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## POSITIONING LAW AND ETHICS AS AN EFFORT TO MINIMIZE ELECTION ADMINISTRATIVE VIOLATIONS

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### Abstract

*Data on violations of the 2019 General Election, there is a very significant number of administrative violations of the General Election. The research method used is normative legal research. The findings in the research results are that law and ethics in the General Election stage are an inseparable part. The law that is used as a foothold in the General Election stage cannot stand without the presence of ethics because the formation of law must be based on ethical values. The position of law in minimizing administrative violations of the General Election consists of the position of law as a means of application of values contained in society and a means of orders, prohibitions, and sanctions that are firm and clear while ethics is present as a means of assessing actions, a means of assessing legal language, and a means of determining decisions on sanctions given*

*Keywords: Administrative Violations; General Election; Ethics; Law.*

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### Abstrak

Data pelanggaran Pemilihan Umum tahun 2019, terdapat jumlah yang sangat signifikan terhadap pelanggaran administratif Pemilihan Umum. Metode penelitian yang digunakan adalah penelitian hukum normatif. Temuan dalam hasil penelitian adalah hukum dan etika dalam tahapan Pemilihan Umum merupakan bagian yang tidak terpisahkan. Hukum yang dijadikan pijakan dalam tahapan Pemilihan Umum tidak dapat berdiri tanpa hadirnya etika sebab pembentukan hukum wajib didasarkan terhadap nilai-nilai etika. Kedudukan hukum dalam meminimalisir pelanggaran administratif Pemilihan Umum terdiri dari kedudukan hukum sebagai sarana aplikasi nilai-nilai yang terdapat dalam masyarakat dan sarana perintah, larangan, serta sanksi yang bersifat tegas dan jelas sedangkan etika hadir sebagai sarana untuk menilai perbuatan, sarana penilai bahasa hukum, dan sarana penentuan keputusan terhadap sanksi yang diberikan

*Kata Kunci: Etika; Hukum; Pemilihan Umum; Pelanggaran Administratif*

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## INTRODUCTION

Democracy has now developed and become a pattern or system of government of a country.<sup>1</sup> The concept of democracy is practiced around the world differently from one country to another. Each country and even each person applies its own definition and criteria of democracy.<sup>2</sup> Democracy is a concept of government in which the supreme power is in the hands of the people. What this means is that the people assign representatives to run the government of a country.<sup>3</sup>

In the context of a democratic state, general elections have become the choice as a mechanism in the process of changing positions of power.<sup>4</sup> The philosophical spirit of General Elections is to provide equal opportunities for individuals to occupy desired positions as long as they meet the specified qualifications. Through elections, the change of power is also carried out in a sporting manner. General elections have become a control tool for the quality of a government's leadership.<sup>5</sup>

Referring to this, the concept of democracy has also developed in Indonesia over time, the Indonesian state is faced with a true democratic process, where the people play an important role in the process of implementing a decision. The mirror of democracy is free and fair elections. For Indonesia, General Elections are both a symbol and a benchmark of democracy.<sup>6</sup>

General elections are a mandate from the constitution that must be implemented by the government, in this case ensuring and protecting the political rights of the people channeled in the General Election process.<sup>7</sup> One of the human rights of citizens is General Elections because it is very principled, because in the implementation of human rights it is a necessity for the government to carry out General Elections. Therefore, general elections are an absolute requirement for the Indonesian state.<sup>8</sup>

The perspective of the Indonesian state, there are three types of General Elections, namely the General Election of the President and Vice President, Legislative Members and Regional Heads and

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<sup>1</sup>Jeremia Alexander Wewo, "Code of Ethics Urgency in the Implementation of General Election in Indonesia," *Jurnal Dinamika Hukum* 18, no. 2 (2018): 194–199, <https://doi.org/10.20884/1.jdh.2018.18.2.1744>.

<sup>2</sup>Primandha Sukma Nur Wardhani, "Partisipasi Politik Pemilih Pemula Dalam Pemilihan Umum," *Jupiiis: Jurnal Pendidikan Ilmu-Ilmu Sosial* 10, no. 1 (2018):57-62, <https://doi.org/10.24114/jupiiis.v10i1.8407>.

<sup>3</sup>Muhammad Choirullah Pulungan, Mudyati Rahmatunnisa, and Ari Ganjar Herdiansah, "Strategi Komisi Pemilihan Umum Kota Bekasi Dalam Meningkatkan Partisipasi Pemilih Pada Pemilu Serentak Tahun 2019," *Politea : Jurnal Politik Islam* 3, no. 2 (2020): 251–72, <https://doi.org/10.20414/politea.v3i2.2439>.

