The Authority Enhancement of The Election Supervisory Agency Post The Enforcement of Law Number 7 of 2017 Regarding General Election

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Abstract

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**Abstract**
The implementation of elections in Indonesia has its own characteristics, where the regulation of the implementation of these simultaneous elections is set to be one in Law No. 7 of 2017 on General Elections. In addition, this Act also gives the Electoral Observer quasi-judicial authority in the process of dealing with administrative and arbitrary violations of the Electoral Process, with sanctions granted through an Electoral Observer Decision. It attracted the authors to do research on the electoral supervisory authorities that are experiencing enlargement and loading and to see the implications of quasi-judicial authority granted through several case analyses. This study aims to analyze the issues of (a) the form of authority enhancement given to Bawaslu, and (b) the implementation of Bawaslu's authority in its effort of handling election violation and resolving election disputes in Lampung Province according to Law No. 7 Year 2017 regarding the General Election. The methods used in this research is a normative-empirical law study. Data sources of this research are primary, secondary and tertiary law objects using qualitative analysis method. The result obtained from this research shows enhancement of election supervisor's authority in the areas of: First, handling process of election criminal violation; Second, the handling of
election organizers' ethical code violation; Third, the handling of election administration violation; Fourth, election process dispute resolution. The enhancement of Bawaslu's authority that became a characteristic is that it is given quasi judicial in handling administrative violation and election process dispute that can be seen in 4 (four) election regimes.

A. Introduction

Democracy provides an understanding of the power of the people. Based on this understanding, the community will produce useful rules and protect their rights. For this reason, joint arrangements that guarantee and protect people’s rights are the basis of national life. Democracy and the rule of law are two concepts of power mechanisms that regulate the administration of the state. These two concepts are interconnected and cannot be separated, because democracy provides the basis and mechanism of power based on the principles of equality and human equality, while the rule of law provides a milestone. It’s the law, not the people. According to Jimly Asshidiqie’s view, that the concept of democracy which provides the basis and mechanism of power is based on the principle of equality and human equality. Democracy places the people as the owner of sovereignty, which is called the principle of popular sovereignty. According to social contract theory, each individual cannot realize his rights individually, but must work together. At the conceptual level, democracy gives top position to the existence and importance of pluralism in society. On the one hand, democracy cannot be realized if it is accompanied by absolutism and self-satisfaction. Democracy demands mutual trust and respect among citizens for a greater purpose.

Elections are a concrete manifestation of procedural democracy, general elections are one of the most important aspects of democracy which must also be held democratically. For this reason, the implementation of elections and the concept of democracy is “qonditio sine qua non”, the one cannot exist without the others. Elections are used as the main and first factor in the implementation of democracy. In short, elections and results reflect openness and an atmosphere of application of basic democratic values, and the need for freedom of expression and association, which are considered to reflect the views of the public. Democracy as a system that guarantees the freedom of citizens through general elections is achieved through the absorption of votes as a form of broad public participation. In other words, elections are a symbol of people’s sovereignty. Sovereignty of the people means that it is the citizens who have the highest power, also determines the pattern and nature of government, and determines the goals to be achieved. According to Jimly Asshiddiqie's

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1 Muntoha, Demokrasi dan Negara Hukum, Jurnal Hukum No.3 Vol. 16 Juli 2009. hlm. 379. DOI: 10.20885/iustum.vol16.iss3.art4
2 Jimly Asshiddiqie, Konstitusi dan Konstitusionalisme Indonesia. Edisi Revisi. (Jakarta: Konstitusi Press, 2005), hlm. 45.
3 Jimly, Asshiddiqie, Hukum Tata Negara dan Pilar-Pilar Demokrasi, Cetakan Kedua, (Jakarta: Konstitusi Press, 20050, hlm. 257.
4 Nurcholish Madjid, Indonesia Kita, (Jakarta: PT Gramedia Pustaka Utama bekerja sama dengan Universitas Paramadina Jakarta dan Perkumpulan Membangun Kembali Indonesia, 2003), hlm. 98-99.
5 A. Mukhtie Fadjar, Pemilu yang Demokratis dan Berkualitas: Penyelesaian Hukum Pelanggaran Pemilu dan PHPU, Jurnal Konstitusi, Mahkamah Konstitusi Republik Indonesia, Vol. 6, Nomor 1 April 2009, hlm. 4.
6 Sodikin, Hukum Pemilu: Pemilu Sebagai Praktek Ketatanegaraan, (Jakarta: Gramata Publishing, 2014), hlm. 19.
7 Titik Triwulan Tutik, Kontruksi Hukum Tata Negara Indonesia Pasca Amandemen UUD 1945, (Jakarta: Prenada Media Group, 2010), hlm 329.
8 Ibid, hlm. 330.
Election is a mechanism in conducting the election of people's representatives in a democratic way, which departs from the idea of the conception of people's sovereignty using a representative system or in other words representative democracy. The definition of elections is a means of implementing the concept of popular sovereignty, which is basically an implementation of the overall political rights of citizens and also a form of delegation of rights as described above by the people to their representatives to be able to carry out their government functions. The big picture of the General Election system is divided into 2 (two) formulas, namely the proportional system and the district system. However, empirically in several countries, a combination of these two systems has been applied, resulting in several variations of the General Election.

Unlike the previous elections, in 2019 Indonesia held the General Elections for the President and Vice President, Members of the People's Representative Council (DPR), Regional Representatives Council (DPD) and Regional People's Representative Council (DPRD) simultaneously. The electoral legal framework has also been different from previous elections which are still separated into three laws, the regulations for implementing simultaneous elections are regulated into one in Law Number 7 of 2017 concerning Elections. General. This includes the authority granted to the General Elections Supervisory Agency, where there is an expansion of the authority granted, based on Article 93 of Law Number 7 of 2017 concerning General Elections. Bawaslu gets a very visible expansion of authority in terms of election administrative violations and election process disputes, where in handling administrative violations, if in the previous election Bawaslu was given the authority to conduct examinations and then provide recommendations to the General Elections Commission (KPU) and then the KPU made a decision, and sanctions.

