



The Legal Dynamics of the Harun Masiku Bribery Case Involving a Commissioner of the General Elections Commission and Its Implications for the Supreme Court of the Republic of Indonesia Decision Number 57 P/HUM/2019

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Abstract

This study provides a comprehensive analysis of the alleged bribery by Harun Masiku to Wahyu Setiawan in his capacity as a Commissioner of the General Elections Commission (KPU), focusing on the interim replacement (Pergantian Antar Waktu; PAW) mechanism for legislative candidates in the House of Representatives of the Republic of Indonesia (DPR RI), and evaluates the decisiveness of Supreme Court Decision No. 57 P/HUM/2019 of the Republic of Indonesia (MA RI). Employing a normative juridical approach grounded in library research, this study examines all trial proceedings related to the Harun Masiku bribery allegations, reviews Law No. 7 of 2017 on General Elections, analyzes the KPU Regulations (PKPU) concerning interim replacements, scrutinizes the operative text of Supreme Court Decision No. 57 P/HUM/2019, and surveys relevant academic literature. The research uncovers procedural loopholes susceptible to political manipulation. The MA RI's partial annulment of specific PKPU provisions has produced divergent interpretations between the KPU and political parties, thereby undermining legal certainty and intensifying inter institutional tensions. Through the framework of legal instrumentalism, this study demonstrates that such statutory ambiguity has served as a catalyst for institutional conflict. This paper contributes an original legal analysis and advances targeted reform recommendations, particularly the clarification of PAW procedures—to strengthen the enforcement of judicial decisions and to safeguard both the independence of the KPU and the authority of the MA RI.

Keywords: Legal Dynamics, Implications, General Elections Commission, Supreme Court

1. Introduction

The alleged bribery case involving Harun Masiku—a legislative candidate from the Indonesian Democratic Party of Struggle (PDIP)—and Wahyu Setiawan in his capacity as a Commissioner of the General Elections Commission (KPU) stands as one of the most controversial legal episodes in Indonesia's electoral history. The scandal emerged when Harun Masiku was accused of providing funds to Wahyu Setiawan in order to secure his own appointment as a member of the House of Representatives (DPR-RI) through the interim replacement (Pergantian Antar Waktu; PAW) mechanism, succeeding the late Nazarudin Kiemas, who had won a seat but passed away before being sworn in. This request for an interim replacement ignited public debate because Harun Masiku was not the next-highest vote-getter, calling into question the principle of “highest votes win” under the open-list proportional system governed by Law No. 7 of 2017 on General Elections.



Furthermore, this case set an important precedent by exposing misalignment between statutory law and the General Elections Commission Regulations (PKPU) on PAW procedures, especially following Supreme Court Decision No. 57 P/HUM/2019, which annulled certain PKPU provisions. That ruling created divergent interpretations between the KPU and PDIP as to who holds the authority to determine the PAW replacement: whether it should follow the vote-counting hierarchy stipulated in Law No. 7 of 2017, or the criteria established by the Supreme Court in Decision No. 57 P/HUM/2019. This multiplicity of interpretations highlights regulatory weaknesses within Indonesia's electoral legal framework, opening doors to corrupt practices and undermining fundamental principles of legal certainty, electoral neutrality, and inter-institutional stability.

Empirical support comes from Zain et al. (2020), who observe that Supreme Court Decision No. 57 P/HUM/2019 generated clear interpretive conflicts between petitioners and respondents over PAW mechanisms, exacerbating tensions between the KPU and political parties when selecting replacement legislative candidates. Such conflicts stem not only from regulatory inconsistencies but also reflect institutional fragility within Indonesia's governance structure. Deliarnoor (2019) notes that the national legal system—particularly constitutional and electoral institutions—remains fraught with disharmony among bodies such as the KPU, the Supreme Court (MA-RI), and political parties. This disharmony creates dilemmas in both the implementation of judicial decisions and political decision-making.

