

# OPTIMIZING THE ROLE OF BAWASLU IN PREVENTING VIOLATIONS IN THE IMPLEMENTATION OF ELECTIONS

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**Abstract:** Bawaslu is a permanent institution, the term of office of its members is 5 (five) years from the date of oath or appointment. Bawaslu or Panwaslu is an ad hoc institution formed before the first stage of the election, namely the voter registration stage which begins and ends after the nomination of the selected candidate. The election monitoring body is unique in Indonesia because Bawaslu was formed to monitor the implementation of the election stages, receive complaints and handle administrative irregularities and election crimes. The authority to supervise the implementation of elections is given to Bawaslu and the ranks below it. Supervision is one of the most important factors in determining the success or failure of an election. Election supervision is the activity of observing, studying, examining and assessing the process of election organizers in accordance with statutory regulations. Bawaslu at all levels has an important role in ensuring that elections are held democratically in a direct, public, free, confidential, honest and fair manner in accordance with applicable laws and regulations. Based on research results, optimizing the role of Bawaslu in preventing election violations is a collective effort. By uniting the power of community outreach, cooperation with related institutions, strengthening technology, improving human resources, and community participation, Bawaslu can be at the forefront of protecting Indonesian democracy from the risk of election violations.

**Keywords:** Optimization, Role, Bawaslu, Elections

## Introduction

General elections (hereinafter referred to as Elections) are a means of realizing people's sovereignty which are held directly, openly, freely, confidentially, honestly and fairly in the Unitary State of the Republic of Indonesia which is based on Pancasila and the 1945 Constitution of the Republic of Indonesia. The legal state of Indonesia According to the 1945 Constitution, it contains nine (9) principles, one of which is popular sovereignty or the principle of democracy. This can be seen in the contents of the Preamble to the 1945 Constitution, "The people are led by wisdom in deliberation/representation" and Article 1A paragraph (2) of the 1945 Constitution, "Sovereignty is in the hands of the people and is implemented according to the constitution (Soemantri & Saragih, 2002 ).

To ensure the achievement of the state's goals and objectives as stated in the Preamble to the 1945 Constitution of the Republic of Indonesia, it is necessary to hold elections for members of the People's Representative Council. Regional Representative Council, President and Vice President. The President and Members of the Regional People's Representative Council are elected to realize the people's right to self-determination to form people's representatives and a democratic national government based on Pancasila and the 1945 Constitution of the Republic of Indonesia. Democratic government can be interpreted as what is called a government of the people , by the people and for the people (Thoha, 2014).

Bawaslu is a permanent institution, the term of office of its members is 5 (five) years from the date of oath or appointment. Bawaslu or Panwaslu is an ad hoc institution formed before the

first stage of the election, namely the voter registration stage which begins and ends after the nomination of the selected candidate. The election monitoring body is unique in Indonesia because Bawaslu was formed to monitor the implementation of the election stages, receive complaints and handle administrative irregularities and election crimes (Saleh, 2017).

The permanent position of Bawaslu is not only at the central level, but also at the provincial level. As in Article 89 paragraph (4) Law no. 7 of 2017 stated, "Bawaslu, Provincial Bawaslu, and Regency/City Bawaslu are permanent." This provision which makes the Provincial Bawaslu permanent is also an answer to the dualism in the institutional nature of Bawaslu between the center and the regions which is one of the causes of the ineffectiveness of election supervision. Elections are an important tool in a representative democracy. Elections act as a filter for "politicians" who represent and bring the people's voice to representative institutions. People or groups who have the opportunity or obligation to appear and act on behalf of a larger group through political parties (hereinafter referred to as Political Parties) are considered elected. Therefore, the existence of political parties is very necessary in modern democratic political life. The goal is to activate and mobilize people, to represent certain interests, to find compromises for opposing opinions and means to achieve success in political leadership legally and peacefully. Thus, like elections, political parties are also an important part of a democratic country.

Frequent election violations are contained in Law Number 7 of 2017 as follows:

1. Violation of the Election Organizer Code of Ethics is a violation of the Election Organizer's ethics which is guided by oaths and/or promises before carrying out their duties as Election Organizers. Violations of the Election Organizer Code of Ethics are resolved by the Election Organizer Honorary Council (DKPP) with settlement procedures carried out in accordance with the provisions of the law concerning Election Organizers;
2. Election Administration Violations are violations that include procedures, procedures and mechanisms relating to the administration of Election implementation at every stage of Election implementation outside of Election crimes and violations of the Election Organizer's code of ethics. Alleged election administrative violations are followed up by Bawaslu, Provincial Bawaslu, Regency/City Bawaslu through adjudication and produce a decision, which must be implemented by the party who committed the administrative violation.
3. Election crimes are violations and/or crimes against the provisions of election crimes as regulated in Law Number 7 of 2017. Alleged violations of election crimes are forwarded to the State Police of the Republic of Indonesia which is part of the Integrated Law Enforcement Center.

