

**AUTHORITY OF THE ELECTION SUPERVISORY BODY
REGARDING CAMPAIGN PRODUCTS
(Based on Bawaslu Regulation number 20 of 2018 concerning
prevention of violations and disputes general election process)**

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ABSTRACT

In every election held in Indonesia, even though it is held once every five years, it has legal instruments in the form of statutory regulations as regulations, and the rules of the game in the election are known to each contestant participating in the Pemilu, but there are still types and forms. violations committed by them and the winning success team who supported the election participant candidates. One of the types and forms of election violations in question is the use and placement of campaign props (APK) which are media tools for introducing candidates with their vision and mission and the programs they offer if they are elected and occupy their positions as legislative representatives of the people and/or heads of regions or even as President and Vice President. To overcome this, it is hoped that Bawaslu together with the KPU and Regional Government and related legal apparatus will be able to overcome and take action against all matters related to election violations, especially the use and placement of Campaign Display Equipment (APK) itself. This type of research uses a normative juridical approach and uses qualitative analysis techniques which are then explained and analyzed using descriptive analytical methods. The type of approach used in writing this thesis is a library research approach, namely by studying books and documents related to the topic of the article and also using a statutory regulatory approach, namely by reviewing existing statutory regulations. related to the topic discussed in this research. The results of the research and discussion in this study showed that the frequent types and forms of violations in the implementation of the use and placement of Campaign Props (APK) caused by Election participants were not due to a lack of socialization by Bawaslu and the KPU regarding the rules for the use and placement of Campaign Props (APK). . However, it is more about the arrogance possessed by each participant who took part in the election contestation. The impact of APKs installed haphazardly is not only on the aesthetic value for the environment, but can also have implications for the imposition of administrative and criminal election sanctions, which can lead to the disqualification of election participants themselves..

Keywords: Bawaslu's Authority, Campaign Props, and Law Enforcement.

A. Introduction

General elections are a form of people's political participation in a democratic country, so honesty and fairness in the implementation of general elections will reflect

the quality of democracy. General elections in Indonesia as one of the efforts to create a democratic country must be implemented well in order to create professional elections that have credibility that can be accounted for.¹

General elections are the main mechanism in the stages of state administration and government formation. General elections are seen as the most real form of sovereignty which is in the hands of the people in administering the State, therefore, the system and implementation of general elections is always the main concern of government so that guidelines from, by and for the people are expected to truly be realized through structuring system and quality of holding general elections.²

In connection with the implementation of general elections, it is necessary to have an organ whose function is to carry out supervision so that the implementation of the said general election can run as it should, the position of the election supervisory committee as an independent institution in the implementation of general elections, especially in the election of the President and Vice President, regional heads and deputy regional heads, as well as legislative candidates, Bawaslu plays an important role in supervising all stages of the election, receiving reports of violations of general election laws and regulations and resolving disputes that arise during the implementation of the election, forwarding findings and reports that cannot be resolved to the competent authority and also regulating coordination relations between supervisory committees at all levels.³

Article 22E Paragraph (5) of the 1945 Constitution determines that general elections are held by a national, permanent and independent general election commission. In a series of activities for implementing general elections, there is one activity known as a campaign, Article 1 number 21 of Law Number 28 of 2018 concerning General Election Campaigns provides a definition of an election

¹ Daud M. Liando. Pemilu Dan Partisipasi Politik Masyarakat. *Jurnal LPPM Bidang EkoSosBudKum*. Volume 3 Nomor 2 Tahun 2016. Edisi Oktober. halaman 22

² Gaffar Janedjri. 2012. *Politik Hukum Pemilu*, Jakarta: Konstitusi Press. halaman 1

³ Rozali Abdullah. 2007. *Pelaksanaan Otonomi Luas Dengan Pemilihan Kepala Daerah Secara Langsung*. Jakarta: PT. Raja Grafindo Persada. halaman 63

campaign, hereinafter referred to as a campaign, is an activity to convince voters by offering a vision, mission, and programs.

The installation of campaign props by contesting candidates in the General Election aims to provide an introduction to the general election participating candidates to the public. Based on Article 1 number 28 of Law Number 28 of 2018 concerning General Election Campaigns, campaign props are all objects or other forms that contain the vision, mission, program and/or other information of election participants, symbols or signs of pictures of election participants, which installed for campaign purposes which aims to encourage people to vote for certain election participants.

Furthermore, in number 29, it is stated: Campaign materials are all objects or other forms that contain the vision, mission, program and/or other information of election participants, symbols or signs distributed for campaign purposes which aim to encourage people to vote for certain election participants. .

Then in Article 37 number 6, Law Number 28 of 2018 concerning General Election Campaigns, it is written: The creation of Campaign Advertising materials must comply with the provisions of legislation and advertising ethics.

