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Implementation of Restorative Justice in the Enforcement of Election Crimes in Pidie Jaya Regency and Bireuen Regency

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Abstract

One form of people's participation in politics in a democratic country is the existence of General Elections (Pemilu) which are free and impartial as well as honest and fair, because elections are a means of electing leaders to change the positions of head of state and members of the legislature. Election law enforcement is one of the important principles for implementing fair elections. Election criminal law regulations are regulated in Law No.7 of 2017 concerning General Elections (often called Election Act). The Election Act gives authority to the Election Supervisory Body (Bawaslu) to handle violations. The forms of election violations themselves consist of violations of the code of ethics, election administrative violations and election crimes, as well as other legal violations. These forms of election violations have their own resolution mechanisms. The mechanism for resolving election crime violations uses the criminal justice system, involving all law enforcement officers. Meanwhile, the other three types of violations are

resolved through other mechanisms. Currently, in criminal law, discussions about Restorative Justice are developing, which can be considered as a basis for resolving violations. The concept of restorative justice offers a form of resolution with the aim of fulfilling the wishes of the parties with a win-win solution, so that no party feels disadvantaged any more. The concept of restorative justice in criminal law is aimed at providing protection to victims accompanied by providing compensation and rehabilitation for victims affected by criminal acts. Alternative forms of dispute resolution in the electoral legal system have begun to be implemented, namely mediation and adjudication of election disputes based on Bawaslu Regulation No.9 of 2022 concerning procedures for resolving disputes in the general election process. Therefore, it is necessary to carry out a study on the possibility of restorative justice being applied in election law enforcement, especially in the enforcement of election crimes.

Keywords: General Election (Election), Restorative Justice, Election Crime

Introduction

In a democratic country, general elections (elections) are a form of people's political participation, besides that, elections are also a means of electing leaders to change the positions of head of state and members of the legislature in a democratic manner.¹ This election is also considered as a benchmark for democracy.

General elections in Indonesia are one of the efforts to create a democratic country, so they must be implemented well in order to create general elections as expected by the people who uphold the principles of general elections and have credible credibility that can be accounted for.

The enforcement of election law is one of the important principles to be able to carry out fair elections. Criminal provisions related to elections are governed by Law No. 7 of 2017 on General Elections (hereinafter referred to as the "Election Law"). Under the Election Law, the Election Supervisory Body (Bawaslu) has the power to punish violations. Election violations themselves include violations of the code of ethics, violations of election administration, and election crimes, among other violations. Each of these four forms of election violations has its own resolution mechanism. The mechanism for resolving election crimes utilizes the criminal justice system and involves all law enforcement officials. The other three categories of violations will be addressed by the Parliament composed of the Bawaslu to resolve election administration violations and other

¹ Saldi Isra dan Khairul Fahmi, *Pemilihan Umum Demokratis*, Jakarta: Raja Grafindo Persada. 2019, hlm. 4.

legal violations, and by the Honorary Council of Election Organizers (DKPP) to resolve violations of the code of ethics for election organizers. The concept of punishment is based more on absolute and retributive theories. It can be seen from the form of punishment threatened in the Election Act for election crimes in the form of imprisonment and fines.

Currently, in criminal law, discussions about Restorative Justice are developing, which can be considered as a basis for resolving violations. The concept of restorative justice offers a form of resolution with the aim of fulfilling the wishes of the parties with a win-win solution, so that no party feels disadvantaged any more. This is like traditional justice with the concept of a win-win solution.² The concept of restorative justice in criminal law is aimed at providing protection to victims accompanied by providing compensation and rehabilitation for victims affected by criminal acts. In its development, the concept of restorative justice prioritizes alternative forms of resolution in resolving violations or in all forms of disputes, known as Alternative Dispute Resolution (ADR). The forms of ADR are consultation, negotiation, mediation, conciliation, arbitration.³ This alternative form of dispute resolution in the election legal system has begun to be implemented, namely mediation and adjudication of election disputes based on Bawaslu Regulation No. 9 of 2022 concerning procedures for resolving disputes in the general election process. However, is it possible that restorative justice can be applied in enforcing election law, especially in enforcing election crimes?

