

## Criminal Act of Destruction of Campaign Props of Candidates for dark election 2019 Gorontalo province

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### ABSTRACT

This study aims to find out what factors are behind the perpetrators of the destruction of campaign props belonging to the Dprd Candidate in the 2019 General Election in The Gorontalo Province General Election Supervisory Agency and to find out how law enforcement efforts against criminals damage the campaign props of the DPRD Candidate in the 2019 General Election are reviewed from Law No. 7 of 2017 concerning general elections. The results of this study show: *First*, law enforcement efforts carried out by The Election Supervisory Agency together with gakkumdu in handling election crimes against perpetrators of APK destruction in accordance with the applicable regulations as the provisions of Article 486 of Law No. 7 of 2017 concerning General Elections, Election Supervisory Agency Gorontalo Province and Regency / City in handling findings / reports of alleged election crimes including destruction of APK then enforcement The law is carried out jointly with the police and prosecutors through the Integrated Law Enforcement Center (Sentra Gakkumdu); *Second*, the factors behind the perpetrators doing damage to campaign props belonging to the DPRD Candidate in the 2019 General Election are (1) Weak awareness and knowledge of election law; (2) The existence of fanatical and anti-presidential behavior against certain Candidates / Election Participants; (3) The influence of liquor so that the perpetrators do damage to campaign props (billboards) belonging to one of the legislative candidates.

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## 1. Introduction

### A. Background

The political system and the implementation of state power aimed at achieving the ideals of the state of law and constitutionalism in Indonesia underwent major changes after the amendment of the Constitution of the Republic of Indonesia in 1945 (UDN NRI 1945). This is confirmed in the 1945 NRI Constitution which states that the State of Indonesia is a state of law and a country that adheres to democratic principles.<sup>1</sup>

The change has given a clear sense of the Indonesian state of law that gives freedom for every citizen to get the protection of human rights, carry out democratic principles and get judicial guarantees rigidly regulated in the 1945 NRI Constitution. To restore sovereignty to the people, the electoral system has been changed with a system that gives the people the opportunity to be able to exercise their right to vote directly.<sup>2</sup> Through amendments to the 1945 NRI Constitution with the addition of Article 6A and Article 22E, the electoral system was previously changed to direct elections, both for legislative elections and for presidential and vice-presidential elections.

Legislative elections or elections of the DPR, DPD, and DPRD are a means of people's sovereignty in the process of the state to elect representatives of the people and to oversee the running of the government as well as restrictions on five-year power. The mandate is contained in the provisions of Article 1 paragraph (2) of the 1945 NRI Constitution which explicitly stipulates that the sovereignty of the people is carried out according to the law which means the sovereignty of the people is realized through elections based on law.

Sovereignty formulated in Article 1 paragraph (2) of the 1945 NRI Constitution means that sovereignty is in the hands of the people, something that is highest in the Unitary State of the Republic of Indonesia (NKRI). In addition, the sovereignty of the people is part of human rights. According to the provisions of Article 23 paragraph (1) of the Law of the Republic of Indonesia, Number 39 of 1999 on Human Rights (Law No. 39 of 1999) states that everyone is free to vote and has his political beliefs.<sup>3</sup> Furthermore, in the provisions of Article 43 paragraph (1) of Law No. 39 of 1999, it stipulates that:

"Every citizen has the right to be elected and vote in elections based on equal rights through direct, general, free, secret, honest and fair voting by the provisions of the laws and regulations."

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<sup>1</sup>Muhamad Labolo dkk, 2015, *Partai Politik dan Sistem Pemilihan Umum di Indonesia (Teori, Konsep, dan Isu Strategis)*, Jakarta: Rajawali Pers, hlm. 12

<sup>2</sup>Icni Tri Handayani, 2014, *Tinjauan Yuridis Terhadap Kampanye Pemilihan Umum Kepala Daerah Dalam Penggunaan Media Televisi sebagai Media Kampanye*, Skripsi Fakultas Hukum Universitas Hasanuddin, Makassar, hlm. 2.

<sup>3</sup>Pasal 23 Ayat (1) Undang-undang Republik Indonesia Nomor 39 Tahun 1999 tentang Hak Asasi Manusia.

The election of members of the DPR, DPD, and DPRD is intended to guarantee the principle of representation which means that every Indonesian citizen is guaranteed to have a representative who sits in a representative institution that will voice the aspirations of the people at every level of government from the center to the region.<sup>4</sup> In addition, the representatives will carry out the function of conducting supervision, channeling the political aspirations of the people, making laws as a foundation for all parties in the Republic of Indonesia in carrying out their respective functions, and formulating revenue and spending budgets to finance the implementation of these functions.<sup>5</sup>

Elections held directly, honestly, and fairly are an absolute requirement to realize qualified, trustworthy, and able to carry out legislative institutional functions optimally. The implementation of good and quality elections will increase the degree of healthy, participatory and representation that is stronger and can be accounted for. Elections today are a parameter in measuring the democratization of a country, even democracy is simply likened to a political system in which the highest collective decision-makers in the system are selected through fair, honest, and periodic elections.<sup>6</sup>

Efforts to improve the quality of the implementation of simultaneous elections in 2019 have been regulated by the Election Commission of the Republic of Indonesia through The Election Commission Regulation (PKPU) Number 7 of 2017 on the Stages, Programs, and Schedules of The 2019 General Election. Amid the implementation process, in 2018 the KPU again made improvements to this regulation through The Election Commission Regulation No. 2 of 2018 on Changes to The General Election Commission Regulation No. 1 of 2017, on the Stages, Programs, and Schedules of The Implementation of General Elections in 2019.