Within Lawrence Friedman's theory of legal instrumentalism (1975), the effectiveness of law enforcement depends on three elements: (1) the legal structure (institutions and enforcement apparatus), (2) the legal substance (the content of the law), and (3) the legal culture (societal attitudes toward law). Friedman argues that a legal system is not merely a collection of rules but involves interrelated structures and cultural norms that together determine legal efficacy. This case illustrates how law can be instrumentalized by interested parties, especially when legal norms are drafted ambiguously or remain open to strategic interpretation.

According to M. Hadi Subhan (2006), "recall" refers to the withdrawal of a DPR-RI member by the political party that sponsored them before the end of their term. Similarly, Moh. Mahfud MD (2014) defines recall as the retraction of an individual's membership in a representative body. The constitutional foundation for interim replacement is enshrined in Article 1(3) of the 1945 Constitution of the Republic of Indonesia, which affirms that "Indonesia is a state based on law," and in the Second Amendment, which grants the Supreme Court the authority to conduct material review of regulations subordinate to acts of parliament. Thus, PAW is not merely an internal party instrument but an integral component of Indonesia's rule-of-law framework. As Aminoto (2015) emphasizes, every action by a state institution must conform to prevailing legal norms.

More than a legal episode, the Harun Masiku–Wahyu Setiawan affair reflects the profound challenges facing Indonesia's electoral system. It raises two central research questions: (1) What impact has the multiplicity of interpretations of Supreme Court Decision No. 57 P/HUM/2019 had



on legal certainty and inter-institutional relations in election administration? and (2) What legal reform strategies can be devised to ensure the effectiveness of the PAW process and strengthen the integrity and accountability of Indonesia's electoral system going forward?

This study is delimited in two respects: (1) It does not address the criminal aspects of the bribery allegations, and (2) its analytical focus is restricted to the dynamics of inter-institutional relations in election administration, particularly concerning PAW mechanisms following Supreme Court Decision No. 57 P/HUM/2019.

The objectives of this research span three dimensions. Theoretically, it enriches scholarship on constitutional and electoral law by offering an in-depth analysis of the interplay among judicial decisions, administrative regulations, and political practices. Practically, the findings are intended to guide policymakers and electoral bodies in refining regulatory design and strengthening oversight of the PAW process. Socially, the study aims to raise public awareness about the importance of integrity and accountability at every stage of the electoral process as the foundation of a healthy democracy. In doing so, it aspires to contribute to solutions that bolster electoral justice and prevent a recurrence of similar issues in the future.

2. Research Method

This study employs a normative-juridical analytical method with a library-research approach, relying on secondary data concerning the legal impact of the Harun Masiku case and its implications for Supreme Court Decision No. 57 P/HUM/2019. The normative-juridical method is particularly suitable for examining this case, as it depends on legal literature as the primary data source (Hartiwiningsih et al., 2019). This approach enables an in-depth review of statutory provisions, the text of the Supreme Court's ruling, all relevant legal documents, and the complete set of trial proceedings, thereby providing a comprehensive analysis of the normative foundations of the case and its effects on Indonesia's legal and judicial systems.

The data used in this research consists of both primary and secondary legal materials. Primary materials include directly relevant legislation—such as Law No. 7 of 2017 on General Elections, the General Elections Commission Regulations (PKPU), Supreme Court Decision No. 57 P/HUM/2019, and all trial records related to the allegations. Secondary materials comprise supporting academic literature, including peer-reviewed journals, legal monographs, and prior research studies.

Data was collected systematically through library research, involving the identification, retrieval, and critical elaboration of all pertinent legal and scholarly sources to ensure validity and academic accountability. The collected data were then analyzed using a descriptive-analytical method: describing the applicable legal norms and procedures; interpreting the Supreme Court's decision and the annulled PKPU provisions; and comparing statutory rules with the factual findings of the case. This thorough analysis uncovers the degree of alignment between existing regulations and legal practice in this matter and identifies potential future legal challenges arising from the Supreme Court's ruling.



