



LEGAL POSITION OF BAWASLU'S RECOMMENDATION LETTER IN REGIONAL HEAD NOMINATION (CASE STUDY OF REGIONAL ELECTION AT THE GENERAL ELECTION COMMISSION OF MANDAILING NATAL REGENCY)

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ABSTRACT

This research analyzes the legal standing of Bawaslu's Recommendation Letter in regional head candidacy, using a case study of the Mandailing Natal Regency Election. The study examines the document's legal validity as an administrative requirement and its implications for democratic election principles. Employing normative juridical methods through analysis of legislation and relevant court decisions, findings indicate that Bawaslu's recommendation serves as a candidate integrity verification tool. However, its implementation at the Mandailing Natal KPU has sparked controversy due to varying interpretations of candidacy requirements. The study recommends regulatory improvements to prevent excessive discretion by regional KPU/Bawaslu.

Keywords: Bawaslu Recommendation Letter, Regional Head Candidacy, Local Elections

1. INTRODUCTION

General Election is one of the most important elements to maintain the sovereignty of the people. In democracy, people's sovereignty is the highest concept that ensures that the power of government (de macht van de overheid) must be limited. Limitation of government power is the fundamental foundation of a democratic country. Election places the people as the main point that holds primary sovereignty. What is meant by the people according to Rousseau is not the sum of individuals in the country, but rather a unity formed by those individuals, and which has a will. Which will is obtained from those individuals through a community agreement, which Rousseau calls the general will, *volunte generale*, which is considered to reflect the will of the general will. Because, if what is meant by the people is the sum of individuals in the country, so it is not a unity formed by

individuals, then the will that is in it is not the general will or *volonte generale*, but rather *volonte de tous* (Romi Librayanto, 2009) If in a country, the government of the country is held by several people or groups of people, who are actually separate units in the country, and who have the will will fall together with the *volonte de corps*, as a result the *volonte de generale* will fall together with the *volonte de corps*. And, if the government is held by only one person, who also has his own will called the *volontre de particuliere*, then as a result the *volonte de generale* will fall together with the *volontre de particuliere*. So if that's the case, the government must be held by the people. At least the government has representatives in the government so that the *volontre de generale* can be realized. (Kacung Marijan, 2010)

During the New Order era in Indonesia, elections were a means to elect legislative institutions from the central level, namely the People's Representative Council (DPR) to the regional level, namely the Regional People's Representative Council (DPRD) of the Province and Regency/City. After the amendment to the 1945 Constitution, elections were also used to elect the President and Vice President which were first implemented in 2004. Then, after the enactment of Law Number 22 of 2007 concerning the Implementation of Elections, elections were understood as a means to elect members of the DPR, DPD and DPRD, the President and Vice President, as well as regional heads and deputy regional heads. (Ahmad Basarah, 2014)

Previously, based on Law Number 5 of 1974 concerning the Principles of Regional Government, to elect and determine regional heads, the President's approval must be obtained. Then, with the intention of decentralization, regional heads were elected by the DPRD without interference or approval from the central government based on Law Number 22 of 1999 concerning Regional Government. Based on Law Number 32 of 2004 concerning Regional Government, the Election of Regional Heads and Deputy Regional Heads was only implemented directly in 2005. Article 18 Paragraph (4) of the 1945 Constitution also explicitly mandates that: "The Governor, Regent and Mayor respectively as Head of the Provincial, Regency and City Regional Government are elected democratically".

The formulation of "democratically elected" in the provision is what is then interpreted by the Government and the DPR to be the implementation of direct elections for regional heads and deputy regional heads. This can be seen in the provisions of Article 56 Paragraph (1) of Law Number 32 of 2004 concerning Regional Government which stipulates that "Regional heads and deputy regional heads are elected in one pair of candidates which are carried out democratically based on the principles of direct, general, free, secret, honest and fair". Thus, the election of regional heads at that time was categorized as part of the legal realm of elections. (Law Number 32 of 2004) Implemented directly means that the people themselves choose their respective regional head candidates. Thus, regional elections which are a means of implementing people's sovereignty in the regions

provide an opportunity for each region in Indonesia to determine their respective regional governments through direct elections. Thus, regional elections can be a means to strengthen regional autonomy.

