



# “Optimizing Election Integrity: Strengthening the Role and Function of GAKKUMDU in One Part of the Election Supervisory Body (BAWASLU) in Indonesia”

M. Herzegovin Laxamana<sup>1</sup> and Sunny Ummul Firdaus<sup>2</sup>

<sup>1</sup>Sebelas Meret University, Surakarta 57126, Indonesia

<sup>2</sup>Sebelas Meret University, Surakarta 57126, Indonesia

herzegovinlaxamana@gmail.com

firdaussunny@yahoo.com

**Abstract.** The existence of election supervisors in political and administrative legal reviews is important to avoid delegitimization of the process and results of election implementation, as well as to anticipate the development of various acts of election violations based on the legal system in an integrated and comprehensive manner. This issue stems from the fact that there are many administrative violations and election crimes that are not handled thoroughly. Seeing the above conditions it can be seen that Bawaslu is only the recipient of reports / clarifications, and discusses reports along with the results of these reports but the next stage is handed over to the police who will investigate the violation where Bawaslu does not handle the violation thoroughly. The legal research conducted by the author is prescriptive in nature, namely studying the purpose of the law, the values of justice, the validity of the rule of law, legal norms and has the aim of providing a prescription regarding what must be done. As for the research approach, the approach used in this study is the case approach (case approach) and contextual approach (conceptual approach). Therefore it is necessary to combine the institutions between Bawaslu and Gakkumdu, these efforts are intended to increase operational efficiency or maximize the potential of the Bawaslu institution and prevent election violations, handle election records, resolve election disputes, and impose sanctions. The purpose of its establishment, Bawaslu was formed with the aim of institutionalizing political control in order to guarantee the political rights of all citizens in elections. Therefore, Bawaslu has a strategic role in holding elections in a direct, general, confidential, honest, fair, and integrity manner.

**Keywords:** Election, Badan Pengawas Pemilu, Gakkumdu.

## 1 Introduction

Indonesia is a country with a democratic government system. This is explained in the 4th precept of Pancasila which reads "Society is led by wisdom in deliberation/representation." In the 1945 Constitution of the Republic of Indonesia hereinafter referred to as the 1945 Constitution of the Republic of Indonesia, the holding of elec-

tions in Indonesia is a reflection of the application of the concept of democracy as emphasized in the Constitution of the Republic of Indonesia. 1945. The Constitution of the Republic of Indonesia. 1945. Constitution of the Republic of Indonesia. 1945. The Constitution of the Republic of Indonesia Article 1 paragraph (2) states that "Sovereignty is in the hands of the people and implemented according to the Constitution", which is then reaffirmed in Article 22E paragraph (1) which states that "Elections "held directly, publicly, freely and secretly". In this case, it is explained that the State of Indonesia is a Democratic State.note that the first paragraph of a section or subsection is not indented.

One form of embodiment of democracy in the government system in Indonesia is by holding general elections (elections). The general election is a process to elect people who will occupy government seats. This general election is held to create a democratic country, where leaders are elected based on the majority of votes.

The General elections are a means of succession to the election of members of the people's representatives who in turn are tasked with working with the government, determining politics and the course of state government. The implementation of direct elections is emphasized in Article 22E paragraph (1) which states "General elections are held directly, publicly, freely and secretly". It should be noted that direct general elections are a concrete manifestation of people's sovereignty which aims to produce a democratic State Government in accordance with the values of Pancasila and the 1945 Constitution of the Republic of Indonesia, so that good elections can be realized. Indirectly regarding the existence of a fairly good increase in democracy. The holding of elections is of course inseparable from the Electoral Institution, namely the General Election Commission (KPU) and the Election Supervisory Body (Bawaslu) in accordance with Law Number 7 of 2017 concerning General Elections. These two institutions have very important roles, one of which is the Election Supervisory Body (Bawaslu), so in terms of improving and maximizing the quality of holding elections that provide certainty for upholding people's sovereignty and voting rights, of course this is determined by professionalism, capability and credibility of both institutions.

