

## The Reconstruction of Membership Elements of the Election Supervisory Board in Realizing Higher Quality Elections

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How to cite : Dewi haryanti. "The Reconstruction of Membership Element of the Election Supervisory Board in Realizing Higher Quality Elections". *Unifikasi : Jurnal Ilmu Hukum*. 7(2). 2020. 174-183. DOI : 10.25134/unifikasi.v7i2.2767

Submitted : 27-04-2020

Revised : 12-08-2020

Accepted : 01-12-2020

**Abstract :** *The duties implementation of the Election Supervisory Board (Bawaslu) in the prevention and prosecution against violations and process disputes requires qualified resources for producing higher quality elections. The aims of this paper are to: 1) See the construction of membership elements of the Election Supervisory Board based on the Law number 7 of 2017; 2) Reveal the need of reconstructing Bawaslu membership elements; 3) Find the concepts related to the reconstruction of Bawaslu membership elements in realizing higher quality elections. This study used a juridical normative method and conceptual approach with a constructive design paradigm. The data was taken from secondary data, a documentary study, then was analyzed qualitatively. The findings showed the Article 92 paragraph (1) of Law Number 7 of 2017 only regulates an individual Bawaslu membership. Thus, it is necessary to reconstruct Bawaslu for philosophical, sociological and juridical reasons. For instances, the reconstruction can be done by adding a paragraph to the Law of Article 92. For the recommendation, Bawaslu should be supported by members who have an understanding of material and formal laws of the election. Besides, in the membership, there should be a member from law enforcers. Thus, it is necessary to reconstruct the Law Articles governing Bawaslu membership.*

**Keywords:** *General Elections, Higher Quality, Reconstruction.*

### Rekonstruksi Unsur Keanggotaan Badan Pengawas Pemilihan Umum Dalam Mewujudkan Pemilihan Umum Yang Lebih Berkualitas

**Abstrak :** Pelaksanaan tugas Badan Pengawas Pemilihan Umum (Bawaslu) dalam upaya pencegahan dan penindakan terhadap pelanggaran dan sengketa proses agar menghasilkan Pemilu yang lebih berkualitas, dibutuhkan sumber daya yang mumpuni. Tujuan penulisan ini untuk 1) melihat konstruksi unsur keanggotaan Bawaslu menurut Undang-Undang Nomor 7 Tahun 2017; 2) Mengungkap perlunya dilakukan rekonstruksi unsur keanggotaan Bawaslu; 3) Menemukan konsep terkait rekonstruksi unsur keanggotaan Bawaslu dalam mewujudkan Pemilu yang lebih berkualitas. Metode penelitian ini menggunakan penelitian hukum yuridis normatif melalui pendekatan konseptual, dengan paradigma design konstruktif. Data digunakan adalah data sekunder yang diperoleh melalui studi dokumenter. Selanjutnya dianalisa secara kualitatif. Hasil penelitian ditemukan bahwa Pasal 92 ayat (1) Undang-Undang Nomor 7 Tahun 2017 hanya mengatur keanggotaan Bawaslu terdiri dari individu. Perlu dilakukan rekonstruksi keanggotaan Bawaslu dengan alasan filosofis, sosiologis, dan yuridis. Dapat dilakukan rekonstruksi dengan menambah ayat pada Pasal 92 UU. Saran, Bawaslu hendaknya didukung dengan keanggotaan yang memiliki pemahaman hukum materil dan hukum formil tentang kepilluan. Sebaiknya dalam keanggotaannya terdapat anggota yang berasal dari unsur penegak hukum, dan untuk itu perlu dilakukan rekonstruksi terhadap pasal undang-undang yang mengatur tentang keanggotaan Bawaslu

**Kata Kunci:** Rekonstruksi, Pemilihan Umum, Lebih Berkualitas

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## INTRODUCTION

Indonesia is a democratic country where the highest sovereignty lies in hands of the people. One of the barometers that have become a part of democracy is the General Election (Pemilu). According to Surbakti, the role of elections become the most important part of the policy direction

related to the implementation of elite circulation orderly and periodically.<sup>1</sup> Solihah stated the elections are a part of democracy implementation such as the aggregation or the unification of people's aspirations.<sup>2</sup> Constitutionally, elections in Indonesia are regulated in Article 22E of the 1945 Constitution of the Republic of Indonesia (UUD NRI 1945). Furthermore, it is regulated by Law Number 7 of 2017 (known as the Election Law).

