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Criminal Law Enforcement Against Vote Inflation In The Medan City Legislative General Elections (Analysis Of Decision No. 03/Pid.S/2024/Pn Mdn)

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ABSTRACT

The democratization that has occurred in Indonesia provides an opportunity for communities to maintain and preserve the values, norms, and beliefs of their ancestors, manifested in cultural traditions and customs. To strengthen these traditions, traditional institutions have emerged as a form of legitimacy and community identity . Customary Law Communities (MHA), with their various forms of existence, have provided serious considerations in various studies and recognitions. This is clearly evident in the views of experts, legislation, and the indigenous communities themselves regarding the recognition of MHA. However, all of this has not been able to provide a definitive answer regarding their legitimacy as a subject with all its communal rights. Differing perspectives and parameters also result in ambiguity regarding the concept of MHA and communal rights in concrete situations within society. This study focuses on the views of experts and legislation as well as indigenous communities regarding the MHA in question. Then it also provides answers to the conditions, steps and/or processes that must be met in providing legitimacy and legal certainty to MHA with all its communal rights, and ultimately there is an answer to the problem so far as the cause of MHA and its communal rights not providing legitimate status with all forms of legal consequences that have.

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Introduction

General elections are a concrete manifestation of the implementation of democracy in Indonesia which provides a role for citizens to be able to participate directly in electing public officials. Democracy requires the government to function according to the will of the majority because in essence the people are the holders of power in a country. The issue of a constitutional democratic state of law cannot be separated from the ideas of democracy and nomocracy, because these two ideas meet each other, which ultimately gives rise to the concept of a democratic state of law (democratis cherechtsstaat) and a democratic state based on law (constitutionaldemocratic) or simply called a constitutional democratic state *(ConstitutionalDemocracy)* Democratic state of law (Democratische Rechtsstaat), a democratic state based on law *(Constitutional Democratic)* [1] To achieve the goal of holding a democratic election, the election must be carried out according to certain principles. These principles are binding for all parties involved in the election, including organizers, participants, voters, and the government. By having concrete and clear goals, the election will be held in a truly democratic and substantial manner. The principles in the implementation of the election hold important values in the implementation of the election itself. Principles are more than just a vision and mission, or rules and motto. Principles are the spirit of the implementation of the election itself. Principles also determine the quality of the election being carried out, as well as the extent to which the integrity of the election organizers is at stake. Principles are not a guarantee absolute in the

implementation of the election, but it is an indicator of whether the implementation of the election will run democratically. [2]

Regarding sanctions and authorized institutions in handling cases of election crimes that arise, Article 2 letter b of Perma No. 1 of 2018 stipulates that district courts and high courts have the authority to examine, try, and decide on election crimes that arise due to reports of alleged election crimes that are forwarded by Bawaslu, Provincial Bawaslu, Regency/City Bawaslu and/or Sub-district Panwaslu to the Police no later than 1x24 hours since it was stated that there was an election crime.

Election crimes are divided into two forms, namely violations and crimes. The forms of violations can include administration to the election code of ethics. General election crimes (elections) are stipulated in Article 1 number 2 of Supreme Court Regulation (Perma) No. 1 of 2018 concerning Procedures for Settling Election Crimes and General Elections. [3] Elections are included in a special crime, which is regulated in special legislation and outside the Criminal Code. Meanwhile, the definition of election crimes in the Indonesian Criminal Code (KUHP), which is a law code inherited from the Dutch colonial period, contains five articles that regulate criminal acts related to the implementation of elections. The five articles contained in Chapter IV of the second book of the Criminal Code concerning the Criminal Act of "Crimes against Carrying Out State Obligations and Rights" are articles 148, 149, 150, 151, and 152 of the Criminal Code.

A. Formulation of the problem

1. What Forms of Vote Inflation in General Elections?
2. How is the Law Enforced Against Vote Inflation in the Legislative Elections in Medan City? (Analysis of Decision No. 03/Pid.S/2024/PN Mdn).

Method

This research uses normative legal research, with a research approach to legal systematics. The forms of normative legal research as stated by Ronny Hanitijo Soemitro include "positive legal inventory, legal principles research, legal research *in concreto* , legal synchronization research, legal system research and law enforcement". [4] Normative legal research is also called doctrinal legal research. In doctrinal research, law is conceptualized as what is written in statutory regulations (*law in books*). [5] Meanwhile, research on legal systematics can be conducted on specific statutory regulations or written law. [6]

The data of this research consists of secondary data. Secondary data is data obtained from literature studies that are relevant to this research. Secondary data is "data sourced from literature studies (*library research*) related to publications, namely library data listed in official documents". [7] Secondary data comes from primary legal materials, secondary materials and tertiary materials. Data analysis can be classified into 2 (two) types, which include quantitative analysis and qualitative analysis. Analysis Qualitative is "data analysis that does not use numbers, but rather provides descriptions in words of the findings, and therefore prioritizes the quality of the data, not the quantity, and in normative legal research the analysis used is qualitative analysis." [8]