3. Results and Discussions

Based on the normative-juridical analysis conducted, this study uncovers several key findings concerning the alleged bribery by Harun Masiku to Wahyu Setiawan in his capacity as a Commissioner of the General Elections Commission (KPU) and its implications for Supreme Court Decision No. 57 P/HUM/2019. These findings reveal the legal dynamics surrounding the case as well as its effects on Indonesia's electoral legal system.

To deepen our understanding of these dynamics, Lawrence M. Friedman's legal system theory provides an analytical framework. According to Friedman, a legal system comprises three main elements: (1) legal structure (the institutions and bodies that enforce the law); (2) legal substance (the rules and norms in force); and (3) legal culture (the values, attitudes, and practices of society and officials toward the law) (Friedman, 1975). In the Harun Masiku case, these elements interact in complex ways. Yet the crux of the problem lies in a weak legal culture, where state actors treat law not as the supreme guide but as a tool for political ends. Here, the phenomenon of legal instrumentalism becomes evident: law is wielded as an instrument of power rather than as a guardian of justice. When legal culture deteriorates, even the strongest structures and the clearest norms remain vulnerable to manipulation. Therefore, any analysis of the PAW mechanism's loopholes and the multiple interpretations of the Supreme Court's decision must situate these issues within the broader legal system—highlighting the interplay among norms, institutions, and a permissive legal culture that enables deviation.

The study finds that the interim replacement (PAW) mechanism under Law No. 7 of 2017 on General Elections contains legal gaps exploitable by interested parties. Ambiguities in procedure and the absence of objective criteria open the door to irregularities and manipulative practices that culminate in abuse of authority. In this instance, Harun Masiku is alleged to have bribed Commissioner Wahyu Setiawan to secure his position as a legislative candidate via PAW. This finding indicates that existing regulations are not sufficiently comprehensive to prevent corruption in the electoral process. The legal loopholes in the PAW mechanism thus represent not only technical flaws but also systemic weaknesses in Indonesia's election governance. Zain et al. (2020) observed that judicial contradictions—annulling certain PKPU provisions without explicitly instructing the KPU—further exacerbated confusion. Consequently, a revision of Law No. 7 of 2017 is urgently needed to clarify PAW procedures and criteria, and to introduce stricter oversight mechanisms to prevent unlawful political intervention.

From the perspective of Administrative Law, election organizers such as the General Elections Commission (KPU) are obligated to uphold the principles of legality, transparency, and due process of law. These principles serve as a fundamental basis to ensure that every administrative action taken remains within the bounds of the law and adheres to orderly governance. This view aligns with Utama (2014), who asserts that administrative actions must be conducted in an orderly manner and must not be carried out arbitrarily.

The Supreme Court of the Republic of Indonesia Decision Number 57 P/HUM/2019, which was subsequently used as a legal basis by the Indonesian Democratic Party of Struggle (PDIP) to



propose the interim replacement (PAW) of a legislative seat in the name of Harun Masiku, sparked controversy and set a troubling precedent in the judicial system. In addition to raising criminal law implications, this decision has the potential to undermine the legitimacy of future political decisions. The resulting legal uncertainty weakens public trust in the judiciary and raises serious concerns regarding the independence of the Supreme Court of the Republic of Indonesia (MA-RI). In such conditions, the firmness of the judiciary becomes imperative so that each decision rendered genuinely reflects justice and ensures legal certainty.

