

HANDLING ELECTION VIOLATIONS IN THE FALSE OF VOTER DATA (CASE STUDY NUMBER: 185/Pid.Sus/2024/PN Jkt.Pst)

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ABSTRACT

The crime of falsifying voter data is a form of crime in the election process. Bawaslu has the responsibility to supervise every stage of the election, including the determination of the temporary voter list and permanent voter list. However, handling violations related to falsifying voter data is often not optimal. This research aims to investigate and analyze how the law is applied and how Bawaslu handles cases of falsifying voter data. The research method in this writing adopts a normative juridical approach using two main approaches, namely the statutory approach and the case approach. The procedure for collecting legal materials is carried out through library research, while the analysis technique for legal materials uses qualitative analysis methods. Based on the research results, it appears that the application of the law to cases of voter data falsification related to case study number 185/Pid.Sus/2024/PN Jkt.Pst as well as the handling carried out by Bawaslu regarding violations of voter data falsification have shown several positive things. Bawaslu succeeded in working quickly, precisely and effectively optimizing the Gakkumdu Center. Apart from that, Bawaslu also succeeded in dividing tasks according to their respective main tasks and functions and succeeded in conveying the results of their study in accordance with applicable procedures.

Keywords: *Crime, Falsification of Voter Data, Election.*

INTRODUCTION

General elections held by the KPU are an important form of the democratic process. In this election, the people gave a new mandate to their representatives in the legislative body as well as to the President and Vice President. This election is carried out nationally, routinely every five years, and is carried out independently by the KPU. This is a way for the people to directly influence the political process and assert their sovereignty (Syarifuddin, 2020). The implementation of elections must fulfill the principle of freedom as an absolute requirement for implementing democratic principles. This can be related to the fact that the success of a government depends greatly on the individuals who occupy it (Asshiddiqie, 2012).

Apart from that, elections are also designed as a democratic mechanism which aims to transform conflicts in society into political competition with integrity. This was realized through holding general elections which took place smoothly, orderly and with quality (Ja'far, 2018). In 2019, the general election process went relatively well although several problems arose along the way. Nevertheless, the government and related institutions have succeeded in dealing with these problems (Putra & Pranama, 2021). In an effort to ensure the smooth running of the election, the government formed the Election Supervisory Body (Bawaslu) (Muzahhirin & Crisdianto, 2021).

Elections are an important moment for the people to cast their votes in electing political officials. Therefore, strict supervision is needed to ensure that elections run honestly and fairly (Kartini, 2017). Basically, every general election faces different challenges, along with developments over time and society (Kusnaldi et al, 2022). There are still many problems related to the practice of money politics, manipulation of vote results, and double voting, which are problems that often arise in elections. Apart from that, other cases that often occur in recent elections include the use of fake documents,

violations of the campaign schedule, involvement of civil servants/TNI/Polri in the campaign, campaigning in prohibited places, misuse of state facilities, loss of voting rights, and damage to facilities. elections such as ballot papers, ballot boxes, information systems and election technology, as well as negligence by election organizers in carrying out their duties (Khaerul et al., 2022).

In other words, Bawaslu must be prepared to face potential violations and handle violations, especially in falsifying voter data in the 2024 simultaneous elections which will be held on 14 February 2024 (Widyaningsih, 2022). The legal basis related to election data collection includes: Law no. 7 of 2017 concerning General Elections, Law no. 19 of 2016 concerning Information and Electronic Transactions, Law no. 27 of 2022 concerning Protection of Personal Data, Presidential Decree no. 95 of 2018 concerning Electronic-Based Government Systems, PKPU No. 6 of 2021 concerning Continuous Voter Data Updating, PKPU No. 5 of 2021 concerning the Implementation of KPU Electronic-Based Government Systems, and PKPU No. 7 of 2022 concerning Preparation of Voter Lists in the Implementation of General Elections and Voter Data Information Systems.

In the 2024 election, inputting voter data is carried out based on *principles de jure*, which means registration is carried out according to the address listed on each individual's e-KTP. This is different from the 2014 election, where the principle used was *in fact*, which takes into account the fact that the voter is a resident of an area without looking at the KTP he has. Basic *in fact* has weaknesses, one of which is the potential for duplicate data to appear. The steps taken by the KPU are in line with the policies of several other institutions which also use the data contained in the e-KTP. The aim is to reduce various problems related to voter data that may arise (Ni'am & Rastika, 2022).

