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Inconsistency of Misusing Electronic Identity Card (E-KTP) Data in General Elections in Indonesia

Uso incorrecto de los datos de la tarjeta de identidad electrónica (E-KTP) en las elecciones generales de Indonesia

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ABSTRACT

Electronic Identity Card (E-KTP) results from e-government implementation in public services that uses technology and develops a national population database to provide identity to the community using the biometric system. The type of research used is Normative Juridical, using secondary data reinforced by primary data, in the form of interviews with non-random probability sampling technique. The results showed that the regulations regarding the storage and management of occupation data in E-KTP, according to Law no. 24 of 2013 concerning Amendments to Law no. 23 of 2006 concerning Population Administration, including physical and mental disabilities; fingerprint; iris; signature; and other data elements that constitute a person's disgrace.

Keywords: Electronic identity card (E-KTP), general election, misuse data.

RESUMEN

La Tarjeta de Identidad Electrónica (E-KTP) es el resultado de la implementación del gobierno electrónico en los servicios públicos que utiliza tecnología y desarrolla una base de datos de población nacional para proporcionar identidad a la comunidad utilizando el sistema biométrico. El tipo de investigación utilizada es Investigación Jurídica Normativa, utilizando datos secundarios y reforzados con datos primarios, en forma de entrevistas con técnica de muestreo probabilístico no aleatorio. Los resultados mostraron que las regulaciones sobre el almacenamiento y manejo de datos de ocupación en E-KTP, de acuerdo con la Ley no. 24 de 2013 sobre modificaciones a la Ley n. 23 de 2006 sobre la administración de la población, incluidas las discapacidades físicas y mentales; huella dactilar; iris; firma; y otros elementos de datos que constituyen la desgracia de una persona.

Palabras clave: Cédula de identidad electrónica (E-KTP), elecciones generales, uso indebido de datos.

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INTRODUCTION

Indonesia, is one of the countries in the ASEAN region with a large population, has a relatively good competitive economy, and this can be an essential asset to play an active role in the ASEAN Economic Community (AEC) Era, which came into effect in early 2015. Indonesia's Readiness to face the AEC challenges is an inexorable information technology infrastructure to win the competition growing very fast. Many research found that Information Technology (IT) is analogous to a request from the industrial community, where the need for data processing and communication facilities that are fast and cheap penetrates space and time, from the industrial world must be able to provide this demand in the form of creation of quality technology products (Saturno et al.: 2017, pp. 1837-1845). Every company should not ignore the use and development of information technology. The development cannot be denied because every application of this technology facilitates service to the community. At least, according to (Terry & Smith: 2006), there are five fundamental roles of information technology in a company, namely: 1) Operational Function; 2) Monitoring and Control function; 3) Planning and Decision Function; 4) Communication function, and 5) Interorganizational Functions (Smith & Parmenter: 2016). These five functions are permanently inseparable from the business activities, both internally carried out by company management in the form of operational, monitoring, planning, and decision-making functions. Supriyanto (Supriyanto: 2004, p. 17276) emphasized that an effort to create a competitive advantage in a dynamic business market situation is to use information technology efficiently (Sampson, Udoh, Sampson, & Abraham, 2019; Sokiyna & Aqel: 2020, p. 100445).

In the public service sector, the government has introduced each line of public services with a system called e-government. Hasniati (Hasniati: 2006) explained that the concept of e-government is defined as the use of information and telecommunications technology for efficient and effective government administration and providing transparent and satisfying services to the public (Tarigan et al.: 2017, pp. 135-146). The World Bank defines e-Government as follows (Umejiaku, 2020; Sundberg: 2019, pp. 22-32):

“E-Government refers to the use by government agencies of information technologies (such as Wide Area Networks, the Internet, and mobile computing) that can transform relations with citizens, businesses, and other arms of government. “

On the other hand, the United Nations Development Program (UNDP), on one occasion, defines it more simply, namely: E-government is the application of Information and Communication Technology (ICT) by government agencies.