On the other hand, the bribery case involving Harun Masiku and Wahyu Setiawan as a Commissioner of the General Elections Commission (KPU) has severely damaged the credibility of the KPU as an institution that is supposed to remain neutral and independent. Various studies have revealed that the involvement of public officials in bribery practices such as this has triggered a crisis of public trust in democratic processes. This situation is further exacerbated by weak oversight mechanisms and low accountability in electoral governance. From the standpoint of administrative law, every action taken by electoral organizers must be within the limits of lawful authority and must be accountable (Utama, 2014). This is because public trust is the cornerstone of a functioning democracy. Therefore, comprehensive recovery measures must be urgently pursued, starting from enhancing transparency in election administration, strengthening accountability in law enforcement, and increasing public participation in the democratic process. All of these are key to restoring the legitimacy of Indonesia's electoral system.

The Supreme Court of the Republic of Indonesia Decision Number 57 P/HUM/2019 provides an important legal dimension for understanding this case. In its ruling, the Supreme Court declared that Article 6A letter a of General Elections Commission Regulation (PKPU) Number 3 of 2019 and Article 92 letter a of PKPU Number 4 of 2019 contradict Law Number 7 of 2017 and therefore do not have binding legal force. The Court found that these PKPU provisions unilaterally limited the authority of political parties to determine interim replacement (Pergantian Antar Waktu or PAW) candidates by requiring the selection of "the next highest vote-getter," a criterion that is not explicitly stipulated in the law.

Furthermore, the Supreme Court stated that the General Elections Commission (KPU) does not have the authority to introduce new norms that restrict the rights of political parties in the PAW process, as this is a matter for statutory regulation, not implementing regulations. This decision sets a significant precedent by opening an interpretation that political parties may have more flexibility in determining interim replacement candidates, as long as it remains within a legally valid framework.

However, the existence of this decision has sparked debate, as it may also create space for non-transparent political compromises. In the context of the Harun Masiku case, the decision was used as the legal basis by the Indonesian Democratic Party of Struggle (PDIP) to propose an interim replacement for a deceased candidate, followed by allegations of bribery to a KPU Commissioner to accommodate that decision. In other words, while the Supreme Court aimed to



uphold the supremacy of the law, the practical implications of the decision have revealed the complexities and vulnerabilities within the constitutional system.

According to the legal principles in Indonesia, a decision of the Supreme Court (MA-RI) that has obtained permanent legal force (*inkracht*) must be obeyed and implemented by the parties subject to the ruling, including the General Elections Commission (KPU). The Supreme Court is the highest judicial body, and its rulings are final and binding. However, in the case of Harun Masiku and Supreme Court Decision Number 57/P/HUM/2019, there were certain nuances and interpretations that led the KPU (at the time) to argue for not fully complying with the decision.

In this case, various interpretations emerged regarding the ruling's mandate. One of the key points in the decision was the acknowledgment of the validity of provisions allowing political parties to propose replacement candidates for those who had died or no longer met the eligibility criteria—not solely based on the next-highest vote-getter.

However, the General Elections Commission (KPU) argued that the ruling of the Supreme Court of the Republic of Indonesia (MA-RI) did not explicitly instruct the KPU to appoint Harun Masiku. The KPU interpreted the decision as merely a judicial review of the substance of the General Elections Commission Regulation (PKPU), rather than a directive to take specific action such as appointing Harun Masiku as a legislative candidate through the mechanism of Interim Replacement (*Pergantian Antar Waktu/PAW*). The KPU continued to adhere to Article 426 of Law Number 7 of 2017 on General Elections, which stipulates that an interim replacement should be the legislative candidate who received the next highest number of votes.

Legally, a final and binding ruling (*inkracht*) from the Supreme Court of the Republic of Indonesia must be complied with. However, in the Harun Masiku case, the KPU faced a dilemma because the Supreme Court's decision was deemed to lack explicit interpretation. The KPU thus relied on its own interpretation of the electoral law, prioritizing the principle of majority votes, which ultimately led to the rejection of Harun Masiku's appointment as a member of the House of Representatives of the Republic of Indonesia (DPR-RI). This situation triggered the alleged bribery incident involving certain parties in an attempt to secure his appointment through illegal means.

