




Law Enforcement Problems in Handling 2019 General Election Crimes by Gakkumdu

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Abstract

Introduction: Law enforcement of the 2019 election crime is mandated by Law Number 7 of 2017 concerning Elections carried out by the Gakkumdu Party.

Purposes of the Research: The purpose of this study is to find out the problematic forms of law enforcement for the 2019 general election crime in Gorontalo City, and to determine the factors that influence law enforcement for the 2019 general election crime law in Gorontalo City.

Methods of the Research: The writing method used is empirical normative with a case approach obtained directly from the object of research in the field. The location of this research is the Integrated Law Enforcement Center at the Bawaslu of Gorontalo City.

Results of the Research: The results of the study show that law enforcement for the 2019 general election crime in the city of Gorontalo is less than optimal, it can be seen that there are still findings/reports that have been discontinued and even cases have been dismissed from their investigations. As for the obstacles or influencing law enforcement, namely the lack of personnel in handling election crimes, the rules regarding election crimes have not been able to accommodate all forms of election crimes due to the development of new forms of election crimes and in terms of community culture who do not understand the rules regarding criminal acts election crime.

1. INTRODUCTION

The constitution has mandated that elections must be conducted in an honest and fair manner, as stipulated in the 1945 Constitution Article 22 E Paragraph 1.¹ Elections as the embodiment of a democratic system are an ideal means or mechanism in the framework of a peaceful and orderly transition of power. In the recent practice of the electoral system in Indonesia, facts have noted that the direct election model has brought a number of positive impacts. One of them is the birth of national leaders, both the president and a number of regional heads based on the choices of the majority of the Indonesian people.²

¹ Mohd. Din, Rizanizarli Rizanizarli, and Akbar Jalil, "Model Penegakan Hukum Tindak Pidana Pemilu Di Provinsi Aceh Yang Berkeadilan," *Jurnal Penelitian Hukum De Jure* 20, no. 3 (September 29, 2020): 289, <https://doi.org/10.30641/dejure.2020.v20.289-300>.

² Muhammad Lukman Edy, *Bunga Rampai Undang-Undang Pemilu*, 2017.

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In reality, although the implementation of elections has been explicitly mandated in the constitution of the 1945 Constitution and various laws and regulations, in its implementation there are still shortcomings. Gaining power in political contestation is not an easy matter. Candidates must involve strategies, language tricks and no less important is money. Some things that are often in the public spotlight are the rise of money politics in every general election, including the 2019 legislative election in Gorontalo City. The rise of this problem is suspected to be due to one of the factors, namely the lack of awareness by the public to vote for candidates without a dowry.

People are less aware that various types of events promising/giving money, the use of state budget and facilities in an election campaign activity, the use of fake documents, as well as fraud against the general election results, are forms or actions that can be categorized as election crimes that the threat of sanctions is very clearly regulated in the provisions of Law Number 7 of 2017 concerning General Elections.

The seriousness of the government in responding to criminal acts in the general election is clearly seen by the establishment of an integrated law enforcement center, hereinafter referred to as Gakkumdu, which consists of three elements, namely Bawaslu, the police and the prosecutor's office. In Bawaslu Regulation Number 9 of 2018 concerning integrated law enforcement centers, that the process of prosecuting election crimes starting from the investigation stage, investigation to the prosecution stage is carried out by Gakkumdu.³

Law enforcement can be interpreted as an effort made by certain law enforcement officials to guarantee and ensure that a rule of law runs as it should. The occurrence of the enforcement of election crimes in maintaining the dignity and dignity of the essence of elections and local elections as a useful distribution of power is an important aspect in ensuring the implementation of the principles of a democratic state accompanied by the idea of nomocracy.⁴ Law enforcement on election cases is enforced in order to overcome election crime violations.⁵

In the implementation of the General Elections (Election) and Regional Head Elections (Pilkada), especially in Gorontalo Province, it cannot be separated from various forms of violations, especially election crimes (promising / giving money). giving/promising money seems to have become a powerful weapon for the candidates and the successful team to win people's votes as voters. Even though from a legal perspective, this action leads to criminal sanctions and disqualification or cancellation as a candidate for legislative member or candidate for regional head, the practice of money politics still occurs in various ways, including in the form of alms through certain moments such as wedding prayers, prayers of salvation, prayers. spirits, and other celebrations.