Even though there are changes or differences between the 2014 election and the 2024 election, there is still a lot of falsification of voter data. One of them is the case in the research, according to the Decision of the Central Jakarta District Court Level I Number: 185/Pid.Sus/2024/PN Jkt.Pst, in this case there were 7 (seven) members including the chairman of the PPLN in Kuala Lumpur who committed an election violation by falsifying data and voter lists for the 2024 election. From the evidentiary perspective, it was revealed that he was legally and convincingly guilty of committing a criminal act by deliberately committing a legal act of falsifying data and voter lists, either as the person who ordered it, carried it out or participated in it. With the total DPT recapitulation reported by PPLN Kuala Lumpur amounting to 447,258 temporary voters, the data belonging to the KPU that has been matched and researched (*coklit*) directly by Pantarli is only 64,148 voters. So that the defendant was sentenced to imprisonment for 4 (four) months each, as regulated and threatened in Article 544 of Law Number 7 of 2017 concerning General Elections in conjunction with Article 55 paragraph (1) 1 of the Criminal Code and imposed a criminal sentence a fine of IDR 5,000,000.00 (five million rupiah) each to the defendants.

Election crimes refer to legal violations that occur in the implementation of general elections in accordance with the regulations stipulated in the Election Law. In the Indonesian context, there are three categories of election crimes, namely those related to the legislative, executive and general processes. Any violations will be handled in accordance with applicable legal provisions and may result in criminal sanctions according to the Election Law (Local Democracy, 2012). Furthermore, in the evolution of criminal acts, one of the main highlights is falsifying voter data in the context of election crimes in Indonesia. In Law Number 7 of 2017 concerning election crimes, there are two important chapters. Chapter I discusses the handling of election crimes and covers the legal procedures for election crimes, known as formal law. Meanwhile, Chapter II contains regulations regarding election criminal provisions which include legal substance, which is

referred to as material law (Sinaga, 2018).

In cases of alleged election crimes, the process of investigation, inquiry, prosecution and examination is carried out in accordance with the rules contained in the General Provisions of the Criminal Procedure Law (KUHP), unless there are different provisions in the Election Law. The steps to handle and resolve election crime cases, as regulated in the Law, are as follows:

1. In connection with reports or findings related to criminal acts, after the case is determined, financial related documents or reports are submitted to the Police. Meanwhile, the Election Supervisor carries out an analysis of the report or findings to assess whether they meet the requirements formally and substantially;
2. The integrated law enforcement center (gakkumdu) is tasked with analyzing or evaluating whether reported actions can be categorized as criminal acts. If it is considered a criminal act, investigators will continue with further investigations. However, if Bawaslu (Election Supervisory Body) considers that the evidence collected is sufficient, they will immediately prepare an Investigation Report (BAP) and propose it to the Public Prosecutor (JPU) according to the results of the investigation and the evidence collected. This process is carried out within 24 hours after making the BAP, and investigators are required to submit the BAP to the prosecutor within 14 days after the investigation is carried out;
3. The prosecutor will forward the case to the District Court (PN) when the evidence is deemed complete, through a pre-prosecution process involving stages and a BAP. This process is carried out within 5 days after the prosecutor receives the case files and BAP from the investigator;
4. The District Court (PN) will examine, try and make a decision regarding election crime cases within a maximum of 7 days after the case file is received, and this process can be carried out even without the presence of the defendant;
5. For an appeal to the District Court (PN) in accordance with this Law, it must be submitted within a maximum of 3 days after the verdict is read, and the appeal application documents must be submitted immediately after being received.

Valid voter data is our hope in running a democratic system. The right to vote in every election is a manifestation of popular sovereignty, as stated in Article 1 paragraph (2) of the 1945 Constitution. However, problems related to voter data often arise from the beginning of the election stage until the time the winner is determined. This problem is often in the spotlight of the parties who lose or win in elections. Bawaslu, the institution tasked with overseeing all stages of elections, including updating voter data and determining temporary voter lists and permanent voter lists, has a crucial role in preventing violations. However, the handling of violations at this stage is often not optimal and is even overlooked, only being raised when a dispute over election results is brought to the Constitutional Court (MK). The Constitutional Court itself is not an institution that has the authority to handle violations related to voter data. The non-optimal handling of these violations is caused by various obstacles, including:

1. Bawaslu and its team experienced difficulties in asking for information or clarification from various parties, including the reporter, reported party, witnesses and other parties;
2. Bawaslu and its team experienced difficulties in obtaining supporting documents or evidence needed in the legal research process;
3. Time is limited and reports often come simultaneously in large numbers;
4. If the violation is included in an election crime, often the review of violations at Bawaslu cannot be processed at the Gakkumdu center.