The Election Law is a strategic legal instrument because the entire election process will refer to it, especially the elements involved in organizing elections (Komisi Pemilihan General and Election Supervisory Agency) as the main controller of the stages of election implementation will certainly not take any other reference than the Election Law in carrying out its duties, functions, and authorities. Because the Election Law is a legal instrument, to analyze it from a legal perspective, of course, a review of the theory of the

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<sup>4</sup>Dedi Mulyadi, 2013, *Perbandingan Tindak Pidana Pemilu Legislatif Dalam Perspektif Hukum di Indonesia*, Bandung: PT Refika Aditama, hlm. 101.

<sup>5</sup>*Ibid*, hlm. 99.

<sup>6</sup>Janedjri M. Gaffar, 2013, *Demokrasi dan Pemilu Di Indonesia*, Jakarta: Konstitusi Pers, hlm. 5.

purpose of the law is to be; Justice, Expediency and Legal Expediency.<sup>7</sup>

But in the 2019 Election, there are various legal cases, one of which is the crime of destruction of campaign props. For example, in Kabupaten Boalemo there was a criminal case regarding the destruction of APK carried out by one of the communities with the initials SM who deliberately damaged the APK or Billboard belonging to Caleg Hardi Syam Mopangga, S.Pd, M.Si. as the Candidate of the Boalemo Regency DPRD from the Democratic Party, Daerah Pemilihan I with number 1. The reason SM damaged HSM's APK was that SM didn't like to see HSM's APK installed close to SM's house. By HSM who revealed that the APK was damaged by SM directly reported the incident to Badan Pengawas Pemilihan Umum Boalemo. The act committed by SM is an election criminal act in which the destruction of campaign props of political parties, legislative candidates, and presidential candidates in the 2019 election, can be punished with the threat of two years in prison. The threat of punishment of confinement of the body is stipulated in Article 521 Jo Article 280 paragraph 1 letter 'g' of the Law of the Republic of Indonesia Number 7 of 2017 concerning General Elections.

Electoral crimes are special crimes where the arrangements are special and only in allotments for certain persons desired by the law. Indeed related to elections also in orra in the provisions of the Criminal Code, namely in Article 148, Article 149, Article 150, Article 151, and Article 152. But it does not overall regulate the actions that should be prohibited in elections.

The division of general criminal law with special criminal law with existing regulations, namely that the criminal law regulated in the Criminal Code is a general criminal law because the provisions in it apply to everyone. While the special criminal law, can be seen from the laws and regulations that regulate criminal provisions outside the Criminal Code, for example, the Criminal Code of Corruption, the Money Laundering Act, the Election Law, and others.

From the background description above, researchers are interested in conducting legal research related to the Criminal Act of Destruction of Campaign Props of Prospective Members of the DPRD in the 2019 General Election in Election Supervisory Board Gorontalo Province.

## **B. Research Method**

The research raised by researchers is empirical legal research with a qualitative approach.

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<sup>7</sup>Salahudin Pakaya, Materi Hukum yang disampaikan pada forum Evaluasi Pengawasan Pencalonan, Kampanye Pemilu Tahun 2019 serta Menyongsong Pilkada Tahun 2020; yang dilaksanakan oleh Bawaslu Provinsi Gorontalo, 7-8 September 2019.

Empirical legal research is a type of research to describe research findings data in the form of sentences in the form of statements or statements from respondents by existing reality.<sup>8</sup> A qualitative approach is a research procedure that produces descriptive data, which is expressed by respondents in writing or orally, and real behavior.<sup>9</sup>

## **II. Factors Causing Damage to Campaign Props**

### **Weak Awareness and Knowledge of Law.**

Election Supervisory Board as an institution that has a mandate to oversee the election process requires the support of many parties in surveillance activities. One of them is to invite all community groups to be involved in the participation of supervision at every stage. Public involvement in voting escorts not only comes and votes, but also conducts supervision over potential fraud that occurs, as well as reporting the fraud to Election Supervisory Board as an institution tasked with overseeing the election process and following up on alleged election violations. Elections are not just a mere political ceremony that denies the political participation of the people.

