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Unmasking Electoral Turmoil: The General Election Supervisory Agency's Battle Against Disputes in Indonesia's Democracy

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Abstract

This paper critically examines the mechanisms employed by the General Election Supervisory Agency (Bawaslu) in Indonesia for resolving election disputes. Focusing on the country's democratic landscape, where electoral integrity is paramount, the study delves into the procedural framework and legal avenues that the Bawaslu employs to address election-related conflicts. The research explores the historical context and evolution of the Bawaslu's role, shedding light on its establishment, powers, and responsibilities. By analyzing case studies and key instances of election disputes, the paper evaluates the efficacy and responsiveness of the Bawaslu in managing and adjudicating conflicts within the electoral process. Additionally, the study investigates the legal instruments and regulations governing the Bawaslu's dispute resolution functions. This includes an examination of the agency's authority in interpreting electoral laws, handling complaints, conducting investigations, and rendering decisions. The paper scrutinizes the transparency, accountability, and impartiality of the Bawaslu's decision-making processes. Furthermore, the research assesses the impact of Bawaslu's decisions on the broader electoral system, considering implications for public trust, political stability, and the overall health of Indonesia's democracy.

Keywords

Bawaslu, Democracy, Electoral Dispute, Indonesian General Election

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Introduction

GENERAL ELECTIONS serve as a fundamental mechanism within a democratic framework, reflecting the essence of a democratic state. Indonesia, being a nation governed by the rule of law, is deeply committed to the principles of democracy. Conceptually, democracy denotes a governance system wherein the people hold the highest authority within a country. Functioning as the paramount authority, the people's voice, obtained through fair and accessible elections, contributes to the legitimacy of the democratic process.¹

In this context, Indonesia, as a democratic nation, is compelled to prioritize the welfare and interests of its citizens. This commitment is evident in the electoral process, which facilitates a smooth transition of leadership. Notably, the elections are designed to be accessible to all citizens, fostering an environment devoid of intimidation or interference, thereby allowing individuals to exercise their voting rights freely.² The conduct of elections in this manner not only upholds the democratic principle of freedom of opinion but also serves as a tangible manifestation of the sovereignty vested in the people.

Elections, emblematic of a nation's commitment to democratic principles and state sovereignty, are designed to fulfill a foundational purpose. However, this objective is frequently marred by a pervasive occurrence of

¹ Muhammad Syafei, and Muhammad Rafi Darajati. "Design of General Election in Indonesia." *Law Reform* 16, no. 1 (2020): 97-111; Kadir Johnson Rajagukguk, Sofjan Aripin, and Heri Wahyudi. "Simultaneous General Election: It Is Fair for Democracy in Indonesia." *JIP (Jurnal Ilmu Pemerintahan): Kajian Ilmu Pemerintahan dan Politik Daerah* 6 no. 1 (2021): 56-64; Ridwan Arifin, and Saktiani Nurul Hidayat. "Organizing Democracy through General Elections in Indonesia: The Challenge of Law Enforcement and State Stability." *SOSPOL: Jurnal Sosial Politik* 5 no. 2 (2019): 333-344.

² Sholahuddin Al-Fatih, "Electoral Regulation in Indonesia: Is It Modern Law?." *Unnes Law Journal* 6 no. 2 (2020): 205-216; Arif Prasetyo Wibowo, Eka Wisnu Wardhana, and T. Heru Nurgiansah. "Pemilihan Umum di Indonesia dalam Perspektif Pancasila." *Jurnal Kewarganegaraan* 6 no. 2 (2022): 3217-3225; Anita Indah Widiastuti, "Multi-Party in Presidential System in Indonesia: What Does Democracy Mean?." *The Indonesian Journal of International Clinical Legal Education* 2 no. 4 (2020): 517-526.

infractions during the electoral process in Indonesia. Despite their vital role in shaping the democratic landscape, elections often serve as platforms for drawing public attention, unfortunately accompanied by a notable prevalence of violations.³

Within the intricate tapestry of electoral events, conflicts invariably emerge among participants or between participants and organizers. This metamorphosis transforms the electoral process into a contested arena, where justice claims are vehemently asserted by concerned parties. The crux of these conflicts lies in the divergence of interests among the various stakeholders engaged in the election.⁴ Each entity fervently pursues its distinct objectives, propelling them to take actions aligned with their vested interests. While this has become a commonplace scenario in contemporary elections, it is imperative to underscore the profound implications of these situations. Essentially, conflicts arising from electoral processes often deviate substantially from the primary purpose of holding elections.⁵

Disputes invariably emerge as a logical consequence of events surrounding leadership or power contention. Viewed through the lens of

³ S. P. Harish, and Risa Toha. "A new typology of electoral violence: Insights from Indonesia." *Terrorism and Political Violence* 31 no. 4 (2019): 687-711; Mhd Teguh Syuhada Lubis, et al. "The Criminal Law Policy on the General Election System in Indonesia." *Jurnal Dinamika Hukum* 23 no. 3 (2023): 587-600; Ridwan Arifin, "Legal Reform Discourse in Indonesia and Global Context: How Does the Law Respond to Crime." *Journal of Law and Legal Reform* 1 no. 2 (2020): 193-196.

⁴ Piers Andreas Noak, "Politik Hukum, Demokrasi Digital, dan Kekuasaan Partai Politik Menyongsong Pemilu 2024 di Indonesia." *Jurnal Magister Hukum Udayana (Udayana Master Law Journal)* 12 (2023): 596-612; Fitria Barokah, and Hertanto Hertanto. "Disrupsi Politik: Peluang dan Tantangan Partai Politik Baru Jelang Pemilu 2024." *Nakhoda: Jurnal Ilmu Pemerintahan* 21, no. 1 (2022): 1-13.