<sup>4</sup>Fahri Bachmid, "Eksistensi Kedaulatan Rakyat Dan Implementasi Parliamentary Threshold Dalam Sistem Pemilihan Umum Di Indonesia," *SIGn Jurnal Hukum* 2, no. 2 (2021): 87–103, <https://doi.org/https://doi.org/10.37276/sjh.v2i2.83>.

<sup>5</sup>Galih Puji Mulyono and Rizal Faton, "Demokrasi Sebagai Wujud Nilai-Nilai Sila Keempat Pancasila Dalam Pemilihan Umum Daerah Di Indonesia," *Citizenship Jurnal Pancasila Dan Kewarganegaraan* 7, no. 2 (2019): 97–107, <https://doi.org/http://doi.org/10.25273/citizenship.v7i2.2257>.

<sup>6</sup>Achmad Edi Subiyanto, "Pemilihan Umum Serentak Yang Berintegritas Sebagai Pembaruan Demokrasi Indonesia," *Jurnal Konstitusi* 17, no. 2 (2020): 355, <https://doi.org/10.31078/jk1726>.

<sup>7</sup>Ni Ketut Arniti, "Partisipasi Politik Masyarakat Dalam Pemilihan Umum Legislatif Di Kota Denpasar," *Jurnal Ilmiah Dinamika Sosial* 4, no. 2 (2020): 329, <https://doi.org/10.38043/jids.v4i2.2496>.

<sup>8</sup>Rizki Priandi and Kholis Roisah, "Upaya Meningkatkan Partisipasi Politik Perempuan Dalam Pemilihan Umum Di Indonesia," *Jurnal Pembangunan Hukum Indonesia* 1, no. 1 (2019): 106, <https://doi.org/10.14710/jphi.v1i1.106-116>.

Deputy Regional Heads.<sup>9</sup> General elections that adhere to the principle of *LuberJurdil* as stated in Article 22 E paragraph (1) of the 1945 Constitution of the Republic of Indonesia. The meaning of the *LuberJurdil* principle is as follows: (1) Direct means that voters are required to cast their votes in person and cannot be represented; (2) General, General Elections can be participated in by all citizens who already have the right to vote; (3) Free, voters are required to cast their votes without any coercion from any party; (4) Secret, the votes cast by voters are secret, known only to the voters themselves; (5) Honestly, elections must be conducted in accordance with the rules to ensure that every citizen has the right to vote according to his/her will and every vote has the same value to determine the people's representatives who will be elected; and (6) Fair, equal treatment of election participants and voters, without any privilege or discrimination against certain participants or voters. The principle of honesty and fairness binds not only the participants of the General Election, but also the organizers of the General Election.<sup>10</sup>

For the implementation of General Elections in accordance with the principles of *LuberJurdil* General Elections, the role of the people is not enough, but the role of General Election organizers who are together with the people to create General Elections in accordance with the ideals of the Indonesian people.<sup>11</sup> For the people, General Elections are a means to participate in the political process as a manifestation of popular sovereignty. A good general election will be able to reflect the expectations of what is desired from the government.<sup>12</sup> General elections are actually understood as a means by which the transformation of applied ethics that is ethical and actual has direct implications for improving the morality of the nation. Thus, an ethical General Election is a necessity that should be embraced by all stakeholders.<sup>13</sup>

One aspect of achieving General Elections in accordance with the principles of General Elections is minimizing General Election violations.<sup>14</sup> Theoretically and practically, General Election violations can be divided into 3 (three), namely administrative violations, violations of the organizing code of ethics, and criminal violations of the General Election.<sup>15</sup> Administrative violations substantially focus on technical General Election problems that are not in accordance with regulations such as not attaching the Permanent Voters List (DPT) at the Polling Station (TPS), not affixing the initials on

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<sup>9</sup>Muhammad; Kadi Sukarna Syaefudin, "Kewenangan Dewan Kehormatan Penyelenggara Pemilu (DKPP) Dalam Menegakan Kode Etik Pelanggaran Pemilihan Umum," *Jurnal Usm Law Review* 1, no. 2 (2018): 104–20, <https://doi.org/10.26623/julr.v2i1.2261>.

<sup>10</sup>Sun Fatayati, "Relevansi Asas-Asas Pemilu Sebagai Upaya Mewujudkan Pemilu Yang Demokratis Dan Berintegritas," *Jurnal Tribakti* 28, no. 1 (2017): 147–65, <https://doi.org/https://doi.org/10.33367/tribakti.v28i1.472>.

<sup>11</sup>Wilma Silalahi, "Model Pemilihan Serentak Dan Peranan Komisi Pemilihan Umum Pada Pemilihan Serentak Tahun 2024," *Jurnal Aphtn-Han* 1, no. 1 (2022): 65–79, <https://doi.org/https://doi.org/10.55292/japhtnhan.v1i1.11>.