Based on the description above, this problem will be studied through a scientific work with the title "Application of Restorative Justice in the Enforcement of Election Crimes in Pidie Jaya Regency and Bireun Regency"

Research Methods

Research is an activity in testing the truth of knowledge and is carried out using scientific methods. Research has an important role in developing the legal discipline. Furthermore, research has the aim of being a means of honing the abilities and skills of students and legal scientists (law scholars) to reveal a systematic and objective truth.⁴ Legal research must be oriented towards culture, values, morality, basic concepts that live in the reality of Indonesian society. That is not enough, legal research must also have a clearer orientation regarding the conditions of society which are constantly experiencing changes over time.⁵ The type of research used in this research is empirical legal research or known as non-doctrinal research, which is positive legal research regarding a symptom or behavior in society.⁶ The facts contained in society are legal symptoms

which are purely factual (empirical) symptoms/problems, researched sensorily through observations in the research field.⁷ This approach refers to the legal norm contained in legislation and court decision as well as legal norms contained in society.⁸

In carrying out this research, the locations chosen were Pidie Jaya Regency and Bireun Regency by considering the Implementation of Restorative Justice in election crimes.

The respondents and informants in this research are as follows:

- 1) Respondent
 - a. Integrated Law Enforcement (Gakkumdu) Pidie Jaya Regency (1 person)
 - b. Integrated Law Enforcement (Gakkumdu) Bireun Regency (1 person)
 - c. Members of the Pidie Jaya Police (1 person)
 - d. Members of the Bireun Police (1 person).
- 2) Informant
 - a. Bawaslu Pidie Jaya Regency (1 person)
 - b. Bireun Regency Bawaslu (1 person)
 - c. Prosecutor in the field of General Crimes (1 person).

The data obtained was then combined and then processed and analyzed using a qualitative approach.

Results and Discussion

1. Types of Election Crimes that occurred in Pidie Jaya Regency and Bireun Regency, Aceh Province during the 2024 Election

Basically, election crimes are divided into 2 (two) forms, namely violations and crimes. The forms of violations can include administrative violations to the election code of ethics. Election crimes are contained in article 1 point 2 of Supreme Court Regulation (Perma) No. 1 of 2018 concerning Procedures for Resolving Election and General Election Crimes which states that general election crimes are criminal offenses and/or crimes as regulated in Article 455 (1) Election Act. The forms of violations that occurred in general elections were as follows:

- a. Violations involving administrative violations, such as procedures, procedures and mechanisms involving administrative issues in the implementation of elections or at every stage of election implementation.
- b. Violations of ethics (called code of ethics violations) committed by election organizers. This is based on the oath and/or promise of the election organizer before carrying out their duties.
- c. A criminal act or election violation is a criminal offense and/or crime against the provisions of election crimes under the Election Act.

The types of general election crimes (elections) are regulated in Chapter II concerning election criminal provisions, namely Articles 488 to Article 554 of the Election Act. That in the implementation of election crimes, there are legal subjects who have the potential to commit election crimes, whether legal subjects are individuals, technical election organizers, election supervisors, officials,

² Nurdin MH, Dahlan, Suhaimi, Mustakim, Using Mediation Method in Customary Justice of Aceh-Indonesia, *International Asia of Law and Money Laundering*, Vol. 3 No.2 June 2024, pp. 115-120.

³ Suyud Margono, *ADR dan Arbitrase*, Jakarta: Ghalia Indonesia, 2000, hlm. 28-31

⁴ Slamet Soenoso, *Teknik Penulisan Ilmiah Populer*, Jakarta, Gramedia, 1986, hlm. 8.

⁵ Anton F. Susanto, *Penelitian Hukum Transformatif-Partisipatoris*, Malang, Setara Press, 2015, hlm. 67.

⁶ Asri Wijayanti, Lilik Sofyan Achmad, *Strategi Penulisan Hukum*, Bandung, Lubuk Agung, 2011, hlm. 97.

⁷ Arief Sidharta, *Meuwissen Tentang Pengembangan Hukum, Ilmu Hukum, Teori Hukum, dan Filsafat Hukum*, Bandung, Refika Aditama, 2018, hlm. 59.

⁸ *Ibid*, hlm. 105.

State Civil Apparatus (ASN), Village Heads, as well as election participants, whether campaign teams or implementers. election campaigns that have been registered

with the General Election Commission (KPU) according to level.

