



Law Enforcement of Election Crime in the 2024 Simultaneous Elections in Indonesia

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Abstract. The purpose of this study was to find out and analyze the law enforcement of general election crimes in the 2024 simultaneous general elections. This type of research is normative legal research. This research is based on the provisions and legal principles related to the Law Enforcement of Criminal Acts of the 2024 Simultaneous General Elections in Indonesia. The existence of Bawaslu in the 2024 simultaneous elections in Indonesia which has a unified format that functions as law enforcement and oversight. There are several recommendations for the upcoming election, which are as follows: First, harmonization of regulations related to election law enforcement, strengthening the formal criminal law on election crimes. Second, strengthening formal criminal law in law enforcement on election crimes. Third, criminal responsibility for perpetrators of election crimes. Third, strong institutionalization related to the resolution of election violations and disputes. Fourth, a special institution is needed in upholding the law on election crimes that has authority starting from investigation, investigation and prosecution related to election crimes. Fifth, strengthening public participation in election supervision, especially during the campaign period.

Keywords: Crime · General Election · Law Enforcement

1 Introduction

1.1 Background

Law enforcement for general elections (elections) is interesting to study because in the upcoming 2024 election the problems will become very complex. This is because the election will elect the DPR, DPD, DPRD and the President/Vice President as well as the Governor/Regent/Mayor. "The election will be held on 14 February 2024 to elect a President/Vice President, Members of the People's Representative Council (DPR), Regional Representative Council (DPD), as well as Provincial and Regency/City Regional People's Representative Councils (DPRD). Elections for Governors, Regents/Mayors (Pilkada) will be held on 27 November 2024. Reflecting on the 2019 simultaneous elections which have many records that must be evaluated immediately. In fact, the 2024 simultaneous elections will continue to use Law Number 7 of 2017 concerning General Elections (Election Law) and Law Number 1 of 2015 concerning the Stipulation of Government Regulations in Lieu of Law Number 1 of 2014 concerning the Election of

Governors, Regents and Mayors Becomes a law which has been amended several times, most recently by Law Number 6 of 2020 concerning Stipulation of Government Regulation in lieu of Law Number 2 of 2020 concerning the Third Amendment to Law Number 1 of 2015 concerning Stipulation of Government Regulation in lieu of Law Number 1 Year 2014 Regarding the Election of Governors, Regents and Mayors Become Laws Become Laws (UU Pilkada). So it is interesting to see how prepared law enforcement is in the upcoming 2024 simultaneous elections.

Elections are a real manifestation of the implementation of democracy in Indonesia which provides a role for the people to be able to participate directly in selecting their future leaders for the next 5 years. In this case we can see that sovereignty remains in the hands of the people. In this context, elections can be interpreted as a process of transferring people's sovereignty to certain prospective leaders to occupy political positions [1]. Elections are rules guaranteed by the constitution. Therefore, rules can be maintained or changed according to certain conditions. Determination of the choice of rules must be studied and experience that can determine whether the rules are good or not [2].

Election organizers are the key to success for the success of holding elections. The General Election Commission (KPU) and the Election Supervisory Body (Bawaslu) in the 2019 elections were deemed not to be optimal in carrying out their responsibilities. The 2019 simultaneous election is the fifth election after the New Order and is the first simultaneous election to hold the legislative and presidential elections at the same time. Unlike the previous elections, the 2019 election is a test case for strengthening the presidential system, institutionalization of political parties and political party coalitions that are measurable and formatted [3]. Simultaneous elections are far more complex and complicated, both for election organizers, political parties, and the people. This is also the most awkward election [4].

Simultaneous election implementation, raises the pros and cons that occur in the KPU and political parties. This is due to differences in interests by looking at the facts that occurred in 2019 where simultaneous elections had an impact. The KPU wants a revision of the Election Law from a technical point of view of implementing simultaneous elections, while many political parties disagree with the revision [5, 6]. The elections that were held in 2019 left problems that became homework for the Indonesian nation. There are so many negative responses in the community towards the implementation of this simultaneous election as a manifestation of the KPU's unpreparedness as an administrator and other factors. This is based on the simultaneity of elections which carry out 5 boxes in the election of candidates for president and vice president, DPD, DPR, DPRD at the district/city level, and the provincial level is not a way [7].

