



Republic of Indonesia

Opportunity for Electoral Reform

ELECTION ADMINISTRATION

ANALYSIS PREPARED BY THE
INTERNATIONAL FOUNDATION FOR ELECTION SYSTEMS

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This report draws upon IFES' report, *Republic of Indonesia: Report on the 7 June 1999 Parliamentary General Elections and Recommendations for Electoral Reform* (Washington DC, February 2000). English language quotations from Law No. 3 of 1999 on General Elections used herein are from the translation in Attachment I of IFES' prior report.

About the International Foundation for Election Systems (IFES)

The International Foundation for Election Systems (IFES) is a private, nonprofit organization established in 1987. IFES provides nonpartisan technical assistance in the promotion of democracy worldwide and serves as a clearing-house for information about democratic development and elections. Since its inception, IFES has worked in more than 100 countries around the world, earning an international reputation for high quality assistance and research in support of voter education, electoral reform and election administration capacity-building.

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LIST OF TERMS AND ABBREVIATIONS

DPR	National People's Representative Assembly
DPRD-I	Provincial People's Representative Assembly
DPRD-II	Regency/Municipality People's Representative Assembly
GBHN	Broad Outlines of State Policy Guidelines
IDEA	Institute for Democracy and Electoral Assistance
IFES	International Foundation for Election Systems
KABUPATEN/ KOTAMADYA	Regency/Municipality, below province
KECAMATAN	Local subdivision, below Kabupaten/Kotamadya
KELURAHAN/DESA	Village, below Kecamatan
KPPS	Polling Station Committee (poll workers)
KPU	National Election Commission
LPU	National Election Institute (of the Ministry of Home Affairs)
MPR	National People's Consultative Assembly
PANWAS	Election Supervisory Committees
PPD-I	Provincial Election Committee
PPD-II	Kabupaten/Kotamadya Election Committee
PPI	National Election Committee
PPK	Kecamatan Election Committee
PPS	Kelurahan/Desa Election Committee
PR	Proportional representation
TPS	Polling station

I. SCOPE OF REPORT

This report provides analysis of the current structures and institutions of election administration in Indonesia and offers recommendations for improving their performance. The report assesses operations of these administrative bodies in light of experience of June 1999 general elections and June 2000 changes to Indonesia's election law.

Comparative information regarding international practices and experiences in election administration is utilized to illustrate important points. However, the report recognizes the need for Indonesian practices to fit Indonesian cultural and political circumstances.

Because the report's focus is on core issues of organizational operations in election administration, many other important and related issues for electoral reform are not addressed. IFES is engaged in providing ongoing technical assistance to Indonesian officials and election experts in other areas, such as political finance regulation and complaint adjudication. Also, this report does not consider in detail several major issues that are still being debated in Indonesia, such as the method of electing the President, or whether to adopt a "single member constituency" rather than a proportional representation electoral system.

II. EXECUTIVE SUMMARY

On June 7, 1999, Indonesia held general elections for legislative assemblies at the national, provincial and regency/municipality levels. More than 100 million Indonesians cast ballots in the first open and competitive elections in Indonesia in over forty years. Election administration was organized and carried out in a remarkably short four months. This abbreviated timeframe compounded logistical difficulties of providing over 300,000 polling places with sufficient electoral supplies and of training staff at all six levels of implementing election committees.

Not all election administration difficulties were attributable to the truncated timeframe and logistical problems, however. Serious problems with the administration of the elections also resulted from inadequate legal framework and administrative procedures, and from inefficient organizational structures. The categories of problems of electoral administration in 1999 can generally be described as follows:

- Legislative Framework – The new election law was extremely general, requiring the new, inexperienced and partisan KPU to promulgate numerous implementing regulations. Each of the 48 political parties qualified to compete in the election were allotted representation on the KPU as well as on all subordinate levels of implementing election committees (KPU composition and appointment has since been changed by law). The hierarchical structure of election administration, largely carried over from the prior New Order, was overly complicated and without clear lines of authority.
- Administrative Problems – Lack of time and sufficient budget resources aggravated structural problems. Serious inefficiencies in administrative procedures resulted from lack of coordination and communication between levels of election implementing committees, between election committees and their Secretariats (government staff) and between election officials and other state bodies.

- Operational Performance – Training of election officials, especially at lower level election committees, was inadequate or non-existent. Lack of experience and training resulted in a operational problems, including long delays in tabulating and reporting election results.
- Enforcement of Electoral Laws – No effective mechanisms were in place to receive and adjudicate complaints, resolve disputes or enforce criminal offences.

These legal and administrative issues need to be addressed prior to Indonesia's next general elections, now scheduled for 2004. This report recommends a number of changes, both legislative and procedural, to the structure of electoral administration to improve the conduct of future elections in Indonesia.

Key legislative recommendations in this report include:

- Establish the KPU and its Secretariat as fully independent of any other government ministry. Provide funding for the KPU directly from the Ministry of Finance.
- Clarify that the KPU has complete authority and responsibility for conducting elections of the DPR, DPRD-I and DPRD-II. Abolish the PPI and integrate its operations within the KPU. Provide for appropriate salary level for KPU members.
- Place the KPU Secretariat operationally and administratively under the KPU. Provide for the appointment of the KPU Secretary General by the KPU. Enable the KPU to establish the bureau structure and set salaries and conditions of service of the Secretariat staff.
- Clarify that all subordinate election implementing committees come under the authority and control of the KPU. Establish clear powers and duties at every level.
- Change the composition and appointment of members of subordinate election committees to remove the direct participation of political parties (but permit political party agents to monitor and submit complaints).
- Establish the KPU as the body to administer political party and campaign finance disclosure. Eliminate the administrative role of Supreme Court of the Republic of Indonesia in regulating political parties.
- Provide requirements for annual accountability (operational and fiscal) of the KPU to the DPR, plus require post-election reports and strategic planning (long and short term) by the KPU.
- Provide a framework for improved transparency of the KPU, including proper notice of public meetings and public access to documents and other information about KPU activities.

This report's non-legislative/procedural recommendations for the KPU include:

- Promote openness, transparency and organizational effectiveness at the KPU. Adopt a strategic plan; devise a statement of vision and mission committed to the principles of

democratic election administration. Adopt and publish an appropriate Code of Conduct.

- Immediate attention should be given by the KPU to deciding appropriate timing and format of budgetary preparation; routine operational and fiscal audits should be conducted using recognized accounting practices.
- Organize the KPU Secretariat Bureaus into eleven service oriented bureaus. Bureau directors should be appointed by the Secretary General. Coordinate Bureaus through a Management Board. Establish a supervisory subcommittee for each Bureau, with a minimum of three KPU members on each subcommittee.
- KPU staff that is experienced in conducting elections should be supplemented with recruits from outside the organization. Adding ‘new blood’ will allow entry of highly skilled professionals in computer systems, media relations, auditing, etc, that will complement existing skills and institutional memory. Establish technical recruitment standards and a professional development program for all KPU staff.
- Continually review electoral laws and practices. Propose improvements in electoral practices to the DPR that conform with established KPU goals, particularly regarding technical aspects of election administration (including election committee structure, ballot security, voting and vote tabulation procedures, and voter registration).
- Simplify the design of forms for voter registration and election reporting to enhance clarity. Forms should be thoroughly pre-tested on potential users before finalizing.
- Establish procedures for vote totals to be entered into a reporting computer at the lowest practical level of election committee.
- Establish ‘feedback’ mechanisms to facilitate the KPU’s ability to actively seek comments from the public, representatives of community groups, political parties, and external experts.
- Develop involvement and communication with international associations of election officials to share experiences and elections methodology.

The following report more fully develops these observations and recommendations about election practices and administrative bodies in Indonesia.

III. INTRODUCTION

A. Election Circumstances

As noted in IFES’ comprehensive report regarding Indonesia’s 1999 elections¹:

Indonesia held general elections on June 7, 1999, for legislative assemblies at national, provincial, and regency/municipality levels. These elections are generally viewed as the first open and competitive

¹ International Foundation for Election Systems, *Republic of Indonesia: Report on the 7 June 1999 Parliamentary General Election and Recommendations for Electoral Reform*, page 1 (Washington, D.C., February 2000).

elections in Indonesia since 1955. The voting process was considered, by both domestic and international observers, to be a decisive step forward in Indonesia's transition from authoritarian rule to democratic governance.

... However, the election did not represent a significant break from the past in terms of election administration. This election process was marked by administrative inefficiency, non-transparency, and a lack of accountability. While certainly a momentous step in Indonesia's transition, the credibility of the process hinged on election day itself, which was considered successful due to a lack of violence and to the enthusiasm and patience of the voters. Those factors alone do not make a successful election, and serious flaws in the process should be addressed before future elections.

Indonesia held elections in 1999 in difficult circumstances for election administration. They were organized within a very short time following the signing of new laws governing general elections and political parties by President B. J. Habibie on 1 February 1999. A total of 48 political parties (all but three of them new) qualified to contest the elections. The levels of voter registration and voter turnout showed that an overwhelming majority of the Indonesian people welcomed this opportunity to exercise democratic freedoms for the first time in many years.²

A total of 21 parties won seats in the national People's Representative Council (DPR). Together, those 21 parties won 96% of the votes cast; the 5 largest parties obtained 86.6% of all the votes cast at the election. Nine parties which did not win seats in the DPR won seats at the Provincial People's Representative Assembly (DPRD-I) level.

The circumstances in which these elections were held made it almost inevitable that there would be problems with the electoral process, despite extensive international assistance. Some of these problems were clearly due to the extremely short timeframe within which the elections were held. For example, the qualifications of political parties to contest the election needed to be confirmed; election administration bodies needed to be established and funded; regulations had to be drafted, approved, issued and implemented; procedures and forms had to be devised, produced and distributed along with the other supplies needed for over 300,000 polling places; and training in election procedures had to be provided to workers who would issue ballots and then count the votes of over 100 million voters (each voter cast ballots for three legislative levels). Holding an election under these conditions would have challenged election administrators in a well-established democracy; the task was daunting for a vast country holding its first democratic elections for many decades.

Not all the difficulties with the 1999 elections were caused by the timeframe within which they were organized and held. Some very serious (and potentially catastrophic) problems with the administration of the elections and with the declaration of the results arose from the organizational structures and systems for administering the elections, many of which were specified in the election law itself. It is likely that most of those problems would have arisen whatever the timetable for the election. But the short electoral timetable in 1999 meant that election administrators did not have the time to find solutions to many of these problems. Their task was formidable: to try to run as free and fair an election as possible with the resources they had available and according to the required timetable.

² Official figures show that 90.3% of the estimated eligible population registered as voters and 92.4% of registered voters went to the polls.

B. Election Administration

Law No. 3 of 1999 on General Elections gave political parties contesting the elections the right of representation in the election management bodies. This change originated from a commendable desire to promote openness and transparency in electoral administration and to give parties confidence in the integrity of the electoral process after many years of one party control of government administration. Some of the most significant difficulties in 1999 resulted from the manner in which political parties used this right, particularly in the National Election Commission (KPU).

It is apparent that various other countries include political party representatives in their election administration, with differing degrees of success.³ However, incorporation of party representatives in the KPU - from all parties that qualified to contest the elections - was inherently cumbersome due to the large number of parties that were so qualified. The effort was doomed to failure once some KPU party representatives began to use their positions for partisan advantage rather than to work for the goals of achieving a free and fair democratic election through effective, neutral and independent election administration.

As noted above, IFES has earlier reported that the 1999 election process in Indonesia 'was marked by administrative inefficiency, non-transparency, and a lack of accountability'⁴. Many of the Indonesian election experts consulted in the preparation of this report agreed with that conclusion. The problems identified by IFES and others fall into a number of general categories, including the following.

Legislative Framework

- the KPU, implementing election committees and their secretariats were not independent and impartial bodies;
- the election administration structure established by law was complicated, inefficient, and unworkable, leading to a lack of consistency and coordination between various levels in the structure; and
- Law No. 3 of 1999 on General Elections was vague and lacking specificity, and the KPU was required to supply many of the important details through regulations.

Administrative Arrangements

- the KPU did not always adhere to the election law and to its own regulations;
- significant administrative inefficiencies occurred in the conduct of the elections;
- financial and other resources budgeted for the election were inadequate; and
- many political parties (particularly the new ones) were not prepared for their role within the election administration structures and had difficulties in recruiting representatives for all election committees on which they were entitled to be represented.

³ Appendix 1 contains a summary of some significant features of national election management bodies in a selection of 61 other countries.

⁴ International Foundation for Election Systems, *Republic of Indonesia: Report on the 7 June 1999 Parliamentary General Election and Recommendations for Electoral Reform*, page 1, (Washington, D.C., February 2000).

Operational Performance

- training for election officials, especially at lower election committee levels, was inadequate or non-existent⁵;
- long delays in tabulating votes and allocating seats to parties occurred after the election;
- the KPU failed to validate voting results, which ultimately had to be certified by Presidential decree nearly two months after election day; and
- the KPU agreed to rules for allocating seats before the election (permitting parties to combine votes in *Stembus Accords*) and then changed the rules after the elections.

Enforcement of Electoral Law

- no effective mechanisms were created to receive and adjudicate complaints or resolve disputes about the electoral process; and
- provisions in electoral law regarding criminal offences were generally not enforced.

Reform of Election Administration

Because of these difficulties experienced in Indonesia's elections in 1999, this report recommends a number of changes to the structure of electoral administration and to electoral procedures, in order to improve the administration and conduct of future elections. Wherever possible these recommendations build on and refine the current structures and processes of election administration in Indonesia.

On 6 June 2000, the DPR approved amendments to the 1999 election law that remove government appointees and party representatives from the KPU and reconstitute it as an 'independent and impartial' election management body.⁶ Appointment of the eleven members of the new KPU was completed in April 2001. This is a welcome development, but only a first step in applying the lessons of 1999 to reform electoral law, institutions and processes for Indonesia. It is imperative that the experience of the 1999 elections be utilized in a constructive way to assist with the future consolidation of democracy in Indonesia.

IV. ELECTION ADMINISTRATION IN A DEMOCRACY

A. Principles

A number of key principles are widely recognized to be central to the proper administration of democratic elections. The joint United Nations, IFES and International IDEA project on the Administration and Costs of Elections (ACE) states those principles as follows:

“Whilst there will always be an argument about the meaning of democracy, there is a great deal of agreement emerging about the guiding principles that should govern election management. An election management body (EMB) should be founded on principles of independence, non-partisanship, and

⁵ A full examination of training issues is in International Foundation for Election Systems, *Republic of Indonesia: Evaluation of Pollworker Training*, (Washington, D.C., January 2000).

⁶ Law No. 4 of 2000 on the Amendment of Law No. 3 of 1999 on General Elections was signed by Indonesian President Abdurrahman Wahid on 7 June 2000.

professionalism. It should have clear procedures to make it accountable and have equally clear procedures for reviewing its effectiveness both as a management organisation and as a service deliverer. It must be non-political but capable of operating in a political environment.”⁷

These three key guiding principles of independence, non-partisanship and professionalism are elaborated as follows:

“Independent: In a country with multiparty activity, an EMB attracts the confidence of all parties only if it is seen to be independent of any party and of the sitting government. It is essential that the EMB have this confidence or else the process of the election and the results will be brought into question. And while the EMB can never be wholly independent because it will be reliant on the legislature for the approval of funding and possibly the appointment of its key personnel, these powers should not be used to exert influence over the EMB. The EMB itself should also be structured to protect it from influence....

Non-partisan: Non-partisan is not the same thing as independent. Rather, it implies that the EMB should not care about who wins or loses the election it is administering. Its interest should be in establishing a level playing field on which candidates and parties may compete, in giving all voters sufficient information so they can cast their vote in a reasonably informed manner, and in adding up votes and declaring results without prejudice toward any party or candidate. The EMB should be composed of people who are, and who are perceived by the key players to be, capable of acting impartially and who enjoy the confidence of the major parties. In many cases, this means that the members or policymakers of the EMB are not members of any political party. If a completely non-partisan body cannot be created, then one that is balanced by the inclusion of representatives of various parties should be created.

Professional: No matter how independent or impartial an EMB may be, an equally important characteristic is professionalism in its approach to the huge administrative task that is electoral management. Election management is essentially a service industry, and people have rising expectations of the ability of the industry to deliver a quality service. Failure to deliver that service because of non-professional behaviour, be it poor planning or other administrative inefficiency, may have the consequence of calling into question the key principles of independence and impartiality. As a result, people will be less likely to participate in the process in future.”⁸

These guiding principles lead to a further set of managerial and ethical principles that guide the various activities which comprise the complex activity of election administration in a democracy. The *Code of Conduct for the Ethical and Professional Administration of Elections* published by the International Institute for Democracy and Electoral Assistance (International IDEA) is contained at Appendix 2 to this report. That *Code* identifies five ethical principles that should form the basis of election administration:

⁷ United Nations, International Institute for Democracy and Electoral Assistance, and International Foundation for Election Systems, *Administration and Cost of Elections (ACE Project)*, Election Management Section, Guiding Principles File, (Internet Publication at <http://www.aceproject.org>, 1999). See also the Inter-Parliamentary Union’s *Declaration on Criteria for Free and Fair Elections* (1994), Article 4(2) of which says that ‘States should take the necessary policy and institutional steps to ensure the progressive achievement and consolidation of democratic goals, including through the establishment of a neutral, impartial or balanced mechanism for the management of elections.’

⁸ United Nations, International Institute for Democracy and Electoral Assistance, and International Foundation for Election Systems, *Administration and Cost of Elections (ACE Project)*, Election Management Section, Guiding Principles File, (Internet Publication at <http://www.aceproject.org>, 1999).

“To ensure both the appearance and the *actual integrity* of the electoral process, election administration *must* conform to the following fundamental ethical principles:

1. Election administration must demonstrate respect for the law.
2. Election administration must be non-partisan and neutral.
3. Election administration must be transparent.
4. Election administration must be accurate.
5. Election administration must be designed to serve the voters.”⁹

Each of these principles is discussed in detail in the *Code*.¹⁰

It is appropriate that different countries seek to implement these principles in different ways, according to their history and circumstances. It is important, however, that the structure and processes of electoral administration are based on recognition of these principles and an overriding commitment to adhere to them in providing the best possible democratic service to voters and to the political parties which promote the voters’ aspirations.

