

## General Election Criminal Law Enforcement in 2019 in the Province Of Aceh

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### Abstract:

**Discussion:** the purpose of this research is to find out what is an indication of the continuation of the 2019 general election criminal case in Aceh Province and be able to understand the essence of the performance of the Integrated Law Enforcement Center in the process of 2019 Election Criminal Law Enforcement especially in Aceh Province. For the achievement of democracy which is in line with the wishes of the whole community and the government and which is aspired by the 1945 Constitution, which is honest and fair and free from fraud. This research aims, discovers and develops the Theory of Triangle in the formation of rules related to General Elections and Acts of Election Criminal Acts, discovers and develops Law Effectiveness theories in the implementation of Law Enforcement by authorized institutions and given legality by law in completing election criminal cases, and find and develop theories of the Criminal Justice system to find out whether the implementation of the law implemented is synchronous with the criminal justice system.

**Research methods:** The research carried out is a juridical-empirical type approach. The juridical-empirical approach is sociological legal research and is also called field research. In this study the data obtained directly sourced from the community as an initial source by conducting research in the field, which is applied either in the form of using observations, interviews, and also in the form of questionnaires. This legal research reviews and studies related to the functioning of law in society. The functioning of law in society can be observed from the effective quality of a law that is carried out, the obedience of the community to the law, institutions or legal institutions that have a very important role in law enforcement, implementation of legal construction, the influence of the rule of law on social problems or the opposite of social problems affecting existing legal construction.

**Discussion:** The Law Enforcement Process is an effort to uphold the norms and rules that have already been applied and have been contained and regulated in the law as guidelines for behavior, in its implementation Law Enforcement sometimes does not work properly so that law enforcement does not run effectively as desired, for the sake of upholding law in Indonesia in this case especially in terms of Election Criminal Law Enforcement of authorized institutions such as the Police, Prosecutors and Election Oversight Institution must continue to join hands in increasing synergy and integrity in law enforcement, so that they have the same thought patterns, attitudes, actions and determination to achieve enforcement a law that is justly useful.

**Conclusion:** The results of the study concluded that law enforcement in the General Election in Aceh Province in 2019 has not been effective yet there are many factors namely lack of synergy between law enforcement agencies, Criminal Article in the Election Law which is still multiple interpretations, limited handling time so it is difficult to find evidence and witnesses.

**Keywords:** General election; Law enforcement; Synergy

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### I. INTRODUCTION

Creating an honest, free and fair General Election, the need for protection for the people who will make their choices, the groups or groups that become contestants who compete in the General Election, or for the Indonesian people in general from all fears, anxieties, forms of intimidation, bribery, anxiety, deception, and other corrupt and fraudulent practices which will have an effect on the authenticity of the results of the General Election, in order to fortify the authenticity of the elections that are so valuable to the democracy of the Indonesian State. The legislators have made several acts or acts of dishonesty in the implementation of elections which constitute a criminal offense. Thus, the Election Law in addition to regulating how it is implemented in

each stage, there are also rules that do not allow some actions that can disrupt the nature of the free and fair election and scare offenders with penalties.<sup>1</sup>

Election Crime can be understood as an act, attitude, act, behavior or act (active/passive) that violates the legal construction in each stage of the election administration which is threatened with criminal sanctions in the Election Law. It consists of 77 (seventy seven) actions which are categorized as election criminal offenses listed in 66 (sixty six) articles in the Construction of Election criminal rules namely in Law No. 7 of 2017. There are several kinds of subjects (perpetrators) of election crimes, namely each person (as many as 22 criminal acts from 77 election criminal acts). This is commonly called a communal/public offense (an act that can be violated by everyone) and the rest, which is 55 criminal acts is a propria offense (a crime with a specific subject/not everyone).<sup>2</sup>

In election crimes there are acts that are planned and acts that occur due to negligence (negligence/error). From the perspective of Punishment, the criminal act of the Election carries a sentence of imprisonment and a fine which is combined (cumulatively) (there is a word "and") not alternative As in Law No. 7 of 2017. It means that the defendant who was proven guilty must be sentenced to prison and fine together. For prison sanctions, there is a minimum and maximum criminal threat.<sup>3</sup>In Law No. 7 of 2017 Article 488 to article 554 contained and explained in detail the threat of crime and fines for offenders of the Election Criminal Act of the mild threat of imprisonment that is 6 (six) months in prison up to the highest for 6 (six) years in prison and also a very light fine of 6,000,000 (six million) rupiah up to 100,000,000 (one hundred billion) rupiah.