With e-government, it allows for new interactions and communications between local governments, between local governments and the central government, between government and communities, between government and the business world. Therefore, the application of e-government in the government sector plays a significant role in realizing the government's desire to improve the quality of public services (Zhang et al.: 2020, pp. 1–13; Uwajumogu, Nwokoye, Ogbonna, & Okoro, 2019). In carrying out the duties and authorities as mandated in the fourth paragraph of the 1945 Constitution, this is further clarified in the Decree of the Minister for Administrative Reform No. 63 of 2003 concerning General Guidelines for the Implementation of Public Services. Electronic Identity Card (E-KTP) results from the implementation of e-government in public services that uses technology and develops a national population database to provide identity to the public using a biometric system. So that each E-KTP owner can be connected to one database nationwide so that each person may only have one E-KTP.

The E-KTP program was launched by the Ministry of Home Affairs of the Republic of Indonesia in February 2011. Until early 2019, Indonesia's total population, whose population data has been recorded through E-KTP, has reached 97.21%, and those who have not been recorded are approximately 5.38 million people. The next question is, where is the population data stored? Is the population data safe?

The Director-General of Population and Civil Registration, Ministry of Home Affairs, Zudan Fakhurlah, acknowledged that the existence of PIN, KTP data, and household data was scattered and traded in cyberspace. The Minister of Home Affairs also identified and announced as many as 2,158 fake blank E-KTPs traded online in the Duren Sawit area, East Jakarta.

The issuance of E-KTP is prone to criminal acts as described above. These criminal acts should be addressed considering the number of criminal acts committed using the internet media against personal data. As in the case mentioned above, misuse of population data in the E-KTP to buy and sell votes in General Elections, whether the Presidential election, Legislative Election, or Regional Head Election, is likely to occur. As we know, 2019 is a political year for the Indonesian people. 14 Political Parties will fight for votes to be able to take legislative seats, or the 2019 Election is known as the "Five Box Election" because the election of a Presidential, House of Representatives, Regional Advisory Council, Provincial House of Representatives, Regency House of Representatives are held at the same time.

Before discussing how crimes and violations during the 2019 election, it is better to look at crimes and violations in the 2012 DKI Jakarta election; under these conditions, voters who are not registered in the List of Potential Voters are usually reluctant to come to polling stations even though they can still use their voting rights at the polling station by using E-KTP. The second potential violation is that the C6 form is not distributed to the public. Form C6 is a notification letter to vote. Just like voters who are not registered in the List of Potential Voters, in the end, many voters are reluctant to vote, and then their votes are prone to abuse. Ahead of the voting in the 2019 Election, many E-KTP findings were not issued by the local Director General of Population and Civil Registration, such as finding 2,005 E-KTP pieces in the rice fields Jalan Bojong Rangkong, Pondok Kopi, Duren Sawit, August 2019.

In 2020, as many as 270 regional elections were held simultaneously, with nine governors, 224 Regent, and 37 Mayor. The most severe political impact, in this case, is in the implementation of regional elections. With the community's obstruction in having an E-KTP, their voting rights can inevitably not be channeled into the election or regional election voting process. This process, of course, is inconsistent with the principles of democracy. Democracy has become "hostage" because of technical, administrative government problems like this. If the number of people whose voting rights cannot be channeled is large, of course, the representation of political leaders is less accommodated because there are people's votes that cannot be channeled. This issue is a severe problem in democratic life because democracy is a question of measurement, namely how the principles of popular control and political equality can be realized.

By looking at the background as mentioned earlier, several problems arise, including How are the arrangements regarding the storage and management of population data on E-KTP in Indonesia?; and How is the implementation of regulations regarding the storage and management of population data on Electronic KTP against the misuse of E-KTP data in General Election in Indonesia?

