

Article Title

The Legal Construction of Electoral Crimes in the Indonesian Legislative Framework

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ABSTRACT

This study examines the legal construction of electoral crimes within the Indonesian legislative framework. Elections in Indonesia are constitutionally mandated to be conducted in a direct, general, free, secret, honest, and fair manner as stipulated in Article 22E of the 1945 Constitution. To safeguard these principles, various statutory regulations have been enacted, particularly Law No. 7 of 2017 on General Elections and Law No. 10 of 2016 on Regional Head Elections. This research employs a normative legal method with statutory, conceptual, and analytical approaches to analyze the formulation of electoral criminal norms, the structure of offenses, legal subjects, protected legal interests, and sanction mechanisms. The study finds that the regulation of electoral crimes has been systematically constructed through a multi-layered framework consisting of constitutional provisions, statutory regulations, general criminal law, and implementing regulations. However, several issues remain, including ambiguity in the formulation of offense elements, overlap between administrative, ethical, and criminal violations, limited regulatory reach over digital-based electoral offenses, and inconsistencies in sanction proportionality. These challenges affect the effectiveness of electoral law enforcement and the protection of fundamental electoral principles. Therefore, harmonization and reformulation of electoral criminal norms are necessary to ensure clearer offense elements, stronger legal certainty, and a sanction system that proportionally protects the integrity of electoral processes and democratic legitimacy in Indonesia.

Keywords: Electoral Crimes, Electoral Law, Criminal Law Policy, Election Integrity

INTRODUCTION

General elections constitute a constitutional mechanism used to determine state officials through a process that reflects the sovereignty of the people. In a modern democratic system, elections do not merely function as a political procedure but also as an instrument for legitimizing lawful political power (Putri, Laia & Laia, 2023). The Indonesian Constitution places elections as the primary means to realize a democratic and representative government (Astuti, *et al*, 2024). Provisions regarding elections are explicitly regulated in Article 22E of the 1945 Constitution of the Republic of Indonesia. This provision affirms that elections must be conducted directly, generally, freely, secretly, honestly, and fairly (Wijaya & Erwinta, 2020).

The implementation of these principles requires a legal system capable of guaranteeing the integrity and credibility of electoral administration. The state therefore establishes various legal instruments governing all stages of elections, ranging from the nomination process to the determination of election results (Aermadepa, *et al*, 2024). These regulations not only govern administrative aspects but also include prohibitions and sanctions against actions that may undermine the democratic process. The presence of these legal norms aims to ensure that every stage of elections is conducted in accordance with the principles of fairness and transparency (Saputra, 2024). Consequently, electoral law functions as an instrument for protecting the political rights of citizens.

Within the Indonesian legal system, the regulation of elections cannot be separated from the framework of criminal law. Criminal law serves as a mechanism to address various forms of violations that threaten the integrity of elections. Therefore, electoral laws include provisions regarding electoral offenses accompanied by criminal sanctions (Andiraharja, 2020). These regulations indicate that certain violations in elections are regarded as acts that endanger the legal interests of the state and society. As a consequence, such acts must be addressed through criminal law enforcement mechanisms.

Electoral crimes essentially form part of special criminal law that possesses characteristics different from ordinary crimes. The offenses within electoral crimes are formulated to protect the integrity of the democratic process and preserve the authenticity of the people's votes (Maulana, 2021). In this context, criminal law functions as a tool to prevent and sanction manipulative actions that may influence election results. The protection of citizens' voting rights constitutes one of the primary legal interests within this regulatory framework. Thus, electoral crimes are not only legal issues but are also closely related to political stability and governmental legitimacy (Zefanya, 2024).

Theoretically, electoral crimes may be understood as acts that directly or indirectly disrupt the electoral process. These acts may include actions that undermine the freedom of voters, unlawfully influence election outcomes, or involve the abuse of power within electoral processes (Munawar & Aini, 2025). In criminal law doctrine, every criminal offense must be clearly formulated so that it can be tested through evidentiary processes before the court. Vague formulations of criminal provisions may create difficulties in law enforcement (Nizar & Sabardi, 2019). Therefore, the construction of electoral criminal norms must comply with the principles of legal certainty and legality.

In criminal law, there exists a principle that an act may only be punished if it has been clearly regulated by law. This principle is known as the legality principle, which constitutes the fundamental basis of modern criminal law systems (Sudibyo & Rahman, 2021). The principle requires every offense to clearly define the prohibited act, the legal subject, and the sanctions that may be imposed. Without clear legal formulations, law enforcement officials will encounter difficulties in effectively enforcing the law. Consequently, the quality of criminal norm formulation greatly determines the effectiveness of the electoral legal system.

The regulation of electoral offenses in Indonesia is currently largely contained in Law Number 7 of 2017 concerning General Elections. This law provides various types of violations classified as electoral crimes (Andini & Hamzah, 2025). Some of these include vote-buying, manipulation of voter lists, misuse of state facilities, and intimidation of voters. These provisions are designed to ensure that each stage of

elections is conducted honestly and fairly. Nevertheless, the implementation of these criminal provisions still faces numerous challenges in practice.

