

## EFFECTIVENESS OF THE FUNCTION OF THE TERAPDU LAW ENFORCEMENT CENTER (GAKKUMDU) IN HANDLING ELECTION CRIMES

Mhd Teguh Syuhada Lubis<sup>1\*</sup>

<sup>\*1</sup> Universitas Muhammadiyah Sumatera Utara

<sup>\*1</sup>email: [mhdteguhsyuhada@umsu.ac.id](mailto:mhdteguhsyuhada@umsu.ac.id)

**Abstract:** At every stage of the election, problem after problem always arises even though various anticipatory steps have been taken by the organizers. In fact, it is still a matter of discussion among election organizers and observers about the effectiveness of election criminal law enforcement. To maximize the implementation of law enforcement, there must be a state agency that oversees each case and assists in carrying out the functions of the state agency. Efforts to enforce the law in cases of election crimes will be coordinated by the Police, Prosecutor's Office and Panwaslu by establishing an Integrated Law Enforcement Center (Sentra Gakkumdu), where this law enforcement center functions to make the coordination role between the relevant institutions more effective in handling every violation. election crimes. The effectiveness of resolving election crimes by Gakumdu. In Law 15 of 2015, there is no regulation regarding the task of submitting suspected election crimes to the Gakkumdu Center. In Law 7 of 2017, it is explicitly stated that Bawaslu is tasked with reporting alleged election crimes to the Integrated Law Enforcement Center (Gakkumdu), article 93 letter I of Law 7 of 2017. against Massive Systematic Structured Money Politics (TSM) violations.

**Keywords:** Gakkumdu, Elections, Election Crimes.

### Introduction

A democratic state is the form of state that is dreamed of by every society, because every society wants freedom to express opinions and make choices, and one of the conditions for being classified as a democratic state is the existence of a general election system in which the people's representatives are determined to lead the state. to achieve the nation's ideals, General Elections or what can be called elections are a series of democratic parties that exist between the people and the state itself, to carry out the election program the community has a role in determining the future of the nation by electing the country's leaders and electing the people's representatives in government and can hold general elections, so that general elections can occur that are based on honesty and justice (Fahmi 2012).

General elections are honest and fair and can be trusted with the availability of legal instruments and managing election problems and protecting the organizing apparatus, candidates, election supervisors and the citizens themselves (Sarosa, 2011). As in the 1945 Constitution of the Republic of Indonesia Article 2 paragraph (1) that "sovereignty is in the hands of the people and is implemented according to the Constitution", from the above law it is clear that the people have the highest sovereignty, and the community has obligations, responsibilities and has sovereignty in choosing a leader who will take care of every state affair and serve every interest of the people of the country who have given him the right to elect him.

At every stage of the election, problem after problem always arises even though various anticipatory steps have been taken by the organizers. In fact, it is still a matter of discussion among election organizers and observers about the effectiveness of election criminal law enforcement. In

Articles 476 to Article 487 of Law no. 7 of 2017 concerning General Elections has regulated the mechanism for handling criminal acts in the 2019 Election, starting from procedures for handling and special councils for election crimes, to integrated law enforcement centers (gakumdu centers). In Law no. 7 of 2017 also, there are no less than 67 articles containing election criminal provisions. much more than Law no. 1 of 2015 concerning Stipulation of Government Regulations in Lieu of Law no. 1 of 2014 concerning the Election of Governors, Regents and Mayors into Law as amended several times, most recently with Law no. 10 of 2016 which only contains 22 articles of criminal provisions.

In general, regulations that protect every right and accompany the implementation of a healthy democracy and protect against violence, intimidation, fraud, infiltration, vandalism and various other violating behaviors that will disrupt and influence the results of the election itself, therefore to achieve an honest election and fair, it will require the existence of election laws and regulations along with the competent authorities to act to enforce these general election laws. So that it does not give rise to fraudulent practices that often occur in law enforcement, in law enforcement what law students must pay attention to are the factors that influence when analyzing the problems that exist in law enforcement.

