

Criminal Elections as an Efforts to Embrace Pancasila Democracy Towards Consumer Elections in 2024

Adi Mansar¹ Muhammad Arifin²

^{1,2}Department of Law, Universitas Muhammadiyah Sumatera Utara, Indonesia

ABSTRACT

The election principle of LUBER, JURDIL as mandated by the 1945 Constitution and TSM as the principle of Pilkada is the foundation of democracy that is free from fraudulent practices and justifies all means for each participant (contestant) and all winning teams registered with the KPU and volunteers. The political contestation of the Regional Head Election by winning one party by cheating by a special election supervisory body (Election Supervisory Body) is an event that is detrimental to democracy, both administrative violations and election crimes. Violations that have occurred since before entering the Pilkada stage until the determination of the winner after the calculation of the results of the vote are actions that must be avoided to maintain and maintain peace, unity. Simultaneous Pilkada Year 2024 held on Wednesday, November 27, 2024 was an agreement between the DPR, KPU, BAWASLU and DKPP which had previously been regulated in Law no. 10 of 2016 concerning Pilkada that there will be simultaneous regional elections in 2024. Problems that arise Can Election Crimes Make the 2024 Elections More Integrity? How can Pancasila Democracy realize the 2024 Pilkada simultaneously as a LUBER ELECTION? In order to realize a clean and authoritative government, it must start from elections with integrity and elections with integrity can be realized, one of which is the strict and fair enforcement of criminal law. Through direct elections, Pancasila democracy can be realized.

Keyword: Election; Pancasila; Democracy.

Corresponding Author:

Adi Mansar,
Department of Law,
Universitas Muhammadiyah Sumatera Utara, Indonesia
Email: adimansar@umsu.ac.id



1. INTRODUCTION.

The General Election Commission (KPU) and the Government have agreed that the Regional Head General Election (PILKADA) will be held simultaneously in November 2024 throughout Indonesia (Law number 10 of 2016 concerning simultaneous regional elections in accordance with Article 201 paragraph 8). This is one of the mandates of the decision of the Constitutional Court (MK) contained in Decision Number 55/PUU-XVII/2019 on February 26, 2020. The MKRI decision is final and binding, there is no legal remedy that can be taken so that all Indonesian people are obliged to obey it and carry it out. Pilkada in this country is synonymous with local democratic parties, so that the illustration of the party will be many activities that require all kinds of party equipment, ranging from the event organizer (KPU), and Bawaslu, as well as the contestants. Pilkada as stated in Law Number 10 of 2016 concerning Pilkada and all of its derivatives have adopted all the values of the Indonesian people who believe that the election must be in accordance with the Azas LUBER and JURDIL (direct, general, free of secrets and honest and fair) as mandated Article 22E paragraph (6) of the 1945 Constitution, as well as developing the principle of TSM (Systematic and Massive Structured).

The birth of the principle of the general election and local elections of LUBER, JURDIL and TSM as the foundation for upholding democracy and being free from fraudulent practices and justifying all means for each participant (contestant) as well as the entire winning team registered with the KPU and

volunteers. We know that the political contestation of the Pilkada runs with high political tension and it is scary for every party involved in the ranks to win one party with various frauds, why is it scary because the election is supervised by a special agency (Election Oversight Body) which is also called part of the Election Supervisory Body. election organizers/elections.

Bawaslu is the General Elections Supervisory Body as regulated in chapter IV of Law Number 15 of 2011 concerning General Election Organizers and Bawaslu has duties and authorities in accordance with Law no. 7 of 2017 concerning General Elections, one of which is to prevent and take action against Election Violations and Election Process Disputes.

The 2024 Pilkada is scheduled to take place on 27 November 2024 as the Legislature, especially Commission II together with the Government and the Election organizers (KPU) have agreed to take place on Wednesday (27-11-2024), in accordance with the decision of the meeting which was also attended by BAWASLU and the Honorary Board of Organizers. Election (DKPP) on June 3, 2021, according to information from Luqman Hakim, Deputy Chair of Commission II of the DPR RI, on June 4, 2021, at the DPR RI Building, Jakarta. And Luqman Hakim further emphasized that in addition to the voting day, the preparation period also called the agreed stages to start 25 months before the voting day, namely March 2022 and the basis for nomination for the 2024 Pilkada will be based on the results of the 2024 Legislature. (DPR RI 201:1). The problem that becomes important to be resolved ahead of the 2024 Pilkada is the term of office of the KPU at the Provincial and Regency/Municipal KPU levels which will end in 2023 and 2024 and 2025. Because according to the author this will greatly disrupt the quality of the election results later, the factor is because lack of time for organizers to conduct technical guidance for their members, so that the stages of the journey are often not guided by the new regulations, but are guided by the old regulations.

