

The Construction Law System and Purification of Limitation from *Bawaslu's* Authority

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Abstract. *The aim of this research is analyze Article 1 number 17 of Act No. 7 of 2017 concerning General Elections on the General Election Supervisory Agency (Bawaslu) as an election supervisory agency oriented towards monitoring the 'validity of the people's voice' and despite gaining strong legitimacy based on existing regulations. However, Bawaslu has several obstacles, including the issue of the enigma of Bawaslu's authority to give decisions related to the post-constitutional election decision from the Constitutional Court. This research methods was legal research using a conceptual approach and legislation based on three types of legal materials, namely primary legal materials, secondary legal materials, and non-legal materials. The results of this legal research show that when viewed from the aspect of structure, substance, and legal culture; the expansion of Bawaslu's authority has the potential to make Bawaslu less than optimal as well as to create overlapping powers between law enforcers; therefore, the aspects of professionalism and leadership must support it. In addition, the purification of the authority of Bawaslu is essential to optimize the duties and authorities of Bawaslu so that Bawaslu does not need to focus on expanding its authority.*

Keywords: Bawaslu; Construction; Election; Purification.

1. INTRODUCTION

The General Election Supervisory Agency (hereinafter referred to as *Bawaslu*) as a supervisory agency for the implementation of General Elections (hereinafter referred to as Election) has to ensure that the 'holiness' of the people's voice must be a priority in organizing Election.¹ The orientation to maintain the 'holiness' of the people's voice is an essential thing in carrying out tasks from *Bawaslu*. This is confirmed in Article 22E paragraph (1) of the 1945 Constitution of the Republic of Indonesia (hereinafter referred to as UUD NRI 1945), which emphasizes that the implementation of the General Election must fulfill the direct, general, free, confidential, honest and fair

¹ Teguh Prasetyo, *Pemilu Bermartabat Reorientasi Pemikiran Baru Tentang Demokrasi* (Depok: Rajawali Press, 2017). p. 19.

(*Langsung, Umum, Bebas, Rahasia, Jujur, & Adil*) principles which are commonly referred to as the principle of 'LUBER JURDIL'. In fact, in addition to the principle mentioned above (*LUBER JURDIL*), it is also necessary to add one more principle, namely the periodic (temporary) principle.² This is intended so that the period for holding elections once every five years confirms the nature of regular (temporary) elections; thus, it is the state's obligation, especially for election organizers, to carry out periodic elections within a specific period.³ Thus, it can be concluded that the authority of *Bawaslu* as the supervisor of the implementation of the General Election must be carried out in accordance with the principles to ensure the 'sanctity' of the people's voice.

The 'holiness' of the people's voice is actually equipped with aspects of morality and ethics as must also be upheld by all election-organizing organs.⁴ Not only that, *Bawaslu* has been used as one of the organs expected to make the democratic agenda with integrity and dignity.⁵ Integrity, in this case, means that the fundamental parts of Election do not violate the principles of the Election as stated in the laws and regulations. Meanwhile, a dignified election (*Election Bermartabat*) is interpreted as holding an election that 'humanizes humans' (*memanusiakan manusia*) as manifested by not violating the rights as well as 'honor' (*kehormatan*) for others. These two aspects -integrity and dignity- are considered ethical guides in every part of election administration as carried out by every election organizing organ. Philosophically, these two aspects are also a fighting spirit for all parties involved in the election always to uphold political ethics to create a peaceful and prosperous 'democratic climate'. Thus, it is not wrong if the government encourages the strengthening of election ethics and morality through various laws and regulations binding on all parties, as one of them is the issuance of Act No. 7 of 2017 concerning General Elections (hereinafter referred to as the Election Law).