Based on the results of the researcher's interview with Djaharudin Umar as the chairman of the Election Supervisory Board Gorontalo Province stated, that the community is the subject in the election process, for that the community must healthily determine its choices, not be victimized with issues that are not necessarily true. The public must know what are the legal rules regarding elections so that the public is not entangled with election law especially in the 2019 election some people are convicted of violating election law.<sup>10</sup>

For election organizers, the presence of psychologically massive public supervision will control and remind them to always be careful, honest, and fair in holding elections. Before it comes to increasing public participation in election supervision, the big challenge that Election Supervisory Board also faces is building public political awareness. Public awareness of the sovereignty possessed in the democratic process is still low. The humility of awareness is one of the triggers is the lack of public knowledge about democracy, elections, election supervision, and election law.

### **The Existence of Fanaticism and Antipathy Towards Candidates/ Election Participants**

Ahead of the presidential and vice-presidential elections, members of the DPR, DPD, Provincial DPRD, and District/City DPRD on April 17, 2019, tensions between

<sup>8</sup>Bambang Sunggono. *Metode Penelitian Hukum*, Jakarta; PT Raja Grafindo Persada 2013, hlm.118.

<sup>9</sup>Soejono soekanto. *Pengantar Penelitian Hukum* (Jakarta: PT Gramedia Pustaka Utama), hlm.32.

<sup>10</sup>Hasil wawancara peneliti dengan Djaharudin Umar selaku ketua Bawaslu Provinsi Gorontalo pada tanggal 29 Desember 2020

community groups have strengthened. The fanaticism of support for each candidate indicates all have potential power. This critical condition if not anticipated will cause turmoil that harms the community itself. Excessive fanaticism towards the underdog candidate will have a negative impact if candidates who have many fanatical groups suffer defeat.

Fanaticism is an understanding or behavior that shows an excessive interest in something. [Winston Churchill](#) stated that a fanatic would not be able to change his mindset and would not change his direction. It can be said that someone who is fanatical has strict standards in his mindset and tends not to listen to opinions or ideas that he considers contradictory. This fanatical attitude generally occurs in societies related to ethnicity, state (nationalism), religion, ideology, and sports. But about this presidential election, fanaticism can be associated with individual figures. This is due to the similarity of vision, mission, or it could be due to the similarity of the background of the tribe, religion, or ideology concerned. So that the representation of a presidential candidate can have very potential fanatical supporters.

Election Supervisory Board Regency Boalemo in the 2019 election handled one of the cases about the budgeting of the election destruction of one of the campaign props belonging to dead candidate Regency Boalemo from the democratic party on behalf of Hardi Syam Mopangga, S.Pd., M.Si. The campaign equipment was damaged by one of the people of West Pentadu Village, Tilamuta Subdistrict, Boalemo district. The perpetrator of the destruction of the APK is none other than the ponakan of the owner of the apk that is damaged. Defendant SM's motive for destroying his uncle's APK was because of the defendant's distaste for his uncle.

Based on the results of the interview of researchers with Awaludin Mopangga Alias Syamsudin Mopangga the perpetrators of apk destruction that occurred in Boalemo Regency on January 12, 2020, stated that I intentionally damaged my uncle's billboard, karnea I did not like my uncle running for re-election as a candidate for dprd Regency Boalemo. in 2014 he was also one of the candidates of dprd members, I helped him to gather votes for him even I became one of his successful teams because I agreed and I supported his mission vision, but after he was appointed and became a member of the Boelmo Regency DPRD in 2014 he forgot his promise, even though he was arrogant and forgot about me. He also did not realize his Mission Vision when nominated first. That is the reason why I did not succeed with my panan Hardi Sham Mopangga, S.Pd., M.Si to run again to become a member of the DPRD Regency Boalemo in 2019. I was anti even when I saw the billboard installed near my house immediately tore up using wood.<sup>11</sup>

Furthermore, according to Amir Dj Koem as the chairman of boalemo regency on January

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<sup>11</sup>The results of the interview of researchers with Awaludin Mopangga Alias Syamsudib Mopangga perpetrators of APK destruction that occurred in Boalemo Regency on January 12, 2020



12, 2020, confirming what was said by the perpetratorS of Sham Mopangga, at that time we brought boalemo received a report from Hardi Sham Mopangga, S, Pd., M.Si to his APK which was damaged by his ponakan, SM. We after receiving the report we conducted a review of the report with the results of alleged electoral crimes that meet the condition formal and material requirements so that the report of Hardi's brother Sham Mopangga was registered and carried out in Gakkumdu for follow-up. Sm's actions violate Article 521 Jo Article 280 Paragraph (1) letter g of Law No. 7 of 2017 concerning elections. SM was found guilty and sentenced to prison for 1 (one) month and a fine of Rp5,000,000.00 (five million rupiahs) with the provision that if the defendant does not pay the fine then it is replaced with a prison sentence for 2 (two) months with a probation period of 3 (three) months.<sup>12</sup>

Behaving in anticipation hurts ourselves and the crowd as what was put forward by one of the public figures Regency boalemo, based on the results of a researcher interview with one of Anwar Hasan, SH as a community leader of Boalemo Regency on January 12, 2020, stated that we may not like one of the candidate pairs of election participants as long as we do not do things that will cause bad things for us or us. A lot of people. For Example, because we do not like the same candidate A continues we destroy the billboard belonging to A, this is the criminal act that there is candidate A loss and we also lose even we have problems with the law.<sup>13</sup>

### Effects of Liquor

Northern Gorontalo, is one of the districts included in the province of Gorontalo, not separated also in the history of the democratic party that was held in the 2019 elections. People who participate in the democratic party certainly embrace all existing groups, especially in the North Gorontalo district, so that some actions by some people who violate the rules often occur, this is triggered by public ignorance about the prevailing election rules, ranging from ramblings to bring down candidates he does not like, to the destruction of *campaign props*.

