



***SentraGakkumdu* Challenges in Enforcing Election Crimes Under Law Number 7 of 2017: A Comparative Research of Indonesia and Nigeria**

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Article's Information	Abstract
<p>keywords:</p> <p><i>Criminal, election, Nigeria</i></p> <p>DOI :</p> <p>https://doi.org/10.25041/ip.v5i1.3577</p>	<p><i>General elections in Indonesia are designed to ensure equality and justice for all voters and candidates, regardless of party affiliation. Despite these principles, election violations do occur, including criminal acts, breaches of ethical standards by election organizers, and administrative violations related to election procedures. To protect the integrity of elections, which is crucial for democracy, lawmakers have classified certain electoral frauds as criminal offenses. The Election Law not only outlines the procedures for conducting elections but also prohibits actions that undermine the fairness of the process and imposes penalties on offenders. The type of research in this study is normative legal research, which is a research method that focuses on written legal norms. accompanied by a comparative study of the country of Nigeria The results showed that the small number of reports of election crimes that continued to the level of investigation, prosecution, and examination in court until the issuance of a permanent legal force decision (inkracht van gewijsde) showed that the handling of election crimes in the elections had not been effective. The same is true for Nigeria through INEC. Although INEC has the authority to initiate cases of electoral offenses, it rarely does so due to a lack of supervisory capacity due to understaffing and the inability or unwillingness of the police to collect evidence and conduct investigations.</i></p>

A. Introduction

Elections represent a structured and systematic democratic process that begins with voter registration to ensure an accurate voter list, continues with nominations to select qualified leadership candidates, and includes campaigns to communicate candidates' vision and mission.



The process culminates in vote submission, where citizens exercise their right to vote, and is followed by transparent and accountable vote counting. Each stage is guided by the principles of direct, general, free, secret, honest, and fair elections, as outlined in Law Number 7 of 2017. Understanding these stages and concepts is crucial for fostering public engagement, monitoring the election process, and upholding Indonesia's democratic standards. These criteria are considered excellent when they are based on the assumption that voters possess sufficient political independence and that elections are conducted both formally and materially. Failure to adhere to these democratic principles in election administration, as required by the Election Law, can lead to various problems and disputes that necessitate further remedies. In a democratic country governed by the rule of law, it is essential to have robust legal frameworks to address violations and disputes over election results, thereby maintaining the election's legitimacy and ensuring public trust in the democratic process.¹

Legislators classify various forms of election fraud as criminal offenses to safeguard the integrity of elections, which is fundamental to democracy. This is emphasized in the Election Law, which not only regulates the procedures for elections but also prohibits behaviors that could undermine the principles of free and fair elections, imposing penalties on violators. The prosecution of election crimes (*TP Pemilu*) has seen advancements in procedural law, marked by the imposition of strict deadlines for case resolution, from investigation to court proceedings. This expedited timeline aligns with the objective of regulating election crimes to protect the democratic process through elections.²

General elections (*Pemilu*) in Indonesia embody democracy by upholding the principles of equality and fairness, ensuring that every individual has the right to vote and be elected without discrimination or interference. This commitment is reaffirmed in Law Number 8 of 2012, which governs the general election of members of the People's Representative Council, Regional Representative Council, and Regional People's Representative Council (Election Law). The Election Law also outlines the procedures for resolving election-related crimes, aiming to ensure elections are fair, transparent, and accountable. The term "election crime" emerged following the enactment of this law, replacing the previous term "election crime violation."

Effective law enforcement against election violations is crucial for maintaining the integrity and credibility of the democratic process. Consistent and non-discriminatory action against violations serves as a deterrent, helping to prevent future infractions. However, law enforcement alone is insufficient. Educational and awareness efforts are needed from all relevant stakeholders, including election organizers, participants, and the general public. Understanding the importance of fair elections and the consequences of violations is essential for fostering a healthy democracy in Indonesia. Djoko Prakoso defines "election crime" as an act committed by an individual, agency, legal entity, or organization aimed at disrupting the smooth and orderly conduct of elections, obstructing the election process from proceeding according to established procedures, or preventing the implementation of elections in whole or in part.³

Perbawaslu no.31 of 2018 is certainly the basis for its implementation, Khairul Fahmi also conveyed the Authority to Handle Election and Pilkada Crimes. The Gakkumdu Center as the center of election and election criminal enforcement activities authorized to handle allegations of election and election crimes (article 1 point 2 Perbawaslu no.31/2018 and article 6 of Joint regulation no. 5-1-14/2020 concerning gakkumdu centers). However, so far Gakkumdu has

¹ Dewi Haryanti, "Konstruksi Hukum Lembaga Penyelenggara Pemilihan Umum Di Indonesia Ditinjau Dari Teori Stufenbau," *Jurnal Pembaharuan Hukum* 2, no. 2 (2015): 270–78.