Table 1: Types of Election Crimes Based on the Election Act

a. Provisions on the Legal Subject "Every Person"

Article 488	Giving false information about yourself and others
Article 491	Disrupting, obstructing or interfering with the running of the campaign
Article 492	Campaign is off schedule
Article 497	Providing incorrect information in campaign finance reports.
Article 498	Bosses do not give workers/employees the opportunity to vote
Article 500	Tell other people the Voter's choice
Article 504	Causing damage or loss of BA for voting and counting votes
Article 509	Announce survey or opinion poll results during quiet periods.
Article 510	Causing other people to lose their right to vote
Article 511	Obstructing people with violence, threats, during Voter registration
Article 515	Promising or providing money or other forms of material at the polls
Article 516	Vote more than once
Article 517	Failing the Vote
Article 519	Cheating to mislead someone by giving them money or material others to obtain support for the candidacy of DPD members
Article 520	Making fake letters or documents to become a candidate for DPR, DPD, DPRD
Article 525	Giving campaign funds beyond the limit
Article 526	Make campaign fund donations
Article 529	Companies that deliberately print more than the specified number of ballot papers.
Article 530	The company does not maintain the confidentiality, integrity and security of ballot papers
Article 531	Using violence or preventing someone from exercising their right to vote, causing a disturbance of order
Article 532	Causing the ballot papers to become worthless
Article 533	Claiming to be someone else, or voting more than 1 (one) time
Article 534	Deliberately destroying or removing sealed voting results
Article 535	Changing, destroying, or eliminating minutes of events and vote counting
Article 536	Damaging, disrupting or distorting the vote counting system for election results.
Article 540	(1) Changing, destroying, or eliminating minutes of events and (1) Executors of fast calculation activities who do not notify that they are not official KPU results; (2) Implementers of fast counting activities who announce before 2 hours after the completion of voting in the Western Region of Indonesia.
Article 544	Falsifying voter data and lists
Article 548	Using regional government and BUMD budgets to donate to election organizers

b. Provisions on the Legal Subject of "Election Organizers"

Article 508	Not announcing copies of certificates of vote count results from all polling stations
Article 512	Not following up on Bawaslu's findings in updating data
Article 513	Not providing a copy of the DPT to the Election Contesting Political Parties
Article 514	Printing more than the specified number of ballot papers
Article 518	Failure to follow up on Bawaslu's findings in carrying out verification
Article 524	(1) Deliberately committing election crimes in the implementation of the Election Campaign; (2) Due to his negligence in committing election criminal acts in the implementation of the Election Campaign
Article 537	Not guarding, securing and handing over sealed ballot papers.
Article 538	Not handing over the sealed ballot box, BA recapitulated the results
Article 539	Not handing over the sealed ballot box, BA recapitulated the results of the vote tally
Article 541	Failure to implement court decisions in election crime cases
Article 542	Does not determine the results of national elections
Article 545	Reducing or adding to the voter list
Article 546	Make decisions or take beneficial/harmful actions
Article 549	The Regency KPU did not carry out a re-vote
Article 551	Resulting in the loss or change of the results recapitulation minutes

c. Provisions on the Legal Subject of "Election Observer"

Article 507	When handing over the sealed ballot box from the PPS to the PPK it was not supervised. Likewise, the handover of sealed ballot boxes from the PPK to the KPU remains unsupervised.
Article 543	Deliberately not following up on findings/reports of election violations

d. Legal Subject Provisions "Officials, ASN, Village Heads and others"

Article 490	Make decisions or take profitable actions
Article 494	Participate in Campaign Activities
Article 522	Participate in Campaign Activities
Article 547	Make decisions, take actions that are beneficial or detrimental

e. Legal Subject Provisions "Election Participants/Campaign Implementation Team"

Article 493	Involving state officials in campaign activities.
Article 495	Deliberately causing disruption to campaign implementation. Negligence results in disruption of campaign implementation
Article 496	Providing false information regarding campaign funds
Article 521	Violating campaign prohibitions, questioning state policies, etc.
Article 523	Promising or giving money or other materials
Article 525	Using excess donations, and not reporting to the KPU
Article 526	Using excess donations and not reporting the excess
Article 527	Receiving donations of Election Campaign funds from Foreign Parties
Article 528	Accepting donations from foreign parties and not reporting them to the KPU. Using funds from prohibited sources.
Article 550	Deliberately or negligently causing disruption to the election stages
Article 552	Resign after determination until the first round of voting
Article 553	Withdraw candidates or pairs of candidates who have been determined by the KPU until the second round of voting is held.