In Article 69 of Law Number 28 of 2018 concerning General Election Campaigns, it is stated that during the implementation of the campaign and the installation of props, Election participants and the Election Campaign Team are prohibited from: questioning the state foundations of Pancasila, the Preamble to the 1945 Constitution of the Republic of Indonesia, and in the form of the Unitary State of the Republic of Indonesia, carrying out activities that endanger the integrity of the Unitary State of the Republic of Indonesia, insulting a person, religion, ethnicity, race, group, candidate and/or other Election Contestants, inciting and pitting individuals or communities against each other; disturbing public order; threaten to commit violence or encourage the use of violence against a person, a group of community members, and/or other Election Contestants, damage and/or remove Election Contestants'

campaign props, use government facilities, places of worship, and places of education, use government representative building facilities in abroad, carrying or using image marks and/or attributes other than the image marks and/or attributes of the Election Contestants concerned, promising or giving money or other materials to Campaign participants, and disclosing the identity/special characteristics or characteristics of Election Contesting Political Parties in the form of installing campaign attributes or props containing image marks along with the serial numbers of the Election Contesting Political Parties in public places or publishing them via print and electronic media outside the campaign schedule that has been determined in the KPU Decree, the KPU which regulates the day, date, time and the place where the election campaign is held.

B. Research Methods

A research cannot be said to be research if it does not have a research method.⁴ Research methods are one of the factors of a problem that will be discussed.⁵ The study was carried out using secondary data which was analyzed qualitatively using the Desk Research Method. The literature materials used in writing this research are several references originating from the results of research, studies and reviews of several papers which are then summarized into a work of scientific.

C. Analysis And Discussion

1. Bawaslu has the authority to supervise the implementation of elections in Indonesia

Bawaslu as an institution whose duties and functions are to supervise the process of organizing elections is an institution that has an important role in organizing elections, especially in providing assessment of results, and this was proven when the 2024 Legislative and Presidential Elections were held. As a mandate from the law, Bawaslu is strategically and significantly positioned to provide an assessment of

⁴ Ismail Koto, "Perlindungan Hukum Terhadap Korban Tindak Pidana Terorisme", *Proceeding Seminar Nasional Kewirausahaan*, 2.1, (2021): 1052-1059.

⁵ Ida Hanifah, Ismail Koto, "Problema Hukum Seputar Tunjangan Hari Raya Di Masa Pandemi COVID-19", *Jurnal Yuridis* 8.1, (2021): 23-42.

election results. Likewise when Bawaslu was present at the trial at the Constitutional Court. According to Muhammad, Bawaslu is always asked for information by judges and parties regarding how election supervision is carried out. When asked by several parties, whether from legislative candidates, the KPU, or judges, they were always asked what the results of the supervision that had been carried out by Bawaslu were.

The General Election Supervisory Body (Bawaslu), based on Law Number 7 of 2017, currently has great authority, not only as a supervisor, but also as an executor for judges deciding cases. Currently and in the future, a historical challenge lies ahead for Bawaslu to prove its strategic role and existence in overseeing elections with integrity for the nation's progress.

In the context of Indonesia which is developing a healthy political civilization, holding elections without the presence of strong structural and functional supervision has the potential to result in the loss of citizens' voting rights, the rise of money politics, black campaigns and elections that do not comply with the rules. The further impact of elections that lack integrity is the emergence of disputes and lawsuits over election results. In addition, democratic parties are expensive, but will only produce leaders whose legality and legitimacy are in doubt.

Elections are a means of realizing people's sovereignty in order to produce a democratic State government based on Pancasila and the 1945 Constitution, in accordance with Article 1 paragraph (2) which reads, "Sovereignty is in the hands of the people and is implemented according to the Constitution". Article 22E Paragraph (1) of the 1945 Constitution outlines six criteria for democratic elections, namely direct, general, free, secret, honest and fair. Furthermore, the Election Law adds two more criteria, namely transparency and accountability.

General elections have become a global phenomenon and have been practiced, both in countries that have advanced democracy and countries that are still in the process of transition to democracy. However, the election phenomenon in various countries, including developed countries, still shows that elections cannot be free from

various violations and fraud (electoral malpractices). In this context, the concept of election integrity becomes important because the spirit that animates elections is politics, which has the basic characteristic of "justifying the means to achieve goals and power". It is the responsibility of all of us to play an active role, not only election organizers, such as the KPU, Bawaslu, and the Honorary Council of Election Organizers, to construct elections of quality and integrity for the progress of the nation.

