

## The Role of the General Election Supervisory Body (Bawaslu) In Handling Election Crime Violations in the 2020 Regional Head Election (Case Study at Bawaslu City of Tidore Islands)

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### Abstract

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This research aims to find out what forms of violations were found by the Bawaslu of Tidore Islands City in the 2020 Mayor and Deputy Mayor elections as well as the procedures carried out on these findings/reports of alleged violations by relying on Law No. 10 of 2016 concerning the Second Amendment Based on Law Number 1 of 2015, as well as the role of Bawaslu in handling alleged criminal violations based on General Election Supervisory Agency (Perbawaslu) Regulation Number 8 of 2020 concerning Handling Election Violations for Governors and Deputy Governors, Regents and Deputy Regents, and Mayors and Deputy Mayors City. The research method used is a qualitative research method with an empirical juridical research type or an empirical-sociological legal research type and the approach used in the research is a socio-legal approach (*sosio legal approach*). The results of the research show that the forms of violations handled during the Election of Mayor and Deputy Mayor in the City of Tidore Islands in 2020 were the handling of violations of the Code of Ethics in 2 cases, election crimes in 12 cases, and other legal acts in 15 cases. For the 12 criminal cases, only 3 (three) cases reached the Tidore District Prosecutor's Office and only 1 case received a permanent court decision. Bawaslu has a role in the process of the initial stages of suspected election crimes from the first, second process, up to the discussion stage together with elements of other institutions, namely the police and prosecutor's office. In the process of reviewing alleged election criminal violations, Bawaslu has a time limit that must be followed in accordance with statutory regulations.

**Keywords:** Role of Bawaslu, Election Crimes, Handling Violations

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### INTRODUCTION

Indonesia is a country based on law. As regulated in the state constitution, the 1945 Constitution of the Republic of Indonesia, article 1 paragraph (3), which reads "*Indonesia is a country of law.*" Which aims to realize a peaceful, safe, orderly, prosperous and just national order of life. The rule of law in question is a state that upholds the supremacy of law to uphold truth and justice, and there is no power that is not accountable (accountable) both in the administration of the state and in the life of the nation and society.

The consequence of this provision is that every attitude, policy and behavior of state agents and residents (citizens and foreigners) must be based on and in

accordance with the law, as well as to prevent arbitrariness and arrogance of power, whether carried out by state agents or by residents.

Indonesia is also a country that adheres to a democratic system and is also the largest democratic country in Southeast Asia. One form of implementing democracy in Indonesia is the implementation of General Elections (Pemilu) and Regional Head Elections (Pilkada).

## **THEORETICAL STUDY**

### **Role Concept**

The term role in the Indonesian language dictionary (2008: 1155) has the meaning of a play or film actor, a comedian in a makyung game. In the dictionary *oxford dictionary*, The word role means: *Actor's part; one's or function* which means actor; a person's duties or functions.

According to Alvin L. Bertrand in Soleman B. Taneko (1986: 23) states that what is meant by role is the pattern of behavior expected from someone who holds a certain status or position.

Meanwhile, according to Suhardono (1994:15), role is a set of standards that limit what behavior must be carried out by someone who occupies a position. Meanwhile, in his book Soerjono Soekanto (2002:243) says that role is a dynamic aspect of position (status). If someone carries out their rights and obligations according to their position, then they are carrying out a role. Based on several theories above, it can be concluded that roles are behavior possessed by certain people who have a certain position or hold a certain status. Roles become meaningful when they are associated with certain social situations.

### **Definition of the General Election Supervisory Body (Bawaslu)**

In article (1) paragraph (17) of Law No. 7 of 2017 concerning General Elections, it is explained that the Election Supervisory Body, hereinafter referred to as Bawaslu, is an election organizing institution that supervises the implementation of elections throughout the territory of the Unitary State of the Republic of Indonesia. Meanwhile, in article (1) paragraph (10) of Law of the Republic of Indonesia Number 8 of 2015 concerning Amendments to Law Number 1 of 2015 concerning Stipulation of Government Regulations in Lieu of Law Number 1 of 2014 concerning the Election of Governors, Regents and Mayors to be The law explains that the General Election Supervisory Body, hereinafter referred to as Bawaslu, is the general election organizing institution which is tasked with supervising the implementation of general elections throughout the territory of the Unitary State of the Republic of Indonesia as intended in the law which regulates general election organizers who are given duties and authority in supervision. holding elections based on the provisions regulated in this Law.

