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Obstacles for Election Supervisory Bodies in Organizing Elections in Bone Bolango Regency

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Abstrak

Penelitian ini bertujuan untuk mengetahui peran penting Bawaslu dan kendala-kendala yang dihadapi dalam penyelenggaraan pemilu di Kabupaten Bone Bolango. Jenis penelitian yang digunakan adalah penelitian sosiologis atau empiris. Data primer dan data sekunder yang diperoleh kemudian dianalisis secara kualitatif dengan analisis mendalam dan komprehensif. Hasil penelitian menunjukkan bahwa Bawaslu menjalankan perannya dalam penyelenggaraan pemilu dengan melakukan pemantauan pada setiap tahapan pemilu, menyelesaikan kasus pelanggaran pemilu, dan mengevaluasi pengawasan penyelenggaraan pemilu. Namun dalam pelaksanaannya terdapat kendala dalam menjalankan perannya secara efektif karena berbagai faktor, yaitu faktor struktur hukum, substansi hukum, dan budaya hukum. Oleh karena itu, Bawaslu dituntut untuk lebih meningkatkan perannya dalam penyelenggaraan pemilu, khususnya dalam pengawasan dan penyelesaian perkara pemilu dengan melibatkan masyarakat, peserta pemilu, dan pemantauan pemilu dalam pelaksanaan pengawasan pemilu, guna menjadikan demokrasi di Indonesia lebih baik.

Kata Kunci: *Kendala, Bawaslu, Pemilu, Bone Bolango*

Abstract

This research aims to determine the important role of Bawaslu and the obstacles faced in organizing elections in Bone Bolango Regency. The type of research used is sociological or empirical research. The primary data and secondary data obtained are then analyzed qualitatively with in-depth and comprehensive analysis. The results showed that Bawaslu carried out its role in the implementation of elections by conducting monitoring at every stage of the election, resolving cases of election violations, and evaluating the supervision of election administration. However, in its implementation, there are obstacles to carrying out its role effectively due to various factors, namely legal structure factors, legal substance, and legal culture. Therefore, Bawaslu is required to further increase its role in the implementation of elections, especially in supervising and solving election cases by involving the community, election participants, and election monitoring in the implementation of election supervision, in order to make democracy in Indonesia better.

Keywords: *Obstacle, Bawaslu, Election, Bone Bolango*

INTRODUCTION

One of the functions of the General Election Supervisory Agency (Bawaslu) is to supervise the stages and prevent violations of the General Election (Pemilu). There is a strategic and significant function of Bawaslu, namely, how to avoid potential election violations by implementing optimal prevention strategies. Bawaslu is also expected to be able to carry out firm, effective enforcement and become a fair election judge. Historically, the birth of Bawaslu was expected to encourage and strengthen community supervision by providing strengthening in the form of regulations, authorities, human resources, budgets, facilities, and infrastructure. In order to play an effective role, each surveillance report can be sharper and become a legal fact that can be followed up in accordance with existing regulatory mechanisms and can provide a deterrent effect for efforts to reduce potential violations so that the objectives of electoral justice can be achieved.

This is in accordance with the authority possessed by Bawaslu as stipulated in Article 95 of Law Number 7 of 2017 concerning General Elections, including that Bawaslu is authorized to receive and follow up on reports related to alleged violations of election implementation. Bawaslu is also authorized to examine, review, and decide violations of both election administration violations and money politics violations. Then, in disputes over the election process, Bawaslu has the authority to receive, examine, mediate, adjudicate, and decide on settlements submitted by election participants.

In Bone Bolango Regency, Bawaslu can be a solution to various demands to supervise and enforce various election violations committed by anyone, including election organizers,

because they are not spared from potential violations. Especially if their integrity is not good enough, of course they will not be able to face temptations from various parties. For example, there is a case of money-politics violations, and this has been confirmed by Bawaslu, Bone Bolango Regency.