The Pancasila democracy that we have practiced so far has been based on the 4th Precept of "People led by wisdom in representative deliberation". Since the reformation, we have agreed that the election of regional heads and heads of state is carried out directly based on the Pilkada Law and the Election Law. As an executor where the level of understanding is different between each individual, it can result in potential election violations by the organizers of both election and administrative crimes. To realize quality, dignified and fair Pilkada, there must be criminal sanctions for any perpetrators of violators of the Pilkada criminal provisions.

Election and Administrative Crimes are sanctions that are strictly regulated in Law Number 10 of 2016 concerning Regional Elections, to continue the ideals of the originator of direct general elections as we are now talking about. The disqualification sanction for the candidate pair is again a public/community concern with the hope that BAWASLU will disqualify on the basis that the formal and material requirements are not met or because there is an administrative violation. For incumbent candidates who will re-enter the election contest at the same place, there are several administrative provisions that prohibit actions and actions because they can be subject to sanctions in the form of disqualification, for example, there is a prohibition on each incumbent candidate being prohibited from mutating six (6) months before the determination of the candidate pair, it is prohibited use local budgets to support the incumbent winning program. In general, it is prohibited to carry out money and power politics and to promise something to voters to influence voters and support the Paslon, because this is an election crime. If in one area the incumbent will fight with an empty box, empirically the only one that can act to represent the legal interests of the voting community is an independent monitoring agency that has been accredited or certified.

Independent Monitoring Institutions are highly expected to emerge from the community as a movement to oversee the implementation of the PILKADA to be more dignified, because we have seen the fact that how many regions are conducting PILKADA by fighting empty boxes, because there is only one PASLON that competes and our constitution requires the implementation of PILKADA by voting, face an empty square or no opponent. The absence of opponents in the PILKADA is a fact that must still be carried out by the organizers which legally only the Election Monitoring Agency can represent the empty box in submitting an objection or until an application to the Constitutional Court in the name of the legal interests of the community. The existence of an Independent Monitoring Agency based on Law no. 10 of 2016 concerning ELECTIONS, especially Articles 123-130 while the General Elections are based on Law Number 7 of 2017 Articles 435-447 and PERBAWASLU Number 4 of 2018 concerning General Election Monitoring. By law the Independent Election Monitoring Agency must obtain accreditation from the Provincial/City Regency KPU, while election observers must obtain accreditation from the BAWASLU.

The Election Monitoring Agency must meet administrative requirements if it is to become an PILKADA monitoring institution, by filling out the form and submitting the administration to the Provincial KPU and Regency/Municipal KPU and doing the following:

1. Organizational profile of the monitoring agency;
2. Name and number of monitoring members;
3. Allocation of monitoring members for the election of governors, regents, mayors and each sub-district;
4. Plan, Schedule of Election Monitoring activities and areas to be monitored;
5. Name, address and occupation of the management of the election monitoring agency;
6. Recent photograph of the management of the election monitoring agency;
7. Statement letter regarding the source of funds signed by the Chairperson of the Election Monitoring Agency;
8. A statement regarding the independence of the monitoring agency signed by the head of the Election Monitoring Agency;
9. A statement or experience in the field of monitoring from the monitoring organization concerned or from the government of another country where the person concerned has conducted monitoring for foreign election observers (KPU Help desk Banjaru.go.id).