The authority to supervise the implementation of elections is given to Bawaslu and the ranks below it. Supervision is one of the most important things in determining the success or failure of an election. Election supervision is the activity of observing, studying, examining and assessing the process of election organizers in accordance with statutory regulations. Bawaslu at all levels has an important role in ensuring that elections are held democratically in a direct, public, free, confidential, honest and fair manner in accordance with applicable laws and regulations.

## Literature Review

### 1. Election

Definition of Elections according to Law number 7 of 2017 article 1 paragraph (1) is a means of popular sovereignty to elect members of the People's Representative Council, members of the Regional Representative Council, President and Vice President, and to elect members of the Regional People's Representative Council, which is carried out live broadcast, public, free, confidential, honest and fair in the Unitary State of the Republic of Indonesia based on Pancasila and the 1945 Constitution of the Republic of Indonesia.

General elections are a way or means to find out the wishes of the people regarding the future direction and policies of the country. There are at least three types of general election objectives, namely enabling a safe and orderly transition of government to implement the sovereignty of the people in order to implement the human rights of citizens. The meaning of public service can be explored in two ways, namely by understanding the meaning of the words "service" and "public" as well as the phrase public service as a unit which has become a term.

General elections have three main functions, namely:

- a. Means of selecting public officials (government formation);
- b. Means of accountability for public officials, and
- c. Means of political education of the people.

In a democratic government system, elections are often considered as a link between the principle of popular sovereignty and the practice of government by a number of political elites. Every citizen who is considered an adult and meets the requirements according to the law, can elect their representatives in parliament, including government leaders. The assurance that the election results reflect the will of the people is provided by a set of guarantees contained in the laws and regulations relating to elections."

### 2. Election organizer

Election organizers according to Law No. 7 of 2017 concerning General Elections Article 1 are institutions that organize elections consisting of the General Election Commission, the Election Supervisory Body, and the Election Organizing Honorary Council as a unified function of the Election Organizer to elect members of the People's Representative Council, members The Regional Representative Council, the President and Vice President, elect members of the Regional People's Representative Council and regional heads directly by the people. Furthermore, election organizers are regulated in Book Two of Law No.7/2017, where Chapter I regulates the KPU starting from Article 6 to Article 88, Chapter II concerning Election Supervisors (Bawaslu) starting from Article 89 to Article 154, and Chapter III concerning the Council The Honor of Election Organizers (DKPP) starts from Article 155 to Article 166.

The General Election Commission, hereinafter abbreviated as KPU, is an Election Organizing institution which is national, permanent and independent in carrying out elections. The term of office for members of the KPU, Provincial KPU, Regency/City KPU is for 5 (five) years and after that they can be re-elected for only one term of office at the same level. Supervision of the implementation of elections is carried out by the Election Supervisory Body (Bawaslu).

Bawaslu is an election organizing institution that supervises the implementation of elections throughout the territory of the Unitary State of the Republic of Indonesia. The Election Organizer Honorary Council, hereinafter abbreviated as DKPP, is the institution tasked with handling violations of the Election Organizer's code of ethics. Article 155 paragraph (2) reads: "DKPP was formed to examine and decide on complaints and/or reports of alleged violations of the code of ethics committed by KPU members, Provincial KPU members, Regency/City KPU members, Bawaslu members, Provincial Bawaslu members and Bawaslu members Regency/City."

## Method

A study cannot be said to be research if it does not have a research method (Koto & Faisal 2021). The research method is a process of collecting and analyzing data that is carried out systematically, to achieve certain goals. Data collection and analysis is carried out naturally, both quantitatively and qualitatively, experimentally and non-experimentally, interactively and non-interactively (Koto, 2020). The research method used is normative juridical research, namely legal research conducted by examining literature or secondary data (Koto & Zainuddin 2022). In qualitative research, the process of obtaining data is in accordance with the research objectives or problems, studied in depth and with a holistic approach (Rahimah & Koto, 2022).