METHODOLOGY

This type of research is Normative, which examines the quality of a norm (Christiani: 2016, pp. 201–207) so that a legal recommendation is found in the framework of legal reform with a starting point on the E-KTP data storage security system on cloud storage against the practice of misuse of population data in the political constellation in Indonesia. (Deb et al.: 2019, pp. 67-77) Apart from primary legal materials, secondary data in this study also require primary data in the form of direct interviews with the Director of Cyber of Police Headquarters; Department of Population and Civil Registration of the Ministry of Home Affairs; Junior Attorney for Criminal at the Attorney General's Office and the Honorary Council of Election Administrators to support the concept of legal certainty for the inconsistency of misuse of E-KTP data in General Election in Indonesia.

RESULTS

Arrangements for storing and managing data on E-KTP population in Indonesia

Digital population data management in Indonesia, as a change from manual population data collection, is an integral part of the principles of e-government. Population data management is inseparable from the E-KTP procurement program launched in 2011, which started by recording population data, storing, managing, and accessing population data.

UU no. 24 of 2013 concerning Amendments to Law no. 23 of 2006 concerning Population Administration. Article 13 of Law Number 23 of 2006 concerning Population Administration states:

- 1) Every resident is required to have a Population Identity Number (PIN).
- 2) The Population Identity Number is valid for life and forever, given by the government and issued by the implementing agency to each resident after the biodata is recorded.
- 3) The residential identity number is included in every document in residence and used as the basis for the issuance of passports, driver's licenses, taxpayer-identification numbers, insurance policies, certificates of land rights, and the issuance of other identity documents.
- 4) Government regulations shall regulate further provisions regarding the requirements, procedures, and scope of issuance of other identity documents and certificates' inclusion.

Government Regulation No. 40 of 2019 concerning the Implementation of Law Number 23 of 2006 concerning Population Administration as Amended by Law No. 24 of 2013 concerning Amendments to Law no. 23 of 2006 concerning Population Administration. In this provision, Population Data is meant by structured individual data and aggregate data as a result of Population registration and civil registration activities. Meanwhile, Population Documents are official documents issued by the Regency / City Population and Civil Registration Service (Rane et al.: 2020, pp. 117-122), which have legal force as authentic evidence resulting from Population registration and Civil registration services. Meanwhile, the meaning of Electronic Identity Card, from now on abbreviated as E-KTP, is an identity card equipped with a chip that is the resident's official identity as proof of identity issued by the Regency / City Population and Civil Registration Service.

Presidential Regulation of the Republic of Indonesia Number 112 of 2013 concerning the Fourth Amendment to Presidential Regulation Number 26 of 2009 concerning Implementation of National Identity Cards Based on Population Identification Number. This provision states that residents' ownership of E-KTP is mandatory, so for residents who already have non-E-KTPs, they are given no later than December 31, 2014, to change to the form of E-KTP. This provision was then revealed in the Minister of Home Affairs Regulation No. 61 of 2015 concerning Requirements, Scope and Procedures for Granting Access Rights and Utilization of Identity Numbers, Population Data and Electronic Identity Cards.

In Minister of Home Affairs Regulation No. 61/2015, user institutions' scope includes PIN, Population Data, and E-KTP. The PIN and Population Data have been consolidated and cleaned by the Ministry of Home Affairs, sourced from population administration services using the Population Administration Information System (PAIS), connected between the service location and the Ministry of Home Affairs Data Center. The Ministry of Home Affairs provides permits for population data access rights to provincial officials and officers of implementing agencies and users. Likewise, Article 9, Article 10, and Article 11 regulate the use of a PIN, Population Data and E-KTP by institutions at the Central, Provincial, and Regency / City levels.

Population data is classified as personal data. Personal data is meant to collect information stating someone's identity (Ateş: 2020, pp. 169–180), which contains symbols, codes, numbers, letters, or a combination of which indicates the characteristics of a person whose existence is very personal (Latumahina: 2014). Therefore, its existence is fundamental to be protected. Because its existence significantly affects national stability. This effect is because the trust that arises in society towards the state depends on the state's

ability to protect the privacy of the people who live in it. Also, personal data such as PIN plays a vital role so that the fulfillment of other individual rights can be carried out, for example, in terms of obtaining social security, using banking services, and holding general elections.