Sociologically, the Sociologically Single Candidate in the regional election in Indonesia has proven that there are only one pair of candidates, this fact leads to legal action in the form of making it easier to win the existing candidate pair, therefore the existence of a single candidate is very worrying from the point of view of democracy and law. Democratically, it is very illogical if democratic events such as the election of Mayor/Deputy Mayor, Regent/Deputy Regent, Governor/Deputy Governor are only followed by one pair of candidates. In fact, the emergence of a single candidate in the regional head contestation is due to:

- Political parties have been bought up by one candidate pair, so that there is no time to advance individually;
- Certain pairs of candidates bought up a number of seats and left several seats which were not legally required to support one more candidate,-
- Candidates who advance from the individual path are often difficult in terms of factual verification of support in the field, -
- Candidates who come forward from the individual path when submitting objections through the BAWASLU route, if they still object to take the PT-TUN (High State Administrative Court) and the Supreme Court which require a lot of positive energy.

The emergence of a single candidate in the PILKADA event to date can be seen in the table below:

Table 1. Single Candidate Pilkada

No	Elections in 2020	Information
01	Kab. Humbang Hasundutan	Sumut
02	Kota Gunung Sitoli	Sumut
03	Kota Pematang Siantar	Sumut
04	Kab. Pasaman	Sumbar
05	Kab. Ogan Komering Ulu	Sumsel
06	Kab. Ogan Komering Ulu Selatan	Sumsel
07	Kab. Bengkulu Utara	Bengkulu
08	Kab. Boyolali	Jawa Tengah
09	Kab. Grobogan	Jawa Tengah
10	Kab. Kebumen	Jawa Tengah
11	Kota Semarang	Jawa Tengah
12	Kab. Sragen	Jawa Tengah
13	Kab. Wono Sobo	Jawa Tengah
14	Kota Kediri	Jawa Timur
15	Kab. Ngawi	Jawa Timur
16	Kab. Badung	Bali

17	Kab. Sumbawa Barat	NTB
18	Kota Balikpapan	Kalimantan Timur
19	Kab. Kutai Karta Negara	Kalimantan Timur
20	Kab. Gowa	Sulawesi Selatan
21	Kab. Soppeng	Sulawesi Selatan
22	Kab. Mamuju Tengah	Sulawesi Barat
23	Kab. Monogwari Barat	Papua Barat
24	Kab. Arfak	Papua Barat
25	Kab. Raja Ampat	Papua Barat

In our opinion (the author) constitutionally, although it is justified that there is a single candidate pair in the PILKADA, it does not reflect the values of Pancasila, especially the Fifth Precept "Social Justice for All Indonesian People". Moreover, political conditions at the local level are not like national politics which are monitored openly and always have access to study them holistically. Based on the data above, the single candidate who won the PILKADA did not educate the public democratically and tended to have minimal political innovation at the regional level, because all of them were deemed to agree and all decisions made by the government were deemed to be in accordance with the will of the people..

2. METHODOLOGY AND THEORETICAL FOUNDATION

A. Methodology.

This paper uses a descriptive research method aimed at describing existing phenomena, both natural phenomena and man-made phenomena. The phenomenon can be in the form of forms, activities, characteristics, changes, relationships, similarities and differences between one phenomenon and another. According to whintney (1960) the long process of collecting facts must be in accordance with the interpretation of the right data. Sukmadinata (2006) mentions the character of research that specifically reveals various social and natural phenomena that exist in people's lives. Descriptive research focuses on actual problems as the topic that is currently being discussed, namely "CRIMINAL ELECTIONS AS AN EFFORTS TO EMBRACE PANCASILA DEMOCRACY TOWARDS Simultaneous ELECTIONS IN 2024".

In 2020 as the last election event that we are participating in, many problems arise that must be administratively and legally resolved, one of which is the enforcement of criminal and administrative law which is given its authority to the Election Supervisory Body as long as the incident is still in the election process. Money politics, unscheduled campaigns, involving children, using public facilities in campaigning, using money or assistance from foreigners, non-neutrality of organizers and disrupting election facilities must all receive strict legal action. Because the elections in 2024 will simultaneously be held in 34 provinces, 416 districts, 98 cities. For the island of Sumatra, there are 10 provinces, 120 regencies and 34 cities.

B. Studi Literature.

Since the start of the implementation of independent regional elections whose authority is given to the General Election Commission in their respective regions, there have been many incidents that have harmed democracy due to administrative violations and election crimes that require firm action with the aim of not harming democracy because it justifies any means in order to win. Violations that occurred before entering the Pilkada stage until the determination of the winner after the calculation of the results of the vote. Law enforcement is an activity to harmonize the relationship of values that are outlined in the principles/views of values that are solid and manifest and act as a series of final stages of value elaboration to create, maintain and maintain peace. According to Satjipto Raharjo, law enforcement is a series of processes to describe values, ideas, ideals that are quite abstract which are the goals of law (Lecturer of Sociology. Com: 2).