In practice, the administration of elections in Indonesia still encounters various forms of violations that may be categorized as electoral crimes. These violations occur not only during the campaign stage but also during the voting and vote-counting processes (Tarigan, *et al*, 2024). Vote-buying constitutes one of the most frequently occurring violations in every electoral process. In addition, there are practices of voter intimidation and manipulation of voter data that may influence election outcomes. These phenomena indicate that the integrity of elections still faces significant challenges (Amatahir, 2023).

Reports from electoral supervisory institutions show that the number of reported electoral violations each year remains relatively high. The Election Supervisory Body (Bawaslu) routinely receives various reports concerning alleged violations occurring during electoral processes (Syah, 2024). However, not all of these reports can be followed up through criminal proceedings. One of the primary obstacles is the difficulty in proving the elements of the offenses formulated in the law. This condition indicates that the construction of electoral criminal norms has not been fully effective in addressing the various forms of violations occurring in practice.

The phenomenon of vote-buying represents a concrete example of the weakness in the effectiveness of electoral criminal norms. This practice has been regulated in Article 523 of the Election Law with certain criminal sanctions. Nevertheless, vote-buying practices continue to occur in every electoral process (Uran, Sinurat & Wilhelmus, 2025). Difficulties in proof constitute one of the factors causing perpetrators to rarely be prosecuted. In addition, vote-buying is often carried out covertly, making it difficult to prove from a juridical perspective.

Beyond these commonly recognized practices, technological developments have also generated new forms of electoral crimes. The dissemination of misleading information through social media has become one of the challenges in modern electoral administration. Black campaigns conducted through digital platforms have a wide-ranging impact on public perception. However, the regulation of such violations has not been fully accommodated within electoral criminal law. As a result, many actions that substantively undermine electoral integrity cannot be prosecuted as electoral crimes.

Another weakness in the regulation of electoral crimes can be seen in the differences in classification between administrative, ethical, and criminal violations. In practice, acts that significantly impact elections are sometimes processed merely as administrative violations. This occurs because such acts do not fulfill the elements of the existing criminal provisions. These differences in classification often lead to

varying interpretations among electoral management bodies and law enforcement agencies. Consequently, legal uncertainty arises in the handling of electoral violations.

Other normative problems relate to multiple interpretations of criminal provisions within electoral laws. Several provisions merely mention acts in general terms without explaining the elements of the offense in detail. This situation makes it difficult for law enforcement officials to construct strong legal arguments in court. Investigators and prosecutors frequently encounter difficulties in linking factual events with existing legal norms. As a result, many cases cannot proceed to the prosecution stage.

Weaknesses in the construction of electoral criminal norms may have serious consequences for the democratic system. Unclear legal norms may open opportunities for manipulation within the electoral process. Such conditions may undermine public trust in electoral institutions. In the long term, weak enforcement of electoral law may reduce the legitimacy of election results. Therefore, strengthening the legal construction of electoral crimes becomes an urgent necessity.

From the perspective of the rule of law, legal certainty constitutes a fundamental principle that must be guaranteed by every legislative regulation. Good legal norms must possess clear, firm, and consistently applicable formulations. Legal certainty enables society to understand the boundaries of actions prohibited by law. Furthermore, legal certainty provides guidance for law enforcement officials in performing their duties. Without legal certainty, law enforcement may be implemented inconsistently.

Based on these various problems, an in-depth study of the legal construction of electoral crimes within the Indonesian legislative framework is necessary. This study is important to understand how electoral criminal norms are formulated and implemented in practice. Analysis of the construction of legal norms is expected to identify weaknesses in existing regulations. Through such analysis, recommendations for improvements in the electoral legal system can be formulated. Ultimately, strengthening the legal construction of electoral crimes is expected to enhance the integrity and credibility of electoral administration in Indonesia.

METHOD

This study employs a normative legal research method that focuses on examining legal norms contained in statutory regulations, legal principles, and legal doctrines relevant to the research problem. The normative approach is used to analyze the legal construction of electoral crimes within the Indonesian legislative framework and to identify potential gaps or weaknesses in legal norms that may affect the effectiveness of electoral law enforcement. This research utilizes legal materials consisting of primary legal materials, secondary legal materials, and tertiary legal materials. Primary legal materials include the 1945 Constitution of the Republic of Indonesia, Law Number 7 of

2017 concerning General Elections, Law Number 10 of 2016 concerning the Election of Governors, Regents, and Mayors, the Indonesian Criminal Code, as well as several related regulations such as the Human Rights Law, the Law on Electronic Information and Transactions, the Press Law, Bawaslu Regulations, and Regulations of the General Elections Commission (KPU). Meanwhile, secondary legal materials consist of books, scientific journals, and academic works related to criminal law, crime, and electoral law, while tertiary legal materials include legal dictionaries and encyclopedias that provide additional explanations of primary and secondary legal materials.

