

## Optimizing the Authorities of the Election Supervisory Board (Bawaslu) in the Convenient 2024 Elections in Indonesia

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### Abstract

*Several things that must be addressed and paid attention to by the Bawaslu itself in terms of optimizing the authority of the Bawaslu include, among others, the non-neutrality of civil servants and village heads, the occurrence of money politics, the large number of findings/reports of alleged election violations that do not fulfill the elements as a result of weak regulations, supervisory human resources ad hock is still low, there is a lack of public participation in election supervision, there is still a lack of socialization of election supervision and there is an impression of formality in a limited space, and there are still areas that are difficult to reach in order to realize the holding of simultaneous elections in 2024 which will later run fairly and produce leaders and deputy candidates qualified people from their performance and moral quality.*

*The type of research that the writer uses is a juridical-normative type of research. In this research, the collection of legal materials was carried out through Library Research, in the form of documents and laws and regulations related to Bawaslu and the simultaneous local elections in 2024.*

*The oversight function inherent in Bawaslu is due to the mandate of the law, while the oversight function carried out by election observers arises because of the awareness to realize elections with integrity and to reduce the level of violations in each stage of the simultaneous election, such as a code of ethics. So it is important that apart from encouraging transparency in the holding of elections, it is also important to encourage community involvement in conducting monitoring.*

**Keywords:** *Optimization of Authority, Elections, and Bawaslu.*

### Introduction

Indonesia is a democratic country, where the people's government is in power, as stated in the preamble to the 1945 Constitution in Article 1, that Indonesia is a republic with people's sovereignty. According to Jead Bodin, Sovereignty is the main thing of a sovereign unit called the state. Without sovereignty, there is no state and therefore sovereignty is the absolute and eternal power of the state which is unlimited and cannot be divided (Trichahyo, 2009: 2). People's sovereignty means that the highest state authority is held by the people, and all policies regarding government decisions are of course based on the results of deliberations with the people.

The concept of democracy provides the foundation and mechanism for the principle of equality and human equality. Democracy places humans as the owner of sovereignty which is then known as the principle of people's sovereignty (Asshidique, 2012: 200). As a democratic country, the 1945 Constitution determines the existence of general elections

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or elections (Soegito, 2013: 104). In carrying out democratic practices in the Indonesian state, where the sovereignty of a country is held by the people, it is necessary to have elections as the granting of rights to the people to participate directly in the country's political life.

Indonesia is a country that adheres to a democratic system with the implementation of general elections (elections) every five years. Elections are a much-needed foundation for democracy, so that in its development the process of holding elections begins to apply high standards. Like the Global Commission on Elections, Democracy and Security itself has set high standards so that the holding of elections in a country is considered credible (International IDEA, 1995).

Article 22E paragraph 1 of the 1945 Constitution, states that General Elections are held directly, publicly, freely, confidentially, honestly and fairly every five years. Then, the principle of democracy or people's sovereignty can guarantee community participation in the decision-making process so that every law that is implemented and enforced truly reflects the feelings of justice in society (Asshidique, 2012: 201).

The holding of direct elections is also not only a requirement for formal fulfillment of democracy but must also be under the essence of democracy itself, namely based on the principles of being direct, clean, honest and fair or full of justice based on the conscience of the people. According to Suteki (2015: 205) the main objective of the general elections for the Legislature, President and Vice President, Regional Heads is to carry out the national leadership succession peacefully.

Ramlan Surbakti and Kris Nugroho (2015: 8) argue that democratic elections are the beginning for the continuation of a democratic transition that accommodates political pluralism and civil participation openly and independently. One of the important institutions that deliver democratic elections in new countries is the existence of an independent electoral management body supported by strong and clear constitutional legitimacy.

In Indonesia, election organizers are regulated by Law Number 15 of 2011 concerning General Election Organizers. In Article 1 point 5, it is stated that Election Organizers are institutions that organize elections consisting of the General Elections Commission (KPU) and the Election Supervisory Body (Bawaslu) as a single unit of the election administration function to elect members of the People's Representative Council, Regional Representative Council, Representative Council. Regional People, President and Vice President directly by the people, and to elect governors, regents and mayors democratically.

