

Analysis Of The Election Supervision System In Indonesia: A Comparison Between Simultaneous And Non-Simultaneous Elections

Kausar Jumahir Lesen^{1*}

¹University of Lampung, Indonesia

*Corresponding Author: lesenkausarjumahir@gmail.com

Abstract

This article will describe the various forms of the election oversight system in Indonesia, starting from the Old Order era to reform (from Panwaslak to Bawaslu; from Pilkada not simultaneously and concurrently). However, there are various kinds of problems in the supervision of elections in Indonesia, including manipulation of nomination requirements, invalidity of voter data, money politics in campaigns, abuse of authority and intervention of power structures, as well as inflating the results of vote acquisition as a common phenomenon in almost every election implementation, which involves election organizers, election participants and/or the public as voters. Thus, the existence of election supervisors in political and administrative law reviews is important to avoid delegitimizing the election process and results, as well as anticipating the development of various acts of election violations, in order to strengthen public confidence in various problems in the electoral system. The existence of strong election supervisors is inseparable from the importance of oversight mechanisms for the realization of quality elections 5

Keywords: *Monitoring System, Elections, Bawaslu, Authority.*

INTRODUCTION

General elections (Pemilu) are a political process that is always dynamic , can only run smoothly and orderly if each election contestant follows the rules of the game that have been agreed upon beforehand. As an effort to realize democratic elections that are honest and fair which aims to avoid the occurrence of election delegitimization, because there are several problems regarding the enforcement of election law that must be resolved comprehensively ,



through identification - what triggers the problem and should be sought solutions so that the law can be enforced.¹

General elections are the implementation of the establishment of the pillars of government whose elements are built by the people, as implied in the 1945 Constitution in Article 1 paragraph 2 which states "from the people, by the people, and for the people" . Thus, elections are a competitive arena to fill political positions in government based on formal choices and qualified citizens . Election participants to elect leaders in the executive (president and vice president, governor and deputy governor, regent and deputy regent, and mayor and deputy mayor) can come from individual paths or proposed by political parties or coalitions of political parties. Political parties nominate candidates in the election to then be elected by the people.²

The right of citizens to vote in general elections is a crucial element in the development of democracy, demonstrating the people's existence and sovereignty over government. Elections, both as an institution and as a political practice, serve as a means for realizing the people's sovereignty honestly and fairly within the Unitary State of the Republic of Indonesia, based on Pancasila and the 1945 Constitution of the Republic of Indonesia.

Direct general elections by the people are a means of realizing the sovereignty of the people in order to produce a democratic government in the state , based on Pancasila and the 1945 Constitution. The implementation of direct, general, free, secret, honest and fair general elections can be realized if they are carried out by general election organizers who have integrity, professionalism and accountability.

The implementation of the democratic celebration through elections and the legal system in Indonesia is a manifestation of democracy. The implementation of elections is never separate from citizens, because it is a citizen's constitutional right to vote and be elected. Just as general elections are held based on the principle of equality before *the law* and equal opportunity in government , elections are a process of succession and transfer of leadership of a country and region that involves the real role of the public or the people in a sovereign manner.

Elections are an integral part of the democratic process, inseparable from the implementation of elections. Their *output is the election of elected* officials , not appointed officials . Furthermore, elections provide a means for the public to participate in determining the figure

¹ Ratnia Solihah, The Importance of Participatory Oversight in Monitoring Democratic General Elections, *Jurnal Wacana Politika* , Vol. 3, No. 1, March 2018, pp. 14-28.

²Pamungkas Sigit, *Regarding Elections* , Yogyakarta: Laboratory of the Department of Governmental Science and Department of Governmental Science, Faculty of Social and Political Sciences, UGM, 2009. p. 3.



and direction of regional leadership for a specific period. When democracy receives widespread public attention, the implementation of democratic elections becomes a crucial prerequisite for shaping regional leadership. Elections primarily function to produce leadership that truly reflects the will of the people. Therefore, elections are a means of gaining legitimacy for power in a region and are part of other general elections, such as presidential and legislative elections. The direct election system is a concrete method that serves as a means of conveying the people's democratic rights.