B. Elements

Election management bodies operate in many different societal environments, and administer elections under a wide variety of electoral systems, rules and procedures. However, regardless of the electoral and social environment, electoral management involves a core of services that need to be provided to enable effective, transparent, professional, accessible electoral processes of demonstrable integrity. These could be summarized as follows:

- Development of advice on electoral legal frameworks for the government and legislature;
- Development of procedures and practices for the implementation of electoral processes;
- Informing the public in general and specific participants in electoral processes (for example political parties and candidates, media, election observation organizations) about democracy, the electoral framework, and electoral activities through civic education, voter education and electoral information programs;
- Determination of who is eligible to vote at an election. In practice, this would generally entail some form of registration for voting, and preparation of lists of voters for each voting station;
- Identification of voting stations and ensuring that they are appropriately staffed and supplied with sufficient equipment and materials;
- Management of political party and candidate participation in the electoral process. This may include registration of political parties, candidates and their agents, and administration of any regulatory requirements in relation to political party and campaign-related financing and expenditure;
- Management of voting processes;
- Management of the vote counting, tabulation and results determination and announcement processes;
- Maintaining election security;

⁹ International IDEA, *Code of Conduct – Ethical and Professional Administration of Elections*, page 9 (Stockholm, 1999)

¹⁰ See full text of the *Code* at Appendix 2 to this report.

- Maintaining the operational integrity and financial probity of electoral activities; and
- Managing any processes for replacement of elected representatives.

Depending on the electoral framework, there may be other basic services that are required of an election management body. For example, election management bodies may be involved in determining boundaries electoral regions (if electoral system requires drawing new boundaries) or in complaint adjudication, such as investigating breaches of electoral regulations or resolving electoral disputes.

Election management bodies need also to ensure they are structurally and operationally capable of providing effective administrative support for these core services, through:

- Strategic and operational planning for all electoral activities;
- Determination of budgets and implementation of financial controls;
- Appointment and management of qualified permanent and temporary staff;
- Coordination between all levels of election administration (implementing) bodies;
- Operational training and professional development of permanent and temporary staff;
- Development, procurement and distribution of electoral materials, services and supplies, including forms, ballot boxes, ballot papers, other equipment and materials;
- Legal support, including enforcement of the legal and procedural framework for electoral activities;
- Implementation of information systems for both internal and external communications, including a controlled and integrated use of computer based systems; and
- Liaison with other organizations – both governmental and non-governmental.

For effective election management, the organizational structure of an election management body needs to be closely aligned to provision of these service outcomes and delivery of needed administrative support. The significance of these services needs to be appropriately recognized in the election management body's strategic and operational planning. Performance in delivering these services needs to be rigorously monitored.

V. OVERVIEW OF ELECTION ADMINISTRATION IN INDONESIA

Law No. 3 of 1999 on General Elections largely carried over existing structures and institutions for administering elections that had been employed by the New Order regime and before. These include a national election commission to set policy by issuing regulations, and a hierarchy of implementing committees to conduct the elections.¹¹ The primary innovation in the 1999 election law was to provide for representation and involvement of political parties in the national election commission and implementing election committees.

¹¹ Election administration in Indonesia has traditionally also included a supervisory body generally known by some variation of the term *PANWAS*. The institution of *PANWAS* and its role in the 1999 elections was the subject of a seminar sponsored by IFES and the Law Faculty of the University of Indonesia. See: International Foundation for Election Systems, *Republic of Indonesia: Experience Gained from June 1999 Elections: Resolving Complaints and Disputes in the Election Process* (Washington, D.C., March 2000).

A. Structure

The structure of Indonesia's election administration for the June 1999 elections placed a national election commission at the top and six levels of implementing committees below, as follows.

Table 1: Election Implementing Committees, 1999 General Elections

NATIONAL ELECTION COMMISSION (KPU)
National Election Committee (PPI)
27 Provincial Election Committees (PPD-I)
314 Regency/Municipality Election Committees (PPD-II)
4,028 <i>Kecamatan</i> Election Committees (PPK)
approx. 70,000 Vote Collection Committees (PPS)
approx. 303,000 Poll Workers Groups (KPPS)

Each election administration body is required by law to have its headquarters in the capital of the jurisdiction over which it has responsibility (at lower levels, a main town and, at KPPS level, the polling site itself).

B. Composition & Appointment

For the June 1999 elections, *Article 8(2)* of Law No. 3 of 1999 on General Elections provided for a 'free and independent' National Election Commission (KPU) composed of five Government representatives, appointed by the President, and one representative appointed by each political party that qualified to contest the election (48 in 1999). The law provided that representatives of political parties collectively had equal voting strength to the government representatives. The same basic approach was followed in the election law for composition, appointment and voting balance in the hierarchy of election implementing committees from PPI down to KPPS.¹²

In June 2000, the DPR approved and the President signed an amendment to Law No. 3 of 1999 on General Elections to change the composition and appointment process of the KPU. The amendment provides for an 'independent and non-partisan' KPU. It abolishes representation of political parties and the government on the KPU.¹³ The KPU now consists of 11 independent members, each of whom has an equal vote, and who are appointed for a five year term.¹⁴ The independence and non-

¹² In fact, PPI had 60 members in 1999: seven members of KPU, five Government representatives and 48 political party representatives. KPPS (polling site) level commissions included party representatives and members drawn from the local community.

¹³ The text of the amendment is provided at Appendix 3.

¹⁴ Article 9(3a) of the amended law states that candidates for KPU must be Indonesian citizens who have the following qualifications:

(a) Physically and mentally sound;

partisan nature of the KPU was later given constitutional backing in the Third Amendment to the Indonesian Constitution, passed by the MPR in November 2001.¹⁵

Under the amended law, the President of Indonesia proposes to a DPR committee at least 22 candidates for membership of the KPU; 11 candidates recommended by the committee and approved by the DPR are then appointed by Presidential decree. This process of appointing new members of the KPU was completed by the President on 10 April 2001.¹⁶ While it is not now clear under the law, the President appears to have powers to dismiss members of the KPU, at any time and for any reason, although replacements would presumably require DPR approval.

These changes to the composition and appointment process of the KPU were the only issues addressed in the June 2000 amendments to the election law. They have not yet been mirrored in provisions for composition and appointment of members of implementing bodies at provincial and lower levels of the election administration structure. The election law still requires that such committees be composed of representatives of the government and representatives of political parties that are qualified to contest the election at that jurisdictional level.

As discussed further below,¹⁷ this multipartisan approach for the KPU did not prove satisfactory for the June 1999 elections. Moreover, placing election administration largely in the hands of representatives of newly qualified parties guarantees that election administrators will be appointed very late in the process and without assurance of their fitness for the task. Thus, reform of provisions in Law No. 3 of 1999 regarding composition and appointment of members of subordinate implementing committees – consistent with the model of the new KPU – should be a high priority for consideration and action by the DPR.

C. Duties & Powers

The duties and powers of each level of election administration are set out in the following table:

Table 2: Duties and Powers of Election Administrations, 1999 General Elections

KPU (National)	<ul style="list-style-type: none"> • planning and preparing for general elections; • registration of political parties; • establishing the National Election Committee (PPI) and coordinating all official election activities from PPI to the KPPS; • apportioning the number of seats per province for the DPR and apportioning seats for each DPRD-I and Regency/Municipality People’s Representative Assembly (DPRD-II); • determining election results for DPR, for each DPRD-I and for each DPRD-II; • collecting and processing election results; and
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- (b) Eligible to vote and to be elected;
- (c) Having a strong commitment to democracy and justice;
- (d) Strong personal integrity, honest and fair;
- (e) Sufficiently knowledgeable in political party affairs, election methods, and possessing leadership ability;
- (f) Not serving as a member or executive in any political party;
- (g) Not actively serving in either political or structural positions in the civil service.

¹⁵ This amendment would appear to require that the secretariat of the KPU also be independent and impartial, and that election administration throughout Indonesia be accountable to the national KPU.

¹⁶ A list of current members of the KPU is at Appendix 4.

¹⁷ See Section VII of this report, ‘Structure and Operations of Implementing Election Committees’.

	<ul style="list-style-type: none"> enacting regulations and procedures <p>The members of the KPU elect a Chairperson and two Vice-Chairpersons. The KPU determines its own internal structure and rules, and decides the salaries and allowances paid to its members</p>
PPI (National)	<ul style="list-style-type: none"> serving as KPU's agent in conducting general elections; establishing a Provincial Election Committee (PPD-I) in each province and coordinate their activities. PPI supervises the structure and membership of PPD-I's; receiving nominations of candidates for DPR and decide on their eligibility; and conducting the general election for members of DPR; to consolidate the election results for the election of DPR. <p>The Chairperson, Vice-Chairperson, Secretary and Vice-Secretaries of PPI are elected by and from those members of the KPU who are not office-holders of the KPU.</p>
PPD – I (Provincial)	<ul style="list-style-type: none"> establishing a Regency/Municipality Election Committee (PPD-II) in each regency/municipality within the province and to coordinate their activities. PPD-I's supervise the structure and membership of PPD-II's; receiving nominations of candidates for DPRD-I and decide on their eligibility; conducting the general election in the province for members of DPR and DPRD-I; consolidating election results in the province for the election of DPR and DPRD-I; coordinating political parties' campaign schedule; and assisting PPI. <p>Each PPD-I elects a Chairperson, Vice-Chairperson, Secretary and Vice-Secretaries.</p>
PPD-II (Regency/ Municipality)	<ul style="list-style-type: none"> establishing a District Electoral Committee (PPK) in each electoral area within the regency/municipality and coordinate their activities. PPD-II's appoint members of PPK's and supervise their structure; receiving nominations of candidates for DPRD-II and decide on their eligibility; conducting the general election in the regency/municipality for members of DPR, DPRD-I and DPRD-II; consolidating the election results in the regency/municipality for the election of DPR and DPRD-I and DPRD-II; and assisting PPD-I. <p>Each PPD-II elects a Chairperson, Vice-Chairperson, Secretary and Vice-Secretaries.</p>
PPK (Kecamatan)	<ul style="list-style-type: none"> establishing Vote Collection Committees (PPS) and coordinate their activities. PPK's appoint members of PPS's and supervise their structure ; consolidating election results for members of DPR, DPRD-I and DPRD-II; and assisting PPD-II. <p>Each PPK elects a Chairperson, Vice-Chairperson, Secretary and Vice-Secretaries.</p>
PPS (Kelurahan/ Desa)	<ul style="list-style-type: none"> registering voters by forming voter registration teams; forming a Poll Workers Group (KPPS) for each polling station (TPS); consolidating the vote counts received from each KPPS; and assisting PPK <p>Each PPS elects a Chairperson, Vice-Chairperson, Secretary and Vice-Secretaries.</p>
KPPS (Polling Station)	<p>At the polling station level, each KPPS has 'tasks and obligations' stipulated by the KPU. In practice these include:</p> <ul style="list-style-type: none"> establishing a polling site;

	<ul style="list-style-type: none"> • issuing and receiving votes; and • counting votes after close of poll and giving a statement of results to the PPS. <p>Members of KPPS elect a Chairperson and a Vice-Chairperson, and appoint two security officers.</p>
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D. Secretariats

National Level

According to Law No. 3 of 1999 on General Elections, the KPU carries out its responsibilities through a General Secretariat headed by a Secretary General and a Vice-Secretary General, both of whom are appointed and dismissed by the President (*Article 9(10)*). The President also determines the structure and organization of the General Secretariat (*Article 9(9)*). The Secretary General of the KPU reports to the KPU ‘for operational purposes’ and to the Government (in practice this has been to the Minister of Home Affairs and Regional Autonomy) ‘for administrative matters’ (*Article 9(11)*). In practice, the Secretary-General also reports to the Minister of Finance on financial matters relating to elections. In 1999, the KPU employed a Secretariat of around 300 persons.

The structure of PPI is determined by the KPU. By *Article 20(2)* of the election law, the ‘composition, organization and structure’ of the Secretariat of PPI is regulated by a decree of the Minister of Home Affairs (now Minister for Home Affairs and Regional Autonomy), who appoints and dismisses staff of PPI Secretariat (*Article 20(3)*). In 1999, PPI had a Secretariat of around 250 persons, 50 of whom were seconded from the KPU Secretariat (some of whom continued to have KPU responsibilities). The remainder were temporary appointments.

Provincial and Lower Levels

The ‘composition, organization and structure’ of Secretariats of PPD-I’s, PPD-II’s and PPK’s is regulated by a decree of the Minister of Home Affairs (*Article 20(2)*). The Provincial Governor appoints and dismisses staff of the PPD-I Secretariat (*Article 20(4)*). In 1999, personnel in these Secretariats came from offices of the Ministry of Home Affairs at the provincial level, or from the Governor’s office. Similarly, the local Regent or Mayor appoints and dismisses staff of PPD-II and PPK Secretariats (*Article 20(5)*). In 1999, personnel in PPD-II Secretariats came from offices of the Ministry of Home Affairs at the regency/municipal level; personnel in PPK Secretariats were provided by the local staff of the regency or municipality in the *kecamatan*, supplemented by temporary workers as needed.

V. STRUCTURE & OPERATIONS OF NATIONAL ELECTION COMMISSION (KPU)

A. Management Structures for the 1999 Elections

KPU Committees

In its Decree No 2 of 16 March, 1999, the KPU established four sub-commissions from amongst its members, to propose election management policies and oversee election planning activities. Sub-commissions and their responsibilities were as shown in the table below.

Table 3: KPU Committees, 1999 General Elections

SUB COMMISSION	RESPONSIBILITIES
General Planning and Budget	<ul style="list-style-type: none"> • calendar for the registration of electors; • calendar for the candidacies; • calendar of the campaign; • calendar for polling; • calendar of election results; • calendar for the announcement of the elected candidates; • review of the audit of the campaign funds; and • rules to limit the contributions received by a party for the campaign
Regulation and Organization	<ul style="list-style-type: none"> • Procedures for <ul style="list-style-type: none"> • the registration of electors; • candidacies; • voting and counting; • selecting the civil society representatives to the MPR; • determination of the number, duties and responsibilities of KPPS members; • legalization of the elected candidates; and • determination of the type and number of representatives of the civil society groups to the MPR;
Information, Evaluation and Data Processing	<ul style="list-style-type: none"> • Determining the format of <ul style="list-style-type: none"> • forms for the registration of electors; • the Notice of Registration; • forms for candidacies; • the ballot; • the Statement of Polling and Counting; • the Statement of the Consolidated Results; • the ballot box; • the procedure of voting; and • the collection and the and rationalization of the election materials and data.
Inter-Institution Relations	<ul style="list-style-type: none"> • campaign rules; • relations with the Observation groups; • regulation for observation; • consultation with the Supreme Court for the rules of the Supervisory Committee; and • procedure to determine the number of seats for the DPR, DPRD I and DPRD II.

All members of the KPU, who were not office holders of either the KPU or PPI, were required to serve on one of these sub-commissions. The sub-commissions had equal membership.

KPU Decree No. 2 also established a 7 member Internal Affairs Body. This body was responsible for ensuring that the rights of all KPU members (as defined in this decree) were respected. These rights were to: speak at KPU meetings, elect and be elected to KPU offices, vote on KPU decisions, give suggestions, obtain information relating to KPU activities, and have their financial and working conditions fulfilled.

The KPU appeared to want to act as more than merely a policy-making executive body during the election. KPU members attempted to play a ‘hands-on’ and active role in election development, administration and implementation matters (although KPU and PPI Secretariats were allowed to actually implement KPU and PPI decisions). The KPU’s ability to provide effective oversight and administrative direction was significantly reduced by organizational and communications gaps, however. There was no consistent, direct linkage between individual KPU members outside of formal meetings. KPU sub-commissions had no consistent or direct linkage to specific bureaus of the KPU and PPI secretariats.

KPU Secretariat

The KPU Secretariat was established in March 1999. Under the direction of a Secretary General and Deputy Secretary General, it consisted of bureaus of Finance, Legal Affairs, Administration, Supplies and Services, Transportation, Public Relations, and Liaison. The bureau structure was augmented by the formation of four inter-bureau workgroups: on International Relations, Public Relations and Observation, Election Computerization, and Clerical Support and Translation. Personnel for the KPU Secretariat were almost entirely drawn from its immediate predecessor, the National Election Institute (LPU) of the Ministry of Home Affairs, which had been responsible for the management of ‘elections’ under the former New Order regime.

The bureau structure was soon amended in April 1999, when the Minister of Home Affairs issued Decree Number 22 of 1999, which defined the organization and procedures of the KPU’s Secretariat. The Decree provided that the Secretariat had 10 bureaus. Each bureau had a chief, deputy chief, and between two and four sections or divisions, each of which had either two or three subsections. A brief summary of KPU bureaus and their responsibilities follows:

Table 4: KPU Secretariat Bureaus, 1999 General Elections

BUREAU	RESPONSIBILITIES
Planning	to prepare the administration plans for the election
Legal	to formulate and develop proposed regulations, settle disputes concerning election implementation, and prepare meetings for KPU members and PPI
Public Relations	to formulate and make publication and disseminate information related to election activities.
Financial	to develop the budget for the elections, to finalize authorization, to keep and check financial reports, to record and count budget divided into Budgeting Regions.
General	to conduct administration, archives, personnel and household affairs.
Procurement	to procure and manage material for elections
Transportation	to plan the execution, administration, and delivery of election material to regional election committees and to manage postal and telecommunication business.
Security	to prepare problems formulation and the mechanism of security system in the election, and to conduct security in the area of KPU and PPI offices.
Supervisory	to supervise the administration of goods and services, transportation business, and personnel business in the area of KPU General Secretariat.
Data Processing and Information Control	to collect data, process data, and control and present information on the election electronically.

The division of secretariat responsibilities is based on functional processes rather than election service objectives. This division acts against effective vertical integration of election activities. The structure does not give prominence at bureau (or in some cases at even section) level to many activities that are considered significant for the effective management of elections. Election activities that require clearer organizational focus include:

- voter registration;
- election operations – the conduct of voting, vote counting and result determination;
- training, including both professional development of permanent secretariat staff and operational training for temporary staff down to voting station level;
- civic and voter education (as distinct from information functions related to data on KPU activities and election results);
- development and management of management information, including information technology, capacities;
- protection of the operational, management and financial integrity of election processes; and
- performance evaluation and improvement.