⁵ Ferdian Ferdian, Asrinaldi Asrinaldi, and Syahrizal Syahrizal. "Perilaku Memilih Masyarakat, Malpraktik Pemilu dan Pelanggaran Pemilu." *NUSANTARA: Jurnal Ilmu Pengetahuan Sosial* 6, no. 1 (2019): 20-31; Alasman Mpesau, "Kewenangan Badan Pengawas Pemilu dalam Penanganan Pelanggaran Administrasi Ditinjau dari Perspektif Sistem Peradilan Indonesia." *Audito Comparative Law Journal (ACLJ)* 2, no. 2 (2021): 74-85; Maksimus Lefteuw, and Lidia Priscilla Pattiasina. "Penyelesaian Pelanggaran Administrasi Pemilu oleh Bawaslu." *PATTIMURA Legal Journal* 1, no. 2 (2022): 74-85.

human nature, such disputes are not unfamiliar in the tapestry of life; they can stem from various sources. In the context of elections, the most prevalent trigger for disputes often lies in situations where certain parties perceive themselves disadvantaged by others, whether at an individual or group level. Relationships among individuals or groups sharing common interests can easily become tinderboxes for conflicts, resulting in new legal implications between the involved parties.⁶

The magnitude of electoral disputes is underscored by the 2019 election scenario, where the Constitutional Court received a substantial influx of 470 disputes related to General Election Results Requests. Breakdowns indicate that 215 applications were submitted at the Regency/City DPRD Legislative Election level, 110 at the Provincial DPRD level, 71 at the DPR level, 11 at the DPD level, and 1 at the Presidential Election level. Additionally, 62 applications for General Election Results Requests were received, where the election level could not be conclusively identified.⁷

The intricacies within the government apparatus are notably complex, prompting the formulation of Law Number 7 of 2017 concerning General Elections to address multifaceted issues. This legislation encompasses a comprehensive regulatory framework governing various aspects of the electoral process. Within this legal framework, three distinct institutions operate cohesively to facilitate the execution of elections.

Firstly, the General Elections Commission (KPU) emerges as a strategic institution, functioning as the primary organizer of national, permanent, and independent election activities. Second in this triumvirate is the General

⁶ Ujang Abidin, and Dulnasir Dulnasir. "Dua Sisi Proses Penyelesaian Sengketa: Upaya Mewujudkan Keadilan Pemilu (Studi Kasus di Bawaslu Kabupaten Purwakarta)." *Muttaqien: Indonesian Journal of Multidisciplinary Islamic Studies* 3, no. 2 (2022); Siti Muslikhatul Ummah, "Pengembangan Kapasitas Badan Pengawas Pemilihan Umum (Bawaslu) Provinsi Jawa Tengah dalam Menjalankan Fungsi Pengawasan Pemilu." *Unnes Political Science Journal* 1, no. 1 (2017): 70-79.

⁷ Happy Anugraha Putra, and Anwar Noris. "Lembaga Penyelesaian Sengketa Pemilu yang Ideal di Indonesia." *Diversi* 6, no. 1 (2020): 73-91.

Election Supervisory Agency, commonly known as Bawaslu. Tasked with overseeing the electoral process in Indonesia, Bawaslu plays a critical role in ensuring the integrity of elections. Lastly, the Honorary Council for Election Implementation (DKPP) serves as an institution dedicated to addressing violations of the ethical code governing electoral conduct.⁸

Among these entities, Bawaslu stands out as a pivotal and strategically positioned institution, particularly in its role as a meticulous overseer of the electoral implementation process.

The Bawaslu institution, as previously explained, has the authority to supervise and resolve disputes in the election process. One of the supervisory roles carried out by Bawaslu is the stage of updating the election list to the recapitulation of the ballot count. Bawaslu is authorized in the dispute resolution process, if later the parties who take part in the election feel disadvantaged. The authority given to Bawaslu is a dispute resolution process that is considered a solution to the impasse, if the decision of the KPU, election participants feel aggrieved from the decision.⁹

As an illustrative example, the election dispute in Purwakarta Regency during the 2019 General Election is emblematic of the numerous election disputes that have transpired across Indonesia. The procedural handling of disputes, from their inception to the trial stage and culminating in the Bawaslu

⁸ Andi Setiawan, Irma Fitriana Ulfah, and Rizqi Bachtiar. "Jejaring Kelembagaan Bawaslu Dalam Penanganan Pelanggaran Pemilihan Umum Serentak Tahun 2019." *Resolusi: Jurnal Sosial Politik* 3, no. 1 (2020): 15-28; Kadek Cahya Susila Wibawa, "Pengawasan Partisipatif untuk Mewujudkan Good Governance dalam Penyelenggaraan Pemilihan Umum Serentak di Indonesia." *Administrative Law and Governance Journal* 2, no. 4 (2019): 615-628; Anas Santoso, and Usman Usman. "Neutrality of the State Civil Apparatus in the Democratic Party of Regional Head Election (Pilkada)." *Unnes Law Journal* 7, no. 2 (2021): 203-224; Bagus Edi Prayogo, and Agung Pandu Winasis. "Overcoming the Black Campaign as a Barriers to Democracy in the Era of Disruption of Information Technology with the Synergy of Bawaslu, the Minister of Communication and Information, and the Cyber Police Team." *Law Research Review Quarterly* 4, no. 4 (2018): 1129-1140.