The expansion of the authority possessed by Bawaslu is by granting quasi-judicial authority, namely a trial procedure (adjudication), so that Bawaslu can issue decisions on election administrative violations and disputes over the election process. Bawaslu is given quasi-judicial (semi-judicial) authority because the election process is carried out by requiring fast legal certainty. The purpose of the Bawaslu authority is that Bawaslu can take a stand by processing the findings of the election supervisor or receiving reports from the public, making decisions which means that the examination carried out by Bawaslu on a case is completed with a legal product in the form of a decision and administrative sanctions to the reported party if his actions proved to be in violation.

The problem raised in this study is about how the form of expansion of the authority given to the Election Supervisory Body and the implications of expanding the authority of the General Election Supervisory Board in Lampung Province in the enforcement of election law are. The legal research conducted by the author begins by examining the written positive legal provisions that apply to legal events in concreto, in this case the expansion of the authority granted to the Election Supervisory Body and the implications of the authority of the General Elections Supervisory Board in resolving electoral process disputes and handling of election administration violations (a case study of handling election administrative violations and dispute resolution of the election process in Lampung Province), then an analysis or study is carried out on the application of the written positive law provisions in the case, where the stages used by the author are in line with the stages normative-empirical legal research. The sources of data used in this study are secondary data, secondary data sources in this study consist of primary, secondary and tertiary legal materials.

9 Jimly Asshiddiqie, *Pengantar Ilmu Hukum Tata Negara*, (Rajawali Pers, Jakarta: 2014), hlm. 414.
10 Ibid, hlm. 331
11 Marulak Pardede, *Implikasi Sistem Pemilihan Umum Indonesia*, Jurnal Rechtsvinding, Volume 3 Nomor 1, April 2014, hlm. 89
In this research, the author examines the authority of the Elections Supervisory Agency after the enactment of Law 7 of 2017 regarding General Elections. After the issuance of this regulation, there is an expansion of authority, the Elections Supervisory Agency, which is given quasi-judicial authority in the process of handling administrative violations and disputes over the general election process, with sanctions given through a general election supervisory decision. The authority of the Elections Supervisory Agency includes the process of handling criminal election violations, handling violations of the Code of Ethics for general election organizers, handling violations of general election administration and resolving disputes over the general election process.

The novelty of this research will make a major contribution to the implementation of general elections in Indonesia through the Elections Supervisory Agency. After the issuance of regulations that expand the authority of this agency, it turns out that in the implementation of quasi-judicial authority, various legal loopholes are still found in the application of norms, the application of sanctions and legal remedies. This will actually lead to inefficiency and also hamper the process of law enforcement for the general election itself.

**B. Discussion**

**1. Expansion of the Authority of the General Elections Supervisory Body**

In Indonesia itself, democracy can be said to be still young. The birth of democracy was marked by the massive democracy and constitutionalism movement in Indonesia. This wave of democratization has then changed the face of the Indonesian state administration. In the course of democracy, there is no doubt that elections and local elections are a pillar to strengthen the consolidation of democracy. The indicators that must be present in holding an election that is truly democratically carried out are that the election is held with various regulations that favor freedom and honesty, so that with the existence of a law that provides greater opportunities for free citizens, election opportunities A democratic election can be held and with due regard to the tools and the organizers, because it is very possible that the interests of the organizers interfere with the purity of the election. General elections held regularly are intended to keep citizens free from leadership that is not in accordance with the constitutional mandate. Community members have the right to replace rulers who do not have the competence to lead and are carried out by means of LUBER General Elections (direct, general, free, confidential, honest and fair). The expansion of the authority of the General Elections Supervisory Board in this study is seen from several periods of general elections in Indonesia, namely 2004, 2009, 2014, and 2019, which will be explained as follows:

**a. The Authority of the General Elections Supervisory Body in the Implementation of the 2004 General Election**

The general election held in 2004 was the first general election in which the people directly elected their representatives to sit as members of the People's Representative Council (DPR), Regional Representative Council (DPD) and Regional People's Representative Council (DPRD) and directly elected the president and vice president. The 2004 general election was held simultaneously on April 5, 2004 for the election of 550 (five hundred fifty) members of the DPR, 128 (one hundred twenty eight)

\[12\] Rudy, *Gotong Royong Melawan Politik Uang, Normativisme Versus Kenyataan Hukum*, (Sai Wawai Publishing, Oktober 2015), hlm. 20.

\[13\] Umbu Rauta, *Menggagas Pemilihan Presiden yang Demokratis dan Aspiratif*, Jurnal Konstitusi, Volume 11, Nomor 3, September 2014, hlm 612. DOI: 10.31078/jk%25x

\[14\] Pan Mohamad Faiz, *Memperkuat Prinsip Pemilu yang Teratur, Bebas, dan Adil Melalui Pengujian Konstitusionalitas Undang-Undang*, Jurnal Konstitusi, Volume 14, Nomor 3, September 2017. hlm. 674
members of the DPD and members of the DPRD (Provincial and Regency/City) throughout Indonesia for the period 2004 to with 2009. Meanwhile, the Presidential and Vice-Presidential Elections for the period 2004-2009 were held on July 5, 2004 (round I) and September 20, 2004 (round II). The 2004 general election can be called the beginning of the change in the mechanical electoral system in Indonesia from a closed mechanical system to an open mechanical system. This is because every citizen has the right to be able to directly elect representatives of the people, namely in choosing their president.

In addition, in the provisions for the implementation of this election, there are requirements for people who do not have electoral experience to become members of the supervisory board. In this regard, the membership of the Election Supervisory Body also consists of elements from the Indonesian National Police and the Indonesian Attorney General's Office. The existence of filling in members consisting of these two elements is intended so that in the process of handling election criminal violations it can be carried out and enforced more effectively and efficiently. In addition, in terms of overcoming difficulties for election supervisory members in carrying out the clarification and verification process on reports of alleged violations and allegations of election violations.