Some people of North Gorontalo district who are election offenders, who do damage *campaign props*, are certainly triggered by several things, one of which is community disease, namely *liquor*. This is certainly able to harm prospective candidates or candidates who participate in the history of the democratic party when *campaign props*, damaged by the side of the community who have hatred or dislike for the existing candidates.

The liquor itself can certainly affect the emotional role of those who consume it, this is what triggers some people to do the act of destroying campaign props from prospective

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<sup>12</sup>Results of Research Interview with Amir Dj Koem as chairman of boalemo regency on January 12, 2020

<sup>13</sup>Anwar Hasan, SH Selaku Tokoh masyarakat Kabupaten Boalemo pada tanggal 12 Januari 2020

candidates who do not like it.

Reporting from General Election Supervisory Board Regency Gorontalo Utara, by the results of interviews that have been conducted by researchers with the Chairman of General Election Supervisory Agency Gorontalo Utara on January 4, 2020, stated, one of the things that triggered the community to do damage to campaign props was liquor. Call it Arjun one of the people in the North Gorontalo kab area, known as a citizen who likes to consume hard drinks, is one of the people who do damage campaign props, this he did because of the influence of unstable awareness due to liquor. Arjun did the destruction of the APK belonging to one of the prospective members of the North Gorontalo Regency DPRD from the Golkar party on behalf of Riko Salim Tanango SE. Riko who knew his APK was damaged by the perpetrator immediately reported the incident to Election Supervisory Board North Gorontalo Regency. We receive the report of the complainant and based on the results of our review and destruction the perpetrator's actions are electoral crimes stipulated in article 521 Jo Article 280 Paragraph (1) letter g of Law No. 7 of 2017 concerning elections and we forward it to Gakkumdu for follow-up. The offender is sentenced to 2 (two) months imprisonment with a probation period of 4 (four) months.<sup>14</sup>

Based on the results of research interviews with Arjun perpetrators of APK destruction in North Gorontalo Regency on January 4, 2020, it was realized that at that time I was out of rat stamp type liquor with friends, when heading back home, I passed in front of Nursia Karim's house, in front of the house was installed baliho Candidate of dprd north of Golkar party on behalf of Riko Salim Tanango, ONE. Honestly, I did not like Nursia Karim allowing Riko to install billboards in front of his house, so I knocked down the billboard and immediately tore the tooth using wood while saying "*the person who paired the billboards and this flag PKI same*". I did not realize that my act of damaging the APK belonging to one of the candidates of the north Gorontalo Regency DPRD from the Golkar party on behalf of Riko Salim Tanango, SE was an election criminal act that was bad for me and my family.<sup>15</sup>

### **Law Enforcement Efforts Against Perpetrators of Campaign Prop Destruction**

Law number 7 of 2017 on General Elections as the legal basis for the implementation of presidential and vice-presidential elections, elections of members of the DPR, DPD, DPRD, and DPRD of Kota regencies throughout Indonesia. One of the charges is about the ban in the campaign. The law in article 280 mentions:

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<sup>14</sup>The results of an interview conducted by researchers with Chairman Bawaslu Kabupatem Gorontalo Utara on January 4, 2020

<sup>15</sup>The results of the researcher's interview with Arjun the perpetrators of apk destruction in North Gorontalo Regency on January 4, 2020



- (1) Election Campaign organizers, participants, and teams are prohibited from:
  - a. Questioning the state policy of Pancasila, the Opening of the Constitution of the Republic of Indonesia in 1945, and the form of the Unitary State of the Republic of Indonesia;
  - b. Carrying out activities that endanger the integrity of the Unitary State of the Republic of Indonesia;
  - c. Insulting a person, religion, tribe, race, class, candidate, and/or other Election Participants;
  - d. Inciting and pitting individuals or communities;
  - e. Disrupting public order;
  - f. Threatening to commit violence or advocating the use of force against a person, a group of members of the public, and/or other Election Participants;
  - g. Damage and/or remove election participants' campaign props;
  - h. Using government facilities, places of worship, and places of education;
  - i. Carry or use image marks and/or attributes other than the image mark and/or attributes of the Election Participants concerned; and
  - j. Promising or providing money or other materials to election campaign participants.
- (2) Implementers and/or campaign teams in Election Campaign activities are prohibited from including:
  - a. Chief, vice chairman, young chief justice, chief justice of the Supreme Court, and judge of all judicial bodies under the Supreme Court, and constitutional judge of the Constitutional Court;
  - b. Chairman, vice chairman, and member of the Audit Board;
  - c. Governor, senior deputy governor, and deputy governor of Bank Indonesia;
  - d. Directors, commissioners, supervisory boards, and employees of state-owned enterprises/ regionally owned enterprises;
  - e. State officials are not members of political parties that serve as leaders in nonstructural institutions;
  - f. State civil apparatus;
  - g. Members of the Indonesian National Army and the National Police of the Republic of Indonesia;
  - h. Village chief;
  - i. Village devices;
  - j. Members of the village consultative body; and
  - k. Indonesian citizens do not have the right to vote.