<sup>12</sup>Anang Dony Irawan, "Pendidikan Pemilih Dalam Meningkatkan Partisipasi Politik Masyarakat Pada Pemilihan Umum Serentak 2019," *Jurnal Hukum Replik* 7, no. 1 (2019): 55–70, <https://doi.org/http://dx.doi.org/10.31000/jhr.v7i1.2448>.

<sup>13</sup>Putu Eva Ditayani Antari, "Interpretasi Demokrasi Dalam Sistem Mekanis Terbuka Pemilihan Umum," *Jurnal Panorama Hukum* 5, no. 1 (2020): 63–76, <https://doi.org/https://doi.org/10.21067/jph.v3i1.2359>.

<sup>14</sup>Muhammad Hoiru Nail, "Kualifikasi Politik Uang Dan Strategi Hukum Dan Kultural Atas Pencegahan Politik Uang Dalam Pemilihan Umum," *Jurnal Yuridis* 5, no. 2 (2018): 245–61, <https://doi.org/https://doi.org/10.35586/v5i2.770>.

<sup>15</sup>Erga Yuhandra et al., "Efektivitas Fungsi Pencegahan Badan Pengawas Pemilihan Umum Dalam Melakukan Pencegahan Pelanggaran Pemilu," *Jurnal Ius Constituendum* 8, no. 1 (2023): 1–18, <https://doi.org/10.26623/jic.v8i1.3015>.

writing errors in the C1 form, miscalculating the number of valid and invalid ballots to fatal administrative violations such as writing errors in the C1 form so as to change the number of votes for election participants, giving copies of the C1 form to political party witnesses to fill in themselves so that the voter's ballot is invalid.<sup>16</sup>

The institution authorized by Law Number 7 of 2017 concerning General Elections as amended and supplemented by Government Regulation Number 1 of 2022 concerning Amendments to Law Number 7 of 2017 concerning General Elections to examine and decide on alleged violations of General Election administration is the General Election Supervisory Body (Bawaslu).<sup>17</sup> This is different from violations of the code of ethics of the General Election organizers, which substantially means actions or actions of the General Election organizers that are contrary to the morals, ethics, and philosophy that guide the General Election organizers.<sup>18</sup>

An example of a violation of the code of ethics is the existence of a General Election organizer who meets with one of the candidates for Members of the Regional People's Representative Council (DPRD) and takes photos together or comments on news on social media related to the implementation of the General Election in support of one of the candidates for Members of the Regional People's Representative Council (DPRD).<sup>19</sup> Similarly, the institution authorized to examine and decide on violations of the code of ethics of the General Election organizers is the Honorary Council for General Election Organizers (DKPP).<sup>20</sup>

The next election offense is a criminal election offense. Actions or actions of legal subjects that violate or contradict the criminal law rules contained in the General Election Law.<sup>21</sup> An example of a criminal violation of the General Election is the act of submitting false information by a candidate for a Member of the Regional People's Representative Council (DPRD) on personal data or other people related to the requirements for candidates for Members of the Regional People's Representative Council (DPRD).<sup>22</sup> In particular, the handling of criminal violations of the General Election is fully authorized

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<sup>16</sup>Asbudi Dwi Saputra, "Penerapan Sanksi Pelanggaran Administratif Pemilu Bagi Penyelenggara Pemilu," *Pleno Jure* 9, no. 2 (2020): 129–42, <https://doi.org/10.37541/plenojure.v9i2.473>.

<sup>17</sup>Noviawati Evi; Mamay Komariah, "Efektivitas Penyelesaian Pelanggaran Administratif Pemilihan Umum Berdasarkan Undang-Undang Nomor 7 Tahun 2017," *Jurnal Living Law* 11, no. 2 (2019): 140–51, <https://doi.org/https://doi.org/10.30997/jill.v11i2.2100>.

<sup>18</sup>Jihan Anjanita Aldi, Elma Putri Tanbun, and Xavier Nugraha, "Tinjauan Yuridis Kewenangan Dewan Kehormatan Penyelenggara Pemilu (DKPP) Dalam Menciptakan Pemilu Yang Demokratis Di Indonesia," *Jurnal Hukum De'rechtsstaat* 5, no. 2 (2019): 137–47, <https://doi.org/https://doi.org/10.30997/jhd.v5i2.1941>.

<sup>19</sup>Donald A. Rumokoy; Carlo A. Gerungan Kiani Irena Maki, "Kewenangan Dewan Kehormatan Penyelenggara Pemilu Republik Indonesia Dalam Memutus Pelanggaran Kode Etik," *Jurnal Lex Administratum* 8, no. 4 (2020): 5–14, <https://ejournal.unsrat.ac.id/v3/index.php/administratum/article/view/31027/29767>.