As the person in charge, the Minister grants the right to access Population Data to provincial officials and executing agency officers and users. Officers and users are prohibited from disseminating Population Data that is not under their authority. Therefore, agency officials have a big responsibility for storing and managing population data as part of state obligations.

Criminal provisions for misuse of Population Data in E-KTP according to the Population Administration Law

This guarantee of security and legal certainty is essential for citizens because we know that corruption cases emerged between 2011 - 2015 in the "Electronic KTP" project. The name of the project is KTP based on the National Population Identification Number, with the implementation being the Ministry of Home Affairs, with a project time of 1 one year and six months, with a budget of IDR 5.9 trillion and won by five consortia, including PT Percetakan Negara Republic of Indonesia; PT LEN Industri (technology transfer, AFIS); PT Quadra Solution (data storage hardware and software); PT Biomorf Lone Indonesia; PT Sucofindo; PT Sandipala Arthaputra. If accumulated, the contract value is US 30 cents or Rp.4,000 - for each population data, with a total population of 257.9 million.

In work on the E-KTP Mega Project, several consortiums that recorded and stored population data instead subcontracted to other companies without approval, such as the work package for procuring blank e-KTP electronics, which should have been carried out by Perum PNRI subcontracted to several companies. Likewise, PT Percetakan Negara could not integrate the Hardware Security Module (HSM) with the Key Management System (KMS), so it did not meet the card/device and data security system specifications. Apart from the mega corruption of the electronic KTP project, the Population Administration Law also regulates efforts to misuse population data, either by other parties or officers. In Article 86 paragraph (1) of the Population Administration Law, it is stated that the Minister in charge of giving access rights to officers at the organizers and implementing agencies to enter, store, read, modify, rectify and delete, copy data and print personal data.

Prohibition of illegal access and misuse of personal data or population documents in the population administration system prohibits everyone from changing, adding, or subtracting without rights, the contents of data elements in population documents (Richard & David: 2018, pp. 80-91). Criminal threats for violations of privacy and misuse of personal data in the population administration will be imprisonment and fines for every resident who deliberately falsifies letters or documents to the Implementing Agency in reporting population. Besides, Article 94 of the Population Administration Law threatens to criminalize anyone who, without rights, deliberately changes, adds, or reduces data elements' contents in population documents. Anyone without the right to access the population database (Toapanta et al.: 2018, pp. 636-641). Likewise, any person or legal entity without the right to print, publish and distribute blank population documents, as well as criminal threats directed at officials and officers at the organizers and implementing agencies assisting in committing criminal acts of the officials concerned.

Forms of misuse of population data in E-KTP include data theft, data falsification, data manipulation, and data duplication (cloning). According to data in the Directorate of Cyber Crime, Criminal Investigation Agency of Indonesian Police Force, from January 2020 to November 2020, there have been 39 cases of data/identity theft. The Cyber Directorate has identified crimes using E-KTP tools or facilities in Indonesia by conducting investigations and analyzing all data connected to the target's E-KTP, then identifies the data theft crime in cloud storage.

Hikmawati (Hikmawati, 2019) found that based on the results of research conducted by Politicawave, that from January 28 to February 4, 2019, from 1,899,881 conversations on social media with a total of 267,059 accounts. There were ten hoax issues with the largest number of conversations on social media as follows: the Ratna Sarumpaet hoax; government debt of US \$ 2 billion; 10 boxes of punched ballots; e-Toll transactions linked to debt from China; Fake Electronic KTP from China; Jokowi was accused of being PKI; Jokowi uses foreign consultants; Basuki Tjahaja Purnama will replace fake Jokowi high school diploma; 10 million foreign workers from China; and Ma'ruf Amin. Even General Election Commission member Arief Budiman also emphasized:

"There are two reasons put forward by Arief. The first reason is that people who exercise their voting rights are registered on the potential voter list. The second reason people have exercised their voting rights is marked with black ink on their little fingers. These two reasons for Arief emphasized that fake E-KTPs are very likely to be used to cheat Regional Election".