The presence of this regulation also allows the establishment of operational standards for implementing supervisors in carrying out supervisory work and providing control over the performance results of election supervisors. In the 2004 General Election, the implementation of which is regulated in Law No. 12 of 2003 a quo, it can be seen that there is an affirmation and strengthening of authority for election supervisors in carrying out the function of election supervision. As explained above, this Law confirms that election supervisors have the duty and authority to carry out supervision over the implementation of elections at every stage, in addition to that, election supervisors are tasked and authorized to receive reports of alleged violations and resolve disputes at each stage of the election administration. In the context of institutions that play a role in supervising the implementation of the implementation of the General Election, the provisions in this Law focus on the aspects of the supervision of Election supervisors, but in the context of law enforcement against election violations that occur at each stage, it is still felt that the Bawaslu institutions have not been effective, although in principle Bawaslu is given the authority to enforce election law, the shortcomings referred to by the author can be seen from the regulations described above. Some aspects of the ineffectiveness of the function of Bawaslu are First, in terms of the process of handling election administration violations, where Bawaslu forwards findings of election administration violations to the KPU, but the Law does not regulate the provisions on whether recommendations by Election Supervisors must be followed up by the KPU, so the process the forwarding cannot run effectively if the KPU is not obliged to follow up on recommendations/forwarding from the Election Supervisor.

Second, in the event that there is a report and/or finding of an election violation containing a criminal element, the Election Supervisor shall forward the report and/or finding to the investigator. This clause indicates that the election supervisor does not yet have full authority in the process of handling election criminal violations. The process of handling election crimes is the authority of investigators in carrying out investigations and criminal investigations on elections and all provisions governing the investigation and prosecution of election crimes refer to Law Number 8 of 1981 concerning Criminal Procedure Code. The success of the 2004 Election Supervisors in handling criminal cases is practically inseparable from the presence of

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15 Komisi Pemilihan Umum, *Pemilu di Indonesia*, Modul I Pemilih Untuk Pemula, hlm. 12-13.
16 Putu Eva Dityani Antari, *Interpretasi Demokrasi Dalam Sistem Mekanis Terbuka Pemilihan Umum di Indonesia*, Jurnal Panorama Hukum, Volume 3, Nomor 1, Juni 2018, hlm. 89. DOI: 10.21067/jph.v3i1.2359.
17 Putu Eva Dityani Antari, *Interpretasi Demokrasi Dalam Sistem Mekanis Terbuka Pemilihan Umum di Indonesia*, Jurnal Panorama Hukum, Volume 3, Nomor 1, Juni 2018, hlm. 89. DOI: 10.21067/jph.v3i1.2359.
18 Ibid
elements of the police and the prosecutor’s office in the election management body.\textsuperscript{19} Third, in the electoral dispute resolution process, the intended Dispute has a broad scope of meaning, it can be seen from the absence of boundaries for the disputing parties, then the absence of boundaries for the object of the dispute, and finally in deciding disputes in the election process. Election Supervisors issue final and binding decisions.

\textbf{b. The Authority of the General Elections Supervisory Body in the Implementation of the 2009 Election}

The improvement of the electoral laws and regulations is intended to further enhance the functions of planning, implementation, monitoring, and evaluation.\textsuperscript{20} With regard to this matter, in the 2009 General Elections, Law Number 22 Year 2007 concerning General Election Organizers was enacted. Even though in its implementation, Bawaslu has become a permanent institutional institution, its existence is still considered as a sub-coordination of the KPU, which is then considered less able to carry out the implementation of effective supervision, which then causes Bawaslu to submit an application to the authority of Bawaslu in Law Number 22 of 2007 a quo. Furthermore, in the decision of the Constitutional Court (MK) Number 11/PII-VIII/2010, the Constitutional Court gave the interpretation of “an election commission” as a matter that refers to the function of the institution, and not to the name of the institution.\textsuperscript{21}

The resolution of election administrative violations and election disputes in the 2009 General Election has a significant difference from the previous Elections, although the authority of the Election supervisor is still not strong enough, where in the provisions of Law Number 10 of 2008 a quo, the authority to resolve election administrative violations is the authority of the Election Supervisor, starting from receiving reports, examining reports, reviewing reports, and forwarding the results of the handling to the authorized agency. Election Supervisors are given a maximum of 3 (three) days from the date the report is declared to be received to then follow up on the reported election violations, where in the event that additional information is required from the reporter, it can be extended no later than 5 (five) days after the report is received. In the provisions of this Law, there has not been a strengthening of authority to the election supervisory institutions, this can be seen in the implementation of sanctions, where election supervisors are not given the authority to give sanctions but are only forwarding. Regarding reports of election administration violations, the Election Supervisors forward them to the General Election Commission (KPU), provincial KPU, and Regency/Municipal KPU, while reports of election criminal violations are forwarded to Polri investigators.\textsuperscript{22}

The resolution of violations and the imposition of sanctions on election administrative violations in Law Number 10 of 2008 a quo is still the authority of the KPU ranks based on reports from the Election Supervisors, where in examining and deciding on election administration violations, the KPU is given a maximum of 7 (seven) days from the date of receipt. report from the Election Supervisor. In the process of resolving violations of the Presidential and Vice-Presidential Elections in the provisions of Law Number 42 of 2008 a quo, it does not have much difference from that stipulated in the Election of DPR, DPD, and DPRD, where the authority to receive reports, examine reports, review reports, and forwarding the results of the handling to the competent agency is the authority of the election supervisor. The handling process is also carried out no later than 3 (three) days after the report is received and can

\textsuperscript{19} J. Tjiptabudy, \textit{Telaah Yuridis Fungsi dan Peran Panwaslu dalam Sistem Pemilihan Umum di Indonesia}, Jurnal Konstitusi, Vol II, No.1, Juni 2009, hlm. 57.
\textsuperscript{20} Lihat dalam ketentuan menimbang Undang-Undang Nomor 22 Tahun 2007 tentang Penyelenggara Pemilihan Umum
\textsuperscript{21} Saldi Isra dan Khairul Fahmi, \textit{Pemilihan Umum Demokratis Prinsip-Prinsip dalam Konstitusional Indonesia}, (Depok, PT. Raja Grafindo Persada, 2019), hlm. 72-73
\textsuperscript{22} Lihat dalam ketentuan Pasal 247 ayat (4), (5), (8), (9) Undang-Undang Nomor 10 Tahun 2008 tentang Pemilihan Umum Anggota Dewan Perwkalian Rakyat (DPR), Dewan Perwakilan Daerah (DPD), dan Dewan Perwakilan Rakyat Daerah (DPRD)
\textsuperscript{23} Lihat dalam ketentuan Pasal 249 dan Pasal 250 Undang-Undang Nomor 10 Tahun 2008 tentang Pemilihan Umum Anggota Dewan Perwkalian Rakyat (DPR), Dewan Perwakilan Daerah (DPD), dan Dewan Perwakilan Rakyat Daerah (DPRD)
be extended for 5 (five) days if additional information is required. In the event that the forwarding is also related to administrative/administrative violations of the Presidential and Vice-Presidential Election, it is forwarded to the ranks of the Election supervisors. The settlement of administrative violations of the Presidential and Vice-Presidential Election is also carried out by the KPU ranks based on a report by the Election Supervisor, and in examining and deciding on a violation of the administration of the Presidential and Vice-Presidential Election, the KPU shall settle it within a maximum period of 7 (seven) days from the receipt of the report of the Election Supervisor.

