

Bawaslu as Law Enforcer in Maintaining Democratic Elections in Indonesia

Anre manik¹, Hisar Siregar²

^{1,2}Department of Law, Faculty of Law, Universitas HKBP Nommensen, Medan, Indonesia. Email: anre.manik@student.uhn.ac.id¹, hisar.siregar@uhn.ac.id²

ARTICLE HISTORY

Received: December 11, 2024

Revised: February 10, 2025

Accepted: February 17, 2025

DOI

<https://doi.org/10.52970/grdis.v5i2.904>

ABSTRACT

Regional Head elections in Indonesia are a real manifestation of direct democracy, where the people have a right to choose their regional leaders. The regional heads election is meant to be a very important thing in the discussion in society, where the regional heads election in Indonesia which is held every 5 (five) years is a momentum in determining who becomes the leader of the region. Often there are problems in regional head elections such as SARA issues, money politics to the issue of campaigns carried out outside the predetermined schedule. This makes the state through the law form an institution in terms of supervising regional head elections and elections. To overcome this, the existence of the general election Supervisory Agency (Bawaslu) as an independent supervisory institution is very crucial. In supervising the implementation of elections, ensuring that the democratic process runs fairly, honestly, and transparently. This journal will discuss the role of Bawaslu as a law enforcer in maintaining regional election democracy in Indonesia, focusing on the authority, challenges, and efforts made to increase the effectiveness of supervision.

Keywords: Bawaslu, Regional Elections, democracy, Supervision, Integrity.

I. Introduction

Regional head elections in Indonesia have experienced various developments over time. Along with the increase in regional autonomy, the role of regional elections in determining the direction of regional development is increasingly important. However, in line with the increasing role of regional elections, various challenges arise, including the potential for violations that hinder the realization of fair, honest, and democratic elections. Regional elections are a form of implementation of democracy in Indonesia. Democracy in terms of the progress of the state at this time is increasingly experiencing the peak of its development which provides major changes, where democracy in a brief sense is, as a government of the people, by the people, and for the people who are very incessant in every country, because the position in the state that is most concerned is the voice of the people. However, at this time there are many global problems where democracy is not only an intellectual discourse but also a political dream for a country, and more specifically for developing countries such as Indonesia. This is a condition that must be recognized in a country in international relations and lies in the recognition of democracy (Affan, 2015). Democracy in its understanding is sovereignty from the people, by the people, and for the people, but there is something odd that has now shifted to from the people, by the ruler, and for the ruler, precisely the people this time have lost their basic rights as the highest sovereignty holder. As the holders of that sovereignty, the people not only participate in

the voting booth but must go beyond that, so that at every stage after stage of state life on any scale, the people have the right and also the obligation to participate in improving state plans or planning in advancing their country. The dynamics of life in the implementation of democracy essentially lie in broader participation. This means that there are no restrictions in providing comprehensive and best opinions and input from the community. Democracy has a very important meaning for the people who use it because, with democracy, the right in society can be guaranteed to determine the movement and running of state organizations. Therefore, there is an important prerequisite in organizing elections or local elections in the Indonesian democratic country is that the organizers of elections or local elections are carried out by institutions that are independent of the government. Historically, some records state that the principle of democracy was born as the twin brother of the principle of law in modern democracies. There is no democracy without the rule of law, and there is no law without a democratic political life. (Wilma Silalahi, 2022)

With the implementation of local elections as a concrete step towards democracy, it is hoped that it will not only be a competition for power or lust for positions in state institutions, but rather a true show of strength. Ultimately, it is the citizens who are most affected by the misuse of democracy. This has the potential to create people who are not trustworthy and accountable to their people. They are driven by the desire for power alone, which is always accompanied by economic interests and wealth. By what is stipulated in the 1945 Constitution, Governors, Regents, and Mayors are leaders in provincial, regency, and municipal local governments, respectively, who are democratically elected by the community (Wilma Silalahi, 2022). In the implementation of these elections, the community can choose regional leaders who are expected to bring progress and prosperity to their regions. However, in practice, the implementation of Pilkada is often colored by various violations and disputes that can undermine democracy and justice. To prevent this, a strong and independent supervisory role is needed. Bawaslu, which is referred to as an independent institution that has the duty, responsibility, and authority to oversee the implementation of Pilkada, plays an important role in maintaining the integrity and credibility of the democratic process. Bawaslu has the authority to oversee all stages of the Pilkada, starting from the preparation stage, campaign, to vote counting. Through strict supervision, Bawaslu is expected to prevent violations and disputes, to create democratic, honest, and fair elections. (Ramdani, 2023)