The general election organizers must be able to carry out their duties in accordance with the provisions of the statutory regulations (Syafii et al., 2023). In the Indonesian context, election organizers refer to the KPU. Meanwhile, Panwaslu or Bawaslu are not directly administratively, technically and operationally involved in holding elections, but by law they are given the authority to supervise the election stages (Surbakti, 2015: 12). Then, there is the Constitutional Court Decision Number 11/PUU-VIII/2010 which has placed Bawaslu as an independent institution like the KPU. With this decision, institutionally, Bawaslu is no longer part of the KPU, and Bawaslu is no longer formed by the KPU. The position of Bawaslu is an independent institution, its position is equal to the KPU, both are election management bodies, which are national, permanent and independent, as regulated by Article 22E Paragraph 5 of the 1945 Constitution (Supriyanto, 2012: 2).

The existence of Bawaslu is considered to be one of the most important matters in election practice in Indonesia. Indonesia Corruption Watch (ICW) noted that in 1999 there were 62 cases of money politics, then in 2004 there were 113, in 2009 there were 150 and in 2014 it jumped to 313 cases.

According to Yulianto (2011) the existence of election supervisory bodies in Indonesia such as Bawaslu is still needed, because as part of the election organizers who jointly carry out their duties with the KPU, the existence of Bawaslu is considered to strengthen the legitimacy of election results which are held on the principles of direct, public, free, secret, honest, and fair or overflowing justice. In improving the quality of holding general elections and guaranteeing the exercise of people's political rights, general election organizers must be professional and have integrity, capability and accountability, as referred to in letter b in the consideration of Law Number 15 of 2011 concerning General Election Organizers.

According to Ramlan Surbakti (2015: 94-95) the position of the Bawaslu institution as an election supervisor needs to be strengthened with authority to prosecute violations of election disputes (electoral court). In line with Ramlah Surbakti, Erik Kurniawan (2017) as a researcher on election syndication and democracy, argues that the institutional capacity of Bawaslu is needed as a dispute resolution, starting from the personal commissioners of Bawaslu who have a strong vision regarding the design of dispute resolution as well as the capacity of organizational support capable of operationalizing his authority.

However, there are still a number of things that need to be addressed and get attention from the Bawaslu itself in terms of optimizing the authority of the Bawaslu, including the non-neutrality of ASN and Village Heads, the occurrence of money politics, the many findings/reports of alleged election violations that do not meet the elements as a result of weakness regulations, low human resources for ad hock supervisors, lack of public participation in election supervision, lack of socialization of election supervision and the impression of formality in a limited space, and there are still areas that are difficult to reach in order to realize the holding of simultaneous elections in 2024 which will run fairly and produce results leaders and candidates for people's representatives who are qualified in terms of their performance and moral quality.

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Thus, in the explanation above, the author is interested in conducting research on election supervisory institutions with the title "Optimizing the Authority of the General Election Supervisory Body (Bawaslu) in the 2024 Simultaneous Elections in Indonesia".

#### Research Benefits

In addition to having objectives, this research also has research uses, namely:

##### 1. Theoretical Benefits

The results of this research are expected to be able to provide understanding to students in particular and to the wider community in general, regarding the optimization of Bawaslu authority in the 2024 simultaneous elections in Indonesia.

## 2. Practical benefits

It is hoped that the results of this study can provide input for competent parties who are directly related to this research as well as increase insight in the development of knowledge for researchers on the problems studied, and can be used as input and reference material for further researchers who are interested in the same matter.

## **LITERATURE REVIEW**

### Literature Review

#### General Election

General elections or elections have been mandated in the Indonesian constitution, namely in the 1945 Constitution of the Republic of Indonesia. Article 22E reads that general elections are held directly, publicly, freely, confidentially, honestly and fairly every five years. Article 1 paragraph 2 of Law Number 15 of 2011 Concerning the Implementation of General Elections, confirms that General Elections, hereinafter abbreviated as elections, are a means of implementing people's sovereignty which are held directly, publicly, freely, confidentially and fairly within the Unitary State of the Republic of Indonesia based on Pancasila. and the 1945 Constitution of the Unitary State of the Republic of Indonesia.