⁹ Hananto Widodo, and Dicky Eko Prasetyo. "Penataan Penataan Kewenangan KPU dan Bawaslu dalam Melakukan Pengawasan dan Menangani Sengketa Proses Pemilu." *Perspektif Hukum* (2021): 200-221.

of Purwakarta Regency's decision issuance, is subject to established regulations. The legal efficacy of Bawaslu's decisions in resolving election disputes constitutes a systematic endeavor to address conflicts stemming from electoral issues. It is noteworthy that such decisions, carrying legal weight, provide a definitive stance that either accepts or rejects the claims made by the litigants, thereby influencing the resolution of the dispute.¹⁰

Additionally, in the further context, the General Election Supervisory Agency (Bawaslu) in Indonesia plays a crucial role in resolving disputes in the country's democracy.¹¹ However, its effectiveness is often challenged, leading to the need for citizen participation in election monitoring to complement Bawaslu's performance.¹² The agency's role is particularly important in the context of local elections, where the incumbent's political power can hinder the democratic process.¹³ Despite these challenges, Bawaslu's authority in resolving disputes is recognized, and its decisions are considered final and binding.¹⁴

Addressing the challenges inherent in conducting elections to safeguard state sovereignty and uphold the principles of a democratic state, the paramount goal is to ensure the people's freedom of expression. However, amidst these aspirations for the greater good, there persists a tendency among certain entities to prioritize personal interests during electoral processes. Consequently, the role of institutions overseeing elections becomes crucial. This

¹⁰ Abidin and Dulnasir, "Dua Sisi Proses Penyelesaian Sengketa: Upaya Mewujudkan Keadilan Pemilu (Studi Kasus di Bawaslu Kabupaten Purwakarta)". *See also* Mery Christian Putri, "Pendanaan Kampanye: antara Demokrasi dan Kriminalisasi." *Jurnal Kajian Hukum* 2, no. 1 (2017): 58-78.

¹¹ Herdi Munte, and Mirza Nasution. "Administrative Dispute Settlement Local Leaders Election in Indonesia." *International Conference on Law, Governance and Islamic Society (ICOLGIS 2019)*. Atlantis Press, 2020; Eny Kusadarini, Anang Priyanto, and Sri Hartini. "The process and role of the judiciary in election administration dispute resolution in Indonesia." *Jurnal Civics: Media Kajian Kewarganegaraan* 18, no. 2 (2021): 334-344.

¹² Dini Suryani, "Defending democracy: Citizen participation in election monitoring in post-authoritarian Indonesia." *Jurnal Studi Pemerintahan* 6, no. 1 (2015): 1-17.

¹³ Ilham Yamin Ismail, et al. "Democracy and incumbent political power struggle for the Indonesian regional head election." *Asian Social Science* 10, no. 10 (2014): 212-218

¹⁴ Munte and Nasution, "Administrative Dispute Settlement Local Leaders Election in Indonesia."

paper delves into the analysis of such institutions, focusing on the General Election Supervisory Agency (Bawaslu), which embodies endeavors to resolve issues and serve as a vigilant supervisor during elections, mitigating conflicts that frequently arise.¹⁵

The establishment of Bawaslu serves as a protective measure for the people, striving to align the electoral process with its intended purpose. This analysis explores how Bawaslu, as an institution, acts as a catalyst in promoting ideal elections, using examples from the 2019 election disputes in Purwakarta Regency. It underscores Bawaslu's significance in contributing momentum to the realization of just and equitable elections in Indonesia, aligning with the nation's goals in achieving electoral justice.

In formulating this article, the authors employ the normative juridical research method, involving an extensive literature study and library research to collect materials for subsequent analysis. Data acquisition encompasses a thorough examination of books, laws, regulations, and pertinent documents or files, serving as foundational references for analyzing the discussed issues. Additionally, the author scrutinizes various news sources related to the article's subject matter.

The article delves into an analysis of reading materials to address election dispute cases overseen by the Bawaslu of Purwakarta Regency, West Java Province, Indonesia. These materials are subsequently subjected to theoretical frameworks and discussions gleaned from the reading sources. The systematic arrangement and in-depth study of these materials aim to draw well-founded conclusions pertaining to the issues under examination.

¹⁵ Fitria Esfandiari, and Sholahuddin Al-Fatih. "Initiating a Permanent Electoral Body to Resolve Dignified Election Disputes: Assessing the Effectiveness of Gakkumdu." *Yustisia Jurnal Hukum* 9, no. 3 (2020): 333-347; Erniyanti Erniyanti, Febry Rizky Al Fadilla Sitompul, and Ngatemi Ngatemi. "The Value of Justice in Dispute Resolution BAWASLU." *LITERACY: International Scientific Journals of Social, Education, Humanities* 2, no. 3 (2023): 18-31; Graceyana Jennifer, Jenaya Adra Rumondor, and Ryan Giovanni Christianto. "Kedudukan Bawaslu dalam Menangani Perselisihan Hasil Pemilu: Perspektif Electoral dan Constitutional Democracy." *Awasia: Jurnal Pemilu dan Demokrasi* 2, no. 1 (2022): 34-45.