In every stage of the election, problem after problem always arises although various anticipatory steps have been taken by the organizers. One of the problems that occurred in the 2019 election and is still being discussed among election organizers and observers is the effectiveness of criminal law enforcement election.[1] In Article 476 to Article 487 of Law no. 7 of 2017 concerning Elections In general, the mechanism for handling election crimes has been regulated In 2019, it started from procedures for handling and special trial of election crimes, to a unified law enforcement center (Gakkumdu).

However, on the other hand, the limited authority they have makes the supervisory institution unable to function as expected. The existence of election supervisors in observing political and administrative law is important to avoid delegitimization of the process and results of election implementation, as well as anticipating various electoral violations based on the legal system in an integrated and comprehensive manner, in order to strengthen public trust in the midst of various problems in implementing the electoral system[2].

This problem stems from the many administrative violations and election crimes that were not handled thoroughly. We can all know this through Bawaslu Regulation Number 7 of 2018 concerning Handling Findings and Reporting of Election Violations (Perbawaslu Handling Findings and Reporting) where Bawaslu provides clarifications to reporters, reported parties, parties suspected of being perpetrators of violations, witnesses, or experts to be heard. Reports of alleged election crimes that are processed by Bawaslu and have gone through the first and second discussions with the Integrated Law Enforcement Center (Gakkumdu), with Gakkumdu which then if the violation meets the elements of the allegation then the next step in the case will be delegated to the police who will investigate the violation.

Therefore, Bawaslu as an optimal supervisor of election administration, where the authority of Bawaslu is limited to administration, creates imbalances in the implementation of duties as well as the existence and independence of the Bawaslu institution in carrying out its duties and functions. as a state institution.

## **2 Research methods**

The legal research conducted by the author is prescriptive in nature, namely studying the purpose of the law, the values of justice, the validity of the rule of law, legal norms and has the aim of providing a prescription regarding what must be done. As for the research approach, the approach used in this study is the case approach (case approach) and contextual approach (conceptual approach). The legal sources used include primary legal materials consisting of authoritative regulations and secondary legal materials in the form of relevant references. The legal decision technique used is based on library research techniques. This writing uses legal material analysis techniques with the deductive method, namely drawing conclusions from a problem that is general in nature to the concrete problems faced or submission from the major premise to the minor premise in the construction of a syllogism.

## **3 Discussion**

Based on the process of its formation, Bawaslu is connected with the formulation of Article 22E paragraph (5) of the 1945 Constitution of the Republic of Indonesia which reads "General elections are held by an election commission that is national, permanent and independent". In response to this, Jimly Asshiddiqie, for example, stated that the arrangements for state institutions in the 1945 Constitution of the Republic of Indonesia did not always explicitly state their names and authorities in the 1945 Constitution of the Republic of Indonesia, however, these state institutions were considered to have constitutional importance, so their existence had to be stated in the Constitution. NRI in 1945.[3]

One of the objectives of the formation of Bawaslu is to minimize the occurrence of fraud and violations committed by both election participants and election organizers, so that Bawaslu has a role to oversee the course of elections and carry out strategic actions in realizing direct, public, free, confidential, honest election processes and

results. , and fair (overflowing and fair) in accordance with the mandate of Article 22E Paragraph (1) of the 1945 Constitution. However, in reality, Bawaslu still encounters many obstacles in carrying out its duties due to the limited authority it has.

According to records, during the implementation of the 2019 Election, Bawaslu has received reports or findings of election crimes as many as 2,724 reports or findings, far fewer than the 2009 Legislative Election which saw 6,017 cases of violations crimes in all regions of Indonesia.[4] Of the 2,724 reports or findings that continued to the investigation stage as many as 582 cases, stopped at the investigation stage as many as 132 cases, and stopped at the settlement stage as many as 41 cases. Whereas the total number of cases that proceed to the stage of examination at court hearings until they are issued decisions that have permanent legal force (*inkracht van gewisjde*) are only 320 problems. Even though the case was stopped at the stage of investigation and termination caused to many reasons, the most dominant is due to lack of present understanding of the perception between Bawaslu, the police, and the prosecutor's office simultaneously dealing with electoral crimes.[5]

Bawaslu's involvement with the police and attorney general's office in law enforcement against election crimes certainly has consequences in terms of specificity in the stages of the law enforcement process including provisions regarding procedural law. If one of the regulations regarding the holding of elections is aimed at realizing effective and efficient elections, then it is interesting to know about the relationship between the regulation of election law enforcement against crimes with a model like this involving the central Gakkumdu community in achieving this goal.[6]