² Wahyu Ziaulhaq et al., "Pelaksanaan Sosialisasi Komisi Pemilihan Umum (KPU) Dalam Meningkatkan Antusias Masyarakat Pada Pemilihan Gubernur Sumatera Utara Di Kabupaten Langkat Tahun 2024," *Journal Liaison Academia and Society* 2, no. 1 (2022): 55–62.

³ Ansori Ansori, "Legalitas Hukum Komisi Pemilihan Umum Daerah Dalam Menyelenggarakan Pilkada," *Jurnal Konstitusi* 14, no. 3 (2017): 553–72.

been formed as if to equalize the understanding and patterns of handling election and election crimes (Article 486 of the Election Law, Article 152 of the Pilkada Law).

Even though it is regulated as a forum for equalizing understanding in the Pilkada Law, the PB Gakkumdu regulates that the Gakkumdu Center is the center of election criminal enforcement activities (equated with what is regulated in the Election Law). Further Shifts in PB Gakkumdu (Pilkada) Bawaslu's role in handling election crimes is strengthened by issuing a task order to carry out an investigation to conduct a study of violations together with investigators by inviting reporters, witnesses, and experts, making decisions in Bawaslu's plenary meeting to increase the status to investigation. There are differences in arrangements between Gakkumdu for handling election crimes and for handling election crimes. The procedural law aspect of handling election criminal violations is not fully regulated in the Pilkada Law, the time aspect of handling criminal violations is very short, so that the disclosure of criminal acts is difficult to do optimally.

Elections often occur with various forms of violations. These violations are classified into several categories: election crimes, which are criminal acts regulated by law and subject to criminal sanctions; violations of the code of ethics for election organizers, which involve breaches of the norms and ethical standards applicable to those responsible for managing elections; and administrative violations, which pertain to breaches of the technical rules governing the organization of elections. Law enforcement against election violations, particularly criminal activities, is crucial for preserving the dignity and honor of elections as a fundamental mechanism for distributing power and legitimacy to the people. This is also essential for ensuring the adherence to democratic principles within the state. However, the implementation of elections in Indonesia continues to face numerous challenges that impede the realization of truly democratic elections, including:

1. Money politics and black campaigns: The impact of money politics and black campaigns on undermining the integrity and quality of elections.
2. Professionalism of election organizers: Ongoing concerns about the professionalism and independence of election organizers.
3. Bureaucratic politicization: Abuse of state apparatus for certain political interests.
4. Quality and capability of election participants or political parties: The persistently low quality and capability of election participants, including political parties.
5. Apathy and pragmatism in community political participation: The low levels of community engagement and the increasing prevalence of money politics.
6. Horizontal conflict: Conflicts between social groups driven by political differences.

General Election Crimes possess distinctive characteristics that set them apart from general criminal offenses. General Election Crimes occurs exclusively during the period when General Elections are held in Indonesia, which is once every five years. This is in contrast to other criminal acts such as theft, murder, or corruption, which can occur at any time.⁴ The unique and temporal nature of General Election Crimes contributes to a general lack of knowledge and understanding among the public and state apparatus, including the Government, Police, Prosecutor's Office, and *Panwaslu*. Because General Election Crimes violations only arise during the election period, which occurs every five years, there is often a tendency to forget or misunderstand these provisions. This lack of awareness can have severe consequences. When General Election Crimes violations occur, many fail to recognize the damage inflicted on elections and democracy. The misconception that elections are highly sensitive and taboo to scrutinize exacerbates the situation, leading to the further concealment of unlawful acts in elections (*onrechtmatigheid*). In reality, General Election Crimes represent a serious crime or violation that carries significant penalties. Ignoring General Election Crimes risks endangering

⁴ Muridah Isnawati, "Tinjauan Tentang Hukum Pidana Pemilu Dan Formulasi Pertanggungjawaban Dalam Tindak Pidana," *Perspektif Hukum*, 2018, 294–314.

democracy and undermining justice. Therefore, it is crucial to enhance awareness and understanding of General Election Crimes across all sectors of society.