Bawaslu Unveiled: Navigating the Maze of Election Oversight in Indonesia

THE GENERAL Election Supervisory Agency (Bawaslu) is a mandated institution designed to oversee general elections, as stipulated by law. Established with the primary objective of serving as a supervisory body for election implementation in Indonesia, Bawaslu aims to control, ensure, and uphold the integrity of the electoral process. This supervisory function is dedicated to ensuring that each stage of the electoral process adheres to legal standards and is executed properly. Additionally, Bawaslu is entrusted with preserving the integrity of the election results, ensuring that outcomes remain unaltered, substituted, or eliminated by any party.¹⁶

Given the prevalence of disputes and conflicts in the electoral process, the presence of an overseeing institution becomes imperative. Bawaslu plays a pivotal role in providing vigilant supervision throughout the electoral journey. However, for the institution to fulfill its intended purpose, effective implementation is paramount.¹⁷

In the realm of electoral processes, the escalating disputes and conflicts have given rise to the concept of Network Governance, which has evolved from foundational principles of good governance. This conceptual framework involves the active participation of external entities in the functioning of government operations, particularly pertinent in the context of election-related

¹⁶ Afrinal Afrinal, Nur Rohim Yunus, and Fitria Esfandiari. "Bawaslu Institution and Its Contribution in Resolving Election Disputes." *SALAM: Jurnal Sosial dan Budaya Syar-i* 10, no. 5 (2023): 1697-1716; Jamaluddin Jamaluddin. "The Settlement of Election Disputes by Bawaslu Reviewed from the Indonesian Justice System." *Interdisciplinary Social Studies* 1, no. 5 (2022): 521-531.

¹⁷ Yusa Djuyandi, and Arief Hidayat. "The Role of Bawaslu Supervision in Handling Disputes Election Results in Indonesia." *Central European Journal of International & Security Studies* 13, no. 4 (2019): 499-517; Simon Butt, and Fritz Siregar. "Multilayered oversight: Electoral administration in Indonesia." *Asian Journal of Comparative Law* 16, no. S1 (2021): S121-S135.

matters. For the successful execution of network governance, it becomes imperative to establish clear indicators that serve as guiding principles for its implementation. These indicators play a crucial role in delineating the parameters and expectations associated with the involvement of external entities in the electoral process, fostering transparency, collaboration, and the overall effectiveness of governance structures.¹⁸

1. Game Management, which is a series of strategic procedures with continuity between agencies or related institutions that have been regulated and prepared through formal rules from the institution or informal regarding problems that occur, in accordance with the interests or concerns of the parties of the institution. The purpose of this game management itself is an effort to unite various differences in perceptions and views held by the institution with the establishment of a new regulatory norm both formal and informal norms which are then made to be developed. This management game itself has three elements in it, which are as follows:

- a. Perception/Integrity

In the context of Bawaslu, Game Management becomes particularly relevant as the institution oversees and manages the intricacies of the electoral process. Bawaslu employs strategic perceptions through convening and meetings to address the myriad challenges and differences that arise during elections. These gatherings aim to explore and exploit the diverse perceptions held by various stakeholders, ultimately fostering a harmonious environment conducive to the achievement of shared goals in the electoral context. By strategically managing the game of electoral processes, Bawaslu endeavors to navigate differences and create synergy, ensuring the integrity and fairness of the elections it supervises.

- b. Actors/Resources

¹⁸ Naim Kapucu, and Qian Hu. *Network Governance: Concepts, Theories, and Applications*. (London: Routledge, 2020).

The mobilization of an institution, especially in the context of Bawaslu, is driven by specific goals and inherent strengths or potentials. When forming an institution, there is a deliberate effort to align it with predetermined common interests. In the case of Bawaslu, this mobilization involves managing resources, some of which may be perceived as lacking. Bawaslu strategically dominates and channels available resources while demobilizing aspects that could hinder its ability to fulfill its supervisory role effectively. This approach ensures that Bawaslu can marshal the necessary resources to navigate the complexities of overseeing electoral processes and addressing any challenges that may arise.

c. Institutions/norms

In the context of Bawaslu, the interaction between social entities is a dynamic process that generates novel developments, particularly in the realm of norms. This evolution typically emerges organically from community habits. As Bawaslu engages with the community, these habits transform into agreements, thereby altering the format of relations within the electoral landscape. By understanding and adapting to evolving norms, Bawaslu plays a crucial role in fostering a broader and more inclusive community interaction, ensuring that the electoral process aligns with fair and transparent practices.

2. Network Structuring, which is intended to transform the network structure. Displacement in this case has an institutional network that influences strategies and cooperation opportunities for each institution.¹⁹ This forms an openness of an institution to other institutions and to the community. In scope, the institution aims to provide facilities and implementation of a use that can help the community and the formation of a cooperation.

¹⁹ Kapucu and Hu.

According to Law No. 7 of 2017, election regulations delineate disputes into various aspects, notably concerning both the object and subject. The conduct of elections, coupled with decisions made during an election, may occasionally lead to conflicts among involved parties. This legal framework identifies Bawaslu as the authoritative institution overseeing all aspects of supervision, providing crucial regulations for addressing grievances or perceived injustices arising from the electoral process.²⁰ Bawaslu's responsibility encompasses receiving requests for dispute resolution, meticulously verifying them both formally and substantively in adherence to the specified application guidelines. In this role, Bawaslu plays a pivotal role in upholding the integrity and fairness of the electoral process by adjudicating disputes in a structured and rule-bound manner.²¹

At different levels, there will be different rules and regulations in the process of running elections as well as how Bawaslu carries out its duties. At the district or city level, the adjudication stage in resolving disputes in the election process is exactly the same as the trial in general. Starting from the flow, completeness of the file to the reading of the verdict which is certainly legally binding.²²

Then the most important thing in the formation of a Bawaslu Institute is to prevent a dispute arising in the election process. However, as we know and have explained before, there is a dispute or conflict in the holding of this election. Bawaslu is authorized in resolving the parties' disputes. In an effort to

²⁰ Taufiqurrohman Syahuri, and Muhammad Helmi Fahrozi. "Konstitusionalitas Pasal 222 UU Nomor 7 Tahun 2017 Tentang Pemilu (Presidential Treshold)." *Al Wasath Jurnal Ilmu Hukum* 1, no. 1 (2020): 25-34; Pulung Abiyasa, "Kewenangan Bawaslu dalam Penyelenggaraan Pemilu di Kota Semarang Suatu Kajian Undang-Undang Nomor 7 Tahun 2017 Tentang Pemilu." *Jurnal USM Law Review* 2, no. 2 (2019): 149-161.