**c. The Authority of the General Elections Supervisory Body in the Implementation of the 2014 Election**

One of the prerequisites for achieving electoral justice is that the legal framework must be designed in an unambiguous, understandable and open manner, and must be designed in such a way as to highlight all elements of the electoral system needed to ensure its readiness. Elections also require supervision to ensure that election administrators are always ready to support them in order to comply with the principles of overcrowding and fairness. Without supervision, it is feared that election bias will be created that threatens the principles of integrity and impartiality as enshrined in the 1945 Constitution, and endangers democratic life. Law enforcement efforts in the context of implementing Law Number 8 of 2012 concerning General Elections for Members of the DPR, DPD, and DPRD are made in the context of resolving conflicts or election violations. The existence of Bawaslu as an institution that has the main task and authority in supervising elections has been strengthened by its existence. These reinforcements can be seen from each election implementation. In the 2014 General Elections, the strengthening of Bawaslu was seen in the issuance of Law Number 15 of 2011 concerning the Implementation of General Elections which replaced Law Number 22 of 2007 concerning General Election Organizers and also in Law Number 8 of 2012 concerning General Elections for Members of the DPR, DPD, and DPRD. In the 2014 elections for members of the DPR, DPD, and DPRD, as stipulated in Law Number 8 of 2012 a quo, the process for handling election violations is not much different from the 2009 Election. In general, the progress achieved in the 2014 presidential election has at least five prominent points, namely first, a sharp decline in the practice of silver politics. Second, improve the operational quality of electoral institutions, particularly the KPU. Third, although the number of community participation decreases, the quality of community participation increases. Fourth, improve the quality of voice synthesis in the presidential election. Fifth, security stability is relatively maintained at all stages of the presidential election.

Differences in violations in Law Number 8 of 2012 a quo can also be seen from the classification of violations which are divided into 4 (four) categories, namely: First, violations of the Election Organizer's Code of Ethics where the handling process is forwarded to the Election Organizers Honorary Council (DKPP). Second, violations of election administration, in which the results of the handling process are forwarded to the KPU ranks at every level. Third, Election process disputes are resolved by Bawaslu, and Fourth, Election Criminal

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24 Lihat dalam ketentuan Pasal 190 ayat (1), (6), (7), (8), dan (9) Undang-Undang Nomor 42 Tahun 2008 Tentang Pemilihan Umum Presiden dan Wakil Presiden
25 Lihat dalam ketentuan Pasal 192 dan Pasal 193 Undang-Undang Nomor 42 Tahun 2008 Tentang Pemilihan Umum Presiden dan Wakil Presiden
26 Veri Junaidi, *Politik Hukum Sistem Pemilu: Potret Partisipasi Dan Keterbukaan Publik Dalam Penyusunan UU No. 8 Tahun 2012 Tentang Pemilu Anggota DPR, DPD Dan DPRD*, (Yayasan Perludem, Jakarta, 2013), hlm. 3.
27 Budiyono, *Mewujudkan Pemilu 2014 sebagai Pemilu Demokratis*, Fiat Justitia Jurnal Ilmu Hukum, Volume 7, Nomor 3, September-Desember 2013, hlm. 286.
28 Ahmad Sulchan, *Rekonstruksi Penegakan Hukum Terhadap Perkara Pidana Pemilihan Umum Berbasis Nilai Keadilan*, Jurnal Pembaharuan Hukum, Volume 1, Nomor 3, September-Desember 2014, hlm. 352. DOI: 10.26532/jph.v1i3
29 Pasal 249 ayat (1), (5), dan (6) Undang-Undang Nomor 8 Tahun 2012 tentang Pemilihan Umum Anggota DPR, DPD, dan DPRD
30 Aryojati Ardipandanto, *Kelemahan Pelaksanaan Pilpres 2014: Sebuah Analisis*, Jurnal Politica, Volume 6, Nomor 1, Maret 2015, hlm. 96.
Violations are forwarded to the Indonesian Police.\textsuperscript{31} The resolution of election administration violations in this Law is still limited to the authority of Bawaslu in making recommendations on the results of its studies to the KPU ranks according to its level, and henceforth the KPU is obliged to follow up and complete the recommendations of the Election supervisors during the period of 7 (seven) election supervisors submitting their recommendations.\textsuperscript{32} Unlike the case with the settlement of election administrative violations, in the settlement of disputes over the election process, election supervisors are given a maximum period of 12 (twelve) days from receipt of the report. The stages of dispute resolution in the election process are carried out by receiving and reviewing reports or findings and bringing together the disputing parties through deliberation and consensus to reach an agreement, but in the event that an agreement is not reached, Bawaslu provides alternative solutions to the disputing parties.\textsuperscript{33} The results of the election dispute resolution are stated in a Bawaslu Decree which has a final and binding nature, but there are exceptions, namely those relating to the verification of the Election Contesting Political Parties and the list of permanent candidates for members of DPR, DPD, Provincial DPRD and Regency/Municipal DPRD, where in this case If an agreement is not reached, then the parties who feel that their interests have been harmed by a KPU decision can submit a lawsuit to the TUN High Court.\textsuperscript{34}

d. The Authority of the General Elections Supervisory Body in the Implementation of the 2019 Election

The implementation of the 2019 General Election is an election that is different from the previous elections, in that it not only combines the Law on the Implementation of the Presidential and Vice-Presidential Election, the Election of Members of the DPR, DPD, and Provincial DPRD and Regency/Municipal DPRD as well as the Law on Election Organizers. 1 (one) regulation, namely Law Number 7 of 2017 concerning Elections, but is also able to reduce conflicts or horizontal friction in society, besides that it is related to the right of citizens to build the principle of checks and balances against a government that adheres to a presidential system based on their own beliefs.\textsuperscript{35} In addition to the authority of the Election Supervisory Board, at the central level to the regional level, there have been many changes in it, this can be seen from the expansion of the authority of the Election Supervisor from the beginning to an institution that only supervises the implementation of elections, but also becomes an institution that is given quasi-judicial authority in the process. settlement of election administrative violations, structural, systematic and massive (TSM) administrative election violations, as well as election process dispute resolution processes.