Soedarsono (2005: 1) argues that universally elections are an instrument for realizing people's sovereignty which intends to form a legitimate government as well as a means of articulating the aspirations and interests of the people.

According to Joko Purnomo (2016), the Chairperson of the Central Java Province KPU for the 2013-2018 period in his speech at the 2016 Election Course, that "General Elections are the method chosen in carrying out democratic practices"

There are 4 (four) objectives of the election according to Jimly Asshidiqie (2006: 175) namely:

- a. To enable the transition of government leadership in an orderly and peaceful manner;
- b. To enable the replacement of officials who will represent the interests of the people in representative institutions;
- c. To carry out the principle of popular sovereignty;
- d. To implement the principle of human rights of citizens.

Meanwhile, according to Suteki (2015: 205), the main purpose of the general elections for the legislature, President and Vice President, Regional Heads is to carry out the national leadership succession peacefully.

Ibnu Tricahyo (2009: 6) argues regarding general elections in Indonesia, that:

"In constitutional practice the filling of representative institutions is usually carried out through elections, although in Indonesia the filling of representative institutions has used a mixed system, namely some are elected and some are appointed. However, after the amendments to the 1945 Constitution, the representative institutions, the President and Vice President, as well as the Regional Heads were elected by an electoral mechanism."

### General Election System

The electoral system according to Bawaslu's study (2015: 16-17) is a method that regulates and allows citizens to choose representatives of the people among themselves. In these elections citizens have the right to choose their representatives who will sit in public office. In using their voice, of course, conditions must be supported that allow citizens to choose freely without any pressure from other parties. The electoral system according to Sigit Pamungkas (2009: 14) has a very complex dimension. Some of these dimensions include:

- a. Balloting;
- b. District magnitude (district magnitude);
- c. Making representational boundaries (districting);
- d. election formula (electoral formula);
- e. Threshold (threshold);
- f. Number of legislative seats

The six elements mentioned above, according to Sigit Pamungkas, form the electoral system. How the electoral system will be used and for what purposes or interests the electoral system must be based on the six elements. Thus, these elements are an important part of the electoral system engineering effort to achieve certain goals or interests.

### General Election Legal System

The legal system according to Bellefroid in Riana Susmayanti (2014:5) is a series of unified legal regulations arranged in an orderly manner according to their principles. Meanwhile, the legal system according to Lawrence M. Friedman in Esmi Warassih (2005:71) explains that law as a system has components, namely:

1. Structure (legal structure), namely in the form of institutions created by the legal system to support the functioning of the legal system itself, such as district courts, administrative courts, and so on;
2. Substance (legal substance), namely in the form of legal norms used by law enforcers and those who are regulated;
3. Legal culture, namely in the form of ideas, attitudes, expectations, and opinions about the law which as a whole influence a person to comply or not comply with the law.

General Election according to Article 1 paragraph 2 of Law Number 15 of 2011 concerning the Implementation of General Elections is a means of implementing people's sovereignty which is held directly, publicly, freely, confidentially and fairly within the Unitary State of the Republic of Indonesia based on Pancasila and the Unitary State Constitution. Republic of Indonesia in 1945. Thus, the general election legal system is a set of elements or a series of legal regulations regarding general elections so that the implementation of direct, general, free, secret and fair people's sovereignty. The electoral legal system includes constitutional provisions, election laws, and all other laws that have an impact on elections including the legal framework for elections, which are regulations issued by the EMB and codes of ethics (Santoso, 2006: 12).

### Election Supervisory Body

The Election Supervisory Body or Bawaslu is regulated in Article paragraph 16 of Law Number 15 of 2011 concerning General Election Organizers, which reads that "The Election Supervisory Body, hereinafter abbreviated as Bawaslu, is an election management body whose job is to oversee the holding of elections throughout the territory of the Unitary State of the Republic of Indonesia. Indonesia". Decision of the Constitutional Court Number 11/PUU-VIII/2010 which has placed Bawaslu as an

independent institution like the KPU. With this decision, institutionally, Bawaslu is no longer part of the KPU, and Bawaslu is no longer formed by the KPU.