As reported by the Bawaslu of Gorontalo Province on the implementation of the 2019 General Election, of the 128 cases of findings and reports of alleged violations, there were 46 cases of alleged money politics, while the inkcrach decision was 19 cases, 8 of which were

³ Lihat Pasal 20 – 28 Peraturan Bawaslu Nomor 9 Tahun 2018.

⁴ Pidana Pemilu Et Al., "Pidana Pemilu Dan Pilkada Oleh Sentra Penegakan Hukum Terpadu," *Jurnal Ius Constituendum* | 5 (2020).

⁵ Rekonstruksi Penegakan Hukum Et Al., "Rekonstruksi Penegakan Hukum Terhadap Perkara Pidana Pemilihan Umum Berbasis Nilai Keadilan," *Jurnal Pembaharuan Hukum*, Vol. 3, N.D.

cases of money politics.⁶ The types of election violations as described above can be seen in table 1 below:

Table 1.
Data on Findings and Reports of Alleged Election Violations of the Election Supervisory Body of Gorontalo Province and Regencies/Cities throughout Gorontalo Province⁷

No	Provinsi	Kabupaten/Kota	Jumlah Temuan dan Laporan	
			Pilleg	Pilpres
1	Gorontalo		28	3
2		Kota Gorontalo	12	0
3		Kab. Bone Bolango	16	1
4		Kab. Gorontalo	25	0
5		Kab. Gorontalo Utara	13	0
6		Kabupaten Boalemo	20	0
7		Kabupaten Pohuwato	10	0
Jumlah			124	4
TOTAL			128	

The data in Table 1 shows that the number of findings and reports of alleged election violations in several districts throughout Gorontalo Province, regarding the types of violations are divided into 4, namely election administration violations, violations of the election organizers' code of ethics, violations of election crimes and other legal violations. The author focuses this research on violations of election crimes, especially those related to the crime of promising/ giving money.

The prohibition related to the crime of promising/ giving money is regulated in Article 280 Paragraph (1) letter j of Law Number 7 of 2017 concerning General Elections which states "executors, participants and election campaign teams are prohibited from: promising or giving money or other materials to campaign participants election".⁸

Various studies that have been carried out show that the implementation of the general election can be said to have not been effective, there are still things that need to be improved towards perfection. R.Siti Zuhro stated that "Deepening democracy has not been realized

⁶ Jaharudin Umar, "Politik Uang Dan Pemberian Sedekah Dalam Tinjauan Adat Gorontalo.," *Jurnal Bawaslu Provinsi Gorontalo* 1, no. 2 (2020): 32.

⁷ Jaharudin Umar, "Laporan Akhir Penindakan Pelanggaran Tahun 2019," *Jurnal Bawaslu Provinsi Gorontalo.*, n.d., 38.

⁸ Lihat Pasal 280 Undang-Undang Nomor 7 Tahun 2017 Tentang Pemilihan Umum

properly because the pillars of democracy have not been effective.”⁹ In addition, the ineffectiveness of handling election crimes is also influenced by the involvement of election supervisors.¹⁰

Specifically in Gorontalo City, the crime of promising/giving money contained 9 findings and reports, 5 of which were registered and 4 were not registered on the grounds that they did not meet the formal and material requirements. Of the 5 cases of election crimes, only 1 case was inkrach.¹¹ Based on the legal issues mentioned above, this article explores the problem, namely how is the form of law enforcement for the 2019 General Election Crime in Gorontalo City and what factors affect the 2019 General Election Crime Law Enforcement by Gakkumdu in Gorontalo City.