Article 1 number 17 of the Election Law confirms the essence of *Bawaslu* authentically; as stated, "*Bawaslu* is an election management body that oversees the implementation of elections throughout the territory of the Unitary State of the Republic of Indonesia". Referring to Article *a quo*, it is 'clear and unequivocal' that *Bawaslu* is a supervisory agency to implement elections. Further, regarding the duties, authorities, and obligations of *Bawaslu* in an *expressive verbis* manner, it is stated in the Election Law. However, related to the primary function of *Bawaslu* as a supervisory agency for the implementation of Election, there are problems related to the duties, authorities, and obligations of *Bawaslu*, namely that the authority of *Bawaslu* is only limited to

² Muhlis Maulana Ibrahim et al., "Batasan Kewenangan Bawaslu Provinsi Sulawesi Barat Dalam Penanganan Pelanggaran Pidana Pemilu Tahun 2019," *Jurnal Noken: Ilmu-Ilmu Sosial*, 6.2 (2021): 169–81, <https://doi.org/10.33506/jn.v6i2.1212>. p. 172.

³ Nur'l Yakin Mch, "Using Political Rights Legal Liability In Select The Operation Of Electoral Shura (Elections) In Indonesia," *International Journal of Law Reconstruction*, 2.2 (2018): 110–21, <https://doi.org/10.26532/ijlr.v2i2.3259>. p. 114.

⁴ Teguh Prasetyo, *Pemilu Dan Etika Penyelenggaraan Pemilu Bermartabat* (Bandung: Nusa Media, 2019). p. 32.

⁵ Fradhana Putra Disantara, "Perspektif Keadilan Bermartabat Dalam Paradoks Etika Dan Hukum," *Jurnal Litihasi (e-Journal)*, 22.2 (2021): 205–29, <https://doi.org/http://dx.doi.org/10.23969/litigasi.v22i2.4211>. p. 212

supervising the implementation of Election, including handling disputes over the Election process.⁶ Thus, after the KPU's decision regarding the determination of the national vote results, it is considered no longer the authority of *Bawaslu*. This, of course, raises problems related to when, after the KPU's decision regarding the determination of the national vote results, there are problems regarding the dispute over the election process. It is still a matter of whether *Bawaslu* remains in charge; or does it become the authority of the Constitutional Court even though the Constitutional Court is limited to only dealing with disputes over results. This is what we will try to analyze in this article. This article focuses on the construction of Lawrence Friedman's legal systems theory and Authority Theory.

2. RESEARCH METHODS

The research method used was legal research, which provides a systematic exposition of the rules governing specific legal categories, analyzes the relationship between rules, explains areas of difficulty, and perhaps predicts future legal developments.⁷ The approach used was a statutory approach that is carried out by examining all laws relevant to the legal issues being researched, then a conceptual approach that studies the doctrines and views that develop in legal science that create ideas and give rise to legal understanding legal concepts and legal principles that are relevant to the problem under study. The legal materials used were primary legal materials that have authority related to the issues under investigation and consist of statutory regulations, minutes, official records contained in the decisions of judges and legislators and secondary legal materials covering all publications on the law that were not official documents authoritative ones, including law books which include thesis, dissertations on law and legal journals and legal dictionaries as well as comments on court decisions. The analysis technique was carried out using prescriptive legal reasoning by formulating and proposing guidelines and methods that must be obeyed by legal practice and legal dogmatics and are critical, then used to solve the problems encountered. The analysis would later conclude that answers the problems studied.

3. RESULTS AND DISCUSSION

3.1 The Construction Law System on the Authority of *Bawaslu* in Friedman's Perspective

The idea of a legal system as put forward by Lawrence M. Friedman emphasizes the application of the law. In Lawrence M. Friedman's perspective, the law exists not only as norms and texts binding and regulating. Law is a unified system between those who make the law, enforce the law, and implement the law. Lawrence M. Friedman, who put forward the theory of the legal system, emphasized that the legal system consists

⁶ Tarsisius Sarkol, "Strategi Pengawasan Pelanggaran Pidana Pemilu Pada Daerah Kepulauan Maluku," *Jurnal Belo*, 6.1 (2020): 32–47, <https://doi.org/10.30598/belovol6issue1page32-47>. p. 41.