The misuse of the population data on the E-KTP is a form of the theory of illegal acts (*wederrechtelijk*) in criminal law. Actions that can be threatened with punishment are those regulated in statutory regulations as a criminal act, and the act must be against the law (*onrechtmatige handling*) or contrary to the law that lives in society unless there is justification. The criminal act committed intentionally or because of negligence, which this negligence is expressly stipulated in the statutory regulations.

DISCUSSION

Inconsistencies in the misuse of E-KTP data in the constellation of General Election based on General Election Law

Indonesia is a country that adheres to democracy. This understanding is clearly illustrated constitutionally and fundamentally in the Preamble of the 1945 Constitution, paragraph IV, which, among other things, emphasizes one of the foundations of the state, which reads: "Democracy is led by wisdom in deliberation/representation." Article 2 paragraph (1) of the 1945 Constitution of the Republic of Indonesia states that "sovereignty is in the hands of the people and is exercised according to the constitution." People's sovereignty means that the highest power rests with the people, but that does not mean that every citizen has the right to take part in government, judiciary, but the sovereignty of the people who want every government action to be based on the will of the people.

The meaning of sovereignty is in the hands of the people; in this case, that the people have sovereignty, responsibility, rights, and obligations to democratically elect leaders who will form the government to manage and serve all levels of society, as well as elect people's representatives to oversee the running of the government (Etzioni: 2006, pp. 71-85). The right to vote is a fundamental right for all citizens without exception. The state guarantees the protection of its citizens' rights who meet the requirements to be registered as voters through legal regulations in the form of guaranteed voting rights.

The realization of people's sovereignty is carried out through direct general elections as a means for the people to elect representatives who will carry out the supervisory function, channel the people's political aspirations, make laws as the basis for all parties in the Unitary State of the Republic of Indonesia. General Election to elect members of the legislature and President is the most real manifestation of a country that adheres to democracy. Therefore, the implementation of democratic elections is an essential element in a democratic state government. The essence of election is a process of political competition to win the support of the owners of sovereignty (the people) so that they want to represent their sovereign mandate so that it can become legitimacy for election winners to exercise state political power.

Democratic elections from a democratic country are critical considering the objectives of the election (Potrafke et al.: 2020, p. 101900) itself, namely: (a) opening up opportunities for a change of government as well as a moment to test and evaluate the quality and quantity of popular support for the successes and shortcomings of the government in power, (b) as means of absorbing the dynamics of people's aspirations to be identified, articulated and aggregated over a certain period, and (c) the most important thing is to test the quality of the exercise of the people's sovereignty itself. Thus basically, the right to vote is a basic form of participatory democracy. Furthermore, the principle of fairness has consequences for the regulations and implementation of elections.

Law 7 of 2017 concerning General Elections explains, the principle of fairness means that in holding elections, every voter and election participant gets the same treatment and is free from fraud by any party. That means every citizen who meets the requirements to have the right to vote must be treated equally. Moreover, Article 28D Paragraph (1) of the 1945 Constitution guarantees: Everyone has the right to recognition, guarantee, protection, and legal certainty that is just and equal treatment before the law. Article 27 paragraph (1) of the 1945 Constitution stipulates that "All citizens shall have the same position before the law and government and are obliged to uphold the law and government without exception."

The parameters contained in the democratic election standards, according to, are, first, inclusiveness, meaning that adults must be included in the election. Second, equal vote, meaning that every vote has the same rights and values (Dressler: 2020, pp. 1-20). The third is effective participation; each person has the freedom to express his choice. Fourth, enlightened understanding means that in expressing political choices accurately, everyone has a strong understanding and ability to decide their choice. Moreover, fifth, final control of the agenda, meaning that elections are considered democratic if there is room to control or oversee the elections. This free and fair election can be seen from the realization of democratic and just citizens right to vote (Rahmatunnisa: 2017, pp. 1-11; Din et al., 2021, pp. 1,10). Technically, a form of guarantee for voters to use their voting rights is the availability of an accurate voter list. The requirement for voters to exercise their right to vote is to be registered on the voter list. If voters are registered on the voter list on polling day, they are guaranteed to exercise their voting rights.