Bureau chiefs reported individually and directly to the Secretary-General. While some informal inter-bureau workgroups existed, there was no formal management body within which to develop corporate implementation strategies, to discuss and distill the collective views of bureau chiefs, to prioritize and coordinate all secretariat activities, or to provide a communications mechanism to enhance collaboration.

Moreover, this structure is inflexible. It cannot currently be amended by the KPU to meet actual management needs, without approval of the Ministry for Empowerment of State Apparatus (MANPAN) and the Minister of Home Affairs and Regional Autonomy.

B. Lessons from the 1999 General Elections

As noted in IFES' prior report on the 1999 elections:

'Election administration structures for the June 1999 elections were largely carried over from prior practices. The result was a multi-track authority rather than a multi-layer authority, in which the KPU, PPI, and KPU Secretariat proceeded along their own planning course, with very little communication between each entity, and without clearly defined roles or responsibilities.

The new feature of this commission was the inclusion of the political party representatives. This decision was intended to permit some multi-party control of the system, but control was shared between the 5 government representatives and the 48 party representatives. While this formula did open up the process for political parties, it failed to achieve an independent commission. Structural, communication, and operational problems were evident shortly after the KPU commenced its work. The government representatives on the KPU conducted themselves in a remarkably constructive and independent manner. However, the government still exercised vast control of the process through the corps of civil servants making up the KPU Secretariat.^{18c}

Contributing to this overall sense of 'dysfunctional' election administration, as described above, were the following significant problems in relation to independence and impartiality, structure, and operations of the KPU.

Independence & Impartiality

Public confidence in the independence and impartiality of the KPU was threatened by the legal framework for the KPU and its secretariat, in that

- the KPU did not have administrative or financial independence from the government; and
- dual and confused lines of accountability were created by the requirement in *Article 9(11)* of the election law that KPU Secretary-General report to the KPU for 'operational' matters and to the Government (in practice the Minister of Home Affairs) for 'administrative' matters.

The independence and impartiality of the KPU was also undermined by its own decisions and actions. For example:

- the KPU was not seen as an impartial body once it permitted its members to be candidates at the election or to campaign on behalf of their parties; and
- some political parties tried to use their positions within the KPU for their own partisan advantage, resulting in stalemates and long delays on several issues, including that the KPU was unable to achieve the required two-thirds majority to validate the voting results.

¹⁸ International Foundation for Election Systems, *Republic of Indonesia: Report on the 7 June 1999 Parliamentary General Election and Recommendations for Electoral Reform*, page 28 (Washington, D.C., February 2000).

Structure

Problems evidenced in 1999 relating to the KPU's structure included:

- the fragmented, partisan and highly politicized nature of the KPU undermined its ability to provide effective leadership during the electoral process;
- inefficiencies caused by the imposition of a separate election implementation body (PPI) which had not only a separate administrative structure (that drew on but did not reflect the KPU secretariat), but separate and distant premises, poor communications capacity, and ill-defined funding;
- separation of election implementation functions to PPI meant that the KPU, as a policy-making body, did not have to confront the practical consequences of its decisions;
- the structure of the KPU secretariat and the management style of its leadership created barriers to the effective integration of election processes;
- lines of authority between the KPU, PPI and lower levels of election administration were confused;
- liaison and communication between the KPU, PPI and lower levels of election administration were inadequate; and
- the KPU did not have clear internal lines of authority.

Operations

Problems evidenced in 1999 relating to operations of the KPU included:

- the KPU's decision-making procedures were vague, inconsistent and lacking transparency;
- the KPU did not always adhere to election-related laws or to its own regulations (including adopting a system of "*Stembus Accords*" permitting parties to share votes for seat allocation, and then disregarding those rules after the election);
- the KPU delayed issuing key regulations, such as for voter registration and for establishing election committees at lower levels;
- after the election, long delays in vote tabulation were followed by a stalemate in validation of the vote and delays in allocation of seats by the KPU;
- the KPU did not establish adequate internal audit and election integrity controls;
- the KPU's Secretariat acted in a secretive and imperious manner, defeating KPU oversight and straining the relationship between KPU members and the Secretariat;
- the KPU did not provide adequate resources to the PPI to enable it to carry out the responsibilities required by law;
- the KPU did not ensure that appropriate training was provided to election officials at all levels; and
- the KPU did not provide timely or sufficient information to the public about its preparations for the election and about election procedures, which severely hampered voter education efforts.

C. Reorganization & Reform: Recommendations

Reform of the legal framework for elections by the DPR should begin by making the KPU and its secretariat fully independent of the government, and to provide it with clear and complete responsibilities for the conduct of national, provincial and regency/municipal level elections. As discussed elsewhere in this report, the DPR should also revise electoral laws to provide for independent and non-partisan election commissions or committees (and independent secretariats) at provincial and other subordinate levels. These subordinate commissions or committees should be clearly under the policy direction of, and accountable to, the national KPU.

Reform of internal KPU organization will involve four elements:

1. Legal framework for KPU powers, responsibilities, accountability and independence;
2. KPU policies and practices generally;
3. Responsibilities assigned to KPU members through Committees or other forms of functional divisions; and
4. Structure of the supporting KPU Secretariat.

These four elements are interconnected. Changes resulting from the electoral reform process should seek successful integration and consistency of all four elements to promote maximum efficiency of the KPU.

Recommendation 1

This reports recommends that the first priority of the newly appointed KPU should be to review and revise its own structure and operations to improve organizational performance. The KPU should develop a strategic plan to properly define the objectives of reorganization.

Powers, Responsibilities and Accountability

POWERS

Management of future elections in Indonesia should not suffer from the same degree of confusion over lines of authority as occurred in 1999. It must be absolutely clear under the new system of election administration that the KPU has complete responsibility for the conduct of elections of members of DPR, DPRD-I and DPRD-II. The KPU will need to work through other organizations at various levels, but it must be beyond doubt that those organizations and personnel working in subordinate election committees and other state bodies come under the authority of the KPU in relation to electoral matters. The only exception to that principle is in relation to the KPU's acceptance of the rule of law; courts should retain authority to rule on whether the KPU has acted according to law.

Recommendation 2

This report recommends that the legal and policy framework for election management make it absolutely clear that the KPU has complete responsibility for the conduct of elections of members of DPR, DPRD-I and DPRD-II, including the regulation of political parties and their finances,

and that subordinate election committees and other state bodies come under the authority of the KPU in relation to electoral matters.

ROLE OF PPI

Much additional disruption to effective management and lines of authority for the 1999 election was caused by imposing the National Election Committee (PPI) into the election management structure as the executive body theoretically responsible for implementation of the election. A separate PPI organization complicates decision-making and coordination at the top of the administrative structure; difficulties in achieving coordination at that level are likely to be magnified further down the administrative structure.

Election commissions in other countries generally do not separate election policy-making from implementation. Rather, the international norm is the total opposite: full integration of policy and implementation activities, as seen in neighboring countries such as Thailand and Malaysia, or in countries such as Australia and New Zealand, where the administrative head of the national election commission's secretariat is a full member of the election commission.

Recommendation 3

This report recommends that Law No. 3 of 1999 on General Elections should be amended to abolish the PPI (the subordinate election committee structure should be reformed at the same time).¹⁹ The functions of PPI should be carried out by an Operations division of the KPU. In future elections, policy making and election implementation functions should be housed at the same physical location.

RESPONSIBILITIES

The election law should clearly define the responsibilities and functions of the KPU. That step is necessary to encourage development of transparent and effective election administration in Indonesia, and to make the KPU fully accountable to the public.

The current statement of KPU responsibilities (within *Article 10* of Law No 3 of 1999 on General Elections) omits some significant functions. Consequently, at the 1999 election, many functions that are vital for the successful conduct of democratic elections were not fully carried out or given sufficient emphasis by the KPU.

Also, since the KPU has been transformed into a non-partisan body, the KPU is now the appropriate body to administer the regulation of political party finance. Placing administrative responsibility within the Supreme Court (as required by the current legal framework) creates an unacceptable combination of administrative and judicial functions. Regulating political party finance is an inappropriate function for the Supreme Court, and compromises its judicial review authority in cases involving allegations of violations of political finance rules.

¹⁹ Under the current law, the composition and structure of the PPI and all election committee subordinate below the KPU reflect the mix of political party and government members in effect for June 1999 election; only the composition and structure of the KPU were changed by amendments enacted by the DPR in June 2000 to Law No. 3 of 1999 on General Elections.

To provide effective leadership and management of election activities, the KPU should exercise the following roles and responsibilities:

- issuing regulations to implement electoral law;
- registration of voters;
- the conduct of elections to each assembly (DPR, DPRD-I and DPRD-II), including voting procedures, materials design, vote counting, security, declaration of results;
- supervision of lower levels of election administration, including budgeting and reporting,
- the timely procurement, supply and distribution of all electoral materials;
- management of all electoral related information;
- training members of all election management bodies and election administrators at all levels;
- all financial and budgetary matters associated with the conduct of elections;
- determining the numbers of seats in each assembly (DPR, DPRD-I and DPRD-II) according to a formula specified in law;
- matters relating to political parties, including registration, the certification of parties' eligibility to contest an election, regulation of political finance and disclosure;
- the provision of continuous neutral public education about elections and democracy-related matters;
- implementation and promotion of research on electoral matters;
- continuous review of electoral law, electoral regulations and electoral practice as principal adviser on electoral matters to the appropriate DPR commission;
- annual financial and performance reporting to DPR and to other assemblies as appropriate; and
- international electoral relations.²⁰

The KPU may decide to delegate or contract out some of its functions. However, the KPU must have clear overall authority and responsibility for the electoral process and have the authority to set objectives, procedures, performance standards and reporting requirements for those persons and public and private sector organizations which act on its behalf.

As discussed elsewhere in this report, the KPU should be required to establish meaningful internal performance standards in relation to its responsibilities and should report regularly to the DPR on its performance in relation to those standards.

Recommendation 4

This report recommends that the KPU's roles and responsibilities be in line with international best practice, and be clearly and comprehensively defined in law.

²⁰ Passage of legislation enacting the November 2001 constitutional changes regarding elections for the presidency, and a second elected chamber of the national legislature, or adoption of legislative elections based on 'districts' would involve additional responsibilities for the KPU in presidential and legislative elections, the determination of district boundaries, and candidacies. See later discussion in this report in Chapter J 'Impact of Potential Change' at Page 66.

ACCOUNTABILITY

The KPU should be independent of any government Ministry or body. It is also important that the KPU be credibly and publicly accountable for its decisions and actions. Open and transparent election administration structures and processes promote public confidence in election management. The commitment to transparency by the KPU needs to encompass open public access to information about the KPU and its activities. This public access involves the processes through which political parties, the media, NGO's and the general public can obtain information from and address questions to the KPU.²¹ The KPU can also be made more accountable for its work by establishing an accessible and effective mechanism for receiving and resolving complaints about electoral administration at all levels.²²

Other countries use various methods for public reporting by national election commissions to encourage their independence and accountability. Where there is a tradition of the chair or speaker of the legislature acting in a non-partisan manner, the national election commission may be accountable to the Speaker, as in Canada. However, it is more common that the national election commission is responsible to a multi-partisan body of the legislature. That body could be a specially appointed committee, a committee that deals with a broad range of matters, or the legislature (or single chamber of the legislature) as a whole.

In the Indonesian context, Commission II of the DPR is already immersed in electoral matters. It is charged with playing a major role in the review of electoral legislation. It conducted the 'fit and proper' test examination of nominees to the KPU. This report regards either the full Commission II, or (more effectively) a multi-partisan sub-committee of Commission II as the most appropriate body to exercise accountability over the KPU. The KPU should report regularly to such a body about KPU activities, performance, and recommendations for further electoral reform. At the least, the following standard reports should be provided by the KPU to Commission II of the DPR or the appropriate sub-committee of this Commission :

- a strategic plan covering KPU activities over the medium term (3-5 years);
- one-year operational plans for the KPU;
- an annual report on the KPU's activities, which must include: a statement of its performance against the objectives for the year as shown in the strategic and operational plans; an audited set of financial accounts; and the report of an independent external auditor on those accounts; and
- as soon as possible after each election, a special report on the conduct of the election, including a financial report and recommendations for any changes to the laws concerning elections and political parties; the KPU should also provide each DPRD-I and DPRD-II with reports on the conduct of the general elections in relation to those bodies.

The KPU should also act as the DPR's adviser on electoral matters. In that role, the KPU would be expected to periodically provide the DPR with expert research and analysis on electoral issues.

²¹ Suggested formal methods for ensuring that political parties are informed about election administration activities are discussed at 'Role of Political Parties' at pages 60-62 of the report.

²² Further discussion of mechanisms for dealing with complaints is at 'Complaint Adjudication' at page 64 of this report.

Recommendation 5

This report recommends that the KPU be credibly and publicly accountable for its actions, through promoting public access to its operations, developing meaningful, publicly available performance standards, and reporting regularly and publicly on achievements against these and other operational issues, to an appropriately designated body within the DPR.

REMUNERATION

Remuneration to KPU members should reflect the importance of their position to the community, and be sufficient to protect them from improper influences. Currently, KPU members determine their own level of salary and entitlements. This report recommends that the remuneration by way of salaries and other allowances or benefits to KPU members be defined in electoral law, by tying it to the remuneration offered to members of a body of comparable stature. Comparable bodies could be regarded as the DPR, Ombudsman, Supreme Court, or Human Rights Commission. The law should also stipulate that remuneration to a KPU member cannot be reduced during the period of the member's appointment.

Recommendation 6

This report recommends that salaries for KPU members be defined in law and tied to the remuneration of members of comparable high institutions of the State.

KPU Secretariat

Election administration bodies need administrative and physical support to carry out their duties and conduct elections. Personnel to perform these tasks are generally government workers – civil servants. Thus, the institution of Secretariats assigned to support election administration bodies, as provided by Law No. 3 of 1999 on General Elections, is not inherently contrary to international norms and expectations. However, the law's specific arrangement for dual lines of authority, whereby Secretariats report 'operationally' to the KPU but 'administratively' to government executives, undermines both the perception and the reality of the independence and impartiality of the electoral process in Indonesia. As IFES's prior report on elections noted:

The government controll[ed] the personnel responsible for carrying out the administrative tasks for the election. The Secretariats became a mechanism for the government to reassert control over the election process through a back door. Implementation of these provisions by the President, Minister of Home Affairs and other executive authorities, and the operations of the Secretariats themselves, needed to be watched very closely by political participants, election monitors and the news media. But political party representatives on the KPU and election committees served by these [Secretariats] did not fully exercise their rights to oversee election administration, including demanding information, documents and generally accountability – to truly require the Secretariats report to them 'operationally.'

Election administration bodies should clearly be independent and non-partisan. Secretariats that support election administration bodies should be clearly under the control of and be accountable to those bodies. There should be no legal or factual basis for parties or candidates to believe election administration bodies and their support personnel are not totally professional, fair and impartial in conducting elections and other associated activities.

Election bodies in democratic countries seek those goals in different ways. Appendix 6 contains a summary of the provisions concerning the structure and operation of the secretariats of election management bodies in a number of countries. Most of the secretariats of the election management bodies described in Appendix 6 report on all matters to a body equivalent to the KPU.

It is not appropriate for the President or the Minister of Home Affairs and Regional Autonomy to control or direct the appointment, structure, operation or reporting of the Secretariat of the KPU. This report recommends that the current arrangement be changed; the KPU should have complete responsibility for the appointment and operation of the Secretariat of the KPU. The Secretary-General of the KPU and the staff of the KPU Secretariat should not be put in the position of having their loyalties divided between the KPU and the Executive Branch of the Indonesian government. It is essential that the KPU be given the authority, resources and autonomy for developing an independent and professional organization for election administration throughout Indonesia.

Recommendation 7

This report recommends that the KPU be fully and solely responsible for the appointment, structure, budget, administration, operations and reporting of the KPU Secretariat

SECRETARY-GENERAL

The Secretary-General is both the KPU's principal adviser and chief manager of Secretariat staff in carrying out KPU policy. The Secretary-General of the KPU should be appointed by the KPU and should be accountable solely to the KPU on all matters. If a post of Deputy Secretary-General is retained,²³ he/she should also be appointed by and accountable solely to the KPU.

If the President continues to have the formal power to appoint the Secretary-General (and Deputy Secretary-General) of the KPU, that power should only be exercised on the advice of the KPU itself. To promote accountability and attention to performance by the KPU's senior advisers, consideration should be given to appointing the Secretary-General (and Deputy Secretary-General) for a specific, fixed term, with eligibility for reappointment. This term should not be shorter than the length of an election cycle. The Secretary-General (and Deputy Secretary-General) should not be liable to dismissal except on grounds of incapacity or misbehavior, as defined in the electoral law.

The KPU should set the salaries and allowances and other conditions of service of the Secretary-General (and Deputy Secretary-General), after consideration of the remuneration and conditions of service of comparable positions within the civil service. A committee of the office-holders of the KPU should formally assess the performance of the Secretary-General and (Deputy Secretary-General) on an annual basis.

The KPU Secretary-General should be present at all KPU plenary meetings. The KPU should grant clear authority to the Secretary-General to direct all KPU Secretariat staff in the implementation of KPU policies (in accordance with the law) and to discipline secretariat staff

²³ This report's proposed revised structure for the KPU secretariat, as described at Pages 32-35 below, recommends abolishing the post of Deputy Secretary General.

who refuse to accept such direction. However at the current stage of electoral management development in Indonesia, it is not recommended for the Secretary General to be appointed as a full member of the KPU (as is the case for equivalent bodies in, for example, Australia and New Zealand). Until a pattern of non-partisan electoral management is established, it is preferable for the Secretary General to remain as the KPU's principal adviser and chief of staff, leaving some distinction between executive and administrative functions of election management.

Recommendation 8

This report recommends that the Secretary-General of the KPU should be appointed under a fixed term, renewable contract by the KPU, and should be accountable solely to the KPU on all matters.