The emphasis on the quasi-judicial authority of Election Supervisors in the context of handling election administrative violations is emphasized in the provisions of Article 461 paragraph (1), (5) and paragraph (6) of Law Number 7 of 2017 a quo, wherein Bawaslu, Provincial Bawaslu, Regency Bawaslu/ the city receives, examines, makes a study and makes a decision on the existence of an election administrative violation, where it must be decided within a maximum of 14 (fourteen) working days. In addition, in the election supervisor's decision, the sanctions given consist of administrative improvements, sanctions in the form of written warnings, and sanctions in the form of being excluded from certain stages of the election as well as other administrative sanctions. Meanwhile, in the resolution of disputes over the

\textsuperscript{31} Pasal 250 ayat (1) Undang-Undang Nomor 8 Tahun 2012 tentang Pemilihan Umum Anggota DPR, DPD, dan DPRD
\textsuperscript{32} Pasal 254 dan Pasal 255 Undang-Undang Nomor 8 Tahun 2012 tentang Pemilihan Umum Anggota DPR, DPD, dan DPRD
\textsuperscript{33} Pasal 258 Undang-Undang Nomor 8 Tahun 2012 tentang Pemilihan Umum Anggota DPR, DPD, dan DPRD
\textsuperscript{34} Pasal 259 Undang-Undang Nomor 8 Tahun 2012 tentang Pemilihan Umum Anggota DPR, DPD, dan DPRD
\textsuperscript{35} Lihat dalam Pertimbangan Putusan Mahkamah Konstitusi Nomor 14/PUU-XI/2013 perihal Pengujuan Undang-Undang Nomor 42 Tahun 2008 tentang Pemilihan Umum Presiden dan Wakil Presiden terhadap Undang-Undang Dasar Negara Republik Indonesia Tahun 1945, sebagaimana dikutip dalam Achmad Edi Subiyanto, Pemilihan Umum Serentak yang Berintegritas sebagai Pembaharuan Demokrasi Indonesia, Jurnal Konstitusi, Volume 17, Nomor 2, Juni 2020, hlm. 368. DOI: 10.31078/jk1726
election process, the quasi-judicial authority of Bawaslu is emphasized in Article 468 paragraph (2) and paragraph (4) of Law Number 7 of 2017 a quo, where the authority of the election supervisor is to conduct examinations and give decisions on the existence of disputes over the election process at a time. a maximum of 12 (twelve) working days after the application is declared received, where the two parties to the dispute are brought together through mediation to reach a consensus, but in the event that a consensus is not reached, the election supervisor resolves the dispute through an adjudication (judicial) mechanism. The decision phrase in the provisions as described above is a form of quasi-judicial authority given to the ranks of election supervisors.36

2. Analysis of the Expansion of the Authority of the Election Supervisory Body

In addition, the existence of an Integrated Law Enforcement Center (SENTRA GAKKUMDU) expands the authority of the election supervisory ranks which are divided according to the level of tasks assigned based on the legislation. The problem of handling election criminal violations is the regulation and enforcement of the law, the main thing is the problem of proof, law enforcement expertise, and law enforcement bureaucracy regulated by various election laws.37 Second, the authority to handle violations of the Code of Ethics for Election Organizers, where during the 2004 General Elections it became the authority of the DKPP to decide on violations of the code of ethics and the Election Supervisor only forwarded the alleged violations to the DKPP. carried out by ad-hoc election supervisors, become the authority of provincial Bawaslu and district/city Bawaslu in the process of receiving, examining and deciding violations of the code of ethics for ad-hoc election supervisors, while for handling violations of the code of ethics for ad-hoc election organizers from KPU elements, it is the ranks of the provincial KPU and regency/municipal KPU who follow up on the violation.

Third, handling of election administration violations, where during the 2004 General Election, Election Supervisors only forwarded election administration violations to KPU ranks, but in its development in the 2019 Election, the authority of election supervisors expanded, where election supervisors from the central level to the regional level were given quasi-authority judicially in conducting examinations and giving decisions on election administrative violations and election administrative violations of a TSM nature. Fourth, the dispute resolution of the election process, which is almost the same as the handling of election administration violations, in the dispute resolution of the election process, the handling process is carried out through 2 (two) mechanisms, namely mediation and adjudication. If the mediation process does not reach consensus, the election supervisors from the central level to the district/city level are given quasi-judicial authority in the settlement process. According to administrative law, the application of administrative sanctions is the application of state authority if it originates from written and unwritten legal norms. In general, the power to enforce these norms by imposing sanctions on those who violate the norms of administrative law.38 Based on Philip’s view. M. Hadjon, Means of law enforcement by the government include supervision and enforcement of sanctions. Supervision is a preventive measure to enforce compliance, and sanctions are a repressive measure to enforce compliance.39 Administrative law has at least four elements of sanctions. That is, it is a tool of power (machtmiddelen), public law (publiekrechtelijke), and is used by the government (overheid) in response to non-compliance (post-action). Sanctions are at the core of facilitating or enforcing state administrative law.40 The elaboration of the duties and authorities of Bawaslu, Provincial Bawaslu, Regency/Municipal Bawaslu in accepting, conducting examinations, conducting studies, and