There are several interesting and different things in this Law of Election Law. This law consists of six books covering the first: general provisions; second: election administrators; third: the implementation of elections; fourth: election violations, election process disputes, and election result disputes; fifth: election crimes; and sixth: conclusion. The previous Law of an election between election administrators and the elections implementer (including election violations and election crimes) were regulated by separate laws. Meanwhile, in the Law of Election, these two matters were regulated in one single law. In addition, the Election Law also mandates the holding of legislative and presidential elections simultaneously (vide Article 1 point 1). Based on the Appendix of the General Election Commission Regulation (PKPU) Number 10 of 2019, the schedule for the implementation of simultaneous elections has been stated. The preparatory stages started on August 17, 2017, while the voting day is on April 17, 2019.

To understand the meaning of a quality election, basically, it can be seen from two perspectives, the perspective of process and the result. The former refers to a democratic, safe, orderly, smooth, honest, and fair election manner. Meanwhile, the latter mentioned the election must be able to produce the representatives of the people and state leaders who are able to improve the welfare of the people. Besides, they should be able to raise the dignity of the nation within the international community.<sup>3</sup> Looking from the process perspective of quality elections, this can be connected to Dahl's opinion in George Sorensen's book, explained Dahl has identified two most important paths to democracy, a path focuses on competition and a path focuses on participation.<sup>4</sup> However, from voter participation in the election in 2019, it has exceeded the national target set by the KPU (77.5%). This is similar to the results from the Indonesian Survey Institution, the voter rate in the 2019 election almost reached 81% (according to Indonesian Survey Circle (LSI), Denny JA, which was 80.76%). This means from the level of participation perspective (in this case is the voter participation) in the 2019 election, the 2019 election considered as a quality election. However, from the perspective of competition, it is necessary to conduct a re-examination as many problems arise including law enforcement issues.

Elections are held by electoral management institutions. The elections are people's sovereignty in producing democratic state governance based on Pancasila and the 1945 Constitution of the Republic of Indonesia (UUD NRI 1945).<sup>5</sup> The electoral management institution that is in charge of preventing and prosecuting violations and disputes in the election process is Bawaslu (vide Article 93 letter b of the Election Law). Based on the data of election violations in 2019, it is stated that Bawaslu has processed a total of 458 criminal offenses from 8,512 findings and reports up to May 20, 2019. Through this data, it was found out of 111 criminal decisions there were 103 invalid decisions and eight appeals decisions (Bawaslu 2019). This means thousands of violations have been

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<sup>1</sup> Muzahhirin dan Chrisdianto Eko Prunomo, *Kedudukan Badan Pengawas Pemilihan Umum (Bawaslu) dalam Sistem Peradilan Administrasi Pemilihan Umum*, Jurnal Melayunesia Law, Vol 2 No. 2, December 2018. Page. 212

<sup>2</sup> *Ibid.*

<sup>3</sup> H. Rozali Abdullah, *Mewujudkan Pemilu Yang Lebih Berkualitas (Pemilu Legislatif)*, Rajawali Pers, Jakarta 2009. Page. 3

<sup>4</sup> Georg Sorensen, *Demokrasi Dan Demokratisasi: Proses Dan Prospek Dalam Sebuah Dunia Yang Sedang Berubah*. Pustaka Pelajar Offset, Yogyakarta, 2014. Page. 21

<sup>5</sup> Dewi Haryanti, *Konstruksi Hukum Lembaga Penyelenggara Pemilihan Umum Di Indonesia Ditinjau Dari Teori Stufenbau*, Jurnal Pembaharuan Hukum, Volume II No.2 Mei-Agustus 2015. Page. 271.