The Gakkumdu Sentra conducts research and studies through a case-holding mechanism for every violation report received by Bawaslu/Panwaslu. If the research results of the report do not constitute an election crime, then it is returned to Bawaslu/Panwaslu, while reports that meet criminal elements are then submitted to investigators in the Gakkumdu center, and within 14 days the criminal case file is transferred to the Public Prosecutor.[7]

In practice, cases brought to the Sentra Gakkumdu are often difficult to follow up on. This is due to the sharp differences in perception between election supervisors and police investigators as well as prosecutors and prosecutors. Cases brought by election supervisors are often refused to be followed up by investigators because there is not enough evidence or evidence. The investigators want the supervisor to bring complete evidence or evidence when holding the case at the Sentra Gakkumdu. However, this is difficult for Bawaslu to do, because of the limited authority it has. In particular, there is no authority to confiscate evidence, summon suspects or the reported party, or search to examine evidence.

Some of the advantages of Merging Bawaslu with Gakkumdu into one unit is an idea that can bring about significant changes in the system of supervision and law enforcement related to elections in Indonesia. However such a decision requires careful thought and an in-depth assessment of its impact. Strengthening Bawaslu in the form of a merger or fusion between Bawaslu and Gakkumdu so that the new Bawaslu has additional authority in the form of granting quasi-judicial authority, based on the elucidation of Article 24 Paragraph (3) of the 1945 Constitution of the Republic of Indonesia and Law Number 48 of 2009 concerning Judicial Power , which has acknowl-

edged a quasi-judicial existence. judicial. The judiciary as an executing agency for judicial power takes the form of an adjudication function so that Bawaslu can decide on violations of election administration, decide on money politics violations, and protect the election process. Bawaslu is given quasi-judicial (semi-judicial) authority because the election process requires fast legal certainty. In electoral law regimes in various parts of the world, election supervisors are given the function of a court. In addition, technically, Bawaslu decision-making is carried out in stages according to the level so that there is no interference from the authorities. In addition, the existence of Bawaslu's authority to decide on election organizer violations is carried out based on fast investigations, fast prosecutions, and fast trials (Minutes of the Pilkada Bill). In other cases the new Bawaslu where the merger between Bawaslu and Gakkumdu can take a stand, make decisions and impose sanctions. Sanctions here mean not punitive sanctions, but administrative sanctions. As with election administration violations, Bawaslu is given the authority to decide on election administration violations because the sanctions are in the form of administrative sanctions, not criminal sanctions. In order to shorten the time for handling them more effectively and efficiently, the settlement is handed over to Bawaslu. The existence of this authority will facilitate the work of the KPU because the KPU no longer needs to review whether this case is an election administration violation or not so that when the Bawaslu has decided that the case is an election administrative violation, the Bawaslu decision must be followed up by the KPU by issuing a KPU decision.

It is undeniable that each system will have advantages and disadvantages. In my opinion, the first advantage of merging these institutions is that they can increase efficiency in carrying out their functions and authorities in order to reduce the overlap of duties and responsibilities between Bawaslu and Gakkumdu, thereby increasing work efficiency and use of resources. Second, improve coordination between various electoral enforcement and monitoring functions. This can reduce the risk of conflicts or asynchronous actions. Third, unification of violation handling. With integrated institutions, the handling of election violations can be more cohesive and coherent because decisions and actions are taken in one unit. Fourth, increase transparency. Merging these agencies can provide greater transparency in monitoring and enforcement processes, reducing the risk of differences of opinion or interpretations that could damage an organization's reputation.

Then there are a number of things that must also be considered, namely that there are deficiencies in the merger of these institutions where there is a possibility of monopoly risk occurring, which can lead to monopoly risks in decision-making and actions related to elections, which can weaken independent oversight and control. Then, if not managed properly, mergers can increase the risk of politicization of the combined organization, given the sensitivity of elections to political and partisan interests. It is important to conduct thorough research and consult with stakeholders before taking the step of merging the Gakkumdu organization with Bawaslu. Decisions of this kind must consider long-term goals, possible impacts, and efforts to maintain independence, transparency, and effectiveness in maintaining the integrity of elections.