The position of Bawaslu is an independent institution, its position is equal to the KPU, both are election management bodies, which are national, permanent and independent, as regulated by Article 22E Paragraph 5 of the 1945 Constitution (Supriyanto, 2012: 2). Election supervisory bodies consist of the Election Supervisory Board (Bawaslu), Provincial Bawaslu, Regency/City Level Election Supervisory Committee (Panwaslu), District Panwaslu, Field Election Supervisors (PPL), and Overseas Election Supervisors (PPLN) (Sirajuddin: 2015 : 326).

#### Duties, Functions and Authorities of Bawaslu

Bawaslu is tasked with overseeing the holding of elections in the context of preventing and taking action against violations for the realization of democratic elections. The duties of the Election Supervisory Body in Article 73 paragraph (3) of Law Number 15 of 2011 Concerning the Implementation of Elections include:

1. Supervise the preparations for holding elections, which consist of:
  - a. Planning and determining the schedule for the stages of the election.
  - b. Planning for procurement of logistics by the KPU.
  - c. Implementation of the determination of electoral districts and the number of seats in each electoral district for the election of members of the Provincial Regional People's Legislative Assembly and members of the Regency/City Regional People's Representative Council by the KPU in accordance with the provisions of laws and regulations.
  - d. Socialization of Election administration
2. Supervise the implementation of the stages of the election administration, which consist of:
  - a. Updating voter data and determination of provisional voter lists and permanent voter lists.
  - b. Determination of election participants
  - c. The nomination process up to the appointment of members of the DPR, DPRD, DPRD, presidential and vice presidential pairs, and governor, regent and mayor candidates is in accordance with statutory provisions.
  - d. Campaign implementation.
  - e. Election logistics procurement and distribution.
  - f. Implementation of voting and counting of election results at TPS.
  - g. Movement of ballots, minutes of vote counting and certificates of vote counting results from TPS to PPK.
  - F. Movement of vote counting tabulation letters from the TPS level to the Regency/Municipal KPU.
  - i. The process of recapitulating the results of vote counting at PPS, PPK, Regency/City KPU, Provincial KPU, and KPU.
  - j. Implementation of recounting and re-voting, follow-up elections, and follow-up elections.
  - k. Implementation of court decisions related to elections.
  - l. Implementation of DKPP decisions and

m. The process of determining the election results.

The existence of an election supervisory body is positioned as part of the election management body. The election management body is responsible for all election processes and results, so that the oversight function is actually part of the administration of elections. Supervision is carried out so that the implementation of the stages of the election goes according to statutory regulations and schedules. The election oversight function should be attached to or go hand in hand with the implementation of the election. It's just that, because many parties do not believe that the KPU/KPUD is capable of carrying out its oversight function effectively, the oversight function is assigned to a separate institution. So, election supervisors are part of the election organizers who specifically function to oversee the implementation of the election stages so that the elections run according to regulations and schedules. (Didik Supriyanto, 2007:164).

The authority of Bawaslu in the election of members of the DPR, DPRD and DPRD in Article 73 paragraph (4) of Law Number 15 of 2011 concerning the holding of elections includes:

1. Receiving reports of alleged violations of the implementation of statutory provisions regarding elections.
2. Receiving reports of alleged election administration violations and reviewing reports and findings, as well as recommending them to the authorities.
3. Resolving election disputes.
4. Establish Provincial Bawaslu.
5. Appoint and dismiss Provincial and Bawaslu members
6. Carry out other authorities regulated in the provisions of laws and regulations.

If Law Number 15 of 2011 places Bawaslu as only part of the process of resolving administrative violations, the settlement is in the hands of the KPU. Where Bawaslu conducts a review meeting on whether there is an administrative violation of a complaint report. If there is, Bawaslu will recommend to the KPU to resolve the violation. The fact is that this recommendation is often ignored by the KPU so that the existence of Law Number 7 of 2017 concerning the new Election has strengthened the composition, duties, and authority of Bawaslu as an Election Oversight Body.