Based on the results of interviews with Bawaslu of Pidie Jaya Regency and Bawaslu of Bireun Regency, Aceh Province, data was obtained regarding the types or types of

election crimes that occurred during the 2024 elections, namely as follows:

Table 2: Types of Election Crimes in Pidie Jaya Regency in 2024

S. No	Year	Name of Convict	Violated Articles	Types of Crime	Decision
1.	2024	Islamsyah Bin Muhammad Nur	Article 516 Election Act	Providing voting rights more than once at a polling place (TPS)	Sentenced to 2 months' imprisonment and a fine of Rp. 15,000,000 provided that if the fine is not paid it can be replaced with a prison sentence of 1 month.

Source: Bawaslu Pidie Jaya Regency

Table 3: Types of Election Crimes in Bireuen Regency in 2024

S. No	Year	Name of Convict	Violated Articles	Types of Crime	Decision
1.	2024	Fajri Bin Alm. Zakaria	Article 490 Election Act	The Village Head or other name deliberately takes action that benefits one of the election participants during the campaign period.	Sentenced to 6 months' imprisonment and a fine of Rp. 1,000,000, provided that if the fine is not paid it can be replaced with a prison sentence of 15 (fifteen) days.
2.	2024	Muswadi Bin Marzuki	Article 523 (1) Election Act	Every election campaign organizer who provides other materials to election campaign participants	Imprisonment for 6 (six) months with these criminal provisions does not need to be served unless a judge decides otherwise because the person concerned committed a crime before the probation period (1 year) ends.
3.	2024	Choirul Amri Bin Alm. Sofyan	Article 493 Election Act	Implementing an election campaign that includes the Village Head	Imprisonment for 6 (six) months with these criminal provisions does not need to be served unless a judge decides otherwise because the person concerned committed a crime before the probation period (1 year) ends.

Source: Bawaslu Bireuen Regency

Based on the data from Table 2 and Table 3 above, it can be seen that the election crimes that occurred in Pidie Jaya Regency and Bireun Regency, Aceh Province during the 2024 elections were carried out by Election Participants, Village Heads and Election Campaign Organizers who had the maximum criminal threat from Article 1 Violated by each perpetrator as stated in the Election Act, in general, the sentence is less than 5 years in prison.

2. Obstacles Found in Handling Election Crimes

Essentially, in order to deal with election crimes, the government issued Bawaslu Regulation No. 3 of 2023 on the Integrated Law Enforcement Center for Elections. The Integrated Law Enforcement Center (Gakkumdu) is the enforcement action center for combating election crimes and is composed of personnel from the Bawaslu, the police, and the Attorney General's Office (Article 1 (2) of Perbawaslu No. 3 of 2023). Although the power to deal with election irregularities belongs to the Bawaslu, the procedures for dealing with election irregularities and crimes must go through the Gakkumdu Center. If the procedures of the Gakkumdu Center are skipped, there will be procedural

flaws in the handling of election irregularities. According to Perbawaslu Regulation No. 3 of 2023, the power of the Gakkumdu Center for Dealing with Election Crimes is to conduct investigations, investigations, prosecutions, and enforcement of court judgments related to election crimes. The investigation was carried out when investigators and public prosecutors from the Gakkumdu Center accompanied Bawaslu in receiving findings or reports of Election Crimes.

Based on the research results, in the implementation of the 2024 elections in Pidie Jaya Regency and Bireun Regency, Aceh Province, several obstacles were found, namely as follows:

a. Regulatory Factors

1). Short time for handling election crimes

That the mechanism for handling election crimes is regulated in Bawaslu Regulation Number 7 of 2018 concerning Handling Findings, Reports and handling violations as well as Bawaslu Regulation No. 31 of 2018 concerning integrated law enforcement centers determines a very short time for handling election crimes. So, in this very limited time, the work of handling election crimes carried

out by the Gakkumdu Center is not optimal, especially if there is more than one case being handled by the Gakkumdu Center at one time. Meanwhile, based on the provisions of Article 480 paragraph (1) of the Election Act, the period for investigating election crimes is only given for 14 (fourteen) days, Article 480 paragraph (4) of the Election Act regulates the time for handing over case files by the Public Prosecutor to the District Court for 5 (five) days and Article 482 paragraph (1) of the Election Act regulates the examination time at the District Court for 7 (seven) days, thereby causing difficulties in handling election criminal case files.⁹