The General Election Commission for the 2001-2007 period carried out Continuous Population and Voter Registration not only for the holding of the General Elections for House of Representatives, Regional Advisory Council and Regional House of Representatives Members and the 2004 Presidential and Vice-Presidential Elections but also used for holding general elections for regional heads and deputy regional heads since 2006. The civil registry system is voter registration based on civil registration (resident) to record name, address, nationality, age, and identity number.

In other words, population data as the basis for a voter list requires data-sharing agreements in this system. Based on this voter registration model, the General Election Commission is obliged to use voter data provided by government agencies in charge of population administration (Stubager et al.: 2018, pp. 1-10). The General Election Law requires the use of this registration system because the General Election Commission is obliged to compile a Provisional Voters List from the List of Potential Voters and because every voter is required to have a Population Identification Number (PIN). Therefore, the government's responsibility in providing high-quality population data has implications for determining the voter list by the General Election Commission.

The existence of leakage of population data in the E-KTP, as stated above, is a crucial threat to a democratic country's principles, mostly if the misuse of data on the population in the E-KTP is aimed at winning one candidate pair in each General Election. The Director-General of Population and Civil Registration himself admits that population data storage is currently carried out in internal storage, which is stored and managed

by the Ministry of Home Affairs, not stored in cloud storage/computing managed by a third party (Wagner et al.: 2017, pp. 127-136). This internal storage of data creates vulnerability to theft, forgery, and duplication. It can be done by state civil servants within the Ministry of Home Affairs. It can also be done when recording the E-KTP project, which involves various consortia and ends with law enforcement on corruption in the project.

The advantages of entrusting population data to cloud storage are: All data is stored on the server centrally. One of the advantages of cloud technology is that it allows users to store data centrally on one server based on the cloud storage service provider's services. Besides, users also do not have to bother providing infrastructure such as data centers, storage media, and others because everything is available virtually. Then another benefit, Data Security. User data security can be stored securely via servers provided by cloud storage service providers such as technology platform guarantees (Rafique et al.: 2020, p. 101671), ISO guarantees, personal data, and others. Besides, High Flexibility and Scalability. Cloud technology offers flexibility with easy data access, whenever and wherever we are provided that the user is connected to the internet. Also, users can quickly increase or decrease data storage capacity without purchasing additional equipment such as hard drives. Even one of the world's leading IT practitioners, the late Steve Jobs, said that buying physical memory to store data such as hard drives is useless if we can store it virtually / via the internet.

The Population Administration Law and the ITE Law do not regulate the storage and management of population data. Ironically too, in Indonesia, there is also no provision on Personal Data Protection. At the same time, in other countries, recording, storing, and managing population data is regulated in a separate law, namely the Personal Data Protection Law, and there is also an institution that carries out supervision, investigation. And enforcement of personal data protection provisions.

Because of this legal vacuum, population data misuse becomes a trend and increases just before the general election (Bernhardt & Ghosh: 2020, pp. 98-104). The theft and duplication of population data will be a massive and structured threat if the acts of leakage, theft, and duplication are intended for the "vote acquisition" of participants in the presidential, legislative and regional elections. In the 2019 Presidential Election, one of the lawsuit's objects against the Constitutional Court's election results was vote fraud by using multiple E-KTPs. Facing the Regional Election simultaneously in December 2020, the author believes that there will be many lawsuits or election disputes rooted in the acquisition of invalid votes or fraud by using the E-KTP facility.

On the other hand, there are inconsistencies in the regulation of misuse of population data between the Population Administration Law and the General Election Law (Pavía et al.: 2020, pp. 1-11). As stated above, in the Population Administration Law, there are criminal threats and fines against every person who commits theft, falsification, and duplication of population data in E-KTP, including those committed by implementing officials and corporations. However, this is different from what is regulated in the General Election Law. According to the General Election Law, it is also not regulated in leaking, falsifying, duplicating, or duplicating population data to obtain votes in the constellation of elections in Indonesia. Article 520 of the General Election Law regulates "intentionally making fake letters or documents to use or order people to use, or any person who deliberately uses fake letters or documents to become candidates for House of Representatives, Regional Advisory Council, Provincial House of Representatives, Regency House of Representatives, to become a Candidate Pair for President and Vice President...".

