

# The Role of BAWASLU in Achieving Election Justice: A Study in Legal Philosophy

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## ARTICLE INFORMATION

Received 21 Apr 2026  
Revised 28 Apr 2026  
Accepted 29 Apr 2026  
Available Online 29 Apr 2026

## KEYWORD

Electoral Justice, Philosophy of Law, BAWASLU, Electoral Violations

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## CITE THIS ARTICLE

Setiawan, R. (2026). "The Role of BAWASLU in Achieving Election Justice: A Study in Legal Philosophy", CITA HUMANITY: Journal of Social Humanities and Community Development 1(1), 19-27.

<https://journal.citacendekia.com/humanity/article/view/21>

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## ABSTRACT

**Introduction:** The objective of this study is to analyze the role of the General Election Supervisory Agency (BAWASLU) in realizing election justice within the framework of legal philosophy, examining various dynamics of electoral legal issues in Indonesia, including vote-buying and violations of civil servant neutrality

**Method:** This study employs a normative legal method using a legislative and theoretical approach, through a literature review

**Results:** The research findings reveal that although BAWASLU has undergone a transformation of its authority to adjudicate election violations under Law No. 7 of 2017, the effectiveness of election law enforcement still faces serious obstacles, including time constraints in handling cases, evidentiary standards, and overlapping authority with other institutions such as the General Election Commission (KPU), the Police, and the Prosecutor's Office.

**Conclusions:** The transition of BAWASLU's oversight functions toward a more autonomous adjudicative role indicates progress toward fairer elections. Accordingly, this study recommends regulatory reform to align BAWASLU's authority with that of other judicial institutions, thereby preventing overlapping jurisdictions. The Government and the House of Representatives should also strengthen the enforceability of BAWASLU decisions to promote legal certainty and uphold electoral justice.

## ABSTRAK

**Pendahuluan:** Harapan dari penelitian ini adalah untuk menganalisis peran Badan Pengawas Pemilihan Umum (BAWASLU) dalam mewujudkan keadilan pemilu (election justice) dalam kajian filsafat hukum, dari berbagai dinamika persoalan hukum pemilu di Indonesia antara lain politik uang dan pelanggaran netralitas ASN.

**Metode:** Penelitian ini menggunakan metode hukum normatif dengan pendekatan perundang-undangan dan pendekatan teoritis, melalui studi literatur

**Hasil:** Dalam hasil penelitian ditemukan bahwa meskipun BAWASLU telah mengalami transformasi kewenangan yang dapat mengadili pelanggaran pemilu berdasarkan UU No. 7 / 2017, efektivitas penegakan hukum pemilu masih menghadapi kendala serius, antara lain keterbatasan waktu penanganan perkara, standar pembuktian, serta tumpang tindih kewenangan dengan lembaga lain seperti KPU, Kepolisian, dan Kejaksaan. Selain itu, pendekatan penegakan hukum yang masih kaku belum sepenuhnya mampu merealisasikan substansi dari keadilan yang diperkenalkan oleh John Rawls dalam teori justice as fairness

**Simpulan:** Pergeseran fungsi pengawasan BAWASLU menuju fungsi adjudikasi yang lebih otonom berindikasi terhadap pelaksanaan Pemilu yang lebih adil. Untuk itu, rekomendasi yang di tawarkan dari penelitian ini menawarkan pentingnya rekonstruksi regulasi guna menyinkronkan kewenangan BAWASLU dengan lembaga peradilan lain untuk mencegah tumpang tindih kewenangan. Disarankan agar Pemerintah dan DPR

memperkuat sifat eksekutorial putusan BAWASLU guna menjamin kepastian hukum dan keadilan Pemilu.

## 1. INTRODUCTION

Indonesia is a nation governed by the rule of law that places popular sovereignty as the highest pillar in the administration of government, where democracy is realized through the mechanism of periodic General Elections. Elections are not merely a technical procedure for selecting leaders but a crucial democratic instrument for citizens to participate in determining the direction of national policy (Siahaan et al., 2024). In this context, the quality of democracy heavily depends on the integrity of election administration, which must adhere to the principles of direct, universal, free, secret, honest, and fair voting.