⁷ A'An Efendi, Dyah Octorina Susanti, and Rahmadi Indra Tektona, *Penelitian Hukum Doktrinal* (Surabaya: Laksbang Justitia, 2019). p. 26.

of three aspects, namely the legal structure, legal substance, and legal culture.⁸ According to Lawrence M. Friedman, the three legal systems are single entities, so one aspect of the legal system cannot carry out its duties independently. This also emphasizes that the operation of law in a legal system depends on each aspect of the legal system.⁹ The non-optimality of one aspect of the legal system impacts other aspects of a legal system. Thus, the law exists not only as norms and texts that are binding and regulating. Law is a unified system between those who make the law, enforce the law, and implement the law. Lawrence Friedman, in his theory, asserts that the legal system consists of three aspects, namely the legal structure, legal substance, and legal culture.¹⁰ The legal structure relates to law enforcement officials, especially law enforcers who carry out and operate the law in the field; Lawrence Friedman further emphasized that to begin with, the legal system has the structure of a legal system consist of elements of this kind: the number and size of courts; their jurisdiction ...Structure also means how the legislature is organized ...what procedures the police department follow, and so on. Structure, in way, is a kind of cross section of the legal system...a kind of still photograph, withrezees the action."¹¹

Referring to Lawrence Friedman's opinion, the legal structure is related to the behavior of law enforcement officers in implementing the law in the field (law in action). Furthermore, the legal substance is related to the implemented legal rules. Lawrence Friedman, that state it another aspect of the legal system is its substance. By this is meant the actual rules, norm, and behavioral patterns of people inside the system ...the stress here is on living law, not just rules in law books.¹²

Based on the explanation from Lawrence Friedman, the substance of the law is the norms, regulations, and binding habits of a legal society (convention). The legal substance is generally related to written legal regulations (law in books). Next is the legal culture, that's as emphasized by Lawrence Friedman:

The third component of legal system, of legal culture. By this we mean people's attitudes toward law and legal system their belief ...in other word, is the climate of social thought and social force which determines how law is used, avoided, or abused".¹³

⁸ Lawrence M. Friedman, "The Law and Society Movement," *Stanford Law Review*, 38.3 (1986): 763-780, <https://doi.org/10.2307/1228563>. p. 777-778.

⁹ Lawrence M. Friedman, *The Legal System: A Social Science Perspective* (New York: Russel Sage Foundation, 1975). p. 39.

¹⁰ Schwartz Germano André Doederlein and Renata Almeida da Costa, "The Development of the Sociology of Law in Brazil," *Oñati Journal of Emergent Socio-Legal Studies*, 11.1 (2021): 49-79. p. 50.

¹¹ Lawrence M. Friedman, "Legal Culture and Social Development," *Law and Society Review*, 4.1 (1969): 29-44. p. 31-32.

¹² Lawrence M. Friedman, "Social Welfare Legislation: An Introduction," *Stanford Law Review*, 21.2 (1969): 217-247, <https://doi.org/10.2307/1227652>. p. 224-225.

¹³ Ariel Zuckerbrot, "Impact: How Law Affects Behavior, by Lawrence M. Friedman," *Osgoode Hall Law Journal*, 3.55 (2019): 846-852. p. 848.

Based on the explanation from Lawrence Friedman, legal culture is related to people's attitudes towards the essence and substance of the law. Thus, legal culture becomes the "spirit" of the other two aspects of the legal system.¹⁴ In addition to these three aspects, there are two aspects of the legal system that need to be used to complete the three aspects of the legal system, as stated by Lawrence Friedman. The two aspects as conveyed by Ahmad Ali are leadership and professionalism (including integrity) from each aspect in the legal system.¹⁵

Related to the essence of *Bawaslu's* authority, as stated in the Election Law, it is viewed from the three aspects of the legal system. *First*, from the aspect of the legal structure in carrying out their authority, *Bawaslu* and Election's law enforcement agencies still have problems in the form of overlapping law enforcement authorities. This happened in Rokan Hulu Regency, Riau Province, in the 2020 Simultaneous Pilkada related to the violation of Article 71 of the Regional Head Election Act No. 10 of 2016. This includes the abuse of authority that violates Article 71 of the Election Law, which is then handled by *Bawaslu* and issued a disqualification recommendation and followed up by the KPU with a disqualification decree. The existence of overlapping authorities confirms efforts to provide expressive verbis affirmation and optimization in each authority of election law enforcement agencies, including *Bawaslu*. The existence of overlapping authorities affirms that efforts to organize and harmonize authority are the most important aspects before adding powers.

