

## The Role of the Election Supervisory Agency for West Halmahera Regency in Resolving Law Violations at the Election and Vote Count Stages in the 2019 Election

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### Abstract

*The problems in this research consist of: What are the forms of violations that occur at the voting & counting stages in the 2019 simultaneous general election in West Halmahera Regency What is the role of Bawaslu Halbar in resolving violations that occur during the holding of general elections simultaneously year 2019 in the West Halmahera Regency area.*

*The location of field research was carried out in West Halmahera district. The type of normative-empirical research uses a statute approach and a conceptual approach. Types and sources of data are primary legal data and secondary legal data. Data collection techniques are carried out. by interviewing and documenting the data for further qualitative analysis.*

*The purpose of this research is to conduct a study and analysis to find out what forms of violations that occur at the voting and counting stages in the 2019 simultaneous general elections in the West Halmahera Regency area. To find out how to resolve violations that occur during the holding of general elections simultaneously in 2019 in the West Halmahera Regency area.*

*Whereas the forms of violations handled by Bawaslu Halbar in dealing with founding violations totaled 11 (eleven) election violations, and in handling only 3 (three) election violations recommended by the Integrated Law Enforcement Center. Besides that, 1 (one) finding that has been decided has permanent legal force. Meanwhile, other findings were not continued because the elements of election violations were not fulfilled based on the results of the study of alleged violations. The forms of violations are as follows: (1) Election Crime, there are 10 (ten) cases of criminal violations handled by Bawaslu Halbar. However, the handling process can be forwarded to the Police for only 3 (three) cases based on the results of the Bawaslu Halbar study; and (2) Violation of Liannya's Law, namely the findings of Muhammadun Hi's alleged violation of ASN neutrality. Adam on April 6, 2019 and has been registered with number 03 / TM / PL / KAB / 32.03 / IV / 2019. Based on the results of Bawaslu Halbar's study, the findings of the alleged violation of ASN Neutrality were given a recommendation to be sanctioned by the State Civil Apparatus Commission (KASN). As for the form of Election administration violations, Bawaslu Halbar did not receive reports or findings during the 2019 simultaneous elections. In addition, in terms of violations of the code of ethics, Bawaslu Halbar did not find any violations of the code of ethics committed by Election Administrators in the West Halmahera Regency either by election organizers. still namely the Election Commission of West Halmahera Regency and the organizer of the Ad Hoc Election.*

*That Bawaslu Halbar has carried out its role as a supervisory agency for the implementation of the 2019 simultaneous elections very well. This can be seen from the actions of Bawaslu Halbar in handling violations both in the form of findings and reports of general election violations. Bawaslu Halbar handles findings of alleged violations according to working days or from the day the public finds out about and / or reports the alleged violation. Then the results are reported or stated in form B-1 and .*

discussed in the Plenary Meeting of the Follow-up of Initial Information on Alleged Violations to determine whether or not there are allegations of election violations, and if the election supervisor states that there is a violation of the general election, the election supervisor determines to be registered or recorded in Election register book. Bawaslu Halbar handles reporting violations totaling 8 (eight) election violations, and in handling only 1 (one) election violation that fulfills the formal and material elements. Meanwhile 2 (two) Election Violation Reports will be withdrawn by the Reporting Party. Other reports cannot be followed up because the violation elements and / or material elements are not fulfilled based on the results of the plenary meeting to follow up the initial information on the alleged violation. During the process, the election stages took place starting from the data updating stage and the recapitulation plenary session at each level, 8 (eight) reports of alleged violations from the public were received and 2 (two) of them were withdrawn by the reporter. reports that have been registered cannot meet sufficient evidence so that they are terminated, while 1 (one) other report has been reviewed and recommended to the Integrated Law Enforcement Center (Gakumdu) or related agencies because it fulfills the elements of an election criminal offense.

