

LAW ENFORCEMENT AGAINST CRIMINAL ACTS LOCAL ELECTIONS BY GAKKUMDU

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ABSTRACT

The election of the Regional Head of Padang Pariaman Regency as a form of democracy must be carried out in accordance with the provisions of the legislation, but in the process of its implementation it cannot be separated from various actions that can harm a lot of people, and the integrity of the implementation of the Regional Election. In this case, the integrated law enforcement center (Gakkumdu) enforces the law on the crime of regional head elections. The research method used in this study is empirical juridical. Based on the results of the study, it can be concluded: Law enforcement against criminal acts of integrated law enforcement centers in handling criminal acts for the election of the head of Padang Pariaman region is ineffective because of the 3 (three) findings of criminal cases handled there are no cases has reached the court level, all cases stop on the second discussion of Sentra Gakkumdu. The obstacles faced in law enforcement of criminal acts are associated with factors that affect law enforcement consisting of 5 (five) namely legal factors, law enforcement, facilities and facilities, society, and culture. To overcome obstacles by the integrated law enforcement center in law enforcement of regional election crimes is to carry out its duties as a law enforcement holder without any internal and external influence of a policy with the aim that the democratic process runs with the creation of justice, safely, and peacefully.

Keywords: *Law Enforcement, Crime, Local Elections, Gakkumdu, Money Politics*

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INTRODUCTION

The state of law is built and enforced in accordance with democratic principles (Pino & Wiatrowski, 2016). As Indonesia adheres to a democratic system of government, namely from the people by the people and back to the people. The principle of the state of law should not be enforced by ignoring the democratic principles provided for in the Basic Law (Kumm, 2004). The essence of democracy is a state process that rests on the main role of the people as the highest holders of sovereignty (Chandler, 2003). In other words, a government that includes three fundamental things, the government of the people, government by the people, and government for the people.

The democracy adopted in Indonesia is Pancasila democracy and undergoes development and examination between periods of government (Satrio, 2018). The principle of democracy provides a way or method of decision-making (Walker, 1966). This principle demands that everyone should have an equal opportunity to influence the actions of the government (Strauss, 1992). This principle is realized through a system of representation (people's representatives) which has a role in the formation of laws and control over the government. One of the things that is important in the principle of democracy is elections.

Based on the 1945 Constitution Article 22E paragraph (1) elections are held directly, publicly, freely, confidentially, honestly, and fairly every five years. Likewise, the election of regional heads to the election of governors and deputy governors, regents, and deputy regents is also democratically and directly elected by the people. Regional head elections are held at the same time with their deputy regional heads, which include the Governor and Deputy

Governor for the province, the Regent, and Deputy Regent for the Regency, as well as the Mayor and Deputy Mayor for the City (Tjenreng, 2016).

Regional Head Elections (Pilkada) in Indonesia is a tangible manifestation of democracy and become a means for the people to declare sovereignty. Democracy in Indonesia is a democracy that prioritizes people's sovereignty, namely elections from the village/ village, sub-district, district, and provincial to the government levels all elected by the people directly. The establishment of this rule is based on the government's strong desire to develop a more democratic electoral system.

Democratic regional elections must always involve the people as the highest power holders as the content of the constitution are not only an object but also as an election subject to ensure the integrity of the organizers and the process of regional head elections. Because regional head elections are an important part of the journey of the Indonesian nation because Indonesia has repeatedly succeeded in holding regional head elections. In 2020 all countries experienced a pandemic disaster, namely *Covid-19*, including in Indonesia so that this year's regional head elections are different from the previous regional head elections because the first time a Regional Head Election was held during the Covid-19 pandemic. In this regard, the election organizers swiftly and appropriately also think about and anticipate that this regional head election must continue to be carried out democratically.

Regarding the use of state facilities regulated in the Election Law Article 71 paragraph (3) and the criminal is regulated in Law Number 1 of 2015 concerning the Establishment of Government Regulations in Lieu of Law Number 1 of 2014 concerning the Election of Governors, Regents, and Mayors into Law Article 71 paragraph (3), the Governor or Deputy Governor, Regent or Deputy Regent, and the Mayor or Deputy Mayor are prohibited from using authority, programs, and activities that benefit or harm one of the prospective spouses both in their own area and in other regions within 6 months before the date of determination of the candidate's spouse until the determination of the candidate's spouse. Article 188, Every state official, an official of the State Civil Apparatus, and Village Head or other designation/*Lurah* who intentionally violates the provisions as referred to in Article 71, shall be punished with imprisonment for a minimum of 1 month or a maximum of 6 months and/or a fine of at least Rp. 600,000.00 (six hundred thousand rupiahs) or a maximum of Rp. 6,000,000.00 (six million rupiah).