ACCOUNTABILITY OF THE SECRETARY-GENERAL

The KPU and the Secretary-General should not be controlled or directed by any Ministry (except for KPU obligations regarding financial accountability). The general goal should be for the KPU to be accountable to the DPR on all matters, including financial.

If, however, the Secretary-General of the KPU were temporarily to remain accountable to the Minister of Home Affairs and Regional Autonomy for 'administrative' matters, there should be an agreed written protocol governing the scope of that accountability and the circumstances in which the Minister may influence or direct the Secretariat of the KPU. That agreement should include a provision that any Ministerial direction to the Secretary-General of the KPU must be in writing and must be made public, and a copy must be sent to the chair of the KPU.

RELATIONSHIPS BETWEEN KPU AND SECRETARY-GENERAL

Recommendation 9

This report recommends that the Secretary-General should be responsible solely to the KPU for implementation of KPU policy. The Secretary-General should regularly report to the KPU on operational and financial matters. The KPU should formally decide policy, and document all instructions or other delegating of authority it makes to the Secretary-General.

SECRETARIAT STAFF APPOINTMENTS AND CONDITIONS OF SERVICE

The KPU – not the Minister for Home Affairs and Regional Autonomy – should be fully responsible for determining the appropriate organizational structure and staffing levels for the KPU Secretariat (within the constraint of the reasonable budget allocation agreed with DPR). Similarly, the Secretary-General – not the Minister of Home Affairs and Regional Autonomy – should appoint and dismiss all permanent KPU staff, and be responsible for the contracting of any temporary or fixed term staff. The Secretary-General should also be formally responsible for determining staff position descriptions, staff salary ranges and all other matters relating to staff employment and conditions of service.

Since the KPU is an independent body, KPU Secretariat should not be regarded as part of the civil service or as subject to the normal boundaries and constraints applied to the civil service. As the data in Appendix 6 shows, staff of national election management bodies' secretariats are generally employed under conditions commensurate with those of civil servants with equivalent responsibilities. In some countries, such as South Korea and Canada, secretariat staff are civil servants, but subject to the direction of the election management body. In others, such as Mexico, staff of the national election commission are part of a totally separate professional electoral service.

Establishing a separate bureaucracy at KPU and PPD-I levels for the administration of elections, that is distinct from the civil service structure within Indonesia, will raise important issues about the career structures of those employed within it, including remuneration and other benefits. Provided potential appointees meet the required technical, professional and personal standards, the KPU should also consider appropriate ways of permitting 'free movement' of staff (changes of job or position) between the civil service and the KPUs professional administration body.

The KPU will need maximum flexibility to reorganize staffing in the transition stage between the current Secretariat, and the re-creation of the KPU Secretariat as a fully professional electoral administration corps in an externally focused organizational structure. It would be highly advisable to have all secretariat staff during this stage on fixed term contracts until permanent staffing requirements are determined. Following the next election it should be possible for the KPU to make a fully informed decision on future staffing level needs, including whether a fully permanent staff, or mix of permanent and contract staff, is required for the secretariat.

Recommendation 10

This report recommends that the law should provide for a separate professional corps of administrators for the KPU. The remuneration and conditions of service of the permanent and contract staff of the KPU should be at least equivalent to those at comparable levels of the civil service. Consideration should be given to employing all KPU secretariat staff on a fixed term contract basis during the transition period within which a professional electoral administration corps is created.

Organizational Structure of the KPU Secretariat

The current structure of the KPU secretariat follows an outmoded model more focused on the internal functions of the KPU and its Secretariat than the provision of electoral services to the Indonesian community.

An organizational chart detailing a proposed new structure for the KPU secretariat, is at Appendix 5. The key aspect of this proposed re-structure is to focus the KPU Secretariat on the electoral services – voter registration, voting and counting facilities, information and education, regulation of political parties, guarantees of electoral and financial integrity - that it provides to the Indonesian people. Internal administrative support services - for personnel, transport, logistics and the like, are proposed to be fully integrated into a Corporate Administration and Support Structure, rather than leading independent existences at bureau level as in the past.

This proposed structure is considerably different from the current KPU secretariat structure, and has been based on the following common premises of international good practice in electoral management

- there are two basic divisions in the Secretariat’s structure – those of Electoral Services, and of Corporate Administration and Support. Each is under the oversight of an Assistant Secretary General of the KPU Secretariat;
- emphasis is given to the importance of the operational and financial integrity, and management improvement, of the KPU by creating a strong Monitoring and Evaluation Bureau, that reports not to the Secretary General but directly to an Internal Oversight Committee of the KPU, chaired by the Chair of the KPU;
- in line with **Recommendation 2** of this report, the structure includes a Political Party Regulation Bureau;
- separate bureaus are created for the key operational areas of the KPU: Operations and Logistics; Information Technology and Communications Systems; Organizational Development and Training; and Information and Public Education Services;
- the activities of the bureaus are coordinated through a Management Board comprising the Secretary-General, Assistant Secretaries-General and all bureau Directors. The Management Board meets regularly to coordinate the work of the various bureaus (including the development of budget proposals) and to consider strategic planning and development issues which relate to the responsibilities of more than one bureau. The Management Board is advisory to the Secretary-General;
- strategic and operational planning is not the preserve of any single bureau but is a fully and broadly participative process, facilitated for the KPU from within the Corporate Administration and Support Services Bureau;
- under the coordination of the KPU through the Management Board, all bureaus undertake development and operational planning in their respective areas, and are responsible for the continuous documentation and review of all procedures relating to its work.
- sections are established within each bureau based on its functions and on the demands on its work program according to the electoral cycle. Some flexibility needs to be retained within bureau staffing to meet these changing demands

The following is a summary of the proposed division of responsibilities into a revised bureau structure:

Table 5: Proposed Revised Structure of KPU Secretariat

Division/Bureau	Responsibilities
ELECTORAL SERVICES DIVISION	
Operations and Logistics Bureau	Electoral policy and procedures drafting; electoral census and voter registration activities; boundary delimitation; voting and counting operations; electoral materials planning, distribution and management.
Information and Public Education Services Bureau	Media and public relations management for the KPU; voter and civic education development and implementation; public information; electoral resource centre activities, including

	library and website; information materials publication; electoral research.
Legal, External and International Relations Bureau	Electoral law reform advice and proposals; drafting of (any) electoral regulations; corporate attorney's office; liaison with international bodies and other electoral commissions; liaison with other State, private sector and civil society organizations in Indonesia; liaison with DPR.
Political Party Regulation Bureau	Political party registration issues; regulation of political party finance; liaison with political parties; information programs for political parties on electoral issues; determination of parties' eligibility to contest elections; registration of candidates for election.

CORPORATE ADMINISTRATION AND SUPPORT DIVISION	
Information Technology and Communications Systems Bureau	Business analysis and identification/development of technological applications; liaison with technology suppliers; development of integrated computer networks to lower levels of election administration; appropriate, sustainable, computerization of KPU operations; data processing and reporting; support for technology users; telecommunications services.
Organizational Development and Training Bureau	Professional development of secretariat staff; operational training for all electoral staff down to voting stations level, and development of programs for observers and political party agents and monitors; development of technological skills;
Administrative Support Services Bureau	Central administration; records management (including filing and archiving); meeting administration; internal security; human resources management; strategic planning facilitation.
Physical and Financial Asset Management Bureau	Budget development and management; financial reporting; accounts payment; treasury operations; procurement policy development and monitoring; general supplies procurement and distribution; asset management (property, transport, equipment, general supplies).

Monitoring and Evaluation Bureau (reports direct to KPU Integrity Committee)	Internal financial and performance audits of all electoral activities; ensuring legal and regulatory compliance throughout the electoral management structure; coordination with external audits/quality assurance monitoring programs; management improvement initiatives; preliminary investigations of alleged fraud, regulatory breaches etc.
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Each bureau is headed by a Director who is appointed by the KPU Secretary-General. Directors are responsible to the Secretary-General for implementation of KPU policy and for efficient and

effective management of the staff within their bureau. The Director of each bureau should also be responsible for coordinating with the related operations of Provincial Election Commission Secretariats.

Particularly during the period during which the new KPU reshaping the election administration structures and ethos, and is establishing its reputation for effectiveness and integrity, KPU members will be playing a more activist role in the management of Secretariat activities than would a usual corporate ‘board of directors’.

To formalize this process and spread the expertise of KPU members, it would be useful to establish, for each bureau, a subcommittee of at least three KPU members, to supervise the work of that bureau. Each member of the KPU (except the chair and deputy chairs) would chair a subcommittee and thus would have primary portfolio responsibility for that area of the KPU’s work. The other two KPU members of a subcommittee should be the chairs of the subcommittees for bureaus with related responsibilities. The chair of the KPU should not chair a subcommittee, but should be an ex officio member of every subcommittee.

Each sub-committee should meet regularly with the Secretary-General or relevant Assistant Secretary-General and the Director and senior staff of the bureau to receive reports and information about the work of the bureau at all levels. Sub-committees should also consider draft reports about the work of the bureau prior to their submission to a plenary session of the KPU. Directors and staff of other bureaus should attend these meetings as required. Joint meetings of two or more sub-committees should be held as required.

In addition to the support provided by the KPU Secretariat, KPU members may from time to time wish to take advantage of specialized advice available from experts from academia or other bodies available to provide consultant services. This can be a very cost-effective method of gaining shorter term expertise on specific issues. The ability to hire such experts as consultants or expert staff for the KPU as a whole or for individual members should be available within the organizational parameters of the KPU – either under consultancy contract or as fixed term special staff appointments. However it is generally not prudent to use this method to solve longer term staffing issues.

Recommendation 11

This report recommends that the Secretariat of the KPU be restructured in line with a modern, external service oriented focus of electoral management, giving consideration to the proposals contained at Appendix 5 to this report.

Recommendation 12

This report recommends that subcommittees of three members of the KPU be formed to supervise the work of each bureau of the KPU Secretariat

Recommendation 13

This report recommends that the organizational framework of the KPU allows KPU members to engage, from outside the members fore the KPU Secretariat, contractors or fixed term staff as, expert advisers on specific electoral issues.

Priorities

Article 11 of Law No. 3 of 1999 on General Elections mandates the KPU to conduct an evaluation of Indonesia's election system within three years of the 1999 election, i.e. by mid-2002. In the latter part of 2001, the KPU has held a series of regional workshops with a broad range of participants to review the past operation of the current electoral laws, and is expecting to provide an evaluation study based on these by end-2001.

Four high priority issues to be addressed during any evaluation of current electoral law and practices in Indonesia are:

- First, the KPU should review and revise its internal organization and procedures (and amend relevant KPU regulations as necessary). This effort should draw upon both experience from 1999 elections and best international practices (assisted by study tours of other countries). As part of this review, the KPU should seek external assessments of the KPU's capacity in each of its main functional areas, concentrating in particular on the human resource, training and technological needs of the KPU for the 2004 elections and beyond.
- Second, the KPU should conduct analysis of the provisions in Law No. 3 of 1999 relating to the structure and operation of lower-level election management bodies, and recommend amendments to the law to the DPR. This includes an examination of structural questions of appointment and composition of subordinate election committees or commissions, and the responsibilities of each level (discussed in next chapter of this report).
- Third, the KPU should review provisions of the election law related to technical and procedural aspects of election administration (such as voter registration, voting and vote counting process, etc.), and recommend amendments to the law to the DPR. The KPU should actively seek comments and submissions on these matters from staff who worked on the 1999 elections, political parties, academics, NGOs and the public. The KPU should also review and amend its regulations related to these matters as necessary.
- Fourth, the KPU should develop a strategic plan and associated budgets for each of the next five years, including a budget for the 2004 elections.

Recommendation 14

This report recommends that the new KPU concentrate on four major tasks (which may overlap) in completing its review of the election process and implementing bodies: a review of internal organization and procedures; reviewing the structure and operations of lower level election management bodies; review the legal framework for the technical aspects of election administration; and develop a strategic plan and associated budgets for a five year forward period.

TIMETABLE

The experience of 1999 clearly demonstrates how important it is that the major revisions of election law and practice are completed and ‘socialized’ well before they have to be implemented. The ‘deadline’ under the election law for KPU evaluation of the election system by mid-2002 should rather be regarded as a target for the KPU to have made recommendations, and the DPR to have determined any relevant changes to the legal framework, that require major technical, structural and administrative changes involving the KPU and subordinate election committees. This would permit organizational structures and new procedures to be implemented, and the procurement of human and physical resources commenced, between two years and eighteen months before the election to be held in 2004. The period between 2002 and 2004 will also be vital for the development and implementation of appropriate training programs for election administrators, and for voter education programs to be prepared for the general public and for particular sections of society.

Recommendation 15

This report recommends that mid-2002 be agreed as the deadline for adopting major changes to the legal, technical, structural and administrative frameworks for the 2004 elections.

VII. STRUCTURE & OPERATIONS OF IMPLEMENTING ELECTION COMMITTEES

A. Lessons from the 1999 General Elections

At each of the subordinate levels of election administration – from PPD-I down to KPPS level – there were significant problems reported in the implementation of the 1999 election. IFES’s post election research indicated that the major problems at each level can be summarized as follows:

PPD-I

- short time scale for implementing electoral organization;
- many new and inexperienced personnel;
- difficulties of coordination with PPD-II, PPK, PPS;
- lack of coordination between representatives of political parties and secretariat of PPD-I;
- complicated forms for recording vote counts;
- lack of time to train those at lower levels;
- lack of direction and guidance from the KPU and PPI;
- late and inadequate funding to run the election.

PPD-II

- some perceived the PPD-II’s as being subject to government control;
- there were problems in entering voting figures into the banking computer system used at the election;
- there were conflicting instructions from higher levels of election administration;
- there was a lack of coordination with PPD-I, PPK, PPS;

- the short time frame to implement the election.

PPK

- difficulties in recruiting members for the PPS's;
- perceptions of government control of PPD-II;
- there was a lack of coordination with PPD-II, PPS;
- late arrival of ballots and other election materials for distribution to KPPS;
- difficulties with consolidation of the vote count, especially the forms and lack of training.

PPS

- voter registration was slow but eventually achieved good result after extensions of time (although there were no effective means to detect double registrations);
- voter registration was expensive (average cost said to be Rp10,000 per registered voter);
- the PPS level was not included in training programs;
- there were difficulties with the complex forms for vote consolidation;
- it proved difficult to get competent people to appoint to KPPS's;
- there was a lack of coordination with the PPD-I and PPK levels;
- there were difficulties with the late distribution of materials.

KPPS

- the lack of timely materials distribution meant some polling sites were set up late;
- it was hard to get competent personnel at this level;
- there were difficulties in filling in forms for recording vote tallies, caused by the complexity of the forms, fatigue of KPPS personnel at the end of election day leading to mistakes;
- there was an inconsistent approach to the training of KPPS personnel, and in some cases KPPS members did not receive any training;
- there were inadequate security controls on the issuing of ballot papers to voters.

B. Reorganization & Reform: Recommendations

Many problems in election administration that were evident during the June 1999 elections in Indonesia (as described immediately above) may be solved or diminished with sufficient preparation. Administration of elections in 2004 should not be hampered by such a short time-frame for preparation as 1999. The DPR, in cooperation with the KPU, has adequate time to comprehensively review laws and procedures related to elections and to perfect the legal framework for the next elections. The KPU should have a long lead time for organizing itself, drafting regulations and laying groundwork for conducting elections.

The particular difficulties arising from involvement of political party representatives in election administration have now been eliminated at the KPU level. As discussed elsewhere in this report, the election law should also be amended to end the direct role of political parties within subordinate implementing election committees. Similarly, the role of the Secretariats should be reformed to fill a more appropriate function as an administrative support unit directly accountable to the KPU or election committee it serves.

Problems of inadequate funding for election administration, of lack of training for election officials and of inadequate or confusing forms and procedures can be resolved through revision of laws and regulations as well as timely planning and execution.

The next section proposes more fundamental reforms of the structure, composition and functions of election implementing committees. This discussion accepts the traditional six levels of election administration in Indonesia (but assumes the KPU and PPI will be combined at the national level, as recommended above). The recommendations below address division of responsibilities between implementing committees in order to improve coordination, communication, staffing and training, logistics and other basic implementation aspects of election administration. These suggestions offer a plan for dividing responsibilities between committees that increases committees' specialization and reduces unnecessary layers of functional responsibilities.

Recommendation 16

This report recommends that the election law should be amended to end the direct role of political parties within subordinate implementing election committees, and that election commission and committee Secretariats at all levels should be reformed to fill a more appropriate function as administrative support units directly accountable to the KPU or election committee it serves.

Structure, Duties & Powers

As described above, election administration in Indonesia is presently conducted through a six-level hierarchy of election committees.²⁴ This process operates in a fairly linear manner; all committees share similar responsibilities within descending levels of geographic area, including appointing and supervising the next level down. Special functions of PPS (voter registration) and KPPS (voting and vote counting) are naturally of more limited nature and duration.²⁵ PPD-I and PPD-II committees have responsibility for receiving nominations of candidates for their respective levels of legislative assembly.²⁶

A hierarchical structure of committees for conducting elections is typical in election administration. Even the relatively large number of committee levels in Indonesia is defensible given the size and diversity of the country. Thus the present system would not require radical change. However, five particular areas of election administration tasks may deserve some separation and further specialization among committees: communications, material distribution, election official training, vote consolidation and complaint adjudication:

1. Systems for communicating between levels of election committee during the 1999 elections were never formalized and proved 'ad hoc' in practice, particularly as to communications between the KPU/PPI and lower committees (PPI apparently adopted an informal process of faxing KPU decrees and other information to PPD-II's as well as PPD-I's). KPU regulations should establish clear lines and reliable procedures for communications down through the hierarchy of election committees. To enhance speed and dependability, systems of

²⁴ See: Table 1 at page 16.

²⁵ See: Table 2 at page 17.

²⁶ The duties and powers of both PPD-II and PPK committees would increase significantly if a "district" (single-member constituency) voting system were adopted for legislative assemblies.

communications will likely place more responsibility upon committees at *kabupaten* level (PPD-II) to serve as the key intermediary between higher and lower committees.