Keywords: The Role of Bawaslu, Settlement of Legal Violations, Elections

## INTRODUCTION

Bawaslu Kab. Halbar has the authority to oversee the implementation of voting, counting and recapitulation of votes with a total of 379 polling stations divided among others: 108 TPS kec. Jailolo, 53 TPS kec. Jailolo Selatan, 37 TPS Sahu, 31 TPS Kec. East Sahu, 40 TPS Kec. Ibu Selatan, 32 TPS kec. North Mother, 35 Kec. Mother and lastly 43 kec. Loloda. The problems that arise in the supervision of voting, counting and vote recapitulation are violations, irregularities, fraud & manipulation such as the use of voting rights by unauthorized people, money politics problems, voter mobilization, irregularities in voting and counting procedures and procedures, irregularities in writing the minutes, the officer did not provide the minutes and the C1 form as well as the writing error. From the results of supervision at the collection stage, Bawaslu Kab. Halbar found several special incidents. In addition to special incidents there were also vote counting & recapitulation starting from the TPS, PPK & Kab levels, there were changes in the numbers in the votes acquired by the President & Vice President, candidate members, DPR, DPD, Provincial DPRD and Kab. as well as money politics & campaigns at the time of voting. Not yet, supervision at non-stages is like the neutrality of ASN, Money Politics, and the Politicization of SARA.

From the findings above, Bawaslu Kab. Halbar recommended to the West Halmahera KPU, namely the re-counting of votes at the PPK level (Jalan Baru Village, Tuada Village and Ropu Tengah Bolu Village), & Vote Re-voting occurred in (Tedeng Village, Gamlamo Village and Sasur Village). It is hoped that with the problems that occurred in the 2019 Election, the KPU will pay more attention to this matter, and will focus more on the socialization stages and technical guidance to organizers at that level.<sup>10</sup> The supervision of Bawaslu Halbar shows that the implementation of the Election in Kab. Halbar has been running effectively as mandated by the Law / not. This hypothesis will be tested by prospective researchers at the research stage

## RESEARCH METHODS

In this study, prospective researchers chose to use the type of sociolegal research (juridical-empirical) with a good qualitative approach to describe, explain, find the quality of problems in the field and quantitative to quantify (measure) data based on those obtained in order to test the previously established hypotheses. in the background of the problem. To obtain data in this study, observations and interviews were conducted to obtain specific information from the informants,

namely the Bawaslu of West Halmahera Regency, related agencies and the community based on the sampling system and the population using a questionnaire instrument. The collected data was then converted using predefined categories / criteria and then qualified for analysis.

## DISCUSSION

### **A. FORM OF VIOLATIONS IN VOTING AND VOTE COUNTING STAGE IN THE IMPLEMENTATION OF THE 2019 CONSTITUTIONAL GENERAL ELECTION IN WEST HALMAHERA REGENCY**

In holding the General Election simultaneously held in 2019. Bawaslu West Halmahera Regency (Bawaslu Halbar) is fully responsible for reports or findings of violations. From the results of supervision by Bawaslu in organizing the Election at each stage of the election implementation which contained alleged violations in West Halmahera Regency. The mechanism for handling findings is carried out in accordance with the provisions of Perbawaslu Number 7 of 2018 concerning Handling of Findings and General Election Violation Reports. The time for handling allegations of violations is calculated according to the working day or from the day on which the Election Supervisor finds out and / or finds the alleged violation. The results are reported or set forth in the supervision form and discussed in the Plenary Meeting to determine whether or not there is an alleged election violation general election, the election supervisors determine the findings to be registered or recorded in the Election register book. In this regard, the forms of violations handled by Bawaslu Halbar in handling Findings violations totaled 11 (eleven) election violations, and in handling only 3 (three) election violations recommended by the Integrated Law Enforcement Center. In addition, 1 (one) finding that has been decided has permanent legal force. Meanwhile, the other findings were not continued because the elements of election violations were not fulfilled based on the results of the study of alleged violations. What was handled by Bawaslu Halbar was inseparable from the findings on the results of supervision. Some of the violations handled by Bawaslu Halbar which is found from the results of the supervision of Panwaslu at the District level (Panwascam). However, based on the results of the analysis of the alleged violations found by the sub-district contained elements of violations of election criminal acts, Bawaslu Halbar took over the alleged violations to be followed up in accordance with statutory provisions and then registered at the Bawaslu Halbar level. As for the findings of alleged election violations handled by Bawaslu Halbar, as described in the table below:

