



Criminal Liability for Perpetrators of Election Crimes Who Vote More Than Once at a Polling Station

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ABSTRACT

This study aims to analyze how election crimes are handled and how criminal sanctions are applied within the electoral process, given that election-related offenses remain a recurring problem that can undermine electoral integrity and public trust. Effective handling and sanctioning require a regulatory framework that not only defines prohibited conduct, but also ensures legal certainty, proportionality, and justice for all parties involved. The research focuses on the normative structure of regulations and sanctions governing election crimes. It employs normative legal research methods by examining primary legal materials especially statutory provisions and codified criminal norms as well as secondary legal sources such as scholarly literature and legal commentaries. The analysis shows that election crimes are addressed in general criminal law through Chapter IV, Book II of the Criminal Code, while the electoral framework is specifically regulated under Law Number 7 of 2017 on Elections. In this context, election crimes constitute a special category of offenses because elections are conducted through a sequence of strictly regulated stages, making the timing, actors, and procedural requirements more determinative than in ordinary crimes. Furthermore, criminal sanctions are explicitly enumerated in the Election Law, particularly Articles 488 to 544, which provide various forms and levels of punishment. The imposition of sanctions is determined by the legal qualification of the act committed, reflecting the gravity, intent, and impact of the offense on the electoral process.

Keywords: Criminal Liability, Election Crimes, Voting More Than Once, at a Polling Station

1. Introduction

Indonesia is a state based on the rule of law. This is affirmed in Article 1 paragraph (3) of the 1945 Constitution (UUD 1945). A state founded on law stands upon legal norms that guarantee justice for all citizens. In Indonesia, the rule of law is grounded in the values of Pancasila, which serves as the nation's worldview and the source of all sources of law. Accordingly, Indonesian law must be inspired by democratic ideals in upholding the values of divinity, humanity, unity, democracy, and justice as embodied in Pancasila democracy. From a normative perspective, democracy is an ideal that a state seeks to implement and institutionalize. Such normative aspects are typically enshrined in each country's constitution, including the 1945 Constitution of the Republic of Indonesia. One concrete manifestation of democratic principles is the General Election (Pemilihan Umum/Pemilu). Elections are the primary means of filling public offices in all democratic systems; heads of government are appointed through democratic elections. Jimly Asshiddiqie argues that elections are an absolute requirement for a democratic state because they operationalize popular sovereignty and open space for citizens' full participation in forming political opinions.

To realize the principles of Direct, General, Free, Confidential, Honest, and Fair elections (LUBER JURDIL), lawmakers have categorized various fraudulent practices (malpractices) as criminal offenses. Thus, election laws not only regulate

how elections are conducted but also prohibit acts that may destroy the essence of free and fair elections and threaten perpetrators with punishment. The essence of democracy lies in governance that rests on the people as the highest holders of sovereignty namely, government of the people, by the people, and for the people.

According to Mahfud MD, there are two reasons democracy is chosen as a system of society and state. First, almost all countries in the world have adopted democracy as a fundamental principle. Second, democracy as a constitutional foundation essentially provides direction for the public's role in administering the state as its highest organization. Consistent legal improvement will emerge alongside societal progress. Moreover, legitimate issues will develop in tandem with the refinement of issues that appear in the public sphere. One inherent characteristic of law is its dynamic nature. The sociological school of thought pioneered by Hammaker, Eugen Ehrlich, and Max Weber maintains that law is the product of social interaction within societal life; law is a social phenomenon, and its development corresponds to societal advancement.

The enactment of Law Number 7 of 2017 signifies refinement and amendment of Law Number 42 of 2008 on the Election of the President and Vice President, Law Number 15 of 2011 on the Administration of General Elections, and Law Number 8 of 2012 on Elections for Members of the DPR, DPD, and DPRD. Nevertheless, in the conduct of elections, no one can guarantee that all individuals will consistently act honestly and fairly in every aspect of life there are no exceptions, including in elections themselves. Laws and regulations emphasize what may be done, what must be carried out, and what is prohibited, accompanied by criminal provisions and fines that may be imposed cumulatively as a deterrence effort. In reality, however, people often neglect or deliberately violate legal provisions for different motives and through different methods, including election violations. As Keith Graham notes, vote-based systems rest on standard principles, particularly fairness, opportunity, and majority rule. Vote-based systems, the enactment of laws, and guarantees of basic freedoms are three interrelated sequences that cannot be separated from one another.

At minimum, issues in criminal law enforcement policy for election crimes can be examined by looking at each component of the legal system that directly affects law enforcement. Lawrence M. Friedman argues that the success or failure of law enforcement depends on three components of the legal system. First is legal substance: the rules, norms, and patterns of actual human behavior within the system. Second is legal structure: the institutional framework that endures and provides form and boundaries to the system as a whole. The legal structure is crucial because, no matter how good the legal norms are, without competent law enforcement officers, law enforcement and justice become futile. Third is legal culture: opinions, beliefs, habits, ways of thinking, and ways of acting both among law enforcers and society at large regarding law and legal phenomena. Based on these three indicators, the ineffectiveness of enforcing criminal law in elections cannot be separated from problems in election legislation, particularly provisions on election crimes, as well as issues of professionalism among law enforcement personnel. At the normative level, election regulations, as discussed in the previous section, are not sufficiently clear and comprehensive in regulating both substantive and procedural law. Even the existing procedural law is inadequate to enforce election criminal law effectively. At the structural level, law enforcers face problems such as insufficient understanding of the types of election crimes, lack of professionalism, and persistent "passing the buck" that leads to deadlock in handling election crime cases. It should also be reaffirmed that the concept of

human rights is always directly proportional to fundamental obligations, as stipulated in Article 28J. These obligations are attached to state apparatuses, including the police as investigators, who are tasked with maintaining legal order in the implementation of law enforcement.