Law enforcement of election crimes that have great authority is the Integrated Law Enforcement Center (Gakkumdu). The definition of the Integrated Law Enforcement Center (Gakkumdu) has been regulated in Article 1 Number 1 of the Joint Regulation of the Chairman of the General Election Supervisory Agency, the Head of the State Police, and the Attorney General Number 5 of 2020, Number 1 of 2020, Number 14 of 2020 concerning the Integrated Law Enforcement Center for the Election of Governors and Deputy Governors, Regents and Deputy Regents, as well as Mayors and Mayors.

So based on the explanation above, Bawaslu considers it necessary to issue a Circular on the Establishment of an Integrated Law Enforcement Center for the Election of Governors and Deputy Governors, Regents and Deputy Regents as well as Mayors and Deputy Mayors in 2020. The Gakkumdu Center has great authority in handling electoral crimes because the task of the Gakkumdu center is to law enforcement in electoral crimes. The Integrated Law Enforcement Center hereinafter referred to as the Gakkumdu Center is the center of Electoral

Crime law enforcement activities consisting of elements of Bawaslu, Provincial Bawaslu, and/or District/City Panwas, the National Police of the Republic of Indonesia, the Regional Police and/or Resort Police, and the High Prosecutor's Office and/or the District Attorney's Office.

The Gakkumdu Center cannot become independent in decision-making. Because if there is a difference of opinion with other Gakkumdu members, the case is indirectly stopped, because if the police make a decision to proceed with the investigation but in the discussion of the two Gakkumdu Centers from the Bawaslu element and the Prosecutor's Office argues, this is not a criminal act of regional elections, then the verdict of the police will be refuted by Bawaslu and the Prosecutor's Office to the investigation stage.

METHOD

This research metode used is empirical juridical or, in other words, a type of sociological legal research called field research, which examines applicable legal provisions and what happens in society (Ali, 2009). 4 Empirical juridical research is a study that uses secondary data as initial data then continued with primary data or data obtained from the field (Ansori et al., 2022). The nature of the research that the author conducts is descriptive-analytical which reveals laws and regulations related to legal theories that are the object of research. Likewise, the law in its implementation in society about the object of research. Descriptive analytics is done by describing the facts which are then followed by analysis.

In this study, data collection was carried out by carrying out the following activities: Document study, namely data collection carried out through written data by analyzing the contents of the data. Then interviewing is a technique or method of collecting data with conversations that are carried out face to face or via telephone and question and answer directly to obtain information according to the purpose. The respondents to the study were 1 member each of the members who are members of the integrated law enforcement center of Padang Pariaman Regency consisting of bawaslu, police, and prosecutors (Soekanto, 2008).

RESULTS AND DISCUSSION

Law Enforcement against The Crime of Regional Head Elections by Gakkumdu (Study of The Politics of Money and State Facilities in the Election of Regents and Deputy Regents in Padang Pariaman)

Gakkumdu's legal enforcement of the criminal act of regional head elections is reviewed from the study of money politics and the use of state facilities in the election of Regents and Deputy Regents in Padang Pariaman. Law enforcement of regional head election crimes is regulated in the Joint Regulation of the Chairman of the General Election Supervisory Agency, the Head of the State Police, and the Attorney General Number 5 of 2020, Number 1 of 2020, Number 14 of 2020 concerning Integrated Law Enforcement Centers for the Election of Governors and Deputy Governors, Regents, and Deputy Regents, as well as Mayors and Deputy Mayors,

The Gakkumdu Center consists of 3 (three) elements, namely Bawaslu, Police, and Prosecutor's Office. The mechanism for enforcing criminal acts for the election of the Regent and Deputy Regent of Padang Pariaman Regency, namely by carrying out a series of processes

for handling violations by the Gakkumdu Center. In the Election of the Regent and Deputy Regent of Padang Pariaman, there were 3 (three) cases of electoral crimes, namely related to the Use of State Facilities and money politics which were followed up by the Gakkumdu Center of Padang Pariaman Regency. Resolving election violations of a criminal nature is no different from the handling of criminal acts in general, starting from bawaslu, the Police are forwarded to the Prosecutor's Office and boiled down to the Court. The Gakkumdu Centre has a duty and handles all violations related to election crimes. The letter of introduction to the transfer was signed by the Gakkumdu Center Supervisor from the Prosecutor's Office according to the level.