The collection of legal materials was conducted through library research and documentary studies. Library research was carried out by examining various statutory regulations, legal doctrines, criminal law theories, and scientific literature related to electoral crimes and the electoral legal system in Indonesia. Documentary study was conducted by reviewing written documents such as academic journals, research reports, and other relevant literature related to the research topic. All legal materials obtained were then analyzed using a qualitative analysis method, which involves systematically organizing and interpreting legal materials to obtain a comprehensive understanding of the legal construction of electoral crimes within the Indonesian legislative framework. The analysis was conducted using a descriptive-analytical approach to explain the relationship between existing legal norms and the practice of electoral law enforcement. Through this method, the research is expected to produce comprehensive legal arguments regarding the regulation and implementation of criminal norms related to electoral crimes within the Indonesian legal system.

RESULT AND DISCUSSION

The Construction of Electoral Crimes in the Indonesian Legislative Framework

The regulation of electoral crimes within the Indonesian legal system is grounded in the framework of the rule of law and constitutional democracy. The constitutional basis for elections is found in Article 22E paragraph (1) of the 1945 Constitution, which affirms that elections shall be conducted in a “direct, general, free, secret, honest, and fair” manner, and paragraph (5), which provides that elections shall be organized by a general election commission that is national, permanent, and independent. This constitutional mandate requires a body of legislation that regulates electoral procedures while simultaneously establishing prohibitions and sanctions to preserve the integrity of electoral stages. Electoral offenses are therefore understood as instruments for protecting the legal interests inherent in elections, including voting rights, freedom of choice, fairness of competition, and the validity of results.

At the statutory level, the primary source of regulation is Law Number 7 of 2017 concerning General Elections. The definition of elections is formulated in Article 1 point 1, which describes elections as a “means of popular sovereignty” to elect members of the DPR, DPD, the President and Vice President, as well as members of the DPRD.

Electoral principles are reaffirmed in Article 2, which again employs the phrase “direct, general, free, secret, honest, and fair.” The principle of election administration relevant to this study is also emphasized in Article 3 letter d through the principle of “legal certainty.” From a terminological perspective, the Election Law formulates key definitions that serve as references for interpreting the elements of offenses, including “Election Campaign” in Article 1 point 35 and “Quiet Period” in Article 1 point 36. Criminal provisions on elections are placed in a specific systematic arrangement beginning with Article 488 onward, such that the construction of offenses, the elements of offenses, the legal subjects, and criminal sanctions should first and foremost be derived from this normative structure. The Election Law also establishes the architecture for enforcing electoral criminal law through a mechanism for handling violations involving election supervisors as well as police and prosecutorial elements within the Integrated Law Enforcement Center (Sentra Gakkumdu), whose definition is provided in Article 1 point 38 as the center of activities for enforcing electoral criminal law.

Furthermore, regulations concerning regional head elections are governed by a separate law, particularly Law Number 10 of 2016 concerning the Election of Governors, Regents, and Mayors. In the context of regional elections, the prohibition of vote-buying is formulated in Article 73, which uses the phrase “promising and/or giving money or other materials” to influence election administrators and/or voters. The criminalization of vote-buying is reinforced in Article 187A, which also uses the phrase “promising or giving money or other materials” and imposes sanctions of imprisonment and fines.

In addition to special laws on elections and regional elections, there are general criminal norms in the Indonesian Criminal Code as well as other special criminal norms that may intersect with electoral events. The Criminal Code contains offenses of forgery, fraud, threats, destruction, as well as offenses against public order that may arise in the course of electoral events. Special criminal norms outside the Election Law, such as the Law on Electronic Information and Transactions (Law No. 11 of 2008 in conjunction with Law No. 19 of 2016), may overlap with acts relating to the dissemination of false content, hate speech, or manipulation of information through electronic media used during campaign periods. Such overlap does not automatically render all digital acts electoral crimes, because the construction of electoral offenses requires a connection to the stages, subjects, or objects of elections protected under electoral law.

The next layer lies in implementing regulations, particularly Regulations of the General Elections Commission (PKPU) and Regulations of the Election Supervisory Body (Perbawaslu). PKPU regulates the technical aspects of stages, campaign methods, campaign financing, campaign materials, and administrative procedures. Perbawaslu regulates procedures for supervision, handling violations, administrative proof, and

mechanisms for resolving process disputes. From the perspective of legislative theory, implementing regulations do not create new criminalization because the determination of offenses and criminal sanctions constitutes material reserved to statutes. Nevertheless, implementing regulations influence the construction of electoral offenses in terms of operational definitions used in interpreting the elements of offenses, especially when criminal provisions employ terminology also used in administrative norms.

Another source that must be mapped is Constitutional Court decisions reviewing the constitutionality of election and regional election norms. Constitutional Court decisions may invalidate norms, provide conditional interpretations, or establish constitutional parameters that the legislature must follow. Such decisions function both as references for validity and as interpretive references. When the Court declares a norm unconstitutional or provides a conditional interpretation, the construction of the offense and the consequences of its application change normatively. In addition to Constitutional Court decisions, decisions of courts adjudicating electoral crimes may also be used to identify patterns in the application of the elements of offenses.