First, Article 89 UU Number 7 of 2017 concerning Elections indicates that Regency/Municipal Panwaslu has changed to Regency/City Bawaslu where this makes Bawaslu at the district/city level have a permanent position, not temporary as in the previous law. The following is the composition of the Bawaslu consisting of:

1. Bawaslu;
2. Provincial Bawaslu;
3. Regency/City Bawaslu;
4. District Panwaslu;
5. Village/Kelurahan Panwaslu;
6. Panwaslu LN; and
7. Polling Station Supervisor. (Article 89 of Law Number 7 of 2007)

Second, the duties of Bawaslu in Article 93 of Law Number 7 of 2017 concerning Elections indicate that apart from being tasked with supervising all stages of elections and preventing the practice of money politics, Bawaslu is also tasked with overseeing the neutrality of the State Civil Apparatus (ASN), neutrality of members of the Indonesian National Armed Forces (TNI) and neutrality of members of the Indonesian National

Police (Polri), overseeing the implementation of decisions by the Election Organizer Ethics Council (DKPP), courts, decisions of the General Elections Commission (KPU), and decisions of officials authorized for violations of the neutrality of ASN, members of the TNI and members of the National Police, overseeing the implementation of decisions / decisions of both the DKPP, KPU and Bawaslu themselves, as well as conveying allegations of violations of the election organizers' code of ethics to DKPP.

Third, the authority of Bawaslu in Article 95 shows that Bawaslu is no longer just examining, reviewing recommendation givers, but as the executor or deciding on administrative violations, money politics violations, and election dispute resolution and even has the right to provide recommendations to the agency concerned regarding the results of oversight of the neutrality of ASN, members TNI, and members of the Police.

## **RESEARCH METHODS**

### Types of Research

The type of research used in this paper is normative juridical research, namely a method based on the main legal material by examining theories, concepts, legal principles and statutory regulations related to this research.

### Types and Sources of Data

The type of data used in this study are:

1. Types of primary data, namely types of data obtained through research in the field with related parties that have something to do with the title of this research.
2. Types of secondary data, namely types of data obtained through literature/books, documents and statutory regulations

### Techniques for Collection of Legal Materials

In this research, the collection of legal materials was carried out through Library Research, in the form of documents and laws and regulations related to Bawaslu and the simultaneous local elections in 2024. The primary data that was examined first was its completeness and clarity to be clarified and carried out. systematic and consistent preparation to facilitate analysis. This primary data is corrected first to complete the data that is most relevant to the formulation of the problems in this study. Secondary data obtained from the literature is selected and collected systematically, so that it can be used as a reference in conducting analysis. From the results of the research data, a descriptive analytical discussion was carried out.

### Data Analysis Techniques

The data collection and analysis techniques are used with two approaches, namely:

1. Conceptual Approach.

The conceptual approach is to move from the views and doctrines that develop in the science of law by studying the views and doctrines in the science of law, researchers will think about ideas that give birth to understanding, legal concepts and legal principles that are relevant to the issues at hand.

- 2) Statute Approaches.

The method in analyzing the data that the author uses is a qualitative method to process the data obtained from the results of the research in a clear and detailed manner and then described in written form to answer and find the essence of the problem that has been studied.



## RESULTS AND DISCUSSION

### Optimizing the Authority of Bawaslu in the 2024 Simultaneous Elections in Indonesia

Ahead of the holding of the 2024 Simultaneous Elections in Indonesia, it is a challenge for the RI Bawaslu in carrying out its duties, authorities and functions in preventing, supervising and acting on election violations. Therefore, it is necessary to optimize the authority of the Indonesian Bawaslu as a whole to realize the democratic 2024 Simultaneous Election.

Optimizing the authority of Bawaslu to realize the democratic 2024 Simultaneous Election is as follows:

#### 1) Prevention Efforts

In terms of prevention, based on the mandate of Law no. 7 of 2017 concerning General Elections, the RI Bawaslu is tasked with preventing and taking action against Election Violations and Election Process Disputes as well as conducting socialization of the election administration. To carry out this task, Bawaslu must carry out socialization, education, promotion and use of information media to provide understanding ahead of preparations for the 2024 simultaneous elections and outreach regarding the implementation and prevention of violations of the 2024 simultaneous election.