The existence of the General Election Supervisory Agency (BAWASLU) is of strategic importance to ensure that every stage of the election proceeds in accordance with applicable legal frameworks (Muntoha, 2009). As an institution granted attributive authority by Law No. 7 of 2017, BAWASLU functions not only as a supervisor but also as a law enforcement agency with significant adjudicative authority (Jamil, 2020). This marks a shift in BAWASLU's role from a mere supervisor to an institution with adjudicatory (quasi-judicial) functions in resolving procedural disputes and administrative violations.

However, in practice, efforts to achieve election justice still face complex normative and empirical challenges. Field observations reveal a disparity between written regulations and BAWASLU's actual enforcement practices (Bilaleya et al., 2026). A critical issue is the time constraint in handling violation reports—with only a five-day window—resulting in many alleged fraud cases expiring before they can be fully processed.

The most prominent legal issue on the ground is the practice of money politics, which remains widespread yet difficult to prove (Febrian et al., 2022). For example, in some “dawn raid” cases, although perpetrators admit their actions, formal proof often faces obstacles due to rigid evidentiary standards and external interference. This situation is further complicated by the transfer of the handling of election-related criminal offenses from the Election Supervisory Agency (BAWASLU) to the Police and the Prosecutor's Office under the Gakkumdu framework, which often have differing perspectives in assessing criminal elements.

In addition to vote-buying, violations of civil service neutrality remain a recurring issue in every political contest in Indonesia (Widiastanto et al., 2019). Although the rules prohibiting civil servants' involvement are clear, the effectiveness of law enforcement remains weak due to challenges in evidence gathering and inter-agency coordination (Pramana et al., 2020). These issues indicate that election law enforcement remains trapped in an administrative-procedural legal positivist approach, while the substance of justice is often neglected.

Philosophically, electoral justice must ensure conditions of fairness for all citizens and election participants. This concept aligns with John Rawls's theory of justice, which emphasizes free and fair competition, where all parties must start from an equal footing (Bilaleya et al., 2026). However, in reality, legal uncertainty often arises due to differing legal interpretations between BAWASLU and the KPU when implementing adjudication decisions.

Despite extensive discourse on the enforcement of election laws, existing research remains limited. Novarisal's study offers a comprehensive overview of BAWASLU's administrative authority, but its scope is restricted to Bekasi City. Consequently, there is a gap in understanding

how BAWASLU's quasi-judicial enforcement standards can be consistently implemented across Indonesia's diverse socio-political regions (Safarin Novarizal et al., 2024). In the absence of broader analysis, BAWASLU's enforcement effectiveness may be sporadic and inconsistent.

Furthermore, Bunda et al. demonstrate that the dissolution of the State Civil Apparatus Commission has weakened oversight of civil servant neutrality, leading to a lack of independent control mechanisms (Bunda et al., 2025). Earlier studies primarily examined inter-institutional coordination during KASN's existence; therefore, the effectiveness of law enforcement under the new regulatory framework that eliminates this specialized oversight body remains insufficiently explored.

This issue is crucial to examine from a legal philosophy perspective because it relates to the essence of justice within a democratic system. Without a strong philosophical foundation, BAWASLU's enforcement of the law will merely serve as an instrument of power legitimization without providing substantial legal certainty. A metaphysical reflection on the law is needed to analyze whether the norms in the current Election Law are capable of capturing the essence of increasingly complex election violations.

Furthermore, BAWASLU's role in realizing electoral justice is a manifestation of efforts to uphold the dignity of democracy. By integrating the values of justice, legal certainty, and public benefit, it is hoped that Indonesia's electoral law enforcement system can achieve substantial independence to ensure the realization of fair elections.

Elections are not merely a "festival of democracy," but a legal process that must be constitutionally accountable. Therefore, strengthening BAWASLU through the redefinition of its adjudicative authority is imperative so that electoral justice is not merely a slogan, but is genuinely felt by all stakeholders.