committed but only a few percentages were processed. This can not be separated from Bawaslu's ability to carry out its duties. Meanwhile, the most important factor in the successful implementation of elections depends on the readiness and professionalism of the organizers.<sup>6</sup> Referring to Birch's view, in principle, to achieve electoral integrity they must combat election malpractice, and one related aspect called the elections institution.<sup>7</sup>

In relation to the membership of Bawaslu and its staff, the Election Law only stipulates the membership composition should consist of the women's representation of at least 30% (vide Article 92 of the Election Law). There are no provisions regulating the element of membership. Thus, a member can come from any element as long as it meets the requirements (vide Article 117 of the Election Law). Meanwhile, if you look at the tasks mandated by the Election Law, Bawaslu is not only responsible to supervise the preparation and implementation of the election stages but also to have the same duties as in the law enforcers, preventing and prosecuting violations and disputes in the election process. According to Friedmann's theory, the position of Bawaslu in the electoral law enforcement structure has a similarity in terms of function with other law enforcement structures. It only differs in its range.<sup>8</sup> Accordingly, the researcher interested in conducting a study entitled "The Reconstruction of Membership Elements of the Election Supervisory Board in Realizing Higher Quality Elections". The research questions formulated as follows: 1) What is the construction of the Bawaslu membership elements according to Law Number 7 of 2017?; 2) Why is it necessary to reconstruct the Bawaslu membership element?; and 3) How is the reconstruction of the Bawaslu membership elements realize a higher quality Election?. The purpose of this study is to find the answer to these research questions.

## RESEARCH METHODS

This study employed a juridical-normative method and a conceptual approach. Meanwhile, the study paradigm is in the form of a constructive design. This is expected to produce arguments to build new theories or concepts on the elements of Bawaslu membership as part of the election organizers. The data sources were taken from secondary data consisting of primary legal materials, the 1945 Constitution of the Republic of Indonesia, the Election Law, and other related legal sources; secondary legal materials refer to articles of the draft electoral law and any relevant journals and other references; Tertiary legal materials refer to legal dictionaries, Indonesian dictionaries, English dictionaries. The data collection technique used in this study was documentary studies. The data then analyzed qualitatively.

## RESULTS AND DISCUSSION

### A. The Construction of Bawaslu Membership Elements

#### 1. Overview

The Supervision of Election Implementation is carried out by Bawaslu. It consists of Bawaslu of the Republic of Indonesia (RI), Provincial Bawaslu, District/City Bawaslu, Sub-district Election Commander (Panwaslu), Village Panwaslu, Overseas Panwaslu (LN), and Polling Station Supervisors (TPS) which is hierarchical. The institution of RI Bawaslu, Provincial Bawaslu, District/City Bawaslu are permanent. Meanwhile, sub-district Panwaslu, Village Panwaslu, LN Panwaslu, and TPS Supervisor are *ad hoc* (vide Article 89). In addition to supervision, Bawaslu is also responsible to prevent and take action against election violations and election process disputes

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<sup>6</sup> Josner Simanjuntak, *Kemandirian Lembaga Penyelenggara Pemilihan Umum Di Indonesia*, Papua Law Journal Vol.1 Issue 1, November 2016. Page. 123.

<sup>7</sup> Mudiwati Rahmatunnisa, *Mengapa Integritas Pemilu Penting?*, Jurnal Bawaslu, Vol.3 No.1 2017. Page. 7.

