

# LAW ENFORCEMENT IN OVERCOMING ELECTION CRIME (CASE STUDY OF BAWASLU, SEMARANG DISTRICT)

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**Abstract:** Protests of dissatisfaction with the election process and outcomes, motivated by the numerous violations that could not be resolved and the perception that the organizers had treated them unfairly, demonstrated that there were issues with law enforcement in every election. On the one hand, parties who believe their constitutional rights have been violated, cheated, or treated unfairly will continue to protest if it is not resolved immediately. However, protests may ultimately undermine the legitimacy of the election results. The issues with upholding election law must be resolved comprehensively if elections are to be held in an honest and fair manner and if they are not to be delegitimized in the future. The first thing that must be done is to determine what is causing issues with law enforcement; After that, a comprehensive solution to this issue is sought, resulting in the establishment of a system of election law enforcement capable of guaranteeing free and fair elections. According to international democratic election standards, free and fair elections can be achieved if there are legal instruments that can protect organizers, participants, candidates, voters, observers, and citizens in general from fear and intimidation, violence, bribery, fraud, and other fraudulent practices that will affect the results of the election. This type of research is normative research. The approach used is a statutory approach (statute approach) and a conceptual approach (conceptual approach). Secondary data are used as the data source. Qualitative and descriptive methods were used to analyze the data. Conclusions are drawn using the deductive method, namely concluding from general to specific, especially those related to the research topic, namely law enforcement against election crimes. This research resulted in findings that future election legislation must re-clarify the notion of election administration violations. In this case, administrative violations can be divided into two major groups, namely minor administrative violations, and serious administrative violations. Minor administrative violations are violations that do not have an impact on the election process or the election results so that the election laws and regulations do not have to provide a formulation of sanctions against the perpetrators of the violation. Regarding the decision of the election organizers regarding the determination of the election results, there is a legal issue called an election result dispute. Parallel to that, with the decisions of election organizers that determine the list of voters, election participants, list of candidates for legislative members, campaign schedules and locations, recapitulation of vote counting, and others that fall into the category of non-election results, there are legal issues which can be called election administration disputes.

**Keywords:** Law Enforcement; Election Crimes; Semarang Regency Bawaslu

## INTRODUCTION

The existence of a free and fair election system is one of the fundamental requirements for democracy. If legal instruments regulate how elections are carried out, honest and fair elections can be held; while at the same time safeguarding organizers, candidates, voters, observers, and citizens as a whole from threats of violence, bribery, fraud, and other fraudulent practices that could affect the outcome of the election. Therefore, election officials who are tasked with enforcing these election laws and regulations are necessary for free and fair elections. The numerous violations that could not be resolved and feelings of having been treated unfairly by the organizers were the driving forces behind protests expressing dissatisfaction with the election process and results. This indicates that there are issues with law enforcement in every election administration. On the one hand, parties who believe their constitutional rights have been violated, cheated, or treated unfairly will continue to protest if it is not resolved right away; On the other hand, the resulting protests may ultimately render the election results untrustworthy. Election law enforcement issues must be resolved comprehensively if elections are to be held in an honest and fair manner and if they are not to be delegitimized in the future[1]. The first step is to identify the factors that contributed to the emergence of law enforcement issues. Following that, a comprehensive solution to the issue must be found. This will allow for the establishment of a system of election law enforcement that can ensure free and open elections.

If there are legal instruments that can both regulate all election-related processes and shield organizers, participants, candidates, voters, observers, and citizens in general from fear and intimidation, it is possible to hold free and fair elections, according to international democratic election standards. violence, bribery, and a wide range of other fraudulent practices that will influence the election results. Therefore, electoral laws and regulations, as well as the equipment necessary to enforce these laws, are necessary for free and fair elections. In Indonesia, building an election law enforcement system necessitates not only completing and strengthening existing laws and regulations, but also questioning the efficiency of election law enforcement officials' work. As election administrators, the KPU/KPUD make up the election law enforcement apparatus and are able to penalize those who break election administration rules [2].

Any individual, legitimate substance, or association that deliberately disregards the law, disturbs, impedes, or disrupts an overall political race held as per regulation is at fault for an overall political decision wrongdoing. In addition, election crimes can also be understood as a series of criminal acts committed by election legal subjects during the stages of holding elections, which are governed both inside and outside of election law [3]. Violations by participants and voters, then the implementation of the campaign until voting time, were full of political intrigue based on the political sensitivity of each eligible participant. These general election crimes occurred and were frequently

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encountered in the process of holding elections starting from the initial stages, registration of potential participants, elections and prospective voters, then proceed with the determination of candidates.