## 2. METHOD

This research constitutes a normative legal study with both descriptive and prescriptive elements. It examines the position of BAWASLU as a quasi-judicial institution under Law No. 7 of 2017 and proposes solutions for restructuring its authority to achieve substantive electoral justice (Bilaleya et al., 2026).

To analyze the issue comprehensively, several methodological approaches are utilized. First, the statute approach involves a critical examination of Law No. 7 of 2017, focusing on the phrase "to decide" within BAWASLU's adjudicative authority and its implications for legal certainty. Second, the conceptual approach draws on legal theories, including John Rawls's Theory of Justice, to assess whether current mechanisms for resolving election violations align with standards of fair competition (Safarin Novarizal et al., 2024). Third, the analytical approach examines regulatory gaps following the dissolution of the State Civil Service Commission, particularly regarding oversight of civil servant neutrality, and seeks to identify the legal implications of overlapping regulatory provisions (Bunda et al., 2025).

## 3. RESULTS AND DISCUSSION

The concept of election justice (election justice) serves as an instrument to safeguard the integrity and sovereignty of the people. Normatively, election justice is not merely interpreted as

compliance with formal procedures but also encompasses the protection of political rights of participants and voters from all forms of fraud (Husain et al., 2025). The General Election Supervisory Agency (BAWASLU) plays a central role in this framework, where its authority has been expanded following the enactment of Law No. 7 of 2017 on the General Election Supervisory Agency to ensure the rule of law is upheld at every stage of the electoral process (Erga Yuhandra et al., 2023).

John Rawls' theory of justice, specifically "justice as fairness," can serve as a reference for analyzing the role of BAWASLU. Rawls emphasizes that in a fair competition, every individual must have equal opportunities, which in the context of elections translates to a "level playing field" for all participants. Through its adjudicative function, BAWASLU acts as a guarantor to ensure that this principle of equality is not undermined by manipulative practices that could damage the democratic process (Novarizal et al., 2024).

The legal framework of Indonesia's election oversight system is also rooted in legal system theory that emphasizes the harmonization of legal structure, substance, and culture (Meidiawaty & Israhadi, 2024). BAWASLU's enforcement of election laws is often entangled in the complexity of overlapping regulations, necessitating a clarification of its authority to prevent legal vacuums in dispute resolution (Mustakim & Disantara, 2022). This is crucial given that BAWASLU has preventive and enforcement functions that must operate in tandem to ensure the effectiveness of law enforcement (Erga Yuhandra et al., 2023).

BAWASLU now possesses the characteristics of a quasi-judicial or semi-judicial institution. This characteristic is evident in BAWASLU's authority to adjudicate election administrative violations and procedural disputes, with decisions that are final and binding on the parties (Yoga, 2022). In performing this function, BAWASLU is required to apply the principles of fair and just adjudication (due process of law) to produce decisions with strong legal and moral legitimacy.

Philosophically, election law suggests that election violations must be understood beyond the text of the law alone. The essence of law enforcement is to uncover the substantive truth behind every act of violation, such as vote-buying, which is often hidden behind social activities (Siahaan et al., 2024). Therefore, BAWASLU's role as an electoral law enforcement agency must be grounded in substantive justice values capable of addressing electoral violation issues.

In his research, Safarin Novarizal highlights BAWASLU's role in addressing administrative violations linked to the enforcement of electoral justice and concludes that strengthening BAWASLU's adjudicative authority is crucial to overcoming bureaucratic obstacles in dispute resolution, but further synchronization with other judicial institutions is required to prevent legal uncertainty (Satria et al., 2023).

Additionally, Jamil evaluated the resolution of electoral process disputes from a legal construction perspective, finding that there are still weaknesses in the legal norms governing dispute resolution procedures at BAWASLU, particularly regarding time limits for handling cases and the enforcement mechanisms of decisions, which are often disregarded by other election organizers (Jamil, 2020). This underscores the need for legal reconstruction regarding BAWASLU's attributive authority.