2. To simplify and streamline allotment of election materials, distribution could be directed first to the provincial level (PPD-I) and then transmitted directly to *kecamatan* level (PPK) and then directly on to PPS or KPPS as appropriate (only those forms or other materials needed for PPD-II functions should be sent to PPD-II level). The increased responsibility of PPK in directing the distribution of materials through the immediate election period could be compensated by relieving PPK level of other duties, such as no longer involving the PPK in training of PPS and KPPS members or in post-election vote consolidation.
3. Election official training is discussed more fully below. Such training is typically done in “cascading” fashion down through the hierarchy. That approach becomes cumbersome and ineffective in an election administration structure with as many levels as Indonesia. As in the area of communications, a two-stage process may be a more efficient method for timely and quality training of election officials: KPU is responsible for training PPD-I’s and PPD-II’s; PPD-II is responsible for training members of lower committees.
4. Vote consolidation through the election committee structure following the 1999 elections proved a serious problem that threatened the legitimacy of the entire election process.²⁷ Tabulation at each level undermined rather than strengthened accountability and public confidence. An alternative to the present slow and onerous system would continue vote consolidation at the PPS level, which is fastest and closest to the initial vote count. The next stage would skip *kecamatan* level (PPK) for vote consolidation (in the absence of a “district” voting system for election of DPRD-II members). Consolidation reports, ballots and other materials related to DPRD-II would be sent directly to the PPD-II for the DPRD-II and directly to PPD-I for DPRD-I and DPR-RI.
5. The ‘complaint adjudication’ process entails procedures and institutions for resolving complaints, disputes and allegations of violations during the election period. This process is of central importance to the legitimacy of democratic elections (and is discussed more fully later in this report). Indonesia has customarily relied upon ‘supervisory committees’ (known as Panwas, discussed below) to perform similar functions.²⁸ Under election laws of other democracies, complaints and disputes arising from elections are often directed to election committees first, with recourse for appeals to higher level committees or courts. This report generally recommends that complaints should be first filed, and disputes first referred, to PPD-II committees.²⁹ Administrative appeals may then be taken to PPD-I and then KPU; serious matters should have recourse to courts. Allegations of violations of the law should also be first reviewed by appropriate election committees (depending on the nature and location of the alleged conduct) and then referred to prosecutors and police. Special procedures must be ready for

²⁷ See: International Foundation for Election Systems (IFES), *Republic of Indonesia: Report on the 7 June 1999 Parliamentary Election and Recommendations for Electoral Reform*, pages 5, 39-40 (Washington, D.C., February 2000).

²⁸ See: University of Indonesia Faculty of Law and International Foundation for Election Systems, *Republic of Indonesia. Experience Gained from June 1999 Elections: Resolving Complaints and Disputes in the Election Process* (September 1999), pages 12-15.

²⁹ Typically, if complaints are about the action or inaction of an election committee, the relevant committee is given a chance to correct mistakes or reconsider decisions, even at the lowest levels; administrative appeals of those decisions are directed to higher levels of election committee.

complaints that arise near to or on election day, and for challenges of election results. Thus, procedures and institutions for adjudicating complaints and grievances must be considered in election administration planning and structure.

Recommendation 17

This report recommends that KPU regulations should establish clear lines and reliable procedures for communications down through the hierarchy of election committees, with particular emphasis on the role of the PPD-II level as a communication facilitator.

Recommendation 18

This report recommends that a more direct method of distribution of the bulk of election materials direct from province to PPK (kecamatan) level, with increased distribution responsibilities on PPKs, be considered.

Recommendation 19

This report recommends that the number of steps in the ‘cascade’ of election official training be reduced, with the KPU training to PPD-II level, and PPD-IIs being responsible for training of lower level committees.

Recommendation 20

This report recommends elimination of some steps in the vote consolidation process, with consolidation of reports, ballots and other materials related to DPRD-II would be sent directly from the PPS level to the PPD-II for the DPRD-II and directly to PPD-I for DPRD-I and DPRD-RI.

Recommendation 21

This report generally recommends that complaints should be first filed, and disputes first referred, to PPD-II committees. Administrative appeals may then be taken to PPD-I and then KPU; serious matters should have recourse to courts. Allegations of violations of the law should also be first reviewed by appropriate election committees (depending on the nature and location of the alleged conduct) and then referred to prosecutors and police

If responsibilities of election committees are more specialized, basic administrative functions of election committees could be assigned as follows:

Table 6: Proposed Responsibilities of Election Committees At Various Levels

Function	KPU	PPD-I	PPD-II	PPK	PPS	KPPS
Plan, prepare, set policy and procedures	✓					
Appoint and supervise next level	✓	✓	✓	✓	✓	
Political party regulation	✓					
Develop budgets, manage finances	✓	✓	✓	✓		
Receive nominations of candidates		✓	✓			
Communications to lower levels	✓		✓			
Procurement of materials	✓	✓				
Distribution of materials	✓	✓		✓		
Training of lower levels	✓		✓			
Voter education	✓	✓	✓		✓	
Voter registration					✓	
Voting station operations						✓
Vote counting						✓
Vote consolidation	✓	✓	(Limited)		✓	
Complaint adjudication	✓	(Limited)	✓			

The duties and powers of election committees at every level must be clearly expressed in the election law and implementing regulations. These duties and powers must also be clearly communicated to the members of each election committee to enable them to understand and fulfill their jobs.

Composition & Appointment

Party Representation

In June 2000, the DPR amended Law No. 3 of 1999 on General Election to change the KPU's appointment and composition requirements to provide for an independent and non-partisan KPU; appointment of a new KPU was completed in April 2001. For the same reasons, and in a similar manner, the election law should also be amended regarding composition, qualifications for and method of appointment of members of each PPD-I and PPD-II.

The election law currently provides that composition of lower level election committees (PPK, PPS and KPPS) consist of representatives of political parties and the government. To reduce perceptions that these bodies operate in a partisan way, this report recommends that members of each of these bodies should also generally be independent and non-partisan representatives of the community at the relevant level – however political party members may be qualified to serve if they make their membership known at the time of appointment (or when they join a party if this is later).

Direct involvement of political parties in election administration should be ended. However, if political party representation is removed from these election committees, mechanisms for transparency should be adopted so that parties have confidence in independent and impartial administration of elections. This issue is addressed in discussion of the Role of Political Parties later in this report.

Organizational Requirements and Characteristics

Pursuant to amended Law No. 3 of 1999 on General Elections, the KPU is now composed of 11 members. KPU members are approved by the DPR from a list of 22 nominees proposed by the President, and then appointed by Presidential decree for a five year term. Article 9(3a) of the amended law states that candidates for KPU must be Indonesian citizens who have the following qualifications:

- (a) Physically and mentally sound;
- (b) Eligible to vote and to be elected;
- (c) Having a strong commitment to democracy and justice;
- (d) Strong personal integrity, honest and fair;
- (e) Sufficiently knowledgeable in political party affairs, election methods, and possessing leadership ability;
- (f) Not serving as a member or executive in any political party;
- (g) Not actively serving in either political or structural positions in the civil service.

This report offers the following recommendations for other election committees:

PPD-I (*renamed as Provincial Election Commission*)

- Number: between 7 and 9 members (depending on population size and geographical area, as determined by the KPU);
- Appointment: KPU should appoint the members of each PPD-I after considering nominations from the DPRD-I;
- Term: members appointed to full-time positions for terms of 5 years; may be dismissed only by the KPU for cause;
- Qualifications: members required to meet the same qualifications as members of the KPU; required to reside in province; must agree to abide by a code of conduct specified by the KPU;
- Remuneration: determined by the KPU.

PPD-II

- Number: 5 and 7 members (depending on population size and geographical area, as determined by the KPU);
- Appointment: KPU should appoint members of each PPD-II after considering nominations from the DPRD-II;
- Term: members appointed to part-time positions at least 2 years before an election and for 6 months after the election; may be dismissed only by the KPU for cause;
- Qualifications: members required to meet the same qualifications as members of the KPU; required to reside in regency/municipality; must agree to abide by a code of conduct specified by the KPU;
- Remuneration: determined by the KPU.

PPK

- Number: 5 members;
- Appointment: appointed by PPD-II;
- Term: appointed to part-time positions at least 6 months before an election and for 3 months after the election; may be dismissed only by the PPD-II for cause;
- Qualifications: members should be representative of the local community; may not be party officials or candidates, but may be members of political parties if that fact is made known to the PPD-II at the time of appointment; required to reside in kecamatan; must agree to abide by a code of conduct specified by the KPU;
- Remuneration: determined by the KPU.

PPS

- Number: 5 members;
- Appointment: appointed by PPK;
- Term: appointed to part-time positions at least 4 months before an election and for 2 months after the election; may be dismissed only by the PPK for cause;
- Qualifications: members should be representative of the local community; may not be party officials or candidates, but may be members of political parties if that fact is made known to the PPK at the time of appointment; required to reside in kecamatan; must agree to abide by a code of conduct specified by the KPU;
- Remuneration: determined by the KPU.

KPPS

- Number: 5 members;
- Appointment: appointed by PPK;
- Term: appointed to part-time positions at least 2 months before an election and for 1 month after the election; may be dismissed only by the PPK for cause;
- Qualifications: members should be representative of the local community; may not be party officials or candidates, but may be members of political parties if that fact is made known to the PPK at the time of appointment; required to reside in kecamatan; must agree to abide by a code of conduct specified by the KPU;
- Remuneration: determined by the KPU.

The time periods for appointment and operation of PPK, PPS and KPPS committees take into account time needed for training and election preparation, and for post-election follow-up. The KPU should also have the residual powers to appoint members of the PPD-I and PPD-II, even if the nominating body fails to provide nominations by the deadline set by the KPU.

To permit continuity, members of all election committees should be eligible for reappointment using the same criteria and procedures as for appointment. Where possible, persons who have previously worked on a KPPS and have demonstrated competence should be offered re-appointment.

The independence of members of election committees would be strengthened if they could only be dismissed in strictly limited circumstances. Regulations should provide for dismissal for misbehavior, failure to continue qualification under the law (such as partisan activity), or serious incapacity. Replacements following resignation, dismissal or death should be made for the balance of the previous member's term using the same procedures as for the original appointment.

Political party representatives are entitled to be present at all times to observe the work of the KPPS, but are not members of KPPS. Party representatives should receive training and be informed of their rights and responsibilities.

Regulations issued by the KPU should determine the salaries, fees and allowances paid to members of the PPD-I, PPD-II, PPS, PPK and KPPS.

Recommendation 22

This report recommends that appointments to lower level election committees be made according to a set of criteria that would ensure independent, objective committees accountable to the KPU, as described in the 'Organizational Requirements and Characteristics' section of this report.

Secretariat

As discussed above, under internationally accepted practice, the executive branch of the government should not control or direct the appointment, structure, operation or reporting of support staff for election administration bodies. This report recommends that the KPU itself should have complete responsibility for the appointment and operation of the Secretariat of the KPU. Similarly, the Secretary-General of PPD-I and the staff of PPD-I Secretariats should not be put in the position of having their loyalties divided between the KPU and Ministry of Home Affairs and Regional Autonomy, or local governors. PPD-I's should be given independent responsibility for professional support staff in conducting elections at the provincial level of election administration.³⁰

As recommended above, PPD-II need not be a permanent body but should be formed at least 2 years before the scheduled election. PPK, PPS and KPPS bodies should be formed six, four and two months respectively before an election. Because these bodies are established temporarily, it will be necessary to reassign officials from local government bureaucracy to work in secretariats of these levels of election administration. Supervisors of government workers or of the officials who are temporarily reassigned for election duties will need to understand that the primary duty of these election officials must be to their election activities. Election officials must also understand that their primary loyalties during that period are to the integrity of the electoral process. They should also receive appropriate training for their roles as election administrators.

³⁰ As noted earlier in the discussion of KPU Secretariat, establishing a separate bureaucracy at KPU and PPD-I levels for the administration of elections that is distinct from the civil service structure within Indonesia will raise important issues about the career structures of those employed within it, including remuneration and other benefits. This report recommends that the KPU ensure that the terms of employment of the election bureaucracy at the KPU and PPD-I levels are no worse than those at equivalent levels within the civil service. The KPU should consider (in cooperation with appropriate authorities) ways of enabling staff to move between the civil service and the election secretariats without sacrificing job benefits or career status.

Recommendation 23

This report recommends that an independent, professional staff be recruited for the Secretariats of each PPD-I, under similar conditions as for the KPU Secretariat.

Recommendation 24

This report recommends that officers temporarily assigned to the secretariats of PPD-IIs, and their supervisors in their normal employment positions, be thoroughly trained in their roles in relation to independent and non-partisan election administration.

Coordination, Communication & Logistics

Election Materials

For every election, the KPU should have general responsibility for production and distribution of election materials, which should be managed according to a realistic timetable. The KPU may decide some materials are better or more efficiently produced and distributed at the provincial or local levels rather than nationally. That arrangement is satisfactory, as long as any local production and distribution is done according to specifications and quality standards mandated by the KPU. The KPU must develop systems that ensure that non-delivery and partial delivery of election materials is recognized and reported as soon as possible, especially where polling sites are affected.

The KPU should also be responsible for ensure that adequate security of election materials is maintained before and after the election. For example:

- paper to be used for printing ballot papers must incorporate security features such as a watermark;
- paper stocks must be securely stored;
- printing of ballot papers must be closely supervised; and
- stubs of ballot papers should be numbered.

Similar security provisions apply to other materials used in the voting process (for example, indelible ink, and forms used to record numbers of votes at each level). Each polling site must accurately account for the number of ballots received, the number of votes cast, and the number of unused ballot papers remaining. Once votes have been counted, they must be securely stored for the legally specified time and then destroyed according to the processes specified in law.

Recommendation 25

This report recommends that any local production of election materials be subject to strict quality controls and in accordance with national standards promulgated by the KPU.

Recommendation 26

This report recommends that security of ballot materials, and accounting integrity measures for ballot materials, are strictly enforced at every level of the election management structure – from each KPPS through to the KPU.

VIII. GENERAL ISSUES OF ELECTION ADMINISTRATION

A. Election Law

Law No. 3 of 1999 on General Elections proved too general and lacked specificity in many crucial areas of electoral policy and procedures. At the 1999 election, these gaps were left to the KPU to fill through regulations. Unfortunately, the divided and partisan KPU of 1999, was unsuitable for this role, particularly in the short time-frame for election preparation.

Timing of Election Law Review

The new KPU is a non-partisan body working within a reasonable time period for election preparation. As stated earlier, the KPU is required to evaluate the election law and processes, pursuant to *Article 11* of Law No. 3 of 1999 on General Elections. The KPU is in the midst of this review as this report is being written. This KPU review should serve as a basic reference and resource for electoral reform deliberations at the DPR. The DPR should recognize the important role of the KPU in facilitating DPR discussion and action in this area by coordinating its review of election law, procedures and systems with the KPU. The KPU could serve as a valuable means for conducting research and receiving input from civil society. New KPU members must be given sufficient time, however, to familiarize themselves with the strengths and weaknesses of their institution and to examine the legal context for electoral reform.

DPR's review of the three political laws³¹, assisted by the KPU, should be conducted in a comprehensive and systematic manner. The three political laws are inter-related and interdependent, and amendments to any one of the laws affect the others. Thus, review of each law should not be done in isolation or by separate working groups.

However, reviewing the laws comprehensively does not require that all elements of the law be examined simultaneously. Review of the laws' content does not have to proceed in numerical order, from first to last article. Instead, the DPR (in cooperation with the new KPU) should urgently conduct a preliminary review to identify priorities, and establish a timetable for review and deliberation of topics and issues based on their priority. The DPR and KPU may also decide to divide responsibilities for review work. The KPU could first focus on operational and internal management issues: KPU structure, the structure and responsibilities of subordinate implementing committees, and organization and accountability of the Secretariats. The DPR may want the KPU to take the lead on discussing these issues, while the DPR moves forward on larger and more political issues such as electoral systems and political party qualifications.

³¹ Law of the Republic of Indonesia No 2 of 1999 On Political Parties; Law of the Republic of Indonesia No 3 of 1999 On General Elections; and Law of the Republic of Indonesia No 4 of 1999 On The Structure and Composition of the People's Consultative Assembly (MPR), People's Representative Council (DPR) and Regional People's Representative Council (DPRD).

Changes to electoral laws, structures and systems for the next elections should be enacted at the latest by mid-2002, two years before the next general elections are to be held. This time period will be necessary for:

- devising and implementing new regulations;
- training of members of the KPU, election committees and their staff in new procedures;
- socializing changes to the law and electoral processes with the Indonesian public; and
- overall election preparations.

Recommendation 27

This report recommends that DPR, in cooperation with the KPU, examine the political laws as a whole, rather than separately, and set priorities within its deliberation of new political laws, rather than conducting a sequential article by article examination of the draft laws.

Content of Election Law

When recommending changes to the political laws, the KPU will need to distinguish between two aspects. The first is those matters which should be covered in the Law, and therefore cannot be changed readily to meet new circumstances. The second is those matters which can be left to regulations issued by the KPU itself, which permits some flexibility. It is important that the law is sufficiently comprehensive to ensure clarity of intent for all the significant aspects of election administration. KPU regulations would more appropriately be used to flesh out the detail of implementation of this framework, not, as in 1999, to determine the framework.

After the legal framework for the next elections has been determined by amendments to the political laws by the DPR, the KPU can issue regulations providing further details of implementation. These regulations should permit adaptation to changes in the political and legal environment, and allow introduction of new technologies as appropriate. Public - and especially political party and civil society groups – consultation in the development of these regulations will assist perceptions of their legitimacy and fairness.

Recommendation 28

This report recommends the law should be amended to clearly provide detailed regulation of (but not necessarily limited to) the following matters³²:

- *enduring principles concerning the conduct and organization of elections;*
- *details of the voting system to be used (if a proportional representation or ‘mixed’ system is used this would include the method for allocating seats to parties and assigning seats to party candidates);*
- *principles and processes for determination of electoral areas;*
- *framework of election administration, including independence and authority of the KPU, appointment of members of election administration bodies, operational functions, responsibilities and accountability of each election body, and funding for election administration and for conducting elections;*

³² This list assumes that regulation of ongoing operations of political parties, including the requirements for financial disclosure, remains in a separate law on political parties such as that enacted in 1999.