From this mapping, the regulation of electoral crimes may be classified into three normative circles. First, the primary norms of criminalization grounded in special laws, particularly Law No. 7 of 2017 and Law No. 10 of 2016. Second, supporting norms in the form of the Criminal Code and other special criminal laws intersecting with electoral events. Third, implementing administrative norms in the form of PKPU and Perbawaslu regulating the details of stages and procedures. This three-circle structure creates the need for harmonization in operational definitions, consistency of terminology, and boundaries of institutional authority. Without harmonization, there is potential overlap between administrative violations, ethical violations, and electoral crimes because a single act may be assessed through different normative frameworks with differing consequences.

1. The Construction of Electoral Offenses

The construction of electoral offenses in Indonesian legislation is based on the formulation of crimes linked to electoral stages, specific legal subjects, and the legal interests protected. Normatively, this linkage is apparent from formulations that connect acts to stages (for example, the “Quiet Period” or “during voting”), connect subjects (for example, “campaign organizers, participants, and/or campaign teams” or “any person”), and connect objects of protection (the right to vote, order in voting, and the purity of vote acquisition). When the Election Law defines “Election Campaign” as an activity by participants or designated parties to persuade voters, and defines the “Quiet Period” as a period during which campaign activities may not be conducted, the concept of electoral stages simultaneously provides normative boundaries for the scope of electoral offenses.

a. Formal Offenses and Material Offenses in Electoral Crimes

In principle, a formal offense is an offense completed at the moment the act is committed, without requiring a particular consequence as an element of the offense. In electoral regulation, formal offenses are used to criminalize acts deemed to damage electoral integrity from the moment they occur, such that proof does not depend on a change in election results. A relevant example is found in Article 492 of Law No. 7 of 2017, which formulates the criminal act as “intentionally conducting an Election Campaign outside the schedule that has been determined” and imposes sanctions of confinement and fines. This formulation does not require proof of consequences for vote acquisition, but rather focuses on the existence of campaign activity and the fact that it was conducted outside the schedule set by the election organizer.

Formal offenses are also reflected in the campaign prohibitions set out in Article 280 paragraph (1), particularly the prohibition against “promising or giving money or other materials to Election Campaign participants” in letter (j), which is classified by Article 280 paragraph (4) as an electoral crime. This construction affirms that the act of giving or promising is itself regarded as constituting the basis of criminalization, without waiting for proof that voters actually changed their choice. However, the effectiveness of formal offenses still depends on the precision of the formulation of elements and the measurability of evidentiary indicators, especially where the act is committed indirectly or through intermediaries.

By contrast, a material offense requires a specific consequence as part of the elements of the offense. In elections, material offenses are relevant to acts that affect the purity of votes or damage the value of voters’ ballots. Article 532 of Law No. 7 of 2017 provides a clear example, as it formulates the criminal act as conduct that “causes a voter’s vote to become invalid” or “causes a particular election participant to gain additional votes or causes an election participant’s vote acquisition to decrease.” This formulation places the consequence at the core of the prohibition, such that proof requires linking the perpetrator’s act with the resulting invalidation of votes or alteration in vote acquisition. Thus, material offenses increase the burden of proof because the causal relationship must be established juridically, not merely the existence of the act.

The choice of offense type should correspond with the nature of the legal interest to be protected. Acts that attack the orderliness of voting and the freedom to choose may appropriately be positioned as formal offenses, because the protection is directed toward the freedom to exercise voting rights and the smooth functioning of the process. Article 531 of Law No. 7 of 2017 illustrates this through the formulation “using violence and/or obstructing a person who is about to exercise his or her right to vote” or “thwarting voting.” The protection is directed to the process and the freedom to vote, not to measurable changes in results. Conversely, acts oriented toward distorting the value of votes and vote acquisition are more rationally positioned as material

offenses, as in Article 532. The coherence of offense choice is determined by the correspondence between the protected object and the structure of the offense elements formulated by statute.

b. Fault Element: The Dominance of Dolus and Its Evidentiary Consequences

Electoral crimes are generally formulated as offenses requiring intent (*dolus*). The dominance of *dolus* appears explicitly in a number of offenses using the phrase “intentionally,” for example Article 492 (campaigning outside the schedule), Article 515 (vote-buying during voting), Article 531 (violence or obstruction of voters), and Article 532 (acts causing votes to become invalid or vote acquisition to change). In this construction, the legislature places intent as a prerequisite for criminal responsibility, such that punishment cannot be imposed merely because a consequence has occurred, but only if it can be proven that the perpetrator committed the act with will and awareness satisfying the elements of the offense.

Intent in criminal law has various forms, such as direct intent as purpose (*opzet als oogmerk*) and intent based on awareness of possibility (*opzet bij mogelijkheidsbewustzijn*). Where electoral norms merely state “intentionally” without explaining which form of intent is meant, law enforcement must build inferences from the sequence of facts. Such inference may be legitimate so long as it remains within permissible interpretive limits and does not amount to analogy. However, dependence on inference opens the door to inconsistent application because each authority may use different standards of inference. A lax inferential standard risks expanding criminal liability, while a strict standard risks discontinuing cases even where the act occurred.

