which consists of 64 articles, is the first time regulation on the disclosure of public information as an important element of human rights and public policy, although not as a specific law on KIP. The existence of KIP is very basic for the rule of law, because it is in line with the guarantee of the fulfillment of citizens' rights to information as stated in Article 28 F of the 1945 Constitution.

KPI is institutionally regulated specifically in the law itself, but in Article 1 number 13 and Article 7 to Article 12 of Law Number 32 of 2002 about Broadcasting. This law

was passed on December 28, 2002 which consists of 64 articles, and as stated in Article 63 states that Law Number 24 of 1997 about Broadcasting is no longer valid. The existence of a similar institution, previously known as the National Broadcasting Advisory and Control Agency, is regulated in Article 1 number 16 and Article 57 of Law Number 24 of 1997. The presence of KPI in the midst of an increasingly democratic life is certainly very different when broadcasting institutions and practices are in a different political order authoritarian or semi-authoritarian.

The KPK is institutionally regulated in Law Number 30 of 2002 about the Corruption Eradication Commission, which was later amended by Law Number 10 of 2015 and finally by Law Number 19 of 2019. The law, which was passed on December 27, 2002, consists of 72 articles as a realization the mandate of Article 43 of Law Number 31 of 1999 about the Eradication of Criminal Acts of Corruption as amended by Law Number 20 of 2001. In the past, a similar institution called the Commission for Examining the Wealth of State Organizers was stipulated by Law Number 28 of 1999 about Clean and Free State Organizers. Corruption, Collusion and Nepotism. Until now, the regulation of the authority of the KPK institution still invites controversy in the midst of people's lives.

ORI is specifically regulated in Law Number 37 of 2008 about the Ombudsman of the Republic of Indonesia which was ratified on October 7, 2008, which consists of 47 articles. In addition to being regulated in the law, the existence of ORI is also mentioned in Article 1 and Article 46 of Law Number 25 of 2009 about Public Services. Article 45 letter a of the Law on ORI states that the National Ombudsman Commission which has been established based on Presidential Decree No. 44 of 2000 about the National Ombudsman Commission during the time of President Abdurrahman Wahid, is declared the Ombudsman of the Republic of Indonesia. The guarantee of the service of the public interest will certainly be more visible with the presence of an institution that supervises the implementation of public services.

KASN is not specifically regulated in the law itself, but is part of Law Number 5 of 2014 about State Civil Apparatus, in Articles 27 to 42. The law which was passed on January 15, 2014 consists of 141 articles, which are based on Article 136 states to revoke and no longer apply Law Number 8 of 1974 about Principles of Personnel which has been amended by Law Number 43 of 1999. However, the existence of KASN is very strategic in an atmosphere of government that is required to increasingly play a role as a public servant, accountable, and transparent.

Thus, of the six institutions, there are two institutions, namely the KPK and ORI, which are specifically regulated by law, and four other institutions, namely KPU, KIP, KPI, and KASN, which are not specifically regulated but are part of other laws. Even the institutional arrangements for ORI are not only contained in the law on ORI, but also in the law on public services. The most common arrangements are the KPK (72 articles) and the KPU (70 articles). Furthermore, ORI (49 articles), KASN 15 articles, KIP 12 articles, and KPI 6 articles.

4.2 Organization Dimension

According to Article 1 point 8, KPU is an election management body that is national, permanent and independent in conducting elections. In full, the KPU consists of KPU, Provincial KPU, Regency/Municipal KPU, PPK, PPS, PPLN, KPSS and KPPSLN, as referred to in Article 6. as referred to in Article 7 paragraph (3). KPU, Provincial KPU and Regency/Municipal KPU according to Article 8 paragraph (4) are domiciled as non-structural institutions, whose organizational relationships are hierarchical as referred to in Article 9 paragraph (1). According to his explanation, non-structural institutions are institutions formed because of the urgency of a certain special task that cannot be accommodated in the form of government/state institutions.

Compared to KPI, KPK and ORI which are explicitly called state institutions, KPU is referred to as a non-structural institution as the predicate is also attached to KASN. Affirmation as an independent institution and free from the influence of any party is important as an institution that is present in a state of law and democracy. This is also attached to the KIP, KPI, and KPK institutions. Likewise, affirmation as an institution that is hierarchical to the organs below it is important for the realization of organizational cohesiveness and credibility.