II. Research Method

This research is intended to explain the existing problems to be analyzed using qualitative methods and analytical descriptive approaches. The data is collected through studies from various library sources, namely by researching and exploring legal materials or written data such as laws and regulations, books, journals, papers, and others related to the issues under study. The data obtained is then analyzed descriptively and interpretatively to reveal Bawaslu's role as a law enforcer in safeguarding democratic elections in Indonesia.

III. Result and Discussion

Bawaslu, or the Election Supervisory Agency, performs a very important role in safeguarding democratic principles during regional elections, known as Pilkada. Article 56 paragraph (1) of Law number 32 of 2004 states that the regional head and deputy regional head are elected in one candidate pair which is carried out democratically based on the principles of direct, free, secret, honest, fair, and in paragraph (2) of the law states that the candidate pair as referred to in paragraph (1) is proposed by a political party or a coalition of political parties. Its main function is to ensure the integrity and fairness of the electoral process, thus contributing to a healthy and strong democracy. Ensuring Fair and Transparent Elections Bawaslu's main responsibility lies in supervising and monitoring all aspects of the elections, from the early stages of candidate registration to the final vote count and announcement of results. This comprehensive oversight helps prevent

electoral fraud, manipulation, and other irregularities that could undermine the legitimacy of the election. (Nugraha, 2020)

3.1. Bawaslu's Role in Safeguarding Pilkada Democracy

Elections are a form of tool to elect representatives of the people, if elections are not carried out competitively, honestly, and fairly, it can be said that a democracy has failed. Democratic elections are the legal basis for a legitimized government. If democratic elections are not held, the government will lose recognition or legitimacy and support from its people (Bidja, 2022). Ensuring fair and transparent elections is a key responsibility of the Election Supervisory Body lies in the supervision and monitoring of all aspects of elections, from the early stages of candidate registration to the final vote count and announcement of results. This comprehensive oversight helps prevent electoral fraud, manipulation, and other irregularities from undermining the legitimacy of the election. The election supervisory body has a strategic legal position in handling a criminal offense or other election violation both in the election and the election, this is because Bawaslu is the entrance in reporting election violations. (Simamora, 2011)

Bawaslu's position in Indonesian legislation which is designated as a supporting institution that has been limited to the authority of other institutions is a way of thinking that must be abandoned in overcoming election or regional elections. It is said that in the implementation of Sentra Gakkumdu, an agreement, and good cooperation are needed to achieve the goals and prosecution of election crimes. Therefore the a need for collaboration between the three member institutions of the Gakkumdu Center to realize good cooperation. But still in this case there is a decision coordinate point, of course, namely the Election Supervisory Agency (Bawaslu). In supervising the implementation of regional head elections based on Article 22B Bawaslu has duties and authorities, namely:

- Prepare and establish Bawaslu regulations and supervisory technical guidelines for each stage of the election as well as guidelines for examination procedures, recommendations, and decisions on objections after consulting with the House of Representatives and the government in a meeting forum with opinions whose decisions are binding;
- Receiving, examining, and deciding on objections to provincial Bawaslu decisions related to the election of candidates for governor and deputy governor, candidates for regent and deputy regent, or candidates for mayor and deputy mayor related to elections submitted by candidate pairs and/or political parties/coalitions of political parties related to the imposition of sanctions disqualified and/or not allowed political parties/coalitions of political parties to carry candidate pairs in the next election;
- Coordinate and monitor the stages of election supervision;
- Evaluating the supervision of election organization;
- Receive reports on the results of supervision of the implementation of elections from provincial Bawaslu and district/city Bawaslu;
- Facilitating the implementation of provincial Bawaslu and district/city Bawaslu duties in continuing the stages of supervising the implementation of elections if the province, regency, and city cannot continue the stages of supervising the implementation of election supervision in stages;
- Carry out other duties and authorities granted by laws and regulations;
- Conducting guidance and supervision of provincial Bawaslu and district/city Bawaslu;
- Receive and follow up reports on acts of election violations; and
- Following up on recommendations and/or decisions of provincial Bawaslu and district/city Bawaslu to the KPU related to disruption of the election stages.