Real-world challenges such as vote-buying and the neutrality of civil servants demonstrate that the effectiveness of the Election Supervisory Agency (BAWASLU) is often hindered by the rigid standards of proof stipulated in the law, resulting in many violations failing to proceed to the

sanctioning stage (Pramana et al., 2020). This indicates a gap between the legal ideal (*rechtdede*) of electoral justice and the reality of law enforcement in society.

The transformation of the General Election Supervisory Agency from a supervisory body into an institution with adjudicative authority represents a revolutionary step in Indonesia's constitutional system. Following the enactment of Law No. 7 of 2017, BAWASLU no longer merely issues recommendations but possesses the authority to adjudicate electoral process disputes and administrative violations (Septiadi et al., 2021). This expansion of authority aims to expedite the enforcement of election law so that it does not lose its relevance to the ongoing stages, thereby ensuring the integrity of the electoral contest remains intact.

In terms of electoral law enforcement, it is evident that BAWASLU's rulings in cases of administrative violations possess a strong executory nature. These decisions often serve as instruments to restore the rights of election participants who have been harmed by administrative decisions made by other election organizers (Yoga, 2022). This confirms that BAWASLU has acted as a quasi-judicial institution filling the gap between procedural justice and substantive justice in election process disputes.

However, patterns observed in the handling of 2024 electoral process disputes indicate significant technical challenges. BAWASLU faces obstacles in resolving disputes between election participants, which are often triggered by differing interpretations of technical campaign rules (Husain et al., 2025). Although mediation is prioritized, many cases proceed to the adjudication stage due to the strong political interests of each party, which requires BAWASLU to possess competent judges capable of dissecting complex cases (Satria et al., 2023).

Regarding the enforcement of laws against money politics, there are systemic obstacles in proving violations. Although BAWASLU has enforcement authority, the extremely high standard of proof in the Election Law often causes reports of violations to stall midway (Septiadi et al., 2021). For example, during the 2024 campaign period, many alleged instances of money politics could not be advanced to the investigative stage due to difficulties in meeting the elements of "structured, systematic, and massive."

Many instances of material distribution disguised as social activities are difficult to classify as criminal election violations due to the lack of clear regulations defining the boundaries between administrative and criminal sanctions (Diamantina & Alw, 2022). This is exacerbated by the limited time allotted for handling cases, which is often too short, making in-depth investigations frequently impossible for field supervisors to conduct (Siahaan et al., 2024).

An analysis of law enforcement during the 2019 General Election revealed a similar pattern, where the effectiveness of enforcement actions heavily depended on coordination at the Gakkumdu Center. Differences in perspective between the Election Supervisory Agency (BAWASLU), the Police, and the Prosecutor's Office in evaluating evidence frequently occur, leading to legal uncertainty for complainants (Widiastanto et al., 2019). This disparity in legal perceptions among institutions is one of the primary obstacles to achieving swift and transparent electoral justice.

Additionally, the issue of civil servant neutrality is a critical concern in maintaining the neutrality of civil servants. The Police's authority in handling civil servant involvement often overlaps with BAWASLU's oversight jurisdiction (Pramana et al., 2020). Although BAWASLU has the authority to recommend sanctions to the Civil Service Commission (KASN), the implementation of such

recommendations often proceeds slowly or is even ignored by local civil service officials, indicating the weak enforceability of current legal instruments.

Philosophically, BAWASLU's role in realizing electoral justice must be linked to John Rawls's concept of "justice as fairness." BAWASLU's rulings should ideally create conditions of equal competition for all candidates without systemic discrimination (Bilaleya et al., 2026). However, field findings indicate that law enforcement remains largely formalistic and legalistic, where justice is often overshadowed by the rigidity of procedural certainty (Meidiawaty & Israhadi, 2024).