Second, from legal substance, there is a tendency that the Election Law and the Regional Election Act No. 10 of 2016 display too many criminal sanctions. There are around 70 criminal sanctions with the less effective realization.¹⁶ The existence of excessive and ineffective criminal sanctions in its implementation is contrary to the legal principle which emphasizes that "*Lex semper dabit remidium*" which means that the law must be oriented to "medicine" against the violator so that preventive efforts must be prioritized rather than repressive.¹⁷ This is also in line with the conception of Criminal Law as an *ultimum remidium* so that punishment is a solution and a last resort.¹⁸ Thus, administrative sanctions should be put forward before any criminal sanctions. *Third*, from legal culture, there is no legal awareness from both law enforcement officers and the general public. This is as research results from Sarah Birch from King's College London, which confirms that three things make election fraud

¹⁴ Mateja Čehulić, "Perspectives of Legal Culture," *Revija Za Sociologiju*, 51.2 (2021): 257–282, <https://doi.org/10.5613/rzs.51.2.4>. p. 266-267.

¹⁵ Achmad Ali, *Menguak Teori Hukum & Teori Peradilan Termasuk Interpretasi Undang-Undang (Legisprudence)*, 7th ed. (Jakarta: Kencana, 2017). p. 91

¹⁶ Muhammad Junaidi, "Tindak Pidana Pemilu dan Pilkada oleh Sentra Penegakan Hukum Terpadu," *Jurnal Ius Constituendum*, 5.2 (2020): 220–234, <https://doi.org/10.26623/jic.v5i2.2631>. p. 228

¹⁷ Hagi Hutomo Mukti and Rodyah Rodyah, "Dynasty Politics in Indonesia: Tradition or Democracy?," *Journal of Law and Legal Reform*, 1.3 (2020): 531–538, <https://doi.org/10.15294/jllr.v1i3.38090>. p. 540.

¹⁸ Nathalina Naibaho, "Rethinking the *Ultimum Remedium* Principle to Support Justice and Strong Law Enforcement Institutions in Environmental Crimes," in *IOP Conference Series Earth and Environmental Science*, 2021, 1–10. p. 7.

in Indonesia increasingly growing,¹⁹ namely: (i) strong patronage relations between election organizers, legislative candidates and voters. This is reinforced by the lack of legal awareness of voters so that patronage relations are commonplace, (ii) the legislative election system in Indonesia is oriented towards an open list proportional representation system, namely a candidate is elected because he gets as many votes as possible. This has the potential to make each candidate do unjustified means (*menghalalkan segala cara*). The community announces this as a means for the general public as voters to get money instantly.

The weakness of the electoral support system, especially the community in carrying out participatory supervision. The public still views that election supervision is only carried out by *Bawaslu*, while the public only sees and passively views the implementation of the Election. This is what can make the public have made electoral fraud common. This is evidenced by the fact that one of the legislative candidates is willing to pay IDR 600 million rupiahs to 10 District Election Committees (PPK) in Karawang, West Java, in the 2019 election.²⁰ Based on the analysis by prioritizing the three aspects of the legal system as stated by Lawrence Friedman above, the authors conclude that the limitation of *Bawaslu's* authority, especially after the determination of the results of the national vote, is necessary so that *Bawaslu* can focus and be optimal in carrying out its duties and authorities. Viewed from the aspect of structure, substance, and legal culture, the expansion of *Bawaslu's* authority has the potential to make *Bawaslu* less than optimal and create overlapping powers between election law enforcement officers. Thus, efforts to optimize the three aspects of the legal system within *Bawaslu* must also be supported by aspects of professionalism and leadership. Professionalism and leadership within *Bawaslu's* internal can be optimal if *Bawaslu* focuses on its functions and authorities so that it is necessary to limit the authority of *Bawaslu*, especially after the determination of the results of the national vote by the KPU.

3.2 Purification of *Bawaslu's* Authority: What and How?

Authority in Dutch legal terms is known as the concept of *bevoegheid*.²¹ In English terms, authority is known as the concept of authority as emphasized in the Black's Law Dictionary, which states that authority is the "*right to exercise powers; to implement and enforce laws*".²² Furthermore, in State Administrative Law, there are three ways to obtain authority, namely: attribution, delegation, and mandate.²³ According to Van Wijk

¹⁹ Sarah Birch, Ursula Daxecker, and Kristine Höglund, "Electoral Violence: An Introduction," *Journal of Peace Research* 57.1 (2020): 3–14, <https://doi.org/10.1177/0022343319889657>. p. 8-10.