<sup>20</sup>Aji Pangestu, "Upaya Meminimalisir Potensi Pelanggaran Kode Etik Penyelenggara Pemilu Pada Pemilu Serentak 2024," *Jurnal Bawaslu* 4, no. 1 (2022): 31–44, <https://doi.org/https://doi.org/10.55108/jbk.v4i1.97>.

<sup>21</sup>Parlin Azhar Harahap, Gomgom T.P.Siregar, and Syawal Amry Siregar, "Peran Kepolisian Daerah Sumatera Utara (Polda-Su) Dalam Penegakan Hukum Terhadap Tindak Pidana Pemilihan Umum," *Jurnal Retentum* 2, no. 1 (2021): 90–98, <http://jurnal.darmaagung.ac.id/index.php/retentum/article/view/906>.

<sup>22</sup>Lalu Sopan Tirta Kusuma et al., "Peran Badan Pengawas Pemilihan Umum Dalam Penegakan Hukum Pemilu (Studi Penanganan Pelanggaran Pemilu Pada Sentra Gakkumdu Provinsi Nusa Tenggara Barat)," *Jurnal Ulul Albab* 23, no. 2 (2019): 110–16, <http://journal.ummat.ac.id/index.php/JUA/article/view/1733/1291>.



by the Unified Law Enforcement Center (Gakkumdu) which consists of 3 (three) institutions, namely the General Election Supervisory Agency (Bawaslu), the Prosecutor's Office, and the Police.<sup>23</sup>

**Table 1. Data on General Election Violations in 2019**

No.	Type of Violation	Number of Alleged Violations	Number of violations handled
1	Administrative Violations	16.427	16.134
2	Code of Ethics Violations	1027	373
3	Criminal Offenses	2798	582
<b>Total</b>		<b>20.252</b>	<b>17.089</b>

Data Source: Data from Bawaslu and DKPP RI <sup>24</sup>

Referring to the data obtained, the author focuses on administrative violations of the General Election. The number of administrative violations of the General Election which is very significant compared to violations of the code of ethics and criminal violations of the General Election is certainly something that needs to be minimized so that the same problems do not occur in the implementation of the next General Election. Even though there has been a form of supervision both internally and externally carried out by the General Election Agency (Bawaslu), the potential for administrative violations of the General Election in the following stages of the General Election has the potential to occur.

Previous studies that have discussed administrative violations of the General Election, namely those conducted by Asbudi Dwi Putra (2020) rigidly analyzed the sanctions against General Election organizers who committed administrative violations of the General Election. The next authors who discuss administrative violations of the General Election are Evi Noviawati and Mamay Komariah (2019) who construct administrative violations of the General Election in terms of dispute resolution decided by the General Election Supervisory Agency (Bawaslu) and recommended to the General Election Commission (KPU) for follow-up.

Comparing with the research conducted by the author, it is different and there is novelty because when compared to previous research that discusses administrative violations of the General Election in terms of sanctions and dispute resolution, the research conducted by the author specifically restores the position of law and ethics to its true position so that efforts to minimize administrative violations of the General Election can be realized.

<sup>23</sup>Romi Maulana, "Desain Khusus Hukum Pidana Pemilihan Umum Berdasarkan Undang-Undang Nomor 7 Tahun 2017 Tentang Pemilihan Umum," *Indonesian Journal of Criminal Law and Criminology (IJCLC)* 2, no. 3 (2021): 135–46, <https://doi.org/10.18196/ijclc.v2i3.12332>.

<sup>24</sup>DKPP Bawaslu, "Data Pelanggaran Pemilu Tahun 2019," *Bawaslu RI*, November (2019), <https://www.bawaslu.go.id/id/hasil-pengawasan-pemilu/update-data-pelanggaran-pemilu-tahun-2019-4-november-2019>.

The research conducted by the author is very important because administrative violations of the General Election are not just talking about the organizers of the General Election, participants in the General Election, sanctions and dispute resolution, but there are crucial aspects in order to minimize the occurrence of administrative violations of the General Election, namely legal and ethical aspects. Likewise, there is a *research gap* because there has never been a previous study that discusses law and ethics as an effort to minimize administrative violations of the General Election.

Based on the description above, the problems of this research are first, how is the relationship between law and ethics in the General Election stage and second, how is the position of law and ethics in minimizing administrative violations of the General Election. In line with the research problem, the research objectives are first to analyze the relationship between law and ethics in the General Election stage and second to analyze the position of law and ethics in minimizing administrative violations of the General Election.