The general election supervisory body has a strategic role in maintaining the democracy of Pilkada.

Some of Bawaslu's main roles include: Bawaslu is tasked with overseeing all stages of the elections, from candidate registration, and campaigning, to vote counting. This supervision is carried out to ensure that

the election process runs by the laws and regulations or not. Receiving and Handling Complaints Bawaslu receives and follows up on any complaints related to Pilkada violations. These complaints can be in the form of alleged campaign violations, money politics, or other fraud. In handling and resolving Pilkada Disputes, Bawaslu is authorized to handle all cases and disputes in Pilkada that occur at the district city and provincial levels. This dispute can be a dispute over the election results or a dispute related to the election process. Socialization and Education Bawaslu plays an important role in socializing and educating the public about the importance of democratic elections and integrity. This socialization is carried out to increase public awareness of their rights and obligations in the elections. (Arifulloh, 2016)

3.2. Bawaslu's Challenges in Carrying out Supervisory Tasks

To consider or assess the effectiveness of a democratic system, we can look at four elements related to conflict and engagement issues that are particularly important in the context of Indonesian elections. These are the principles of free and fair elections, freedom of expression, equality before the law, and separation of powers. The public has the right to be informed about who the candidates are as politicians and leaders and about the rights of the public in general, presumably from accessible sources. This process will not be accomplished and visible without being explained or demonstrated. Without Bawaslu's methods of monitoring and delegate marketing, the mechanisms of political intelligence, political institutions, and prospective leaders would not be well implemented and attract attention. (Muhammad Ja'far, 2019) Furthermore, Bawaslu works diligently to create and expand programs that suit the needs and problems faced by the community. The widespread information in the mass media regarding the flow of information during elections or local elections is part of the political tension that colors the preparations for elections to be held in 2024. Many voices have enlivened the news pages as the main topic of daily life. From the nomination stage of a candidate pair to the campaign period, all the processes that will take place provide a clear picture of the candidates who will compete. Of course, the election supervisory body needs to follow up on reports regarding election violations. Even so, violations in the election process are a significant challenge in maintaining the enforceability of the law in general elections, including in regional head elections. Reporting of alleged election violations can be done within a maximum of 7 (seven) days after the violation is discovered (Suyatno, 2016). This is by the provisions in Law Number 8 of 2015 concerning Regional Head elections. Political dynamics that occur before or during the election process can produce certain violations such as:

3.3. Money politics

The practice of money politics is when one person attempts to influence the behavior of another by providing a specific reward. Generally, money politics refers to the practice of giving or receiving rewards in the form of votes in the context of implementing political and governance processes, which can be done overtly to voters. This process applies in a comprehensive and widespread manner, starting from electing the village head to electing the head of state. The practice of money politics that occurs is inseparable from the social interaction of the community both in groups and individually with prospective leaders. When taking part in the regional head election process, it is important for the community as social actors to consider the positive and negative impacts that may occur due to the practice of money politics. In this situation, candidates for office look for various ways to gain power that have no merit. Power may later be abused by those who are driven by an uncontrollable desire to control state assets. Once they are elected, they will appear indifferent to the fate and conditions of the people (Shela & Sutiyo, 2019).

An electoral journey influenced by money practices can undermine public trust in the democratic process. This is not in line with the main objective of a democratic system. Each phase of the election must be carried out with greater transparency, by proactively educating and awakening public awareness to pay attention and understand the meaning of the importance of voting, so that the risk of political corruption can be minimized. This innovation is part of Bawaslu's duty to collaborate with the community to avoid burdening

the public. Regional head elections must be carried out by following basic ethical and ethical principles, concerning Pancasila and the 1945 Constitution of the Republic of Indonesia.