No	Temuan		Nomor Register	Tanggal Temuan	Uraian Peristiwa	Status Temuan
	Penemu	Terduga				
1	Muhammad Hi. Adam	Rustam Nasir	01/TM/PL/KAB/32.03/VI/2018	27 Agustus 2018	Dugaan Kampanye di luar Jadwal Pemilihan Umum/Postingan photo di Media sosial ( <i>Facebook</i> )	Bukan Pelanggaran Dihentikan
2	Saiful Abdullah	Samsul Usman.	01/TM/PL/KEC.-JALSEL/32.03/XII/2018	16 Desember 2018	Dugaan Pelanggaran Postingan photo di media sosial ( <i>Facebook</i> ) Oleh Anggota BPD	Bukan Pelanggaran Dihentikan
3	Muhammad Hi. Adam	Suwandi Hi. Gani	02/TM/PL/KAB/32.03/VI/2019	24 Januari 2019	Dugaan Pelanggaran pada saat Deklarasi Tim Kampanye TKD bersamaan dengan Kegiatan Pengukuhan Pengurus HKTI Provinsi Maluku Utara di Lapangan AURI Kec. Jailolo Kab. Halmahera Barat	Bukan Pelanggaran Dihentikan
4	Muhammad Hi. Adam	Hairun bahrudin	03/TM/PL/KAB/32.03/IV/2019	06-Apr-19	peristiwa ditemukan pada hari sabtu tanggal 06 april 2019 terkait postingan di media sosial oleh seorang pegawai negeri sipil	direkomen dasikan ke Komisi Aparatur Sipil Negara (KASN)
5	Aknosius Datang	Irdam Ngawaro	04/TM/PL/KAB/32.03/IV/2019	18-Apr-19	Dugaan Pelanggaran kecurangan Pada Saat Penghitungan surat suara	Berkekuatan Tetap (Putusan)
6	Latif Hamisi Pengawas TPS	Ketua KPPS TPS 05 Desa Gamlamo	05/TM/PL/KAB/32.03/IV/2019	17 April 2019	Dugaan pelanggaran pencoblosan sisa surat suara di TPS 05 Desa Gamlamo	Direkomen dasikan ke Sentra Penegakan Hukum
7	Agus Mudja (KORDIV	Jornan Murary	06/TM/PL/KAB/32.03/IV/2019	16 April 2019	Dugaan Pemberian Bodi Viber Dan	Bukan Pelanggaran Dihentikan

	Napries Bernadus (KORDIV PHL) PANWASCAM Kec. Jailolo	Ikbal Sinen	07/TM/PL/KAB/32.03/IV/2019	19 April 2019	Dugaan pelanggaran tipex dan mengubah angka Pada Formulir C 1 Hologram	komendasikan ke Sentra Penegakan Hukum
	Napries Bernadus (KORDIV PHL) PANWASCAM Kec. Jailolo	Ketua dan anggota KPPS TPS 03 Desa Jalan Baru	08/TM/PL/KAB/32.03/V/2019	02 Mei 2019	Dugaan pelanggaran membacakan surat suara berbeda dengan yang telah di coblos	an Pelanggaran Dihentikan
	Marlon Dadi	Ketua dan anggota KPPS TPS 01 Desa Goro-goro	09/TM/PL/KAB/32.03/V/2019	02 Mei 2019	Dugaan pelanggaran membacakan surat suara berbeda dengan yang telah di	n Pelanggaran Dihentikan