²¹ Amelia Haryanti, and Yulita Pujilestari. "Fungsi dan Peran Bawaslu dalam Pemilu Sebagai Implementasi Penegakan Undang-Undang Republik Indonesia Nomor 7 Tahun 2017 Tentang Pemilihan Umum." *Jurnal Surya Kencana Dua Dinamika Masalah Hukum dan Keadilan* 6, no. 1 (2019): 747-766.

²² Dedy Syahputra, and Muhammad Rajief. "Tugas dan Wewenang Bawaslu di Indonesia Pasca Undang-Undang Nomor 7 Tahun 2017 Tentang Penyelenggaraan Pemilu." *Jurnal Pendidikan dan Konseling (JPDK)* 4, no. 4 (2022): 2189-1297.

resolve disputes that occur, Bawaslu will mediate first by bringing together the parties concerned to reach a mutual agreement without incurring other legal obligations. However, if the mediation effort cannot find a way and mutual agreement, then according to the procedure the dispute will be brought to the court. Adjudication will provide resolution of election disputes that cannot be read in unison. In this procedure, an election dispute resolution will be decided with binding law.²³

Within Bawaslu Regulation No 9 of 2022 concerning Procedures for Resolving General Election Process Disputes²⁴, the mediation process functions as a deliberative and systematic approach involving disputing parties. Participants are engaged in structured deliberations and collective negotiations, aiming to reach a resolution without protracted legal proceedings, emphasizing peaceful means of dispute resolution. Bawaslu assumes the role of a mediator, facilitating discussions between the involved parties. This mediation process typically spans a maximum of two days and is conducted in a confidential, closed-door setting.

The mediation process involves a structured series of stages, each contributing to the resolution of election disputes. Commencing with the opening phase, a representative from Bawaslu or the designated mediation leader initiates the proceedings. This introductory step sets the tone for

²³ Muhammad Febriansyah, Muhamad Takiyuddin Ismail, and Norazam Mohd Noor. "Competing not complementing: KPU, Bawaslu, and the dynamic of election monitoring in PEMILU 2019." *Asian Journal of Political Science* 28, no. 3 (2020): 275-293; Siti Hamimah, "Strengthen the Role and Function of Bawaslu in Election Supervision and Law Enforcement." *Law Research Review Quarterly* 4, no. 3 (2018): 803-828.

²⁴ This Bawaslu regulation deals with the Procedure for Resolving General Election Disputes by establishing the terminology used in its provisions. Bawaslu (Election Supervisory Board), along with its provincial and district/city branches, is authorized to settle disputes related to the electoral process. Disputes within the electoral process encompass conflicts between election participants and disputes between election participants and election organizers arising from decisions made by the General Election Commission (KPU), Provincial KPU, and District/City KPU. The resolution of these electoral process disputes is conducted promptly and without additional costs. See Republic of Indonesia. *Peraturan Bawaslu Nomor 9 Tahun 2022 tentang Tata Cara Penyelesaian Sengketa Proses Pemilihan Umum*. (Jakarta: Sekretariat Negara, 2022). Available online at <https://peraturan.go.id/files/bn1124-2022.pdf>

subsequent discussions and establishes the framework for addressing the disputes at hand.²⁵

As the mediation unfolds, the disputing parties actively participate by articulating their specific concerns and grievances. This phase serves as a crucial platform for open dialogue, allowing each party to express its viewpoint and engage in a comprehensive discussion. The process emphasizes transparency and inclusivity, fostering an environment conducive to cooperative problem-solving.²⁶

Negotiations form a pivotal stage in the mediation process, where the parties strive to reach a consensus on the issues raised. The objective is to find common ground and devise mutually agreeable solutions. Skilled mediators facilitate these negotiations, guiding the parties towards a resolution that accommodates their respective interests. Once negotiations conclude, the mediator compiles the agreed-upon terms into a written agreement, providing a tangible record of the outcomes achieved through the mediation process. The final stage involves the formal signing of documents, symbolizing the parties' acknowledgment and acceptance of the mediated resolution or any remaining disagreements.²⁷

In the context of dispute resolution through adjudication, the connection with the broader concepts of justice and human rights becomes evident. Adjudication serves as a crucial mechanism not only for resolving disputes but also for upholding principles of justice and safeguarding human

²⁵ Nazaruddin Lathif, Isep H. Insan, and Mustika Mega Wijaya. "Perspective on Settlement of General Election Disputes Through Mediation, Adjudication and Legal Efforts: Settlement of State Administrative Judicial Disputes." *International Journal of Multicultural and Multireligious Understanding* 7, no. 5 (2020): 650-661; Eny Kusdarini, et al. "Roles of Justice Courts: Settlement of General Election Administrative Disputes in Indonesia." *Heliyon* 8, no. 12 (2022).

²⁶ Jamaluddin, "The Settlement of Election Disputes by Bawaslu Reviewed from the Indonesian Justice System."

²⁷ Aminuddin Kasim, and Andi Intan Purnamasari. "Bawaslu Electronic Adjudication: The Future of Indonesia's Election Process Dispute Resolution." *Russian Law Journal* 11, no. 3 (2023): 1237-1247.

rights.²⁸ As Bawaslu delves into the intricacies of electoral disputes, the aim is to ensure a fair and impartial process that aligns with the principles of justice.