General elections are the most obvious form of implementing democracy whether the organizers (Government, KPU, and Panwaslu) or general election participants (the people and candidates) always commit violations, therefore all election violations must be prosecuted, and actions that intend to make the general election becomes undemocratic, that is, dishonest and unfair (Jurdil). As an initial effort by the government to prevent undemocratic actions against the holding of general elections as regulated in the Criminal Code (KUHP) Book II Chapter IV concerning Crimes against the implementation of state obligations and rights, The aforementioned general election is held in accordance with the guarantee of the principle of representation. This means that at every level of government, from the center to the regions, citizens have representatives who sit in representative bodies and will advocate for the people's aspirations [4]. In accordance with the direct principle, voters have the right to vote directly in accordance with their conscience. In general, elections entail providing opportunities to all citizens without regard to race, religion, ethnicity, class, gender, region, occupation, or social status.

Protests of dissatisfaction with the election process and outcomes, motivated by the numerous violations that could not be resolved and the perception that the

organizers had treated them unfairly, demonstrated that there were issues with law enforcement in every election. On the one hand, parties who believe their constitutional rights have been violated, cheated, or treated unfairly will continue to protest if it is not resolved right away; On the other hand, the resulting protests may ultimately render the election results untrustworthy. The issues with upholding election law must be resolved comprehensively if elections are to be held in an honest and fair manner and if they are not to be delegitimized in the future. The first thing that needs to be done is to determine the root causes of issues with law enforcement; After that, a comprehensive solution to this issue is sought, resulting in the establishment of a system of election law enforcement capable of guaranteeing free and fair elections. In particular, the mapping of election law enforcement problems is carried out by reviewing the notions of election law issues as they have been formulated in various laws and regulations and then comparing their implementation practices from election to election[5]. Laws and regulations currently state that violations of election administration, violations of election procedures, violations of election crimes, disagreements regarding election administration, and disagreements regarding election results constitute election law issues.

Every citizen who already has the right to vote is free to choose without being subjected to any form of coercion or pressure. The criminal justice mechanism for these election criminal cases which constitute the criminal justice system

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includes gradual activities, starting with an investigation conducted by the police on the recommendation of Bawaslu, then upgraded to an investigation by police investigators and then carried out by prosecution by the prosecutor's office, examination in court by a district court panel of judges and the implementation of judge's decisions is carried out by correctional institutions, and usually, some are accompanied by advocates/lawyers so that criminal justice can be interpreted as a process of the operation of several law enforcement agencies[6]. The election criminal justice system that is currently widely applied is more prioritizing conventional methods, meaning: only prioritizing the positive laws that are contained and regulated in the law alone, so that the impression is that law enforcers act as "mouthpieces" of the law. In the trial, if the indictment can be proven, the accused will be handed over to the penitentiary to be fostered and returned to the community when his coaching period has finished, but if the indictment is not proven and the judge will release him, then the accused will be returned to the community[7].

## **MATERIALS AND METHODS**

The research is normative in nature. The methodology utilized is a legal methodology (resolution approach) and a reasonable methodology (calculated approach). The wellspring of information is utilizing auxiliary information. A descriptive qualitative method of data analysis was used [8]. Conclusions are drawn using the deductive method, namely wrap up from general to specific, especially those related

to the research topic, namely law enforcement against election crimes. If the empirical data obtained is in the form of a collection of words rather than a series of numbers and cannot be categorized, qualitative data analysis is performed. The data can be gathered in a variety of ways, including interviews, recording instances, and tape recordings. Before being put to use in qualitative research, the transcripts of interviews, data reduction, analysis, data interpretation, and triangulation results are typically processed first.[9].

## **RESULTS AND DISCUSSION**

### **Law Enforcement in Overcoming Election Crimes at the Election Supervisory Body in Semarang Regency**

Activities of law enforcement in the context of enforcing Law No. 8 of 2012, which dealt with the People's Representative Council, Regional Representative Council, and Regional People's Representative Council member elections in general, was passed to settle disputes or prevent election violations. The application of legal remedies, in this instance criminal law, to address social issues, including policies related to law enforcement. because the objective is to improve society as a whole. Social policy includes all rational efforts to maintain public order and welfare, including efforts to deal with election law and criminal law violations. The application of criminal law is not required as a matter of policy. Likewise, because there is no absolutism in policy, it will also affect the functioning of the criminal justice system [10]. It will have to look at and choose from a variety of options, as well as the factors of more

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powerful political forces that affect how criminal law works. Especially with problems related to violations of the Election Law where the political burden or power is far more dominant than the law.

In general, violations are resolved through Bawaslu as an institution that has the authority to supervise every stage of the election. In the implementation process, Bawaslu can receive reports, conduct studies on reports and findings of alleged violations, and forward the findings and reports to the authorized institution. In addition to being based on Bawaslu findings, violations may be reported to Bawaslu, Provincial Bawaslu, Regency/City Panwaslu, and election participants by members of the public with the right to vote no later than seven (seven) days after the occurrence of an election violation, with Bawaslu reviewing reports or findings of violations for three (three) days.