In fact, elections must run well procedurally and substantially. Elections are procedurally good if the prerequisites are met and the election is substantially successful if the objectives are achieved. The prerequisites for elections outline freedom of choice, the realization of community participation, and a fair arena for political competition. The goal to be achieved by holding elections is the election of a leader who is the will of the people. A trustworthy leader who is able to realize prosperity and justice.

One of the functions of the General Election Supervisory Body (Bawaslu) is to monitor the stages and prevent election violations. There is a strategic and significant function of Bawaslu, namely how to avoid potential election violations by implementing optimal prevention strategies.⁶

Bawaslu is also expected to be able to take firm, effective action and be a fair election judge. Historically, the birth of Bawaslu is expected to encourage and strengthen community supervision by providing reinforcement in the form of regulations, authority, human resources, budget, and facilities and infrastructure. In order to play an effective role, each supervisory report can be sharper and become a legal fact that can be followed up according to existing regulatory mechanisms and be able to provide a deterrent effect in efforts to reduce potential violations so that the goal of election justice can be achieved.

⁶ Abiyasa, Pulung” Kewenangan Bawaslu Dalam Penyelenggaraan Pemilu di Kota Semarang Suatu Kajian Undang-Undang Nomor 7 Tahun 2017

Bawaslu must be present as a solution to various demands to monitor and take action against various election violations committed by anyone, including election organizers because they are not immune from the potential for committing violations. Moreover, if their integrity is not good enough, of course they will not be able to face temptations from various parties. Cases of violations by elements of the KPU and Panwaslu confirm this. On the other hand, public expectations continue to increase regarding the role and progress of Bawaslu in the future.

2. Bawaslu's socialization on controlling the use of campaign props in the election process

Towards the General Election stage, Bawaslu held a joint Coordination Meeting with regional Bawaslu, one of the discussion agendas was related to controlling the campaign props (APK) of election participants in Indonesia. Bawaslu explained that the rules regarding this APK have been regulated in PKPU number 15 of 2023 concerning General Election Campaigns and the RI Bawaslu circular number 43 of 2023 concerning identification of potential vulnerabilities and strategies for preventing violations of the 2024 Election campaign stages. Installing APK is one of the campaign methods as stated in Law Number 10 of 2016 which regulates regional elections. Technically and in detail, the APK installation arrangements are contained in KPU Regulation Number 4 of 2017 concerning regional head election campaigns.

Campaign Props (APK) are props in the form of banners, billboards and banners, otherwise known as campaign materials. APKs are designed by Pilkada participants which are then submitted to the KPU to be printed and produced by partners appointed by the KPU. The APK installation will also be carried out by the KPU at a location mutually agreed with the Regional Government. Candidate pairs can also produce their own APKs as much as 150% of what is determined by the KPU as long as the size of the APKs matches those produced by the KPU.

Election participants must understand the rules for implementing the campaign so that what they do does not violate the provisions, elections without violating any

rules, be it KPU Regulations, Law Number 7 of 2017 concerning General Elections, or other technical rules.

Based on Law Number 7 of 2023, an amendment to Law Number 7 of 2017 which regulates that since the Permanent Candidate List (DCT) is announced, whether for members of the DPD, DPR and Provincial or Regency or City DPRD, legislative candidates (legislative candidates) and political parties (political parties) are given a 25-day break before they are allowed to campaign. Therefore, APKs (campaign props) based on this Law cannot yet be installed. Bawaslu also appealed to election participants and campaign teams to convey campaign rules and regulations. And if there are still election participants or political parties who are stubborn in continuing to install APKs, then according to the RI Bawaslu Instructions, they must immediately make a finding of campaign violations before the campaign period.

Violation of APK installation is a form of election administration violation, namely a violation whose follow-up is the imposition of sanctions carried out by the KPU, not the election supervisor. In the context of APK installation violations, after the KPU receives a letter containing recommendations along with the results of the study from the Panwaslu, the KPU follows up by imposing sanctions on the pair of candidates who violate it. There are two types of sanctions, the first is a written warning, the second is an order to reduce the APK within 1 x 24 hours by the candidate pair. In fact, the KPU can follow up on reports of APK violations based only on reports to the KPU without going through the election supervisor's door.

3. Bawaslu's Actions Against the Use of Campaign Props That Violate Election Rules Based on Bawaslu Regulation Number 20 of 2018 concerning Prevention of Violations and Disputes in the General Election Process

Bawaslu R.I. gave directions in the Competency Strengthening Training for Regency/Municipal Bawaslu Members, reminding district/city Bawaslu officials not to hesitate to regulate election participants' Campaign Demonstrations (APK) that violate the rules. Removing the APK is not a waste of work. It is one of the symbols of law

enforcement carried out by Bawaslu, as stated by Bawaslu Member R.I. Totok Hariyono, in the Competency Strengthening Training for Regency/Municipal Bawaslu Members for the 2023-2028 period in Bogor. Totok said that the actions taken by Bawaslu were a reminder to election participants to obey the applicable regulations. One of them is Perbawaslu Number 33 of 2018 concerning Amendments to Election Supervisory Body Regulation Number 28 of 2018 concerning Supervision of Election Implementation. Election participants as statesman candidates should not install APKs in prohibited places, places that are dangerous and damage the environment. Because it violates the rules, he stressed.