### **Definition of Criminal Acts**

According to Moeljatno (2008: 59), interpreting the term criminal act is an act that is prohibited by a legal rule, a prohibition which is accompanied by threats (sanctions) in the form of certain penalties, for anyone who violates the prohibition. It can also be said that a criminal act is an act that is prohibited by legal regulations and is punishable by crime. Just remember that the prohibition is aimed at actions,

namely conditions or events caused by people's behavior, while the criminal threat is aimed at the person who caused the incident.

## **RESEARCH METHODS**

Judging from the description of the problem formulation in this research, to study the main problem the empirical juridical research type or the empirical-sociological legal research type will be used.

### **Approach Method**

The problem approach is a process of solving or resolving problems through predetermined stages so as to achieve research or writing objectives (Zainudin Ali, 2013: 18). The approach that the author uses in this research is a socio-legal approach (*sosio legal approach*).

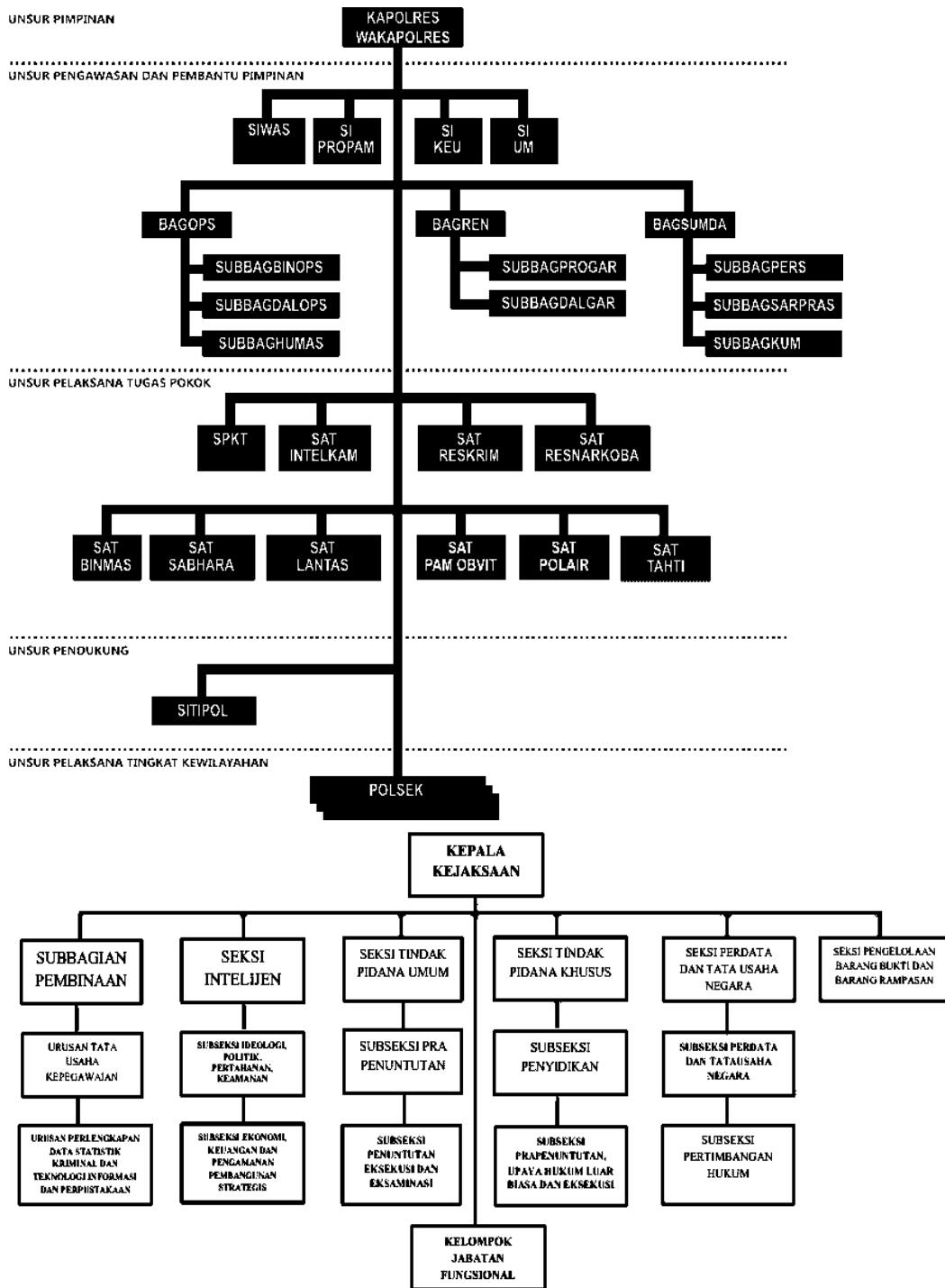
According to Jonaedi.E and Johnny.I in the book *Legal Research Methods: Normative and Empirical*, 2020, they explain that the characteristics of socio-legal approach methods can be identified through the following two things. *First*, Socio-legal studies carry out textual studies, articles in laws and regulations and policies can be analyzed critically and their meaning and implications for legal subjects explained. *Second*, Socio-legal studies develop various 'new' methods resulting from the marriage between legal and legal methods social, such as qualitative research *sosiolegal* (Ziegert, 2005), and sociolegal ethnography (Flood, 2005).