The adjudication process is inherently linked to the pursuit of procedural and substantive justice. Procedural justice entails ensuring that the dispute resolution process is conducted fairly, with equal opportunities for all parties to present their case. Bawaslu's adjudication team plays a pivotal role in upholding procedural justice by providing a platform for a thorough examination of evidence, arguments, and counterarguments from the disputing parties.

Moreover, the connection with human rights lies in the acknowledgment that fair and transparent dispute resolution is fundamental to protecting the rights of individuals and entities involved in the electoral process. The adjudication process, by carefully examining the evidence and considering the perspectives of all parties, strives to safeguard the human rights of participants, including the right to a fair trial and the right to be heard.

Therefore, the adjudication conducted by Bawaslu becomes a critical juncture where the principles of justice and human rights intersect with the resolution of electoral disputes. The goal is not only to settle disputes but also to contribute to the broader objectives of promoting fairness, upholding human rights, and ensuring the integrity of the electoral system.

²⁸ Austin Sarat, and Joel B. Grossman. "Courts and conflict resolution: problems in the mobilization of adjudication." *American Political Science Review* 69, no. 4 (1975): 1200-1217; Hardjomuljadi, Sarwono. "Use of Dispute Avoidance and Adjudication Boards." *Journal of Legal Affairs and Dispute Resolution in Engineering and Construction* 12, no. 4 (2020): 03720004.

Election Dispute Resolution in Purwakarta 2019: Adjudicating Disputes Involving PKB and Berkarya Party Legislative Candidates

THE REGULATIONS governing the resolution of election process disputes extend beyond Law No. 7 of 2017 on general elections; they are also explicitly outlined in Bawaslu regulations. These regulations serve as a legal framework, providing a comprehensive structure for the technical procedures related to the material aspects of the lawsuits heard in the subsequent resolution of election process disputes.²⁹ Through this regulation, Bawaslu can take action on a dispute or conflict that arises during the holding of elections.

In a specific instance of election disputes that unfolded in Kabupaten Purwakarta, West Java, in 2019, multiple measures were taken to address the case. The dispute in Purwakarta revolved around the removal of DCT members from the Regency DPRD. Bawaslu employed two primary methods, namely Mediation and Adjudication (Trial), to navigate and resolve the complexities of the case. Mediation serves as a mechanism for bringing the involved parties together, facilitated by an election supervisor, with the aim of reaching a mutually agreeable resolution. Bawaslu initiates a deliberative process to foster dialogue among the concerned parties, seeking to resolve the dispute without resorting to a formal trial. However, if a consensus proves elusive, the resolution process transitions to adjudication, involving a formal trial to address and settle the election dispute.

The beginning of the case was the removal of two names of legislative members, namely in the names of Angga AR Ramadhana and Lukmanul Hakim, who were from the PKB party and the Work Party, respectively. The beginning of this dispute began with the KPU of Purwakarta Regency which took action to cross out the two names in its participation as one of the

²⁹ Muhammad Muhammad. "Evaluasi Undang-Undang Pemilu." *Jurnal Arajang* 3, no. 1 (2020): 60-72.

candidates for the district-level legislature. According to the information obtained that both were revoked by the Purwakarta Regency KPU based on letter No. 81/PL.01.4-Kpt/3214/KPU-Kab/X/2018 concerning amendments to the decision of the Purwakarta Regency KPU No. 77/PL.01.4-Kpt/3214/KPU-Kab/IX/2018 concerning the determination of Permanent Candidate List (*Daftar Calon Tetap*, hereinafter as DCT) for Purwakarta Regency DPRD Members in the 2019 election.³⁰

The revocation of the DCT stemmed from the Purwakarta Regency KPU's perception that the document indicated forgery in the information regarding the requirements for legislative candidates. Specifically, they asserted that the document lacked a statement concerning ex-convicts, as mandated by PKPU Article 7, paragraph (1). This discrepancy came to light on October 19, 2018, when it was discovered that the names of two parties had been crossed out. Subsequently, on October 23, 2018, both parties, whose names were expunged, submitted applications to Bawaslu, challenging the decision of the Purwakarta Regency KPU regarding the removal of candidates for the Purwakarta Regency DPRD legislature. Each party, namely the PKB Party and the Berkarya Party, submitted applications accompanied by evidence to fortify their respective arguments.

To strengthen their cases, both parties presented compelling evidence, including references to PKPU No. 31 of 2018. Notably, this evidence highlighted that the expunged party had not been sentenced to imprisonment exceeding 5 years, as stipulated by the law.

The KPU of Purwakarta Regency revealed that the reason for the removal of the two names was because the KPU received a Whatsapp message which in the message explained about the existence of candidates for DPRD members

³⁰ Otti Ilham Khair, and Wirman Syafri. "The Role of Ethics in Decision Making by the Constitutional Court on the Age Limit for Presidential and Vice Presidential Candidates." *Aristo* 12, no. 1 (2023): 297-313; Baihaki Sulaiman, and Yoyoh Rohaniah. "Analisis Pemilu dengan Sistem Proporsional Terbuka." *Petanda: Jurnal Ilmu Komunikasi dan Humaniora* 4, no. 2 (2022): 88-105.

compiled by the DCT, including a former drug convict who was not announced by the DPRD candidate at the time of registration to the public. The KPU also received a copy of the decision from the District Court in which the essence was that the applicant had given false information to the Purwakarta District Court.³¹ and it is known that the two petitioners whose names are crossed out from the DCT did not tick the mark (V) in the column "*are ex-convicts*", when the filing was carried out on the prospective legislative candidates. Therefore, the KPU argues that the data written in the legal facts have discrepancies in the data.