On the other hand, public expectations continue to increase for the role and progress of Bawaslu in the future. There was a moment when the public and the party's successful team reported allegations of money politics; instead, they assumed Bawaslu did not process public reports. This sometimes makes people not believe in the performance of Bawaslu Kabupten Bone Bolango, even though Bawaslu's authority has been strengthened by the presence of Law Number 7 of 2017 concerning general elections. Therefore, Bawaslu is no longer just a recommender but also an executor or casebreaker, as in the provisions of Article 461 paragraph (1) of the Election Law, where Bawaslu, the province, district, or city, has the authority to receive, examine, review, and decide violations of election administration.

However, along with the problems that exist in society, existing regulations have not been able to accommodate these dynamics. Including forms of violations and unhealthy election competition, especially the use of black campaigns, negative campaigns, and various other election violations. Realizing this, researchers are very interested in examining Bawaslu's role in organizing elections and trying to explore various obstacles faced by Bawaslu in organizing elections in Bone Bolango Regency.

RESEARCH METHOD

The type of research used is sociological or empirical research which includes research on legal identification and research on legal effectiveness (Fajar, M., & Acmad, Y., 2010). The research location is located at the Bawaslu Office of Bone Bolango Regency, Gorontalo Province. The data used are primary data obtained at the research location, coupled with the results of interviews with resource persons who are related to the problems raised. In addition, there are secondary data sourced from various literature, laws, and regulations. Furthermore, the data is analyzed qualitatively with in-depth and comprehensive analysis, so that it is expected to provide solutions to the problems faced.

RESULT AND DISCUSSION

The important role of Bawaslu

Bawaslu plays an important role in organizing elections in Bone Bolango Regency. In fact, this role is not just to provide recommendations but also plays a role in solving cases of election violations. As for these roles, among them are the following:

1. Supervision at every stage of the election

Bawaslu has full responsibility, especially for Bawaslu Bone Bolango, to succeed in the election by overseeing the election stages. However, Bawaslu cannot enforce its own laws and regulations in carrying out its role; moreover, there are limited human resources in Bawaslu, so it must involve other institutions and also the community in the success of holding elections.

2. Settlement of election violation cases

The importance of relations and cooperation between electoral institutions cannot be separated from the functions of each institution that are interrelated with each other. The General Elections Commission (KPU) is the institution operationally responsible for the implementation of elections, while Bawaslu is the institution responsible for supervising and resolving cases of election violations and disputes before being forwarded to the criminal process at the police. So, Bawaslu must be able to resolve cases of election violations so as to create authoritative and quality elections in the democratic order in Indonesia.

3. Evaluation of election supervision

Evaluation of election supervision is given the privilege of being the only entry point for handling election violations. The scope of duties and authorities is large and owned by Bawaslu, so the state also provides large facilities and budgets. Therefore, Bawaslu Bone Bolango is required to conduct an evaluation by supervising the entire implementation of elections, following up on election violations, and making a supervisory strategy in the form of prevention and enforcement. Prevention efforts can be done by early detection of potential violations through socialization that is routinely carried out in the community. As for electoral violations, Bawaslu must be able to follow up.

However, in practice, not all election violations can be resolved. The data below shows that there were 16 violations found by the Bawaslu of Bone Bolango Regency in the 2019 election. The 16 findings are divided into 2 categories and types of violations, which include, namely :

- a. There were 14 cases of violations of money politics and the provision of other materials.

Of the 14 cases, only 1 was continued on the grounds that it met the elements of Article 521 Jo. 280 Paragraph 1 Letter J of the General Election Law. In addition, 13 cases were not proceeded with because they did not meet the elements of Article 521 Jo. Article 280 Paragraph 1 Letter J of the General Election Law.

- b. There are two cases of violations of nertalism by the State Civil Apparatus (ASN), but only one is recommended to the State Civil Apparatus Commission.

Bawaslu Obstacles to Holding Elections in Bone Bolango Regency

The electoral legal framework in Indonesia recognizes two factors of election supervision, namely (Gunawan, 2016):

- a. Election supervision is assigned supervisory positions and duties by the state.
- b. Election supervision originates from the community, which is not given special positions and assignments by the state.