## METHODS

The research method used in discussing and analyzing this research is the normative juridical research method. The research is conducted by examining library materials or secondary data. The secondary data is obtained by reviewing library materials, including a review of laws and regulations and legal concepts or theories.<sup>25</sup> The laws and regulations reviewed are Law Number 7 of 2017 concerning General Elections and Regulation of the General Election Supervisory Agency (Perbawaslu) Number 8 of 2022 concerning Completion of General Election Administrative Violations.

This research uses several approaches<sup>26</sup> namely first. Statute approach, namely by examining and analyzing laws and regulations consisting of Law Number 7 of 2017 concerning General Elections, second, conceptual approach, namely by examining and analyzing legal concepts or principles related to research issues on administrative violations of General Elections and third, case approach, namely by examining and analyzing cases of administrative violations of General Elections.

The collection of legal materials in this research is carried out on library legal materials in the form of Law Number 7 of 2017 concerning General Elections and Regulation of the General Election Supervisory Board (Perbawaslu) Number 8 of 2022 concerning Settlement of General Election Administrative Violations associated with legal and ethical concepts in order to obtain conceptions in the form of theories, opinions, conceptual thoughts related to administrative violations of General Elections. In addition, there are also books, scientific journals that are used as a foothold or reference in analyzing research problems. Based on the collection of legal materials through literature materials, it is then analyzed in a prescriptive juridical manner.

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<sup>25</sup>Kornelius Benuf and Muhamad Azhar, "Metodologi Penelitian Hukum Sebagai Instrumen Mengurai Permasalahan Hukum Kontemporer," *Gema Keadilan* 7, no. 1 (2020): 20–33, <https://doi.org/10.14710/gk.2020.7504>.

<sup>26</sup>dan M. Yassir Said Yati Nurhayati, Ifrani, "Metodologi Normatif Dan Empiris Dalam Perspektif Ilmu Hukum," *Jurnal Penegakan Hukum Indonesia-Scholar Center* 2, no. 1 (2021): 1–20, [http://repository.iainbengkulu.ac.id/4692/2/Jurnal%2C Penegakan Hukum di Indonesia.pdf](http://repository.iainbengkulu.ac.id/4692/2/Jurnal%2C%20Penegakan%20Hukum%20di%20Indonesia.pdf).

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## RESULTS AND DISCUSSION

### 1. *The Relationship between Law and Ethics in Election Stages*

The concept of law universally comes from Arabic and is a singular form whose plural word is "Alkas", then taken over in Indonesian as "Law". The notion of law is closely related to the notion of coercion. While *Recht* comes from the word "*Rectum*" (Latin) which means guidance or demands, or government. Related to rectum is also known as "*Rex*", which is a person whose job is to provide guidance or rule. *Rex* can also mean "King" which has Regimen which means kingdom. The word "*Rectum*" can be connected to the word "*Directum*" which means a person whose job is to guide or direct.<sup>27</sup>

The perspective of experts has confirmed the definition of law as follows first, Imanuel Kant provides an understanding that law is the overall conditions by which the free will of one person can adjust to the free will of another person, according to legal regulations on freedom. Second, Leon Duguit revealed that the definition of law is the rules of behavior of members of society, where the rules whose power of use at a certain time are heeded by a society as a guarantee of common interests and if violated cause a joint reaction against the person who committed the offense. Third, the Definition of Law according to E.M. Meyers is all rules that contain considerations of decency, are appointed to human behavior in society and which guide state entrepreneurs in carrying out their duties.<sup>28</sup>

The presence of law has the aim of realizing peace, order, welfare, and tranquility in people's lives with its universal nature. Through legal provisions, all forms of cases will be resolved by a judicial process in accordance with the provisions of the law.<sup>29</sup> In connection with the purpose of the law, three theories are known about the purpose of the law, namely first, *ethical theory (ethische theori)* which views that the law is placed on the realization of justice to the maximum extent possible in the orderly society, in the sense that the law is solely aimed at justice. Second, the utilitarian theory (*utiliteis theori*) of Jeremy Bentham argues that the purpose of law is to provide human beings with the greatest possible happiness. Third, the combined or mixed theory (*verenigings theori/gemengde theori*), according to this theory the purpose of law is not only justice, but its usefulness.<sup>30</sup>

Incomplete when there has been an explanation of the concept and purpose of law, it is also necessary to explain about ethics. Etymologically, the term "*ethics*" comes from the Ancient Greek *ethos*. In the singular form, *ethos* has many meanings, namely the usual place of residence, pasture, stable, habits, customs, morals, character, feelings, attitudes, and ways of thinking. Ethics is the teaching of good and bad, which is generally accepted about attitudes, actions, obligations, and so

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<sup>27</sup>Soeroso, *Pengantar Ilmu Hukum*, Cetakan Ketiga belas (Jakarta: Sinar Grafika, 2013).