To maximize the implementation of law enforcement, there must be a state agency that handles every case and assists in carrying out the functions of the state agency in accordance with the laws and regulations and the General Election Supervisory Body, which is usually called Bawaslu, is an institution that organizes general elections and has the authority to supervise the implementation of General Elections throughout the region. The Unitary State of the Republic of Indonesia. Bawaslu membership itself is explained in Law Number 7 of 2017 concerning the Implementation of Elections, which regulates members, supervision, protection during elections, and each Bawaslu member in each city is 3 to 5 people per city. As well as Bawaslu members themselves consist of various professional groups who have expertise in carrying out election supervision and also Bawaslu members who are tasked with supervising are not members or tied to positions in political parties (political parties). In exercising their authority, Bawaslu members are assisted by the Secretariat General of the General Election Supervisory Agency.

For example, Law Number 7 of 2017 concerning general elections clarifies the government's seriousness regarding the aspects of following up and eradicating election crimes through the establishment of an Integrated Law Enforcement Center or known as the Gakkumdu Center (Prakoso. 1987). Efforts to enforce the law in cases of election crimes will be coordinated by the Police, Prosecutor's Office and Panwaslu by establishing an Integrated Law Enforcement Center (Sentra Gakkumdu), where this law enforcement center functions to make the coordination role between the relevant institutions more effective in handling every violation. election crimes.

## Literature Review

### 1. Gakkumdu

After the formation of the Gakkumdu in enforcing non-criminal elections since 2004, when the direct presidential election changed the rhythm of democracy, which was initially a guided democracy, citizens could elect members of the Regional People's Representative Council (DPRD) which was in the regional representative council and one of its tasks was to make and ratifying regional regulations, the Regional Representative Council (DPD) representing each region does not go through the election of political parties, the People's Representative Council (DPR) which represents the people in making and passing laws and regulations, and also elects the President and his deputies directly (Fahmi, 2012) .

Since the direct elections in 2004 and the elections in 2009 which made Bawaslu pressured by the large number of reports and the rampant money politics that adorned the Democratic Party

in Indonesia, Bawaslu as the supervisor of the General Election process formed Sentar Gakkumdu to oversee the enforcement of criminal acts in the implementation of general elections in order to achieve fair general elections. orderly and fair, in the formation of Gakkumdu in handling election fraud, the Gakkumdu membership body itself was formed from Bawaslu, the Police and the Attorney General's Office as members in the Gakkumdu center, so it could be interpreted that the Gakkumdu Center is a center formed from a combination of three powers, namely the Attorney General's Police. and bawslu.

By combining the three powers of Bawaslu, the police and the prosecutor's office, a center for enforcing election criminal acts (Gakkumdu) is formed. Republic of Indonesia, members of the Gakkumdu center also come from the National Police of the Republic of Indonesia as investigators and prosecutors come from the Attorney General's Office of the Republic of Indonesia.

## 2. Election Organizer

Election organizers according to Law No. 7 of 2017 concerning General Elections Article 1 are institutions that organize elections consisting of the General Election Commission, the Election Supervisory Body, and the Election Organizing Honorary Council as a unified function of the Election Organizer to elect members of the People's Representative Council, members The Regional Representative Council, the President and Vice President, elect members of the Regional People's Representative Council and regional heads directly by the people. Furthermore, election organizers are regulated in Book Two of Law No.7/2017, where Chapter I regulates the KPU starting from Article 6 to Article 88, Chapter II concerning Election Supervisors (Bawaslu) starting from Article 89 to Article 154, and Chapter III concerning the Council The Honor of Election Organizers (DKPP) starts from Article 155 to Article 166.