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	Muhama dun Hi. Adam	PPK Kec. Ibu Selatan	10/TM/PL /KAB/32.0 3/IV/2019	07 Mei 2019	Dugaan pelanggaran Temuan 2 Formulir DA 1 Kec. Ibu Selatan	n Pelanggaran Dihentikan

## B. ROLE OF BAWASLU HALBAR IN THE SETTLEMENT OF VIOLATIONS IN THE IMPLEMENTATION OF THE 2019 CONSTITUTIONAL GENERAL ELECTIONS IN WEST HALMAHERA REGENCY

In carrying out its duties as a supervisory agency for the implementation of elections in the regency, Bawaslu Halbar has the role of preventing and prosecuting election violations and election process disputes, supervising the preparation for election administration. In addition, the duties of Bawaslu Halbar which are carried out in the context of preventing election violations and preventing election process disputes are identifying and mapping potential vulnerabilities. and election violations coordinate, supervise, guide, monitor and evaluate election administration, coordinate with relevant government agencies and increase public participation in election supervision.

For tasks relating to efforts to prosecute election violations, there are 3 (three) types of violations in the Election, namely:

2) Violation of the code of ethics of election organizers

Violation of the ethics of Election administrators based on oaths and / or promises before carrying out their duties as election administrators.

4) Election administration violations

Violations that include procedures, procedures, and mechanisms related to the administration of the implementation of the Election in every stage of the Election, outside of election crimes and violations of the code of ethics of Election administrators.

5) Election crime

Criminal acts of violations and / or crimes against the provisions of Election criminal acts as regulated in the UUNo. 8 of 2012. As for the working area of Bawaslu Halbar is regulated in Article 71 of Law Number 15 Year 2011 concerning the Implementation of General Elections, Regency Bawaslu is domiciled in Regency Cities. The main characteristics of an independent election supervisor are:47

7. Formed by means of a constitution or law

8. Not easy to be intervened by certain political interests;

9. Responsible to parliament;

10. Carry out duties in accordance with the Election / Pilkada stages;

11. Have good integrity and morality, and

12. Understand the procedures for implementing the General Election / Pilkada. In this way, the Supervisory Committee is not only responsible for the formation of a democratic government, but also takes part in getting the people to choose candidates they think are capable.

Based on the provisions in Law no. 15 of 2011, Bawaslu has the authority to receive reports of suspected violations. Law No.8 of 2012 then further describes the types of violations. There are 3 (three) types of violations in an Election, namely: first, violations of the Code of Ethics of Election organizers are a unity of moral, ethical and philosophical norms that serve as guidelines for the conduct of general election administrators which are obligatory, prohibited, appropriate or improper to do in all actions. and sayings. As well as violations of the ethics of election organizers based on oaths and / or promises before carrying out their duties as Election Administrators.<sup>48</sup> On the next violation of this Code of Ethics

Followed up by the Election Organizer in accordance with Article 159 of Law No.7 of 2017 concerning General Elections. DKPP has the following tasks: 49

3. Receiving complaints and / or reports of alleged violations of the code of ethics

Conducted by election organizers; and

4. Conducting investigations and verification, as well as examining complaints / or reports of alleged violations of the code of ethics committed by election organizers.

*Second*, Election administration violations are violations which include procedures, procedures, and mechanisms related to the administration of the implementation of the Election in every stage of the Election other than Election crimes and violations of the election administration code of ethics. 50 Resolution of Election Administrative Violations, as referred to in Article 461 of Law Number 7 2017 concerning General Elections, namely: 51

(6) Bawaslu, Provincial Bawaslu, Regency / Municipal Bawaslu shall receive, examine, review and decide administrative Election violations.

(7) Sub-district Panwaslu receives, examines, studies, and makes recommendations on the results of its studies regarding election administrative violations to election supervisors in stages.

(8) Examinations by Bawaslu, Provincial Bawaslu, Regency / City Bawaslu must be conducted openly.