Bawaslu in relation to the election stages to carry out its duties and authorities can do several things. In Law Number 10 of 2016 concerning the Second Amendment to Law of the Republic of Indonesia Number 1 of 2015 concerning the Stipulation of Government Regulation in Lieu of Law Number 1 of 2014 concerning the Election of Governors, Regents, and Mayors into Law Article 28 paragraph 2 is explained: "In carrying out the duties and authorities as referred to in paragraph (1), the Provincial Bawaslu can: a. provide recommendations to the KPU to temporarily deactivate and/or impose administrative sanctions for violations as referred to in paragraph (1) letter f; and b. provide recommendations to the authorities regarding findings and reports on actions containing elements of election crimes".

In the simultaneous regional elections that were just held, a controversy arose involving a recommendation letter issued by the Election Supervisory Body (Bawaslu) to the General Election Commission (KPU) regarding the nomination of regional head candidate pairs in Mandailing Natal Regency. This case involves candidate pair number two, Saipullah Nasution and Atika Azmi Utammi, who received a recommendation letter from Bawaslu to still be passed even though they had violated the provisions in KPU Regulation Number 8 of 2024, which regulates the obligation for regional head candidates to report their assets to the Corruption Eradication Commission (KPK). This raises major questions regarding the appropriateness of Bawaslu's decision and whether the recommendation letter is legally valid, considering that Candidate Pair 02 did not meet the formal requirements set by the KPU. The violation committed by this candidate pair, namely not submitting a wealth report to the KPK, is one of the very important requirements in the regional head nomination process. This requirement not only serves to ensure transparency and accountability of regional head candidates, but also to prevent potential abuse of office and corruption in the future. Despite this administrative violation, Bawaslu gave a recommendation letter to the KPU to still pass this candidate pair, which of course raises debate regarding Bawaslu's authority in issuing the recommendation. Some parties feel that this step is contrary to the principles of fair and honest elections, and could potentially damage the integrity of the democratic process in Mandailing Natal Regency.

Bawaslu's decision to issue a recommendation letter to the KPU became more complex because Candidate Pair 02 not only violated administrative provisions regarding wealth reports, but was also considered not to have met other formal requirements to be determined as regional head candidates. Based on this, the party who felt aggrieved, in this case the other candidate pair who lost narrowly, brought this matter to the Constitutional Court (MK). The main argument put forward by the plaintiff was that the KPU had passed the candidate pair Saipullah

Nasution and Atika Azmi Utammi even though they did not meet the formal requirements stipulated in the KPU regulations.

At the initial stage, this dispute has been reported by the plaintiff to the Bawaslu of Mandailing Natal Province and Regency and the Election Organizer Honorary Council (DKPP), but this problem has not found an adequate resolution. The plaintiff feels that the supervision process carried out by Bawaslu was not firm enough in taking action against the violations that occurred, and the KPU's decision to pass Candidate Pair 02 was considered to have violated the election principles that should have been carried out purely and fairly. Therefore, the plaintiff hopes that the Constitutional Court as the "guardian of the constitution" can provide a decision that prioritizes justice and upholds constitutional rights in the election process.

From a legal perspective, the problem faced by the plaintiff is related to the threshold for vote disputes applied in the Mandailing Natal Regency Pilkada. In this case, the difference in votes between the candidate pair Saipullah Nasution and Atika Azmi Utammi and the other candidate pairs was only 941 votes, or around 0.48%. Although the difference in votes was lower than the threshold for vote disputes set for the district, which was 1.5%, this was the main reason for the plaintiffs to file an application with the Constitutional Court. They considered that even though the vote acquisition of the candidate pair they supported did not meet the threshold, the decision taken by the KPU could still significantly affect the results of the regional elections.

Another issue that arose in this case was related to the process of supervision and implementation of regulations by Bawaslu and the KPU. As an institution that should maintain the integrity of the election, Bawaslu is expected to be able to enforce the rules firmly, especially regarding administrative violations that occur at the nomination stage. However, Bawaslu's decision to issue a letter of recommendation for candidate pairs who were proven to have violated existing regulations showed laxity in supervision. This was a criticism of the institution, because every administrative violation, such as not submitting a wealth report to the KPK, should have resulted in the disqualification of the candidate pair concerned.