The differentiation of these actors has implications for aspects of the facilities and privileges provided. The supervision of the first category of elections is facilitated by the state, including financial aspects, and gets privileges in the form of greater authority than the second category of election supervision.

The community and Bawaslu must indeed cooperate well with each other because, without both supervision, they will not synergize well. No matter how good the supervision by Bawaslu is, if the public does not participate, misappropriation and violations in elections will still occur. Money politics is one of the violations in elections. Lack of public awareness to participate in enforcing election regulations causes money politics to often occur in every political contestation, such as elections.

Therefore, people must be brave and able to reject political money. But the reality is that people sometimes do not take part in election supervision if they are not successful teams or volunteers who have been appointed by the candidate's success team. In fact, the important role of society is very important for the political progress of the nation.

As for fostering public care in elections, it is not easy, so Bawaslu is required to work extra for better results. Moreover, there are things that hinder the supervision journey by Bawaslu of Bone Bolango Regency, including the following:

1. Legal Structure

The legal structure is law enforcement, which has a role in law enforcement. In principle, the legal structure must be able to provide benefits or utility for the community, but in addition, the community also expects law enforcement to achieve justice. However,

it cannot be denied that what is considered useful (sociologically) is not necessarily fair, and vice versa, what is considered fair (philosophically) is not necessarily useful to society.

In such conditions, the community only wants legal certainty, namely the existence of a regulation that can fill the legal vacuum regardless of whether the law is fair or not. This social reality forces the government to immediately make regulations in a practical and pragmatic manner, prioritizing the most urgent areas according to the demands of the community without strategic estimates, thus giving birth to patchy regulations whose workability does not last long. As a result, it does not guarantee legal certainty and a sense of justice in society.

According to Mr. Alti Mohammad S.Pi, Commissioner of Bawaslu Bone Bolango Regency, Bawaslu has maximized law enforcement by conducting a joint meeting of Integrated Law Enforcement (Gakkumdu), and if proven to have violated applicable regulations, Bawaslu delegates it to the court for trial. In addition, efforts are often made to stem political, financial, and administrative violations.

But in fact, what is seen on the ground during elections is a lot of fraud that occurs, such as money politics. It can be seen that there are successful candidates and teams that, in order to win elections, are willing to spend large budgets to give basic necessities or money to voters. This method can be considered easy and effective for helping win votes in elections. Although, in reality, in some cases, money politics cannot be followed up because of the non-fulfillment of the elements of the article according to applicable regulations.

The challenge for Bawaslu is the need to maintain the process of democratic consolidation by encouraging the building of independent political parties that have the capacity to carry out people's political education, aggregate and channel people's aspirations, and select leaders or candidates who will manage the country professionally, honestly, and fairly. Therefore, in order for the supervision of election organizers to run effectively, Bawaslu seeks optimal support from government institutions and independent state commissions and agencies as partners.

Synergy between governments, especially for election organizers, is absolutely necessary to maintain the quality of elections. The importance of relations and cooperation between electoral institutions cannot be separated from the functions of each institution that are interrelated with each other. The KPU is the institution responsible operationally for the implementation of elections, while Bawaslu is the institution responsible for supervising and resolving cases of election violations and disputes before being forwarded to the

criminal process at the police. Bawaslu also maximizes socialization among stakeholders, participants, and voters, strengthening the law enforcement side.

2. Legal Substance

Soerjono Soekanto believes that the law has an impact on the effectiveness of law enforcement (Soekanto, 2008). The law, which is the substance of the law, deals with the written law. Regarding the enactment of a law, there are several principles whose purpose is for the law to have a positive impact, meaning that the law achieves its purpose so that it can apply effectively. These principles include:

- a. The law is not retroactive, meaning that it may only be applied to events referred to in the law and occurring after the law has been declared in force.
- b. Laws made by a higher authority have a higher position.
- c. Laws of a special nature override generally accepted laws.
- d. Law is a means of attaining spiritual and material well-being for society or individuals through preservation or renewal.