Unlike *dolus* offenses, *culpa* offenses (negligence) are relatively rare in electoral criminal provisions. This scarcity indicates that electoral criminal policy places greater emphasis on acts intended to influence the electoral process or results. Consequently, acts arising from administrative carelessness, weak operational standards, or failure to fulfill procedural obligations tend to be directed toward administrative or ethical accountability. To a certain extent, this choice is acceptable because not every procedural violation deserves criminal sanction. However, from the perspective of the legal interests of elections, negligence may also have serious impacts, especially when it results in the loss of voting rights or damage to the validity of results. In such circumstances, the absence of *culpa* offenses may create a protection gap. The author does not argue that criminalization should be expanded as broadly as possible, but rather that the design of norms should be assessed as to whether it establishes a rational boundary between violations deserving criminal sanction and those sufficiently resolved administratively.

c. The Character of Conduct: Active Conduct (Commission) and Passive Conduct (Omission)

The character of conduct in electoral offenses is predominantly that of active conduct (commission). This dominance can be read from the verbs used in the Election Law, such as “promising or giving money or other materials” in Article 515 and Article 523 paragraphs (1)–(3), “using violence and/or obstructing someone ... from voting” in Article 531, and “causing a voter’s vote to become invalid” or “causing ... additional votes to be obtained” in Article 532. This pattern places conduct at the core of the offense, whether conduct related to political transactions, obstruction of voting rights, or distortion of vote value and vote acquisition. The construction of commission is consistent with the character of electoral violations, which are generally carried out through concrete actions that can be proven by events, witnesses, documents, or transactional traces.

However, elections also involve procedural obligations that, if neglected, may disrupt voting rights or electoral stages. Passive conduct (omission) is relevant particularly for actors who bear administrative duties, especially election organizers at various levels or parties entrusted with administrative mandates at certain stages. Omission may take the form of failure to update voter data in accordance with procedures, failure to make announcements required for public electoral information, or failure to provide voter services according to prescribed standards. The normative question lies in whether a particular omission is classified as an administrative violation, an ethical violation, or a criminal offense. In the design of the Election Law, criminal provisions appear to be directed more toward active conduct that is manipulative in character or constitutes direct intervention against voters and votes, whereas many procedural deficiencies tend to be resolved through administrative or ethical mechanisms.

In terms of offense construction, this choice has consequences for legal certainty. If omissions that result in the loss of voting rights are not positioned within the criminal framework, while administrative sanctions fail to provide adequate remedy, then legal protection for voters is reduced. Conversely, if omissions are criminalized without strict limits, there is a risk of excessive criminalization of procedural mistakes that should be addressed administratively. Therefore, a balance is needed as to whether the law provides clear classifications, whether obligations carrying criminal implications are formulated strictly, and whether criminalized omissions are limited to violations possessing a certain degree of fault.

d. Elements of Conduct, Subjects, and Their Relationship to Electoral Stages

Electoral crimes require a connection to elections through stages, subject status, and the protected object. This connection is the distinguishing feature between

electoral crimes and ordinary crimes. The relation to stages can be seen from the use of temporal or phase-specific phrases, for example Article 523 paragraph (2), which uses the phrase “during the Quiet Period,” and paragraph (3), which uses the phrase “on voting day.” The terminological definition of Quiet Period is also provided in Article 1 point 36 of the Election Law, while the definition of Election Campaign is found in Article 1 point 35, such that the stage element and prohibited activity obtain normative footing at the statutory level. This pattern clarifies the boundaries of electoral offenses and reduces room for analogy.

The connection to stages also affects proof. Formulations that specify stages facilitate proof because they can be matched with official schedules and implementing regulations. However, specifications that are too technical may create problems when implementing regulations dynamically detail forms of activity, while criminal provisions require stable formulations. Conversely, formulations that merely state “in an election” without stage boundaries tend to open room for inconsistent interpretation. The appropriate formulation should be sufficiently specific to maintain predictability, but should not make criminal elements dependent on administrative details that may change.

The subject of an electoral offense also determines the boundary of criminalization. The Election Law employs specific subjects in certain offenses, for example Article 523 paragraph (1), which expressly refers to “campaign organizers, participants, and/or campaign teams” as perpetrators of the offense of “promising or giving money or other materials.” By contrast, other offenses use the general subject “any person,” such as Article 515, which formulates the act of “promising or giving money or other materials to a voter” during voting, and Article 531, which formulates the use of violence or obstruction of voters. The use of specific subjects aims to link liability with electoral position and role, while the general subject aims to provide broad protection of the electoral process from interference by anyone.

The construction of electoral offenses grounded in conventional conduct leaves certain spaces unaddressed. Developments in information technology have altered the modes of campaigning, distribution of materials, and political transactions. Benefits may be provided through digital means, campaigns may be conducted through networks of anonymous accounts, and influence over voter preferences may be exercised through the dissemination of segmented manipulative content. If the connection between digital conduct and electoral stages is not adequately formulated in the criminal provisions of the Election Law, such conduct falls outside the reach of electoral offenses. In enforcement practice, such acts tend to be redirected to other criminal frameworks, especially the EIT Law. This shift changes the character of protection, because the EIT Law is not a criminal instrument specifically designed to protect electoral integrity as an electoral legal interest.