Jimly Asshiddiqie is the process of making efforts to enforce or actually function legal norms as guidelines for behavior in traffic or legal relations in social and state life. The definition of law enforcement can also be viewed from the point of view of the object, namely in terms of the law. In this case the meaning also includes a broad and narrow meaning. In a narrow sense, law enforcement includes the values of justice that live in society. However, in a narrow sense, law enforcement only concerns the enforcement of formal and written regulations.

(Ad Mansar)

([http://www.jimly.com/makalah/namafile/56/enforcement law.pdf](http://www.jimly.com/makalah/namafile/56/enforcement%20law.pdf) on Friday, 19 March 2021 at 15.24). Furthermore, law enforcement is conceptually enforced in the activity of harmonizing the relationship of values that are described in good rules which are manifested in a series of values to create, maintain and maintain peaceful social life. There are several factors that are the essence of law enforcement, including:

1. Law
2. Law enforcers, namely the parties that form and apply the law.
3. Facilities or facilities that support law enforcement.
4. Society, namely where the law is applied.
5. Cultural factors, namely as a result of creative works and feelings based on human initiative in social life.

In general, law enforcement has been determined by parties who have special authority, both law enforcers in general and law enforcers in particular. In the practice of enforcing criminal law, in general, investigations are still given to the Investigating Institution of the Police, so that the role of the National Police is always known as an investigator. Likewise in the case of law enforcement for regional elections which regulates criminal sanctions for perpetrators of law violators relating to regional elections. Election crimes/elections are specifically regulated in accordance with the Election/Pilkada law, which we know of the special institutions involved, one of which is Bawaslu as the institution that provides recommendations or who forwards reports or findings related to crime to the Police. As has happened so far, the election criminal law enforcement (GAKKUMDU) consists of elements, BAWASLU, Police elements, and Prosecutors.

3. DISCUSSION

In 2024, Elections will have more integrity with the strengthening of supervisory institutions as has so far been carried out by BAWASLU, especially in the enforcement of election criminal law. During the 2020 Pilkada process until the announcement of the winner of the Governor, Regent and Mayor, 2,126 cases of violations were recorded. The case relates to the involvement of the state civil apparatus (ASN) as many as 1,166 cases, while in the pilkada stage there were 458 cases (WWW. Bawaslu. go.id). Of the total recorded cases, 368 cases were given written warnings, warnings not to repeat and taking certain actions, including placing attributes in prohibited places. There were 1400 cases of violations at the election stage and 1136 cases of which were processed by Bawaslu and its staff. Of the 1,400 cases that occurred during the pilkada stage, 6 cases were recommended for disqualification of candidates who violated the law. In addition to the above violations, the Constitutional Court of the Republic of Indonesia (MKRI) received registered election disputes as many as 134 cases, which were tried by the MKRI until the proving process was 35 cases, 21 of which fulfilled the provisions of Article 158 of the Regional Election Law regarding the percentage difference in results, then the rest of the applications received were up to the subject matter even though it does not meet the provisions of Article 158 paragraph (2) of the Regional Head Election Law.

The experience of 2020 was sufficient to serve as an evaluation material to improve the quality of election results and the upcoming 2024 PILKADA, although law enforcement officials still need to be given special education in general elections and local elections in order to better understand the philosophy of elections and the upcoming elections. The apparatus that the author mentions are as follows:

1. BAWASLU from the center to the district level and assistants at the village level,-
2. The police who are directly dealing with at the lower level, are officers who reside in the POLSEK and POLRES, they should be given more direction to focus on election law and pilkada,-
3. Judicially, the Attorney General's Office is given strengthening and enlightenment, so that they are more active in fostering officers at the village level.
4. KPU and its staff up to the village level need organizational and structural refreshment to provide healthy competition.
5. DKPP, with its tiered authority, does not provide legal certainty, so that DKPP is no longer allowed to regulate itself, let alone delegates from each institution, such as BAWASLU, KPU. The envoys of this institution greatly interfered with the examination process and the euphakeuh attitude still applies in it.