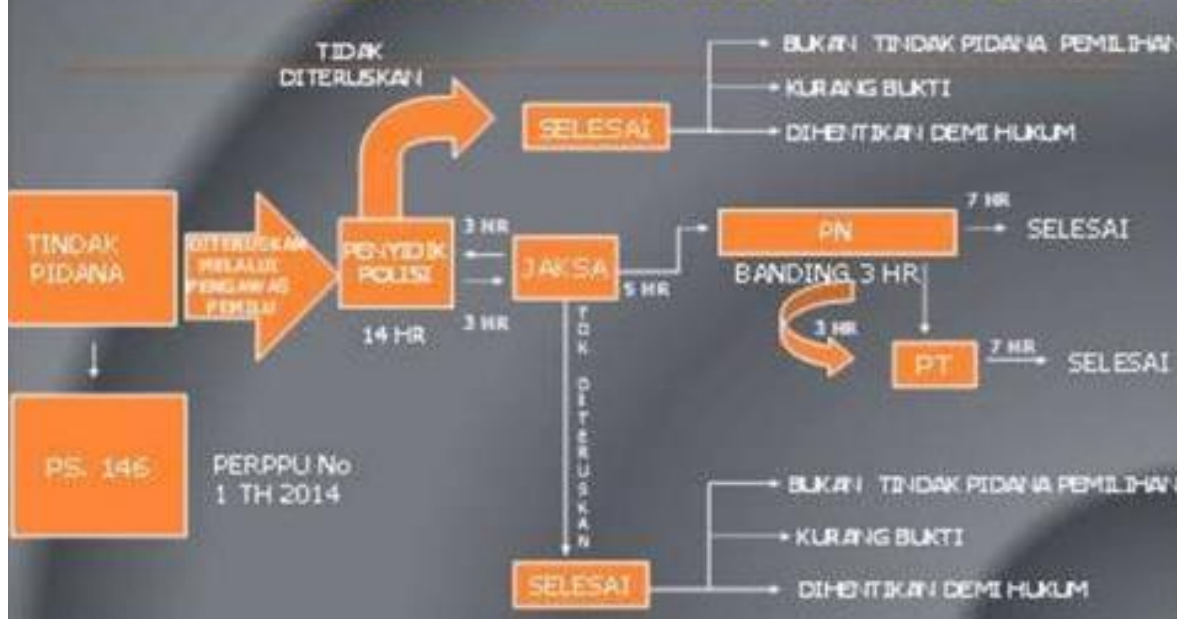
(9) If needed according to the need for follow-up handling of the Election, Bawaslu, Provincial Bawaslu, Regency / City Bawaslu can follow up.

(10) Bawaslu, Provincial Bawaslu, Regency / Municipal Bawaslu are required to decide on the settlement of Election administrative violations no later than 14 (fourteen) working days after the findings and reports are received and registered.