In 2019, "of the 548 findings and reports of election crimes that reached the court examination stage, 380 decisions were determined by the courts to have permanent legal force (inkracht). There are 483 people being accused. Then 437 of them were found guilty, while 40 others were acquitted by the court". The first problem is the technical aspect of handling reports/findings of violations starting from the investigation, investigation and prosecution stages. Second, the synergy with investigators in the Integrated Law Enforcement Center (Gakkumdu Sentra) is due to the gap in norms in the Election

Law. “Investigators and public prosecutors involved in Gakkumdu still have multiple duties in their respective institutions, so that in terms of handling election crimes it is not effective” [8, 9].

On the other hand, the State needs to pay attention to the impact that will occur if the General Election and Pilkada are still held in 2024 by considering various things. If the government still stipulates that Pilkada will be held simultaneously, then it is necessary to revise the Election Law, especially for KPU technicians. This is intended so that the 2019 simultaneous elections are not repeated because quite a number of Voting Organizing Group (KPPS) have died. In the 2019 election, 897 KPPS officers were reported dead and 5,176 officers were sick. The General Election Commission stated that the workload of officers in the last election was indeed heavy, so many officers were down.

Based on these legal facts, it appears that there are still problems in enforcing the law on election crimes in Indonesia. Some of the things that become a problem are the legal structure, legal substance and legal culture. Strengthening election institutions that function to effectively enforce election criminal law laws. Election-related regulations can provide justice and certainty as well as benefits in the holding of elections. Community participation in the context of monitoring elections in order to increase collective legal awareness.

From the description above, this research is important to study because looking at the 2019 simultaneous elections, there are various perceived problems. Of course, this is a reconsideration if Indonesia wants the simultaneous elections in 2024 to run well. In this study the authors focus on Law Enforcement of Criminal Acts in the 2024 Simultaneous General Elections in Indonesia.

1.2 Problem Formulation

To limit the scope of the problem and refer to the implementation of objective research on research objects. So based on this thinking and the background of the problem above, the formulation of the problem to be discussed is as follows:

1. What are the arrangements regarding the law enforcement of criminal acts in the 2024 simultaneous general elections in Indonesia?
2. What is the ideal 2024 general election crime law enforcement in Indonesia?

1.3 Research Type

This research is a normative legal research. According to Peter Mahmud Marzuki that: “normative juridical research is a process to find legal rules, legal principles, and legal doctrines to answer the legal issues at hand [4]. Meanwhile, according to Bahder Johan Nasution states that “Normative legal research is how a researcher compiles and formulates his research problem precisely and sharply, and how a researcher chooses a method to determine his steps and how he carries out the formulation in building his theory [7]. On that basis, the study in this writing is based on the provisions and legal principles related to the Law Enforcement of Criminal Acts of the 2024 Simultaneous General Elections in Indonesia.

2 Discussion

2.1 Arrangements Concerning Law Enforcement of the 2024 Simultaneous General Elections in Indonesia

Article 1 point 1 of the Election Law states that general elections, hereinafter referred to as elections, are a means of people's sovereignty to elect members of the People's Legislative Council, members of the Regional Representatives Council, President and Vice President, and to elect members of the Regional People's Legislative Assembly, which are carried out directly, publicly, free, confidential, honest and fair within the Unitary State of the Republic of Indonesia based on Pancasila and the 1945 Constitution of the Republic of Indonesia.

Article 1 point 7 of the Election Law states that the Election Organizer is an institution that organizes elections consisting of the General Election Commission, the Election Supervisory Board, and the Ethics Council of Election Organizers as a single unit of election administration function to elect members of the People's Legislative Council, members of the Regional Representatives Council, the President and Vice President, and to elect members of the Regional People's Legislative Assembly directly by the people. "The issue of the integrity of election organizers or participants, for example by tightening the recruitment system, is an effort to realize simultaneous elections with integrity in the future [10].

General Election Commissions (KPU). The 1945 Constitution states that general elections are held by an election commission. The explanation from Article 22E Paragraph 5 of the 1945 Constitution above reaffirms the role of the KPU and its characteristics. With this direction, the KPU is required to carry out its duties as mandated by the 1945 Constitution. The explanation stated is intended so that the KPU does not depart from legal regulations regarding the duties it carries out.