The extent of violations was highlighted in a report published by the General Election Supervisory Agency (*Bawaslu*). As of January 8, 2024—36 days before the election—*Bawaslu* had handled 1,032 alleged violations. These cases originated from 703 reports and 329 findings. Of these, 322 were confirmed as violations, while 188 were found not to be violations. The remaining cases could not be registered due to a failure to meet formal or material requirements. Among the 322 violations, there were 50 administrative violations, 205 code of ethics violations, 57 other legal violations, and 10 alleged election crimes.⁵

The rise in cases of election violations has also been reported by the Indonesian National Police's Integrated Law Enforcement Task Force (*Gakkumdu*). The *Gakkumdu* Task Force has handled 17 cases of alleged election crimes, with 10 cases occurring during the campaign stage and seven during the registration stage. These 17 cases originated from 75 reports or findings, which were then advanced to the investigation stage. The majority of these cases involved criminal acts of forgery, totaling seven cases, followed by five cases of money politics, and two cases of campaigning involving prohibited parties. Additional violations included campaigning in places of worship or educational institutions, involving prohibited parties in campaign teams, and the destruction of campaign materials. The high number of violations, along with the likelihood of many other unreported incidents, negatively impacts the quality of democratic practices in Indonesia.⁶

The research methodology used in this research is normative juridical. Normative juridical research involves library-based legal research, focusing on the examination of library materials or secondary data. This research was conducted to gather theoretical materials, concepts, legal principles, and regulations related to the subject matter. The researchers employed both a statutory and case law approach, exploring legal principles within the scope of written and unwritten positive law. This research aims to collect materials that include theories, concepts, legal principles, and applicable laws and regulations related to the legal issues to be studied. This research is accompanied by a comparative study of other countries as factual data discovery on the same problem.

Novelty in this research is with regard to a comparative study between Indonesia, which has a Central Electoral Commission, and Nigeria, which has the Independent National Electoral Commission (INEC). Where both have limited authority to handle election crimes, for example, in Nigeria's final election there was still rampant vote buying. Stakeholders believe that many of the internal problems affecting election credibility and overall management at INEC are due to the fact that it is a large bureaucracy whose organizational structure has remained relatively unchanged since its inception. It still suffers from inefficiency, overload, unclear lines of control and responsibility, and nepotism, all of which can adversely affect the quality and integrity of elections. While recognizing that improvements have occurred as a result of reforms under the leadership of Chairman Jega and continued by Chairman Yakubu, stakeholders believe that INEC has not fully emerged from this legacy. External challenges include: the failure of the National Assembly and the president to agree on legal reforms; the behavior of external actors such as political parties, service providers, and the judiciary; and security.

⁵ Suparman Marzuki, "Peran Komisi Pemilihan Umum Dan Pengawas Pemilu Untuk Pemilu Yang Demokratis," *Jurnal Hukum Ius Quia Iustum* 15, no. 3 (2008): 412–93.

⁶ Mohammad Syaiful Aris, *Hukum Pemilu: Filosofi Dan Prinsip Pemilihan Umum Dalam UUD NRI 1945* (Jakarta: Setara Press Kelompok Intrans Publishing, 2021).

B. Discussion

1. Discourse on SentraGakkumdu Problems of Election Crimes as in Law Number 7 of 2017

The Election Law regulates approximately 67 articles related to election crimes, a number that significantly exceeds the provisions for criminal acts associated with gubernatorial elections. Among these 67 provisions, several regulations outline election crimes that include elements of offenses that are challenging to prove. This difficulty was evidenced during the process of handling election-related criminal violations in 2019. The offense provisions within these articles substantively contributed to the weaknesses observed in managing election-related criminal cases. The articles in question include Article 492, Article 494, Article 495 paragraphs (1) and (2), Article 513, Article 515, Article 518, and Article 545.⁷

These articles illustrate that certain criminal provisions in the Election Law contain elements that are difficult to enforce when addressing criminal violations in the 2024 Election. Moreover, the provisions of some of these articles might be more appropriately classified under administrative election violations rather than election crimes, given that in the practical context of election administration, these acts often constitute purely administrative actions and violations.

The handling of election-related criminal violations is comprehensively regulated in the Election Law and is further detailed in the Election Supervisory Body (*Bawaslu*) Regulations concerning the *Gakkumdu* Centers. Institutionally, the management of election-related criminal violations involves several entities, including the Police, Prosecutor's Office, and Election Supervisors, all of whom are part of the *Gakkumdu* Center.