The continuation of this case in the Constitutional Court will be very important because the Constitutional Court has the authority to test the decisions of the KPU and Bawaslu regarding the passing of Candidate Pair 02. The Constitutional Court will not only assess whether the KPU's decision is in accordance with applicable regulations, but will also evaluate whether the administrative violations are significant enough to cancel the candidacy of the candidate pair. In this case, the Constitutional Court is expected to be able to provide a decision that is not only fair to the injured party, but also prioritizes the public interest and maintains the credibility of elections in Indonesia.

The Constitutional Court's decision is expected to provide a clear legal basis regarding the position of the Bawaslu recommendation letter and whether the administrative violations committed by Candidate Pair 02 can cancel their candidacy. This decision will be an important precedent for future elections, especially in terms of implementing regulations and supervision of regional head candidates who participate in political contests. In addition, the Constitutional Court's decision will be a reference for election supervisory institutions to be more careful in providing recommendations and ensuring that each candidate meets all the requirements that have been set.

If the Constitutional Court decides that the KPU and Bawaslu's decisions are not in accordance with the rules, then this will open up opportunities for the plaintiffs to obtain justice in the elections they have participated in. On the other hand, if the Constitutional Court upholds the KPU and Bawaslu's decisions, then the decision will be part of the democratic process that must be accepted by the losing party. However, the most important thing in this case is how each election process continues to run in accordance with the principles of honest, fair, and transparent elections, which are the basis of the Indonesian democratic system. (Satjipto Rahardjo, 2009)

The resolution of this case in the Constitutional Court will also show how institutions involved in organizing elections, such as Bawaslu, KPU, and DKPP, play a role in maintaining the integrity of elections and avoiding practices that can damage the credibility of the democratic process. In addition, the Constitutional Court's decision is also expected to be a basis for improving the election system in the future, so that every regional head candidate who advances in the regional elections truly meets all the requirements set, in order to create clean and dignified elections. In following up on the recommendations of election supervisors, the Provincial KPU or Regency/City KPU conducts an examination to then decide on administrative violations no later than 7 days after the recommendation is received. If the Provincial KPU or Regency/City KPU does not follow up on the recommendation, the Provincial Bawaslu or Regency/City Bawaslu has the authority to provide verbal mitigating sanctions or written warnings to the Provincial KPU or Regency/City KPU concerned. (Abdullah Iskandar, 2020)

2. RESEARCH METHOD

This study uses a normative research method, which is a legal research that places law as a normative system. The normative system in question includes the principles, norms, and rules of laws and court decisions. This study was conducted by analyzing the substance of laws and regulations related to the main problem, especially regarding the legal standing of Bawaslu's recommendation letter in the nomination of regional heads. The approach used in this study is normative juridical, which is carried out by examining applicable legal norms and relevant

legal doctrines to answer the formulation of the research problem. The main focus of this approach is on laws and regulations, judicial decisions, and the opinions of legal experts regarding the legal standing of recommendation letters issued by Bawaslu in the process of nominating regional heads. The data sources used in this study are secondary sources, in the form of journals and several laws. This secondary data was obtained from other parties and was not directly obtained by the author, including literature that is relevant or related either directly or indirectly to the legal standing of Bawaslu's recommendation letter in the nomination of regional heads. To analyze the collected data, the author will use a descriptive analysis method, which is a writing method that prioritizes observations of symptoms, events, and actual conditions in the present. This journal is an analytical study of the legal standing of Bawaslu's recommendation letter in the nomination of regional heads. The application of this method is carried out by describing the existing facts, with a focus on efforts to present symptoms completely in the aspects being investigated. (Soerjono Soekanto, 2013)

3. RESULT AND ANALYSIS

Legal Position of Bawaslu Recommendation Letter in the Regional Head Nomination Process Based on Applicable Laws and Regulations