Apart from digital modes, there are acts that substantively function as tools to influence voters but are not explicitly formulated as offenses, such as the distribution of programs or assistance linked to electoral preferences without formally being labeled as campaigning. If criminal norms require a specific form of campaign or require a direct relationship between the giving and the request to vote, then more concealed conduct becomes difficult to qualify. This situation illustrates that the construction of electoral offenses concerns not only the existence of provisions, but also the precision of the elements of conduct and their relation to the purpose of protection.

2. Legal Subjects and Criminal Responsibility

The construction of electoral offenses cannot be separated from the determination of the legal subjects who may bear criminal responsibility. The determination of subjects defines the scope of prohibitions, identifies who may be punished, and determines whether the electoral criminal system can reach key actors controlling violations. The Election Law provides categorizations of subjects from the definitional level. Article 1 point 27 defines “Election Participants” as political parties for DPR/DPRD elections, individuals for DPD elections, and candidate pairs for the presidential and vice-presidential elections. Article 1 point 7 defines “Election Organizers” as a unified function consisting of the KPU, Bawaslu, and DKPP. At the technical level of administration, the Election Law also defines ad hoc bodies such as PPS and KPPS in Article 1 points 12 and 14, which are important for reading the subjects of offenses directed at organizers at the polling station level.

First, election participants and parties acting on behalf of participants are central subjects in electoral offenses. At the level of campaign prohibitions, the construction of subjects is explicitly stated in Article 280 paragraph (1) with the phrase “Campaign organizers, participants, and campaign teams are prohibited from ...,” followed by a list of prohibitions, including the prohibition against “using government facilities, places of worship, and educational institutions” in letter (h) and the prohibition against “promising or giving money or other materials to Election Campaign participants” in letter (j). This construction is important because it shows that electoral criminal norms bind not only “participants” as formal entities, but also “organizers” and “campaign teams” as operational intermediaries. At the enforcement level, the criminalization of such campaign prohibitions is also given a penal gateway through sanction provisions, including Article 521, which formulates punishment for “campaign organizers, participants, and/or campaign teams” violating Article 280 paragraph (1) letters a through j.

Second, election organizers constitute special subjects because they hold administrative mandates to carry out electoral stages and ensure that procedures proceed in accordance with the law. At the polling station level, the Election Law explicitly criminalizes certain acts committed by KPPS members. Article 503 provides

punishment for “every member of KPPS/KPPSLN who intentionally fails to prepare and sign the minutes ... and/or fails to sign the minutes of voting and vote counting as well as the certificate of vote count results” In addition, Article 506 provides punishment for KPPS/KPPSLN members who “intentionally fail to provide copies of the minutes ... and the certificate of vote count results to witnesses of Election Participants, TPS Supervisors/Panwaslu LN, PPS/PPLN, and PPK” These provisions show that organizers are not merely administrative subjects, but also criminal subjects at procedural points that directly affect the integrity of result documents.

Third, state apparatus, especially civil servants, the military, the police, and public officials, occupy a special position because it relates to the principle of neutrality and the prohibition on abuse of authority. The prohibition norms during the campaign phase are explicitly stated in Article 280 paragraph (2), which prohibits campaign organizers and/or campaign teams from involving certain parties, including “civil servants,” “members of the Indonesian National Armed Forces and the Indonesian National Police,” and village officials. This prohibition is reinforced by Article 280 paragraph (3), which states: “Every person referred to in paragraph (2) is prohibited from participating as a campaign organizer or campaign team.” At the level of criminal consequences, the Election Law directly criminalizes such conduct through Article 494, namely: “Any civil servant, member of the Indonesian National Armed Forces and the Indonesian National Police, village head, village apparatus, and/or member of the village consultative body who violates the prohibition referred to in Article 280 paragraph (3) shall be punished”

Fourth, the general public as the subject “any person” is necessary to protect elections from interference by anyone, including those who are neither participants nor organizers. The Election Law uses general subjects in offenses oriented toward protecting the process and campaign order. Article 491 formulates: “Any person who causes disorder, obstructs, or interferes with the course of an Election Campaign shall be punished” The general subject is also used in other offenses such as Article 492, with the phrase “Any person who intentionally conducts an Election Campaign outside the schedule” The use of “any person” broadens the scope of protection and corresponds to the character of elections as a public interest, but its effectiveness still depends on the precision of the conduct element and its connection to electoral stages so that application does not expand without limit.

Criminal responsibility is also related to proof of subjects possessing special qualities, such as “election organizer” or KPPS member. The Election Law actually provides definitional footing, for example the definition of KPPS in Article 1 point 14 and the provisions concerning KPPS procedural duties in the sections on voting and counting stages. However, problems of legal certainty may arise when terminology in criminal offenses depends on more detailed administrative definitions in PKPU, while

the statute provides only general definitions. In such circumstances, the standards for proving subject status may shift in accordance with implementing regulations.