36 Soepramono, Hukum Acara Perdata dan Yurisprudensi, (Bundung, Mandar Maju, 2005), hlm. 146.
37 Khairul Fahmi, Sistem Penangganan Tindak Pidana Pemilu, Jurnal Konstitusi, Volume 12, Nomor 2, Juni 2015, hlm.266. DOI:10.31078/jk1224
38 Khairul Fahmi, Sistem Penangganan Tindak Pidana Pemilu, Jurnal Konstitusi, Volume 12, Nomor 2, Juni 2015, hlm.266. DOI:10.31078/jk1224
39 Ibid, hlm 135
40 Ibid.
giving decisions on election administrative violations means that the Bawaslu ranks in addition to receiving, examining and reviewing election administrative violations, but also making decisions.\footnote{Lihat ketentuan Pasal 461 ayat (1) Undang-Undang Nomor 7 Tahun 2017 tentang Pemilihan Umum} Several definitions explain the purpose of the decision itself, where the decision is defined as the result of a decision at the end of the trial of a case which includes consideration of facts, legal considerations, and case decisions.\footnote{Lihat ketentuan Pasal 468 ayat (1) Undang-Undang Nomor 7 Tahun 2017 tentang Pemilihan Umum}

Meanwhile, in the context of dispute resolution in the election process, Bawaslu, Provincial Bawaslu, and Regency/Municipal Bawaslu have the authority to settle disputes over the election process.\footnote{Lihat Ketentuan Pasal 468 ayat (4) Undang-Undang 7 Tahun 2017 tentang Pemilihan Umum} The stages of settlement are by bringing together the disputing parties through deliberation,\footnote{Lihat Ketentuan Pasal 469 ayat (1) Undang-Undang Nomor 8 Tahun 1981 tentang Hukum Acara Pidana} if an agreement is not reached in mediation, then the dispute resolution of the election process is resolved through trial (adjudication).\footnote{Pasal 1 ayat (11) Undang-Undang Nomor 8 Tahun 1981 tentang Hukum Acara Pidana} Decisions issued by Bawaslu, Provincial Bawaslu, and Regency/Municipal Bawaslu on the resolution of electoral process disputes are final and binding, except with regard to the first, verification of the Election Contesting Political Parties. Second, the determination of the permanent list of candidates for members of the DPR, DPD, Provincial DPRD, and Regency/Municipal DPRD. And Third, the determination of candidate pairs.\footnote{Lihat dalam ketentuan Pasal 1 ayat (9) Peraturan Badan Pengawas Pemilihan Umum Nomor 18 Tahun 2017 tentang Tata Cara Penyelesaian Sengketa Proses Pemilu sebagaimana diubah terakhir kali dengan Peraturan Badan Pengawas Pemilihan Umum Nomor 5 Tahun 2019 tentang Perubahan Ketiga atas Peraturan Badan Pengawas Pemilihan Umum Nomor 18 Tahun 2017 Tata Cara Penyelesaian Sengketa Proses Pemilu}

The electoral justice system is an important element in ensuring the effectiveness and fairness of elections. When election procedures have been regulated and mechanisms for resolving legal issues have been provided, the legal framework for an electoral justice system has actually been established. However, once the legal framework has been developed, it does not necessarily mean that the elections will be conducted fairly.\footnote{Khairul Fahmi, Feri Amsari, Buya Azheri dan Muhammad Ichsan Kabullah, Sistem Keadilan pemilu dalam Penanganan Pelanggaran dan Sengketa Proses Pemilu Serentak 2019 di Sumatera Barat, Jurnal Konstitusi, Volume 17, Nomor 1, Maret 2020, hlm. 03. DOI:10.31078/jk1711} If we look closely, the regulations governing the authority of the Bawaslu ranks in resolving alleged violations and resolving disputes over the electoral process in every stage of the general election, starting from the 2004 Election to the 2019 General Election, have expansion characteristics. The expansion of the authority possessed by Bawaslu ranks as regulated in Law 7 of 2017 a quo, provides a reinforcement that Bawaslu does not only act as an election supervisory agency, but also extends as an election law enforcement agency with its authority to provide legal certainty in decisions. -the decision, so as to ensure the realization of election justice.
3. Implications of Expansion of Authority of the General Elections Supervisory Body in Enforcement of Election Law

a. Election Administrative Violation Case Number: 003/ADM/BWSL.08.00/PEMILU/XI/2018

One form of expansion of the authority of Bawaslu as an institution that also has Quasi Judicial authority is that it can be seen in the process of resolving violations of the 2019 election administration in Lampung Province. One of the cases handled by the Lampung Province Bawaslu that is interesting to study is the Decision on Handling Election Administrative Violations registered with Number: 003/ADM/BWSL.08.00/PEMILU/XI/2018 related to election administration violations committed by Hi. Rifa'i, SH as a Candidate for DPRD Lampung Province Electoral District I (one) Bandar Lampung City from the Prosperous Justice Party (PKS), based on the findings of the Bandar Lampung City Election Supervisory Body in the 2019 General Election. legislation, the evidence obtained in the trial as well as the facts revealed at the trial, the Reported Party is on behalf of Hi. Rifa'I, SH, as a Candidate Member of the Lampung Provincial DPRD Electoral District I (one) Bandar Lampung City from the Prosperous Justice Party did not meet the requirements for registration as a Candidate Member of the Lampung Provincial DPRD and stated that the reported party was legally and convincingly proven to have committed an administrative violation and ordered the Commission Lampung Province General Election (KPU) to follow up in accordance with applicable laws and regulations. Regarding this decision, the Lampung Provincial KPU followed up with the Lampung Province KPU Decree Number 522/HK.03.01-Kpt/18/Prov/-XI/2018, dated 28 November 2018, regarding the second amendment to the Attachment to the Lampung Provincial Election Commission Decision Number 476/HK .03. 01-Kpt/18/Prov/-XI/2018 concerning the Determination of the Permanent Candidate List (DCT) for Members of the Regional People's Representative Council of Lampung Province in the 2019 General Election, where Hi. Rifa'I, SH, as a Candidate for Members of the DPRD Lampung Province Electoral District I (one) Bandar Lampung City from the Prosperous Justice Party (PKS) was stripped of his candidacy because he did not meet the candidacy requirements.