<sup>8</sup> Bakhrul Amal, *Kewenangan Mengadili Oleh Bawaslu Atas Sengketa Proses Pemilu Yang Diatur Dalam Peraturan Komisi Pemilihan Umum*, Masalah-Masalah Hukum, Vol. 48 No.3, July 2019. Page. 307

(vide Article 93 letter b). According to Article 94 paragraph (1) of the Election Law, it can be concluded, in preventing Election violations and preventing Election process disputes, Bawaslu are responsible to a) identify and mapping the Electoral potential vulnerabilities and violations; b) coordinate, supervise, guide, monitor, and evaluate the implementation of the Election; c) coordinate with relevant government agencies, and d) increase public participation in election supervision. Furthermore, in paragraph (2), it can be concluded in the prosecution of Election violations, Bawaslu are responsible to a) receive, examine, and review suspected Election violations; b) investigate alleged election violations; c) determine allegations of Election administration violations, alleged Ethics code violation of the Election Administrators, and/or suspected election crimes, and d) break the violations of Election administration. Meanwhile, the duties of Bawaslu in prosecuting Election process disputes are regulated in paragraph (3), such as a) accepting requests for election process dispute resolution; b) verify the dispute resolution request for the Election process formally and materially; c) mediate the disputing parties; d) carry out the adjudication of Election process disputes, and e) decide on the settlement of Election process disputes.

## **2. Status and Membership**

Bawaslu RI is located in the national capital, Provincial Bawaslu is in the provincial capital, district/ City Bawaslu is in district/city capitals, sub-district Panwaslu is in sub-districts, Village Panwaslu is in the village, Panwaslu LN is at RI representative offices, and TPS Supervisors is at each polling station (vide Article 91). Bawaslu membership consists of individuals responsible for supervising the Election implementation. Bawaslu RI members consist of five people, Provincial Bawaslu consists of five or seven people, district/city Bawaslu consists of three or five people, sub-district Panwaslu consists of three people, Village Panwaslu consists of one person, Panwaslu LN consists of three people, TPS Supervisor consists of one person (vide Article 92 ). The composition of the membership of Bawaslu RI, Bawaslu Province, and Bawaslu district/City takes into account the women's representative of at least 30% (vide paragraph (11) Article 92).

## **3. Bawaslu Duties**

Based on the Election Law, Bawaslu is responsible for preventing and taking action against Election violations and election process disputes, supervising the Election Administration (vide Articles 93 jjs 97, 101). The task to compile standard supervision of the Election Implementation for all levels of Election supervisors is also the responsibility of Bawaslu RI. This is not owned by Provincial, district/City Bawaslu. However, law enforcement and election supervision are the responsibility of Bawaslu in general. In terms of enforcing the election law, Bawaslu is responsible for preventing Election violations and election process disputes. It includes prosecuting election violations and adjudicating election process disputes. In the prevention, Bawaslu is also responsible for identifying and mapping potential vulnerabilities and violations; coordinating, supervising, guiding, monitoring, and evaluating the Operation; coordinating with related government agencies; and increasing public participation in election supervision. Meanwhile, in taking action against election violations, Bawaslu is responsible for receiving, examining, and studying suspected violations; investigating suspected violations, determining allegations of Election administration violations, suspected Ethics code violation, and/or suspected election crimes; deciding on Election administration violations. In the dispute over the Election process, Bawaslu is responsible for accepting requests for process dispute resolution; verifying requests for dispute resolution in the Election process formally and materially; mediating the disputing parties; carrying out a dispute adjudication process; and deciding on the dispute settlement of the electoral process.

## **B. The evaluation of election supervision results**

Berdasarkan hasil pengawasan penyelenggaraan Pemilu oleh Bawaslu dapat dilihat data pelanggaran Pemilu tahun 2019 sebagaimana tabel berikut di bawah ini:

Based on the results of the implementation of Election supervision by Bawaslu, data on Election violations in 2019 is shown in the following table:

Table 1.1. Data on Election Violations in 2019 From March 4, 2019 to May 20, 2019

<b>Data Description</b>	<b>March 4, 2019</b>	<b>March 25, 2019</b>	<b>April 23, 2019</b>	<b>May 20, 2019</b>
Acceptance of the Alleged Violation Reports	601	720	903	1.329
Acceptance of Findings of Alleged Violations	5,985	6,423	6,929	7,183
<b>Number of Reports and Findings Received</b>	6,586	7,143	7,832	8,512
<b>Reports / Findings Registered</b>	6,274	6,649	7,132	7,598