Direct regional head elections are a new institutional framework as an effort to realize the democratization process in the regions. (Budi Santosa, 2015) The implementation of Regional Head Elections is a mandate for a country in the form of democracy. Democracy in a country based on law adheres to the principles of direct, general, clean, honest and fair. These provisions are already in Article 18 Paragraph (4) of the 1945 Constitution of the Republic of Indonesia (UUD NRI 1945) which reads "Regional heads are elected democratically". In Law Number 32 of 2004 concerning Regional Government, it is regulated regarding the election of regional heads and deputy regional heads who are elected directly by the people who are proposed by political parties or coalitions of political parties. In Article 2 of Law Number 1 of 2015 concerning the Stipulation of Government Regulation in Lieu of Law Number 1 of 2014 concerning the Election of Governors, Regents, and Mayors to Become Law which reads "Elections are carried out democratically based on the principles of direct, general, free, secret, honest, and fair." Judging from the changes in the Election Law to the issuance of Perpu Number 1 of 2014 concerning the Election of Governors, Regents, and Mayors. This Perpu was then enacted with Law Number 1 of 2015 concerning the Stipulation of Government Regulation in Lieu of Law Number 1 of 2014 concerning the Election of Governors, Regents, and Mayors into law.

Although there were changes to the Election Law, normatively, it did not substantially change the status and authority of the Election Supervisory Body and tended to be the same as the previous institution. Historically, the presence of

Bawaslu is expected to encourage and strengthen community participatory supervision by providing reinforcement in the form of regulations, budgets, human resources, facilities and infrastructure and authority, can make supervision sharper so that it can reveal legal facts and can be followed up in accordance with existing mechanisms. The estuary of all of that is to provide a deterrent effect in an effort to reduce the potential for violations in accordance with Bawaslu's objectives, namely to uphold electoral justice.

The independence of authority is also felt in the handling of violations committed by Bawaslu. In all post-reform regulations, this institution has experienced strengthening of authority, both in terms of supervision and enforcement of violations and regulations. This can be seen in the independence of handling violations in Law Number 22 of 2007 concerning General Election Organizers. The types of violations, if viewed from their history, depend on the regulations made by the makers of the legislation, either by the DPR or by Bawaslu itself which issues technical regulations, namely Bawaslu Regulations (Perbawaslu). As in Law Number 22 of 2007 concerning General Election Organizers which covers the implementation of the 2007 and 2008 Pilkada. Along with the enactment of this Law, the official name of the Pilkada changed to the election of regional heads and deputy regional heads.

The presence of state institutions that in carrying out their functions do not clearly position themselves as one of the three trias politica institutions has developed in the last three decades of the 20th century in countries that have established democracy, such as the United States and France, as well as in Indonesia. There are many terms to refer to these types of new institutions, including state auxiliary institutions or state auxiliary organs, which when translated literally into Indonesian means supporting state institutions or organs. (Rina Agustina, 2018)

The democratic system is the choice for most countries in the world in running their state administration. One of the standards related to the Election is the guarantee of equal voting rights for every citizen. Constitutional or law-based recognition of the right to vote is common to democratic countries. In this regard, the legal framework for the Election must be able to ensure that all citizens who meet the requirements are guaranteed the right to vote universally and fairly and have the right to participate in the Election without discrimination. Democracy emerged as a result of demands from Western society for equal rights and equal standing under the law. Before the American and French declarations, there was a gap in the position of citizens in society and in the legal system. This led to different treatment of people depending on their social status. Democracy is a form or mechanism of a country's government system as an effort to realize the sovereignty of the people (citizen power) over the country to be run by the government of that country. It can be concluded that democracy is a system of government whose principle is based on the power of the people, with three main

elements, namely government that comes from the people, is managed by the people, and is for the benefit of the people. The concept of government that comes from the people shows that the government that has power is a government that is recognized and supported by the community. The most important principle of democracy is to place power in the hands of the people, not in the hands of the ruler. (Dwi Prasetyo, 2017)

The addition of Bawaslu's authority and function will become a *ius constituendum* and will replace *ius constitutum*, and this will lead to a direction of improving the law enforcement system for Regional Head Elections that have been in effect in Indonesia, in addition, if we look back at the mandate of reform, that rules or laws are highly expected to be able to play a role in bringing society towards the desired changes, because considering the function of law as a tool to regulate and direct society is a manifestation of the role of law as "a tool of social engineering", then this is what opens up a great opportunity for dynamic legal changes (Siti Nurjanah, 2021)