The implementation of the Election has been recognized for less than For more than 1 (one) decade, this election system has been based on the principle of popular sovereignty. The core of the election problem stems from two main issues that are always questioned in the practice of state life, namely the teaching of popular sovereignty and the concept of democracy, where democracy is the embodiment of popular sovereignty and general elections are a reflection of democracy.³

The implementation of elections, in addition to being guided by the principles of Direct, General, Free, Clean (LUBER), Honest, and Fair (JURDIL), also requires supervision that refers to the same guidelines as one of the indicators in determining the success of the election. Therefore, in the implementation of elections, an election oversight system must be in place . Election supervision encompasses activities such as observing, reviewing, examining, and assessing the election process in accordance with laws and regulations. The Election Supervisory Agency (Bawaslu) and the Election Supervisory Committee (Panwaslu) at all levels play a vital role in ensuring that elections are held democratically, directly, publicly, freely, secretly, honestly, and fairly in accordance with applicable laws and regulations.⁴

According to Article 89 paragraph 1 of Law Number 7 of 2017, the Election Supervisory Agency (Bawaslu) is responsible for supervising the implementation of elections. The Bawaslu's institutional structure is regulated in the following paragraph, which states that Bawaslu consists of:

1. Indonesian Election Supervisory Agency;
2. Provincial Election Supervisory Agency;
3. Regency/City Bawaslu;
4. Sub-district Election Supervisory Committee;

³Ramlan Surbakti, et.al, *Designing a Democratic Political System Towards an Effective Presidential Government* , Partnership for Governance Reform Jakarta 2011. pp. 42-43.

⁴Hanif Suranto et al., *Critical Coverage of Elections* , Jakarta: LSSP, 2008. p. 1.



5. Village/Sub-district Election Supervisory Committee
6. Overseas Election Supervisory Committee; and
7. Polling station supervisor.

Bawaslu has a strategic role in overseeing the election and regional election process so that its implementation is in accordance with the principles and objectives of the election. The substance of democracy in the formation of regional government administration after the second amendment to the 1945 Constitution of the Republic of Indonesia as mandated by Article 18 paragraph (4) which is realized through the formation of laws and regulations that regulate the implementation of direct elections for regional heads and deputy regional heads (Pilkada), is the *raison de etre* (used as a reason) which is the basic essence of the democratization of regional government administration.

Evaluation of the development of the implementation of direct regional elections from 2005 to 2014, gave rise to the view that the implementation of direct elections for governors, district heads, and mayors has been plagued by a variety of problems that are not in accordance with democratic principles. This is the basis for making changes to Law Number 32 of 2004, with the basic assumption of separating the laws and regulations regarding regional government from the laws and regulations regarding the implementation of regional elections, with the goal of realizing the implementation of democratic regional elections based on the principles of elections, namely direct, general, free, secret, honest and fair, which in its implementation requires the independence and credibility of election organizers to realize the integrity of the process and results of the regional elections.

The improvement of the electoral legislation system to create an independent, credible and integrity-based election organizing institution is crucial to upholding the principles of elections and realizing the integrity of regional elections as mentioned above, as part of efforts to strengthen democratic institutions and develop the legal system. This primarily involves addressing various election issues, both within the scope of norms and the implementation of norms in regulatory systems, including manipulation of candidacy requirements, invalid voter data, money politics in campaigns, abuse of authority and intervention by power structures, and inflation of vote tallies as a common phenomenon in almost every election implementation, involving election organizers, election participants and/or the public as voters.

Efforts to overcome the above problems are the basis for strengthening the position of the institutional authority of election supervisors which are national, permanent and independent as mandated by Article 22E paragraph (5) of the 1945 Constitution. The existence of election



supervisors in the political and administrative law review is important to avoid delegitimization of the election process and results, as well as anticipating the development of various election violations, in order to strengthen public trust in various problems of the election system ⁵. The existence of strong election supervisors cannot be separated from the importance of the supervision mechanism for the realization of quality elections.⁶

The basic assumptions above are the initial foundation for fundamental improvements in aspects of governance, the relationship of authority between election organizers and strengthening the position of the authority of the election supervisory institution based on Law Number 7 of 2017 and its amending regulations, thus presenting various new provisions that have never existed in the previous legal system that regulates the system of organizing regional elections. Improvement efforts will be realized through the development of the organizational structure and authority structure of the election supervisory institution, as well as changes in governance and authority relations between election organizers, which reflect changes in legal policy towards the election supervisory institution. Therefore, it is necessary to review the policy direction of strengthening the election supervisory institution in the implementation of the Presidential Election, Legislative Election and Regional Election, as well as the impact of strengthening the election supervisory institution on the capacity of the institution in realizing the goal of strengthening the supervision system for the Presidential Election, Legislative Election and Regional Election.

If we examine the history of indirect Regional Head Elections (pilkada) in Indonesia, it can be interpreted as the election of regional leaders through representation. The people are considered to have given their right to vote to elect regional leaders to the DPRD who have been elected by the people in the Legislative Election ⁷. The basis for holding indirect Regional Head Elections is based on the 1945 Constitution, Article 18 paragraph (4) which states "Governors, Regents, and Mayors respectively as Heads of Provincial, Regency, and City Regional Governments are elected democratically."⁸

Historically, the history of democracy in Indonesia records that regional head elections began during the Dutch colonial era. The Dutch East Indies government enacted a law on June 23,

⁵Nurhidayat Sardini. *Election Monitoring Guidelines*. Jakarta: Election-MDP, 2009. p. 3.