KIP as referred to in Article 1 point 4 and Article 23 of Law Number 14 of 2008 is an independent institution that functions to carry out laws and implementing regulations, provide technical guidance for public information services and resolve public information disputes through mediation and/or non-litigation adjudication. Apart from having a Central Information Commission living in the national capital, as referred to in Article 24, there is also an Information Commission at the provincial level, and if necessary, a district/city Information Commission.

Compared to ORI, KPI and KPK which are referred to as state institutions, KIP is not explicitly called state institutions. Likewise, there is no firmness about the hierarchical relationship between KIP and KI at the provincial and district/city levels, as is attached to the KPU and ORI. Affirmation as an independent institution is very important in handling public information disputes, as it is called an independent institution attached to the KPU, ORI and KASN. The nature of the independence of this institution has the potential to be disrupted because based on Article 25 paragraphs (1) and (2) membership at the central and provincial and district/city levels has elements of the government, not entirely consisting of elements of the community.

KPI according to Article 1 number 13 and Article 7 paragraph (2) of Law Number 32 of 2002 is an independent state institution that regulates various aspects of broadcasting. As a form of community participation, its role as referred to in Article 1 number 13 and Article 8 paragraph (1) is as a forum for aspirations and representing the interests of the community about broadcasting. Institutionally, apart from having Central KPIs at the central level, there are also Regional KPIs in the provinces as regulated in Article 7 paragraph (3). Affirmation as an independent state institution is very important in enforcing broadcasting regulations because it is very likely to collide with the interests of the parties who hold sources of power. This independent meaning is the same as that attached to the KPK, and has the same spirit as the independent institutions attached to the KPU, ORI, KIP and KASN. There is also no confirmation of the hierarchical organizational relationship with the organs at the provincial level, as is attached to the KPU and ORI.

The institutional nature of the KPK, based on Article 3 of Law Number 30 of 2002, was a state institution which in carrying out its duties and authorities was independent and free from the influence of any power. The position of this institution is in the state capital, and can form representatives in the provinces as referred to in Article 19 paragraph (2). This has changed through Law Number 19 of 2019 to become the KPK as a state institution in the executive power clump that carries out the task of preventing and eradicating corruption, which is independent and free from any power. Affirmation as a state institution is very important for the solid function of the organization, as is also attached to ORI and KPI. Likewise, the independent nature of the institution is very strategic in carrying out its duties and functions, as attached to the KPI, as well as the independent nature of the KPU, KIP, ORI, and KASN.

ORI according to Article 1 and Article 2 of Law Number 37 of 2008 is a state institution that has the authority to supervise the implementation of public services, is independent and does not have organic relations with state institutions and other government agencies. In addition, free from interference from other powers in carrying out their duties and authorities. ORI is domiciled in the state capital and structurally has a hierarchical relationship with the provincial and district/city Ombudsman, as regulated in Article 46 paragraph (3) of Law Number 25 of 2009 and Article 5 of Law Number 37 of 2008. Affirmation as a state institution that is independent become an important capital for ORI in carrying out its duties and authorities, as is also attached to the KPK and KPI. Likewise, the relationship between the organization and the ORI under it is an important aspect of the organization to support the effective implementation of duties and authorities.

KASN based on Article 1 point 19 and Article 27 of Law Number 5 of 2014 is a non-structural institution that is independent and free from political intervention to create professional and performing ASN employees, offer services in a fair and neutral way, and become the glue and unifier of the nation. Institutions living in the capital city of this country, do not have representatives/organizational apparatus in the regions. KASN as regulated in Article 30 has the function of supervising the implementation of basic norms, codes of ethics and ASN code of conduct, as well as the application of the merit

system in ASN policies and management in government agencies. Affirmation as an independent institution and free from political intervention is very strategic for KASN, as is also attached to the KPU, ORI, and KIP, as well as the meaning of independence as attached to the KPK and KPI.

Thus, from the six institutions there are three institutions which are referred to as state institutions, namely the KPK, KPI and ORI; two institutions called non-structural institutions, namely KPU and KASN; and one institution that is only called an institution, namely KIP. There are four independent institutions, namely KPU, KASN, ORI, and KIP; and two independent institutions, namely the KPK and KPI. There are two institutions whose organizational relationships with the organs below are referred to as hierarchical, namely KPU and ORI. Two other institutions, namely KPI and KIP, are not said to have a hierarchical relationship, and two institutions, namely the KPK and KASN, do not have organizational instruments at the provincial and district/city levels.