Article 520 is addressed to candidates who fake their identity for the election constellation. Article 260 paragraph (3) of the General Election Law, regulates "If evidence of false data is found or data deliberately duplicated by a prospective Regional Advisory Council member candidate with the minimum voter support requirements document, the prospective Regional Advisory Council member candidate is subject to a reduction in the minimum number of voters' support by 50 times the finding of evidence of false data or duplicated data". In conjunction with Article 264 of the Election Law, which regulates document falsification

or the use of fake documents in the administrative requirements of prospective candidates or candidates for Regional Advisory Council members, the General Election Commission and Provincial General Election Commission will coordinate with the Indonesian National Police to follow up following the provisions of laws and regulations. Legal events, namely falsifying, duplicating, or cloning population data for illegal voting (Ruehle: 2020, pp. 1-117), are not criminal acts by the General Election Law.

This legal inconsistency causes the general election system that wins the pair of one of the candidates, leading to general election disputes, either because of invalid votes or invalid voter registration or because of an illegal voting process. The author is concerned, because as a political observer, the election was first held in Indonesia in 1955 until now, both the Presidential Choice, the Legislative Choice, the Choice of Regional Heads were always tinged with fraudulent votes. For example, a direct regional election from June 2005 to June 2007 was held in 303 regions, consisting of; regional election for Governor / Deputy Governor: 15 Provinces; regional election of Regent / Deputy Regent: 242 Regencies; and regional election for Mayor / Deputy Mayor: 46 cities. In the implementation of the regional election, there were 169 cases of regional election results that were challenged in court, consisting of 7 cases of the regional election for Governor / Deputy Governor, the regional election for Regent / Deputy Regent of 132 cases, and the regional election for Mayor / Deputy Mayor of 21 cases.

General election results in the Supreme Court and the High Court were generally rejected / not accepted. Of the 169 cases of complaints against the regional election results, only two claims were accepted/granted by the High Court, namely the lawsuit against the determination of the results of the regional election of Depok City and the results of the regional election of Mappi Regency, Papua Province. Likewise, in the 2009 Election, the number of cases for disputes over the House of Representative and Regional House of Representative Election Results was 42 cases, namely from all political parties participating in the election with 627 cases. Of these, 68 were granted, 398 were rejected, 107 were not accepted, and 27 were withdrawn. There were also six recalculation decisions and two re-votes. For the Presidential and Vice-Presidential Election, there were two cases, while the Regional Advisory Council Member Election had 28 cases.

Especially with the Constitutional Court's lawsuit with the Constitutional Court Decision Number 20 / PUU-XVII / 2019, only examining Article 348 paragraph (9); Article 348 paragraph (4) Article 210 paragraph (1); Article 350 paragraph (2); and Article 383 paragraph (2). The author realizes that it is necessary to conduct a judicial review at the Constitutional Court on Article 260 paragraph (3) of the General Election Law, which is contrary to Article 1 paragraph (3) of the 1945 Constitution and Article 22E paragraph (1) of the 1945 Constitution. Another step is in response to the formulation. The third problem of this dissertation research is making regulations by taking into account the provisions in Law No. 15 of 2019 concerning Amendments to Law No. 12 of 2011 concerning the Formation of Legislation, the government urges to immediately make Government Regulations related to the Technical Implementation of the Use of Electronic KTPs in the Election System in Indonesia.

At least, as a step towards improving legislation, which is the basic idea of the author here, is to include criminal sanctions in the Population Administration Law, included in the General Election Law, as an effort to improve Article 520 in conjunction with Article 260 paragraph (3) in conjunction with Article 264 of the General Election Law. These ideas and thoughts are based on the concept of responsive theory by Phillippe Nonet and Philip Selznick in work entitled "Law and Society in Transition towards Responsive Law." According (Nonet & Selznick: 2003, pp. 1-122), there has been tension between the two approaches to law, namely freedom and social control. Nonet and Selznick call the freedom approach a low-risk view of law and order. This view emphasizes how much legal stability contributes to a free society and how risky a system based on civil authority and obligation.