⁶Iwan Satriawan. "Regional Election Supervision by the People", *Bawaslu Journal*, 2016. p. 115.

⁷Hendra Budiman, *Indirect Regional Elections and Fake Democracy*, Yogyakarta: Pustaka Yustisia, 2015. p. 161.

⁸1945 Constitution, Article 18 paragraph 4 concerning Regional Government.



1903, known as the *Decentralization Act* of 1903.⁹ The *Decentralization Act* of 1903 delegated the implementation of its provisions to officials authorized to create *ordinances* in the Dutch East Indies. Based on the legal provisions of the *Decentralization Act* of 1903, the *Koninklijk Desluit* (*Koninklijk Desluit*) was born on December 20, 1904 (known as the *Decentralization Act* of 1904).¹⁰ Meanwhile, the Japanese occupation of Indonesia promulgated three laws governing the administration of government, known as the 3 *osamusirei* (in Indonesian, UU-undang).¹¹ The three laws are Law Number 27 concerning changes in government (2602), Law Number 28 concerning the *syuu government* (2602) and Law Number 30 concerning changing the names of countries and regions (2602).¹²

After Indonesia's independence, the law that touched on the position of regional heads was Law Number 1 of 1945, concerning regulations regarding the position of regional national committees, which was promulgated on November 23, 1945.¹³ During Law Number 1 of 1945, the appointed regional heads were regional heads from the previous period, this was done because the political, security, and constitutional legal situation at that time was less conducive. Furthermore, after Soekarno stepped down from power, the New Order Government issued Law Number 5 of 1974 concerning the Principles of Regional Government. Based on the 1945 law and Pancasila purely and consistently, regional power or authority was limited and controlled by the Soeharto regime at that time, including the election of regional heads. Regional heads were appointed by the president from qualified candidates, the procedure for selecting candidates deemed worthy of being appointed by the president was carried out by the DPRD.¹⁴

This means that regional heads are not the result of elections by the Regional People's Representative Council (DPRD), because the number of votes in the nomination process or the order of nomination does not prevent the president from appointing any of the candidates. This regulation relates to the interests of the people. the central government to get a Governor or

⁹GJ Wolhoff, *Introduction to the Science of Constitutional Law of the Republic of Indonesia*, Jakarta: Timun Mas NV, 2005. p. 23.

¹⁰Joko J. Prihatmoko, *Direct Regional Head Elections; Philosophy, Systems, and Problems of Implementation in Indonesia*, Yogyakarta: Pustaka Pelajar, 2005. p. 38.

¹¹A law issued by the Commander of the Sixteenth Army, the Japanese occupation army. See No. 1 Article 1 issued on March 7, 1942.

¹²Marwati Djoened Poesponegoro Nugroho, *National History of Indonesia, 6th Edition, 2nd Edition - Updated Edition*. Jakarta: Balai Pustaka, 2008. p. 19.

¹³In Law Number 1 of 1945 it is stated that the regional head carries out his executive function as the leader of the regional national committee, and also becomes a member and is appointed as the legislative chairman in the regional representative body.

¹⁴Hendra Budiman, *Indirect Regional Elections*, ... p. 20.



Regent who is capable in collaboration with the central government. In some cases, the elected regional head was not the number one choice proposed by the local DPRD.¹⁵

After the fall of the New Order regime, Law Number 22 of 1999 concerning regional autonomy was enacted on May 7, 1999. This law brought about changes in the administration of government. in area. The changes not only about The implementation of regional governance, but also the relationship between the central and regional governments. Previously, the relationship between the central and regional governments was centralized, but after this Law was enacted, the relationship became decentralized. According to Law Number 22 of 1999, regional governments consist of regional heads and other regional apparatus, with the Regional People's Representative Council (DPRD) outside the regional government serving as the regional government's legislative body, overseeing the administration of government.

There have been several changes in the implementation of elections in Indonesia, where Regional Head Elections (Pilkada) can be held simultaneously starting from 2015 until this year (2018). This simultaneous Pilkada has been agreed upon by the Government and the House of Representatives. This agreement was made after the organizers, namely the Election Commission The General Elections Commission (KPU) has agreed. Law Number 10 of 2016 concerning the Election of Governors, Regents, and Mayors for the election of new officials will be implemented in June 2018. A total of 171 regions will host this major local event. The 2018 simultaneous regional elections will be larger than previous elections. A total of 171 regions will participate in the regional head elections. Of the 171 regions, there are 17 provinces, 39 cities, and 115 districts that will hold regional elections in 2018.