3.4. Low community participation

Public participation can change significantly through efforts made by individuals or groups who are members of mass organizations or related institutions. These efforts aim to influence the policies taken by the government. Exercising the right to vote in general elections or regional head elections is a way to participate in the electoral process. Political participation plays an important role because citizens have given trust to political candidates through the voting process. People should always be able to safeguard their rights to protect themselves from abuse of power. However, a common problem is that there is very little public interest in visiting polling stations to cast their votes. The phenomenon that is happening is the perception formed by the public that prospective leaders are often unable to fulfill their obligations that should protect the human rights of citizens. Ironically, sometimes leaders who are successfully elected violate the basic principles of democracy and do not adhere to the values stated in the constitution. There are many cases where leaders are caught up in collusion, corruption, and nepotism (KKN) behavior. This is the cause of the lack of public involvement in elections.

3.5. Politics

Identity issues often take center stage in politics to gain greater support. The impact of this practice is the weakening of democratic principles and Pancasila values by the 1945 Constitution, which could eventually threaten the principle of democracy in this election. This is caused by parties and supporters using the practice of religious identity politics. Several groups of community organizations, religious leaders, and the level of bigotry held by the community towards specific religions have been identified (Ismanu and Mar'iyah, 2021). This conservative movement supports the action by giving voice to the importance of electing certain religious leaders, as well as inviting all of us to unite in the diversity of ethnicities, cultures, and social groups in order to build more harmonious relationships in the community. Religious branding is used as a comparison to religion, which can lead to misunderstandings in choosing leaders without considering the risks that may arise. The serious impact is the occurrence of riots between citizens who berate, curse, and pit each other against political opponents in order to support the prospective leaders they support.

The current political situation of the prospective leaders can be judged by the support they receive from the people and the Islamic and nationalist parties that already have their base. The emergence of the conservative movement is closely related to the political interests pursued by the elite in achieving and maintaining power through political manipulation tactics. Separating nationalist and religious groups can be seen as an opportunity to obscure the government's inability to address issues related to the improvement of national problems, especially the welfare and prosperity of the entire society. The electoral process became the epicenter of the divide between nationalism and religion in Indonesia. The government's failure to implement fair and prudent governance, combined with the drive to retain power, made identity politics the most effective tool to gain popular support.

3.6. Political Marketing

The utilization of social media is considered one of the most effective and close to the public ways to disseminate political information, including the use of social media itself. Party elite participation and online media utilization view political news as a consumption stream in which there are political opinions. Covering politics in a democratic context is part of the effort to establish wider and more transparent communication between the government and the public. This allows the announcement of work plans that are adapted to the real conditions faced by the community.

Marketing strategies carried out through mass media provide opportunities for politicians to introduce political ideas, political issues, candidates, and parties they support, as well as their vision mission, and work programs to the public. Thus, the public as voters can be more interested and determine their voting choices based on the information they receive without rationally considering the pros and cons. Political marketing movements that often occur and appear in society with approaches presented in various contexts can be observed from the first point of view such as official charity movements to community groups. For example, providing necessities to the poor, and on the other hand, public officials assist in the success of various community group events, such as recitation activities, religious events, social activities, and youth activities. And public officials come to places of worship to assist mosques, churches, and others with kindness. Next, by engaging in an "Alaskan" strategy to gain support and listen openly to the aspirations and complaints of the community. The inseparability of elections from democracy is an important issue that requires continuous steps to improve its quality. Elections that pay attention to the rights of citizens and can maintain people's sovereignty are crucial. As an election organizer, Bawaslu needs to deeply understand the concept of electoral philosophy. It also requires adequate understanding and technical expertise to organize elections by implementing the rules consistently, so that the implementation of elections can run by the intended purpose. Bawaslu continues to carry out careful supervision to prevent abuse of power, in order to maintain the sovereignty of the people and the constitutional mandate that has been entrusted to them.