In the context of law enforcement, there is an aspiration for the law to stand firm so that the values pursued through legal instruments can be realized. However, in the use of law, the ideals contained in the law are not necessarily genuinely pursued, because the law may be used to justify actions “to use the law to legitimate their actions.” The system for handling election crimes still requires improvement so that it can be implemented properly and effectively as an instrument for realizing honest and fair elections. Such improvements include refining regulations, strengthening the capacity and professionalism of election law enforcers, and increasing legal awareness among all election stakeholders. Without these measures, the handling system for election crimes will remain stagnant and will not effectively support the realization of honest and fair elections. In the election context, the components of legal substance include Pancasila, the 1945 Constitution, and statutory instruments related to elections, such as the laws on presidential and vice-presidential elections, legislative elections, election administration, regional government, political parties, and other regulations related to elections. Legal substance can be regarded as one factor contributing to the high number of election crime cases. Many election crime cases occur due to weaknesses in the legal substance subsystem. Such weaknesses may be intentional or unintentional. The legal substance subsystem may be deliberately weakened to serve certain political interests. For example, the Election Law contains no provision regulating acts whereby someone instructs another person to use another person’s voting rights, thereby opening space for election contestants or other parties to gain personal benefit or protect the interests of third parties (political parties). Election crimes have distinctive and specific characteristics compared to ordinary crimes, because election crimes (often referred to as *tipilu*) can only occur within the stages of the electoral process. Violations most frequently occur during the campaign period and the voting stage. Since elections are held only once every five years, the potential for election crimes arises only within that limited time frame.

2. Methods

This writing employs a normative legal research method. Normative legal research is an approach that focuses on analyzing library materials or secondary sources as well as primary sources. This study also uses a statutory approach and a conceptual approach. The primary data in this research are derived from scholars’ opinions, while the secondary data are obtained from legislation, books, papers, and journal articles related to the topic of this study. The collected data are reviewed, classified, recorded, and presented. Subsequently, the data are analyzed using a descriptive qualitative technique. This technique aims to describe phenomena as comprehensively as possible by compiling relevant data (Abubakar, 2021). In addition, interpretation is carried out by developing arguments based on deductive and inductive legal logic.

3. Findings and Discussions

The results and discussion in this section provide an in depth explanation of the legal aspects related to election crimes, specifically the act of casting a vote more than once at a polling station. The discussion focuses on the applicable legal framework, the forms of criminal liability, and the types of criminal sanctions that may be imposed on perpetrators in accordance with Law Number 7 of 2017 on

General Elections. This exposition is intended to present a clear picture of how election law is enforced to uphold honesty, fairness, and legal certainty at every stage of the electoral process, thereby ensuring that citizens' political rights are protected in an equitable and equal manner.

3.1 Criminal Responsibility for Perpetrators of Election Crimes

Criminal liability is an important aspect of criminal law, affirming that anyone who commits an unlawful act may be held accountable for their conduct. Criminal liability can only be imposed when three elements are fulfilled: the existence of a criminal act, fault (*mens rea*), and the offender's capacity to be held legally responsible. A person cannot be sentenced if any of these elements is not satisfied. Election crimes are acts specifically regulated under Law Number 7 of 2017 on General Elections. This law governs various forms of conduct categorized as election crimes, whether committed by members of the public, election contestants, or election organizers. Such acts are considered capable of undermining the honesty of elections and disrupting citizens' political rights as guaranteed by the constitution.

One election crime that frequently occurs is casting a vote more than once at a polling station. This conduct constitutes a serious violation because each voter is granted only one opportunity to exercise the right to vote. Voting rights are personal and cannot be delegated or used more than once. Voting multiple times effectively deprives others of their rights and may unlawfully influence election results. Law Number 7 of 2017 stipulates that anyone who intentionally uses their voting right more than once may be held criminally liable. Intent is a key factor in establishing liability: the perpetrator understands that the act violates election rules yet still carries it out for personal gain or to benefit a particular group.