This regional election will also produce qualified leaders through a democratic competition process. The design of the simultaneous regional elections appears to still require further discussion. This is because the political event, which involved 17 provinces, 39 cities, and 115 regencies in 2018 , was not intended to substantially improve the quality of democracy. However, According to KPU member Arief Budiman, the goal of holding simultaneous regional elections is to " create budget effectiveness and efficiency . " ¹⁶In other words, simultaneous regional elections

¹⁵In the New Order era, in the 1985 regional elections, the number 1 candidate for governor of Riau, Ismail Suko, was defeated by Imam Munandar, who was the number 2 candidate. Furthermore, in the Sukabumi regent election, the number 2 candidate, Ragam Santika, was also finally elected as regent. See Joko J. Prihatmoko, *Direct Regional Head Elections; Philosophy, Systems, and Problems of Implementation in Indonesia* , Yogyakarta: Pustaka Pelajar, 2005. p. 65.

¹⁶<http://www.kpud-bintankab.go.id/html/Berita-KPU-Bintan/arief-tujuan-pilkada-serentak-untuk-terciptanya-efektivitas-dan-efisiensi-anggaran.html>, retrieved on November 25, 2022.



serve as a ceremonial process for electing leaders at the local level, using an effective and efficient budget. As a result, although all stages of the simultaneous regional elections are *designed* to be free and fair, However, several rules in the regional election process also provide opportunities for "creative" efforts by political party elites to manipulate it.

paper focuses on examining several opportunities for legal vacuum by comparing non-simultaneous and simultaneous general elections in several regencies/cities in Indonesia that have an impact on the role and authority of the Election Supervisory Agency in Regional Head Elections (Pilkada). In addition, the author also wants to provide facts on the ground related to the relations and dynamics of local *elites* and political parties in dealing with simultaneous Pilkada regulations that occur in the implementation of direct Pilkada in several regencies/cities in Indonesia that have legal implications born by the Election Supervisory Agency.

DISCUSSION

Concept of Election Supervisory Institution

History has shown that from the first Indonesian election in 1955 until the 1982 election, there was no oversight of elections. This demonstrates the lack of public and government awareness of the importance of oversight . According to Arbi Sanit, regulations during both the Old and New Order eras adhered to a traditional philosophy of power, namely the government's intention as a pattern of power relations in the election oversight process, where elections were supervised by the government itself as the implementer (the principle of internal oversight).¹⁷

The focus on election oversight was not fully realized until 1980, prompting the then-rulers to immediately establish election supervisory bodies from the central to regional levels. This institution, named the Election Supervisory Committee (Panwaslak), was led directly by the Attorney General, with the civil and military bureaucracies acting as its field implementers. Panwaslak, as an internal election supervisor, was introduced in Law No. 2 of 1980, the second amendment to Law No. 15/1969 concerning the Election of Members of the House of Representatives (DPR/MPR), prior to the 3rd New Order election.

Since independence until 2014, Indonesia has held eleven general elections: 1955, 1971, 1977, 1982, 1987, 1992, 1997, 1999, and 2004, as well as 2009 and 2014. However, of the eleven elections, only in 1982 did a supervisory body appear. This means that the government, as the

¹⁷Arbi Sanit, *Politicization of Election Regulations in the 1997 Election; Polling and Analysis* , ISAI, Jakarta, 2017. p. 58



party responsible for implementing elections, has only recently recognized the importance of election supervisors. Several models of supervision have been implemented in Indonesia.

a. Election Supervision Model of the Attorney General's Office

The General Elections Supervisory Committee (PANWASLAK) as an internal election supervisor was only introduced ahead of the 3rd New Order election in Law No. 2 of 1980 concerning the second revision of Law No. 15/1969 concerning the Election of DPR/MPR members. This change arose from the ineffectiveness of parliament due to the election without supervision, and the government's difficulties in dealing with the oil crisis, which forced the government to fulfill the creation of public support for them.

PANWASLAK is a supervisory body established by the Indonesian Election Committee (PPI). This institution is led directly by the Attorney General, with civil and military officials acting as field implementers. PANWASLAK is established at each Election Committee, from the central level down to the sub-district level. Its membership is drawn from representatives of the government, Golkar, PPP, PDI, and ABRI.

b. Community Part Supervision Model

Starting from the issue thrown out by the PPP, which will form Election monitoring bodies (Lajnah) down to the sub-district level, ahead of the 1997 elections, a number of Non-Governmental Organizations (NGOs) and Legal Aid Institutes (LBH) in Bandung boldly established the Independent Election Monitoring Institute (LIPP) to oversee the election process from voter registration to the announcement of the vote count. The establishment of this monitoring body, declared in Bandung, received widespread support from NGO activists, student activists, and LBHs in 10 other provinces in Indonesia.