2) Oversight Efforts related to Oversight tasks, Law. No. 7 of 2017 concerning Elections mandates that Bawaslu has the following tasks:

- a. Supervise the preparation of the holding of elections
- b. Supervise the implementation of the stages of the election administration
- c. Supervise the neutrality of the state civil apparatus, the neutrality of members of the Indonesian National Armed Forces, and the neutrality of members of the Indonesian National Police, and
- d. Supervise the implementation of decisions and decisions of state institutions regarding the implementation of elections, including the implementation of KPU regulations.

#### 3) Enforcement Efforts

Through synergy in one coordination between the Provincial Bawaslu to the Kelurahan/Village Panwaslu with the Task Force, Security Officers, KPU and all related parties in conducting supervision, the Bawaslu will be more effective and optimal in taking action against election violations both Election Organizers, Candidate Pairs, Campaign Teams, Liaison for Candidate Pairs, as well as parties involved in the 2024 Simultaneous General Elections. Transparent election organizers are those who provide access to the public, press, interest groups and other parties with an interest in these activities. However, transparency is not limited to providing access to organizational activities, but rather to disclosing facts related to the performance of the election organizers (Kopell, 2005: 56).

Transparency in the holding of elections is necessary so that public oversight can be carried out objectively and elections with integrity can be created. Therefore, it is necessary to provide information through an information system and documentation that can be easily accessed by interest groups regarding the pattern of formulation and content of laws, regulations and public policies and their implementation by each election organizer (Surbakti, 2013: 20).

The urgency of involvement or authority as well as election observers in simultaneous election supervision will not only strengthen the supervisory capacity of election administration, but supervision carried out by election observers will also encourage the expansion of the area of supervision. The oversight function inherent in Bawaslu is due to

the mandate of the law, while the oversight function carried out by election observers arises because of the awareness to realize elections with integrity and to reduce the level of violations in each stage of the simultaneous election, such as a code of ethics. So it is important that apart from encouraging transparency in the holding of elections, it is also important to encourage community involvement in conducting monitoring. Because one of the important keys to the implementation of overflow and urdil elections is the high involvement of the community to be more active, critical and rational in voicing their political interests (Nurkinan, 2018).

#### Bawaslu Strategy to Reduce Violations in Indonesia's 2024 Concurrent Elections

The strategy carried out by the General Election Supervisory Body (Bawaslu) to reduce violations in simultaneous elections in 2024 includes the following:

1. Supervision and prevention in terms of updating the list voter;
2. Supervision and prevention at the stage of verification of political parties;
3. Supervision and prevention at the nomination stage;
4. Supervision and prevention at campaign stages;
5. Supervision and prevention at the stages of procurement and distribution of voting and counting equipment;
6. Supervision and prevention at the stages of voting, counting and recapitulation of votes;
7. Supervision and prevention of ASN neutrality in elections;
8. Supervision and prevention of money politics; as well as
9. Monitoring and preventing the politicization of SARA.

## CONCLUSION

Ahead of the holding of the 2024 Simultaneous Elections in Indonesia, it is a challenge for the RI Bawaslu in carrying out its duties, authorities and functions in preventing, supervising and acting on election violations. Therefore, it is necessary to optimize the authority of the Indonesian Bawaslu as a whole to realize the democratic 2024 Simultaneous Election.

The oversight function inherent in Bawaslu is due to the mandate of the law, while the oversight function carried out by election observers arises because of the awareness to realize elections with integrity and to reduce the level of violations in each stage of the simultaneous election, such as a code of ethics. So it is important that apart from encouraging transparency in the holding of elections, it is also important to encourage community involvement in conducting monitoring.

#### Suggestions

1. The authority of Bawaslu needs to be transformed into an election justice institution or Electoral Court, so that election disputes or violations can be resolved by Bawaslu alone, with final and binding case decisions, and the qualifications of its members come from judges, legal experts, political experts and figures experienced in electoral field, so that there is no dualism of understanding between Bawaslu and the judiciary.
2. Increasing the number of personnel and human resources at the Bawaslu, because the duties of the Bawaslu are so many that it avoids overlapping tasks between personnel and human resources

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