The General Election Commission, hereinafter abbreviated as KPU, is an Election Organizing institution which is national, permanent and independent in carrying out elections. The term of office for members of the KPU, Provincial KPU, Regency/City KPU is for 5 (five) years and after that they can be re-elected for only one term of office at the same level. Supervision of the implementation of elections is carried out by the Election Supervisory Body (Bawaslu).

Bawaslu is an election organizing institution that supervises the implementation of elections throughout the territory of the Unitary State of the Republic of Indonesia. The Election Organizer Honorary Council, hereinafter abbreviated as DKPP, is the institution tasked with handling violations of the Election Organizer's code of ethics. Article 155 paragraph (2) reads: "DKPP was formed to examine and decide on complaints and/or reports of alleged violations of the code of ethics committed by KPU members, Provincial KPU members, Regency/City KPU members, Bawaslu members, Provincial Bawaslu members and Bawaslu members Regency/City."

## Method

A study cannot be said to be research if it does not have a research method (Koto & Faisal 2021). The research method is a process of collecting and analyzing data that is carried out systematically, to achieve certain goals. Data collection and analysis is carried out naturally, both quantitatively and qualitatively, experimentally and non-experimentally, interactively and non-interactively (Koto, 2020). The research method used is normative juridical research, namely legal research conducted by examining literature or secondary data (Koto & Zainuddin 2022). In qualitative research, the process of obtaining data is in accordance with the research objectives or problems, studied in depth and with a holistic approach (Rahimah & Koto, 2022).

## Result and Discussion

### 1. Gakkumdu's position in holding elections

The formation of the Gakkumdu Center membership, the role of Bawaslu as a supervisor and as a reporter or receiving reports regarding alleged election crimes in the implementation of general elections, the Gakkumdu Center itself has a legal umbrella, namely Law Number 7 of 2017 concerning General Elections, Between Bawaslu, Prosecutor's Office, Police which discusses the stages of handling election crime violations which are the duties, functions and authorities of the Gakkumdu Center in handling election crime violation cases through several mechanisms, namely:

- a. through receipt of reports or findings;
- b. review of election criminal cases;
- c. submission of the results of the report/findings to the Provincial Bawaslu.

The General Election Supervisory Body receives reports/findings from participants, the public or the success team as well as general election observers/supervisors who are indicated to have committed violations of election crimes. When Bawaslu receives a report/finding of an election crime, Bawaslu as the recipient of the report/finding will forward the results of the report/finding into a complaint form and if it is a finding, it will be stated in the finding form. After receiving the report/findings, Bawaslu as the recipient of the report/findings will carry out coordination with the Gakkumdu center so that they can receive the report/findings so that they can follow up and will follow up on the discussion regarding the report/findings by involving Bawasli, as well as the Police and Prosecutor's Office, so that the results agreement on whether the case is considered an election criminal act or other election violations (Triono, 2014).

In relation to the enforcement of election crimes, the Gakkumdu Center is a unitary institution that does not allow an institution to dominate or have more rights (verogative) in determining decisions relating to alleged violations which fall into the category of election crimes. Rather, the decisions issued by the Gakkumdu Center are decisions. which operates together, namely Bawaslu, Police and Prosecutor's Office in accordance with their respective institutional functions and duties.

The role of the Gakkumdu Center in the Bawaslu institution is to resolve election criminal violations, Bawaslu as a body that is ordered to supervise the implementation of elections, if in its supervision it finds suspected election criminal violations, then it must be resolved within the Gakkumdu Sengtra, within the Gakkumdu Center membership consists of 3 ( three) institutional elements, namely: Bawaslu, Police, and Prosecutor's Office. The existence of three elements within the Gakkumdu Center so that cases of election crime violations can be quickly resolved. So that every suspicion of election crime must be discussed jointly between Bawaslu, the Police and the Prosecutor's Office.