Not long after, the Independent Election Supervisory Committee (KIPP) was born, led by Goenawan Muhammad and his colleagues. The philosophical basis for the establishment of KIPP was the reality that elections had been tainted by fraud and manipulation, and the people's rights were ignored. Its birth was a long-term investment in creating a new, better democracy, so KIPP was oriented towards building public trust that they could work for improvement. In addition to the presence of LIPP and KIPP, a number of figures, spearheaded by Luhut Sitompul and his colleagues, formed the Objective Election Monitoring Team (TOPP). This institution is independent



to support the role, position, and function of PANWASLAK as the official institution authorized to carry out supervision.¹⁸

c. Election Supervision Model of the Supreme Court (MA)

The 1999 election was indeed considered special, because for the first time the task of election supervision was handed over to the judiciary, namely the Supreme Court and the judicial bodies under it. The 1999 election positioned the responsibility for formal supervision to the judiciary, within its authority for the General Election Supervisory Committee (Panwas), as mandated by Article 24 of Law No. 3/1999. Panwas is a legal institution given the responsibility and authority by law to supervise and monitor the implementation process at every stage of the election to ensure the implementation of honest, fair, direct, general, free and secret elections. The Supreme Court (MA) and its subordinate bodies, namely the High Court (PT) and District Court (PN), played a significant role in the implementation process of the 1999 election, because in addition to forming Panwas, the judiciary also placed its personnel in the Panwas management.

d. Election Supervision Model Formed by the KPU

Based on Article 120 of Law Number 12 of 2003 concerning the General Election of members of the DPR, DPD, and DPRD, an Election Supervisory Committee is established to oversee the election. This Election Supervisory Committee is established by the KPU, while The Election Supervisory Committee from the Provincial to the District Election Supervisory Committee is formed by the Election Supervisory Committee above it. Likewise, the Election Supervisory Committee for the President and Vice President, according to Article 76 of Law Number 23 of 2003 concerning the Election of the President and Vice President, the duties and authority to supervise the President and Vice Presidential elections are carried out by Election Supervisory Committees such as the Election Supervisory Committees of the DPR, DPD, and DPRD. The working mechanism of the Supervisory Committee This election was also coordinated more with the KPU/KPUD¹⁹.

e. Permanent Election Supervision Model.

According to Law No. 22 of 2007, the Election Supervisory Agency (Bawaslu) is responsible for supervising the election. Bawaslu is assisted by the Provincial Election Supervisory Committee (Panwaslu), the Regency/City Election Supervisory Committee (Panwaslu), the Sub-district Election Supervisory Committee (Panwaslu Kecamatan), the Field Election Supervisory Committee

¹⁸Wahidah Sueb, (Thesis) *Dynamics of 2004 Election Supervision: Analysis of the Implications of the Panwas Position Dilemma on Optimizing Handling of Follow-up Election Violations and Resolution of Election Disputes*, UI Postgraduate, Jakarta, 2007. p. 52.

¹⁹*Ibid* . p. 56.



(Panwaslu Jabatan), and the Overseas Election Supervisory Committee (Panwaslu Jabatan). The Election Supervisory Board is a permanent institution. Its members are appointed once every 5 years or are permanent. Meanwhile, the Provincial Election Supervisory Committee (Panwaslu Jabatan), the Regency/City Election Supervisory Committee (Panwaslu Jabatan), the Field Election Supervisory Committee (Panwaslu Jabatan), and the Overseas Election Supervisory Committee (Panwaslu Jabatan) are *ad hoc*. The Provincial Election Supervisory Committee (Panwaslu Jabatan), the Regency/City Election Supervisory Committee (Panwaslu Jabatan), the Field Election Supervisory Committee (Panwaslu Jabatan), and the Overseas Election Supervisory Committee (Panwaslu Jabatan) are formed no later than 1 (one) month before the first stage of the election begins and ends no later than 2 (two) months after all stages of the election are completed. Bawaslu is based in the nation's capital. The Provincial Election Supervisory Committee (Panwaslu Jabatan) is based in the provincial capital. The Regency/City is headquartered in the Regency/City capital. The Sub-district Election Supervisory Committee is headquartered in the sub-district capital.

Field Election Supervisors are based in villages/sub-districts. Overseas Election Supervisors are based in representative offices of the Republic of Indonesia. Bawaslu's membership consists of professionals with the skills to conduct supervision and who are not members of political parties.

Number of members:

1. Bawaslu as many as 5 (five) people;
2. provincial supervisory committee consists of 3 (three) people;
3. The Supervisory Committee in the Regency/City consists of 3 (three) people;
4. Panwaslu in the sub-district consists of 3 (three) people;
5. The number of Field Election Supervisors in each village/sub-district is 1 (one) person (Law No. 15 of 2011).