- (3) Everyone referred to in paragraph (2) is prohibited from participating as the executor and team of the Election Campaign.
- (4) Violation of the prohibition of provisions on paragraph (1) letter c, letter f, letter g, letter i, and letter j, and paragraph (2) is a criminal act of election.

Based on the above article related to what things are prohibited in the campaign, in general, there are 21 points related to what things are prohibited in the campaign stipulated by Law No. 7 of 2017 on Elections. So that in the presidential and vice-presidential election campaigns, the election of members of the DPR, DPD, Provincial DPRD, and District/city DPRD in 2019 is inseparable from 21 things that are prohibited in the implementation of the campaign.

In the implementation of presidential and vice-presidential elections, members of the DPR, DPD, Provincial DPRD, and Dprd Regency/city, it is very difficult to avoid violations and disputes, because in the holding of presidential and vice-presidential elections and members of the Legislature there are many interests involved, let alone honestly admitted that the level of democracy of Indonesian society is relatively low. What needs to be maintained, so that these violations and disputes do not cause turmoil and anarchist actions in society. The best way to overcome this problem is to resolve all violations and disputes through legal channels by the provisions of applicable laws and regulations.<sup>16</sup>

Provincial Election Supervisory Agency and Regency General Election Supervisory Agency / City then witness and report for questioning. The information submitted by the Complainant, reported / perpetrator, witnesses, and/or experts are stated in the news of the clarification event as well as the clarification event news form as outlined in model form B.9. Clarification and/or request for information is made by The Election Supervisory Agency, Province General Election Supervisory Agency, Regency / City Election Supervisory Agency, Panwaslu Subdistrict, and Panwaslu LN and/or the appointed clarification team. The parties who are asked for information or clarification, previously taken an oath/promise by religion and belief by the appointed officer and signed the news of the event under oath/promise as well as the form of information/clarification under oath/promise as stated in model form B.7. After clarifying to the parties who provide clarification then bring a review of the results of the clarification and stated in form B-10 (Study), the study is confidential as long as it has not been decided in the plenary meeting of the Chairman and Members of the Election Supervisory Agency, Province General Election Supervisory Agency, Regency / City

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<sup>16</sup>Rozali Abdullah, *Mewujudkan Pemilu Yang Lebih Berkualitas*, Rajawali Press, Jakarta, 2009, hlm.265.

Election Supervisory Agency, Panwaslu Subdistrict, and Panwaslu LN.<sup>17</sup>

The results of a review of findings or reports of alleged violations stipulated in Regulation No. 7 of TAhun 2018 on the handling of findings and reports consisting of:

1. Violation of the election organizer's code of conduct;
2. Electoral Crimes;
3. Administrative Violations of elections;
4. violations of other laws and regulations; or
5. Not a violation.<sup>18</sup>

Election Supervisory Agency, Province General Election Supervisory Agency, Regency / City Election Supervisory Agency, Panwaslu Subdistrict, and Panwaslu LN after preparing that the report was a violation of the election in the plenary meeting then after that, the election supervisor forwarded the report later than 1x24 hours to investigators of the State Police of the Republic of Indonesia in Gakkumdu.

Police investigators that no later than 14 days after receiving a report from the Election Supervisory Agency, Province General Election Supervisory Agency, Regency / City Election Supervisory Agency, submitted the results of their investigation to the Public Prosecutor. If the results of the police investigation into electoral crimes are not complete, then the public prosecutor within a maximum of 3 days returns the case file to the police to be equipped of course along with instructions on what things should be equipped by the police as investigators. Furthermore, the police within 3 days must complete the file as requested by the Public Prosecutor and submit it back to the Public Prosecutor. The public prosecutor then has an obligation within 5 days to submit the election criminal case file to the District Court for examination.