1. The General Election Supervisory Agency (Bawaslu)

Along the way, the institution and authority of the Bawaslu have also transformed. Permanent officials from the central to the district/city levels, not only supervise and provide recommendations, but then have the authority to decide on election process dispute resolution (both between the KPU and election participants, as well as between election participants), whose decisions must be followed up [10]. There is too much room for dispute resolution and election law enforcement, so that decisions are sometimes difficult to execute. Or the handling of law enforcement becomes incomplete [10]. The institution authorized to receive and follow up on reports, both reports of administrative violations and criminal violations, the code of ethics and other legal violations, is Bawaslu, as the organizer.

2. Election Organizer Ethics Council (DKPP)

The DKPP in the role of enforcing the code of ethics is very strategic and determines the quality of the administration and can function morally to legitimize the election process and results. The existence of DKPP as an ethical court with the principles of open, accountable, independent and professional judicial procedures has become a reminder for administrators to always be careful in their actions [11]. Jimly Asshiddiqie explained that several important principles that were practiced in the implementation of moot

trials in the field of ethics by DKPP were the principles of ‘audi et alteram partem’, the principles of independence, impartiality and transparency. With the enactment of these principles, all parties related to the case must be heard in trials that are held openly, where DKPP members act as judges who mediate conflicts and provide fair solutions. In fact, even the characteristics of DKPP decisions as specified in the law are the characteristics of judicial decisions. Therefore, there is no need to doubt that the DKPP was indeed designed as a judicial institution that enforces the rules or ethical norms that apply to election administrators [12].

Election law enforcement agencies are one of the keys to the successful holding of fair and democratic elections. Some of the violations in the Election Law are as follows: election administration violations, violation of the Election Organizer code of ethics election crime.

3. 2019 Election Crimes

Below is some data that has been collected from various sources related to the findings and reports of election crimes that have reached the stage of examination and decisions in court:

Based on the data above, information was obtained that the number of election crimes in 2019 totaled 348. The most common election crimes were in the legislative election elections amounted to 335. In the presidential election there were 13. Below is also presented data on election criminal acts that occurred in 2019 seen from the number of reports/cases up to the decision.

There are differences in the data from the two tables above regarding the number of election crimes up to the court’s decision. Table 1 totals 348 and Table 2 totals 337. This means that there is a difference regarding the number of criminal acts as many as 11 election crimes. However, the authors do not question the differences in the data. The point is that there is still a lack of effectiveness in law enforcement on election crimes in 2019, seen from the number of reports up to court decisions.

The ideal concept of law enforcement in the 2024 simultaneous general elections in Indonesia “For the territory of Indonesia which consists of 34 Provinces, 416 Regencies

Table 1. Election Crime

Information	Year 2019
Election Crime:	
1. Presidential Election	13
2. Indonesian Legislative Election	335
Number Election Crime	348
Guilty	320
Not guilty	28

Source: *Rumah Pemilu*

Notes: Most election crimes are money politics cases

Candidates, actors who commit the most crimes

Most election crimes occur at the campaign stage

Table 2. Decision of the 2019 Election Crime Court

No	Province	Number of decisions
1	Aceh	8
2	Sumatera Utara	24
3	Jambi	1
4	Kepulauan Riau	11
5	Riau	16
6	Sumatera Barat	17
7	Sumatera Selatan	1
8	Banka Belitung	3
9	Bengkulu	4
10	Lampung	1
11	DKI Jakarta	8
12	Banten	3
13	Jawa Barat	14
14	Jawa Tengah	13
15	DI Yogyakarta	4
16	Jawa Timur	5
17	Bali	2
18	Nusa Tenggara Barat	21
19	Nusa Tenggara Timur	11
20	Kalimantan Selatan	6
21	Kalimantan Tengah	1
22	Kalimantan Timur	6
23	Kalimantan Barat	5
24	Kalimantan Utara	3
25	Sulawesi Utara	5
26	Gorontalo	19
27	Sulawesi Tengah	24
28	Sulawesi Barat	12
29	Sulawesi Tenggara	3
30	Sulawesi Selatan	41
31	Maluku	19
32	Maluku Utara	20

(continued)

Table 2. (continued)