2. METHOD

The type of research used is a combination of normative and empirical legal research.¹² The research location is the Gakkumdu Center, Gorontalo City. While the data sources used are primary data and secondary data, data collection techniques using primary data collection and secondary data. Data analysis uses qualitative data to obtain prescriptive norms.

3. RESULTS AND DISCUSSION

3.1 Forms of Law Enforcement for 2019 Election Crimes in Gorontalo City.

Law enforcement is the process of making efforts to enforce or actually function legal norms as guidelines for behavior in traffic or legal relationships in social and state life. Looking at the latest standards (election compliance and enforcement), it is important to ensure fair elections.¹³ Conceptually, the essence and meaning of law enforcement lies in the activity of harmonizing the relationship of values outlined in solid and embodied rules and attitudes of action as a series of final stage value elaborations, to create, maintain, and maintain peaceful social life.¹⁴

Elections are an important system in a democratic country that adheres to a representative system. In a democratic system of government, the holder of power must be accountable to the people and power is obtained through a system of free elections. The general election for members of the People's Legislative Assembly, Regional Representative Council, Regional People's Representative Council is a form of democracy that has different characteristics compared to other forms of elections, including the Election of Mayor and Deputy Mayor, Election of Governor and Deputy Governor, as well as Election of President and Vice President. This can be seen from the level of competition and contestation of pairs

⁹ R. Siti Zuhro, “Demokrasi Dan Pemilu Preseiden,” *Jurnal Penelitian Politik* 6, no. 1 (2019): 69–81, <https://doi.org/https://doi.org/10.14203/jpp.v16i1.782>.

¹⁰ Benyamin Buntu Dkk, “Penegakan Hukum Tindak Pidana Pemilihan Umum Oleh Sentra Penegakan Hukum Terpadu : Studi Di Kota Makassar,” *Journal of Lex Generalis* 3, no. 3 (2022): 375–90.

¹¹ Gakkumdu Kota Gorontalo, 2021.

¹² Mukti Fajar dan Yulianto Ahmad., *Dualisme Penelitian Hukum Normatif Dan Empiris*. (Yogyakarta: Pustaka Pelajar, 2017).

¹³ Ramlan Surbakti, Didik Supriyanto, and Topo Santoso, *Seri Elektoral Demokrasi Penanganan Pelanggaran Pemilu*, 2011.

¹⁴ Soerjono Soekanto, *Faktor-Faktor Yang Mempengaruhi Penegakan Hukum*, 2013.

of candidates, the magnitude of the conflict between supporters of pairs of candidates, the neutrality and partiality of election organizers.

Likewise with the high potential for violations, especially regarding specific issues, including money politics, abuse of power, and manipulation of campaign funds. Those who are elected are considered as people or groups who have the ability or obligation to speak and act on behalf of a larger group through political parties (parpol).

The purpose of law enforcement on election crimes is in line with the objectives of the law which is an effort to achieve order and justice as well as legal certainty. It is impossible for an order to be realized if the law is ignored. Public awareness and compliance with the law, not only affects order and justice, but plays a role in shaping the legal culture of a society, because it regulates behavior.

Based on the results of an interview with Mr. Ikbal Arbie as a member of Gakkumdu from the Bawaslu element, that law enforcement for election crimes has been firmly applied in society in the form of preventive efforts to avoid things that are not desirable, but overall law enforcement must have participation from the community. so that efforts to enforce the law on election crimes can be optimal and can create and raise legal awareness in the community. It is very sad indeed, when we have made all efforts to prevent violations from occurring, but there are still some people who ignore this.¹⁵

The form of law enforcement for election crimes carried out by the Gakkumdu is not limited to rhetoric, but is always directed towards the realization of the rule of law. To make the elections successful in the future, it is not only the duty of Gakkumdu, but also the commitment of every citizen to obey the law and of course for law enforcement officers in this case Gakkumdu has become their duty and obligation to enforce and guarantee legal certainty with the core of justice. Especially for the Indonesian people, of course, must try to get out of bad habits that are prolonged.