In the general election, law enforcement is very important because democracy will be achieved in accordance with what is aspired by the 1945 Constitution, namely honest and fair. Law enforcement is as a consequence of the rule of law in guaranteeing the existence of justice, certainty and the benefit of law. Law enforcement, especially the General Election, must be in harmony and in harmony with what is contained in the law and must be carried out firmly, consistently and effectively from the process of investigation, investigation, prosecution and up to the court, so that Election Criminal Law Enforcement will provide a deterrent effect for the perpetrators, in resolving violations of the General Election which is criminal in nature, it is not much different in the pattern of handling with the resolution of general criminal acts, namely initially from the police, they are forwarded to the prosecutor's office and lead to or end up in court. Overall behavior or actions that constitute election offenses are regulated in the Election Law, the resolution of which is still guided by the Criminal Procedure Code. Because it adheres to the *Lex Specialist derogate lex generalist* principle, therefore the rules in the Election Law are more important.

To speed up the process of alleged election crimes, Law No. 7 of 2017 also stipulates the Integrated Law Enforcement Center, abbreviated as Gakkumdu Center. The Gakkumdu Center is regulated in Article 486, that to equalize the understanding and pattern of handling election criminal acts, the Election Supervisory Body, the National Police of the Republic of Indonesia and the Attorney General's Office of the Republic of Indonesia form the Gakkumdu. Gakkumdu is attached to Bawaslu, Provincial Bawaslu and Regency/City Bawaslu. Gakkumdu consists of investigators from the Indonesian National Police and prosecutors from the Attorney General's Office of the Republic of Indonesia. Investigators and prosecutors in Gakkumdu carry out full-time duties in handling election criminal offenses.<sup>4</sup>

From the preliminary data examined, it was found that there were 161 General Election criminal reports found by the Aceh Provincial Supervisory Committee and reported, but only 15 reports were carried out in the investigation process, 8 cases were upgraded to the prosecution stage and 8 cases were submitted to the court. Based on these data, it is interested to be examined in relation to "law enforcement of the 2019 general election in Aceh Province" given the importance of this problem, especially as a manifestation in achieving the legal objectives themselves, namely for certainty, fairness and benefit.

## **II. RESEARCH METHODS**

This study uses a juridical-empirical research approach. Empirical law research or in other terms is usually called the study of sociological laws or also called field research. If normative legal research is research based on secondary data, then sociological/empirical legal research starts from primary/basic data, ie data obtained and obtained directly from the community as the first source through field research, which is carried out either through observation, interviews, or distributing questionnaires.<sup>5</sup>Empirical legal research is one type of legal research that analyzes and examines its work in society. The operation of law in society can be accessed

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<sup>1</sup>UU Nurul Huda, 2018,*Hukum Partai Politik dan Pemilu Di Indonesia*, Fokus Media, Bandung, hlm 286.

<sup>2</sup>Topo Santoso dan Ida Budhiati, 2019,*Pemilu Di Indonesia*, Sinar Grafika, Jakarta, hlm 283.

<sup>3</sup>UU Nurul Huda, 2018,*Hukum Partai Politik dan Pemilu Di Indonesia*, Fokus Media, Bandung, hlm 301.