In the context of Supreme Court Decision (MA-RI) Number 57/P/HUM/2019, the interpretation by the Indonesian Democratic Party of Struggle (PDIP) of the ruling serves to reinforce its argument in determining the Interim Replacement (*Pergantian Antar Waktu/PAW*)—an interpretation that is not entirely incorrect from the party's perspective. This is considering that the Supreme Court of the Republic of Indonesia (MA-RI) granted part of PDIP's judicial review request against several provisions in the General Elections Commission Regulations (PKPU) regarding vote counting in general elections, namely Article 54 paragraph (5) letters k and l, in conjunction with Article 55 paragraph (3), and Article 92 letter a. The essence of the ruling confirms the validity of provisions that allow political parties to nominate replacement candidates for legislative members who have passed away or are otherwise disqualified.

For PDIP, this was interpreted as an affirmation of the party's authority to determine who is eligible to replace a permanently disqualified member of the House of Representatives of the



Republic of Indonesia (DPR-RI), not solely based on the next-highest vote count. PDIP considered that the KPU regulation prioritizing the next-highest vote count was inconsistent with the spirit of Law of the Republic of Indonesia Number 2 of 2008 on Political Parties, Article 12 letter g, and Law Number 7 of 2017 on General Elections, both of which provide political parties with the space to manage internal affairs—including the appointment of interim replacements—as reinforced by the Supreme Court Decision (MA-RI) Number 57/P/HUM/2019.

The General Elections Commission (KPU), on the other hand, adhered to the argument based on Article 426 of Law Number 7 of 2017 on General Elections, which states that an interim replacement must be the candidate who obtained the next-highest number of votes. According to the KPU, Law Number 7 of 2017 carries greater legal authority than the General Elections Commission Regulations (PKPU), and thus, the Supreme Court's partial annulment of the PKPU does not automatically invalidate the provisions stipulated in the law itself. PDIP's interpretation of the Supreme Court Decision Number 57/P/HUM/2019 is understandable from the standpoint of a political party aiming to maintain control over its parliamentary representatives and to optimize its political positioning. However, this interpretation directly clashes with the KPU's interpretation, which relies on the principle of majority votes and the legal hierarchy, wherein Law Number 7 of 2017 supersedes implementing regulations.

Marriansah et al. (2022) explain that the differing interpretations of the Supreme Court of the Republic of Indonesia's decision reflect structural weaknesses in the formulation of the interim replacement (Pergantian Antar Waktu/PAW) norms within the General Elections Commission Regulation (PKPU), as well as a lack of clarity in the Supreme Court's ruling, which consequently opens space for conflicting interpretations in its implementation by the General Elections Commission (KPU). According to the findings of Siaga Putra & Ansorullah (2022), when the Supreme Court annulled the relevant provision in PKPU through Decision Number 57/P/HUM/2019, the KPU was administratively obliged to revoke the regulation immediately without waiting for further decisions, due to the *ex nunc* nature of the judicial review ruling. This administrative obligation is inherent, meaning that even without a formal revocation by the KPU within a set timeframe, the PKPU provision in question no longer holds any binding legal force.

The disregard of a ruling by the highest judicial body, such as the Supreme Court of the Republic of Indonesia (MA-RI), by another state institution—in this case, the General Elections Commission (KPU)—carries serious consequences that may lead to disharmony in inter-institutional relations. When a final and binding decision of the Supreme Court is not implemented by executive or independent institutions, the authority of the Supreme Court as the guardian of the Constitution and the pinnacle of the judiciary is eroded. This sets a dangerous precedent suggesting that judicial rulings can be ignored, undermining the principle of the rule of law and, in turn, weakening Indonesia's legal system.