Based on PKPU No. 31 of 2018, it is stated that if an ex-convict has finished serving his criminal period, he must still be open and include his curriculum vitae as open to the public. In this case, the two legislative candidates did not explain their curriculum vitae in legal facts. Therefore, the Bawaslu of Purwakarta Regency, in accordance with what has been determined by the KPU, both names are required to be removed from the DCT. This will also affect other data such as the SKCK of the two applicants, as well as court certificates declared not in accordance with the principles in the General Election Law contained in article 2. Following up on the case, the KPU revealed that actually, for the two applicants, namely Angga and Lukmanul, there was no act of strikeout, because both sentences received by the two did not exceed 5 years imprisonment. However, after further investigation, the names of the two were removed from the dishonesty of the two regarding SKCK.³² Meanwhile, in the record, both of them are clean from crime, but due to the non-disclosure of the two their names are required to be removed from the DCT by Bawaslu.

³¹ Ilham Ilham, "Sengketa Hasil Pemilu, MK Putus Perintahkan Penghitungan Suara Ulang 11 Desa dan Kelurahan di Dapil Jawa Barat 3", *Online News Constitutional Court the Republic of Indonesia*, June 27, 2014. Retrieved from <https://www.mkri.id/index.php?page=web.Berita&id=10028>

³² Ahmad Syarifudin, "Implikasi Adanya Upaya Hukum Terhadap Putusan Bawaslu Tentang Pelanggaran Administratif Pemilu." *Cepalo* 4, no. 1 (2020): 1-14.

Bawaslu's Endeavors Towards Electoral Justice: Mediation and Adjudication in Election Dispute Resolutions

THE COMPREHENSIVE analysis presented above unveils a multitude of aspects that diverge significantly from the fundamental purpose of elections within the context of the prevailing democratic system. In its role as a legal state, Indonesia is expected to adhere to the regulations set forth. However, a disconcerting trend emerges as numerous leaders within the country appear to prioritize personal interests at the expense of the well-being of the people. This deviation is particularly troubling as it undermines the pursuit of justice, an essential element in fostering a democratic society. The discrepancy between the leaders' choices and the nation's ideals obstructs the realization of justice, a crucial component for the flourishing of the nation and the fulfillment of its collective dreams.³³

The multifaceted landscape of legal challenges within the electoral framework necessitates careful consideration and effective resolution by competent authorities. Among these authorities, Bawaslu stands out as a key institution entrusted with the responsibility of handling electoral dispute resolution. As outlined previously, Bawaslu plays a pivotal role in meticulously overseeing the intricacies of the electoral process in Indonesia. The election dispute encountered in Purwakarta Regency serves as a microcosm, shedding light on the myriad challenges that frequently emerge during electoral events across the nation. Swift and adept resolution of legal complexities arising from elections is crucial to avoid any legal voids that might compromise the integrity of the electoral implementation on a broader scale.

³³ Farahdiba Rahma Bachtiar, "Pemilu Indonesia: kiblat negara demokrasi dari berbagai representasi." *Jurnal Politik Profetik* 2, no. 1 (2014). See also Edward Aspinall, and Ward Berenschot. *Democracy for Sale: Pemilihan Umum, Klientelisme, dan Negara di Indonesia*. (Jakarta: Yayasan Pustaka Obor Indonesia, 2019); Ida Budhiati, "Quo Vadis Demokrasi Prosedural Dan Pemilu: Sebuah Refleksi Teoritis." *Masalah-Masalah Hukum* 42, no. 2 (2013): 268-273.

In the intricate dance of electoral procedures, each election organizing institution assumes a critical role, contributing significantly to the seamless execution of its duties throughout various stages of the electoral process. In the exercise of their authority, these institutions grapple with diverse considerations, ensuring that decisions are carefully weighed and adhere to legal principles. The presence of these election institutions is not merely bureaucratic; rather, it serves as a dedicated mechanism aimed at realizing the overarching goal of people's sovereignty—a cornerstone aspiration of the nation.

The election dispute in Purwakarta Regency is emblematic of the broader challenges that election institutions navigate. It underscores the importance of timely and effective resolution of legal predicaments, reinforcing the need for institutions like Bawaslu in upholding the integrity of the electoral process. The commitment to addressing legal complexities and fostering transparent electoral practices is fundamental to ensuring that the democratic ideals enshrined in the nation's framework are upheld with utmost diligence.

In the grand tapestry of Indonesia's democratic journey, the role of election institutions becomes increasingly significant. Beyond administrative functions, these institutions embody a commitment to the ideals of justice, fairness, and people's sovereignty. As the nation aspires to realize these fundamental principles, the vigilant efforts of election institutions like Bawaslu become indispensable in shaping an electoral landscape that is robust, just, and reflective of the democratic aspirations of the Indonesian people.

Furthermore, Bawaslu, the General Election Supervisory Agency in Indonesia, is actively engaged in promoting electoral justice through a comprehensive approach that involves both mediation and adjudication in the resolution of election disputes. These processes play a vital role in maintaining the integrity of the electoral system and upholding democratic values. Here's a detailed exploration of Bawaslu's initiatives in facilitating electoral justice through mediation and adjudication.

Bawaslu employs a proactive strategy through mediation to address election disputes and encourage amicable resolutions. In this process, disputing parties are invited to participate in structured deliberations and negotiations facilitated by Bawaslu. The primary objective is to reach a mutually agreeable solution without resorting to prolonged legal proceedings. The mediation process provides a platform for open dialogue, ensuring that the concerns and perspectives of all parties involved are thoroughly considered. By promoting collaboration and understanding among stakeholders, mediation contributes to a harmonious electoral environment.