*Data Source: Bawaslu RI, 2019*

Table 1.1. shows thousands of reports received and findings of alleged violations during the 2019 simultaneous Election process. Furthermore, to see the types of violations based on these data shown in the following table:

Table 1.2. Types of Election Violations in 2019 From March 4, 2019 to May 20, 2019

<b>Data Description</b>	<b>March 4, 2019</b>	<b>March 25, 2019</b>	<b>April 23, 2019</b>	<b>May 20, 2019</b>
Criminal Offenses	585	548	343	458
On going violations	78	105	88	134
Other Legal Violations	579	656	696	730
Ethics code violation	113	107	121	149
Administrative Offenses	4,695	4,759	5,167	5,319
Non-Violation Category	330	474	729	798

*Data Source: Bawaslu RI, 2019*

Table 1.2. shows the criminal offenses are ranked second (after administrative violations), while the third rank is on other legal violations.

Based on election violations data in 2019 dated May 20, 2019, it was found 7,598 registered findings/reports (vide Table 1.1.). The highest number of findings received by Bawaslu in five provinces are shown in the following table:

Table 1.3. Highest Number of Findings Received by Bawaslu, the Election Violations in 2019.

<b>Province</b>	<b>Total findings</b>
East Java	3,002
South Sulawesi	806
West Java	582
Central Sulawesi	475
Central Java	399

*Data Source: Bawaslu RI, 2019*

Referring to election violations data in 2019 dated May 20, 2019, it was found 7,598 registered findings/ reports (vide Table 1.1), the highest number of reports received by Bawaslu in five provinces are shown in the following table:

Table 1.4. Highest Number of Reports Received by Bawaslu, the Election Violations in 2019

Province	Total reports
South Sulawesi	215
West Java	141
Papua	145
Aceh	95
North Sumatra	89

*Sumber Data: Bawaslu RI, 2019*

Table 1.1, Table 1.3, and Table 1.4 show the total findings of suspected violations is greater than the total reports of suspected violations. According to Bawaslu RI Regulation Number 2 of 2015, the finding is defined as the Election Supervisory monitoring results containing suspected violations (vide Article 1 number 32). Meanwhile, Alleged Violation report is submitted written reports made by the reporter to the Election Supervisor on the allegations of suspected election violations (vide Article 1 number 33).

### C. The need for reconstruction of Bawaslu membership elements

The election is one of the means of people's sovereignty which is also a measure of democracy. A country carries out a proper, honest, fair, transparent, and continuous election process is considered as a country with good democracy.<sup>9</sup> Meanwhile, the quality of the Election can be seen from two sides, the process and the results. The Elections are considered to have a quality process if it is conducted democratically, safely, orderly, smoothly, honestly, and fairly. Meanwhile, from the result perspective, the election must be able to produce peoples' representatives and state leaders who are able to improve the welfare of the people. They must be able to elevate the dignity of the nation within the international community.<sup>10</sup>

The International Institute for Democracy and Electoral Assistance (IDEA 2004) formulates 15 aspects of democratic elections as follows: 1) preparation of the legal framework; 2) the selection of elections system; 3) determination of electoral districts; 4) the right to vote and be elected; 5) electoral management body (EMB); 6) voter registration and voter list; 7) ballots access for political parties and candidates; 8) democratic election campaign; 9) access to media and freedom of expression; 10) financing and expenses; 11) voting; 12) vote count and recapitulation; 13) the role of parties and candidates representatives; 14) election monitoring; and 15) compliance with laws and enforcement of election regulations. One of the 15 aspects directly related to this study is the preparation of the legal framework and electoral management body (the first and fifth aspects). The EMB must be able to work independently, to work in a sufficient time frame, to have sufficient resources, and to be prepared with adequate funds. These must be regulated in a proper legal framework.