Results and Discussion

Forms of Criminal Acts of Vote Inflation in General Elections

Vote inflation is an act of fraud in engineering the results of election votes dishonestly to obtain victory carried out by election participants intentionally in order to provide an advantage to one of the election participants. [9] From the perspective of constitutional law, general elections are a political process and state life as a means of indicating the formation of representative institutions that carry out the mandate of the people. According to Sri Soemantri, elections that are implemented must be free elections, as an absolute requirement for the implementation of democracy, and can be connected to the reality where the value of a government largely depends on the people who sit in it. [10] The crime of vote inflation in general elections can occur in various forms, all of which aim to illegally change the vote results to the advantage of one of the election participants. In general, this vote inflation can be carried out through various modes. often involves election organizers or external parties such as successful teams or witnesses from election participants. The following are several main forms of criminal acts of vote inflation in elections:

1. Manipulation of Counting Results at Polling Stations (TPS). Manipulating vote counting at polling stations (TPS) is a fraudulent practice that seriously damages election integrity. This occurs when the Voting Organizing Group (KPPS) changes the vote data recorded in the C1 form. [11]

2. Data Manipulation on Forms C1 and C2.
   region . Manipulation of these two forms can change valid votes to invalid votes, or even change the vote totals for a particular candidate.
3. Vote recording at the sub-district and district levels is a critical stage in the election process, where data from multiple polling stations (TPS) is combined and further processed. This is where the potential for vote inflation is significant, especially if manipulated data at the TPS is not detected or deliberately concealed. This can cause the actual election results to differ significantly from those accepted by the public.
4. Vote Inflation Through Voter Duplicating Votes Duplicating votes using fictitious identities is a form of vote inflation that is very detrimental to the election system. This practice can be done by using fake identities or duplicating the identities of registered voters, to cast additional, invalid votes. In many cases, this occurs in areas with weak levels of supervision or areas with low voter participation rates. [14]
5. Use of Used Ballots. The use of used ballots is a highly dangerous form of manipulation. Ballots that have been used by voters, which are valid and verified, can be reused illegally in a way that disadvantages other candidates. This type of ballot misuse can be carried out by parties with access to ballot stock.
6. Systematic and Structured Vote Inflating (TSM). Systematic and structured vote inflation (TSM) is a very serious method because it involves many parties in a conspiracy to manipulate election results. In this practice, vote inflation is carried out in a planned and coordinated manner at various levels, from polling stations to the center, with the aim of influencing election results for certain interests. [15]

The crime of vote inflation in general elections has elements that must be met to be categorized as an unlawful act. These elements typically include the act, the perpetrator, malicious intent (mens rea), legal consequences, and the governing provisions and sanctions that can be imposed. Understanding these elements is crucial in the law enforcement process to ensure that every case of vote inflation is prosecuted in accordance with applicable regulations · The crime of vote inflation in elections cannot occur without the involvement of several parties who have access or authority in the election process. These parties can come from election organizers, election participants, witnesses, or even voters themselves who are used to support fraudulent practices. Each party has a different role in the vote inflation scheme, whether as the main perpetrator, supporters, or parties who allow the violation to occur. Understanding who is potentially involved is crucial to preventing and taking action against fraud in elections. [17]

Law Enforcement Against Vote Inflation in the Legislative Elections in Medan City (Analysis of Decision No. 03/Pid.S/2024/PN Mdn).

Vote inflation is an act of fraud in engineering the results of election votes dishonestly to gain victory, carried out by election participants intentionally to provide an advantage to one of the election participants. This practice is carried out by illegally increasing the number of votes to benefit certain participants in the election, and this is a form of manipulation that damages public trust in the democratic system and the legitimacy of election results. [18] Legally, this action is regulated in Law Number 7 of 2017 concerning General Elections, specifically in Article 532. This article expressly states that anyone who intentionally causes an increase or decrease in the number of votes for election participants illegally, will be subject to criminal sanctions in the form of imprisonment for a maximum of 4 (four) years and a maximum fine of Rp. 48,000,000.00. In the law enforcement efforts of a country, several main actors have very important roles, including judges, prosecutors, advocates, and the police. Or better known as the catur wangsa (four musketeers) of law enforcement. [19] Decision 03/Pid.S/2024/Pn.Mdn is one example of a case where the legal process against perpetrators of vote inflation in an election was delayed. In this case, three members of the East Medan District Election Committee (PPK)—Muhammad Rachwi Ritonga (PPK Chair), Abdilla Syadzaly Barrah Hutasuhut, and Junaidi Machmud—were sentenced for alleged vote manipulation. This alleged fraud was first revealed after the discovery of differences in the recapitulation results at the sub-district level with the results recorded at the polling stations, which raised suspicions that there was an attempt to inflate votes to