3.7. Bawaslu's efforts in enforcing the law and realizing democratic elections

Election supervision is a responsibility based on the primary interest in organizing quality elections. To support the running of regional head elections democratically, Bawaslu's main contribution as an election supervision institution plays a crucial role in upholding the principle of a balanced system and controlling election organizers in order to realize sustainable democratization. Thus, election monitoring is an effort that is carried out consciously, deliberately, and systematically by democratic principles. According to the provisions of Law No. 7 of 2017, article 1 paragraph (7) describes the functions of the election organizing body, which consists of members of the KPU, members of Bawaslu, and DKPP (Fadhilah, 2024). They have the responsibility to conduct direct elections on behalf of members of the legislative parliament and the president/vice president. Their duties also include the supervision and conduct of elections beginning 20 months before the polling date. The mechanism for election supervision is regulated in the institutional regulations of the KPU, Bawaslu, and DKPP with Numbers 13, 11, and 1 of 2012 concerning the code of ethics of election organizers. This regulation is the foundation that allows public participation in organizing elections with responsibility, neutrality, and fairness (Firdaus & Anam, 2020).

Based on the previous explanation, Bawaslu is faced with challenges in carrying out its duties to secure democratic elections. Therefore, it is important for Bawaslu to continuously remind all parties to comply with and adhere to the applicable rules, norms, and laws. This aims to ensure that the election process runs smoothly, fairly, and transparently so that the results can be accepted and trusted by the community. While there will always be changes in political dynamics and practices, an election is considered a success when all parties, including institutions, governments, and communities, jointly monitor the election to prevent prolonged electoral disputes. Promote citizen engagement, qualified organizers, and efficient independent bodies that perform their duties in a spirit of sportsmanship. Community involvement is an important manifestation of democracy that needs to be considered more intensively through various perspectives to find appropriate solutions. Bawaslu needs to increase public awareness of useful and important knowledge, as well as an understanding of rights and responsibilities as citizens (Diniyanto & Sutrisno, 2022). This can be done with a variety of perspectives, methods, steps, data sources, and communication media, to ensure the implementation of democratic elections. In terms of realizing democratic elections, Bawaslu seeks in terms of:

First, socialization meetings on elections and scientific education have a very significant role in supporting a smooth democratic process. Bawaslu, KPU, and DKPP then also involve active participation from

the community (civil society) as one of the important elements in carrying out supervision with integrity. For example, Bawaslu conducts visits to various levels of government such as districts/cities, sub-districts, and villages/sub-districts. They also involve various stakeholders, such as communities, NGOs, and schools through the SKPP program to be socialized about election supervision.

Second, providing support to candidate pairs, and political parties, and discussing the vision and mission of the programs carried, out will make the community support materially and morally. This support aims to monitor and organize elections properly without branding certain candidates in achieving goals, without the need to involve violence. Recognize and respect the diversity of ethnicity, culture, race, and class, and ensure the upholding of justice.

The third is to support democracy by voting in elections, disseminating information about elections, mobilizing the community to support or oppose public policies of prospective voters, and considering public votes as the main key in the democratic process with one valid vote. The role of society in realizing a perfect democracy is to continue to follow the principles of democracy without being influenced by factors that can damage the quality of democracy.

Fourth, it is expected to report the results of election monitoring as well as complaints related to alleged election violations. Public support and views are highly appreciated in submitting election monitoring results. If there are violations that can harm the principles of democracy, then the public is expected to file complaints related to election violations.

Fifth, by conducting surveys and submitting survey results regarding the views or opinions of voters of election participants or candidates, Bawaslu with full transparency provides services and educates about the road map for management and transparency of information related to the implementation of elections which can be accessed through the PPID portal that has been prepared. This is a step to improve integrity through Bawaslu with Bawaslu's motto which emphasizes trusted elections, as proof of Bawaslu's commitment as a reliable, professional, and innovative institution.

Sixth, by implementing and disseminating quick count results, Bawaslu continues to monitor the results of the vote count to prevent violations. Supervision is carried out to prevent the many quick count results that have been registered and verified by the KPU, which then officially announces the speed of election activities.