<sup>28</sup>Laurensius Arliman, "Mewujudkan Penegakan Hukum Yang Baik Di Negara Hukum Indonesia," *Dialogia Iuridica* 11, no. 1 (2019): 1–20, <https://doi.org/https://doi.org/10.28932/di.v11i1.1831>.

<sup>29</sup>Asifah Elsa Nurahma Lubis and Farhan Dwi Fahmi, "Pengenalan Dan Definisi Hukum Secara Umum (Literature Review Etika)," *Jurnal Ilmu Manajemen Terapan* 2, no. 6 (2021): 768–89, <https://doi.org/10.31933/jimt.v2i6.622>.

<sup>30</sup>Taufik Siregar and Zaini Munawir, "Mediasi Dalam Tiga Sistem Hukum Dan Perannya Di Dalam Terwujudnya Keberhasilan Tujuan Hukum Di Indonesia," *Journal of Education, Humaniora and Social Sciences (JEHSS)* 3, no. 1 (2020): 7–16, <https://doi.org/10.34007/jehss.v3i1.161>.

on. Ethics can be equated with morals (*mores* in Latin), morals or decency, related to the problem of value, ethics basically discusses the problems of predicating moral values or good and bad moral actions.<sup>31</sup>

Ethics is included in the area of values, while the value of ethics itself is related to the good and bad of human actions. Some definitions of ethics are as follows: first, Istiono Wahyu and Ostaria, ethics is the main branch of philosophy that studies value or quality. Ethics includes the analysis and application of concepts, such as right and wrong, good and bad, and responsibility. Ethics is the science of good and bad, rights, and moral obligations. According to Rafik Issa Bekum, ethics can be defined as a set of moral principles that distinguish good and bad.<sup>32</sup>

Referring to the conception of law and ethics, in order to analyze the relationship between law and ethics, it is also necessary to know the fundamental difference between law and ethics, which is first seen from the content between law and ethics. Law contains rules of command and prohibition that must be obeyed while ethics contains moral principles, values about good and bad.

The second difference, the author finds that there is a difference between law and ethics in terms of nature. the nature of law is to regulate and force. Regulating means that the law contains rules in the form of orders and prohibitions that regulate human behavior in social life in order to create order in society. Furthermore, the coercive nature of the law is that the law can force every human being to follow the existing rules and if violated will be given strict sanctions. This is different from ethics that forms from within, which emphasizes more on forming humans from within. The nature of this inner shaping will form a human being with more character who has integrity and high dedication.

The third difference is in terms of the offense. If examined closely, the difference lies in the object of the violation, the violation of the law which is the object of the violation is the rule of law while the violation of ethics is a violation of ethical principles. Furthermore, the fourth difference is in terms of sanctions imposed on everyone who violates the law and ethics. Sanctions in terms of law according to the author are legal sanctions (punishment) given if someone violates the law while sanctions contained in ethics focus more on moral sanctions.

In fact, besides differences, law and ethics have similarities, there are four basic things in common between law and ethics, namely, first, shaping in terms of law and ethics there are two ways. law is more shaping humans from outside while ethics focuses more on shaping humans from within. Second, changing humans to act and behave in accordance with norms, every human being often does things that violate existing norms without thinking that these norms will shape humans for the better. Third, preventing humans from doing something harmful to themselves, humans often do harmful actions, humans in often do not use their hearts and minds. If humans act in accordance with the heart and mind then humans will do harmful actions.

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<sup>31</sup>Heriyono, "Urgensi Etika Profesi Hukum Sebagai Upaya Penegakan Hukum Yang Berkeadilan Di Indonesia," *Jurnal Kepastian Hukum Dan Keadilan* 3, no. 2 (2021): 1–18, <https://doi.org/https://doi.org/10.32502/khdv.v2i2.3462>.

<sup>32</sup>B. Arief Sidharta, "Etika Dan Kode Etik Profesi Hukum," *Veritas et Justitia* 1, no. 1 (2015): 220–49, <https://doi.org/https://doi.org/10.25123/vej.v1i1.1423>.



Fourth, limiting power so as not to act arbitrarily, according to Thomas Hobbes in his theory says that "Man is a wolf for other humans". This means that if there are no things that regulate or limit humans, humans will prey on their fellow humans. Prey in the sense of doing actions and deeds that harm fellow humans. For this reason, laws and ethics are needed to limit human power so as not to do everything just based on desire.