The duties and authorities of Bawaslu in Article 22B of Law Number 10 of 2016 concerning the Second Amendment to Law Number 1 of 2015 concerning the Stipulation of Government Regulation in Lieu of Law Number 1 of 2014 concerning the Election of Governors, Regents, and Mayors into Law in supervising the implementation of the Election include:

1. Prepare and determine Bawaslu Regulations and technical guidelines for supervision for each stage of the Election as well as guidelines for procedures for examination, provision of recommendations, and decisions on objections after consulting with the House of Representatives and the Government in a hearing forum whose decisions are binding;
2. Receive, examine, and decide on objections to decisions of the Provincial Bawaslu regarding the election of Candidates for Governor and Candidates for Deputy Governor, Candidates for Regent and Candidates for Deputy Regent, or Candidates for Mayor and Candidates for Deputy Mayor related to the Election submitted by candidate pairs and/or Political Parties/coalitions of Political Parties related to the imposition of disqualification sanctions and/or the prohibition of Political Parties/coalitions of Political Parties from nominating candidate pairs in the next Election.
3. Coordinate and monitor the stages of supervision of the implementation of the Election;
4. Conduct evaluations of supervision of the implementation of the Election;
5. Receive reports on the results of supervision of the implementation of the Election from the Provincial Bawaslu and the Regency/City Panwas;
6. Facilitate the implementation of the duties of the Provincial Bawaslu and the Regency/City Panwas in continuing the stages of implementing the supervision of the implementation of the Election if the Province, Regency,

and City cannot continue the stages of implementing the supervision of the implementation of the Election in stages;

7. Carry out other duties and authorities granted by laws and regulations;
8. Provide guidance and supervision to the Provincial Bawaslu and the Regency/City Panwas;
9. Receive and follow up on reports of election violations; and
10. Follow up on recommendations and/or decisions of the Provincial Bawaslu and the Regency/City Panwas to the KPU regarding the disruption of the Election stages.

With the existence of state institutions that function according to their roles and responsibilities, the government can run efficiently and effectively in achieving state goals, maintaining stability, maintaining security, and providing good service to the people.

In the constitutional law system, studies of state institutions are part of the state political system in running the state government which is usually contained in the state constitution and the two cannot be separated.

The process of realizing election justice carried out by Bawaslu is in principle to maintain election justice. Dr. Abdullah Iskandar, S.H., M.H said: In maintaining democracy so that it is upright in accordance with its ideals, namely by upholding the principles of the election organizers themselves, namely in Article 22E paragraph (1) of the 1945 Constitution of the Republic of Indonesia, it is stated that general elections are held directly, generally, freely, secretly, honestly, and fairly every five years. According to these provisions, "fair" is one of the principles of organizing elections. So that the form of justice is to carry out supervision as an effort to prevent violations and take action as an effort to realize legal certainty. (Abdullah Iskandar: 2020)

Legal Impact of The Bawaslu Recommendation Letter on The Validity of Regional Head Candidate Nominations

Law of the Republic of Indonesia Number 10 of 2016 concerning the Second Amendment to Law Number 1 of 2015 concerning the Stipulation of Government Regulation in Lieu of Law (Perpu) Number 1 of 2014 concerning the Election of Governors, Regents and Mayors into Law was ratified by the President on July 1, 2016. Law Number 10 of 2016 concerning the Second Amendment to Law Number 1 of 2015 concerning the Stipulation of Perpu Number 1 of 2014 concerning the Election of Governors, Regents and Mayors into Law came into effect on July 1, 2016 after being promulgated by the Minister of Law and Human Rights Yosona H. Laoly and placed in Law Number. 10 LN 2016/No. 130 State Gazette of the Republic of Indonesia 2016 Number 130. Law Number 10 of 2016 concerning the Second Amendment to Law Number 1 of 2015 concerning the Stipulation of Government

Regulation in Lieu of Law (Perpu) Number 1 of 2014 concerning the Election of Governors, Regents, and Mayors into Law regulates;