Based on the result of the election supervision evaluation conducted by Bawaslu on May 20, 2019, there were 8,512 reports and findings of alleged election violations in 2019, consisting of 1,329

<sup>9</sup> Tohir Bawazir, *Jalan Tengah Demokrasi: Antara Fundamentalis Dan Sekularisme*, Pustaka Al-Kautsar, Jakarta Timur, 2015.

<sup>10</sup> Rozali Abdullah, *Loc. Cit.*

reports of suspected violations and 7,183 findings. The thousands of allegations of Election violations indicate the need for improving the implementation of the upcoming election system, especially in relation to election law enforcement. This is inseparable from election institutions. Moreover, in almost every election implementation, there are issues related to weak law enforcement. This is due to the number of violations especially those related to election crimes that are not completely handled.<sup>11</sup>

The electoral management body in charge of implementing the function of election law enforcement preventively and repressively, the supervision and prosecution of alleged election violations is Bawaslu. The main issue of election supervision is the Law enforcement. Even though it is formally appointed by law, institutionally, Bawaslu is often placed in a dilemma. Public expectations are very high on the role of this institution in monitoring the various stages of the Election. On the other hand, the limitations of its powers make the supervisory agency unable to function as expected.<sup>12</sup> The presence of Bawaslu as the current election organizer is not only limited to supervising but also to conducting law enforcement in a quasi-judicial form. Bawaslu not only plays a role in non-litigation efforts but also resembles litigation efforts. In this case, Bawaslu acts like a judge in court. This means the tasks carried out by Bawaslu are not easy tasks. Thus, qualified resources are needed in carrying out the duties as election organizers. The election organizers play a major role in determining the quality of the election. The good and the bad things influenced the election are how the organizers do their duties and authorities technically and substantively. Indeed, there are many factors affecting the organizers' performance. It is ranging from technical regulations to the organizational design of the organizers. Ramlah Surbakti mentioned the importance of the role of Bawaslu, to uphold the law and resolve election disputes, it is necessary to reform the law enforcement system institutionally. The institutional reform referred to the transformation of Bawaslu into an Election Law Enforcement Commission, abbreviated as KPHP.<sup>13</sup>

The aforementioned description is also in line with the end of the implementation of the 2019 Election. Thus, to improve the quality of the elections, there is a need to improve the form of reconstruction of the Bawaslu membership elements. This is to get a higher quality in the upcoming election. Even though, the 2019 Election basically considered as a quality election. This can be seen from the process. The elections have been done in a democratic, safe, orderly, smooth manner, and are honest and fair.

#### **D. The reconstruction of Bawaslu membership elements**

Based on the Academic Text of the draft electoral law, it is stated: "the electoral lawmakers must concern on the important issue of the election so that the principles of certainty and legal justice in democratic elections are truly maintained and implemented." The resolution of election law problems is not an easy matter because it occurs in linear stages of the election. This means the election law enforcement works for a limited time. This is to avoid interferences on the implementation of the next or the whole stages of the election. The number of cases arises along with the number of positions contested in an election. It has an impact on the ability of law enforcement agencies to process and resolve the case of violations and disputes.<sup>14</sup> (Perludem 2016, 28).

In the Academic Manuscript of the draft electoral law in Chapter V part A related to the Coding Framework of the Election Law, it is explained that "Electoral management institution must be guaranteed to work independently." This is an important issue because the electoral management

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<sup>11</sup> Angelo Emanuel Flavio Seac dan Sirajuddin, *Penguatan Kewenangan Lembaga Badan Pengawas Pemilu Dalam Penegakan Hukum Pemilu*, Legal Spirit, Vol.1 No.2 (2017). Page. 84.

<sup>12</sup> *Ibid*, Page. 86

<sup>13</sup> Ramlan Surbakti, *Penegakan Hukum Pemilu*, in Kompas, December 16, 2016.