Election law enforcers must not only look at the text of the law but also at the essence of the violation against democratic values (Meidiawaty & Israhadi, 2024). BAWASLU needs to reposition itself not merely as an "election police," but as a guardian of constitutional morality capable of providing legal protection for the right to vote. This is crucial to address the sense of injustice arising from violations that are not fully addressed.

Thus, there is a need to redefine the scope of BAWASLU's authority within Indonesia's legal framework. There is an urgent need to clarify BAWASLU's authority to prevent overlap with the authority of other judicial institutions such as the Administrative Court (Mustakim & Disantara, 2022). This lack of clarity is often exploited by election participants to engage in forum shopping, which further complicates the process of enforcing election law.

Furthermore, in realizing election justice, law enforcement by BAWASLU must be able to provide tangible legal benefits. The rulings issued must not merely serve as administrative documents but must carry a deterrent effect for violators (Jamil, 2020). If the sanctions imposed are too lenient, the effectiveness of electoral law will lose its authority in the eyes of election participants and the general public.

Strengthening the role of BAWASLU is an ongoing process. Although its authority is already quite broad in theory, sociologically there remains significant resistance from various political actors who feel disrupted by strict oversight (Fauji, 2014). Harmonization between regulations, participants' legal awareness, and the professionalism of election organizers is an absolute prerequisite for the realization of electoral justice.

The establishment of a single integrated electoral justice system under a single umbrella or, at the very least, tighter coordination between the Election Supervisory Agency (BAWASLU) and the General Judicial Institutions (Jamil, 2020). This is to prevent conflicting rulings that could undermine the credibility of the overall election results. Integrated law enforcement will ensure the constitutional rights of every citizen are upheld more fairly.

BAWASLU holds the key to upholding the dignity of Indonesian democracy through the enforcement of election laws based on legal philosophy. By prioritizing legal philosophy values oriented toward substantive justice, BAWASLU can transform into an institution that is not only respected by election participants but also fully trusted by the people as the final bastion of democratic sovereignty.

#### 4. CONCLUSION

The implementation of Law No. 7 of 2017 has transformed the General Election Supervisory Agency from a supervisory body into a quasi-judicial institution with the authority to adjudicate procedural disputes and administrative violations. Nevertheless, the effectiveness of these

powers is constrained by inconsistencies in legal interpretation among BAWASLU, the Police, and the Prosecutor's Office within the Gakkumdu Center, as well as by rigid evidentiary standards that frequently overlook substantive truth in cases involving vote-buying and violations of civil servant neutrality. Additionally, procedural challenges, such as extremely short processing time limits, continue to impede the realization of substantive electoral justice.

From a theoretical perspective, these findings reinforce the relevance of John Rawls's theory of justice (justice as fairness) within Indonesia's electoral system. The adjudicative role of BAWASLU exemplifies efforts to establish a level playing field for all election participants. Furthermore, electoral law enforcement should extend beyond procedural positivism and be anchored in constitutional morality that ensures distributive political equality.

In practical terms, the findings highlight the necessity for harmonized interpretations among institutions within the Gakkumdu Center to prevent legal uncertainty. The policy implication is the need to redefine and reconstruct the legal framework governing BAWASLU's attributive authority. It is recommended that the government and the House of Representatives consider establishing a more integrated electoral justice system, such as a one-roof system, to ensure that BAWASLU decisions have absolute executive binding force without overlapping with other courts' jurisdictions, thereby enhancing legal certainty.

## Funding

The authors state that no funding sources were involved.

## CrediT Author Statement

**R Setiawan:** Writing – Original Draft Preparation, Investigation, Project Administration, Conceptualization.

## Conflict of Interest

The author declares that there are no conflicts of interest.

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**CITE THIS ARTICLE**

Setiawan, R. (2026). "The Role of BAWASLU in Achieving Election Justice: A Study in Legal Philosophy", CITA HUMANITY: Journal of Social Humanities and Community Development 1(1), 19-27. <https://journal.citacendekia.com/humanity/article/view/21>

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**E-ISSN 0000 0000 P-ISSN 0000 0000**