In other words, the construction of subjects of electoral offenses in Indonesian legislation is built through a combination of specific and general subjects. This construction has a broad protective aim, but faces challenges in terms of consistency of definitions, accuracy in determining subjects for particular types of offenses, and the ability to reach controlling actors in organized violations.

3. The Object of Protection in Electoral Criminal Law

The object of protection in electoral criminal law is the legal interest safeguarded through the criminalization of certain acts in the electoral process. The protected object determines the direction of criminal policy, explains the rationale for prohibitions, and serves as the basis for assessing whether the formulation of offenses aligns with the objective of honest and fair elections as set out in the constitutional phrase of Article 22E paragraph (1) of the 1945 Constitution. At the statutory level, the Election Law also affirms the same electoral principles in Article 2 of Law No. 7 of 2017. The protected object functions as an analytical category for reading the structure of offenses: what acts are prohibited, who the subjects are, when the prohibition applies, and what sanctions are imposed. In the electoral context, the protected object can be mapped into three main groups, namely the protection of citizens' political rights, the protection of the integrity of electoral stages, and the protection of the validity of election results.

First, the protection of citizens' political rights occupies a primary position. Political rights include the right to vote and the right to be elected as a derivative of the principle of popular sovereignty and equality of citizens. The protection of voting rights requires that voters be able to exercise their rights without coercion, intimidation, or unlawful obstacles. In electoral criminal law, this protection is apparent in the criminalization of conduct that interferes with freedom of choice. Article 531 of Law No. 7 of 2017 formulates the offense using the phrase "using violence and/or obstructing someone who is about to exercise his or her right to vote" as well as acts that "thwart voting." This formulation places voting rights and the freedom to exercise those rights as the direct object of protection, because the prohibition focuses on conduct that hinders or frustrates voting. The protection of voting rights also relates to the quality of voters' ballots. Article 532 of Law No. 7 of 2017 contains the phrase "causes a voter's vote to become invalid" as a form of criminalization protecting the meaning of the right to vote, not merely voting procedures.

Second, the protection of the integrity of electoral stages is an important object because elections proceed through successive, procedure-based stages. Electoral stages include the registration and determination of participants, updating voter data, campaigning, the quiet period, voting, vote counting, recapitulation, and the

determination of results. Each stage produces administrative decisions and official documents that form a chain of legitimacy. Offenses protecting the integrity of stages can be found in campaign prohibitions and schedule violations. Article 492 of Law No. 7 of 2017 criminalizes conduct with the phrase “intentionally conducting an Election Campaign outside the schedule that has been determined,” such that the protected object lies in the orderliness of stages and the procedural equality of campaigning.

Third, the protection of the validity of election results is directly related to the legitimacy of government. Election results are the final output of a series of stages and form the basis for determining public officeholders. Therefore, electoral crimes relating to vote counting, recapitulation, forgery or loss of result documents, as well as conduct altering vote acquisition, have a protected object closely tied to the truth of results. Article 532 of Law No. 7 of 2017 protects results through the phrases “causes a particular Election Participant to gain additional votes” or “causes an Election Participant’s vote acquisition to decrease.” This formulation places the consequence for vote acquisition at the core of the protected object. Result protection is also related to the integrity of official vote-count documents. Article 503 of Law No. 7 of 2017 punishes KPPS/KPPSLN members who intentionally fail to prepare/sign minutes and certificates of vote-count results. Article 506 of Law No. 7 of 2017 punishes KPPS/KPPSLN members who intentionally fail to provide copies of minutes and certificates of results to parties entitled to receive them. This construction centers the protected object on the accountability of result documents as a prerequisite for legitimacy.

These three protected objects are interrelated. The protection of voting rights requires the integrity of electoral stages. The integrity of stages is needed to produce valid results. Valid results are a prerequisite for the legitimacy of power. In the construction of electoral offenses, this interrelationship of protected objects requires a systematic coherence among prohibitions, subjects, stages, and sanction design. For example, the criminalization of vote-buying under Article 515 and Article 523 may be linked to the protection of freedom of choice and equality of competition, while the criminalization of manipulation of vote value and vote acquisition under Article 532 is linked to the protection of result validity; the criminalization of the involvement of state apparatus under Article 494 and village heads’ conduct under Article 490 is linked to the integrity of stages and the neutrality of the state structure. If the elements of offenses are not clearly directed toward one of these protected objects or fail to provide clear limits, predictability of application weakens and enforcement may become inconsistent across cases.

4. The Construction of Sanctions and Proportionality

The construction of sanctions in electoral offenses serves to determine the state’s response to conduct classified as damaging electoral integrity. In the Election Law, criminal sanctions are generally formulated in the form of imprisonment and/or fines, with variations in severity depending on the type of conduct, the subject of the

offender, and the time relation to electoral stages. The “and/or” formula gives judges room for choice, but at the same time requires consistent formulation so as not to produce irrational disparity.