In instances where mediation falls short of achieving a consensus, Bawaslu proceeds to adjudication, involving formal legal proceedings to resolve the election dispute. Adjudication becomes necessary when conflicting parties cannot reach an agreement through mediation. Bawaslu, acting as the adjudicating body, is supported by an adjudication team during the trial process. This approach allows for a comprehensive examination of the case, including the presentation of evidence and arguments from all involved parties. The adjudication process aims to uncover the root causes of the dispute, ensuring a fair and impartial evaluation of the legal facts surrounding the case.

In addition, Bawaslu's commitment to electoral justice is evident through its dual approach of mediation and adjudication. By offering mediation as an initial recourse, Bawaslu seeks to resolve disputes swiftly, maintaining the efficiency of the electoral process. In instances where a resolution remains elusive, the adjudication process guarantees a rigorous examination of legal complexities, upholding the principles of fairness and justice.³⁴ Bawaslu's multifaceted approach underscores its dedication to ensuring that election disputes are addressed comprehensively and in accordance with democratic

³⁴ Muhamad Febriansyah, et al. "Bawaslu and the Dynamic of Election Monitoring in Indonesia." *International Conference on Democratisation in Southeast Asia (ICDeSA 2019)*. Atlantis Press, 2019. See also Wibawa, "Pengawasan Partisipatif untuk Mewujudkan Good Governance dalam Penyelenggaraan Pemilihan Umum Serentak di Indonesia"; Ridwan Arifin, "Democracy on Indonesian Legal Reform: How Can People Participate on Laws and Regulations Establishment Process." *Journal of Indonesian Legal Studies* 2, no. 2 (2017): 155-158.

principles, thereby contributing to the overall integrity of Indonesia's electoral system.

Bawaslu's role in electoral dispute resolution, particularly in Indonesia, has been a subject of scrutiny. Jamaluddin highlights the need for more effective and timely resolution of cases by Bawaslu, as compared to the Constitutional Court.³⁵ This is in line with the broader challenges in electoral dispute resolution in Indonesia, where the judiciary often faces delays and bias.³⁶ The need for fair and efficient resolution of election disputes is a common theme across these studies, suggesting that Bawaslu's efforts in this area are crucial for ensuring electoral justice.

In Indonesia, Bawaslu's significance as an electoral dispute resolution body cannot be overstated. The institution's mandate to oversee and manage the intricacies of the electoral process positions it as a key player in upholding fairness and justice in elections. By addressing the challenges highlighted in Jamaluddin's analysis, Bawaslu can contribute substantially to enhancing the overall integrity of Indonesia's electoral system.³⁷

Moreover, the studies on electoral dispute resolution challenges in Indonesia serve as a comparative backdrop, illustrating the global relevance of efficient and impartial mechanisms. Bawaslu's role, guided by the imperative of ensuring electoral justice, becomes even more pronounced in light of these international comparisons. The institution's continuous efforts to refine its

³⁵ Jamaluddin, "The Settlement of Election Disputes by Bawaslu Reviewed from the Indonesian Justice System."

³⁶ Lydia Apori Nkansah, "Dispute resolution and electoral justice in Africa: The way forward." *Africa Development* 41, no. 2 (2016): 97-131; O'Brien Kaaba, "The challenges of adjudicating presidential election disputes in domestic courts in Africa." *African Human Rights Law Journal* 15, no. 2 (2015): 329-354.

³⁷ M. Faishal Aminuddin, "Electoral system and party dimension assessment in democratic Indonesia." *Jurnal Ilmu Sosial dan Ilmu Politik* 20, no. 1 (2016): 1-15; Andrew Ellis, "Indonesia: Transition and change but electoral system continuity." In *The Handbook of Electoral System Choice*. (London: Palgrave Macmillan UK, 2016), pp. 497-511; Hermawan Sulisty, "Electoral politics in Indonesia: A hard way to democracy." *Electoral Politics in Southeast Asia and East Asia, Singapore: Friedrich Ebert Stiftung* (2002): 75-99.

dispute resolution processes are instrumental in fostering public trust and confidence in the electoral outcomes.

Conclusion

GENERAL ELECTIONS are a forum for the output of a democracy. As we know that Indonesia is a state of law that adheres to the democratic system. Conceptually, democracy itself has a definition as a government that is implemented by making the people the highest power of a country. Elections as the embodiment of the country's democratic system, although it has a purpose in state sovereignty. However, there are still many violations in the implementation of this election. Not infrequently elections are used as a place to show people's attention, there have been a lot of electoral violations so far in Indonesia. Things like this are often obstacles in the realization of the goals of a democratic state. Therefore, the establishment of Law Number 7 of 2017 concerning General Elections. Based on the law, there are 3 institutions that become one unit in conducting elections.

Bawaslu is one of the elections organizing institutions authorized to supervise the implementation of elections from the beginning to the reading of the results of the election. It is also a means for election insiders who feel rights are being disadvantaged. The election administration agency will mediate first with the parties concerned in this election dispute case, to reach a mutual agreement. However, if the agreement cannot be found, then what the institution can do is bring the election dispute in court. This adjudicative implementation process will later provide results in the form of legal decisions that bind the parties concerned in this election dispute.

Election organizing institutions, each of which has an important role in carrying out their duties at every stage of the election. And in exercising his authority, of course, there are many considerations that must be considered before making a decision. Therefore, the existence of these election institutions

is a special concern for the creation of people's sovereignty as the goal that this nation aspires to.

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*Voting is the foundation stone of
political action.*

Martin Luther King

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