1. The existence of reports/findings to bawaslu

A report is a report submitted in writing by the complainant to the supervisor of elections regarding alleged election violations. Bawaslu Padang Pariaman Regency receives reports/findings either from the community or findings from bawaslu. Bawaslu conducted a preliminary review of the criminal report on the local elections.

2. The initial study determined whether a report could be registrer or not through the plenary meeting of the West Sumatra Provincial Bawaslu. Plenary meetings are the highest forum in decision-making to carry out duties, functions, and authorities.

3. Bawaslu conducted a search for criminal findings of local elections.

The findings are the result of active oversight of election supervisors containing alleged misconduct. Bawaslu conducted a plenary meeting, namely the highest decision on the results of the search whether it was registered or not with the assistance of the Gakkumdu Center, the purpose was to declare an understanding between the 3 elements of the Gakkumdu Center.

4. Gakkumdu Center conducts first discussion.

The first discussion is carried out to find criminal election events, search and collect evidence and then determine the article that will be alleged against the reported / found events to be followed up in the process of reviewing electoral violations by the Gakkumdu Center for regional election crimes, as well as inviting whistleblowers, reported persons, witnesses and experts to be asked for information / clarification within 5 days.

5. Gakkumdu Center performs second language

The second discussion is carried out to determine whether the report/or findings have met the elements or do not meet the elements of electoral crimes committed by the Gakkumdu Center no later than 5 (five) days after the report/findings are received. The discussion was based on a review by the supervisor of elections and a report on the results of the investigation.

6. Gakkumdu Center conducts investigation.

The investigation was carried out after the issuance of a notice of commencement of an investigation by the coordinator of the Gakkumdu Center from the police element. The

investigation is carried out by the police with a maximum of 14 working days from the time the forwarding of the report/findings received from the bawaslu or police report.

7. Gakkumdu Center conducts third discussion

The Gakkumdu Center conducted a third discussion to discuss the results of the investigation. The third discussion resulted in the conclusion of submitting the case file to the public prosecutor. Then the Gakkumdu Center conducts pretrial if there is a pretrial either at the level of investigation or prosecution.

8. Prosecution

The time for the Public Prosecutor to transfer the case file to the District Court is no later than 5 (five) working days from the time the case file is received from the Electoral Crime Investigator. Make indictments and charges. Report on planned indictments and charges.

In the results of the research that the author conducted on the handling of criminal violations of the Padang Pariaman regional head election (Regent and Deputy Regent) carried out by the Gakkumdu Center of Padang Pariaman Regency, there were 3 (three) cases of regional head election crimes. In terms of structure/law enforcement, Gakkumdu must be more focused and careful in handling these 3 cases that occurred to create certainty, expediency, and justice from handling this case. So that after an investigation by gakkumdu, no more institutions can investigate after the case is investigated.

Obstacles in Law Enforcement against The Crime of Regional Head Elections by Gakkumdu (Study of The Politics of Money and State Facilities in the Election of Regents and Deputy Regents in Padang Pariaman)

The implementation of the law in society will not be separated from the issue of the effectiveness of the law itself (Herni Yanita, 2016). The effectiveness of the law largely determines the objectives to be achieved by the law. The central problem of law enforcement actually lies in the factors that influence it. In the law enforcement process, the effectiveness of the law will be influenced by several factors, including:

1. The legal factor itself;
2. Law enforcement factors, namely the parties who form and apply the law;
3. Factors of means or facilities that support law enforcement;
4. Community factors, namely the environment in which the law applies or is applied;
5. Cultural factors, namely as a result of work, creation, and taste based on human nature in the association of life

The five factors are closely related, so the factors mentioned above become a benchmark for the effectiveness of law enforcement. Based on the results of the author's interviews with several agencies related to the factors above, which is one of the obstacles in law enforcement in the criminal act of regional head elections in Padang Pariaman Regency are:

1. Its own legal factors

The legal factors of law enforcement by bawaslu, police and prosecutors in enforcing local election crimes are:

- a. Time constraints in the violation handling mechanism are limited to 5 (days).
- b. There was no coercive effort in the summoning of witnesses, complainants, and the complainant.