Based on the explanation of the advantages and disadvantages of merging institutions above, these efforts are intended to increase operational efficiency or maximize the

potential of the Bawaslu institution and prevent election violations, handle election records, resolve election disputes, and impose sanctions. It is true, Bawaslu was formed to guarantee the fulfillment of one of the conditions for people's sovereignty, namely general elections. Furthermore, Bawaslu was formed with the aim of institutionalizing political control in order to guarantee the political rights of all citizens in elections. Therefore, Bawaslu has a strategic role in holding elections in a direct, general, confidential, honest, fair, and integrity manner.

Thus, with the merging of organizations and expanding the authority of Bawaslu, Bawaslu will experience a lot of progress in carrying out its duties and functions. Therefore, with this authority, Bawaslu can prevent and take decisive action in handling election violations in order to reduce the occurrence of election violations, as well as have an impact on preventing election fraud when elections are held.

## 4 Conclusion

Bawaslu's involvement with the police and prosecutors in law enforcement against election crimes certainly has consequences in terms of the specificity of the stages of the law enforcement process including provisions regarding procedural law. If one of the regulations regarding the holding of elections is aimed at realizing effective and efficient elections, then it is interesting to know the link between the regulation of election law enforcement against criminal acts with a model like this which involves the central Gakkumdu community in achieving this target.

In practice, cases brought to the Sentra Gakkumdu are often difficult to follow up on. This is due to the sharp difference in perception between election supervisors and police investigators as well as prosecutors and prosecutors. Cases brought by election supervisors are often refused to be followed up by investigators because there is insufficient evidence or evidence. Investigators want supervisors to bring complete evidence or evidence when holding cases at the Gakkumdu Center. However, this is difficult for Bawaslu to do, because of the limited authority it has. In particular, there is no authority to confiscate evidence, summon suspects or reported persons, or search to examine evidence.

Therefore it is necessary to combine the institutions between Bawaslu and Gakkumdu, these efforts are intended to increase operational efficiency or maximize the potential of the Bawaslu institution and prevent election violations, handle election records, resolve election disputes, and impose sanctions. It is true, Bawaslu was formed to guarantee the fulfillment of one of the conditions for people's sovereignty, namely general elections. Furthermore, Bawaslu was formed with the aim of institutionalizing political control in order to guarantee the political rights of all citizens in elections. Therefore, Bawaslu has a strategic role in holding elections in a direct, general, confidential, honest, fair, and integrity manner.

## References

1. Evaluasi Penegakan Hukum Pidana Pemilu, <https://www.hukumonline.com/berita/baca/lt5d22c14e5da99/evaluasi-penegakan-hukum-pidanapemilu--menyoal-efektivitas-gakkumdu/>, last accessed 2023/08/22
2. Nurhidayat Sardini.: Pedoman Pengawasan Pemilu. Election-MDP, Jakarta (2009).
3. Jimly Asshiddiqie.: Perkembangan & Konsolidasi Lembaga Negara Pasca Amandemen. Sinar Grafika, Jakarta (2010).
4. Ramdansyah.: Sisi Gelap Pemilu 2009 Potret Aksesori Demokrasi Indonesia. Rumah Demokrasi, Jakarta (2009).
5. Beda Persepsi Gakkumdu, Dewi: Perlu Diskusi Mencari Solusi Kelemahan UU”, <https://www.bawaslu.go.id/id/berita/beda-persepsi-gakkumdu-dewi-perlu-diskusi-mencari-solusikelemahan-uu/>, last accessed 2023/08/22
6. Resty Listyaningrum., Yosesrwan., Khairani.: “Implementation of Integrated Law Enforcement Center (Gakkumdu) In The Handling of Criminal General Election for 2019 in West Sumatera”. In: 7th International Journal of Multicultural and Multireligious Understanding, Volume 7, Issue 2 March, 2020
7. Bantuan Hukum Homepage, “Evaluasi penegakan hukum Pemilu Pengalaman Paralegal Pemilu dalam Penegakan Hukum Pemilu <http://www.bantuanhukum.or.id/web/wpcontent/uploads/2014/12/Evaluasi-penegakan-hukum-Pemilu>, last accessed 2023/08/21.

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