The differences and similarities between law and ethics that the author has described, have given birth to 3 (three) dimensions of the relationship, namely the dimension of substance and container, the dimension of the relationship of the breadth of its scope and the dimension of human reasons to obey or violate it. The relationship between law and ethics by giving a note of religion as the spirit or soul of both things with an illustration of packaged rice, the law as a wrapper, rice and its side dishes are ethics, and protein substances, vitamins, and other contained elements as religion which is the origin of both (ethics and law). The second dimension of the scope of the relationship between ethics and law is that ethics is broader than law, therefore any violation of law must be a violation of ethics, in short, a violation of law is a violation of ethics. But not vice versa, an act that is considered to violate ethics does not necessarily violate the law.<sup>33</sup>

The third dimension is related to the position of ethics where ethics relates to law in terms of how humans consider obeying rules and obligations, but obeying the law and rules and obligations is not because of fear of being sanctioned, but because of self-awareness that the law and rules and obligations are good and need to be fulfilled by themselves and towards human behavior, ethics functions as a preventive fence for good and bad behavior before the behavior reaches the provisions of right and wrong which is the function of behavioral fences for law. Thus, deviant human behavior must pass through the ethical system that functions as a correction and without the need to enter the legal mechanism in resolving deviant human behavior.<sup>34</sup>

In relation to the stages of the General Election, it is found that law and ethics are an inseparable part of the implementation of the General Election. The law that is used as a foothold in the stages of General Elections consisting of pre-election, general election, and post-election stages cannot stand without the presence of ethics because the formation of law must be based on ethical values. The process of enforcing the General Election law needs to be clearly and carefully traced about the violations that have occurred, whether they are administrative violations, violations of the code of ethics or violations of criminal law because the nuances of the three types of violations are different when viewed from the perspective of the relationship between law and ethics. The handling of administrative violations and criminal law violations is clearly proven, so there is no need to prove whether someone has violated the code of ethics or not because by violating administrative and criminal law, they have clearly violated the code of ethics.

The implementation of the law on General Elections needs the presence of ethics to ensure that the law on General Elections is obeyed and even implemented, because ethics serves to move a person to obey the law without thinking whether there are sanctions or not in the law. In addition,

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<sup>33</sup>Jimly Asshiddiqie, *Peradilan Etik Dan Etika Konstitusi* (Jakarta: Sinar Grafika, 2016).

<sup>34</sup>Sri Pujiningsih, "Hubungan Antara Hukum Dan Etika Dalam Politik Hukum Di Indonesia (Membaca Pancasila Sebagai Sumber Nilai Dan Sumber Etik)," *Pena Justisia: Media Komunikasi Dan Kajian Hukum* 17, no. 1 (2017): 28–36, <https://doi.org/10.31941/pj.v17i1.645>.

ethics is a means of thinking in order to determine whether the actions to be carried out violate the law or do not violate the law.

## 2. *The Position of Law and Ethics in Minimizing Election Administrative Violations*

Pencegahan untuk meminimalisir munculnya kasus kekerasan dalam rumah tangga merupakan sebuah upaya penanggulangan kejahatan secara preventif. Pada bidang hukum, pencegahan termasuk dalam kebijakan non penal yang pelaksanaannya dijalankan lewat jalur di luar hukum pidana. Upaya tersebut ditekankan pada sejumlah tindakan preventif yang dapat diupayakan sebelum timbulnya kejahatan. Kebijakan non penal diinterpretasikan sebagai kebijakan yang ditargetkan untuk menanggulangi kejahatan dengan memanfaatkan sarana di luar hukum pidana di mana hal ini dapat diimplementasikan dalam sejumlah kegiatan, di antaranya

Handling administrative violations of the General Election is one of the authorities of the General Election Supervisory Agency (Bawaslu) in organizing the General Election.<sup>35</sup> The authority to handle administrative violations is expressly regulated in the provisions of Article 454 paragraph (6) and Article 461 paragraph (1) of Law Number 7/2017 concerning General Elections. Based on this authority arrangement, the General Election Supervisory Agency (Bawaslu) as the General Election supervisory institution is given the attribution of authority to handle any administrative violations at each stage of the General Election.<sup>36</sup>

Law Number 7/2017 on General Elections in its provisions never explicitly states the definition of administrative violations of the General Elections. However, in the practical realm, administrative violations are recognized. If you look closely and understand more deeply and analyze comprehensively listed in Article 460 paragraph (1) of the law, you can get an overview of the violations that are included in administrative violations of the General Election. The aquo article, for example, categorizes the types of violations included in the General Election administrative violations such as those related to procedures, procedures, or mechanisms related to the administrative implementation of elections in each stage of the General Election.<sup>37</sup>

The categorization is then used as a definition of General Election administrative violations in the General Election Supervisory Agency Regulation (Perbawaslu) Number 8 of 2022 concerning Completion of General Election Administrative Violations and Supreme Court Regulation Number 4 of 2017 concerning Procedures for Settling General Election Administrative Violations in the Supreme Court which in principle is a violation of something related to administration, not a criminal offense or code of ethics.<sup>38</sup>