Criminal liability is also linked to the offender's legal capacity. Offenders who are adults, not suffering from mental disorders, and who understand the consequences of their actions are deemed capable of being held responsible. Such individuals may be processed under election criminal law mechanisms without exception. For example, a voter who deliberately uses dual identities to vote at two different polling stations may be held criminally liable. This act is committed with full awareness and aims to increase votes for a particular candidate. Such conduct clearly violates the principles of honesty and fairness in elections and harms other voters who lawfully exercise their rights. Election crime cases are handled through the Integrated Law Enforcement Center (Sentra Penegakan Hukum Terpadu), involving the Election Supervisory Body (Bawaslu), the police, and the prosecutor's office. Bawaslu receives reports and conducts supervision; the police carry out inquiry and investigation; prosecutors bring charges in court; and judges examine, adjudicate, and issue verdicts against perpetrators. Ultimately, criminal liability for election crimes aims to safeguard electoral integrity and ensure legal certainty. Firm law enforcement also serves an educational function, reinforcing public understanding that election violations carry legal consequences, thereby supporting elections that are honest, fair, and trusted by society.

3.2 Criminal Sanctions for Election Crime Perpetrators Who Vote More Than Once at a Polling Station

Criminal sanctions are punishments imposed on a person for committing an act prohibited by law. They serve as a form of accountability for the offender's wrongdoing. The primary purpose of criminal sanctions is to create a deterrent effect so that offenders do not repeat their actions. Criminal sanctions also function as a warning to the public that every legal violation carries consequences. Through

their application, criminal sanctions are expected to foster a sense of justice and maintain social order. Accordingly, criminal sanctions constitute an essential element in the enforcement of election law.

Law Number 7 of 2017 on General Elections regulates criminal provisions specifically in Articles 488 to 554. These articles contain various types of conduct classified as election crimes along with their corresponding sanctions. The sanctions include imprisonment and fines, with differing levels of severity in terms of duration and amount. Such variations are adjusted to the nature of the act and the degree of the offender's fault. This regulatory design shows that the state treats election violations as a serious matter. These criminal provisions aim to ensure that elections are conducted in accordance with the principles of honesty and fairness.

Perpetrators of election crimes who cast a vote more than once at a polling station may be subject to criminal punishment because their conduct violates election criminal provisions. This act is regulated under Law No. 7 of 2017, particularly Article 516, which stipulates that "Any person who intentionally, at the time of voting, casts their vote more than once at one polling station (TPS/TPSLN) or more, shall be punished with imprisonment of up to 18 (eighteen) months and a fine of up to IDR 18,000,000.00 (eighteen million rupiah)." This conduct is not merely an administrative violation but also constitutes a criminal offense. Voting more than once can affect election outcomes and harm other voters who lawfully exercise their rights. It also undermines public trust in the democratic process. Criminal sanctions are imposed based on the degree of culpability and the impact caused by the act, serving as a firm warning against the abuse of voting rights.

The application of criminal sanctions in election crimes is based on the principle of *lex specialis derogat legi generali*, meaning that special legal provisions override general ones. Therefore, the Election Law serves as the primary basis for imposing criminal sanctions on perpetrators of election crimes. The Criminal Code remains applicable insofar as matters are not specifically regulated by the Election Law. This principle provides legal certainty for law enforcement officials and ensures that election law enforcement is more focused and aligned with the specific characteristics of the violations involved.

The imposition of criminal sanctions occurs through judicial proceedings after the perpetrator is proven legally and convincingly to have committed an election crime. Judges consider evidence, witness testimony, and facts revealed during trial. Judges also assess the offender's level of fault and the consequences of the act for the electoral process. For example, a voter who uses another person's identity to vote twice may be sentenced to imprisonment or a fine in accordance with statutory provisions. A court decision confirms that election violations cannot be tolerated and demonstrates that election law is genuinely enforced.

Criminal sanctions against election offenders play an important role in maintaining public trust in the electoral system. Firm enforcement can raise public awareness and compliance with election rules. Political parties, election organizers, and the public share responsibility for preventing violations. Clean and integrity-based elections are a key requirement for a healthy democracy. Enforcing criminal sanctions against those who vote more than once at a polling station is a form of protection for citizens' political rights. Consistent law enforcement is therefore essential to ensure that elections remain honest, fair, and trusted by society.

4. Conclusion

General elections in Indonesia are specifically governed by Law No. 7 of 2017 on General Elections, which provides a clear legal framework for electoral administration, including provisions on election-related crimes. Criminal provisions are set out in detail in Articles 488 to 554, reflecting the state's serious commitment to preventing violations that may undermine democratic procedures and the legitimacy of election results. These special provisions cover a wide range of criminal acts that may occur throughout the stages of election implementation. Each offense is classified according to the type of violation committed, enabling a more precise and proportionate legal response. Clear rules also assist law enforcement authorities in determining appropriate enforcement measures in line with statutory requirements.

Criminal sanctions for election crimes are expressly regulated and tailored to the legal qualification of the offense. Penalties may include imprisonment and/or fines, with varying severity intended to reflect the perpetrator's level of culpability and the impact of the conduct on the electoral process. In practice, consistent enforcement is expected to increase public compliance with election rules, strengthen trust in the electoral system and institutions, and support a healthier and more equitable democracy. Citizens are therefore expected to exercise their voting rights responsibly under applicable law. This study recommends that law enforcement agencies act more decisively to fulfill the principle of legal certainty in Article 3(d) of Law No. 7 of 2017. It also urges the government to revise sanction provisions to impose stricter penalties that generate real deterrent effects and safeguard democratic values.

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