A democratic system that lacks legal certainty will result in anarchy and misery; consequently, democracy must provide all parties seeking justice with legal certainty. Therefore, safeguarding Indonesia's democratic process must place a high priority on the rule of law. Because it is one of the main ways that a democratic country based on Pancasila and the 1945 Constitution under the tutelage of the Unitary State of the Republic of Indonesia can establish legal certainty, parties that are dissatisfied with the outcomes of the KPU's work as election organizers can file election disputes at the Special Election Court[11].

**Reconstruction of Law Enforcement for Election Crime Violations in Semarang Regency Bawaslu Election Based on Justice**

Remaking of policing political decision violations in Regulation Number 8 of 2012 concerning the Overall Appointment of Individuals from Individuals Delegate Gathering, Provincial Agent Chamber, and Local Individuals' Delegate Committee, is divided into two categories, namely in the form of election crimes which are classified as violations (Articles 273 to Article 291), and election crimes classified as crimes (Article 292 to Article 321). There has been a change in the regulation of criminal provisions in the law. Weak law enforcement and many overlapping laws and regulations have resulted in the perpetrators of election crimes being able to walk freely without any sense of guilt or guilt. The role of Bawaslu which is sterile cannot follow up election crime cases to the Court, resulting in justice seekers flocking to the Constitutional Court, on the grounds of money politics and so on [12]. This is due to the distrust of justice seekers in law enforcement officials and the general justice system which is less professional in the jurisdiction itself. For this reason, there is a need to encourage the strengthening of the court's authority by establishing a Special Election Court, so that problems related to election crimes can be resolved.

Bearing in mind that if resolved at the General Court, in this case, the District Court, seeing the heavy burden of handling civil and criminal, and commercial cases, it is impossible to handle cases of election crimes properly. Election management bodies must be guaranteed to be able to work independently. Because the machinery of election administration makes and implements decisions that have

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the potential to influence the outcome of the election, this is a significant issue. As a result, the organization must work within a reasonable amount of time, have sufficient resources, and have sufficient funds available. The size, composition, and duration of EMB members' terms of office ought to be controlled by the legal framework for elections. The relationship between the central EMB and the lower-level electoral bodies and between all electoral bodies and the executive body must also be controlled. Mechanisms for promptly processing, adjudicating, and addressing electoral complaints should be included in the legal framework [2].

The legitimate structure should give powerful lawful components and solutions for the implementation of the option to cast a ballot on the grounds that the option to cast a ballot is a common liberty. As a result, redress through the law for violations of the right to vote is another human right. To safeguard the right to vote, the legal framework for elections ought to include sufficient and specific provisions. If there are allegations of violations of their right to vote, the legal framework ought to make it clear that every voter, candidate, and party has the right to file a complaint with the EMB or the appropriate court. The election law requires the EMB or the qualified Court to render a decision promptly to prevent the loss of the right to choose the victim. The law should establish the right to appeal. The decision of the court at the highest level must be given as soon as possible[10]. The legal framework should regulate how long it takes to consider and decide on a complaint. The time for submitting the decision to the

complaining party must also be determined.

## **CONCLUSION**

The meaning of violations of election administration must be clarified in future election laws and regulations. There are two main categories of administrative violations in this scenario: minor administrative violations and serious administrative violations. Minor administrative violations are those that do not have an effect on the election process or the results, so the election laws and regulations do not need to include any penalties for violators.

Election result disputes are legal issues pertaining to the election organizer's decision regarding the determination of the results. In addition, there are legal issues that can be referred to as disputes with the decisions of election organizers that determine the list of voters, election participants, list of candidates for legislative members, campaign schedules and locations, recapitulation of vote counting, and other non-election results. Administration of elections.

In the election law, violations are referred to as election crimes and are punishable by criminal sanctions. Administrative violations, on the other hand, are violations of the terms, obligations, orders, and prohibitions that are not subject to criminal penalties. Disputes regarding election administration and results constitute the problem of election disputes. When parties are offended by the election organizers' decision to determine the election results, disputes over the results occur.

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## SUGGESTIONS

To impose a sentence, certain conditions must be met. These certain conditions are usually referred to as the elements of a crime. So a person can be subject to punishment if the act committed fulfills the requirements of a crime.

Elections without a free and independent monitoring mechanism and climate will turn elections into mere democratic agendas filled with fraud. As a result, elections that are held from time to time will lose their honesty, which in the end will make the elections, not of high quality. Presumably, it is appropriate if election supervision is seen as the basic and objective need of each election that is held.

The issues with upholding the election law must be resolved comprehensively if elections are to be held in an honest and fair manner and if they are not to be delegitimized in the future. The first step is to identify the underlying causes of problems with law enforcement; After that, a comprehensive solution to this problem is sought, which results in the establishment of an election law enforcement system that is capable of guaranteeing free and fair elections.

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