1. Follow-up to the Constitutional Court Decision;
2. Affirmation regarding the meaning of the incumbent nomenclature to avoid multiple interpretations in its implementation;
3. Regulations regarding funding for the Election of Governors and Deputy Governors, Regents and Deputy Regents, and Mayors and Deputy Mayors are charged to the Regional Revenue and Expenditure Budget and can be supported through the State Revenue and Expenditure Budget in accordance with the provisions of applicable laws and regulations;
4. Simplification of process disputes at each stage of the election of Governors and Deputy Governors, Regents and Deputy Regents, Mayors and Deputy Mayors so that participation in voting and inauguration can be guaranteed;
5. Determination of the voting time for the election of Governor and Deputy Governor, Regent and Deputy Regent, and Mayor and Deputy Mayor in 2020 and 2024;
6. Regulations regarding the simultaneous inauguration of the Governor and Deputy Governor, Regent and Deputy Regent and Mayor and Deputy Mayor to be inaugurated simultaneously by the President in the State Capital;
7. Regulations regarding clear sanctions for those who engage in money politics in the election of Governor and Deputy Governor, Regent and Deputy Regent and Mayor and Deputy Mayor; and
8. Regulations related to filling the positions of Governor and Deputy Governor, Regent and Deputy Regent and Mayor and Deputy Mayor who are dismissed.

This Law contains several articles regarding the handling of Election Violations, namely in Article 22B letter i which reads "receiving and following up on reports of election violations", while in Article 22B letter j Bawaslu follows up on recommendations/decisions from the Provincial Bawaslu under it. The duties of Bawaslu in supervision are regulated in Article 22C as follows. Bawaslu in supervising the implementation of the Election is required to:

1. Treat Candidates for Governor and Candidates for Deputy Governor, Candidates for Regent and Candidates for Deputy Regent, and Candidates for Mayor and Candidates for Deputy Mayor fairly and equally;
2. Convey all information on supervision of the implementation of the Election to the public;
3. Implement the DKPP Decision; and
4. Carry out other obligations in accordance with the provisions of laws and regulations

Based on the analysis of the concept of Law Enforcement according to legal expert Soerjono Soekamto in a book on factors for upholding the law, there are 5

(five) indicators of upholding the law, namely the Law itself, Law enforcers, Facilities and infrastructure, culture and society. (Soerjono Soekamto: 2020)

- 1) The law itself; Actually, there are many shortcomings in the principle of Enforcer of Law by Bawaslu. This can be seen from every handling of violations in the Pilkada. More specifically, in terms of investigation and efforts for witnesses and reported parties to be present to provide information by Bawaslu. In handling criminal acts, the investigation period is only valid for 14 (fourteen) days. As a result, there are many cases where witnesses and reported parties run away during the investigation stage so that it is impossible for Bawaslu through Gakkumdu to raise the status of the investigation to Prosecution at the Prosecutor's Office. This is weak because there is a legal vacuum in the Election Law, as well as the Pilkada. No less important and most important is that in terms of violations of Election Administration, namely violations of Money Politics, there is a difference in definition between TSM violations between the Election and Pilkada. If in the TSM Election what is meant is using arbitrary authority by the incumbent, which is carried out TSM, while in the Regional Election there is no such indicator but only money politics which is determined to occur in 50% + 1 electoral district. So it is very difficult to prove the Money Politics incident. Likewise with Political Mahar, the absence of Wiretapping authority will not be possible and there will not be a single case that is able to reveal transactional political practices in providing party recommendations to regional head candidate pairs.
- 2) Law Enforcers; Law enforcers are groups of individuals or institutions that have the responsibility to maintain and enforce the law in a particular country or jurisdiction. They have an important role in maintaining order, security, and justice in society. From the side of law enforcement officers, Bawaslu is very aware that there are shortcomings in its law enforcement efforts. This is like investigators and prosecutors still do not have offices at the Sentra Gakkumdu in Bawaslu and are still given space to handle legal processes in their respective organic institutions such as the police still have offices in their agencies as well as prosecutors also have offices in their respective district attorneys. Ideally, when given the authority as the Gakkumdu Center Team, investigators and prosecutors must have an office at the Bawaslu Gakkumdu Center.
- 2) Facilities and infrastructure; Good law enforcement will be implemented if supported by adequate budget resources, without which of course the process and progress of handling violations will be hampered. This is always voiced by investigators during the national coordination meeting on handling violations who proposed that handling cases at Bawaslu be the same as in investigations, namely that an honorarium is given for each case, not an honorarium every month. This is of course difficult to grant

considering that the budget provided by the APBN is very limited. Ideally, an honorarium is given per case in handling violations so that there is good motivation in handling election violations.