- *authority for appointing, organizing and supervising KPU and lower level election management body secretariats;*
- *rights of those entitled to vote, the process for voter registration and the processes for preparation of voters registers;*
- *criteria for political parties to qualify to contest elections;*
- *political parties' rights in relation to election campaigns;*
- *eligibility of candidates and how candidates are nominated;*
- *regulation of political party and candidate finance and expenditure;*
- *form of the ballot papers for elections to the DPR, DPRD-I and DPRD-II and controls on their production and distribution;*
- *determination and supply of voting stations;*
- *the voting process, including how ballots are issued and votes cast;*
- *vote counting and consolidation, and KPU and election committees' responsibilities for determining, certifying and reporting election results; and*
- *provisions relating to electoral offences, and receiving and adjudicating complaints about the electoral process.*³³

Recommendation 29

*This report recommends that the KPU should consult with political parties, external experts, and the community in drafting its regulations.*³⁴

B. Financial Autonomy & Accountability

Budgetary Planning

The total cost of the 1999 Indonesian elections has been estimated at approximately US\$300m. Close to one-third of this amount was provided by international donors for the programs administered by the United Nations Development Programme, and an indeterminate amount was provided by Indonesian provincial and regency/municipal administrations.³⁵ This total cost equates to an approximate cost per vote of US\$3, which is in the mid-range of election costs by international standards.

Insufficient budget resources was a common complaint among Indonesian election committees administering the 1999 elections. The short time frame within which the elections had to be organized and conducted placed some pressure on the budgetary process and on the coordination of international assistance. Those pressures are not likely to occur again. However, democratic elections are not cheap, and require a careful, timely and well-constructed budget to provide the resources necessary for a free and fair election.

Because elections are currently held in Indonesia every five years, the budgets for electoral administration and the conduct of elections will have a distinctly 'cyclical' character. Increasing

³³ Some issues relating to processing of complaints at the 1999 election are discussed at 'Complaint Adjudication', at page 64 of this report

³⁴ See 'Role of Political Parties', at page 60 of this report

³⁵ United Nations Development Programme (UNDP), *Transition to Democracy. Report on the UNDP Technical Assistance Programme for the 1999 Indonesian General Elections* (December 1999)

appropriations will be required in the year before an election, a very large budget will be necessary for election year itself, and then budget requirements will decrease in the year following the election as post-election processes are completed. Steady budgets will be necessary for the second and third years following an election to maintain the structure and operation of election administration, to begin to build up stocks of election materials, and for public education and training purposes.

The KPU (and government authorities responsible for releasing the funds) must engage in high quality budgetary planning for elections. To ensure that this planning takes place, the KPU's budget proposal for a particular year should be accompanied by financial forecasts through a year past the next election. The budget for conducting an election should be prepared by the KPU Secretariat, reviewed and endorsed by the KPU and approved by the DPR well in advance of the election itself.

Conducting elections in Indonesia is large and complex task, with accurate identification of election funding needs better requiring a budgetary process that includes a 'bottom-up' review, identifying expenses from polling sites up through PPD-II and PPD-I levels to the KPU. Financial planning, reporting, procurement and distribution of resources must also be facilitated by technology; an effective budgetary process will require full computerization of financial and other resource allocation systems at all levels of election administration.

Complaints arose in 1999 about ineffective and slow financial decision-making mechanisms within the KPU and about KPU waste and corruption. These problems should be relieved somewhat by ending the partisan basis for appointment to the KPU. However, administrative improvements are also necessary.

Recommendation 30

This report recommends that the KPU's budgetary processes be improved to include

- *a five year cyclical budgeting process;*
- *approval of election year budgets by the DPR well in advance of the election;*
- *implementation of a budgeting and financial control system categorized by project and program activity;*
- *a more participatory, 'bottom up' approach to budgeting and resource allocation;*
- *better liaison between the bureaus of the KPU, and between the KPU and electoral committees in determining resource requirements; and*
- *imposition of high standards of internal financial control and auditing*

Source of KPU Funding

Currently, the KPU receives an annual financial allocation from the Ministry of Home Affairs and Regional Autonomy for the operational costs of the KPU. Funding for conducting elections comes directly from the Ministry of Finance. This duality creates unnecessary duplication of accounting and reporting. Many electoral management bodies are empowered to receive funding other than from the State budget – from donor organizations, sponsorships, and sale of good and services. Under strict controls, the KPU ought also to be allowed to augment its funding in these manners.

Recommendation 31

This report recommends that the KPU's total allocation from the Indonesian State budget – for all purposes – come directly from the Ministry of Finance following approval by DPR. The KPU ought also to be enabled to augment its State budget allocation by being permitted to receive, under strict accountability criteria, funds from donor organizations for specific electoral purposes, and to raise money through sale of products, publications or services.

Responsibilities for Funding of Elections

Under current law, general elections are held simultaneously for the DPR, the provincial assemblies and the assembly for each regency/municipality. This situation raises the question of whether provincial and regency/municipality governments should contribute, according to a standard basis, towards the costs of holding the elections for their assemblies.

It can be argued that provincial and regency/municipality governments benefit from the conduct of the elections for their assemblies, and it is appropriate that they should contribute to the costs of these elections.³⁶ If it is impractical to estimate and recover marginal costs from provinces and regencies/municipalities, those government levels could be charged a certain amount per vote cast at the previous election for that body. Moreover, if elections for provinces and regencies/municipalities are held at a different time, rather than simultaneously with national elections, some budget sharing would be more feasible between the levels of government for which elections are being run.

Alternatively, there is a strong argument that the central government should be responsible for funding the elections at all levels, as:

- The elections are held under central government law and a central government (albeit independent) organization is responsible for their conduct. Governments at lower levels should not be required to pay for activities over which they have no direct control;
- As long as all elections are held simultaneously, only marginal additional costs are involved in including elections for DPRD-I and DPRD-II with those for DPR, since voting stations would have to be established and staffed and other activities undertaken even if the election was for DPR only;
- Having funding for elections come from a multiplicity of sources could add considerably to the complexities of the KPU's job in planning for and conducting the elections;
- Requiring provinces and regencies/municipalities to contribute to the costs of their own elections might lead to differences in the extent to which different bodies are able to contribute to the costs of the elections, and this could lead to differences in election integrity and in the services available to voters in different areas.

³⁶ In India, for example, the national Election Commission of India runs State elections, but State governments are required to pay for the costs. If State elections are held simultaneously with national elections, the State and national governments pay an equal share of the costs.

At this stage of election administration development central financing of elections appears to be the more prudent course for Indonesia.³⁷ The principal reason is to reinforce the KPU's central role and authority in the conduct of elections and to require lower levels of election administration to plan and conduct the election according to the standards and requirements of the KPU. Thus, the KPU should be in autonomous control of the funding required to conduct the election.

Recommendation 32

This report recommends, at this stage of Indonesia's democratic development, that the central government be responsible for the total cost of conducting elections in Indonesia

Financial Controls

The KPU will be responsible for significant sums of money over the 5-yearly electoral cycle. The KPU must be clearly perceived as accountable for how that money is spent at all levels of election administration. The internal expenditure and financial monitoring processes of the KPU and lower levels of election administration must be in accordance with the best international accounting and auditing practices.

Recommendation 33

*This report recommends that the KPU ensure that its internal financial monitoring processes are improved to be in accordance with international best practice.*³⁸

C. Transparency & Integrity

All levels of Indonesia's electoral administration should adhere to the ethical principles outlined in Section IV of this report. Public and political confidence in the integrity of election administration requires that the personnel who work in electoral management bodies transparently and unequivocally practice their commitment to these principles. The following are key measures that this report recommends should be adopted to promote public confidence in election administration.

Independence & Impartiality

Recommendation 34

This report recommends that the members of all lower levels of election administration should be subject to the same legal requirements to be 'independent and non-partisan' as is the KPU.

³⁷ As noted above, approximately one-third of the costs for the 1999 elections were met by international donors. Because of the importance of early budget planning, the new KPU should begin discussions as soon as practicable with the appropriate authorities of the Indonesian government to ascertain whether any further international assistance will be sought for the elections to be held in 2004.

³⁸ See further discussion under 'External Auditing' at page 54 of this report.

Conduct of KPU & Election Committee Members & Staff

Recommendation 35

This report recommends that, as a basic step in promoting public confidence in the activities of election administration, the new KPU should formally adopt and publish a charter stating its commitment to the key principles of democratic election administration.

Recommendation 36

This report recommends that the KPU should prepare a Code of Conduct or Code of Ethics appropriate to each election management body from the KPU down to the voting station level. Signing this code should be a precondition for being appointed as a member of each body. Signing this code should also be required of secretariat or other personnel employed or contracted by each body, including staff temporarily employed for voting or vote counting locations.³⁹ Procedures should be implemented for swift disciplinary action following any breaches of this code, or violations of election law or regulations.

Open Access to KPU & Election Committee Activities & Information

Public confidence in electoral administration will be advanced by ensuring transparency in KPU and election committee operations. The general public and political parties should have rights of access to these bodies' meetings and ability to obtain information on their work and decisions.

As a general policy, information about the work and decisions of the KPU, PPD-I's and PPD-II's should be readily provided on request to representatives of political parties, the media, NGOs, and members of the public. The KPU, PPD-I's and PPD-II's should adopt media strategies to assist full dissemination of information related to their activities. As part of these strategies, there should be regular briefings scheduled for the Indonesian and international media during election periods.

Electoral advisory groups could be created at national, provincial and local levels containing members of the relevant level election management body, political parties, and NGOs (particularly those involved in the field of democratisation). Such groups would assist in providing both transparency in election administration and input from the community to election administration processes.

Recommendation 37

This report recommends that the KPU should adopt regulations which provide that:

- *all plenary sessions of the KPU and of each PPD-I and PPD-II must be held in public; and*

³⁹ Examples of such codes in other countries vary widely in content, from simple oaths to maintain the secrecy of voting and not undertake political activity (Australia), to highly detailed codes of behavior enshrined in legislation (South Africa). Transitional environments, and those where the election management body does not yet have the confidence of the public, generally require more detailed codes of behavior for election commissions and their staff.

- *no plenary session of the KPU or of a PPD-I or PPD-II can be held unless at least 24 hours' public notice of that plenary session has been given by way of advertisements published in a local newspaper or other suitable public announcement.*
- *consideration be given to the creation of electoral advisory groups or liaison committees, including members of the election management body at the relevant level, political parties and civil society organizations*

Recommendation 38

This report recommends that the KPU actively and continually publicise its activities in relevant mass media.

Reporting and Accountability

There is a need to implement a regular public reporting system for the KPU and lower level election management bodies, to facilitate accountability. KPU and PPD-I (and PPD-II when formed) should each prepare detailed annual reports on election administration within their relevant areas and submit this report to both higher level election management bodies and appropriate elected representative bodies (national (DPR), provincial (DPRD-I) and regency/municipal (DPRD-II)). A structured system would see reporting in this manner from:

- the KPU to the DPR, on its work and that of its subsidiary election committees, according to a schedule set by DPR;
- each PPD-I to the KPU and the relevant DPRD-I, reporting on its work and that of its PPD-II's
- each PPD-II to the relevant PPD-I and DPRD-I.

Reporting schedules should be determined by KPU in consultation with the relevant representative bodies. In addition to these annual reports, special reports should be provided after an election, and on specific electoral related issues, as requested. Thorough public examination by the DPR and DPRD's of these reports is an integral part of assessing and improving the performance of the KPU and provincial and regency/municipal election committees.

Recommendation 39

A comprehensive annual and special event reporting system be implemented by the KPU and subsidiary level election management bodies, with reports provided according to a timetable developed in consultation with the relevant representative institutions.

External Auditing

Independent, external auditing of KPU, PPD-I and PPD-II activities on a routine basis – from both financial and performance perspectives – is essential to good management. Financial and performance audits of the KPU, PPD-I's and PPD-II's should be conducted annually and after each election, and audit results reported to relevant representative bodies. Independent, external auditing:

- promotes adherence to standards of financial probity and operational integrity;
- assists the KPU and election committees to identify methods of improving their performance; and
- alerts the Indonesian public to any deficiencies in election administration.

Recommendation 40

This report recommends that the KPU must be subject to annual independent external audit, preferably by an independent major international accountancy firm; results of the audit should be reported to the DPR and disclosed to the public

International Linkages

The KPU should maintain close relationships with election management bodies in other countries and with organizations involved in democracy development. Links with foreign election administration bodies and international organizations will promote the flow of new ideas and methods to the KPU and promote openness about election administration. Such contact could include occasional visits to and consultations with election management bodies in other countries, exchanges of information about electoral law and electoral procedures, and exchanges of staff. Indonesia, through the KPU, should apply for membership in international democracy development bodies such as the International Institute for Democracy and Election Assistance (International IDEA) and the regional election management body, the Association of Asian Election Authorities (AAEA).

Recommendation 41

This report recommends that the KPU actively pursue links with other electoral management and advisory organizations, especially regional associations such as the Association of Asian Electoral Authorities (AAEA).

D. Internal Management Improvement

Management of democratic elections in a country as large as Indonesia is a difficult and complex task. Many resources and skills must be brought together in electoral administration so that all voters, wherever they vote, are confident that each vote will be counted consistently, accurately and in accordance with the law. The KPU and the other levels of election administration have only one chance to get it right: on election day.

The KPU is the body ultimately responsible for the integrity of the electoral process. It must take all the steps necessary to ensure that its preparations for ‘getting it right’ are in accordance with the law and with best electoral practice in democratic countries. This report makes three proposals to achieve those goals.

First, a specific Monitoring and Evaluation bureau of the KPU should be established with internal management responsibility for quality control. This bureau should have responsibility for ensuring that the internal procedures and operations of the KPU and subordinate election committees:

- are in accordance with law, regulations, and the code of conduct;

- comply with accepted administration standards for transparency, integrity, and financial, asset and human resource management;
- achieve appropriate standards of operational efficiency and effectiveness; and
- provide effective service to voters.

Since the work of this bureau is so important, it should be subject to the continuous oversight of a committee of the most senior executive and administrative officers of the KPU – including the Chair, Deputy Chairs, and the Secretary General.⁴⁰

Second, the KPU should establish a regular, external ‘quality assurance monitoring’ program. This program should be conducted by independent experts on particular aspects of KPU work (including election experts from similar bodies in other countries).

The KPU should develop a plan for the external ‘quality assurance monitoring’ program. All the major aspects of the KPU’s work should be covered at least once within each 5-yearly electoral cycle; particular attention should be given to systems and procedures relating to the conduct of elections. Reports from external quality assurance monitors should go to the KPU, accompanied by a report from the Secretary-General on action to be taken in response to the report. DPR should also be provided with these reports and responses from KPU management.

Third, the KPU should encourage contacts between its staff and overseas election administration bodies. It should facilitate exchanges of information and personnel with those bodies, in the expectation that such reciprocal exchanges will benefit all participants.

Recommendation 42

This report recommends that the KPU take further concrete steps to improve internal management by

- *including within the KPU Secretariat a bureau whose specific responsibilities include quality assurance and control;*
- *developing a program of quality monitoring by external experts; and*
- *encouraging contact between KPU staff and other election management, advisory and monitoring bodies in other countries.*

E. Recruitment and Training

Public confidence in the quality and integrity of service provided by the KPU, election committees and their secretariats requires attention to human resources. Recruitment and training policies and practices should be reformed to ensure that election administration is undertaken by a professional election service. Issues relating to appointment of members of the KPU and election committees have already been addressed in earlier sections of this report.⁴¹

⁴⁰ For further discussion of this issue see page 33 of this report

⁴¹ See pages 17, and 42-45 of this report

Recruitment of Secretariat Staff

Recruitment policies for Secretariat staff should be targeted at building an independent, professional body of election administrators. Secretariat staff should be qualified in a professional discipline related to election management. They must be willing to uphold an ethical code of conduct and be capable of withstanding the pressures of the election period. They must not be active in politics.

Recruitment from outside the mainstream of the civil service should be strongly considered to allow the entry of professionals with high level skills and extensive experience in fields vital to effective election management; for example: computer systems management, media relations, materials design, auditing, staff training, and strategic planning. The work of Secretariat staff retained from previous elections will be stimulated and improved by a significant inflow of qualified recruits at more senior levels from outside the current election management circle. Election management is a relatively narrow field of activity, and requires regular infusions of new thinking and approaches.

In addition to an open recruitment policy, a policy of recruitment and promotion based solely on merit will increase public confidence in the integrity of election management.⁴²

Recommendation 43

This report recommends that recruitment for the KPU secretariat be targeted to develop a professional electoral service, be on merit alone, and not be limited to regular civil service channels.

Training and Professional Development

The importance of the training and professional development function is recognized in the revised bureau structure proposed for the KPU earlier in this report. That structure would include a separate bureau that is responsible for development and implementation of training and professional development programs for all levels of election administration in Indonesia.

Both election committee members and Secretariat personnel – from KPU down to KPPS – must receive adequate and timely training to assist them to carry out their duties. For staff at the national and provincial level especially, this training must cover principles of democracy and election management, as well as operational or technical matters related to each person's role in the election management structure. For members and staff of permanent election bodies at KPU and (as recommended by this report) PPD-I levels, training should also encompass professional development in fields related to their election management duties. The election administration bodies in Indonesia should be fulfilling places to work and to grow professionally.

The following principles, in accordance with good international practice, should be applied to all training conducted for members of KPU and subordinate election committees, and their secretariats:

⁴² A good example of recruitment to develop a professional election management body is the Instituto Federal Electoral of Mexico (IFE). IFE Secretariat staff form a special Professional Electoral Service. Entry to this service is on merit, either by successfully completing an electoral training course, winning a selection competition, or passing a written exam. Appointment is not made permanent until the staff member has completed one federal election and has passed the annual performance review.

- Time spent by election officials in training should be compensated;
- Various training techniques and styles – face to face, written and audiovisual materials, interactive, on the job, home study – should be used, as appropriate for the particular training applications;
- Training materials and presentations must be professionally developed and tested before implementation;
- Instructors and presenters used for training must be knowledgeable about their subject material;
- Training implementation must be monitored;
- Standards for evaluating training success must be developed; and
- Competence of trainees should be assessed, with continuing employment or appointment depending on attainment of a satisfactory standard

Training of election committees and secretariats who are not permanently employed in election activities requires a carefully planned, comprehensive approach. The numbers to be trained within a limited time span are immense, as is their geographic spread. Training is particularly important for lower level secretariat and election committee staff, for members of the PPS regarding voter registration, and for the members of the KPPS regarding voting processes and the counting of the votes. The steps of election preparation, the voter registration process, voting, and vote counting and tabulating tasks must be carried out according to the law and procedures, and in a non-partisan manner. Untrained staff place the integrity of the entire election process at risk.