benefit certain election participants. [20] The vote inflation case involved three members of the East Medan Sub-district Election Committee (PPK), namely Muhammad Rachwi Ritonga (PPK Chair), Abdilla Syadzaly Barrah Hutasuhut and Junaidi Machmud reflect the significant challenges in enforcing election law in Indonesia. [21] This crime began when discrepancies were discovered between the vote recapitulation results at the sub-district level and the vote counts at the polling stations (TPS). This finding raised suspicions that there was a systematic manipulation attempt to benefit certain election participants. Initial indications of fraud emerged after witnesses from several political parties discovered discrepancies in the vote counts. After receiving reports from witnesses and election participants, the Medan City Election Supervisory Agency (Bawaslu) conducted an investigation to determine whether violations had occurred in the vote recapitulation. [22]

In the trial at the Medan District Court on May 17, 2024, in their criminal accountability, the three defendants were brought to court with a demand of 1 year in prison and a fine of IDR 25 million, as conveyed by the Public Prosecutor (JPU) in the trial at the Medan District Court on May 17, 2024. Prosecutors believe their actions violated the principles of free and fair elections and caused harm to other election participants whose votes were reduced due to vote manipulation. Furthermore, these actions are considered detrimental to the wider community because they undermined the integrity of the election as a democratic process that should be transparent and legitimate · This decision has drawn criticism from various parties, particularly because it is considered to have insufficient deterrent effect on perpetrators of election fraud. Considering the impact of vote inflation,

Many parties argue that light sentences could actually encourage similar fraud in future elections. Dissatisfied with the lenient verdict, the prosecutor then appealed to the Medan High Court. After considering the legal facts and the impact of the defendants' actions on the election process, on May 31, 2024, the Medan High Court increased the sentences of the three defendants to eight months in prison. This increased penalty is intended to provide a deterrent effect and emphasize that election crimes are serious offenses that cannot be tolerated. Although the penalty was ultimately increased, this case still demonstrates the challenges of firmly and swiftly enforcing election laws, particularly when prosecutors and judges differ on the severity of the appropriate sentence.

To effectively address vote-rigging cases, improvements are needed in the election law enforcement system. Coordination between the Elections Supervisory Agency (Bawaslu), the Gakkumdu Center (Sentra Gakkumdu), the police, the prosecutor's office, and the courts must be strengthened so that any violations can be processed promptly before the deadline. Furthermore, the use of technology in election monitoring and law enforcement can also help expedite evidence collection and minimize the opportunity for election result manipulation. Decision 03/Pid.S/2024/Pn.Mdn serves as an example of how a slow legal process can reduce the effectiveness of criminal accountability in election crimes. Although the sentence was ultimately increased on appeal, the delay in resolving this case still demonstrates that election law enforcement in Indonesia still faces many challenges. Moving forward, reforms to the election law enforcement system are needed, including improved coordination between institutions, accelerated investigations and trials, and the imposition of stricter penalties from the outset. With these steps, it is hoped that Indonesian elections can proceed smoothly. more transparent, fair, and free from fraud, and provide faster legal certainty for any violations that occur.

Conclusion

1. Vote inflation in general elections can occur in various forms that damage the integrity and fairness of elections, such as manipulation of vote counting results at polling stations, falsification of C1 and C2 forms, irregularities in vote recapitulation at the sub-district and district levels, duplication of voters, use of already used ballots, and systematic and structured vote inflation (TSM). All these forms of vote inflation clearly violate existing legal provisions, as regulated in Law Number 7 of 2017 concerning Elections and can be subject to criminal sanctions, either in the form of imprisonment or fines.
2. Decision 03/Pid.S/2024/Pn.Mdn shows that the judge prioritized a substantive approach by continuing to impose criminal penalties even though the time limit for handling the case had been exceeded, as long as the formal and material elements were met and the defendant's rights were guaranteed during the trial. This approach prioritizes material justice to maintain the integrity of the election. However, on the other hand, this

gave rise to counter-arguments because it has the potential to ignore the principle of legal certainty which is an important foundation in the criminal law system. This decision is an example of how slow legal processes can reduce the effectiveness of law enforcement in election crimes. Although the sentence was ultimately increased on appeal, the delay in resolving this case still shows that election law enforcement in Indonesia still faces many challenges.

Suggestion

1. Stricter and more transparent oversight should be implemented at every stage of the election, from vote counting at polling stations to vote recapitulation at higher levels. Oversight should be carried out not only by the General Elections Commission (KPU) and Elections Supervisory Agency (Bawaslu), but also by involving civil society and the media to reduce the potential for fraud.
2. It is hoped that in the future, reforms will be needed in the election law enforcement system, including improving coordination between institutions, accelerating investigations and trials, and imposing stricter penalties from the start. With these steps, it is hoped that elections in Indonesia can run more transparently, fairly, and free from fraud, as well as providing faster legal certainty for any violations that occur.

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