## Result and Discussion

### 1. Bawaslu's authority over violations in the implementation of elections

Pelanggaran menurut arti katanya dapat didefinisikan sebagai perbuatan (perkara) yang melanggar peraturan yang ditetapkan. Terjadinya pelanggaran dalam setiap kegiatan tidak bisa dihindarkan. Pelanggaran dapat terjadi karena adanya unsur kesengajaan maupun karena kelalaian. Pelanggaran dapat dilakukan banyak pihak bahkan dapat dikatakan semua orang memiliki potensi untuk melakukan pelanggaran. Dalam kegiatan pemilihan umum pelanggaran secara konsep didefinisikan sebagai perbuatan pidana yang tergolong tidak seberat kejahatan atau dapat diartikan sebagai perbuatan yang melanggar peraturan dan perundang-undangan dalam pemilu. Potensi pelaku pelanggaran pemilu menurut Undang-Undang pemilu antara lain: (Pratama, 2019)

- a. Penyelenggara Pemilu yang meliputi anggota KPU, KPU Propinsi, KPU Kabupaten/Kota, anggota Bawaslu, Panwaslu Propinsi, Panwaslu Kabupaten Kota, Panwaslu Kecamatan, jajaran sekretariat dan petugas pelaksana lapangan lainnya.
- b. Peserta pemilu yaitu pengurus partai politik, calon anggota DPR, DPD, DPRD, tim kampanye;
- c. Pejabat tertentu seperti PNS, anggota TNI, anggota Polri, pengurus BUMN/BUMD, Gubernur/pimpinan Bank Indonesia, Perangkat Desa, dan badan lain lain yang anggarannya bersumber dari keuangan negara;
- d. Profesi Media cetak/elektronik, pelaksana pengadaan barang, distributor;
- e. Pemantau dalam negeri maupun asing;
- f. Masyarakat Pemilih, pelaksana survey/hitungan cepat, dan umum yang disebut sebagai "setiap orang".

Tahapan yang sangat rentan terjadinya pelanggaran adalah pada tahapan kampanye. Kampanye adalah kegiatan dalam rangka meyakinkan para pemilih dengan menawarkan visi, misi, dan program pasangan calon. Para pasangan calon ini dapat membentuk tim kampanye yang membantu penyelenggaraan kampanye serta bertanggung jawab atas pelaksanaan teknis penyelenggaraan kampanye.

Kewenangan berasal dari kata dasar "wewenang", yang berarti hak untuk melakukan sesuatu atau memerintah orang lain untuk melakukan atau tidak melakukan sesuatu agar mencapai tujuan tertentu. Wewenang tidak sama dengan kekuasaan, kekuasaan hanya menggambarkan hak untuk berbuat atau tidak berbuat. Kekuasaan hanya menggambarkan hak untuk memaksakan kehendak.

The definition of authority according to the Big Indonesian Dictionary (KBBI) is the power to make decisions to govern and delegate responsibility to other people. The definition of authority according to the Indonesian dictionary is the power possessed by a party based on the prevailing moral order or customs, laws or regulations, permits/licenses issued by a government agency.

The implementation of Bawaslu's authority in handling administrative violations that occur in a structured, systematic and massive manner is the implementation of attribution authority, namely the granting of law-making authority to government organs, this is normatively regulated in the provisions of Article 135 A of Law Number 10 of 2016 concerning the Second Amendment regarding Law Number 1 of 2015 concerning the Stipulation of Government Regulations in Lieu of Law Number 1 of 2014 concerning the Election of Governors, Regents and Mayors into Law, which states:

Paragraph (1): Election administration violations as referred to in Article 73 paragraph (2) are violations that occur in a structured, systematic and massive manner;

Paragraph (2): Provincial Bawaslu receives, examines and decides on election administration violations as referred to in paragraph (1) within a maximum period of 14 (fourteen) working days;

Paragraph (3): The examination process for alleged violations of TSM administration is carried out openly and in accordance with the provisions of regulations and laws.