The regulation of legal action mechanisms in the form of corrections to decisions on Election Administration violations by the provincial Bawaslu and Regency/Municipal Bawaslu to the RI Bawaslu, is not explicitly regulated in the Law on Elections, but the process is only regulated in Perbawaslu, so that it becomes inefficient if there are complainants or whistleblowers. The reported party directly submits legal remedies to the Supreme Court (MA) without going through a correction mechanism. In the above case, the reported party through their legal counsel filed a legal action against the Administrative Violation Decision of the Lampung Province Bawaslu without going through a correction mechanism and immediately submitted the legal action to the Supreme Court (MA), and the Supreme Court accepted the request. It should be underlined that the Law on Elections only stipulates legal remedies in the Supreme Court regarding the proven cancellation of candidates who commit structural, systematic and massive election administrative violations (TSM), while in the case above the candidates for members of the provincial DPRD were canceled by the Bawaslu Decision. Lampung Province, because it was proven to have committed an administrative violation that was not/not TSM. This shows the ineffectiveness and efficiency of the law enforcement process itself, overlapping norms, and the complicated legal process that is seen in the implementation of the above case. whereas in the above case the candidate for the provincial DPRD member was canceled by the Lampung Provincial Bawaslu Decision, because it was proven to have committed an administrative violation that was not/not TSM. This shows the ineffectiveness and efficiency of the law enforcement process itself, overlapping norms, and the complicated legal process that is seen in the implementation of the above case. whereas in the above case the candidate for the provincial DPRD member was canceled by the Lampung Provincial Bawaslu Decision, because it was proven to have committed an administrative violation that was not/not TSM. This shows the ineffectiveness and efficiency of the
law enforcement process itself, overlapping norms, and the complicated legal process that is seen in the implementation of the above case.

Decision of the Supreme Court Number 9 P/PAP/2018 in examining and adjudicating disputes over Election Administrative Violations, at the first and last levels, which in its consideration the Supreme Court gave its decision, the Supreme Court gave a decision. Granting the Petitioner's Application in its entirety. The Supreme Court did not consider the fact that in the registration document for candidates for members of the provincial DPRD, the reported party only stated that he was a retired civil servant, and did not state his position as Director of BUMD. In connection with this, the reported party in his registration document must also make a decision by the competent authority regarding the dismissal of the Regional Owned Enterprise to the Provincial KPU no later than 1 (one) day prior to the determination of the DCT. However, there are exceptions if in the case of candidates for DPR members, The Provincial DPRD and Regency/Municipal DPRD cannot submit the dismissal decision because the dismissal letter has not been processed, the candidate concerned must submit a statement stating that the resignation in question has been submitted to the authorized official and has been given a receipt and the dismissal decision has not been received by the candidate. the person concerned is constrained by the party issuing the said dismissal decision because it is beyond the capabilities of the candidate. Then the statement letter is attached with proof of the statement of resignation from the person concerned and a receipt for the submission of the resignation letter from the relevant agency. However, the candidate who does not submit the decision or statement letter is declared Unqualified (TMS).

b. Case in the Dispute Decision of the Election Supervisory Body of Bandar Lampung City Number: 01/PS/REG/BWSL.BDL.00.01/VIII/2018

The dispute resolution process for the election process by Bawaslu through the Quasi Judicial authority mechanism can be seen in the dispute resolution process handled by the Bawaslu of Bandar Lampung City with the Decision Number: 01/PS/REG/BWSL.BDL.00.01/VIII/2018, with the name of the applicant Doddie Irawan, SH as Acting Chairperson of the DPD of the Indonesian Solidarity Party of Bandar Lampung City and Febriadi as Acting Secretary of the DPD of the Indonesian Solidarity Party of Bandar Lampung City, against the Respondent of the General Election Commission (KPU) of Bandar Lampung City. The object of the case in this case is the Decision Letter of the KPU Bandar Lampung City Number: 446/HK.03.01-Kot/1871-Kot/VIII/2018 dated August 10, 2018 concerning the Determination of the Provisional Candidate List (DCS) for Members of the DPRD Kota Bandar Lampung in the General Election 2019 from the Indonesian Solidarity Party of Bandar Lampung City. The principal of the application submitted by the Petitioner is that on August 1, 2018, it has been stipulated in the Appendix of Model BA. HP REPAIR OF CITY DPRD, Indonesian Solidarity Party, Bandar Lampung City Electoral District 5 (five), which explains that of the 6 (six) Candidates for Legislative Members proposed, consisting of 4 (four) Male Legislative Candidates, and 2 (two) Female Legislative Member Candidates have determined that 1 (one) person is declared Unqualified (TMS), namely 1 (one) Female Legislative Member Candidate, so that the representation of 30% women is not fulfilled.

In relation to the Petitioner's demand to remove/reduce 2 (two) names of prospective candidates for DPR members of Bandar Lampung City who are male as many as 2 (two) people in each Bandar Lampung City Election District 5 (five) and Bandar Lampung City Electoral District 6 (six) so that the existing number of female representation in the Electoral District of Bandar Lampung City 5 (five) and the Electoral District of Bandar Lampung City 6 (six) are fulfilled with 30% (thirty percent) female representation, do not submit the resignation file on behalf of the Candidate Member The DPRD of Bandar Lampung City, which is male, either submitted to the KPU Bandar Lampung City or submitted to the Assembly Session at the time the adjudication session took place. In his consideration,
With respect to these considerations, the trial court for dispute resolution issued a decision in the form of: 1). Rejecting the Petitioner's Application in its entirety; 2). Strengthening the Decision of the KPU Bandar Lampung City Number: 446/HK.03.1-kpt/1871-Kot/VIII/2018 dated August 10, 2018 concerning the Determination of the Provisional Candidate List (DCS) for Members of the Regional Representative Council of Bandar Lampung City in the 2019 General Election; 3). Requesting the Indonesian Solidarity Party of Bandar Lampung City to submit and obey and implement the decision in its entirety since it was decided.