In this perspective, (Nonet & Selznick: 2003, pp. 1-122) see that law is an essential element of social order by not ruling out other sources of control, but these sources cannot be relied on to save society from arbitrariness. The initial idea of repressive law was that a particular legal order could be in the form of explicit injustice. The existence of a law does not guarantee justice, let alone substantive justice. The rule of law is said to be responsive if the law acts as a means of response to social provisions and public aspirations by its open nature. This type of law puts forward accommodation to accept social changes to achieve justice and public emancipation (Winkler: 2012, pp. 166-173).

Also, the idea of imposing a judicial review on the Constitutional Court of Article 260 paragraph (3) of the General Election Law, which is contrary to Article 1 paragraph (3) of the 1945 Constitution and Article 22E paragraph (1) of the 1945 Constitution or the establishment of a Government Regulation on Technical Implementation The use of electronic ID cards in the Election System in Indonesia is a form of legal certainty theory (Buitelaar & Sorel: 2010, pp. 983-989). The characteristics of the rule of law include:

1. Recognition, respect, and protection of human rights, which are rooted in human dignity.
2. The principle of legal certainty applies. The rule of law aims to ensure that legal certainty is manifested in society. Law aims to realize legal certainty and high predictability so that the dynamics of life together in society are 'predictable.' The principles contained in or related to the principle of legal certainty are as follows:
 - a. The principles of legality, constitutionality, and the rule of law;
 - b. The principle of law establishes various sets of regulations on how the government and its officials carry out government actions;
 - c. The principle of non-retroactivity of legislation, before binding law, must first be enacted appropriately and announced;
 - d. The principles of free, independent, impartial, and objective justice, rational, fair, and humane;
 - e. In the non-liquate principle, judges may accept a case because the statutory reason does not exist or is not clear; and
 - f. Protection of human rights must be formulated and guaranteed in the law or constitution.
3. With the enactment of Equality (*Similia Similius* or Equality before the Law), in a state of law, the government may not give special attention to specific people or groups of people or discriminate against certain people or groups.
4. The principle of democracy has a fundamental principle where everyone has the same rights and opportunities to participate in government or influence government actions.
5. The government and officials carry out the mandate as public servants in creating public welfare following the state's objectives.

CONCLUSION

From the discussion above, conclusions can be drawn on the two questions raised, namely relating to the provisions of laws and regulations regarding the storage and management of population data on E-KTP in Indonesia. There is no provision governing the storage and management of population data in E-KTP, both in the Population Administration Law and ITE Law. So far, the data is stored in internal storage managed by The Director-General of Population and Civil Registration of the Ministry of Home Affairs, not in cloud

storage/computing managed by third parties, so the vulnerability to misuse of population data is enormous. So far, the leakage of population data on the E-KTP could be sourced from the state civil apparatus at the Ministry of Home Affairs, or it could also be done by the consortium involved in the E-KTP mega project at that time. In connection with the implementation of regulations regarding the storage and management of population data on E-KTP against the misuse of E-KTP data in legislative elections, presidential elections, and regional head elections in Indonesia, there are inconsistencies and legal gaps in the forms of misuse of population data on the E-KTP.

According to the Population Administration Law, this form of abuse is a criminal act. In contrast, according to the General Election Law, in the context of general elections using false or deliberately falsified population data to increase the votes acquired by one of the pairs of candidates is not a criminal act. Misuse of population data, such as falsification, duplication, and data cloning, is only sanctioned by a reduction of two times the number of votes. The absence of formulation of the form of misuse of population data in the E-KTP, as a criminal act of election accompanied by criminal sanctions, causes every political party, both legislative elections, presidential elections, and regional head elections, especially the simultaneous regional head elections in December 2020, will always be colored with disputes over the vote acquisition results. Such dynamics do not reflect legal certainty in the implementation of a democratic state.

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