In carrying out supervision as referred to above, Bawaslu and its subordinates:

- a. Receive reports of alleged violations of the provisions for implementing election campaigns;
- b. Resolving findings and reports of election campaign violations that do not contain criminal elements;
- c. Submit findings and reports to the KPU regarding election campaign violations for follow-up;
- d. Forwarding findings and reports regarding alleged election crimes to the Republic of Indonesia National Police;



- e. Provide recommendations to the KPU regarding alleged actions that result in disruption to the implementation of the Election campaign by members of the KPU, provincial KPU, district/city KPU, KPU Secretary General, KPU General Secretariat staff, provincial KPU secretary, provincial KPU secretariat staff, district/city KPU secretary, and district/city KPU secretariat staff based on reports from the legislative Panwaslu in the Province and the legislative Panwaslu in the Regency/City; and/or
- f. Supervise the implementation of follow-up recommendations for imposing sanctions on members of the KPU, provincial KPU, district/city KPU, KPU Secretary General, KPU General Secretariat employees, provincial KPU secretary, provincial KPU secretariat employees, district/city KPU secretary, and district/city KPU secretariat employees who are proven to have committed acts that have disrupted the implementation of the ongoing election campaign (Law No. 10 of 2008 Article 123).

The institutional dynamics of election supervisors are still ongoing with the issuance of Law Number 15 of 2011 concerning Election Organizers. Institutionally, election supervisors have been strengthened with the establishment of a permanent election supervisory body at the provincial level, the Provincial Election Supervisory Agency (Bawaslu Provinsi). Furthermore, the Bawaslu secretariat is supported by an echelon I secretarial unit with the nomenclature of Bawaslu Secretariat General. Furthermore, in terms of authority, As stipulated in Law Number 22 of 2007, Bawaslu, under Law Number 15 of 2011, also has the authority to handle election disputes. Due to this change in nomenclature, the Provincial Bawaslu has the authority to resolve election disputes, which previously only had the authority to issue recommendations. became a "decision" in the election, and so did the institutional structure and membership which experienced changes.

In 2015 there was a change in the law regarding government regulations on the election of Governors, Regents and Mayors into Law Number 1 of 2015 which replaced Law Number 1 of 2014. Subsequently, Law Number 1 of 2015 was refined into Law Number 8 of 2015 concerning the Election of Governors, Regents and Mayors. The Constitutional Court allows regions with a single candidate to hold simultaneous regional head elections in the first period in December 2015 .

The Constitutional Court considers the formulation of Law No. 8 of 2015, which requires more than one candidate pair, to be unsuitable and creates a legal vacuum. This could result in the inability to hold regional elections. Therefore, the requirement regarding the number of candidate



pairs has the potential to threaten sovereignty and the people's right to vote. Elections must still be held even if there is only one candidate²⁰pair .

To further strengthen the election supervisory institutions in Indonesia, Law Number 10 of 2016 concerning the second amendment on 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. After that, Law No. 10 of 2016 underwent the final revision to become Law No. 7 of 2017 concerning General Elections . Where Law No. 7 of 2017 details the Determination of the number of members of the Provincial Bawaslu based on calculations with the formula of the number of residents plus the product of the area and the number of districts/cities. Provinces with vote count results of or more than 10,000,000 (ten million), the number of members of the Provincial Bawaslu is 7 (seven) people. Provinces with vote count results of less than 10,000,000 (ten million), the number of members of the Provincial Bawaslu is 5 (five) people. Determination of the number of members of the Regency/City Bawaslu is based on calculations with the formula of the number of residents plus the product of the area and the number of sub-districts. Regency/City with vote count results equal to or more than 500,000 (five hundred thousand), the number of members of the Regency/City Bawaslu is 5 (five) people. Regency /City with the vote count result less than 500,000 (five hundred thousand), the number of Bawaslu Regency /City members is 3 (three) people. The election supervision process includes; Registration of Political Parties and Verification of Political Parties, Compilation of Voter Lists and Determination of Permanent Voter Lists, Registration of Candidates for DPR, DPD, Provincial DPRD and City/Regency DPRD, Compilation and Verification of Temporary Candidate Lists for DPR, DPD, Provincial DPRD, and Regency/City DPRD, Determination and Announcement of Permanent Candidate Lists for DPR and Provincial DPRD and Regency/City DPRD, Determination and Announcement of Permanent Candidate Lists for DPD Members, Campaign, Voting, Vote Counting, Recapitulation of Vote Counting, Determination of Election Results, Determination of Seat

²⁰The petition was filed by political communication experts Effendi Gazali and Yayan Sakti Suryandaru. They filed a judicial review of Article 49 paragraph (8) and paragraph (9), Article 50 paragraph (8) and paragraph (9), Article 51 paragraph (2), Article 52 paragraph (2), Article 54 paragraph (4), paragraph (5), and paragraph (6) of Law Number 8 of 2015 concerning the Election of Governors, Regents and Mayors. In essence, the petitioners feel that the constitutional rights of voters are violated if the simultaneous regional head elections in a region are postponed until 2017. This is because the Regional Head Election Law stipulates that the minimum requirement for the implementation of regional head elections must be followed by two pairs of regional head candidates. Read, <http://nasional.kompas.com/read/2015/09/29/13474751/MK.Putuskan.Calon.Tunggal.Tetap.Mengikuti.Pilkada.Serentak>, retrieved on November 25, 2022.