That because the handling of election crime cases has a relatively short time frame for handling cases, it is hoped that every report of suspected election crime that is reported to Bawaslu can be processed quickly in order to determine whether or not there is sufficient basis for forwarding the report to the Police for investigation. However, in its application there are often differences in interpretation of cases of positions and criminal provisions that are allegedly violated so that in the end many alleged election violations cannot be continued due to the expiry of the handling time specified by law.¹⁰

2). Difficulty in the Proof process

That Election Act and Law Number 10 of 2016 do not specifically regulate evidence in election criminal cases. In other words, there are no provisions that provide a separate character in proving election crimes. Therefore, proof of election crimes is still based on the provisions of the Criminal Procedure Code (KUHAP). This is in accordance with the provisions in Article 481 (1) of the Election Act which states that District Courts in examining, adjudicating and deciding election criminal cases use the KUHAP, unless otherwise provided in this Law.

As for the special character of this election crime, such as the short handling time, it actually requires provisions related to more specific or more specific evidence other than those regulated in the KUHAP so as to ease the burden of proof for election crimes. For example, in handling criminal acts of corruption which have a wider scope of evidence compared to what is contained in the KUHAP, one of which is the expansion of evidence as regulated in Article 188 (2) of the KUHAP. Therefore, the provisions of the Corruption Eradication Law above provide sufficient opportunities for investigators to prove allegations of criminal acts of corruption more easily. Because, investigators are not only limited to the methods of obtaining evidence as regulated in the KUHAP, but are broader than that.

That in the process of proving election crimes, the Gakumdu Center experienced difficulties in presenting witnesses and evidence. This is because the Gakkumdu Center does not have the authority to forcibly pick up witnesses for questioning in the clarification process by election supervisors, especially witnesses who are suspected of being perpetrators of election crimes, so it is difficult to find the facts of events that are suspected of being election crimes. There were cases where the perpetrator did not respond to the Gakkumdu Center's summons and after visiting the

witness' residence he still could not be found so the examination process could not continue.¹¹

b. Institutional Factors

1). Limited Human Resources

Whereas in handling election crimes there are limited human resources, this is because the members who are members of the Gakkumdu Center apart from Bawaslu also consist of the Police and Prosecutor's Office which still have other responsibilities from their original agencies, despite the provisions of Article 486 (5) Elections The law states that investigators and public prosecutors are temporarily seconded and are not given other duties from their home agencies while serving at Gakkumdu. So investigators and Public Prosecutors find it difficult to divide their time in carrying out their duties at the home agency and at the Gakkumdu Center because Police investigators and Public Prosecutors are not free from assignments from their home agencies.

2). Sectoral Ego

That in handling election crimes, sometimes there are differences of opinion between Bawaslu, Investigators and Prosecutors in assessing the compliance of Article elements in election criminal provisions which are influenced by institutional ego. Meanwhile, the aim of establishing the Gakkumdu Center is as a forum for equalizing understanding and patterns of handling violations which requires that there must be agreement between each element of the Gakkumdu center so that alleged election crimes can be continued to the investigation and prosecution stage. So, with the existence of institutional egos that influence decision making in the formation of understanding, it tends to make election crime cases handled by the Gakkumdu Center have to stop.¹²

c. Cultural Factors or Community Culture

That the problems in terms of culture or community culture in handling election crimes are mainly caused by the public's lack of understanding of various information in law enforcement for election crimes. This causes reports to often not meet formal and material requirements. Apart from that, it is sometimes difficult for people who are reporters or witnesses to ask for information to clarify the handling of election crimes. This is usually because there are threats or intimidation from the reported party or other parties.

That the lack of legal awareness of the people of Pidie Jaya Regency and Bireun Regency, Aceh Province is one of the obstacles in handling election crimes. Community participation in organizing this election is really needed, such as in terms of submitting reports about suspected election crimes which will have an important impact on the process of holding the general election.¹³ Community participation is very crucial in carrying out election supervision because basically the presence of the community has an important impact in reducing the number of election fraud violations that occur in Indonesia,

⁹ Wawancara dengan Fajri M. Kasem (Ketua Panwaslih Kabupaten Pidie Jaya), pada tanggal 03 Juli 2024.