First, criminal sanctions for offenses protecting the integrity of campaign stages reflect a design based on the orderliness of stages. Article 492 of Law No. 7 of 2017 punishes “any person who intentionally conducts an Election Campaign outside the schedule that has been determined” with sanctions of confinement and fines. This formulation places schedule violations as violations of stage orderliness, such that the choice of confinement and fines may be understood as sanctions emphasizing correction of order rather than mere retaliation for material loss. From the perspective of proportionality, the offense requires consistent application, because campaign schedule violations often arise in the form of activities claimed to be socialization or other public events. If the boundary of the “campaign” element is unclear, the formulated sanction becomes difficult to apply uniformly.

Second, criminal sanctions for vote-buying are formulated progressively according to electoral stages. Article 523 paragraphs (1)–(3) of Law No. 7 of 2017 regulates campaign organizers/participants/campaign teams who “intentionally promise or give money or other materials” during the campaign period (paragraph 1), during the Quiet Period (paragraph 2), and on voting day (paragraph 3). This graded structure is important for proportionality because it makes the stage a weighting factor. During the voting phase, the rationale for heavier sanctions may be drawn from the closeness of the conduct to the exercise of voting rights. However, this graded structure still requires consistency in the formulation of elements and subjects, because differences in subjects and elements across paragraphs may create uncertainty as to whether a particular act falls under a given paragraph. Thus, proportionality here concerns not only the severity of sanctions, but also the measurability of offense classification by time.

In addition to Article 523, the Election Law also formulates the offense of vote-buying with a more specific purposive phrase in Article 515, namely acts committed “during voting by promising or giving money or other materials to voters” so that voters “do not exercise their voting rights,” “vote for a particular Election Participant,” or “exercise their voting rights in a particular way so that their ballot becomes invalid.” This purposive formulation strengthens the orientation toward protecting voting rights, but increases the burden of proof, such that the effectiveness of criminal sanctions depends heavily on the ability of law enforcement to prove the relationship between the giving and the intent to influence voting behavior.

Third, criminal sanctions are also formulated to protect the validity of results and official documents. The clearest example is found in sanctions against organizers at polling stations. Article 503 of Law No. 7 of 2017 punishes KPPS/KPPSLN members who “intentionally fail to prepare and sign the minutes ... and/or fail to sign ... the certificate

of vote-count results,” while Article 506 punishes KPPS/KPPSLN members who “intentionally fail to provide copies of the minutes ... and the certificate of vote-count results” to entitled parties. In terms of proportionality, the construction of sanctions against organizers can be rationalized because organizers occupy a key position regarding the validity of result documents. The Election Law thus affirms a criminal policy that places certain procedural failures as serious violations.

The construction of sanctions against organizers is also reinforced through aggravating provisions. Article 554 of Law No. 7 of 2017 states that if an Election Organizer commits an electoral crime, the punishment for that person shall be increased by one-third. This provision shows that the quality of the subject becomes a proportionality factor. The normative rationale is that organizers carry a mandate to preserve electoral integrity, such that violations by organizers are viewed as more serious than violations committed by general subjects. This aggravation also functions as a normative signal that sanctions are determined not only by the conduct, but also by the quality of office and public mandate attached to the offender.

Fourth, the design of sanctions in elections must be read together with the relationship between criminal, administrative, and ethical sanctions. The Election Law contains campaign prohibitions in Article 280 paragraph (1) and opens a criminal route for certain prohibitions through Article 280 paragraph (4). This construction implies that one norm of prohibition may result in two types of consequences, administrative or criminal, depending on the element of prohibition violated and the applicable sanction provision.

Fifth, comparison with regional elections shows variations in sanctions that may be used to test the consistency of proportionality in criminal policy. Article 187A of Law No. 10 of 2016 criminalizes vote-buying with expressly formulated sanctions of imprisonment and fines and is linked to the prohibition in Article 73 using the phrase “promising and/or giving money or other materials.” Differences in sanction design between national elections and regional elections should have a clear criminal-policy rationale. If conduct that is substantively similar carries widely differing sanctions without a justifiable basis, then the consistency of proportionality in electoral punishment becomes weak and certainty of application is reduced.

CONCLUSION AND SUGGESTIONS

The construction of electoral crimes within the Indonesian legislative framework has essentially been established through constitutional foundations, regulations contained in the Election Law and the Regional Head Election Law, and is further supported by general criminal norms and implementing regulations. However, several issues remain, including the lack of clarity in the formulation of offense elements, overlaps between administrative, ethical, and criminal violations, limited regulatory reach toward digital-based violation modes, and the fact that the design of sanctions

and criminal liability has not yet been fully proportional. These conditions indicate that electoral criminal law has not yet fully ensured optimal protection of voting rights, the integrity of electoral stages, and the validity of election results as the core of constitutional democracy. Therefore, harmonization and reformulation of electoral criminal norms are necessary through clearer articulation of offense elements, a more precise delineation of the boundaries between administrative, ethical, and criminal violations, the expansion of regulatory coverage to address modern forms of violations, particularly those utilizing information technology and the strengthening of sanction designs that are proportional, consistent, and oriented toward safeguarding electoral integrity, so that electoral law enforcement in Indonesia becomes more effective, certain, and just.

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