Therefore, law enforcement for criminal acts of general election must be carried out in collaboration with law enforcement officials, namely Bawaslu, the Police and the Prosecutor's Office, which then uses an integrated one-roof law enforcement system (Gakkumdu).¹⁶The need for coordination between agencies involved in handling violations and crimes both in stages and in the process of implementing the election.¹⁷

According to Mr. Nasir as a community leader, he said that most people do not trust the candidates because they only come when they need people's votes, after being elected they forget. Therefore, some people still accept that there are candidates who give money or the like, because for them whoever is elected they will still return to their lives, working as usual. However, law enforcement agencies have reasons to allow such things to still exist in society, because of course this can create a sense of injustice in people who still use their

¹⁵ Wawancara Penulis dengan Bapak Ikbal Arbie, S.SI selaku Mantan Anggota dari sentra Gakkumdu dari unsur Bawaslu, November 2021.

¹⁶ Made Sumentana, "Peran Sentra Penegakan Hukum Terpadu (Gakkumdu) Dalam Pelaksanaan Penegakan Hukum Terkait Tindak Pidana Pemilu," *Jurnal Kertha Widya* 2, no. 9 (2021): 25–53.

¹⁷ Budi Nuryanto, "Fungsi Sentra Penegakan Hukum Terpadu (Gakkumdu) Dalam Penegakan Hukum Tindak Pidana Pemilu Tahun 2019 Di Kabupaten Cianjur," *Journal Justiciabelen (Jj)* 1, no. 2 (2021): 116, <https://doi.org/10.35194/jj.v1i2.1283>.

conscience in choosing. However, efforts to prosecute election crimes must still be maximized.¹⁸

Weak regulations related to proving electoral crimes, such as subjects that are limited to certain parties, not everyone. In the case of money politics, the subject of election violations is every campaign implementer, so that if it is carried out by people who are not campaign implementers, they cannot be subject to sanctions.¹⁹

Based on the results obtained in the field, it can be seen that the Gakkumdu has carried out its duties as much as possible in terms of the law enforcement process for election crimes, but some of the election participants are still quite indifferent to the existing rules, the community still complains about the difficulty of trusting the candidates. So that in terms of the process of collecting evidence in the event of a violation, it is still quite difficult. The findings/reports of alleged Election Crimes received by Gakkumdu of Gorontalo City based on the results obtained by the author can be seen in the following table:

Table 2.

Data Findings / Reports of Alleged Election Crimes Gakkumdu Gorontalo City

Kota	Temuan / Laporan Dugaan Tindak Pidana Pemilu 2019				
	Penyelidikan	Penyidikan	SP3	Penuntutan	Pengadilan
Gorontalo	4	1	-	1	1

Source: Primary Data, 2021

In relation to the table above, it can be seen that the form of law enforcement for election crimes carried out by Gakkumdu in Gorontalo City includes taking action against findings/reports, collecting evidence and handling by Gakkumdu. Based on the data obtained in the field by the author, the findings/reports handled by the Gorontalo City Gakkumdu were four cases that entered the investigation stage but only one case was upgraded to the investigation stage. This means that the other three cases do not meet the criteria to proceed to the next stage. Therefore, the process of law enforcement against election crimes by the Gakkumdu Party still needs to be studied further regarding the factors that affect the law enforcement process.

3.2 Factors Affecting Law Enforcement of 2019 Election Crimes by Gakkumdu in Gorontalo City.

If we examine the law enforcement case against the 2019 election crime in Gorontalo City by looking at the theory of Lawrence M Friedman where the legal system consists of legal structure, legal substance, and legal substance.²⁰ Judging from the legal structure, the law enforcement process against election crimes is centered in Gakkumdu based on Law Number 7 of 2017 concerning General Elections. The Election Law Enforcement Center (Gakkumdu) is a center for law enforcement activities for Election Crimes consisting of elements from Bawaslu, Provincial Bawaslu, and/or Regency/City Bawaslu, the Indonesian National Police, Regional Police, and/or Resort Police, and the Attorney General's Office of

¹⁸ Wawancara Penulis dengan Bapak Nasir selaku Tokoh masyarakat, November 2021.