To enforce election crimes, the police act as executors because in the criminal procedural law the police carry out inquiries and investigations into reports/findings submitted by Senta Gakkumdu members from election supervision (Bawaslu) after cases are processed and proven to violate election crimes, which will be forwarded to The prosecutor's office has the authority to prosecute violations that are proven to violate criminal acts of election and prosecute these violations in court.

In order to resolve the enforcement of general election crimes, only a limited period of time is given because election crimes are not a type of general crime which has a longer period of time, so from the law enforcement department itself there must be a joint agreement and discussion regarding the case being faced, as well as every case that It is in the Gakkumdu that the decision is issued through the district court, in order to minimize differences in understanding regarding the case at hand between the prosecutor's office, police and Bawaslu, there must be good coordination. As well as the main function of the Bawasli in the Gakkumdu center membership is to enter and

sort cases between ordinary crimes and election crimes. The task and authority of the Prosecutor's Office is as an advisor to the members of the Gakkumdu Center, explaining issues regarding lawsuits/actions if they are court-oriented in handling every election crime violation, implementing the pattern of handling election crimes, collecting data, in improving work and, monitoring and evaluating problems, detailed with standard operational procedures (SOPs) which regarding the pattern of enforcing election crimes can be expected to be an effective, efficient and most importantly based on justice, Sentar Gakkumdu has operational standards and has mechanisms for handling election crimes, there are (three) stages in handling election crimes, namely:

a. Bawaslu receives reports/findings of election crimes, then reviews the issues encountered after the files and evidence are sufficient and then submitted to the police with a complaint form from Bawaslu.

b. The police receive allegations of election crimes submitted by Bawaslu, then the police serve as investigators/investigations regarding election crimes submitted by Bawaslu within 24 hours (at most) from receiving the report or findings provided by Bawaslu, after that the police follow up on findings/reports provided by Bawaslu.

c. The prosecutor's office receives the results of the investigation and carries out prosecutions against violators of election crimes.

Regarding the function of the Police themselves, the Gakumdu Center in enforcing election crimes carries out investigations and inquiries regarding alleged violations of election crimes. The relationship between the police in handling election crimes, which has been handed over from Bawaslu to the police, if in the course of carrying out investigative studies and investigations it is proven that they have committed election crimes, then the police will hand it over to the prosecutor's office to be prosecuted and litigated in court, but if the findings do not support the case. This is not an election criminal act but rather other violations such as code of ethics issues or civil matters and so on..

## **2. Effectiveness of Handling Election Crimes by Gakkumdu**

Election Law Number 7 of 2017 concerning Elections shows the government's seriousness in eradicating election crimes through the formation of Gakumdu. Gakkumdu as an integrated law enforcement center has an important role in handling election crimes. Article 486 point (1) explicitly explains the purpose of establishing Gakkumdu to equalize the understanding and pattern of handling election crimes by Bawaslu, the National Police of the Republic of Indonesia, and the Attorney General's Office of the Republic of Indonesia.

In Law no. 7 of 2017 concerning Elections has given great authority to Election Supervisors in order to supervise the implementation of elections. The authority to handle violations is given to election supervisors, in this case Bawaslu according to their level, but there is a process that must be passed, because the implementation of this duty and authority must rely on three things, namely authority, procedure and substance. Bawaslu requires cooperation from the police and prosecutor's office so that these three institutions support each other in handling violations. This is because the handling of criminal election violations has specialist expertise in handling them, especially regarding timing. In short, the time required to resolve election crimes requires the support and readiness of qualified human resources. However, judging from the background of the commissioners who sit in Bawaslu from the central level to the lowest level, not all of them have a legal background or understand the rule of law. Bawaslu must be able to prepare resources whose qualifications are in accordance with the legal field, in addition to technical guidance, training or other forms to increase the capacity and quality of Human Resources who can work professionally and with high integrity, especially in handling election criminal cases. In terms of procedural law, there has been a development, namely the determination of a short completion time from investigation to examination in court. This short time provision

can be said to be in line with the objectives to be achieved by the election criminal regulations themselves. Election crime can be seen as a serious prohibited act. Therefore, election criminal acts must be resolved within a short time so that the aim of implementing election criminal provisions can be achieved, namely to protect the democratic process through elections. However, actually the time limitations in Law no. 7 of 2017 concerning General Elections is too short so that it actually results in many material violations that occur not being able to be processed further.