The District Court in examining, adjudicating, and deciding election criminal cases, based on the Criminal Procedure Code as stipulated in Law No. 8 of 1981 except the rules of event law that are specifically regulated / specifically in Law No. 7 of 2017. In this case, in particular, the process of speaking is faster than ordinary/general criminal acts. The faster process of speech is certainly something that is needed in the case of electoral crimes let alone the type of electoral crimes that affect the results of the votes of eligible participants. The panel of judges assigned to adjudicate and generalization of electoral crimes is a special Assembly as referred to in Article 481 paragraph (2) consisting of special judges who are career judges in state courts and high courts that are specifically designated to examine, try, and decide electoral crimes. Special judges as referred to in

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<sup>17</sup>Article 18 Paragraph (2), (3) and Paragraph (4) Of The Ministry of Foreign Affairs & TAhun 2018 Tentang Penanganan Findings and Reports of Alleged Election Violations

<sup>18</sup>Article (26) Perbawaslu & TAhun 2018 Tentang Penanganan Findings and Reports of Alleged Election Violations

paragraph (1) are determined by the decision of the Chief Justice of the Republic of Indonesia and master knowledge of the election in addition to the special judges referred to in paragraph (1) must be qualified to have carried out their duties as judges of at least 3 (three) years, except in a court there are no judges whose working period has reached 3 (three) years.<sup>19</sup>

The District Court examines, prosecutes, and decides the case of electoral crimes at the latest within 7 days of the case file being devolved by the Public Prosecutor. If the decision of the District Court is appealed, then the Appeal must be filed within 3 days after the verdict is read. The District Court submits the Case file to the High Court within a maximum of 3 days after the appeal is received. Electoral crimes at the appeal level are examined, tried, and decided within 7 days after the appeal is received. The high court's ruling is the last and binding and there are no other legal efforts. That is, the high court's decision is a ruling that has the power of permanent law after it is read. Furthermore, the court's decision on electoral crimes affecting the results of election participants must be completed 5 days before the KPU determines the results of the National Election. The court's decision must be followed up by the KPU, Provincial KPU, and district/city KPU where a copy of the ruling must be received by the KPU, Provincial KPU, and Regency/City KPU on the day the verdict is read.<sup>20</sup>

In the 2019 general election in Gorontalo province, there were several election violations of one of the electoral crimes regarding the destruction of campaign props carried out by the community. There were 2 violations of election violations of the destruction of campaign props that occurred in northern Gorontalo Regency and Regency Boalemo.

Based on the results of the researcher's interview with Mr. Djaharudin Umar, SH, MH as Chairman of the Gorontalo Provincial Election Supervisory Board on December 30, 2020, that in the General Election Board in 2019 the Gorontalo Provincial Election Supervisory Agency did not find and/or receive reports from the public regarding alleged violations of APK destruction so that the Gorontalo Provincial Election Supervisory Agency did not handle the alleged violations of apk destruction. However, at the level of the District / City Election Supervisory Board recorded as many as 4 (four) Findings / Reports, namely 1 (one) findings of election supervisors and 3 (three) reports of the community/election participants, with details in the Election Supervisory Board of North Gorontalo Regency as many as 1 (one) findings and 2 (two) reports and in the Election Supervisory Agency. Boalemo County as many as 1 (one) report. But that is proven until the Eintracht court's decision only 2 (two) findings/reports, namely 1 (one) report in the Election Supervisory Board of North Gorontalo Regency and 1 (one) report in the Boalemo District Election

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<sup>19</sup>Article 485 of Law No. 7 of 2017

<sup>20</sup>Article 482 of Law No. 7 of 2017

Supervisory Agency.<sup>21</sup>

Violations of electoral crimes are each handled by both districts, namely North Gorontalo Regency and Boalemo Regency by applicable laws and regulations. In the process of handling election violations, the Election Supervisory Agency conducted a review of reports related to the destruction of APKs carried out by public individuals and then determined the violation as a criminal violation of the election in a plenary meeting. After that, the Election Supervisory Agency forwarded the verdict to Indonesian Republik police investigators to the sentragakumdu.

Based on the results of the researcher's interview with Mr. Idris Usuli as Coordinator of the Legal Division of the Gorontalo Provincial Election Supervisory Agency on December 29, 2020, he stated that as the provisions of Article 486 of Law No. 7 of 2017 concerning Elections, the Election Supervisory Board of Gorontalo Province and regencies/cities in handling findings/reports of alleged election crimes including the destruction of APKs then enforcement. The law is carried out jointly with the police and prosecutors through the Integrated Law Enforcement Center.<sup>22</sup>

The Integrated Law Enforcement Center hereinafter referred to as Gakkumdu is the center of election criminal law enforcement activities consisting of elements of the Election Supervisory Agency, the Provincial Election Supervisory Agency, and/or the District/City Election Supervisory Agency, the State Police of the Republic of Indonesia, the Regional Police, and/or the Resort Police, and the Attorney General's Office of the Republic of Indonesia, the High Prosecutor's Office, and/or the State Prosecutor's Office.