Controlling APKs is also stated in Regional Regulation (Perda) Number 26 of 2003 concerning Order, Cleanliness and Beauty (K3), Perbup 3 of 2016 concerning Procedures for Permits for Organizing Advertisements. Then in the Republic of Indonesia General Election Commission (KPU) Regulation Number 28 of 2018 concerning Amendments to the General Election Commission Regulation Number 23 of 2018 concerning General Election Campaigns.

General Elections are a process of leadership succession as a form of the growth of democracy in the Unitary State of the Republic of Indonesia, so that the existence of Law Number 7 of 2017 is intended to ensure that the democratic process takes place honestly (fair play), orderly and safely so as to create a General Election that with integrity (integrity electorale), therefore law enforcement in every election criminal act is a necessity to realize the 2019 general election with substance and integrity.

The process of safeguarding democracy cannot be separated from the participation of the people in determining attitudes to elect quality leaders through the general election mechanism which has been regulated in election laws and regulations which clearly protect all the constitutional rights of citizens to determine their choices as regulated in Article 1 paragraph (2) The 1945 Constitution of the Republic of Indonesia states that "Sovereignty is in the hands of the people and is implemented according to the Constitution". The meaning of 'sovereignty is in the hands of the

people' is that the people have sovereignty, responsibility, rights and obligations to democratically elect leaders who will form government administration to manage and serve all levels of society, as well as elect people's representatives to oversee the running of the government. The realization of popular sovereignty is carried out through elections as a means for the people to elect leaders through the direct election of the President and Vice President who are elected in one pair and elect their representatives.

However, what cannot be avoided in implementing people's sovereignty is the distortion of people's sovereignty by the many election violations committed by parties, including participants, organizers and voters, so that the integrity of the election is damaged by these violations. So law enforcement is the best way to strengthen the sovereignty of the people, because the sovereignty that has been implemented by citizens in the form of elections has a positive effect in determining the future of the Indonesian people, if the elections are carried out with integrity, and the implementation of elections with integrity cannot be separated from an honest and just democratic process, therefore the Unitary State of the Republic of Indonesia is a state of law (*rechstaat*) not based on mere power (*machtstaat*) which prioritizes legal honesty and justice, even though there are still many citizens who do not have access to justice (*access to justice*).

In order for law enforcement to run effectively and ideally, a legal framework and legal compliance are needed, the legal framework cannot function well without legal compliance, which is why these two instruments, both the legal framework and legal compliance, must be in harmony and balance in order to create democratic elections.

D. Conclusion

Since the formation of Election Supervisors based on Law No. 15 of 2011 concerning election organizers, previously, election organizers were regulated by Law 22 of 2007. And now, through Law 7 of 2017, it has given more power to election

supervisors to carry out their supervisory work. Various forms of election violations have been handled and followed up by election supervisors, both at the Bawaslu level and at the regional supervisory committee level. The forms of election violations handled are in the form of administrative violations, violations of the code of ethics for election organizers, and election crimes.

Bawaslu's socialization regarding the installation of the APK, a coordination meeting was held for all election participant candidates to comply with and adhere to the applicable regulations in accordance with the Law. To deal with APKs that are considered/declared to be problematic, Bawaslu RI has ordered election supervisors to control APKs that are considered problematic. Bawaslu explained that the problematic APK was an APK installed in a place that was prohibited according to PKPU Number 15 of 2023 concerning General Election Campaigns. If a political party/election participant violates the prohibitions on campaign provisions, they will be subject to administrative sanctions in the form of a written warning, dropping/cleaning up campaign materials or APKs and/or sanctions under criminal law.

Election supervision by Bawaslu is an activity to observe, study, inspect and assess the election implementation process in accordance with statutory regulations. In handling election crimes, an integrated law enforcement center (Sentra Gakkumdu). That as a result of the findings of election violations in controlling APK, Article 521 of Law 7 of 2017 Article 521 Every Election Implementer, participant and/or Election Campaign Team who deliberately violates the prohibition on implementing Election Campaigns as intended in article 280 paragraph (1) letter a , letter b, letter c, letter d, letter e, letter f, letter g, letter g, letter I or letter j shall be punished with a maximum imprisonment of 2 (two) years and a maximum fine of Rp. 24,000,000, - (twenty four million).

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