No	Province	Number of decisions
33	Papua	2
34	Papua Barat	4
Number of reports up to court decision		337
The total number of reports is 582		

Source: Evaluation Serial for the Implementation of the 2019 Simultaneous Elections

and 98 Cities, the implementation of simultaneous regional elections is already an ideal model when compared to the implementation of the previous Pilkada [13].” The dynamics related to the pros and cons in the implementation of elections is a natural thing in a democratic country, as long as this does not cause principles in the objectives of the election itself. The important role of Bawaslu in law enforcement related to the holding of elections in Indonesia and having a unified format that functions as law enforcement and oversight functions. In the 2024 elections, synchronization needs to be carried out regarding the doubts between elections and local elections, which consist of local and national elections.

Efforts to deal with violations of the Election Law through criminal law are part of social policy, namely all rational efforts to achieve public order and welfare. This effort is to find out about solving problems related to law enforcement, in this case the criminal justice system for the settlement of election criminal cases [4]. There is a need to improve regulations related to the Election Law. The Gakkumdu center, which consists of three elements of the institution (Bawaslu, Police, and the Attorney General’s Office) must have a commitment related to discussing cases that have occurred, protecting witnesses, conducting socialization on how to report suspected violations, and increasing community participation in supervision.

Challenges for the 2024 Simultaneous Elections on issues and lessons learned from the past 2019 Election when viewed from the legal basis in the implementation of the Election, so far there has been no change. This means that they are still using Law Number 7 of 2017 concerning General Elections and Law 10 of 2016 concerning Elections for Governors, Regents and Mayors. Some evaluations that can be used as future improvements to law enforcement are as follows:

Harmonization of regulations related to election law enforcement (up to technical regulations at the KPU/Bawaslu) in order to create legal certainty. Strengthening formal criminal law in law enforcement on election crimes. Criminal liability for perpetrators of election crimes (including one of the articles on money politics (legal subject qualifications are limited to campaign teams).

Strong institutionalization related to the resolution of election violations and disputes. A special institution is needed in upholding the law on election crimes, which has the authority to start investigations, investigations and prosecutions related to election crimes.

Public participation in election supervision, especially during the campaign period. Of course, the election organizers, both the KPU, Bawaslu and DKPP, must have prepared steps in the form of preparations to welcome the stages of the democratic party. Bawaslu, for example, as one of the Election Organizing Institutions which has three functions mandated by law in outline, namely prevention, supervision, and handling of violations as well as dispute resolution must have carried out an initial mapping of potential obstacles and challenges for the 2024 Simultaneous Elections, especially in election law enforcement.

3 Conclusion

The 1945 Constitution states that general elections are held by an election commission. The explanation from Article 22E Paragraph 5 of the 1945 Constitution above reaffirms the role of the KPU and its characteristics. With this direction, the KPU is required to carry out its duties as mandated by the 1945 Constitution. The explanation stated is intended so that the KPU does not depart from legal regulations regarding the duties it carries out. Bawaslu as an institution that is given the authority to receive and follow up on reports, both reports of administrative violations and criminal violations, code of ethics and other legal violations. The DKPP in the role of enforcing the code of ethics is very strategic and determines the quality of the administration and can function morally to legitimize the election process and results.

In its journey, institutions and authorities of Bawaslu have also transformed, permanently from the central to the district/city level, not only to supervise and provide recommendations, but then have the authority to decide on the resolution of election process disputes (both between the KPU and election participants, as well as between election participants), whose decisions are it must be followed up. There is too much room for dispute resolution and election law enforcement, so that sometimes decisions are difficult to execute, and the handling of law enforcement becomes incomplete.

4 Suggestion

The existence of Bawaslu in the 2024 simultaneous elections in Indonesia which has a unified format that functions as law enforcement and oversight. There are several recommendations for the upcoming elections, namely as follows: First, harmonization of regulations related to election law enforcement, strengthening the formal criminal law on election crimes. Second, strengthening formal criminal law in law enforcement on election crimes. Third, criminal responsibility for perpetrators of election crimes. Third, strong institutionalization related to the resolution of election violations and disputes. Fourth, a special institution is needed in upholding the law on election crimes that has authority starting from investigation, investigation and prosecution related to election crimes. Fifth, strengthening public participation in election supervision, especially during the campaign period.

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