Pre-election training throughout the structure of election administration bodies must be conducted in a timely and organized manner. Training timetables should be planned so that training at the last level of election administration – KPPS - is completed 2 to 3 weeks before election day. Planning should also allow for training of late replacements of members of election management bodies at every level.

Last year, IFES issued a report of its research on the training of KPPS members for the 1999 election.⁴³ Recommendations regarding training for KPPS members are repeated at **Recommendation 46** below. These points should be carefully considered in the KPU's development of future training programs for KPPS members.

Recommendation 44

This report recommends that comprehensive professional development and operational training programs be instituted for all permanent and temporary members of election commissions, committees and their secretariats at national, provincial and local government levels.

⁴³ International Foundation for Election Systems, *Republic of Indonesia: Evaluation of Pollworker Training*, (Washington DC, January 2000)

Recommendation 45

This report recommends that professional development and training programs for election commissions and committee members and their Secretariats' staff be developed in accordance with the highest professional standards.

Recommendation 46

This report recommends that

- *a uniform training program is established for all KPPS members well in advance of the next election;*
- *the training program should include the components which the KPPS members found most useful: a video, election day simulation, and a written manual;*
- *both a training video and manual should be produced for the next election, building upon the materials IFES has already prepared. The distribution of both the video and manual must be guaranteed by the government in ample time to be studied by all staff prior to the election;*
- *the training program is organized to be in place at least six (6) weeks before the election; instructors trained at least eight (8) weeks before the election; and sufficient training sites be used to allow for class sizes of 200 or less KPPS members.⁴⁴*

Training for External Organizations

Training is important not only for members and Secretariats of the election administration bodies. The tasks of the KPU, election committees and their secretariats are made considerably easier if their 'outside' partners in the electoral process are fully informed. These partners include political parties and candidates, election observers, news media, civil society organizations, and members of security forces involved in election security. Information should be provided to them about provisions of the electoral framework, activities of the KPU and election committees, and their respective roles, rights and responsibilities in the election process.

The KPU should particularly ensure that special training opportunities are provided to candidates, party agents and deputy agents, party representatives who observe the work of a KPPS, and party representatives who observe the vote consolidations.

It is important that the mass media throughout Indonesia are well informed by electoral management bodies about the electoral process and about the preparations for and conduct of a general election. Incorrect information published in the media can destroy the effect of voter education and information programs. Conversely, reinforcement in media news and commentary of voter education messages can greatly increase their effectiveness. Appropriate information should also be made available to the international media as the date of an election draws near.

Recommendation 47

This report recommends that the KPU, and relevant election committees, should provide regular briefing sessions and information materials to all election participants, including political parties

⁴⁴ International Foundation for Election Systems, *Republic of Indonesia: Evaluation of Pollworker Training*, pages 20, 21 (Washington DC, January 2000)

and candidates, the media, election observers, relevant members of security forces, civil society organizations, in addition to general voter education programs.

F. Role of Political Parties

Competitive political parties are key participants in modern democratic electoral processes. Political parties, as well as voters, must have confidence in the independence and impartiality of election administration. Any lack of confidence in election administration can lead to attempts by parties to by-pass or even subvert the electoral process.

One way of promoting parties' confidence in electoral administration is to involve them directly in conducting elections – through multi-partisan election commissions and committees. Ideally, parties' scrutiny of election officials and of each other prevents any party from gaining an unfair advantage in the electoral process and encourages a fair and honest election. That multi-partisan approach was tried unsuccessfully for election administration in Indonesia for the 1999 elections.

Law No. 3 of 1999 on General Elections has been amended to provide that the KPU no longer includes representatives of political parties. This report recommends that similar reforms be enacted for subordinate election committees (and the elimination of the PPI) . If this approach is followed, the law needs also to introduce mechanisms at each level to permit scrutiny of election management by political parties. Parties should have confidence that election administration in Indonesia is truly independent and non-partisan and effective.

Such mechanisms would not give political parties direct responsibility for decisions relating to election administration, but would recognize the special role of parties in democratic elections. Representatives of parties entitled to contest an election would have special rights of access to meetings of, and information about, election management bodies' preparations for the election. It would be useful to consider the South African example of multi party liaison committees at village, local, provincial and national levels – chaired by a member of the election administration at the relevant level, and serving as not only a forum to discuss and inform about election administration activities but to provide a mediated environment in which to address inter party grievances. Electoral law could also provide that parties should be formally consulted on some issues, or in some circumstances, before decisions are made by election commissions and committees – though decisions made are the independent election commission's alone.

In addition to rights, political parties also have responsibilities regarding their participation in the electoral process. The KPU should promote political parties' acceptance of a code of conduct for political parties, such as the code published by the International Institute for Democracy and Election Assistance (International IDEA) (included as Appendix 7). Formal acceptance of such a code of conduct should be a condition of eligibility for a political party to contest an election.

This report recommends that the following approaches be taken to including political parties in the electoral management process in Indonesia.

KPU, PPD-I & PPD-II Levels

This report previously recommended that plenary meetings of the KPU, PPD-I and PPD-II must be held in public. Each party eligible to contest the next election at the DPR, DPRD-I or DPRD-II level should be entitled to accredit two persons to the election management body at that level (i.e. KPU, PPD-I or PPD-II respectively) to act as the party's agent and deputy agent. The KPU should be responsible for issuing regulations governing appointment/replacement of party agents and deputies and their rights of access to election administration information.

Parties, party agents and deputy agents should be given the following rights in relation to the activities of the KPU, PPD-I or PPD-II to which they are accredited:

- right of attendance: at each plenary meeting of the relevant election management body
- right of notice: the secretariat of the relevant election management body (KPU, PPD-I or PPD-II) must send (to the address of record for correspondence of each party agent and deputy agent accredited to it) a written notice of the date, time, place and agenda of all plenary sessions of the election management body; this notice must be sufficiently timely so that party agents and deputy agents can reasonably be expected to receive that notice at least 24 hours before the meeting is to take place;
- right to documents: each party agent and deputy agent is entitled to receive a copy of the formal written record of all plenary sessions of the election management body to which they are accredited; and
- right of response: the KPU must send the final written draft of all regulations to all party agents and deputy agents accredited to it, must then allow a minimum of 10 working days (depending on time before election day) for parties to provide written comments on the draft, and must consider parties' comments before it reviews and adopts the regulation.

PPS, PPK & KPPS Levels

In the absence of political party participation in these election committees, the right of political parties to be fully informed about the committees' activities must be assured. Political parties should be entitled to appoint observers who can be present, take notes, and obtain copies of materials (other than ballots) during the entire process of voting, vote counting and consolidation of votes.

The rights that political parties should be given in relation to PPS, PPK and KPPS activities should include (but are not limited to) the following; every political party qualified to contest the election is entitled to:

- receive information from the PPK about the establishment and membership of each PPS;
- receive advance notice of the timetable for compiling the Register of Voters by each PPS, and is entitled to receive copies of the Temporary, Permanent and Additional Registers of Voters;
- appoint an observer to each KPPS to monitor preparation, voting and counting of votes
- appoint observers at each level of vote consolidation (as presently provided in *Article 23(7&8)* and *Articles 56 & 58-62*)

The KPU should issue regulations to control the appointment and conduct of political party agents and observers.

Recommendation 48

This report recommends that the electoral law provide political parties with specific rights of access to information and activities of electoral management bodies, in line with the framework suggested in this report. Political parties would also be subject to legally defined responsibilities in a Code of Conduct as part of these rights of access.

G. Voter Registration

According to official estimates, 90.3% of the Indonesian population that were eligible to vote in 1999 registered as voters. That is a commendable result when compared with levels of registration reported for other countries.⁴⁵

Based on this data, voter registration in Indonesia in 1999 appears to have been successful, especially considering the difficult circumstances of the short election preparation period. However, the start of voter registration was delayed by the KPU repeatedly and was conducted in a hasty and last-minute manner. The KPU issued new decrees regarding voter eligibility up to the day before the election. In future elections, the process of voter registration – enacting procedures, making preparations, implementation, and periods for scrutiny and correction – must begin far earlier.

Some complaints were raised about the administration and accuracy of the voter registration process in 1999, including:

- lack of understanding by the public of the registration process;
- inaccuracies in voters lists;
- voting day registration (not sanctioned by the law on elections) being allowed;
- inadequate controls on multiple registration;
- high costs of voter registration; and
- lack of timely, accurate figures for registered voters, thus hampering accurate budgeting, assessment of voting station needs, and allocation of election supplies

Current voter registration policies, systems and procedures need to be reviewed well before the next election in 2004. Multiple registrations could be controlled by using a registration booklet

⁴⁵ Some comparative figures for other countries in the region from the *Voter Turnout Website*, maintained by International IDEA (at http://www.idea.int/Voter_turnout/) are:

Country	Election Date	Election Type	% of Estimated Voting Age Population Registered
New Zealand	1999	Parliamentary	91.1
Indonesia	1999	Parliamentary	90.3
Malaysia	1995	Parliamentary	88.6
Australia	1998	Parliamentary	86.3
Philippines	1998	Presidential	86.3

containing the application for registration, the registration card, and an identical consecutively numbered stub. Consideration should also be given to an improved national ID card system that would assist accurate and cost effective registration of voters. If simultaneous elections continue to be held at 5-yearly intervals for national, provincial and regency/municipality assemblies, the benefits of fully computerizing the register of voters need to be carefully weighed against the likely costs involved. Any review should recognize that radical changes to voter registration systems (in particular the introduction of a computerized register) is likely to take at the very least 2-3 years to develop and implement.

Recommendation 49

This report recommends that a complete review of voter registration procedures be completed at least 2 years before the date of the 2004 election. Issues such as improved registration documentation and the practicality of computerizing voter registration records should be included in this review.

H. Vote Counting & Consolidation

Following Indonesia's 7 June 1999 elections, counting and consolidation of votes proceeded very slowly through the multi-level hierarchy of election committees. Delay and stalemate in consolidating and certifying the election results threatened to jeopardize the credibility of the elections. Four main problems were reported:

- Forms used to record and consolidate the votes were complicated which led to errors in recording and transcribing the figures, particularly among fatigued poll workers;
- Inadequate time and resources were devoted to training of all poll workers in the procedures for counting, recording and consolidating the votes;
- Election committee members at intermediate levels (PPS, PPK, and PPD-II) were reportedly not paid in some locations; and
- Representatives of losing political parties on election committees and the KPU refused to validate the results at their level.

Most of these problems can be addressed relatively easily. For example:

- The KPU should ensure that all forms used in the electoral process are designed to be clearly understood by those using the forms;
- All forms must be pre-tested with representative groups of users before being finalized;
- There must be clear systems in place for cross-checking and balancing vote totals at each stage; and
- Poll workers must have sufficient breaks during election day that they do not become so fatigued as to affect the accuracy of their work.

The short timetable for preparation for elections in 1999, and the belated commitment of the KPU, were the primary causes of difficulties in training of poll workers. This report has recommended that training of poll workers should be completed around 2 to 3 weeks before election day (with additional provision for training of late replacements). Sufficient training, combined with properly designed and tested forms, should reduce the difficulties that were experienced in 1999.

The official system planned for the 1999 elections envisioned that vote counts would be manually consolidated at the PPS and PPK levels and entered into the Haj computer system of the national banks at the PPD-II levels. In Java and Bali, the PPK level was omitted and consolidated results were to be sent from the PPS to the PPD-II level for entry into the computer system.⁴⁶ However, due to difficulties in implementing this system, vote count figures were not received from all centers, and the system was abandoned around one month after voting day. Paper records were used for the consolidation of votes into national and provincial totals. Records of voting at KPPS level at the 1999 election have never been nationally available.

Carefully controlled vote consolidation by computer can reduce the chance of human error. While entry of votes into a computer system at KPPS level may be ideal, the equipment, training, security and integrity issues make this impractical for Indonesia. Using paper hand delivered, telephoned or faxed records at lower levels, and consolidating these at local government area or at provincial level by computer is a system still used in many developed countries, and may be more appropriate also for Indonesia. Voting results should be entered into a computer system at the lowest practical levels: given uneven levels of development this could conceivably be different, say, between rural and urban areas, or between more developed and less developed provinces. In whatever form computerized vote tallying is introduced, the process must be comprehensively tested, transparent, monitored and fully documented. Party representatives must be given copies of the data input and consolidated vote totals at each level of the process.

Recommendation 50

This report recommends that the KPU undertake an assessment of the cost and technical requirements for a computerized vote tabulation system, taking particular note of the appropriate practical and sustainable administrative level at which to enter results into a computer system. This study could evaluate better application of computer technology for vote consolidation in the 2004 elections and anticipate more extensive use in elections thereafter.

I. Complaint Adjudication

The ‘complaint adjudication’ process refers to the institutions and procedures for resolving complaints, grievances and demands during the election period. This process encompasses complaints about actions of election committees, disputes between election participants and allegations of violations of election laws and regulations. To ensure legitimacy of democratic elections, the election law must empower institutions and establish procedures to openly, fairly and effectively examine and resolve such matters.

The election law must anticipate that persons – voters, organizations, candidates, political parties – will object to the conduct of other persons or groups, or to the decisions of election authorities (for example, denial of voter registration or denial of candidate certification by a local election commission). Some of these complaints may involve disputes between election participants themselves (for example, an argument between political parties about scheduling a meeting hall). Often, complaints allege violations of election laws and regulations. It should be noted, however,

⁴⁶ United Nations Development Programme (UNDP), *Transition to Democracy. Report on the UNDP Technical Assistance Programme for the 1999 Indonesian General Elections* (December 1999), pages 34-35.

that not all violations of the law are considered ‘criminal’ in nature; election laws often provide for administrative penalties or monetary fines for less serious offenses.

Law No. 3 of 1999 on General Elections acknowledges these needs, but only superficially seeks to fulfill them. *Articles 24, 25 and 26* of that Law established customary Election Supervisory Commissions (known as *Panwas*) at the national, provincial, district and sub-district levels. Commissions at the national, provincial and district levels were composed of judges, academics and members of the public. Commissions at the sub-district levels were composed of academics and members of the public. Commissions at each level were intended to receive complaints about the electoral process, to serve as mediators in election disputes, and to report to the police or prosecuting authorities in cases where offences may have been committed against the law.

The Faculty of Law of the University of Indonesia and IFES jointly sponsored a conference in September 1999 on the role of the Election Supervisory Commissions.⁴⁷ The conference participants generally agreed that the *Panwas* bodies were ineffective as quasi-judicial bodies in 1999. Significant reasons for this failure are:

- the manner in which the Commissions were to operate was not properly defined. Their role and authority was unclear, particularly in relation to which electoral management bodies were subject to their authority, and there was no detailed legal framework relating to their operations and their handling of complaints;
- although the Commissions had wide powers, these were not well understood by participants in the electoral process, and these powers were never used because of fear of adverse reactions and an inability to enforce their decisions;
- lines of authority were not clearly defined between the different levels of Commission, and between the Commissions, election administration bodies, the courts, and police;
- administrative difficulties included inadequate funding, a lack of budget autonomy, and insufficient time to train members;
- the police had complete discretion on whether and how to investigate any referrals from the Commissions about alleged violations of election law; and
- the appointment of judges to the Commissions at the national, provincial and district levels compromised the role of the courts in hearing and deciding on cases of alleged violations of election law.

Thus, it is clear from the experience of 1999 that the law did not provide *Panwas* with clear authority, specific procedures or adequate resources to perform complaint adjudication functions effectively. *Panwas* performed largely mediating and advisory functions in 1999 that helped but did not fully resolve complaints and disputes.

As mentioned earlier in this report, the complaint adjudication process under election laws of other democracies often direct complaints and disputes arising from elections to election committees first, with recourse for appeals to higher level committees or courts.⁴⁸ Allegations of violations of the law are often first reviewed by appropriate election committees (depending on the nature and location of

⁴⁷ See: University of Indonesia Faculty of Law and International Foundation for Election Systems, *Republic of Indonesia. Experience Gained from June 1999 Elections: Resolving Complaints and Disputes in the Election Process* (September 1999), pages 12-15.

⁴⁸ This report generally recommends that complaints should be first filed, and disputes first referred, to PPD-II committees. Administrative appeals may then be taken to PPD-I and then KPU; serious matters should have recourse to courts.

the alleged conduct) and then referred to prosecutors and police. Some systems provide for a temporary or permanent election court to be established, or an existing court to be given special responsibility for election complaints and disputes. Thus, in DPR revision of election laws, many models are available for consideration as institutions to lead the complaint adjudication process.

After the institutions are in place, the election laws must provide clear, speedy and transparent procedures for complaints to be filed, investigated and resolved and for disputes to be referred. Rules must be clearly established for where, when, how and in what form complaints or demands must be filed (including standards for sufficiency of evidence). The law must empower existing bodies (such as courts and election commissions) or new institutions (such as an electoral court) to quickly and properly handle these complaints and demands. The law must also set forth standards for sorting serious from less serious cases, so that serious matters receive greater attention by the relevant state bodies. Special procedures must be ready for complaints that arise near to or on election day; the system must also provide for challenges of election results.

Effective mechanisms for resolving complaints and disputes arising from elections are crucial for democratic integrity, accountability and transparency. Election officials, political party leaders or candidates who have breached election law or regulations must be held accountable. It is also important to the integrity of the election process that parties and candidates can challenge the validity of election results.

A detailed study of the ways of improving the processes of resolving complaints about the electoral process is beyond the scope of this report. IFES recognizes that an appropriate and effective complaints and dispute resolution process is crucial to the integrity of the electoral process in Indonesia, and should rank high on the list of priorities of the DPR. IFES will continue to provide technical assistance on this important issue.