The need for cooperation and good institutional relations between election organizers is an absolute requirement to create situations and conditions for good election implementation. Apart from that, there is active participation from election participants and the public as voters with integrity. These three elements must have a common goal, realizing democratic elections. Election organizers must have integrity, act fairly and objectively. Elements of election participants consisting of political parties, presidential and vice presidential candidates, individuals for the DPD have integrity and are committed to obeying and submitting to election regulations, for example by not engaging in money politics or transactional politics. Money politics is the root of the corruption problem in Indonesia. Therefore, both election organizers, election participants and voters can minimize the problem of money politics. In terms of regulations, Bawaslu's task in Law 15 of 2011, article 73 paragraph (2) Bawaslu is tasked with supervising the implementation of elections in the context of preventing and prosecuting violations to realize democratic elections. Meanwhile in Law 7 of 2017 article 93 letter (b) Bawaslu is tasked with preventing and taking action against election violations and election process disputes. Thus, in Law 7 of 2017 it is increasingly made clear that the object of prevention and action is Election Violations and Election Process Disputes, whereas in Law 15/2011 it is only applied to Election violations. Furthermore, in Law 15/2011 Bawaslu only supervises the implementation of campaigns. Meanwhile, the formulation in Law 7 2017 article 93 letter d number 5, states that Bawaslu's task is to supervise the implementation of the stages of election administration, which consist of campaign implementation and campaign funding. In this way, there was an expansion of the object of supervision from initially only supervising campaign implementation to supervising campaign implementation and campaign funds.

In Law 15 of 2015 there is no regulation regarding the task of submitting suspected election crimes to the Gakkumdu Center. In Law 7 of 2017, it is explicitly stated that Bawaslu is tasked with reporting alleged election crimes to the Integrated Law Enforcement Center (Gakkumdu), article 93 letter I of Law 7 of 2017. The main thing that is important, related to Bawaslu's duties and authority is to prevent against violations of Massive Systematic Structured Money Politics (TSM). Prevention of Money Politics is not explicitly stated in Law 15/2011, meanwhile article 93 letter e of Law 7 of 2017, is stated explicitly to prevent the practice of money politics. Thus, Law 7 of 2017 strengthens Bawaslu's duties in preventing violations of Massive Systematic Structured Money Politics (TSM). Apart from that, Bawaslu's new task is to supervise ASN, TNI and POLRI, where this task is not regulated in Law 15 of 2011 on the design and enforcement framework for election law, in fact Law 7 of 2017 has been made more complete regarding procedures, election law enforcement mechanism from the Law. The formulation of norms for the election law, in this case Law 7 of 2017, is a formulation of norms prepared as part of efforts to improve the previous law, on the basis that election law enforcement, which is the main element of democratic, honest and fair elections, will never be realized if the law enforcement model is weak. First, the duties and authority of Bawaslu as a formal institution/state tool to supervise elections are strengthened in terms of its main functions, starting from the authority to carry out prevention and prosecution to making Bawaslu an institution that has the authority of a quasi-judicial type, namely receiving, examining, reviewing and deciding. violations and disputes.

### Conclusion

The effectiveness of resolving election crimes by Gakumdu. In Law 15 of 2015, there is no regulation regarding the task of submitting suspected election crimes to the Gakkumdu Center. In Law 7 of 2017, it is explicitly stated that Bawaslu is tasked with reporting alleged election crimes to the Integrated Law Enforcement Center (Gakkumdu), article 93 letter I of Law 7 of 2017. against violations of Massive Systematic Structured Money Politics (TSM).

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