<sup>4</sup>*Ibid*, hlm. 278

<sup>5</sup>Jonaedi Efendi, Johnnny Ibrahim, 2018,*Metode Penelitian Hukum Normatif dan Empiris Edisi Pertama Cetakan ke-2*, Jakarta, Kencana, hlm 149.

from the level of legal effectiveness, compliance with law, the role of legal institutions or institutions in law enforcement, implementation of legal construction, the effect of legal construction on social problems or vice versa, the influence of social problems on the rule of law.<sup>6</sup>

**Location Study:** This study is a study conducted in Aceh Province.

**Study Samples:** For the regency cities that will be taken as samples are 3 (three) locations, namely Banda Aceh City, Langsa City, and Aceh Besar Regency.

### **III. DISCUSSION**

#### **1. Law Enforcement of the 2019 Election Crime in Aceh Province**

**A. The Definition of Law Enforcement of Election Criminal Offenses and the Provisions Regarding Election Criminal Offenses.**

Law enforcement is an effort that embodies in providing legal certainty, justice and giving rise to benefits, and therefore professional law enforcement is something that must be done so that the legal objectives can be achieved. Law enforcement, simple understanding by Satjipto Rahardjo<sup>7</sup> namely the effort to realize the desire to become a reality, as said by Satjipto Rahardjo, the aim of law enforcement is to ensure that the law runs in accordance with the expectations of all parties, both from the Government and the community.

Election crime can be interpreted as a behavior that violates the rules or legislation relating to elections, which include the Legislative General Election, the President and Vice President, and the Regional Head.<sup>8</sup> In law enforcement for Election Crimes Act Number 7 of 2017 has regulated the authorized institutions in the process of handling Election Crimes namely stipulated in article 486 whose contents are that to equate the understanding and pattern of handling of General Election, Bawaslu, National Police of the Republic of Indonesia The Attorney General's Office of the Republic of Indonesia established Gakkumdu, in the Election Supervisory Body (Election Supervisory Agency regulations) Number 31 of 2018 on the Gakkumdu Center (Integrated Law Enforcement) which is the center of Election Criminal Law Enforcement activities consisting of Bawaslu, Polri and Prosecutors, in Perbawaslu Number 31 2018 also regulates the authority possessed by the Gakkumdu Center in Election Crime Settlement, which starts from the investigation, investigation, prosecution, until the execution of court decisions.

In the criminal provisions in Law Number 7 Year 2017 Regarding General Elections There are 77 election criminal offenses which are regulated in 66 articles. There are several kinds of subjects (perpetrators) of election crimes, namely each person (as many as 22 criminal acts out of 77 election criminal acts). This is commonly called a communal offense (a crime that can be carried out by anyone) and the rest, which is as much as 55 criminal acts constitute a propria offense (a crime with a specific subject/not everyone). For prison sanctions, there is a minimum and maximum criminal threat.<sup>9</sup> From the provisions of Article 488 to article 554 Law No. 7 of 2017 has been explained in detail the threat of Criminal and fines for people who commit violations of the Election Criminal Act from the threat of the lightest Prison that is 6 (six) months in prison up to the maximum of 6 (six) years in prison and also the lightest penalty of 6,000,000 (six million) rupiah to 100,000,000 (one hundred billion) rupiah.

#### **B. Factors and Obstacles in Election Law Enforcement in Aceh Province.**

The 2019 General Election has been completed and the winners of the General Election contestants have been appointed and occupied their positions during the 2019-2024 period. a lot of homework that needs to be addressed by the organizers of the General Election related to the Handling of Election Crime Abuses by the Integrated Law Enforcement Center in which there are Bawaslu, Police and Prosecutors, the existence of Gakkumdu which still has many obstacles so I think Sentragakkumdu in Aceh Province is not yet effective and not yet relevant in accordance with the objectives of the Gakkumdu Formation namely Equality of Mindset handling in Election Criminal Settlement.

In line with the completion of the implementation of the tasks of Gakkumdu in the 2019 General Elections, especially in Aceh Province, the need for continuous and intense evaluation to be able to improve the performance of the Gakkumdu center by conducting joint work with relevant stakeholders to find solutions and understanding so that there is an increase in the performance of law enforcement centers integrated in terms of improving the quality of Bawaslu which should have a central role in accommodating the Gakkumdu center needs to emulate institutions that in fact have been successful such as the Corruption Eradication Commission even though these institutions have police agencies and their prosecutors have the same understanding.