Quantitatively, the number of cases in the form of election violations and criminal acts cannot be tolerated because they damage the image and quality of election results and elections which drain the

state budget and involve all potential state law enforcers. The results of a study by election law activists in North Sumatra carried out by the Adi Mansar Law Institute (AMLI) showed that election violations and crimes occurred as a result of:

- a. Due to the intervention of election officials and there is still discrimination in law enforcement.
- b. Due to the lack of legal understanding of the community about elections.
- c. Election legal sanctions are considered too low.
- d. Lack of election law enforcement personnel. (Scientific speech Dr. Adi Mansar, SH., M. Hum: 2).

Pancasila democracy was realized in the simultaneous elections of 2024 in accordance with the principles of Direct General, Free of Secrets (LUBER) and Honest and Fair (JURDIL) nor did it violate the principles of being structured, systematic and massive (TSM) which could damage the foundations of the elections. Pancasila as the philosophy of the Indonesian nation must be understood as a divine rule, to get public support it is mandatory to follow every prohibition and order that has been set. Every good and bad deed must be accounted for later in the final court. Pilkada must uphold human values, one of which is not justified to harm other humans by cheating to win a battle at all costs, but must also have etiquette, there must be ethics, there must be shame and a sense of tolerance among the children of the nation. Indonesia as a nation that is diverse in terms of religion, culture, ethnicity, language, is our strength as a country that recognizes *Bhinneka Tunggal Ika*, even though they are different, is still one, for that the unity of Indonesia must still be cared for and nurtured so that it becomes strong and politically becomes an example for other nations in the world, that Indonesia is a democratic country based on Pancasila and the 1945 Constitution. The unity of Indonesia with a multi-party system makes it possible that opportunities will be more open for anyone who has the desire to become a leader without worrying about losing because of the issue of "SARA".

Elections and Pilkada are an arena for clashing ideas and programs, but we often hear about "SARA" issues and black campaigns with the aim of degrading one of the candidates who is considered a strong opponent in the contestation. Black campaigns and attempts to convey news about political opponents incorrectly are forms of treatment that violate the rules that must be taken decisively and seriously, both administratively and criminally.

Pancasila democracy as a middle way to prosperity and peace and glory that is second to none in the world must prioritize the interests of the people over the interests of groups and groups, especially personal interests which were previously carried out in a direct manner as a factor in the birth of election violations and criminal acts. Our society must still be invited to always obey the principles and the truth and must dare to refuse if there is an attempt to win the sympathy of the voters by violating ethics and against the law.

The high number of cases in the 2020 Pilkada is quite a concern for the 2024 PILKADA, which has more participants because all of Indonesia is divided into 34 (thirty-four Provinces) and then divided into districts and cities. Among others:

- a. Pulau Sumatera.
 1. Provinsi Aceh terdiri atas 18 Kabupaten dan 5 kota.
 2. Provinsi Sumatera Utara terdiri atas 25 Kabupaten dan 8 Kota
 3. Provinsi Sumatera Barat terdiri atas 12 Kabupaten dan 7 Kota.
 4. Provinsi Riau terdiri atas 10 Kabupaten dan 2 Kota.
 5. Provinsi Riau Kepulauan terdiri atas 5 Kabupaten dan 2 kota.
 6. Provinsi Jambi terdiri atas 9 Kabupaten dan 2 kota.
 7. Provinsi Sumatera Selatan terdiri atas 13 Kabupaten dan 4 kota.
 8. Provinsi Bengkulu terdiri atas 9 Kabupaten dan 1 kota.
 9. Provinsi Kepulauan Bangka Belitung terdiri atas 6 Kabupaten dan 1 kota.
 10. Provinsi Lampung terdiri atas 13 Kabupaten dan 2 kota.
- b. Pulau Jawa
 11. Provinsi Banten terdiri atas 4 Kabupaten dan 4 kota.
 12. Provinsi Jakarta terdiri atas 1 Kabupaten dan 5 kota.
 13. Provinsi Jawa Barat terdiri atas 18 Kabupaten dan 9 kota.
 14. Provinsi Tengah terdiri atas 29 Kabupaten dan 6 kota.