¹⁰ Wawancara dengan Mulyadi, S.H (Staf Penindakan Pelanggaran dan Penyelesaian Sengketa pada Bawaslu Pidie Jaya), pada tanggal 03 Juli 2024.

¹¹ Wawancara Dengan Asmadi Syam (Jaksa Tindak Pidana Umum), pada tanggal 13 Juni 2024.

¹² Wawancara Dengan Mulyadi, S.H (Staf Penindakan Pelanggaran dan Penyelesaian Sengketa pada Bawaslu Pidie Jaya), pada tanggal 03 Juli 2024.

¹³ Wawancara Dengan Rahmat (Ketua Panwaslih Kabupaten Bireun), pada tanggal 08 Juli 2024.

especially in Pidie Jaya Regency and Bireun Regency, Aceh Province. All Indonesian citizens have an obligation to take part in all election implementation processes that will be carried out by the state, so that citizens can take part in monitoring election violations around them. In their supervision, every citizen needs to collect concrete evidence to support reporting election violations which is then submitted to Bawaslu for follow-up.

Supervision carried out by the public will also facilitate and assist legal officials in handling election crimes, this is due to the short proof time that investigators have based on statutory provisions. The applicable laws and regulations will protect all members of the public who participate in monitoring the implementation of elections, so that they will provide legal certainty in upholding justice. However, it cannot be denied that there are still many people in the Pidie Jaya Regency and Bireun Regency areas who are not aware of how important supervision is in elections, thereby causing election violations or criminal acts.

3. Penerapan Restorative Justice Dalam Tindak Pidana Pemilu

That the Election Act has regulated procedures for resolving violations of 4 election violations. The forms of handling these four types of violations are as follows:

- a. Handling of violations of the code of ethics for election organizers is carried out through an ethical examination hearing by the DKPP. Further mechanisms are regulated in DKPP Regulation no. 3 of 2017 concerning procedural guidelines for the code of ethics for election organizers as partly amended by DKPP regulation Number 2 of 2019 concerning Amendments to DKPP Regulation No. 3 of 2017 concerning Procedural Guidelines for the Code of Ethics for Election Organizers, then partially amended in DKPP Regulation No. 1 of 2021 concerning the Second Amendment to DKPP Regulation No. 3 of 2017.
- b. The resolution of election administrative violations is carried out in an open trial conducted by the examining panel and the resolution of election administrative violations is through a speedy event. The mechanism for resolving administrative election violations is further regulated in Perbawaslu No. 8 of 2022 concerning resolution of administrative election violations.
- c. The handling of violations of other laws and regulations is handled by Bawaslu and then forwarded to the competent authority if it is proven that there are other legal violations. The settlement mechanism is regulated in Perbawaslu No. 7 of 2022 concerning Handling Election Fraud Findings and Reports.
- d. Handling of election crimes is carried out through Bawaslu and then forwarded to the Gakkumdu Center. The implementation mechanism is regulated in Perbawaslu No. 31 of 2018 concerning Gakkumdu Centers. The Gakkumdu Center is the center for law enforcement activities for election crimes consisting of elements from Bawaslu, the Police and the Prosecutor's Office at each level.

Regarding the implementation of restorative justice in election law enforcement, what must be emphasized is the aspect of enforcement of election crimes. This is based on the practice of solving it still through the retributive criminal justice system. Law enforcement of election crimes directly

involves police law enforcement elements to carry out investigations and the prosecutor's office for prosecution. The Election Act stipulates 76 types of election crimes, which are regulated in 67 articles.¹⁴

In the 2024 Election, Bawaslu of Pidie Jaya Regency has received reports and findings of 4 election crimes consisting of 3 administrative violations and 1 criminal violation and of the 4 reports and findings that continued to the examination stage in Court for 1 case, and in Bireun Regency Bawaslu had received reports and findings of election crimes in 3 cases and 3 of these reports and findings were continued to the examination stage at Court.