Based on this, laws and regulations are made by lawmaking bodies that contain policy policies from the elite class in society so that every citizen is able to behave in accordance with the wishes of the policymaker. Laws and regulations aim to ensure that in society there is order and justice.

2. Law Enforcement Factors

Every law enforcement officer always has a position. The position is essentially a container containing rights and obligations. This factor is a very important factor in terms of law enforcement because the law will run well and be upright as it should depend on the law enforcement. In carrying out their duties as law enforcement, of course, law enforcement must know their duties, functions, and authorities so that they can carry out their duties in accordance with what has been mandated by law.

Based on the author's interview with Zainal Abidin as a Member of Bawaslu Padang Pariaman Coordinator of the Legal Division for Enforcement of Violations and Conflict Problems, from the police with Aiptu Yuthedi, SH, Kaur Mintu Satreskrim of the Padang Pariaman Resort Police and the prosecution with Pengki Sumardi SH, as Kasi Pidum Kejari Pariaman, the obstacles faced from law enforcement factors regarding the similarity of perceptions because if there is no equality of perception between law enforcement center agencies integrated consisting of Bawaslu, Police, and Prosecutor's Office, a criminal case is stopped in the second discussion process, while in Joint Regulation Number 5 of 2020, Number 1 of 2020, Number 14 of 2020, Bawaslu's position is the starting point in determining a criminal case to be carried out to the investigation stage or terminated in accordance with article 21 of the Bawaslu Joint Regulation, Police and Prosecutor's Office number 5 of 2020, Number 1 of 2020, Number 14 of 2020.

Based on the foregoing, in fact, Bawaslu in Gakkumdu cannot become independent and stick to his own opinion in decision-making because if there is a difference of opinion with other Gakkumdu members then the case is indirectly stopped, because if Bawaslu makes a decision to proceed to the investigation stage but in the discussion of the two Gakkumdu Centers the Police argue that this is not a criminal offense of election of the head. In the area, indirectly the verdict from Bawaslu will be refuted by the Police to the investigation stage, while the initial gate of authority in the criminal act of regional elections is in Bawaslu.

3. Factors of Supporting Facilities and Facilities

Facilities or facilities are very, very important to streamline the running of a certain rule. Without certain means and facilities, it is impossible for law enforcement to proceed smoothly. Based on interviews with the respondents of the Gakkumdu Center, one of the obstacles arising from this facility factor is the lack of human resources, especially for the police and

prosecutors, namely the lack of personnel from the Gakkumdu Center members because the police and prosecutors have two jobs at once, namely continuing to handle general criminal cases and election criminal cases. If many cases of electoral crime occur on the same day, then law enforcement will have difficulty dealing with them. Then there is the lack of transportation facilities for Gakkumdu Center. For transportation bawaslu uses private transportation to pick up members of the police and prosecutors because the law enforcers are not in the bawaslu office.

4. Community Factors

Basically, the community can determine the effectiveness or not of law enforcement. This is due to the effectiveness of law enforcement due to the high level of legal awareness of the community concerned. People who have a relatively high level of legal awareness, in carrying out their behavior tend to comply with applicable legal provisions.

Law enforcement comes from the community and aims to achieve peace within the community. Therefore, from a certain point of view, the community can influence the enforcement of the law. Law is created as a means of controlling human behavior, although in its implementation the law must be coercive, but many people do not understand the function of the law itself. This is one of the factors causing man's unconsciousness and disobedience to the law. Meanwhile, community obedience is the determinant of the success of law enforcement.

5. Cultural Factors

Cultural factors have a very big function for humans and society, which is to regulate so that humans can understand how they should act, do, and determine their attitudes if they relate to others. Thus, culture is a central line of treatment that sets out the rules of what to do, and what is forbidden. Based on the author's interview, the obstacles faced are due to the nature of helping relatives is very strong to help election crimes so the habit of people who consider giving in the form of necessities and others is a common thing to give and is a good act.