4.3 Education Requirements

With regard to education, the requirements to become a KPU member are stated in Article 21 paragraph (1) letters e and f, namely having knowledge and ability related to the administration of elections, state administration, and parties, as well as having a minimum education level of strata 1 (S-1). Explanation of letter e that candidates for KPU members are prioritized to have the ability to conduct elections, both from the fields of political science, law and management. What is meant by "having knowledge and ability related to the implementation of elections, state administration, and parties", is proven by a series of tests. There is uncertainty about certain scholars who can take part in the choice as candidates for KPU commissioners, not as required at KASN, ORI and KPK. This is very important because the provision of minimum academic qualifications as a degree in political science, law, government science, information technology/similar science, and public administration is very important for KPU commissioners candidates.

The terms for the appointment of KIP members as referred to in Article 30 paragraph (1) do not contain any provisions about the requirements for the required educational qualifications and competencies. In paragraph (1) letters d and e it is only stated that having knowledge and understanding in the field of public information disclosure as part of human rights and public policies, as well as having experience in the activities of public bodies. It is not explicitly stated that the least requirements for educational qualifications and the field of knowledge for candidates are irrelevant to the development of a strategic environment that demands quality human resources through increasing educational qualifications. However, it is very important to mention the knowledge requirements in the field of public information disclosure, as well as the experience requirements in the activities of public bodies.

The educational requirements to become a member of the KPI as referred to in Article 10 paragraph (1) letter c and letter f are undergraduate education or equivalent intellectual competence, and have concern, knowledge, and/or experience in the broadcasting field. The mention of specific fields of science to become candidates for commissioners is very necessary, such as, at least a bachelor's degree in communication science/similar, law and public administration. It is also important to mention the need for knowledge and/or experience in the broadcasting field. The phrase "having equal intellectual competence" will be very difficult to apply when there are candidates who are educated below a bachelor's degree, such as an associate/D-3 expert.

The educational requirements for prospective members of the KPK as referred to in Article 29 letter d are a degree in law or other scholars who have ability and experience of at least 15 (fifteen) years in the fields of law, economics, or banking. A clear mention of the field of science like this will greatly facilitate the selection process, and will give greatly to the success of the tasks and authorities of the organization. This is in line with what is required to become a member of ORI and KASN.

The requirements to become a member of ORI with regard to education are stated in Article 19 letter d, namely a law degree or graduate in other fields who have ability and experience of at least 15 (fifteen) years in the field of law or government related to the implementation of public services. The existence of qualification requirements and

strict fields of knowledge like this is a good start for the selection process and the future performance of the organization. This is in line with what is required to become a member of the KPK and KASN.

The requirements to become a member of KASN as referred to in Article 38 paragraph (2) letter g is to have a minimum education master's degree (S2) in the field of public administration, human resource management, public policy, legal science, government science, and/or a master's degree (S2) in other fields who have experience in the field of human resource management. The firmness of the qualification requirements and the field of education for prospective KASN members is very meaningful for the smooth running of their duties and authorities. This is also in line with what is required to become a candidate for members of the KPK and ORI.

Thus, the minimum educational qualification requirements for undergraduate / S-1 are to become members of the KPK, KPU, KPI, and ORI, at least master / S-2 for KASN, and are not mentioned to be members of KIP. Candidate fields of science that are clearly mentioned are for the KPK, ORI and KASN, while those that do not mention specific fields of science are for KPU, KPI, and KIP.

5. CONCLUSION

In a legal state and democracy, the existence of independent state institutions or non-structural institutions is very important to better guarantee the rights of citizens and to do the state goals set out in the constitution. The arrangement of several organizational dimensions within these institutions varies, depending on the laws that shape them. The least educational requirements and areas of ability for members of these institutions also vary. Adequate regulation of various organizational dimensions and minimum requirements for education as well as fields of knowledge for prospective members in the law is very necessary for the effective implementation of institutional duties. It is necessary to rearrange the regulations of these three things in the laws that shape it.

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