In organizing elections, it is very possible for violations to be committed, which can harm election participants, organizers and voters. Losses experienced by participants could be in the form of their failure to obtain a seat due to fraud committed by other participants, either directly or indirectly. The losses experienced by the organizers can be in the form of disruption to the organizing process, the integrity of the organizers, and even the implementation of the election which is the responsibility of the organizers. Losses to voters can occur due to the process of converting votes into seats which is not in accordance with the wishes of voters when they cast their votes.

The provisions for Election Crimes contained in the Election Act are formulated in one chapter, namely in the fifth book, in which there is no distinction between offenses and crimes. Of the 76 types of election crimes, restorative justice certainly cannot be applied to all of them. Qualifications must be carried out regarding the form of the offense and the sanctions threatened, as well as the conditions of the perpetrator, victim and the community in the environment where the election crime occurred.

The concept of restorative justice which focuses on conditions for creating justice and balance emphasizes the resolution of criminal cases in a balanced manner for both victims and perpetrators of criminal acts. Law enforcement based on restorative justice aims to restore the relationship between the victim and the perpetrator, as well as a mutual agreement between the two parties. This approach is very possible for individual criminal acts, not criminal acts that are public in nature and have many victims, including criminal acts against the state.¹⁵

Supreme Court Regulation (Perma) no. 4 of 2014 and no. 1 of 2024 concerning Guidelines for Trying Criminal Cases Based on Restorative Justice, Decree of the Director General of Badilum No. 1691 of 2020 concerning Guidelines for the Implementation of Restorative Justice, Prosecutor's Regulation No. 15 of 2020 concerning Termination of Prosecution based on Restorative Justice and National Police Chief Regulation no. 8 of 2021 concerning Handling Crimes based on Restorative Justice, has regulated the qualifications of crimes whose resolution can be carried out by prioritizing restorative justice.

The Prosecutor's Office as a law enforcement institution that exercises state power in the field of prosecution has an obligation to realize justice, legal certainty, legal order and truth according to the law. Apart from that, by paying attention to religious norms, politeness and decency, we are

¹⁴ Wawancara Dengan Fajri M. Kasem (Ketua Panwaslih Kabupaten Pidie Jaya), pada tanggal 03 Juli 2024.

¹⁵ Wawancara Dengan Wendy Yuhfrizal, S.H (Jaksa Tindak Pidana Umum), pada tanggal 03 Juli 2024.

also obliged to explore the human values, law and justice that exist in society.¹⁶ The prosecutor's office has a role in carrying out developments in the legal sector, so it is necessary to improve and update the law.¹⁷ The Prosecutor's Office is a government institution whose function is related to judicial power which carries out state power in the field of prosecution and other authorities based on the law, so that in carrying out its functions, duties and authority it is free from the influence of government power or other powers.

The law gives legitimacy to the Prosecutor's Institution as a government institution that exercises state power in the field of prosecution and remembers the existence of universal principles in the law enforcement process, one of which is the dominus litis principle which places the prosecutor as the only party who controls and directs cases. In this regard, all aspects of the prosecution of criminal cases that are carried out are the full responsibility of the Attorney General, so that the position of the Attorney General as the head of the prosecutor's office can fully formulate and control the direction and policies for handling criminal cases for successful prosecution, one of which is creating efficiency in law enforcement efforts. criminal law, namely by issuing Prosecutor's Regulation No. 15 of 2020.

The conditions for stopping prosecution in the Prosecutor's Regulations are contained in Article 5 (1) which states that "Based on restorative justice, criminal cases can be closed by law and prosecution stopped if they meet the following conditions:

- a. This is the first time the suspect has committed a crime.
- b. The suspect commits a criminal offense which is punishable by a fine or imprisonment of not more than 5 years.
- c. The evidence or loss resulting from the criminal act is not more than Rp. 2,500,000.

Based on the provisions of this article, in order to implement the termination of prosecution using restorative justice in election crimes, the types of criminal acts must first be materially qualified and the perpetrators formally qualified. Meanwhile, if you look at the threat of imprisonment for election crimes based on the Election Act, many offenses carry a prison sentence of less than 5 (five) years. Therefore, by referring to the Prosecutor's Regulations and qualifying the types of election crimes in the Election Act, Restorative Justice can be applied to offenses or criminal acts contained in the Election Act other than acts that violate the provisions of Article 520, Article 544 and Article 553 (1) and (2) of the Election Act.