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<sup>6</sup>Salim HS dan Erlies Septiana Nurbani, 2013, *Penerapan Teori Hukum Pada Penelitian Tesis dan Disertasi*, Depok, Raja Grafindo Persada, hlm 20.

<sup>7</sup>Satjipto Rahardjo, 1983, *Masalah Penegakan Hukum*, Sinar Baru, Bandung, hlm 24.

<sup>8</sup>Mohd. Din, dkk, 2016, *Pertanggungjawaban Parta Terhadap Calon Anggota Legislatif Yang Melakukan Tindak Pidana Pemilu*, Jurnal Penelitian Hukum De Jure, Volume 16 Nomor 1, hlm 28.

<sup>9</sup>UU Nurul Huda, 2018, *Hukum Partai Politik dan Pemilu Di Indonesia*, Fokus Media, Bandung, hlm 301.

The process of law enforcement is an effort to uphold norms and rules that have been applied and have been listed and listed in the law as guidelines for behavior. In the implementation of law enforcement sometimes it does not work properly so that law enforcement does not run effectively as desired.

From preliminary research conducted in the Panwaslih of Aceh Province, there were 161 findings by the Panwaslih of Aceh Province and reports of criminal acts of the general election in the 2019 general elections that occurred, namely:

**Table 1 Aceh Panwaslih Findings Data and General Election Crime Reports in 2019 Regencies/Cities in Aceh Province.**

No.	Regencies/Cities	Number of Suspected Crimes	The Case is Being Upgraded to Investigation	The Case Was Upgraded to the Prosecution Level	The Case That Was Submitted to the Court
1	South Aceh	14	-	-	-
2	Southeast Aceh	0	-	-	-
3	East Aceh	12	7	-	-
4	Central Aceh	8	-	-	-
5	West Barat	20	-	-	-
6	Aceh Besar	10	2	2	2
7	Pidie	7	-	-	-
8	North Aceh	15	-	-	-
9	Simeulue	1	-	-	-
10	Aceh Singkil	2	1	1	1
11	Bireuen	13	-	-	-
12	Southwest Aceh	6	-	-	-
13	Gayo Lues	-	-	-	-
14	Aceh Jaya	9	-	-	-
15	Nagan Raya	1	-	-	-
16	Aceh Tamiang	3	1	1	1
17	Bener Meriah	4	-	-	-
18	Pidie Jaya	3	1	1	1
19	Banda Aceh City	7	2	2	2
20	Sabang City	7	-	-	-
21	Lhokseumawe City	6	-	-	-
22	Langsa City	2	1	1	1
23	Subulussalam City	11	-	-	-
	Total	161	15	8	8

Source: *Bawaslu Aceh Province*

Based on the table shows that there were 161 Election criminal reports found by the Aceh Provincial Supervisory Committee and those reported, but only 15 reports were carried out in the Investigation process, 8 cases were upgraded to the prosecution stage and 8 cases were submitted to the court.

From this data, the researcher is of the opinion that with a minimum number of criminal cases in the General Election which continues to the judicial stage, there are things that become obstacles by the competent institutions in the process of handling General Election criminal cases in Aceh Province.

Results of interview by the Chairperson of the Aceh Province Supervisory Committee Fauziah, SP. One of the obstacles in evaluating the handling of Election criminal acts is that in the second and third discussions in handling Election criminal acts, there is often no understanding between the 3 institutions that are entitled and given legality in the enforcement of Election criminal acts that are the container of the Gakkumdu Center (Integrated Law Enforcement Center) For example, in the city of Banda Aceh there is a criminal case in the General Election which violates Article 521 of Law Number 7 of 2017 concerning Elections, namely the use of state facilities during the campaign carried out by the legislative candidates at the campaign stage, when confirmation and clarification by the Panwaslih Banda Aceh City, it is true that the car used by the legislative candidate at the time of the campaign was the vehicle belonging to the official, but during the discussion between the police and the prosecutor's opinion, it was different and disagreed so that the case was not followed

up to the next stage, and one example of the case in Aceh. There were many cases of campaign election crimes committed by the village head and when the second discussion was closed because there was no agreement between the institutions.