²⁰ Aditya Perdana, "Riset Temukan Tiga Penyebab Praktik Kecurangan Pada Pemilu 2014 Dan 2019" (theconversation.com, 2020).

²¹ W.F. van Hattum H.E. Bröring, "Gratie: Een Bestuursbevoegdheid Getoetst: Een Beschouwing Naar Aanleiding van Het Arrest van de Hoge Raad van 6 November 2020," *Nederlands Tijdschrift Voor Strafrecht*, 14.1 (2021): 6–19. p. 14.

²² Henry Campbell Black Bryan A. Garner, *Black's Law Dictionary*, 11th ed. (Minnesota: West Publishing Co, St. Paull, 2019). p. 66.

²³ Philipus M. Hadjon, *Pengantar Hukum Administrasi Indonesia* (Yogyakarta: UGM Press, 2019). p. 52.

and Konijnenbelt, attribution is an authority that comes directly from the law (*wet*).²⁴ Furthermore, delegation is the transfer of authority from government officials to other government officials whose responsibilities are assigned to other government officials, while mandate is the delegation of authority from superiors to subordinates.²⁵ Associated with three ways of obtaining authority, then the related to the authority of *Bawaslu* can be categorized as a way of obtaining authority based on attribution. This is because the authority of *Bawaslu* is affirmed *verbis* expressly in the Election Law. Furthermore, regarding the authority of *Bawaslu* in terms of the constitutional law aspect based on the Constitutional Court's Decision No. 48/PUU-XVII/2019 has emphasized the function and existence of *Bawaslu* as a supervisor for the implementation of elections. Therefore, in looking at the legislative ratio of *Bawaslu*'s authority, it is necessary to understand, analyze, and explore the Election Law. Constitutional Court Decision No. 48/PUU-XVII/2019 provides a constitutional interpretation of the phrase "general election commission" as stated in Article 22E of the UUD NRI 1945.

Ratio decidendi in the Constitutional Court Decision No. 48/PUU-XVII/2019 emphasizes that based on the concept of legislative drafting, lowercase writing is "nature" and "substance" so it cannot be interpreted narrowly as the name of an agency or institution.²⁶ In Article 22E of the UUD NRI 1945, the phrase "*general election commission*" is written in lower case, meaning that it focuses on its "nature" and "substance". It can then be understood that the phrase "*general election commission*" as stated in Article 22E of the UUD NRI 1945 is not "identical" with the institution of the General Election Commission. If viewed and analyzed in-depth, Article 22E UUD NRI 1945 emphasizes the "nature" and "substance" of election administrators so that the meaning of the phrase "*general election commission*" must be interpreted extensively. Extensive interpretation in Legal Studies is one of the efforts to provide an interpretation of the provisions of legal norms. The interpretation of legal norms is one of the hermeneutical and normative steps that theoretical and practical law bearers can only carry out.²⁷ The interpretation of the phrase "*general election commission*" as stated in Article 22E of the UUD NRI 1945 is carried out extensively intended to explore the essence of the phrase "*general election commission*" as stated in Article 22E of the UUD NRI 1945.

In this case, the essence of an election is not just about having an election institution. The essence of the election is the nature and substance of the election institution that can be implemented to maintain the dignity and nature of the people's sovereignty in

²⁴ Sri Nurhari Susanto, "Komponen, Konsep Dan Pendekatan Hukum Administrasi Negara," *Administrative Law & Governance Journal*, 4.1 (2021): 144–157. p. 147.

²⁵ A'an Efendi and Dyah Octorina Susanti, *Ilmu Hukum* (Jakarta: Prenada Media, 2021). p. 72.