Procedurally, there are technical provisions in the process of handling these violations which are further regulated in the General Election Supervisory Body Regulation Number 9 of 2020 concerning Procedures for Handling Administrative Violations in the Election of Governors and Deputy Governors, Regents and Deputy Regents and Mayors and Deputy Mayors that Occur Structured, Systematic and Massive. In the context of handling election violation reports, in general, in fulfilling procedural aspects, the reporter is required to fulfill formal and material requirements, this is as regulated in the provisions of Article 15 paragraph (1) of Perbawaslu Number 9 of 2020 which basically states that Reports of Election Administration Violations TSM is submitted in writing in Indonesian containing: a. Formal requirements consist of: 1) identity of the reporter; 2) the identity of the reported party; and 3) the time for submitting the TSM Election Administrative Violation report does not exceed the deadline for submitting the report, namely from the stage of determining the Election Participants until the day of voting; b. Material requirements consist of: 1) a description of the reported TSM Election Administration Violations; and 2) petitum or things requested by the reporter.

That then, after the report is registered, a preliminary examination is carried out by the examining panel to assess the compliance with the formal and material requirements of the TSM Election Administrative Fraud report, the results of which decide whether the report can and/or cannot be followed up at the examination hearing stage. Furthermore, if it continues to the examination hearing, the report will be carried out through procedural legal stages as regulated in the provisions of Article 28 paragraph (1) Perbawaslu 9 of 2020 as follows:

- a. Reading of report materials by the reporter;
- b. Reading of reported answers;
- c. Proof; and
- d. Submission of the conclusions of the reporting party and the reported party.

Based on the explanation above, it is known that in the sense of implementing formal law enforcement, the laws and regulations have technically provided instruments for Bawaslu to carry out the authority to handle election administration violations that occur in a structured, systematic and massive manner (TSM). However, it cannot be avoided that in practice there are still material legal problems in the handling process.

## **2. Efforts that Bawaslu can take to prevent violations in the implementation of elections**

Perbawaslu Number 20 of 2018 Article 8 paragraph (1) reads "Election Supervisors can take preventive action against potential violations and process disputes based on the results of identification and mapping" and in article 2 it is stated that the preventive action in question is carried out through:

- a. strengthening coordination between institutions in preventing violations and process disputes;



- b. increasing cooperation between institutions;
- c. implementation of socialization of statutory provisions and/or potential vulnerabilities to violations and process disputes; And
- d. other activities as long as they do not conflict with statutory regulations.

The General Election Supervisory Body (Bawaslu) has a crucial role in maintaining the integrity and sustainability of general elections (elections) in Indonesia. In this context, optimizing the role of Bawaslu is not only focused on taking action against violations, but also on prevention efforts. The following are several efforts to prevent violations in the implementation of elections that Bawaslu can carry out:

a. Community outreach and education

The importance of providing understanding to the public about the importance of clean and fair elections cannot be ignored. Bawaslu can play an active role by organizing massive outreach and education programs. Through social campaigns and educational programs, the public can be more aware of their rights and obligations in the democratic process, as well as recognize signs of election violations.

b. Collaboration with related parties

Optimizing the role of Bawaslu cannot be done independently. Good cooperation with related institutions such as the KPU (General Election Commission) and the police needs to be strengthened. This synergy can include exchanging information, coordinating actions, and implementing joint policies to ensure the implementation of elections that are transparent and free from fraud.

c. Strengthening technological supervision

Modern elections cannot be separated from the role of technology. Bawaslu must be able to master information technology to monitor and detect potential violations. The application of online monitoring systems, big data analysis and cyber security is key in facing the challenges of technology that can be exploited for illegitimate purposes.

d. Improving the quality of Bawaslu's human resources

A qualified and competent workforce is a valuable asset in optimizing Bawaslu's role. Regular training, seminars and increasing the capacity of Bawaslu's human resources are important steps so that they can face election dynamics with in-depth understanding and appropriate action.

e. Community participation in supervision

The public has an important role as eyes and ears in monitoring the election process. Bawaslu can encourage active community participation through involvement in monitoring activities, reporting violations, and forming voluntary election monitoring groups. This not only increases public confidence in the election process, but also expands the monitoring network

## Conclusion

Optimizing Bawaslu's role in preventing election violations is a collective effort. By uniting the power of community outreach, cooperation with related institutions, strengthening technology, improving human resources, and community participation, Bawaslu can be at the forefront of protecting Indonesian democracy from the risk of election violations.

The authority to supervise the implementation of elections is given to Bawaslu and the ranks below it. Supervision is one of the most important factors in determining the success or failure of an election. Election supervision is the activity of observing, studying, examining and assessing the process of election organizers in accordance with statutory regulations. Bawaslu at all levels has an important role in ensuring that elections are held democratically in a direct, public, free, confidential, honest and fair manner in accordance with applicable laws and regulations. Based on research results, optimizing the role of Bawaslu in preventing election violations is a

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