The data that the author has rigidly obtained has accumulated administrative violations of the General Election in 2019 totaling 16,134 administrative violations of the General Election that have been proven and obtained a decision through the General Election Supervisory Board (Bawaslu). Against this number, the author argues that although there are laws governing the administrative prohibitions of the General Election through Law Number 7 of 2017 concerning General Elections and Regulation of the General Election Supervisory Agency (Perbawaslu)

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<sup>35</sup>Iqbal Nasir, "Analisis Hukum Pelanggaran Administrasi Pemilu/Pemilihan," *Khazanah Hukum* 2, no. 1 (2020): 41–50, <https://doi.org/10.15575/kh.v1i1>.

<sup>36</sup>Supriyadi Supriyadi and Andi Intan Purnamasari, "Redesain Penanganan Pelanggaran Administratif Di Bawaslu Pasca Penetapan Hasil Pemilu," *Jurnal Konstitusi* 20, no. 1 (2023): 159–78.

<sup>37</sup>Alasman Mpesau, "Kewenangan Badan Pengawas Pemilu Dalam Penanganan Pelanggaran Administrasi Ditinjau Dari Perspektif Sistem Peradilan Indonesia," *Audito Comparative Law Journal* 2, no. 2 (2021): 74–85, <https://doi.org/https://doi.org/10.22219/acj.v2i2.16207>.

<sup>38</sup>Ahmad Syarifudin, "Implikasi Adanya Upaya Hukum Terhadap Putusan Bawaslu Tentang Pelanggaran Administratif Pemilu," *Cepalo* 4, no. 1 (2020): 1–14, <https://doi.org/10.25041/cepalo.v4no1.1897>.

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Number 8 of 2022 concerning Settlement of General Election Administrative Violations, it has not been effective so that General Election administrative violations occur.

In order to minimize administrative violations of the General Election, it is necessary to restore the position of law in its true form, namely, first, the formation of law is not only based on a normative view that focuses on principles, theories, and concepts as well as court decisions oriented to texts in law books but explores the values contained in society so that law is categorized as an integration mechanism that connects prohibitions, orders, and sanctions in accordance with the social system. The formation of laws regarding General Elections in the form of Laws and regulations of the General Election organizing agencies must explore the values contained in the community because the law is called effective if it is a capitalization of the wishes and needs of the community.

Second, the formulation of norms that are firm and clear so that they can be understood by the community. The firmness of the General Election law must use strict language in prohibitions and orders. In addition, the norms of General Election law must not be ambiguous so that they are easily understood without the need for interpretation. Third, the sanctions given must be balanced according to the level of guilt and not contrary to the value of public decency. The sanctions contained in the Regulation of the General Election Supervisory Agency (Perbawaslu) Number 8 of 2022 concerning the Settlement of General Election Administrative Violations are administrative in the form of administrative corrections, written warnings, not included in certain stages of the implementation of the General Election and / or other administrative sanctions but these sanctions must be given according to the level of error not given according to the wishes of the General Election Supervisory Agency (Bawaslu) but based on the examination process that proves the level of error.

The presence of law in the General Election will not be complete without the presence of ethics. From the perspective of administrative violations of the General Election, it is necessary to construct the position of ethics towards efforts to minimize administrative violations of the General Election, namely, first, ethics is able to distinguish prohibitions and orders so that in the stages of the General Election as a light for participants and election organizers to be able to assess whether the actions taken have violated administrative law or not. Second, ethics is able to understand the legal language contained in the General Election law that is not mistakenly interpreted by election participants and election organizers so that administrative violations are minimized. Third, ethics as a means of determining appropriate decisions in accordance with the level of guilt towards sanctions for administrative violations of the General Election.

## **CONCLUSION**

Based on the description of the discussion, the conclusion obtained by the author on the relationship between law and ethics in the stages of General Elections is an inseparable part of the implementation of General Elections. The law that is used as a foothold in the General Election stage consisting of the pre-election, election, and post-election stages cannot stand without the presence of ethics because the formation of law must be based on ethical values. The position of law in minimizing administrative violations of the General Election consists of the position of law as a means of application of values contained in society and a means of orders, prohibitions, and sanctions that are firm and clear in the process of applying General Election law while ethics is present as a means of assessing actions, a means of assessing legal language, and a means of determining decisions on sanctions given in the context of administrative violations of the General Election.

The advice given by the author to the conclusion is that efforts to minimize administrative violations of the General Election have become the main task of law and ethics, but these two things

cannot work without the participants and organizers of the General Election. Therefore, it is necessary to have a fundamental and collaborative understanding between the participants and organizers of the General Election to use law and ethics as a form of minimizing administrative violations of the General Election.

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