Thus, the weak enforcement of the law on regional elections is partly due to the behavior of people who do not want to cooperate with the Gakkumdu Center. This obstacle ultimately weakens the level of supervision by law enforcement, so it is possible that some violations of legal norms that occur escape the attention or supervision of law enforcement officials. Based on these constraints, the legal objectives of electoral crimes are not achieved. Which is the purpose of the law is to realize certainty, expediency, and justice. Meanwhile, in this criminal act, law enforcement is not achieved because there is no certainty, expediency, and legal justice.

Efforts Made to Overcome Obstacles Faced in Law Enforcement against Regional Head Election Crimes by Gakkumdu (Study of Money Politics and State Facilities in the Election of Regents and Deputy Regents in Padang Pariaman)

Law enforcement efforts against electoral crimes are a way to produce an honest and fair election. Regarding the process of enforcing the law against the criminal act of regional elections by the Gakkumdu Center, it is related to the process of working the law in the community (Aprista Ristyawati, 2022).

In terms of legal factors for the handling time of regional head election crimes which is only 5 days, it is overcome by maximizing work 1x24 hours from the date the report/findings are received. In terms of law enforcement, the Gakkumdu Padang Pariaman Center in terms of equalizing the pattern of handling criminal acts of the Gakkumdu Center gathered in a room to conduct discussions between the three institutions to find the same result.

Judging from the factor of supporting facilities or facilities in scarring, improving the function of law enforcement of regional head election crimes. In this case, the efforts of the Padang Pariaman Gakkumdu Center in enforcing regional election crimes (Regent and Deputy Regent) maximize human resources by adding personnel to the Bawaslu, Police and Prosecutor's Office and focusing the performance of the Police and Prosecutor's Office in handling election crimes until it is completed. Regarding Bawaslu's means of transportation, it uses private transportation to pick up members of the police and prosecutors, because the agency is not in the Bawaslu office.

In terms of society, it aims to achieve peace in society. Every citizen or group has legal awareness, the problem that arises is the level of legal compliance, namely high, moderate, or less legal compliance. If people's knowledge is inadequate about the science of law, then most people assume that a law will restrict their freedom. This is why people do not know that sometimes the actions they have done are prohibited by law. If traced further, the public is sometimes still reluctant to report violations that occur because there is an impression of bureaucratic reporting procedures. If findings/reports from the community have been entered in bawaslu, but in fact the case has stopped at the second time of the gakkumdu, so efforts can be made to explain to the community that, the community must be cooperative if they are witnesses or whistleblowers, because in the absence of witnesses, proof is difficult to find.

In terms of society and culture, what can be done is an effort before the occurrence of criminal acts in law enforcement of regional head election crimes both from bawaslu, police and prosecutors, namely the existence of appeals and socialization to the community both through seminars, media advertisements that can be seen directly by the community, in order to create public legal awareness that they also take part in election supervision because of the difficulty of getting reports due to the inability of the public to report criminal acts that have occurred, so Gakkumdu has difficulty finding witnesses because the community does not want to be witnesses, the complainant/reported person is not present when called. Due to the difficulty of obtaining witness statements, the Gakkumdu Center immediately went to the residences of the witnesses to get information about this election crime.

CONCLUSION

The first text discusses the legal enforcement of regional head election crimes in Padang Pariaman Regency by the Gakkumdu Center, consisting of Bawaslu, Police, and Prosecutor's Office. The Gakkumdu Center handles all violations related to election crimes, and the handling process involves a series of steps, starting from receiving reports/findings from the community or Bawaslu, determining whether a report can be registered or not, conducting discussions, investigations, and pretrial if necessary, and eventually transferring the case file to the Public Prosecutor. The author found three cases of regional head election crimes in Padang Pariaman Regency and suggested that Gakkumdu should be more focused and careful in handling them to create certainty, expediency, and justice.

In the second text, the focus is on the obstacles in law enforcement against the crime of regional head elections by Gakkumdu, specifically related to the politics of money and state facilities in the election of Regents and Deputy Regents. The study found that there are several obstacles, including the lack of legal awareness among the public and election organizers, the complexity of the election process, limited human resources and budget, and the influence of political power and interests. The study suggests that to overcome these obstacles, Gakkumdu needs to increase public education and participation, improve coordination among law enforcement agencies, enhance the capacity of human resources, and ensure the independence and impartiality of the law enforcement process.

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