²⁶ Helen Xanthaki, "Legislative Drafting: A New Sub-Discipline of Law Is Born," *IALS Student Law Review*, 1.1 (2017): 57–62. p. 60

²⁷ Emad Mohammad Al Amaren et al., "An Introduction to the Legal Research Method: To Clear the Blurred Image on How Students Understand the Method of the Legal Science Research," *International Journal of Multidisciplinary Sciences and Advanced Technology*, 1.9 (2020): 50–55. p. 52.

elections.²⁸ Thus, the broad meaning of the phrase "general election commission" as stated in Article 22E of the UUD NRI 1945 is a relevant and appropriate step considering the purpose of Article 22E of the UUD NRI 1945 is the implementation of a substantive General Election. The expansion of the meaning of the phrase "general election commission" as stated in Article 22E of the UUD NRI 1945 further emphasizes that what is meant by "general election commission" is all bodies or institutions that have a function to maintain the nature of people's sovereignty in elections.²⁹ In Indonesia, there are actually three institutions that have different functions in the implementation of elections, namely: the General Election Commission (KPU), *Bawaslu*, and the Election Organizing Honorary Council (DKPP).³⁰ The existence of these three institutions confirms the existence of two things. *First*, in the context of holding elections, it is not only "narrowly" defined as election organizers but also the duties and authorities of the KPU. Elections are an interrelated process between various state institutions that have the essence of maintaining the dignity of the Election. *Second*, the implementation of elections conducted by three institutions, namely: the General Election Commission (KPU), *Bawaslu*, and the Election Organizing Honorary Council, requires synergy and coordination between election organizing institutions. Thus, the implementation of the Election is not only the "domain" of one institution but is the coordination of various institutions that have the essence of maintaining the substance of the implementation of the Election.

Based on the interpretation of the Constitutional Court Decision No. 48/PUU-XVII/2019 can be concluded several things. *First*, the phrase "general election commission," as stated in Article 22E of the UUD NRI 1945, is a term that has a broad meaning or genus of election organizers. The phrase "general election commission" as stated in Article 22E of UUD NRI 1945 must be interpreted as the "genus" of organizing elections that emphasizes the practical and institutional dimensions and emphasizes the substance and enforcement aspects of election principles. *Second*, the phrase "general election commission" as stated in Article 22E of the UUD NRI 1945 emphasizes the existence of three institutions in the administration of elections which include: the General Election Commission (KPU), *Bawaslu*, and the Election Organizing Honorary Council (DKPP), all of which must operate synergy and coordination in carrying out their respective duties. *Third*, *Bawaslu* as the study in this paper is placed as a species of "general election commission" as stated in Article 22E of the UUD NRI 1945, so that indirectly, the attribution of *Bawaslu's* authority is given by the constitution as the supreme law of the land for implement election principles such as direct, general, free, confidential, honest and fair principles. Based on the description, it can be interpreted that referring to the Constitutional Court Decision No. 48/PUU-XVII/2019 provides a broad constitutional interpretation of the function of holding general elections that are national, permanent, and independent. In this regard, this function is not only carried

²⁸ Stephen Dawson, "Electoral Fraud and The Paradox of Political Competition," *Journal of Elections, Public Opinion and Parties*, 16.1: (2020): 1–20, <https://doi.org/10.1080/17457289.2020.1740716>. p. 5-6.

²⁹ R Siti Zuhro, "Demokrasi Dan Pemilu Presiden 2019," *Jurnal Penelitian Politik*, 16.1 (2019): 69–81, <https://doi.org/10.14203/jpp.v16i1.782>. p. 74.

³⁰ Fradhana Putra Disantara et al., "The Enigma of Ethics: Code of Ethics Enforcement on Covid-19 Health Protocol," *DE LEGA LATA: Jurnal Ilmu Hukum*, 7.1 (2022): 1–21, <https://doi.org/10.30596/dll.v7i1.8203>. p. 13.

out by the KPU, but also by *Bawaslu* and the Election Organizing Honorary Council (DKPP) as a unitary function of the Election's administration, so it is not appropriate if there is one institution that gives a "claim" that is more important than others because the General Election Commission (KPU), *Bawaslu*, and the Election Organizing Honorary Council (DKPP) are one unit of function to maintain the dignity of the Election.