J. Impact of Potential Change

Article 11 of Law No. 3 of 1999 on General Elections mandates the KPU to review the law and recommend revisions. It is important that this review is not carried out in a hasty manner and that the KPU conducts a careful examination of electoral law and administrative structures and procedures relating to elections. The KPU's review will take place in a context of continuing debates about a number of aspects of the electoral system, including:

- whether there should be fully or partially direct election of the President and the Vice-President, and direct or indirect elections for provincial governors and mayors of regencies/municipalities;
- how the recently constitutionally sanctioned second chamber (DPD) of the national parliament should be elected;
- whether there should be a change to a different voting system which promotes more direct links between elected representatives and geographical constituencies;
- whether elections for the DPR, Provincial People's Representative Councils (DPRD-I) and the Regency/Municipality People's Representative Councils (DPRD-II) should continue to be held simultaneously, or whether the electoral timetable should be staggered so that different bodies are elected in different years;
- whether increased regional autonomy will result in provincial and regency/municipal governments seeking more direct control of their electoral processes in the future.

These potential changes in election systems and processes could significantly affect the ways elections will be organized and conducted in Indonesia. These decisions could have important implications for the work of the KPU. For example:

- direct elections for president, governors, mayors, and a second national legislative chamber will impose additional costs, and a greater administrative, training and educational load;
- if a voting system based on districts/constituencies is adopted, the KPU should form the core of an expert and independent body responsible for determining electoral district boundaries;
- if a national electoral system based on constituencies is implemented, there will need to be a unique electoral administration body for each of these constituencies. This will have a very significant impact on the structure, and division of responsibilities, of election management in Indonesia
- the structure and operations of election administration would need to be revised if elections were held more frequently than every 5 years as at present; and
- the decentralization of some aspects of electoral administration would have implications for the KPU.

This report does not attempt to anticipate the results of those debates or the final decisions about electoral administration that will be taken after the debates are concluded. Instead the report offers recommendations intended to establish a sound structure of electoral administration in Indonesia which will only need minor adaptation if significant changes to Indonesia's electoral processes are enacted.

The KPU's review and DPR's amendment of electoral law must be careful and considered. Any major changes to election systems that are intended to be implemented at the 2004 elections should be finalized as far in advance of the elections as possible, and certainly no later than mid-2002. This is necessary in order to give election officials, political parties, and the voting public, sufficient time and certainty to prepare adequately for the 2004 elections.

This report has recommended (at page 27) that one of the functions of the KPU should be to keep electoral law and practice under continuous review. The KPU should act as the principal adviser to the appropriate DPR commission on all matters associated with Indonesia's electoral processes. This role should continue after the 2004 elections, when further debates on electoral law could then be held and any consequent major changes made at least 2 years before the 2009 elections.

K Regional Autonomy

Under new regional autonomy laws, special autonomous regions are entitled to hold regional elections. Those elections should conform to expectations of the autonomy laws. However, national election standards must be determined and followed in national elections. At this stage of Indonesia's democratic development, it would not seem prudent for all provinces and regencies/municipalities to be granted independent authority to conduct elections held nationwide, nor to establish separate electoral systems or separate systems for election administration.

National elections are not generally conducted by autonomous provincial and local organizations (the United States and the United Kingdom are notable exceptions – with the difficulties raised by this lack of central accountability shown clearly at the 2000 Presidential election in the USA). Decentralization raises the possibility of both duplication of administrative structures and

divergence of administrative systems, procedures, and standards. Such diversity can easily lead to inefficiencies in administration and confusion for parties and the voters.

With more experience in Indonesia's election administration of nationwide democratic elections in a consistent and equitable manner, it may be possible to grant some policy functions to provinces or even regencies/municipalities. With a 5 year election cycle, gaining this experience will take time. Thus, centralization of authority and accountability in the KPU should be maintained for the foreseeable future against any pressure to decentralize control of election administration. This is a very different issue from that of decentralizing implementation of the KPU's policies. In any country, let alone one the size of Indonesia, provincial and local election management bodies need to be able to implement the national electoral policies without having constantly to wait for a decision from the central body, or refer their decisions to the center for approval. But there needs to be a mechanism to ensure their accountability to the KPU in implementing its policies.

If consideration is given to some 'devolution' of election management authority in the future, it should be limited to the PPD-I level for elements of local elections appropriate to local control.

Recommendation 51

This report recommends that for the foreseeable future Indonesian electoral management in provinces and local areas be conducted according to consistent national policies set by the KPU, and that election management bodies at provincial and local levels remain directly accountable to the KPU for their actions in implementing its policies.

IX. CONCLUSION

Indonesia is now at the halfway point between general elections. Review and analysis of the experience from June 1999 elections should be concluded as soon as possible. Examination of the problems of election administration in past elections should lead to concrete solutions for the future. Preparation for 2004 elections should begin now.

This report is intended to assist this process of learning from experience and preparing for the future. Progress will require identifying priorities, separating important issues into manageable components, assigning responsibilities and planning a logical sequence for making decisions. The KPU and DPR should be partners in the process of reforming laws and administrative practices in preparation for the next elections. It is hoped this report has usefully outlined the problems, issues, considerations and potential solutions for improving Indonesia's election administration system, and that Indonesian policy-makers will find this study valuable.

X. SUMMARY OF RECOMMENDATIONS

Recommendation 1 (page 25)

This reports recommends that the first priority of the newly appointed KPU should be to review and revise its own structure and operations to improve organizational performance. The KPU should develop a strategic plan to properly define the objectives of reorganization.

Recommendation 2 (page 25)

This report recommends that the legal and policy framework for election management make it absolutely clear that the KPU has complete responsibility for the conduct of elections of members of DPR, DPRD-I and DPRD-II, including the regulation of political parties and their finances, and that subordinate election committees and other state bodies come under the authority of the KPU in relation to electoral matters.

Recommendation 3 (page 26)

This report recommends that Law No. 3 of 1999 on General Elections should to amended to abolish the PPI (the subordinate election committee structure should be reformed at the same time). The functions of PPI should be carried out by an Operations division of the KPU. In future elections, policy making and election implementation functions should be housed at the same physical location.

Recommendation 4 (page 27)

This report recommends that the KPU's roles and responsibilities be in line with international best practice, and be clearly and comprehensively defined in law.

Recommendation 5 (page 29)

This report recommends that the KPU be credibly and publicly accountable for its actions, through promoting public access to its operations, developing meaningful, publicly available performance standards, and reporting regularly and publicly on achievements against these and other operational issues, to an appropriately designated body within the DPR.

Recommendation 6 (page 29)

This report recommends that salaries for KPU members be defined in law and tied to the remuneration of members of comparable high institutions of the State.

Recommendation 7 (page 30)

This report recommends that the KPU be fully and solely responsible for the appointment, structure, budget, administration, operations and reporting of the KPU Secretariat

Recommendation 8 (page 31)

This report recommends that the Secretary-General of the KPU should be appointed under a fixed term, renewable contract by the KPU, and should be accountable solely to the KPU on all matters.

Recommendation 9 (page 31)

This report recommends that the Secretary-General should be responsible solely to the KPU for implementation of KPU policy. The Secretary-General should regularly report to the KPU on operational and financial matters. The KPU should formally decide policy, and document all instructions or other delegating of authority it makes to the Secretary-General.

Recommendation 10 (page 32)

This report recommends that the law should provide for a separate professional corps of administrators for the KPU. The remuneration and conditions of service of the permanent and contract staff of the KPU should be at least equivalent to those at comparable levels of the civil service. Consideration should be given to employing all KPU secretariat staff on a fixed term contract basis during the transition period within which a professional electoral administration corps is created.

Recommendation 11 (page 34)

This report recommends that the Secretariat of the KPU be restructured in line with a modern, external service oriented focus of electoral management, giving consideration to the proposals contained at Appendix 5 to this report.

Recommendation 12 (page 34)

This report recommends that subcommittees of three members of the KPU be formed to supervise the work of each bureau of the KPU Secretariat

Recommendation 13 (page 35)

This report recommends that the organizational framework of the KPU allows KPU members to engage, from outside the members fore the KPU Secretariat, contractors or fixed term staff as, expert advisers on specific electoral issues.

Recommendation 14 (page 35)

This report recommends that the new KPU concentrate on four major tasks (which may overlap) in completing its review of the election process and implementing bodies: a review of internal organization and procedures; reviewing the structure and operations of lower level election management bodies; review the legal framework for the technical aspects of election administration; and develop a strategic plan and associated budgets for a five year forward period.

Recommendation 15 (page 37)

This report recommends that mid-2002 be agreed as the deadline for adopting major changes to the legal, technical, structural and administrative frameworks for the 2004 elections.

Recommendation 16 (page 39)

This report recommends that the election law should be amended to end the direct role of political parties within subordinate implementing election committees, and that election commission and committee Secretariats at all levels should be reformed to fill a more appropriate function as administrative support units directly accountable to the KPU or election committee it serves.

Recommendation 17 (page 41)

This report recommends that KPU regulations should establish clear lines and reliable procedures for communications down through the hierarchy of election committees, with particular emphasis on the role of the PPD-II level as a communication facilitator.

Recommendation 18 (page 41)

This report recommends that a more direct method of distribution of the bulk of election materials direct from province to PPK (kecamatan) level, with increased distribution responsibilities on PPKs, be considered.

Recommendation 19 (page 41)

This report recommends that the number of steps in the ‘cascade’ of election official training be reduced, with the KPU training to PPD-II level, and PPD-IIs being responsible for training of lower level committees.

Recommendation 20 (page 41)

This report recommends elimination of some steps in the vote consolidation process, with consolidation of reports, ballots and other materials related to DPRD-II would be sent directly from the PPS level to the PPD-II for the DPRD-II and directly to PPD-I for DPRD-I and DPR-RI.

Recommendation 21 (page 41)

This report generally recommends that complaints should be first filed, and disputes first referred, to PPD-II committees. Administrative appeals may then be taken to PPD-I and then KPU; serious matters should have recourse to courts. Allegations of violations of the law should also be first reviewed by appropriate election committees (depending on the nature and location of the alleged conduct) and then referred to prosecutors and police

Recommendation 22 (page 45)

This report recommends that appointments to lower level election committees be made according to a set of criteria that would ensure independent, objective committees accountable to the KPU, as described in the ‘Organizational Requirements and Characteristics’ section of this report.

Recommendation 23 (page 46)

This report recommends that an independent, professional staff be recruited for the Secretariats of each PPD-I, under similar conditions as for the KPU Secretariat.

Recommendation 24 (page 46)

This report recommends that officers temporarily assigned to the secretariats of PPD-IIs, and their supervisors in their normal employment positions, be thoroughly trained in their roles in relation to independent and non-partisan election administration.

Recommendation 25 (page 46)

This report recommends that any local production of election materials be subject to strict quality controls and in accordance with national standards promulgated by the KPU.

Recommendation 26 (page 47)

This report recommends that security of ballot materials, and accounting integrity measures for ballot materials, are strictly enforced at every level of the election management structure – from each KPPS through to the KPU.

Recommendation 27 (page 48)

This report recommends that DPR, in cooperation with the KPU, examine the political laws as a whole, rather than separately, and set priorities within its deliberation of new political laws, rather than conducting a sequential article by article examination of the draft laws.

Recommendation 28 (page 48)

This report recommends the law should be amended to clearly provide detailed regulation of (but not necessarily limited to) the following matters:

- *enduring principles concerning the conduct and organization of elections;*
- *details of the voting system to be used (if a proportional representation or ‘mixed’ system is used this would include the method for allocating seats to parties and assigning seats to party candidates);*
- *principles and processes for determination of electoral areas;*
- *framework of election administration, including independence and authority of the KPU, appointment of members of election administration bodies, operational functions, responsibilities and accountability of each election body, and funding for election administration and for conducting elections;*
- *authority for appointing, organizing and supervising KPU and lower level election management body secretariats;*

- *rights of those entitled to vote, the process for voter registration and the processes for preparation of voters registers;*
- *criteria for political parties to qualify to contest elections;*
- *political parties' rights in relation to election campaigns;*
- *eligibility of candidates and how candidates are nominated;*
- *regulation of political party and candidate finance and expenditure;*
- *form of the ballot papers for elections to the DPR, DPRD-I and DPRD-II and controls on their production and distribution;*
- *determination and supply of voting stations;*
- *the voting process, including how ballots are issued and votes cast;*
- *vote counting and consolidation, and KPU and election committees' responsibilities for determining, certifying and reporting election results; and*
- *provisions relating to electoral offences, and receiving and adjudicating complaints about the electoral process*

Recommendation 29 (page 49)

This report recommends that the KPU should consult with political parties, external experts, and the community in drafting its regulations

Recommendation 30 (page 50)

This report recommends that the KPU's budgetary processes be improved to include

- *a five year cyclical budgeting process;*
- *approval of election year budgets by the DPR well in advance of the election;*
- *implementation of a budgeting and financial control system categorized by project and program activity;*
- *a more participatory, 'bottom up' approach to budgeting and resource allocation;*
- *better liaison between the bureaus of the KPU, and between the KPU and electoral committees in determining resource requirements; and*
- *imposition of high standards of internal financial control and auditing*

Recommendation 31 (page 51)

This report recommends that the KPU's total allocation from the Indonesian State budget – for all purposes – come directly from the Ministry of Finance following approval by DPR. The KPU ought also to be enabled to augment its State budget allocation by being permitted to receive, under strict accountability criteria, funds from donor organizations for specific electoral purposes, and to raise money through sale of products, publications or services.

Recommendation 32 (page 52)

This report recommends, at this stage of Indonesia's democratic development, that the central government be responsible for the total cost of conducting elections in Indonesia

Recommendation 33 (page 52)

This report recommends that the KPU ensure that it's internal financial monitoring processes are improved to be in accordance with international best practice.

Recommendation 34 (page 52)

This report recommends that the members of all lower levels of election administration should be subject to the same legal requirements to be 'independent and non-partisan' as is the KPU.

Recommendation 35 (page 52)

This report recommends that, as a basic step in promoting public confidence in the activities of election administration, the new KPU should formally adopt and publish a charter stating its commitment to the key principles of democratic election administration.

Recommendation 36 (page 53)

This report recommends that the KPU should prepare a Code of Conduct or Code of Ethics appropriate to each election management body from the KPU down to the voting station level. Signing this code should be a precondition for being appointed as a member of each body. Signing this code should also be required of secretariat or other personnel employed or contracted by each body, including staff temporarily employed for voting or vote counting locations. Procedures should be implemented for swift disciplinary action following any breaches of this code, or violations of election law or regulations.

Recommendation 37 (page 53)

This report recommends that the KPU should adopt regulations which provide that:

- *all plenary sessions of the KPU and of each PPD-I and PPD-II must be held in public; and*
- *no plenary session of the KPU or of a PPD-I or PPD-II can be held unless at least 24 hours' public notice of that plenary session has been given by way of advertisements published in a local newspaper or other suitable public announcement.*
- *consideration be given to the creation of electoral advisory groups or liaison committees, including members of the election management body at the relevant level, political parties and civil society organizations*

Recommendation 38 (page 54)

This report recommends that the KPU actively and continually publicise its activities in relevant mass media.

Recommendation 39 (page 54)

A comprehensive annual and special event reporting system be implemented by the KPU and subsidiary level election management bodies, with reports provided according to a timetable developed in consultation with the relevant representative institutions.

Recommendation 40 (page 55)

This report recommends that the KPU must be subject to annual independent external audit, preferably by an independent major international accountancy firm; results of the audit should be reported to the DPR and disclosed to the public

Recommendation 41 (page 55)

This report recommends that the KPU actively pursue links with other electoral management and advisory organizations, especially regional associations such as the Association of Asian Electoral Authorities (AAEA).

Recommendation 42 (page 56)

This report recommends that the KPU take further concrete steps to improve internal management by

- *including within the KPU Secretariat a bureau whose specific responsibilities include quality assurance and control;*
- *developing a program of quality monitoring by external experts; and*
- *encouraging contact between KPU staff and other election management, advisory and monitoring bodies in other countries.*

Recommendation 43 (page 57)

This report recommends that recruitment for the KPU secretariat be targeted to develop a professional electoral service, be on merit alone, and not be limited to regular civil service channels.

Recommendation 44 (page 58)

This report recommends that comprehensive professional development and operational training programs be instituted for all permanent and temporary members of election commissions, committees and their secretariats at national, provincial and local government levels.

Recommendation 45 (page 59)

This report recommends that professional development and training programs for election commissions and committee members and their Secretariats' staff be developed in accordance with the highest professional standards.

Recommendation 46 (page 59)

This report recommends that

- *a uniform training program is established for all KPPS members well in advance of the next election;*
- *the training program should include the components which the KPPS members found most useful: a video, election day simulation, and a written manual;*

- *both a training video and manual should be produced for the next election, building upon the materials IFES has already prepared. The distribution of both the video and manual must be guaranteed by the government in ample time to be studied by all staff prior to the election;*
- *the training program is organized to be in place at least six (6) weeks before the election; instructors trained at least eight (8) weeks before the election; and sufficient training sites be used to allow for class sizes of 200 or less KPPS members*

Recommendation 47 (page 59)

This report recommends that the KPU, and relevant election committees, should provide regular briefing sessions and information materials to all election participants, including political parties and candidates, the media, election observers, relevant members of security forces, civil society organizations, in addition to general voter education programs.

Recommendation 48 (page 62)

This report recommends that the electoral law provide political parties with specific rights of access to information and activities of electoral management bodies, in line with the framework suggested in this report. Political parties would also be subject to legally defined responsibilities in a Code of Conduct as part of these rights of access.

Recommendation 49 (page 63)

This report recommends that a complete review of voter registration procedures be completed at least 2 years before the date of the 2004 election. Issues such as improved registration documentation and the practicality of computerizing voter registration records should be included in this review.

Recommendation 50 (page 64)

This report recommends that the KPU undertake an assessment of the cost and technical requirements for a computerized vote tabulation system, taking particular note of the appropriate practical and sustainable administrative level at which to enter results into a computer system. This study could evaluate better application of computer technology for vote consolidation in the 2004 elections and anticipate more extensive use in elections thereafter.

Recommendation 51 (page 68)

This report recommends that for the foreseeable future Indonesian electoral management in provinces and local areas be conducted according to consistent national policies set by the KPU, and that election management bodies at provincial and local levels remain directly accountable to the KPU for their actions in implementing its policies.