Alti Mohammad S.Pi, the commissioner of Bawaslu Bone Bolango Regency, believes that the Election Law has not been effective because it opens opportunities for legislative candidates to commit political crimes, money politics, or other material provisions to the community by ordering people who are not included in the party structure. There were many findings of violations in the 2019 election, but they could not be processed and followed up because they did not meet the elements of articles in the Election Law.

However, if we look at Article 523 paragraph 1 and Juncto 280 paragraph 1 letter J of the Election Law, it confirms that every implementer, participant, and/or election campaign team who intentionally promises or provides money or other materials in return to election campaign participants directly or indirectly, as referred to in Article 280 paragraph 1 letter J, shall be punished with a maximum imprisonment of 2 (two) years and a maximum fine of IDR 24,000,000.00 (Twenty four million rupiah). In addition, Article 280, paragraph 1, letter j, confirms that the executor of participants and the election campaign team are prohibited from promising or giving money or other materials to election campaign participants.

From the article above, not mentioning everyone and only mentioning every participant or campaign team opens up opportunities for political crimes in order to get ballots. Therefore, Article 253, paragraph 1, and Article 280, paragraph 1, letter J, must be revised so that law enforcement against election violations can be effective.

Therefore, should mechanisms and procedures need to be revised or new laws formed, the public must know as early as possible and not provoke resistance from the

community. So at least two kinds of approaches are carried out, namely the system approach and the political-cultural approach. Through the priority system approach of revision or formation of new laws, it must also be viewed contextually and conceptually, which is closely related to the dimensions of geopolitics, ecopolitics, demopolitics, sociopolitics, and kratopolitics. In other words, legal politics does not stand alone and is separated from other political dimensions, especially if the law is expected to be able to act as a means of social engineering (Wignjosoebroto, 2002).

3. Legal Culture

The proliferation of money politics is also inseparable from the perspective of the public as voters who are permissive towards money politics. From the presidential election to the election of village heads, money politics also grew very prolifically because it was considered a natural thing by people who were not sensitive to the adverse effects.

In practice, money politics itself is not only given in the form of money but can also be in the form of basic necessities or things like that to attract sympathy from the public so that the community wants to vote for the election participants (candidates) concerned. This, of course, can be categorized as a criminal act of bribery (<https://pekalongankab.bawaslu.go.id/>). With money politics like this, people will indirectly lose their autonomy to choose candidates through rational considerations such as track record, performance, programs, and vision and mission delivered during the campaign because voters will be more inclined to vote for candidates who give more money or the like.

There is a view of one of the people of Bone Bolango Regency, Mr. Saleh Uneto, who stated that the lack of face-to-face socialization carried out by election supervisors in the community has made many people unaware of the rules of elections and lack awareness of the adverse effects of money politics. The hope of the community is that the election supervisory team will go directly to see the condition of the community at the location by conducting socialization.

Therefore, if the community participates in supervision during the election, it will make it easier for Bawaslu to enforce the election, Bawaslu's role will be realized very well, and disputes in the election will be minimized and prevented. Understanding election supervision is important to improve because it greatly determines the orientation and direction of election supervision policy development in the future. In addition to strengthening the role of the community, election participants, and election monitoring in the implementation of election supervision, the democracy that is built in Indonesia

becomes more substantial. The return of supervisory functions and duties to the community will also encourage the optimal realization of people's sovereignty.

CONCLUSION

Bawaslu plays an important role in the implementation of elections in Bone Bolango Regency, including by conducting monitoring at every stage of the election, resolving cases of election violations, and evaluating the supervision of election administration. However, in its implementation, there are obstacles to carrying out its role effectively due to several factors, namely legal structure factors. In this case, Bawaslu is the institution responsible for supervising and resolving cases of election violations and disputes. Legal substance factors, where the rules regarding elections only regulate the provision of sanctions for election participants and successful teams but not for people who blatantly commit electoral violations. Furthermore, the legal culture factor, where there are still people who consider election violations in the form of money politics, is something common in political contestation and is considered not a violation of the law.

Therefore, Bawaslu is required to further increase its role in the implementation of elections, especially in supervising and solving election cases by involving the community, election participants, and election monitoring in the implementation of election supervision, in order to make democracy in Indonesia better.

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