4. ANALYSIS

In accordance with law enforcement theory, it is very appropriate as an analytical knife because it is clear that law enforcement theory is concretely positive in practice that must be adhered to. So giving justice in a case means deciding the law in concreto in guaranteeing and maintaining the observance of the material law by using the presedural method established by the procedural law (formal). The procedure for handling election crimes at the investigation level is in accordance with Article 2 letter b of Perma No. 1 of 2018 stipulates that district courts and high courts have the authority to examine, try and decide on election crimes that arise due to reports of alleged election crimes that are forwarded by BAWASLU to the Police no later than 1x24 hours after Bawaslu declares that the acts or actions that are suspected to be election crimes.

The strategic and very important role of the existence of BAWASLU and the enforcement of election law greatly determines the integrity of the Pilkada and Pilkada organizers, because it requires the seriousness and sincerity of every BAWASLU personnel to enforce the Election/Election law in order to create legal certainty and justice. Pancasila justice is the right choice to be realized and enforced in the elections in 2024 because the number of contestants is estimated at 1500 pairs of candidates or more than that number. Mathematically, there are 34 provinces in the governor election, it is estimated that there will be 100 pairs of candidates who will take the opportunity, the number of districts in Indonesia is 416 districts that will re-elect the regent and deputy regent which is expected to be followed by 1200 pairs of candidates, while the number of cities is 97 cities which will conduct the elections in 2024. It is estimated that 300 candidates will participate. Quantitatively, governors, regents and mayors totaled 547 regions which were simultaneously implemented with an estimated 1600 pairs of candidates throughout Indonesia. We hope that each pair of candidates does not make a mistake even once, because if each pair of candidates commits only one violation, then the minimum number of violations is 1600 cases and multiples of it apply depending on the readiness of BAWASLU and GAKKUMDU to process it. The potential for criminal acts and violations of the very large PILKADA administration can quantitatively affect the injury to the simultaneous implementation of the elections in 2024 in Indonesia, but there is still hope for Pancasila Democracy as a reference to be guided and followed.

5. CONCLUSION

The simultaneous 2024 regional elections in 547 regions throughout Indonesia must be the attention of all parties involved in the regional elections, from organizers, monitors and research institutions and the public, which is no less important, namely political parties. One of the notes is the need for Bawaslu to be serious in researching and following up on every report and finding of election violations considering that legal issues, both administrative and criminal, must start with Bawaslu, if Bawaslu does not provide recommendations and follow up on violations, the quality of the elections will be low and non-existent. his integrity. The 2024 Pilkada must simultaneously be held in a LUBER JURDIL manner and free from TSM violations, Bawaslu must be more courageous in taking action against every perpetrator of both administrative and criminal violations for the sake of realizing the Pancasila democracy that we hope for.

References

- Dosen sosiologi.com, diposting pada 27 April 2018, diakses tanggal 19 Maret 2021.
Luqman Hakim, Wakil Ketua Komisi II DPR RI, tanggal 4 Juni 2021.
Laboratorium Hukum Adi Mansar Law Institute (AMLI), Medan, Januari 2021.
HelpDesk KPU Kota Banjarbaru Tahun.kpu.go.id
Satjipto Raharjo, 2002, Sosiologi Hukum:Perkembangan Metode dan Pilihan Masalah, Sinar Grafika, Yogyakarta.
Undang-undang Nomor 10 Tahun 2016 dalam Pasal 201 ayat 8 disebutkan Pemungutan suara serentak nasional dalam Pemilihan Gubernur dan Wakil Gubernur Bupati dan Wakil Bupati Wali Kota dan Wakil Wali Kota diseluruh wilayah Negara Kesatuan Republik Indonesia dilaksanakan pada bulan November 2024.
UUD Tahun 1945 yang menjelaskan "Pemilihan Umum untuk memilih anggota DPR, DPD, DPRD, diselenggarakan berlandaskan azas langsung, umum, bebas, rahasia, jujur, dan adil setiap lima tahun.
UU No. 7 Tahun 2017 Tentang Pemilu.
[WWW.Bawaslu.go.id](http://www.bawaslu.go.id)
<http://www.jimly.com/makalah/namafile/56/penegakan hukum.pdf> pada hari jumat, 19 Maret 2021 Pukul 15.24.