Acquisition and Elected Candidates, and Resolution of Election Violations and Election Results Disputes.

The Role and Authority of Election Supervisors

In many countries around the world, democratic elections do not require the institutions we now know as Election Supervisory Bodies (Bantuan Pengawas Pemilu) at the national level and Election Supervisory Committees (Komisi Pengawas Pemilu) at the provincial and district/city levels to ensure honest and fair elections. In fact, in election practice in countries with experience in implementing democratic elections, the existence of Election Supervisory Bodies is not necessary.

However, the drafters of election laws since the New Order until now want the Election Supervisory Agency to exist, because its position and role are considered strategic in efforts to supervise the implementation of elections in accordance with applicable laws and regulations, especially in upholding the principles of free and fair elections. We can find this in the general explanation of Law Number 7 of 2017 which states that: "In the implementation of general elections, supervision is required to ensure that the general elections are truly carried out based on the principles of general elections and statutory regulations . "

According to Law Number 7 of 2017 , the role of Election Supervisors is outlined in the duties, authorities, and obligations of Election Supervisors. Regarding election supervision duties, there is a division of election supervision duties, which can be explained as follows :

- (a) Bawaslu supervises all stages of the election process;
- (b) Agency supervises all stages of the election implementation in the provincial area;
- (c) The district/city Ba Waslu supervises the implementation of elections in the district/city area;
- (d) The Sub-district Election Supervisory Committee supervises the stages of election implementation in the sub-district area;
- (e) Field Election Supervisors supervise the stages of election implementation at the village/sub-district level;
- (f) Overseas Election Supervisors supervise the stages of election implementation abroad.

The duties and authorities of the Election Supervisor can be explained in general as follows:

- 1) Supervise the stages of election implementation;
- 2) Receiving reports of alleged violations of election laws;
- 3) Submit findings and reports to the KPU/provincial KPU/district/city KPU or police or other agencies for follow-up;



- 4) Monitor follow-up of recommendations;
- 5) Supervise the implementation of socialization of the election administration; and
- 6) Carry out:
 - a) Other duties and authorities are determined by law (for Bawaslu, Provincial Ba Waslu, and Regency/City Ba Waslu);
 - b) Carry out other duties of the Sub-district Election Supervisory Committee (for field election supervisors); and
 - c) Carry out other duties from Bawaslu (for Overseas Election Supervisors).
 - d) In carrying out their duties, Bawaslu, Provincial Ba Waslu and Regency/City Ba Waslu have the authority to: Provide recommendations to the KPU to temporarily suspend and/or impose administrative sanctions for violations and provide recommendations to the authorities regarding findings and reports on actions containing elements of election crimes.

When compared with the 2014 Election , as regulated in Law No. 8 of 2012 and Law No. 15 of 2011 , Election Supervisors have three functions (duties and authorities), namely: *first* , supervising the implementation of each stage of the election; *second* , handling cases of election administration violations and election crimes; and *third* , resolving disputes in the implementation of elections or disputes over non-election results. While in Law No. 7 of 2017 and Law No. 10 of 2016 the last task (third task) only lies with Election Supervisors at the district/city level, but the new election law increases the power of Election Supervisors which includes several aspects, namely *first* , institutionally, Election Supervisors at the national level are permanent and now have networks down to the village/sub-district level; *second* , functionally, Election Supervisors are authorized to provide recommendations to dismiss members of the KPU and regional KPU who are deemed to have violated election laws and regulations.

In carrying out their duties and authority to oversee each stage of the election, the Election Supervisory Agency's actions are actually not much different from those of election monitors or election observers, namely, both criticize, appeal, and process any deviations from the law. However, regarding the handling of cases of alleged election violations, there is a fundamental difference here, because the Election Supervisory Agency is the only institution authorized to receive reports. In other words, the Election Supervisory Agency is the only entry point for submitting reports of election violations. Furthermore, the Election Supervisory Agency is also the only institution authorized to conduct reviews of reports or findings of alleged election violations to determine whether they actually contain violations. If an administrative violation occurs, the



Election Supervisory Agency recommends administrative sanctions to the General Elections Commission (KPU/KPUD) for the violation. Whereas if the report contains elements of a criminal offense, the Election Supervisory Agency forwards it to police investigators. Therefore, in the 2004 election, it was stated that in handling cases of election violations, the Election Supervisory Agency's duties were no more than "postmen" who delivered cases to the General Elections Commission (KPU/KPUD) or to the police. Election supervisors in the 2004 election could not do anything if the recommendations to the KPU/KPUD were not followed up.