Based on the results of the researcher's interview with Mr. Djaharudin Umar, SH, MH as Chairman of the Election Supervisory Board of Gorontalo Province on December 30, 2020, stated that the Establishment of Gakkumdu is regulated in Article 486 Paragraph (1) of Law No. 7 of 2017 on General Elections which reads "To equalize the understanding and pattern of handling election crimes, the Election Supervisory Agency, the State Police of the Republic of Indonesia, and the Attorney General's Office of the Republic of Indonesia formed Gakkumdu". Furthermore, further provisions regarding Gakkumdu are regulated by the Regulation of the Election Supervisory Agency of the Republic of Indonesia Number 31 of 2018 Integrated Law Enforcement Center. If the process of Investigation, Investigation, Prosecution, and examination of electoral crimes is not regulated in Law No. 7 of 2017 then it is carried out based on Law No. 8 of 1981 on

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<sup>21</sup>The results of the researcher's interview with Mr. Djaharudin Umar, SH, MH as Chairman of Bawaslu Gorontalo Province on December 30, 2020

<sup>22</sup>The results of the researcher's interview with Mr. Idris Usuli as Coordinator of the Legal Division of Bawaslu Gorontalo Province on December 29, 2020

Criminal Procedure Law.<sup>23</sup>

Gakkumdu membership consists of Election Supervisors, Gakkumdu Trustees, and Prosecutors and their organizational structure consist of Gakkumdu Advisors, Gakkumdu Trustees, Gakkumdu Coordinators, and Gakkumdu Members. In the handling of electoral crimes based on the principles of justice, certainty, expediency, equality upfront to the law, the presumption of innocence, and legality. Meanwhile, the pattern of holding Sentra Gakkumdu is carried out through several stages, namely: *Acceptance of findings and reports* received by the Election Supervisor accompanied by investigators and prosecutors to identify, verify, and consult on findings or reports of alleged electoral crimes. *First*, the Election Supervisor together with investigators and prosecutors conducts the first discussion at the latest 1×24 (once twenty-four) hours from the date the findings or reports are received by the Election Supervisor. *Review of Election Violations*, Election Supervisor conducts a review of findings or reports of election violations no later than 7 (seven) days after the findings or reports are received and registered by the Election Supervisor and 7 (days) days if additional information is needed, the Election Supervisor can invite whistleblowers, reported, witnesses, and/or experts to be asked for information and/or clarification accompanied by investigators and prosecutors. *In the second discussion*, the Election Supervisor together with investigators and prosecutors conducted the second discussion no later than 14 (fourteen) days since the findings or reports were received and registered by the Election Supervisor to conclude the findings or reports were electoral crimes or not electoral crimes. *In the Plenary Meeting of the Election Supervisor*, the Election Supervisor conducts a plenary meeting to decide the findings or reports are upgraded to the investigation stage or stopped. *Investigators conduct* an investigation for a maximum of 14 (fourteen) days from the report of alleged election crimes forwarded by the Election Supervisor accompanied and monitored by the Prosecutor. *Third Discussion*, The third discussion was attended by election supervisors, investigators, and prosecutors to produce conclusions whether or not the case can be delegated to the Prosecutor. *The prosecution*, the Public Prosecutor submits the case file to the District Court no later than 5 (five) days from the time the case file is received from the investigator. *Pretrial*, when the application for Pretrial is either at the level of investigation or prosecution then the election supervisor, investigator, and/or Public Prosecutor conduct and monitoring. *Fourth Act*, Gakkumdu by its level conducted the Fourth Discussion no later than 1×24 (once twenty-four) hours after the court's verdict was read to determine the attitude of making legal efforts against the court's decision or carrying out the court's decision. In the event of the fourth discussion of the Integrated Law Enforcement Center to conduct appeal legal efforts, the public prosecutor makes the memory of the appeal and/or counter-memory of the appeal no later than 3 (three) days

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<sup>23</sup>The results of the researcher's interview with Mr. Djaharudin Umar, SH, MH as Chairman of Bawaslu Gorontalo Province on December 30, 2020



after the verdict is read.<sup>24</sup>

Destruction of campaign equipment is a violation of the criminal election code stated in Article 521 of Law 7 of 2017 on Elections which reads:

**Article 521**

"Any implementer, participant, and/or Election Campaign team who intentionally violates the prohibition of the implementation of the Election Campaign as referred to in Article 280 paragraph (1) letter a, letter b, letter c, letter d, letter e, letter f, letter g, letter h, letter i, or letter j is punishable by imprisonment of a maximum of 2 (two) years and a maximum fine of Rp24,000,000, 00 (twenty-four million rupiahs). ""

**Article 280 Paragraph (1) Letter g reads:**

"Executors, participants, and election campaign teams are prohibited from removing election participants' campaign props"

Based on the results of a researcher's interview with Mr. Idris Usuli as coordinator of the legal division of the Gorontalo provincial Election Supervisory Agency on December 29, 2020, stated that the public should not take lightly about this election law let alone damage campaign props because now there is a law governing it, this election law is different from the previous election law. The public can be punished if it intentionally damages the APK belonging to one of the legislative candidate pairs installed in a certain place. In Gorontalo province, there are already two people who have been sentenced to criminal convictions in the possession of damage to campaign props belonging to one of the candidates of the Kabupaten / city DPRD.<sup>25</sup>