¹⁹ Saifuddin Tahe, H. M. Yasin, and Alwi Jaya, "Peran Dan Fungsi Badan Pengawas Pemilihan Umum Dalam Penegakan Hukum Pemilu Tahun 2019 Menuju 2024," *Al-Ishlah: Jurnal Ilmiah Hukum* 24, no. 1 (2021): 126-42, <https://doi.org/10.56087/aijih.v24i1.63>.

²⁰ Achmad Ali, *Keterpurukan Hukum Di Indonesia Penyebab Dan Solusinya*, 2005.

the Republic of Indonesia. Indonesia, the High Prosecutor's Office, and/or the District Attorney's Office.

The Integrated Law Enforcement Center (Gakkumdu) is an institution established to equalize the understanding and pattern of handling election crimes between Bawaslu, the Indonesian National Police, and the Attorney General's Office of the Republic of Indonesia, as confirmed in the provisions of Article 486 of Law Number 7 of 2017 concerning General Elections. So Gakkumdu is at the forefront of carrying out an effort to enforce the law. The Duties and Functions of the Gakkumdu Center are as an institution formed to equalize perceptions in the process of handling findings and reports of alleged election crimes, this is as confirmed in the provisions of Article 486 of Law Number 7 of 2017 concerning General Elections.

According to Mr. Ikbal Arbie as a former member of the Gakkumdu center from the Bawaslu element, that in relation to other institutions that have been mandated by Law number 7 of 2017 concerning Elections to carry out election law enforcement with Bawaslu, namely the Gakkumdu Center which includes elements of the Police and the Prosecutor's Office, Bawaslu The city of Gorontalo was greatly assisted in terms of handling election crimes. However, the existence of the two institutions has not been maximized due to the lack of personnel from both the Police and the Prosecutor's Office which should by law state that the Gakkumdu Center is and is attached to Bawaslu in order to assist Bawaslu in handling the violation process from the initial receipt of the report to the implementation of the trial process in the Court.²¹

In terms of legal substance, the lack of clarity in the rule of law will affect the law enforcement process in the field. Based on the results of an interview with Mr. Ikbal Arbie that there are several things that still need to be noted for election supervisors, especially for the Gorontalo City Bawaslu. Namely in terms of regulations or rules in terms of handling election violations itself. For example, in Article 280 paragraph (1) letter h of Law Number 7 of 2017 it states the prohibition of campaigning using government facilities, places of worship and educational places, and is emphasized in paragraph (4) that violations of paragraph (1) letter c, letter f, letter g, letter I and letter j and paragraph (2) constitute an election crime. However, Article 526 mentions criminal sanctions for violations of the provisions of Article 280 paragraph (1) letter h. This is contradictory when examined carefully. Then regarding the authority of Bawaslu which has been regulated in Law Number 7 of 2017 concerning Elections and other regulations such as in Perbawaslu 7 and 31, these rules are deemed to be very appropriate and there are no major obstacles felt by the Gorontalo City Bawaslu. It's just that the record is the issue of the authority to make coercive efforts in the handling process to present fact witnesses and the Reported Party's witnesses who when summoned by the Gorontalo City Bawaslu to give their testimony sometimes do not want to come or attend the summons. In addition, there are other authorities, namely to carry out confiscations which may have to be clearly regulated later.²²

In the author's view, there are indeed shortcomings if we look at the provisions of the Articles contained in the provisions of Law Number 7 of 2017 concerning Elections. For example, in Article 523 Paragraph (2) which reads: "Every election campaign implementer, participant, and/or team who intentionally during the quiet period promises or gives

²¹ Wawancara Penulis dengan Bapak Ikbal Arbie, S.SI selaku Mantan Anggota dari sentra Gakkumdu dari unsur Bawaslu, November 2021.