Legal efforts made by the applicant against the Dispute Settlement of the Election Process which has been decided by the Bandar Lampung City Election Supervisory Board on September 4, 2018, then against the a quo Decision a Correction Application is submitted to the General Election Supervisory Body of the Republic of Indonesia in accordance with Letter Number: 03/PSI-BDL/IX/2018 and deregister with Number: 011/PS.REG.KOREKSI/BAWASLU/IX/2018 dated September 5, 2018. The main point of the petition for Correction is to determine the status of Eligible (MS) for Electoral Districts 5 (five) and Electoral Districts 6 (six) in the election of DPRD members for the City of Bandar Lampung in the 2019 General Election with legal reasons, limited to the stage of determining the Provisional Candidate List (DCS). The decision of the Bawaslu of the Republic of Indonesia regarding the request for correction of the a quo dispute case, including: 1). Receive the Petitioner's Correction Request; 2). Ordered the Bandar Lampung City Election Supervisory Agency to issue a new Decision that corrected the Bandar Lampung City Election Supervisory Board Decision 01/PS/REG/BWSL.BDL.08.01/VII/2018, September 4, 2018; 3). Ordered the General Election Commission of Bandar Lampung City to cancel the Decision Letter of the General Election Commission of Bandar Lampung City Number: 446/HK.03.1-Kpt/1 87-Kot/VIII/2018 concerning the Determination of the Provisional Candidate List for Members of the Regional People's Representative Council in the 2019 City General Election Bandar Lampung as long as it does not determine Electoral District 5 (five) and Electoral District 6 (six) in the election of DPRD members for Bandar Lampung City in the 2019 General Election regarding the fulfillment of the requirements for 30% representation of women from the Indonesian Solidarity Party in the Provisional Candidate List (DCS); 4). Ordering the General Election Commission of Bandar Lampung City to issue a Decree that lists the Temporary Candidate List (DCS) from the Indonesian Solidarity Party in the 5 (five) Electoral Districts and 6 (six) Electoral Districts in the 2019 Bandar Lampung City DPRD Membership election; 5). Order the General Election Commission of Bandar Lampung City to implement the New Decision of the Bandar Lampung City General Election Supervisory Board no later than 3 (three) working days after the Decision is issued.

The interesting thing in the effort to correct the decision on the disputed process is the fact that the Bandar Lampung City Bawaslu assembly trial considered that the applicant's application submitted the names of prospective members of the Bandar Lampung City DPRD from the Indonesian Solidarity Party (PSI) of Bandar Lampung City in the City Electoral District. Bandar Lampung 5 (five) and the Electoral District of Bandar Lampung 6 (six) which have met the requirements (MS), it is precisely to be eliminated/reduced in order to fulfill 30% (thirty percent) female representation without being accompanied and submitting a resignation letter from each of them. -each candidate declared to have met the requirements (MS). Meanwhile, in the correction decision by the RI Bawaslu,

There was confusion in the settlement mechanism because in the dispute resolution trial at the Bandar Lampung City Bawaslu, the applicant did not submit it to the assembly a letter of resignation as a Candidate for Legislative Member of the Bandar Lampung City DPRD. Meanwhile, in the correction session by the Indonesian Bawaslu, the applicant submits the resignation letter, while it should be underlined that the authority of Bawaslu in making corrections to the disputed decision is if there is an error in the application of the law and/or an oversight by the assembly. The process of proving both the facts and evidence presented in the
trial is under the authority of the Bandar Lampung City Bawaslu, while the RI Bawaslu in the legal remedy mechanism only looks at whether the election process dispute decisions issued by the Bandar Lampung City Bawaslu are there or not. Errors in the application of legal norms and/or oversight of the assembly.

C. Conclusion

The journey of the implementation of the General Election in Indonesia has its own characteristics, where the General Elections in 2004, 2009, 2014 and 2019 confirms that Bawaslu, and the ranks of regional election supervisors have expanded powers. Some of these expansions of authority can be seen in: First, on the handling of election criminal offenses, which is expanded with the authority of the Election Supervisor who can receive, examine and decide on election criminal violations both sourced from findings and reports. In addition, the existence of an Integrated Law Enforcement Center (SENTRA GAKKUMDU) expands the authority of the election supervisory ranks which are divided according to the level of tasks assigned based on the legislation. Second, The authority to handle violations of the Election Organizers Code of Ethics which was previously the full authority of DKPP, but in the process of handling violations of the Election Organizers' Code of Ethics by ad-hoc Election Supervisors, was expanded to become the authority of Provincial Bawaslu and Regency/Municipal Bawaslu in carrying out the process of receiving, examining and deciding violations of the code of ethics for ad-hoc election supervisors, while for handling violations of the code of ethics for ad-hoc election organizers from KPU elements, it is the ranks of the provincial KPU and Regency/Municipal KPU who follow up on the violation.

Third, the handling of election administration violations, where in the previous election, election supervisors only forwarded election administration violations to the KPU ranks, but in its development during the 2019 Election, The authority of election supervisors extends, where election supervisors from the central level to the district/city level are given quasi-judicial authority to examine and decide on election administrative violations and election administrative violations of a TSM nature. Fourth, dispute resolution in the election process, where in the dispute resolution process for the election, the handling process is carried out through 2 (two) mechanisms, namely mediation and adjudication. If the mediation process does not reach consensus, then election supervisors from the central level to the district/city level are given quasi-judicial authority in the settlement process. Wherein election supervisors from the central level to the district/city level are given quasi-judicial authority to examine and decide on election administrative violations and election administrative violations of a TSM nature. Fourth, dispute resolution in the election process, where in the dispute resolution process for the election, the handling process is carried out through 2 (two) mechanisms, namely mediation and adjudication. If the mediation process does not reach consensus, then election supervisors from the central level to the district/city level are given quasi-judicial authority in the settlement process.
The expansion of the authority of election supervisors which has become its own characteristic is in the implementation of the 2019 General Election, where Indonesia holds the General Election of the President and Vice President, Members of the DPR, DPD and DPRD simultaneously, whose regulations for the implementation of this simultaneous election are regulated as one in Law Number 7 of 2017 concerning General Elections. One of these characteristics can be seen in the authority given to the Election Supervisor in the form of quasi-judicial authority, in terms of handling administrative violations and disputes over the election process. The translation of the duties and authorities of Bawaslu, Provincial Bawaslu, Regency/Municipal Bawaslu in receiving, examining, reviewing, and deciding on election administrative violations, means that the Bawaslu ranks in addition to accepting, examine and review electoral administrative violations, but also render decisions. The implementation of quasi-judicial authority does not necessarily apply. The existence of obstacles and dynamics is a separate obstacle in efforts to enforce election law, some of the problems found in implementation based on the results of this research are the disharmony of procedures and mechanisms in the process of handling Election administrative violations and the process of Dispute Resolution in the Election process as well as the dynamics in the Legal Effort process as a result of the issuance of Provincial Bawaslu Decisions on Election administrative Violations and Election Process Disputes.

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