Restorative justice in resolving election crimes must be aimed at aspects of the quality of law enforcement for election crimes. Among them is by prioritizing prevention rather than prosecution,¹⁸ and if election crimes occur they can be resolved as soon as possible through alternative resolution mechanisms that are integrated in the criminal

justice system. The form of prevention in enforcing election law has begun to be regulated in several Bawaslu regulations, including Perbawaslu No. 7 of 2022 and Perbawaslu no. 3 of 2022.¹⁹

Conclusion

The types of election crimes that occurred in Pidie Jaya Regency and Bireun Regency, Aceh Province during the 2024 General Election, namely in Pidie Jaya Regency, criminal acts that violated Article 516 of the Election Act and in Bireun Regency, namely criminal acts that violated Article 490 of the Election Act, Article 523 paragraph (1) and Article 493 Election Act.

The obstacles found in handling election crimes are: Regulatory factors, where the time for handling election crimes is short, namely the investigation time limit is 14 (fourteen) days (Article 480 paragraph (1) of the Election Act, the time limit for delegation to the District Court by Public Prosecutor for 5 (five) days (Article 480 paragraph (4) Election Act) and the time limit for examination at the District Court is 7 (seven) days (Article 482 paragraph (1) Election Act) thus causing difficulties in handling case files election crimes. Then there are difficulties in the proof process, this is because the Election Act and Law No. 10 of 2016 do not specifically regulate evidence in election crime cases, so therefore proof of election crimes is still based on the provisions of the Criminal Procedure Code (Article 481 paragraph (). 1) Election Act. Due to the special character of this election crime, such as the short handling time, it actually requires provisions relating to more specific evidence other than those regulated in the Criminal Procedure Code so as to ease the burden of proof for election crimes.

Furthermore, there are institutional factors, namely limited human resources (HR), that in handling election crimes there are limited human resources, this is because the members who are members of the Gakkumdu center apart from Bawaslu also consist of the police and prosecutors who still have other responsibilities. from the original agency. So investigators and Public Prosecutors find it difficult to divide their time in carrying out their duties at their home agency and at the Gakkumdu Center because Police investigators and Public Prosecutors are not free from their duties from their home agency. Then Sectoral Ego, that in handling election crimes, sometimes there are differences of opinion between Bawaslu, Investigators and Prosecutors in assessing the compliance of Article elements in election criminal provisions which are influenced by institutional ego. So, with the existence of institutional egos that influence decision making in the formation of understanding, it tends to make election crime cases handled by the Gakkumdu Center have to stop. Finally, the cultural factor or community culture, this is due to the lack of public understanding of various information in law enforcement for election crimes. Public participation in holding these elections is really needed, such as in terms of submitting reports about suspected election crimes which will have an important impact on the process of holding the general election.

To be able to implement termination of prosecution using restorative justice in election crimes, the types of criminal

¹⁶ Helena Octavianne, *Penuntutan Dengan Hati Nurani*, Ponorogo, REATIV, 2020, hal. 13.

¹⁷ Pasal 1 ayat (1) Undang-Undang No. 11 Tahun 2021 Tentang Perubahan Atas Undang-Undang Nomor 16 Tahun 2004 Tentang Kejaksaan Republik Indonesia.

¹⁸ Evan Munandar, Suhaimi, M. Adli, *Penanggulangan Tindak Pidana Kepemilikan Dan Penggunaan Senjata Api Tanpa Izin Dalam Sistem Peradilan Pidana*, *Syah Kuala Law Journal*, Vol. 2(3) Desember 2018, pp.338-353.

¹⁹ Wawancara Dengan Rahmat (Ketua Panwaslih Kabupaten Bireun), pada tanggal 08 Juli 2024.

acts must first be materially qualified and the perpetrators formally qualified. Meanwhile, if you look at the threat of imprisonment for election crimes based on the Election Act, many offenses carry a prison sentence of less than 5 years. Therefore, guided by the provisions of Prosecutor's Regulation No. 15 of 2020 and qualifying the types of election crimes in the Election Act, then Restorative Justice can be applied to offenses or criminal acts contained in the Election Act, apart from acts that violate the provisions of Article 520, Article 544 and Article 553 (1) and (2) Election Act.

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8. *Ibid*, hlm. 105.
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