The above-mentioned structured steps serve as a mutually supportive, strengthening, and reinforcing union between the affected institutions and social groups, which is also reflected in the involvement of the affected political elements. This structure believes that community involvement is paramount, given that the community is the main subject that should participate in organizing elections or local elections. Honestly, if the community is not energized, political actors who design such a system will freely utilize the situation to violate the electoral process in the community. (Arifulloh, 2016)

IV. Conclusion

Bawaslu as a law enforcer plays an important role in maintaining democratic elections in Indonesia. With broad authority, Bawaslu is tasked with preventing and taking action against violations that can hinder the realization of fair, honest, and democratic elections. Democratic elections are the foundation for a legitimized government. If there are no democratic elections, the government will lose legitimacy and the support of its people. Ensuring fair and transparent elections is a key responsibility of the Election Supervisory Body lies in the supervision and monitoring of all aspects of elections, from the early stages of candidate registration to the final vote count and announcement of results. This comprehensive oversight helps prevent electoral fraud, manipulation, and other irregularities from undermining the legitimacy of the election. However, Bawaslu faces various challenges in carrying out its duties, such as a lack of resources, political intervention, and public awareness. To overcome these challenges, Bawaslu needs to make strategic efforts, such as institutional strengthening, socialization and education, collaboration and synergy, and the use of technology.

References

- Affan, S. (2015). Demokrasi, Partai Politik dan Pemilihan Kepala Daerah. *Cosmogov*, 1,(1), 12-24.
- Arifulloh, A. (2016). Pelaksanaan Pilkada Serentak Yang Demokratis, Damai dan Bermartabat. *Jurnal Pembaharuan Hukum*, 3(3), 301–311.
- Bidja, I. (2022). Fungsi Pengawasan Partisipatif Dalam Mewujudkan Pemilu Demokratis. *JISIP (Jurnal Ilmu Sosial Dan Pendidikan)*, 6(1), 2034–2041.
- Diniyanto, A., & Sutrisno, W. (2022). Pengawasan Pemilihan Umum di Era Post-Truth: Problem, Tantangan, dan Strategi. *Jurnal Adhyasta Pemilu*, 5(1), 44–58.
- Fadhilah, O. S. (2024). Peran Badan Pengawas Pemilihan Umum (BAWASLU) Dalam Mengatasi dan Menindak Pelanggaran Pemilihan Umum : Tinjauan Hukum dan Praktik. *Khuluqiyya: Jurnal Kajian Hukum Dan Studi Islam*, 06(1), 53–64.
- Firdaus, S. U. T., & Anam, S. (2020). Peran Badan Pengawas Pemilihan Umum Kabupaten Pamekasan Dalam Menangani Pelanggaran Pemilu 2019. *Reformasi*, 10(2), 164–177.
- Muhammad Ja'far. (2019). Eksistensi Dan Integritas Bawaslu Dalam Penanganan Sengketa Pemilu. *Madani Legal Review*, 2(1), 59–70.
- Nugraha, M. N. (2020). Bawaslu Dan Penegakan Hukum Pemilu. *AL WASATH Jurnal Ilmu Hukum*, 1(2), 117–126.
- Ramdani, D. (2023). Analisis Peranan BAWASLU Dalam Penegakan Hukum Pemilu Serentak 2024. *Journal Pusat Studi Pendidikan Rakyat*, 3(1), 167–174.
- Shela, M., & Sutiyo, S. (2019). Peran Bawaslu Dalam Mencegah Money Politics Dalam Pemilihan Gubernur Provinsi Lampung Tahun 2018. *Wacana Publik*, 12(02), 75–82.
- Simamora, J. (2011). Eksistensi Pemilukada Dalam Rangka Mewujudkan Pemerintahan Daerah Yang Demokratis. *Mimbar Hukum - Fakultas Hukum Universitas Gadjah Mada*, 23(1), 221.
- Suyatno, S. (2016). Pemilihan Kepala Daerah (Pilkada) dan Tantangan Demokrasi Lokal di Indonesia. *Politik Indonesia: Indonesian Political Science Review*, 1(2), 212.
- Wilma Silalahi. (2022). Model Pemilihan Serentak Dan Peranan Komisi Pemilihan Umum Pada Pemilihan Serentak Tahun 2024. *Japhtn-Han*, 1(1), 67–79.