An authentic interpretation of Article 1 number 17 of the Election Law affirms that *Bawaslu* is an "election organizing agency that oversees the implementation of elections throughout the territory of the Unitary State of the Republic of Indonesia." In this case, the legislative ratio for the establishment of *Bawaslu* is to oversee the implementation of the Election. Based on the systematic interpretation of Article 93 of the Election Law, which emphasizes the supervision of the election administration by *Bawaslu*, which includes preventing and taking action against election violations and election process disputes. Based on the authentic and systematic interpretation above, efforts to limit the authority of *Bawaslu* are relevant and appropriate. Limitations on the authority of *Bawaslu* must be seen substantively not to weaken *Bawaslu* in preventing and taking action against election violations and election process disputes, but to emphasize and optimize the authority of *Bawaslu* in realizing responsible, dignified supervision of the implementation of elections. This is as in the legal adage which states, "*exception frimat vim legis in casibus non exceptis*" which means that deviations from general legal rules are allowed as long as the deviation is interpreted narrowly (restrictive). Based on the *a quo* legal adage, the limitation on the authority of *Bawaslu* is oriented towards efforts to strengthen *Bawaslu* to realize directed and robust supervision in the implementation of elections. This is because, under certain conditions, *Bawaslu* is vulnerable to exceeding its authority based on "*for the sake of election justice*". Instead of being an essential and progressive matter, *Bawaslu's* efforts to exceed its authority have the potential to disrupt the election law enforcement system, which the Election Law has determined for each section and its authority. This happened in the efforts of *Bawaslu*, which reviewed the KPU (PKPU) Decision No. 11/2017, which should be the authority of the Supreme Court.

The potential to exceed the authority of *Bawaslu* also has the potential to occur after the determination of the results of the National Election by the KPU. In the name of electoral justice, *Bawaslu* can interfere in disputes over election results which are the authority of the Constitutional Court, so that there is the potential for overlapping powers. As the legal principle states, "*Frustra legis auxilium quareit qui in legem committit*" means that it is futile for someone who violates the law, but he asks for legal assistance as a reason to justify his actions. Based on the *a quo* legal principle, the limitation of *Bawaslu's* authority, especially after the determination of the results of the national election by the KPU, is essential to strengthen and optimize the authority of *Bawaslu* while maintaining the implementation of the election law enforcement system and the harmonization of authority between state institutions. Purification of the authority of *Bawaslu* by limiting the authority of *Bawaslu*, especially after the determination of election results nationally by the KPU is an urgent matter to be carried out to strengthen and optimize the authority of *Bawaslu* and harmonization of authority between state institutions, including preventing arbitrary actions by state institutions. Therefore, in addition to limiting the authority of *Bawaslu*, especially after the determination of the election results nationally by the KPU to maximize election law enforcement, it is necessary to establish an integrated Special Electoral Court in the

Supreme Court. This is based on Article 24 paragraph (2) of the UUD NRI 1945 which confirms that judicial power is exercised by the Supreme Court and the courts under it and the Constitutional Court. Placing a special election court under the Supreme Court is a realistic choice, with the nature of the decision being final and binding to guarantee certainty, benefit, and justice. In addition, the existence of a special election court is also an effort to realize responsible election administration and other state institutions, including *Bawaslu*, can strengthen and optimize their authority.

4. CONCLUSION

As stated by Lawrence Friedman, three aspects of the legal system emphasized that the limitation of *Bawaslu's* authority, especially after the determination of the national Election results, is needed so that *Bawaslu* can focus and be optimal in carrying out its duties and authorities. Viewed from the aspect of structure, substance, and legal culture, the expansion of *Bawaslu's* authority can make *Bawaslu* less than optimal and create overlapping powers between election law enforcement officers. Therefore, efforts to optimize the three aspects of the legal system within *Bawaslu* must also be supported by aspects of professionalism and leadership. It is essential to purify the authority of *Bawaslu* as an effort to optimize the duties and authorities of *Bawaslu*. Optimizing the duties and authorities of *Bawaslu* is urgent so that *Bawaslu* does not need to focus on expanding its authority. The expansion of the authority of *Bawaslu* without first optimizing the existing functions of *Bawaslu* is a waste. Therefore, rather than expanding its authority, *Bawaslu* should focus on optimizing the existing authority related to the Election.

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