RESEARCH METHODS

This research applies the normative juridical method, which is a process for establishing legal rules, legal principles and legal doctrines to overcome problems that arise. The approach used involves analysis of relevant legislation and cases. Collection of legal materials is carried out through library research, with the library as a source for obtaining primary and secondary legal materials. Then, the collected legal materials are analyzed using qualitative analysis techniques.

RESULTS AND DISCUSSION

A. Application of the Law in Cases of Falsifying Voter Data in General Elections

The term "criminal act" in Dutch criminal law uses the term "strafbaar feit" or "delict," which comes from Latin, namely "delictum." Criminal law in Anglo-Saxon countries uses the terms "offense" or "criminal act" with the same meaning. The Indonesian Criminal Code, which is based on the Wetboek von Strafrecht (WvS) which applies in the Netherlands, uses the original term, namely "strafbaar feit" (Neloe, 2012).

Criminal law distinguishes between general and specific criminal offenses. General criminal acts are acts that are regulated in the Criminal Code, while specific criminal acts are the result of modernization or are regulated in the Criminal Code itself. Despite these differences, the application of the law still applies to both types of criminal acts. The application of law in criminal law always focuses on the type of criminal act committed. Several elements of legal application in criminal law include the principles of legality, proportionality, equality before the law, and legal certainty. This means that all people must be treated equally before the law, without discrimination, and the punishment must be proportional to the mistake committed (Lessil, 2022):

1. The application of law in criminal law is related to the enforcement of prohibitions regulated by law, thus having a significant impact on the overall legal orientation;
2. In general, the application of law refers to the process of implementing legal rules which aims to control or limit behavior so that it complies with applicable legal provisions. This is done to ensure that individual actions or mobility do not violate applicable legal principles;
3. The application of law is an integral part of the criminal law system, because criminal law requires a consistent and orderly implementation process to implement the provisions that have been determined. In the context of criminal law, the application of law acts as a mechanism that directs and enforces the principles and norms contained therein.

It is true, in the context of general elections as regulated by Law Number 7 of 2017, fraud that occurs, such as falsifying voter data, can be considered a special criminal act that is prohibited and subject to criminal sanctions. To identify whether the act is truly a criminal act, it is necessary to apply criminal law as an integral part of the law enforcement process. This includes investigations, prosecutions and trials that refer to applicable legal provisions to determine whether an action meets the elements of a criminal offense and whether the perpetrator should be prosecuted. Thus, the application of criminal law has an important role in ensuring compliance with the law in carrying out general elections and in responding to violations that occur.

General elections are a process in which citizens elect their leaders or representatives by writing their chosen names on a piece of paper or voting directly. This is an important form of political participation in a democratic system, where final decisions are made based on the votes of a majority of qualified citizens. Through general elections, citizens have the opportunity to determine political direction and influence policy making through the

election of their leaders (Al-Iman, 2004). Article 2 paragraph (1) of the Election Law which has the principle of "Luber and Jurdil" Jo UUD 1945 Article 22E paragraph (1) stipulates that general elections are held once every five years. Even though election crimes only occur every five years, violations that occur during their implementation must be dealt with firmly. Whether the violation is carried out intentionally or unintentionally, the parties involved must be given legal sanctions in accordance with existing provisions, both according to the Criminal Code and the Election Law. This is important to maintain integrity and fairness in the general election process and provide legal certainty regarding violations that occur.

Election criminal acts before the issuance of the Election Law were regulated in the Criminal Code, namely Article 55 paragraph (1) to 1 Article 148, Article 149 paragraph (1) and paragraph (2), Article 150, Article 151 and Article 152 of the Criminal Code. Apart from that, the forms of election crimes in the Election Law include (Sugianto, 2017):