- 3) Culture; Similar to the theory of power, everyone who fights in this case to seize executive and legislative positions, of course wants to win the fight by all means, such as the theory put forward by Machievalli, namely justifying all means to gain power.
- 4) Society. Regarding the handling of violations of the Code of Ethics and Other Laws, Bawaslu does not have the authority to handle it considering that it is the authority of the DKPP and KASN institutions. Unfortunately, the perpetrators of the violations often question it by not attending and avoiding the summons. This results in the study made by Bawaslu in a state without witness and reported statements (in absentia) so that it is very weak to provide evidence and recommendations for violations so that it ends with no violations.

The position of the General Election Supervisory Body or Bawaslu in the Election legal system has undergone many changes and strengthening from time to time, Bawaslu in the Election legal system in Indonesia is regulated in Law Number 15 of 2011 concerning Election Organizers. As an election supervisory institution, and is an independent and autonomous institution strengthened by the Constitutional Court Decision Number 11/PUU-VIII/2010, in which the Bawaslu institution is equal to and outside the structure of the General Election Commission (KPU), and outside the Electoral Management Body (EMB) standards that generally exist in other countries. At present, the position of Bawaslu at the central and provincial levels is in the form of a permanent or permanent body. While the position of the Regency/City Election Supervisory Committee (Panwaslu) for the Regency/City level, the Sub-district Panwaslu Committee (PPK) for the Sub-district level, the Field Election Supervisor for the Village/Kelurahan level, and the Overseas Election Supervisor for Overseas, all of which are in the form of temporary or ad hoc committees.

The composition of Bawaslu comes from experts or independent figures who are not partisan or do not represent the interests of a particular party or candidate and are selected by a selection committee appointed by the government. Therefore, in carrying out its duties and functions in enforcing election violations that occur in a Structured, Systematic, and Massive (TSM) manner in the context of implementing attribution authority, Bawaslu must fulfill the legitimacy of government actions (*bestuur handelingen*) because in the process the implementation is limited by content (*materiae*), territory (*locus*) and time (*temporis*). This can be interpreted that optimizing Bawaslu's authority in the process of enforcing election law must guarantee procedural justice and substantial justice because the two are intertwined and cannot be separated.

4. CONCLUSION

Bawaslu's recommendation letter has a strong and strategic legal standing in the regional head nomination process, as regulated in various laws and regulations that affirm the principles of democracy—direct, general, free, secret, honest, and fair—as the basis for regional head elections in Indonesia. Bawaslu, as an independent election supervisory institution equipped with authority that is continuously strengthened through regulations such as Law Number 10 of 2016 and its derivative regulations, plays an important role in ensuring the integrity of the democratic process by supervising, examining, and taking action against election violations. The recommendation letter issued by Bawaslu is not only a form of administrative supervision, but also functions as a legal instrument that can have an impact on the validity of regional head nominations, including disqualification sanctions if serious violations are found. This shows that the existence and authority of Bawaslu is a real implementation of the principle of "law as a tool of social engineering" which aims to strengthen democratic governance and create a deterrent effect for election violations, thereby supporting the creation of clean, fair, and just regional head elections in accordance with the mandate of the constitution and the goals of legal reform in Indonesia.

Bawaslu's recommendation letter has a significant legal impact on the validity of the nomination of regional head candidates, as regulated in Law Number 10 of 2016 concerning the Election of Governors, Regents, and Mayors. In this context, Bawaslu plays a strategic role as an independent supervisory institution with the authority to follow up on election violations, including providing recommendations that can affect the status of regional head candidates. However, law enforcement carried out by Bawaslu faces a number of obstacles, both in terms of regulations, limited infrastructure, and pragmatic political culture challenges. In addition, coordination and placement of law enforcers that are not yet optimal, as well as limitations in proving violations such as money politics and political dowries, also hinder the effectiveness of these recommendations. Therefore, strengthening the legality, resources, and mechanisms of law enforcement as well as increasing public awareness and participation are very necessary to ensure that Bawaslu's recommendation letter can function optimally in maintaining the integrity and validity of the regional head nomination process and strengthening a fair and transparent democratic system in Indonesia.

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