## PENANGANAN PELANGGARAN



## ALUR PENYELESAIAN TINDAK PIDANA



No	Terlapor	Tanggal Laporan	Nomor Register	Dugaan Jenis Pelanggaran	Status
1	Direks Megawe	11 FEBRUARI 2019	01/LP/PL/KEC-IBU/32.03/II/2019	Dugaan Pelanggaran Alat Peraga Kampanye	Laporan Dihentikan
2	Yunus Ngare	16-Apr-19	01/LP/PL/KAB/32.03/IV/2019	dugaan pelanggaran money politik	Laporan Dihentikan
3	Heny Selvy Talalong	19 April 2019	02/LP/PL/KAB/32.03/IV/2019	dugaan pelanggaran Kampanye dimasa tenag	Laporan Dihentikan
4	Opa Ladaka	20 April 2019	03/LP/PL/KAB/32.03/IV/2019	pemberian barang Toa Dari salah satu caleg pada masa tenang	Laporan Dihentikan
5	Ketua KPPS TPS 01 Desa Sasur	22 April 2019	04/LP/PL/KAB/32.03/IV/2019	dugaan pelanggaran pencoblosan sisa surat suara	Laporan Direkomendasikan ke Sentra Penegakan Hukum Terpadu
6	KPU Kabupaten Halmahera Barat	08 Mei 2019	05/LP/PL/KAB/32.03/IV/2019	dugaan pelanggaran. Perubahan angka dari Formulir Model DA 1 ke Formulir DB 1	Laporan Dihentikan
7	1. KPU Kabupaten Halmahera Barat 2. STEVEN TALIAWO	09 Mei 2019	06/LP/PL/KAB/32.03/IV/2019	Dugaan Pelanggaran perubahan angka yang terjadi pada Formulir DA 1	Laporan Dihentikan
8	1. PPK KEC. Ibu Selatan 2. Riswan Kadam 3. PPS Desa Gamsungi 4. PPS Desa Tosoa	10 Mei 2019	07/LP/PL/KAB/32.03/IV/2019	Dugaan pelanggaran selisi Data antara PPK Ibu selatan dengan BAWASLU	Laporan Dihentikan

## CONCLUSSION

Whereas the forms of violations handled by Bawaslu Halbar in dealing with founding violations totaled 11 (eleven) election violations, and in handling only 3 (three) election violations recommended by the Integrated Law Enforcement Center. Besides that, 1 (one) finding that has been decided has permanent legal force. Meanwhile, other findings were not continued because the elements of election violations were not fulfilled based on the results of the study of alleged violations. The forms of violations are as follows: (1) Election Crime, there are 10 (ten) cases of criminal violations handled by Bawaslu Halbar. However, the handling process can be forwarded to the Police for only 3 (three) cases based on the results of the Bawaslu Halbar study; and (2) Violation of Liannya's Law, namely the findings of Muhammadun Hi's alleged violation of ASN neutrality. Adam on April 6, 2019 and has been registered with number 03 / TM / PL / KAB / 32.03 / IV / 2019. Based on the results of Bawaslu Halbar's study, the findings of the alleged violation of ASN Neutrality were given a recommendation to be sanctioned by the State Civil Apparatus Commission (KASN). As for the form of Election administration violations, Bawaslu Halbar did not receive reports or findings during the 2019 simultaneous elections. In addition, in terms of violations of the code of ethics, Bawaslu Halbar did not find any violations of the code of ethics committed by Election Administrators in the West Halmahera Regency either by election organizers. still namely the Election Commission of West Halmahera Regency and the organizer of the Ad Hoc Election.

That Bawaslu Halbar has carried out its role as a supervisory agency for the implementation of the 2019 simultaneous elections very well. This can be seen from the actions of Bawaslu Halbar in handling violations both in the form of findings and reports of general election violations. Bawaslu Halbar handles findings of alleged violations according to working days or from the day the public finds out about and / or reports the alleged violation. Then



the results are reported or stated in form B-1 and discussed in the Plenary Meeting of the Follow-up of Initial Information on Alleged Violations to determine whether or not there are allegations of election violations, and if the election supervisor states that there is a violation of the general election, the election supervisor determines to be registered or recorded in Election register book. Bawaslu Halbar handles reporting violations totaling 8 (eight) election violations, and in handling only 1 (one) election violation that fulfills the formal and material elements. Meanwhile 2 (two) Election Violation Reports will be withdrawn by the Reporting Party. Other reports cannot be followed up because the violation elements and / or material elements are not fulfilled based on the results of the plenary meeting to follow up the initial information on the alleged violation. During the process, the election stages took place starting from the data updating stage and the recapitulation plenary session at each level, 8 (eight) reports of alleged violations from the public were received and 2 (two) of them were withdrawn by the reporter. reports that have been registered cannot meet sufficient evidence so that they are terminated, while 1 (one) other report has been reviewed and recommended to the Integrated Law Enforcement Center (Gakumdu) or related agencies because it fulfills the elements of an election criminal offense.

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