The position of "postman" as in the 2014 election, has now been upgraded to "blowman". This is possible because Law Number 7 of 2017 and Law Number 10 of 2016 provide "clubs" to Election Supervisors to "club" the KPU/KPUD if the Election Supervisory recommendations are not followed up by the KPU/KPUD. This means that Election Supervisors can take criminal action against KPU or KPUD members who do not follow up on Election Supervisory reports or recommendations. While in terms of handling cases of administrative violations, Election Supervisory has increased its power, this is not the case in terms of handling criminal cases. The success of the 2014 Election Supervisory in handling criminal cases is actually inseparable from the presence of police and prosecutors within the Election Supervisory body.

The presence of these two elements facilitates the coordination and expedited handling of election criminal cases, which have tight time limits. Law Number 7 of 2017 removed the police and prosecutors from the Election Supervisory Agency, which could impact the expedited handling of cases. Considering these weaknesses, the supervisory committee must not only improve its capacity and capabilities but also act professionally. In addition, another factor that becomes an obstacle in the implementation of the Election Supervisory function is time constraints. Law Number 10 of 2016 is stricter in regulating the forwarding of criminal cases submitted by Election Supervisors to the police. The law strictly provides a time limit of 3 (three) days or, if additional information is needed from the reporter regarding follow-up, no later than 5 (five) days after the report is received. On the other hand, the law also limits the time for reporting election violations at each stage of the election to a maximum of 3 (three) days from the date of the occurrence of election violations.

The limitation of the time limit is indeed good for providing legal certainty in handling election crimes, but in On the other hand, election supervisors will experience difficulties if witnesses who must be clarified live far away, especially in island provinces. Likewise, the public will experience difficulties in making reports of election violations to the Election Supervisory Agency, especially those living in remote areas where transportation is difficult. These obstacles



are trying to be overcome by Bawaslu together with the Attorney General of the Republic of Indonesia and the Chief of the Indonesian National Police by creating an MoU on the Integrated Law Enforcement Center (Sentra Gakkumdu). In general, it can be said that the existence of the Sentra Gakkumdu is quite successful in implementing law enforcement synergistically between Bawaslu (Election Supervisory Agency), the Police and the Prosecutor's Office. However, it must be acknowledged that the role of the Sentra Gakkumdu is not yet optimal, especially with regard to coordination between the parties in the Sentra Gakkumdu and the spirit of togetherness in carrying out the task of enforcing the law within the framework of an integrated criminal justice system.

CONCLUSION

General elections are the implementation of the establishment of the pillars of government, with several elements within them, built by the people. Elections are a competitive arena for filling political positions in the country. a government based on formal elections and qualified citizens. Election participants to elect leaders in the executive branch (president and vice president, governor and deputy governor, regent and deputy regent, and mayor and deputy mayor) can come from individual paths or be proposed by political parties or coalitions of political parties. Therefore, the implementation of elections in Indonesia can be carried out simultaneously. Simultaneous regional elections Starting from 2015 until this year (2018), of course, with the implementation of simultaneous regional elections, it has been agreed by the Government and the DPR. This agreement was made after the organizers, namely the Election Commission The General Elections Commission (KPU) has agreed. Law Number 10 of 2016 concerning the Election of Governors, Regents, and Mayors for the election of new officials will be implemented in June 2018. A total of 171 regions will host this major local event. The 2018 simultaneous regional elections will be larger than previous elections. A total of 171 regions will participate in the regional head elections. Of the 171 regions, there are 17 provinces, 39 cities, and 115 districts that will hold regional elections in 2018.

Furthermore, the simultaneous regional elections have institutional dynamics regarding the Election Supervisory Agency, where the Election Supervisory Agency is still running with the issuance of Law Number 15 of 2011 concerning Election Organizers. Institutionally, the Election Supervisory Agency was strengthened again with the establishment of a permanent Election Supervisory Agency at the provincial level under the name of the Provincial Election Supervisory



Agency (Bawaslu Province). In addition, the Bawaslu secretariat is also supported by an echelon I secretariat unit with the nomenclature of the Bawaslu Secretariat General.

Thus, in the context of the authority stipulated in Law Number 7 of 2017, Bawaslu, based on Law Number 10 of 2016, also has the authority to handle election disputes. Due to this change in nomenclature, the Provincial Bawaslu has the authority to resolve election disputes, which previously only had "recommendations." became a "decision" in the election, and so did the institutional structure and membership which experienced changes.

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