1. Article 544 reads "Any person who intentionally commits an unlawful act of falsifying voter data and lists, shall be punished with a maximum imprisonment of 6 (six) years and a maximum fine of IDR 72,000,000.00 (seventy-two million rupiah)".
2. Article 545 reads "Every member of the KPU, Provincial KPU, Regency/City KPU, PPK, PPS, and/or PPLN who deliberately adds to or reduces the voter list in the Election after the Permanent Voter List has been established, shall be punished with a maximum imprisonment of 3 (three) year and a maximum fine of IDR 36,000,000.00 (thirty-six million rupiah)."
3. Article 546 reads "Every member of the KPU, Provincial KPU, Regency/City KPU, PPK, PPS, and/or PPLN who deliberately makes decisions and/or takes actions that benefit or harm one of the Election Participants during the Campaign period, shall be punished by imprisonment. a maximum of 3 (three) years and a maximum fine of IDR 36,000,000.00 (thirty-six million rupiah)."
4. Article 547 reads "Every state official who deliberately makes decisions and/or takes actions that benefit or harm one of the election participants during the campaign period, shall be punished with a maximum imprisonment of 3 (three) years and a maximum fine of IDR 36,000,000.00 (thirty-six million rupiah)".

It is true, criminal acts in the context of general elections are very diverse, as regulated in Articles 488 to 553 in CHAPTER II of the Election Criminal Provisions of the Election Law. The application of law in society can take place smoothly when every individual obeys the law with the awareness that the legal provisions are a necessity or something that is considered best to be done. Awareness of the importance of obeying the law helps maintain social order and reduces legal violations, thereby creating a safer and fairer environment for all members of society (Soekanto, 2010). The application of law in criminal law has the aim of maintaining order and resolving various problems that arise in society. In essence, the application of criminal law provides a dimension of firmness through the imposition of sanctions against criminals and preventive measures to reduce the possibility of criminal acts occurring.

B. Bawaslu's Handling of Fraudulent Election Voter Data Violations

Crucial issues related to voter data require serious attention. The number of ballot papers printed during an election must correspond to the number of Permanent Voter Lists (DPT) plus 2.5% of the total DPT at each Polling Place (TPS). Before this problem arose, the main role of the Election Supervisory Body (Bawaslu) was to prevent violations related to voter data. This prevention can be done by monitoring the potential for falsification of voter data carried out by the General Election Commission (KPU) and its staff. The

importance of supervision is not only the responsibility of election organizers, but also the responsibility of the public who care about the accuracy and quality of voter data. Therefore, close cooperation between Bawaslu and the KPU, as well as active participation from the public and election observers is very necessary to ensure the accuracy of voter data.

Voter data is updated continuously to maintain the accuracy and completeness of the data, making it easier to compile voter data in the next general election or election. This process aims to ensure that voter data includes complete, accurate and up-to-date information. Voter data input activities are carried out regularly every month by taking into account various factors, including residents who have moved, new voters, voters who have died, and other changes in voter data.

Supervision of voter data must pay attention to the principles of accuracy (avoiding data entry errors), up-to-date (based on the latest and ongoing information), comprehensive (covering voters who are eligible and removing those who are not eligible), and transparency (in sending and receiving voter data). This can be realized by updating data regularly within a certain period of time through coordination with related parties. In addition, in carrying out its supervisory function, Bawaslu must focus on enforcing procedures, timeliness, completeness and validity of required documents, as well as carrying out all these tasks transparently.

Bawaslu has various methods for carrying out supervision. Active supervision occurs when they discover violations through review and follow up according to applicable procedures. Meanwhile, passive supervision occurs when they receive reports from the public for immediate action. Preventive supervision is carried out by providing information and outreach to prevent violations from occurring. Meanwhile, repressive supervision is carried out by handling violations immediately after they occur and following up on the results of the review.

If optimal prevention efforts have been carried out but violations still occur, Bawaslu is obliged to take follow-up steps in accordance with its duties and authority. At the stage of updating voter data, there are several potential violations that need to be watched out for, including: 1) Failure to carry out voter data matching and research by the Voting Committee (PPS) through the Voter Registration Committee; 2) Potential for falsification of information in the voter list; 3) Potential KPU at the district or city level not providing a copy of the final voter list (DPT) to election participants; 4) There was no follow-up from the KPU regarding Bawaslu's findings regarding updating voter data.

Apart from monitoring every step in the implementation of elections, Bawaslu is also given the task of enforcing rules against election violations and handling disputes that arise during the election process. In terms of taking action against election violations, Bawaslu has responsibilities in accordance with Article 94 of the Election Law:

1. Receive, examine and review alleged election violations;
2. Investigating alleged election violations;
3. Determine alleged election administration violations, alleged violations of the Election Organizer's code of ethics, and/or alleged election crimes; And
4. Terminate election administration violations.