## **RESEARCH RESULTS AND DISCUSSION**

### **General description of the research location**

#### **Bawaslu City of Tidore Islands**

In their writing, Robi Ardianto and Reyn Gloria in access the official Bawaslu RI website, explaining that monitoring democracy in Indonesia cannot be separated from the contribution of Bawaslu, which was previously known as the Election Implementation Supervisory Committee (Panwaslak). The initial establishment of Bawaslu was motivated by a crisis of confidence in the implementation of elections. In 1982, election supervisors were formed under the name of the Election Implementation Supervisory Committee (Panwaslak Pemilu). This Panwaslak is a complement and part of the General Election Institution (LPU) and at that time this institution was still part of the Ministry of Home Affairs. Then an independent election management institution was formed and was called the General Election Commission (KPU). Strengthening of this institution occurred again from an ad hoc institution to a permanent institution through Law Number 22 of 2007 concerning Election Organizers with the establishment of a permanent institution called the Election Supervisory Body (Bawaslu).



Picture 1. The Election Organizing

## Discussion

Based on the research results that the author has presented in the form of data obtained from Bawaslu and the Integrated Law Enforcement Center (Gakkumdu) and the results of interviews with several informants, it can be seen that the Tidore City Bawaslu has carried out its main tasks and functions during the

election of regional heads for mayor and deputy mayor. as regulated in Law NO.7 of 2017 concerning General Elections and also in Law NO.10 of 2016 concerning the Second Amendment to Law Number 1 of 2015 concerning Stipulation of Government Regulations in Lieu of Law Number 1 of 2014 concerning The election of governors, regents and mayors has become law, namely preventing and taking action against election violations, as evidenced by the fact that during the 2020 mayor and deputy mayor election process in the city of Tidore Islands, Bawaslu of Tidore City handled 29 alleged violations. VIOLATIONS stemming from 19 findings and 10 reports. And in handling election violations, Bawaslu also works based on Perbawaslu No. 8 of 2020 concerning Handling Election Violations for Governors and Deputy Governors, Regent and Deputy Regent, and Mayor and Deputy Mayor.

Then, based on the results of interviews with several informants consisting of representatives of political party members and community figures, it is based on experience and observations that:

1. In the regional head election process, Bawaslu still seems to receive intervention from outside parties, namely the ruling party.
2. The public's trust in Bawaslu has lost its work because in carrying out its work there are still members of Bawaslu themselves who discriminate in raising cases of alleged violations that occur in the field.
3. Bawaslu is still not careful in looking at violations that occur, to the point that violations of money politics that are openly carried out in residential areas are not followed up on the grounds that there is no strong evidence.

Bawaslu cannot run according to the main duties and functions set out in the regulations because the recruitment of Bawaslu members still uses a nepotism system. If the recruitment of members uses 'insiders', then when carrying out their duties there will always be intervention from outside parties who help in recruitment)

## **CONCLUSION**

Based on the research results, the author draws the following conclusions: Forms of violations found during the 2020 Regional Head Election for Mayor and Deputy Mayor in the City of Tidore Islands included violations of the code of ethics, criminal violations and also other legal violations. Administrative violations were not discovered during the regional head election process (pilkada). The alleged violations found include 19 cases originating from Bawaslu and Panwas findings, and 10 others originating from reports submitted to the City Bawaslu. There were 12 (twelve) cases of alleged criminal violations discovered during the regional head election process. Of the 12 (twelve) alleged criminal violations, only 3 (three) case files reached the Prosecutor's Office, then only 1 (one) case escalated to court and received a permanent legal decision. 2 (two) cases expired in the investigation process due to lack of evidence and the investigation time had passed.

The effectiveness of Bawaslu's role in handling criminal violations in the 2020 regional head elections is considered to be in accordance with the main tasks and functions regulated in Law No. 7 of 2017, Law No. 10 of 2016, and Perbawaslu No. 8 of 2020. However, looking at the facts in community environment, Bawaslu's

performance is considered to be less good because some individuals in carrying out their duties still see discrimination and intervention from outside parties.

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