<sup>14</sup> *Academic Manuscript of the draft electoral law*, Perludem, Jakarta, 2016. page. 28

institution makes and executes the decisions affecting the outcome of the election. Therefore, the agency must operate within a sufficient time frame, have sufficient resources, and have sufficient funds. The legal framework for elections should govern the size, composition, and tenure of the electoral management body's members. It is also necessary to regulate the relationship between the central and the lower level of electoral bodies, the relationship between all electoral bodies and the executive. The legal framework should provide the mechanisms to process, decide, and deal with complaints in elections in a timely manner.

It is clearly stated in the academic paper, the electoral management body is the machine for implementing the election. They act as decision-maker and executors affecting the election results so it must have qualified resources. Given the heavy duties of Bawaslu, the Election Law has not explicitly regulated the elements of Bawaslu membership (the law only mandates to pay attention to women's representation of at least 30%). Given the complexity of Bawaslu's tasks, it is better the composition of the Bawaslu membership elements comes from several related elements such as law enforcement (advocates, police, prosecutors, judges), academics, and other elements such as community and religion leaders, and so on. This is carried out through the selection process. By understanding the problems, perspectives, and reasons outlined above, it is necessary to make improvements in the reconstruction of the Bawaslu membership elements. This is to realize a higher quality election. There are three dimensions that become the reasons for the author to carry out the reconstruction: 1) Philosophical reasons, the need of experienced members in the law enforcement process, and the understanding of procedural law, in carrying out Bawaslu's duties; 2) sociological reasons, the public places high hopes on Bawaslu in the enforcement of election law; and 3) juridical reasons, the need of legal certainty in law enforcement. Thus, the values of justice and truth can be achieved.

The concepts the author offers on the reconstruction of Bawaslu membership elements in realizing higher quality elections are shown in the following table:

Table 1.5 The Reconstruction of Bawaslu Membership Elements

Elements of Previous Bawaslu Membership (Law No.7 of 2017)	The shortcoming	The reconstruction
Article 92 paragraph (1): "Membership of Bawaslu, Bawaslu Province, and Bawaslu District/City consists of individuals who have the task of supervising the implementation of elections"	Bawaslu does not have members who understand procedural law and experienced members in the law enforcement process, which will affect the speed and accuracy of making decisions.	The need to add the paragraph in Article 92, as follows: (1a) membership of Bawaslu, Provincial Bawaslu, and district/city Bawaslu as meant in paragraph (1) comes from the elements of advocates and/or police and/or prosecutors and/or judges, elements of academia, elements of society and/or community leaders.

## CONCLUSION

Article 92 paragraph (1) of Law Number 7 of 2017 only stipulates Bawaslu membership consists of individuals. It does not explicitly regulate the elements of Bawaslu membership. This means everyone has the right to become a member of Bawaslu without any special requirements related to the competence of Bawaslu as an election organizer. There are three reasons in the need of reconstructing Bawaslu membership, (1) Philosophical reasons, the need of experienced members in



the law enforcement process, and the understanding of procedural law, in carrying out Bawaslu's duties; 2) sociological reasons, the public places high hopes on Bawaslu in the enforcement of election law; and 3) juridical reasons, the need of legal certainty in law enforcement. Thus, the values of justice and truth can be achieved. The concept of reconstructing the elements of Bawaslu membership, the realization of higher quality Elections can be done by adding a paragraph to Article 92 of the Election Law on Bawaslu membership. Bawaslu membership should come from law enforcement elements (advocates, police, prosecutors, judges), academics, elements of society, and/or community leaders.

## SUGGESTION

Bawaslu is an electoral management body in charge of implementing the function of election law enforcement. Thus, it needs to be supported by members who have an understanding of election material law and formal law. It is better if they have members who come from law enforcement elements. Therefore, it is necessary to reconstruct the articles of the law governing Bawaslu membership.

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[https://bawaslu.go.id/id/hasil-pengawasan-pemilu/update-data-pelanggaran-pemilu-tahun-20-mei-2019](https://bawaslu.go.id/id/hasil-pengawasan-pemilu/update-data-pelanggaran-pemilu-tahun-2019-20-mei-2019). Accessed on September 28, 2019.