Law enforcement efforts carried out by the Election Supervisory Agency together with gakumdu in the handling of electoral crimes are limited to the perpetrators of APK destruction by applicable regulations. Perhaps Arjun Rahman alias Arjun (Perpetrator of apk destruction in North Gorontalo Regency) and Awaludin Mopangga Alias Salim Mopangga (Perpetrator of apk destruction in Boalemo Regency), both are charged by the same article, namely Article 521 of Law 7 of 2017 Jo Article 280 Paragraph (1) Letter g and the difference only on the motive behind both committing the crime of destruction of app belonging to one of the Prospective Members of parliament, location, and scene and court ruling. Arjun Rahman Alias Arjundi was sentenced to prison for 2 (two) months with a probation period of 4 (four) months (Verdict Number: 58/Pid.SUs/2019/PN Lbo) while Awaludin Mopangga Alias Salim Mopangga was sentenced to prison for 1 (one) month and a fine of Rp5,000,000.00 (five million rupiahs) with the provision that if the defendant

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<sup>24</sup>The results of the researcher's interview with Mr. Djaharudin Umar, SH, MH as Chairman of Bawaslu Gorontalo Province on December 30, 2020

<sup>25</sup>The results of the researcher's interview with Mr. Idris Usuli as coordinator of the legal division of bawaslu gorontalo province on December 29, 2020

did not pay the fine then replaced with a prison sentence for 2 (two) months with a probation period of 3 (three) months (Verdict Number; 15/Pid.Sus/2019/PT Gto).

Based on the results of the researcher's interview with Ahmad Abdullah coordinator of the dispute resolution division on December 29, 2020, stated that law enforcement intercepted the perpetrators of the destruction of campaign equipment are appropriate and by-election legislation because ideally campaign props installed by candidates/election participants as a means of campaigning should not be damaged by anyone. It is part of the democratic process that every citizen should respect.<sup>26</sup>

### III. CLOSING

#### A. Conclusion

Based on the results of the study, it can be concluded as follows:

1. The factors behind the perpetrators of the destruction of campaign props belonging to the DPRD Candidate in the 2019 General Election are (1) Weak awareness and knowledge of election law; (2) The existence of fanatical and anti-presidential behavior against certain Candidates / Election Participants; (3) The influence of liquor so that the perpetrators do damage to campaign props (billboards) belonging to one of the legislative candidates.
2. Law enforcement efforts carried out by the Election Supervisory Agency together with *gakumdu* in the handling of electoral crimes against perpetrators of APK destruction by applicable regulations as the provisions of Article 486 of Law No. 7 of 2017 concerning General Elections, Election Supervisory Agency Gorontalo Province and Regency / City in handling findings/reports of alleged election crimes including the destruction of APK then law enforcement is carried out jointly with the police and prosecutors through the Integrated Law Enforcement Center (*Sentra Gakkumdu*)

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<sup>26</sup>The results of the interview with Ahmad Abdullah coordinator of the dispute resolution division on December 29, 2020

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Peraturan Mahkamah Agung Nomor 1 Tahun 2018 tentang Tata Cara Penyelesaian Tindak Pidana Pemilihan dan Pemilihan Umum

PerBadan Pengawas Pemilihan Umum Tahun 2018 tentang Penanganan Temuan dan Laporan Dugaan Pelanggaran Pemilu

#### Interview:

Salahudin Pakaya, Materi Hukum yang disampaikan pada forum Evaluasi Pengawasan Pencalonan, Kampanye Pemilu Tahun 2019 serta Menyongsong Pilkada Tahun 2020; yang dilaksanakan oleh Badan Pengawas Pemilihan Umum Provinsi Gorontalo, 7-8 September 2019

Wawancara peneliti dengan Djaharudin Umar selaku ketua Badan Pengawas Pemilihan Umum Provinsi Gorontalo pada tanggal 29 Desember

Wawancara peneliti dengan Awaludin Mopangga Alias Syamsudib Mopangga pelaku pengrusakan APK yang terjadi di Kabupaten Boalemo tanggal 12 Januari 2020

Wawancara Peneliti dengan Amir Dj Koem selaku ketua Badan Pengawas Pemilihan Umum kabupaten boalemo pada tanggal 12 januari 2020

Anwar Hasan, SH selaku Tokoh masyarakat Kabupaten Boalemo pada tanggal 12 Januari 2020

Wawancara yang sudah dilakukan oleh peneliti dengan Ketua Badan Pengawas Pemilihan Umum Kabupatem Gorontalo Utara Pada tanggal 4 Januari 2020

wawancara peneliti dengan Arjun pelaku pengrusakan APK di Kabupaten Gorontalo Utara tanggal 4 Januari 2020

Wawancara peneliti dengan Bapak Djaharudin Umar, SH,.MH selaku Ketua Badan Pengawas Pemilihan Umum Provinsi Gorontalo pada tanggal 30 Desember 2020

Wawancara peneliti dengan bapak Idris Usuli selaku Koordinator Divisi Hukum Badan Pengawas Pemilihan Umum Provinsi Gorontalo pada tanggal 29 Desember 2020