²² *Ibid*

money or other material rewards to voters directly or indirectly as referred to in Article 523 paragraph (2). 278 paragraph (2) shall be sentenced to a maximum imprisonment of 4 (four) years and a maximum fine of Rp. 48,000,000.00 (forty eight million rupiah).” The article only regulates every executors, participants, and/or election campaign team, does not regulate every community who violates, meaning that it can be a gap for participants, and/or election campaign teams to commit election crimes by using people who are outside of these elements.

The criminalization of certain actions as election crimes is divided into two groups, namely violations and crimes. However, the Election Law does not specifically define what is meant by a criminal act in the form of a violation and what is the scope/definition of a criminal act. The election law only regulates the forms of actions that are categorized as violations and also crimes that are difficult to distinguish from one another.²³ Finally, if studied in terms of legal culture, legal culture basically includes the values that underlie applicable law, values which are abstract concepts about what is good and what is bad. This factor has a very strong influence in society on law enforcement efforts.

According to Mr. Nasir as a community leader, he said that most people do not trust the candidates, because they only come when they need people's votes, after being elected they forget. Therefore, some people still accept that there are candidates who give money or the like, because for them whoever is elected they will still return to their lives, working as usual. However, law enforcement agencies have reasons to allow such things to still exist in society, because of course this can create a sense of injustice in people who still use their conscience in choosing. However, efforts to prosecute election crimes must still be maximized.²⁴

This is in line with the information given by Mr. Erwinsyah Madiko as a former Gakkumdu team from the police element, that he once examined the perpetrator, based on the perpetrator's statement that what he did was an act which he knew violated the regulations on the grounds that he was a candidate for his candidate and remained desperate. do it. According to him, things like that (giving money) are common in the election process, because some people don't want to cast their votes without a dowry.²⁵ From the explanation of the sources above, it can be seen that the culture of the people in Gorontalo City is still often encountered. The culture in society is still difficult to eliminate if it is not from the person of each individual who is aware of his actions in terms of helping the process of law enforcement for election crimes.

Based on the description above related to the three factors that can be obstacles faced by Gakkumdu in carrying out law enforcement efforts against the 2019 election crimes in Gorontalo City, this is not only because of the law enforcement officers in carrying out or carrying out their duties and functions, which in terms of According to the author, this has done its job quite optimally but there are still some obstacles, one of which is the lack of personnel from the Gakkumdu. In fact, the establishment of Gakkumdu should be able to maximize the law enforcement process for election crimes. However, this is also influenced by the substance or legal factors which are still lacking in regulating the elements in the

²³ Khairul Fahmi, “Sistem Penanganan Tindak Pidana Pemilu,” *Jurnal Konstitusi* 12, no. 2 (2016): 264, <https://doi.org/10.31078/jk1224>.

²⁴ Wawancara Penulis dengan bapak Nasir selaku tokoh masyarakat, November 2021

²⁵ Wawancara Penulis dengan bapak Brigadir Erwinsyah Madiko selaku mantan tim Gakkumdu dari unsur kepolisian, November 2021.

articles of election crime. It is unfortunate because of that some findings/reports were stopped because the elements were not met. In addition, cultural factors, in this case the lack of awareness from the public of the applicable law, give rise to a lack of respect for and comply with existing legal norms or rules.

4. CONCLUSION

Factors Affecting Law Enforcement of the 2019 General Election Crime By Gakkumdu In Gorontalo City, the author conducted a study using the theory of Lawrence M Friedman. The effectiveness of law enforcement can be seen from three sub-systems, namely structure, substance and legal culture. From the three sub-systems, it can be concluded that the factors that affect law enforcement when viewed from the structure or law enforcement are the lack of personnel in handling cases/reports of alleged election crimes. The substance factor can be seen from the authority of the Bawaslu to carry out the handling process to present fact witnesses, as well as the reported, and the elements contained in Article 523 paragraph 2 are still unclear. and cultural factors, in this case, the level of public awareness about the law is less as a result, resulting in a lack of respect for and complying with existing legal norms or rules. So it is necessary to increase the number of personnel in Gakkumdu so that the handling of election cases can be maximized and it is hoped that Gakkumdu will take firmer action against perpetrators and provide understanding to the public regarding election violations.

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