To deal with this problem, there are several solutions that can be taken, including the following:

1. It would be better to improve coordination between Election Supervisors, the Police and the Prosecutor's Office with clearer guidelines down to the lowest level, so that there are no differences in perception in understanding the articles related to violations of voter data falsification.

2. If the reported party does not come even after receiving an official letter, Bawaslu can make an informal summons while still paying attention to integrity, or involve the police to summon the reported person who is reluctant to appear or disappears.
3. Bawaslu needs to coordinate with the ranks above regarding the steps to be taken in handling violations of voter data falsification. This becomes even more important if the KPU in their region experiences difficulties in providing accurate data or there is a complex case that requires assistance from higher agencies.
4. Bawaslu needs to operate with speed and accuracy and allocate tasks according to the main tasks and assistance received from the district or city and sub-district levels. Considering that the 2024 elections will be held simultaneously, there is a possibility of an accumulation of violation cases. With limited time, Bawaslu can optimize all their ranks to handle violations in accordance with established procedures.
5. Bawaslu must communicate to reporters and the media the results of its study. All steps taken by Bawaslu in handling violation reports should be informed to the public. This is important considering that Election Supervisors are often reported to the Election Organizer Honorary Council for not following up on reports, even though the process has already been carried out. However, in the case held at the Gakkumdu Center, the report could not be followed up because it was deemed not to meet the material or formal elements or requirements. This case can continue until the determination of the election results at the Constitutional Court, when the election participants feel dissatisfied and file a lawsuit and consider that the report regarding updating voter data was not processed by Bawaslu.
6. Bawaslu must maintain honesty at the Commissioner and Bawaslu Secretariat levels. This principle must be upheld together considering that Bawaslu is the institution that oversees the election stages so that they run democratically and as an election law enforcement agency.

To increase the effectiveness of the Gakkumdu Center, there are several steps that can be taken, including:

1. The time limit for handling violations/findings that has been determined by the Election Law requires Election Supervisory institutions, the National Police and the Prosecutor's Office to work in a coordinated, joint and synergistic manner within the Integrated Law Enforcement Center (Sentra Gakkumdu) forum.
2. The effectiveness of the Gakkumdu Center is determined by commitment, quality and productivity in carrying out the operationalization of the Gakkumdu Center. The principles of effectiveness of the Gakkumdu Center are speed, accuracy and productivity.
3. Understanding in determining or fully qualifying the elements in the article formulation related to an incident of alleged violation is important.
4. Legal breakthroughs between Bawaslu, the Police and the Prosecutor's Office are needed to find solutions to weaknesses in election legal regulations.
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CONCLUSION

In every election, one of the main problems that often arises is falsification of voter data. At this stage, there are still obstacles in terms of accuracy, completeness and data updating. Bawaslu, which is tasked with supervising every stage of election implementation, including the determination of temporary voter lists and permanent voter lists, must pay attention to accurate, current, comprehensive and transparent principles in

monitoring voter data. After the monitoring results have been corrected, update them periodically through coordination with related parties. If prevention efforts have been maximized and violations still occur, Bawaslu must follow up according to its duties and authority. Bawaslu must act quickly, precisely, and divide tasks according to their main tasks and functions, as well as convey the results of the study according to procedures. When compiling a report, Bawaslu and its staff must pay attention to regulations, the substance of the violation, the party reporting and being reported, as well as the evidence of the report. In handling violation reports, the necessary step is to optimize the Gakkumdu Center as a solution to handle the problem of falsifying voter data. To achieve this, Election Supervisors, the National Police and the Prosecutor's Office need to work in a coordinated, simultaneous and synergistic manner in conducting cases. The importance of understanding in determining or fully qualifying the elements of the article formulation related to an incident of alleged violation becomes clear. Apart from that, legal breakthroughs are needed between Bawaslu, the Police and the Prosecutor's Office to find solutions to weaknesses in the arrangements for updating voter data. The principle of applying the law acts as a method for dealing with events that are considered by law to be part of a criminal act. Therefore, in cases of falsifying voter data, the application of the law refers to the provisions regulated in Articles 544, 545, 546, and 547. However, there are several situations where the investigation of criminal cases can be stopped, as regulated in Article 109 of the Criminal Procedure Code. This includes situations where there is insufficient evidence, the incident turns out not to be a crime, or the case is legally closed. To terminate investigations in election criminal cases, this is usually based on stopping the investigation by law because the prosecution time has passed, with the limit in elections usually being 7 days.

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