The interrelationship between state institutions in the administration of general elections cannot be separated from the principle of the separation of powers and authority explicitly regulated under constitutional law (Chairuddin, 2020). According to Dr. Maruarar Siahaan, a



constitutional law expert, who testified at the trial of the Secretary-General of the Indonesian Democratic Party of Struggle (PDIP), Hasto Kristiyanto, on June 19, 2025, it is essential to provide both academic and practical perspectives on the serious impact of ignoring Supreme Court decisions on institutional harmony and the quality of democracy in Indonesia. From the perspective of a legal expert, a decision by the Supreme Court of the Republic of Indonesia (MA-RI) that has obtained permanent legal force (*inkracht van gewijsde*) constitutes a legal command that must be implemented by all parties. Disregarding such a ruling—regardless of differing interpretations—can be considered an act that weakens the judicial system within a state governed by law.

He also emphasized the principle of *res judicata*, which means that a ruling with permanent legal force is presumed to represent the truth (*res judicata pro veritate habetur*) (Siahaan, 2025). Although the KPU may have held a different interpretation based on the General Election Law, the KPU should have prioritized compliance with the judiciary's decision and sought means to accommodate the Supreme Court's ruling. The failure to implement the Supreme Court's decision risks disrupting institutional harmony and is fundamentally grounded in several key legal pillars, including the principle of the rule of law enshrined in Article 1 Paragraph (3) of the 1945 Constitution of the Republic of Indonesia, which explicitly states that Indonesia is a state governed by law. In such a state, all governmental institutions are obligated to comply with and submit to the law and all legally binding legal products, including final and binding court decisions. Ignoring a Supreme Court decision violates the fundamental principles of the rule of law, legal supremacy, and the established legal hierarchy.

Law Number 12 of 2011 on the Formation of Laws and Regulations governs the hierarchy of legislation in Indonesia. A proper understanding of legislative theory and science is essential, as it allows one to correctly interpret the legal hierarchy, as described by Indrati et al. (2016, 2023). Judicial decisions, such as those issued by the Supreme Court of the Republic of Indonesia (MA-RI), which conduct material reviews of regulations below the level of statutory law, have binding legal force and can annul the norms deemed contradictory. Consequently, if the Supreme Court rules that a regulation contradicts a higher-level law or the Constitution, the norms within that regulation are declared null and void.

This study also identifies that, in the absence of significant reforms, such conditions may affect the quality of general elections and potentially weaken the process of democratization in Indonesia. Moreover, considering that this case holds the potential to cause disharmony in inter-institutional relations—particularly between the General Elections Commission (KPU), the Supreme Court of the Republic of Indonesia (MA-RI), and political parties—it not only affects the relationships among state institutions but has also created tensions leading to institutional instability. The Supreme Court of the Republic of Indonesia (MA-RI), as the guardian of legal certainty, must issue firm decisions to ensure that its position as the highest judicial body is not subject to renewed doubts about its independence.



Overall, this study asserts that the alleged bribery case reflects structural weaknesses in Indonesia's electoral legal system. A comprehensive legal reform is urgently needed to improve transparency, accountability, and the independence of electoral organizers in order to prevent similar cases in the future.

4. Conclusions

Based on the results and discussion above, it can be concluded that the bribery case involving Harun Masiku and a Commissioner of the General Elections Commission (KPU) has had serious implications for the legal dynamics in Indonesia, particularly in the context of implementing the mechanism under Law Number 7 of 2017 concerning General Elections, specifically related to the Replacement Between Terms (Pergantian Antar Waktu or PAW) and the Supreme Court of the Republic of Indonesia (MA-RI) Decision Number 57 P/HUM/2019.

This study recommends several corrective measures, including: (1) a revision of Law Number 7 of 2017 concerning General Elections, (2) strengthening oversight and transparency in the electoral process, particularly by independent institutions such as the General Elections Commission (KPU) and the Election Supervisory Body (Bawaslu), and (3) public education on the importance of integrity in elections. Thus, this research is expected to contribute to the development of positive law in Indonesia, particularly in efforts to prevent corruption and improve the quality of democracy through a more transparent and accountable electoral system.

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