In the process of handling the law enforcers are also constrained about the interpretation of the construction of Election criminal acts which are still multiple interpretations and unclear so that it becomes something that is a separate issue. One example is related to the Campaign and money politics, many articles cannot be applied, especially related to problems money politics there is no detailed regulation so that it becomes a gap for the perpetrators of violations of the Election criminal act to escape the articles that are applied or alleged by law enforcement. The need for revisions to the articles in the Election Law which are still multiple interpretations, especially many articles on campaigns that must be revised because they are cumulative, then the General Election Criminal Article related to many politics is still ambiguous, for example there are rules that allow giving money for political transport costs so that this rule is still ambiguous and there is no specific regulation anymore so there are still many gaps and the perpetrators cannot be snared, one example is handled by the Gakkumdu Center in Langsa City related to the Case of the campaign i.e. the campaign team must be registered at KIP but it was reported that the campaign team was not registered so that these articles and rules were interpreted by institutions incorporated in Gakkumdu.

Related to understanding perceptions among institutions under the auspices of the Gakkumdu Center the Gakkumdu Center investigators in Langsa City said that the prosecutors from the prosecutors involved in the sprint and participating in the discussion were also involved in examining the case files so that the agreement on the initial perception that had not been changed again in the when the file will be submitted to the prosecutor's office.<sup>10</sup>

The limited time limit in the process of resolution of election crime cases needs to be an evaluation material for the legislative and executive in revising election laws. In the matter of resolving violations in the Election criminal act, Law Number 7 of 2017 concerning General Elections and Election Supervisory Agency Regulation No. 31 of 2018 have been regulated concerning integrated law enforcement centers clearly stated in relation to the deadline for handling Election criminal acts, namely as follows:

1. Initial Discussion Stages 7 (seven) days by Bawaslu and added 7 (seven) days;
2. Investigation Phase 14 (fourteen) by the Police Investigator and added 3 (three) days if there is an improvement in the case file;
3. Prosecution Stage 5 (five) days by the Public Prosecutor
4. District Court 7 (seven) days
5. High Court 7 (seven) days

Facts in the field found many cases of follow-up to the investigation because the investigator was worried that he could not complete the evidence so that the police had their own standards to accept the results of the discussion delegated by Bawaslu to proceed to the investigation stage by the police. Short time in handling cases and should be increased starting from the process of receiving reports to completion<sup>11</sup> with a short time with limited time investigators difficult to find strong evidence so it is not effective for example if in remote areas find a criminal report with a long distance so that it is not difficult for investigators to find and find evidence and not easy to find witnesses and evidence in an election crime.

## **IV. CONCLUSION**

### **A. Conclusion**

Election criminal law enforcement in the Province of Aceh in 2019 has not been effective in accordance with what is expected by all parties, both the general public and the government and other groups, there are many factors that hinder the enforcement of election criminal law, including lack of synergy between law enforcement agencies, Criminal Article in the Election Law which is still multiple interpretations and limited handling time so it is difficult to find evidence and witnesses.

### **B. Suggestion**

The need to strengthen the synergy between law enforcers who handle election crime cases and the need for revisions to the laws that regulate general election crimes that are still multiple interpretations.

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<sup>10</sup>Didie Fitriadi, Penyidik Sentra Gakkumdu Panwaslih Kota Langsa Provinsi Aceh, *Wawancara*, pada tanggal 12 Desember 2019.

<sup>11</sup>Khairi, Ketua Panwaslih Kota Langsa Provinsi Aceh, *Wawancara*, pada tanggal 31 Desember 2019.

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