As a category of special criminal acts, election crimes possess unique characteristics compared to general criminal acts. These special characteristics in election crimes refer to the traits that commonly occur during the preparation for general elections, the election process itself, and the post-election period. Election crimes are often perpetrated by politicians before they assume power, as they engage in illegal practices during elections to influence voters. The most prominent manifestation of election crime is the direct bribery of voters. Understanding these characteristics of election crimes provides insight into how various parties involved in the election process strategize to avoid being implicated in criminal activities.

Article 1, paragraph (2) of the General Election Supervisory Agency Regulation Number 31 of 2018, concerning Integrated Law Enforcement Centers (*Gakkumdu*), defines *Gakkumdu* as the center for law enforcement activities related to election crimes. This center is composed of elements from *Bawaslu*, Provincial *Bawaslu*, and/or Regency/City *Bawaslu*, the National Police of the Republic of Indonesia, the Regional Police, and/or Resort Police, as well as the Attorney General of the Republic of Indonesia, the High Prosecutor's Office, and/or District Prosecutor's Office. Institutionally, *Gakkumdu* is attached to the secretariat of *Bawaslu* RI, Provincial *Bawaslu*, and Regency/City *Bawaslu*, as elaborated in Article 486, paragraph (8) of Law Number 7 of 2017 concerning General Elections. The primary purpose of *Gakkumdu*'s existence is to harmonize perceptions in handling election crimes among the institutions that constitute *Gakkumdu*.

The objective of establishing the *Gakkumdu* institution is articulated in Article 486, paragraph (1) of Law Number 7 of 2017, which aims to foster a unified understanding and standardized approach to handling election crimes. *Gakkumdu* operates at central, provincial, and district/city levels, with each level endowed with authority as prescribed by the Election

⁷ Sukawati Lanang P Perbawa, "Penegakan Hukum Dalam Pemilihan Umum," *Jurnal Ilmiah Dinamika Sosial* 3, no. 1 (2019): 80–102.

Law. Despite the varying institutional levels, the pattern of handling election crimes involves collaboration across all elements.

According to Law Number 7 of 2017 concerning General Elections, elections serve as a mechanism for popular sovereignty, enabling the electorate to choose members of the People's Representative Council, the Regional Representative Council, the President and Vice President, and members of the Regional People's Representative Council. These elections are conducted directly, publicly, freely, confidentially, honestly, and fairly within the Unitary State. Criminal acts within this context refer to actions that contravene the legal provisions specified in the aforementioned laws. Provisions regarding election-related criminal acts are outlined in Chapter II concerning Election Criminal Provisions. Additionally, the Indonesian Criminal Code (KUHP), a legal code inherited from the Dutch colonial period, includes five articles that regulate criminal acts related to elections.⁸

General elections are one of the fundamental pillars of every democratic system, serving as a mechanism for periodically and continuously channeling public opinion through the electoral process. Paimin Napitupulu further defines general elections as a political mechanism for articulating the aspirations and interests of citizens in the process of selecting individuals to become government leaders.

Handling election crimes differs from handling other election violations due to the involvement of multiple institutions and the integrated approach required. The process begins with a report or discovery of alleged election violations, which are then reviewed by *Bawaslu* (the Election Supervisory Body) and its staff.⁹ If *Bawaslu* determines that there are grounds for suspecting an election crime, the findings and recommendations are forwarded to police investigators. This multi-institutional approach necessitates the establishment of an Integrated Law Enforcement Center (*Sentra Gakkumdu*), which facilitates coordination and harmonization among *Bawaslu*, the Police, and the Prosecutor's Office.¹⁰

The handling of election crimes, as outlined in the Election Law and *Bawaslu* regulations, involves a four-stage discussion process within *Gakkumdu*. This process ensures that election crimes are addressed consistently and in accordance with legal standards. However, the initial assessment and classification of potential violations by *Bawaslu* are crucial, as they set the stage for subsequent legal proceedings.

To better understand the workflow, it is useful to visualize the steps taken by *Bawaslu* and the subsequent involvement of other institutions. A chart detailing *Bawaslu*'s process for addressing election violations, including the identification and forwarding of cases, and a chart illustrating the collaboration between *Bawaslu*, the police, the prosecutor's office, and the courts in handling election crimes, would be beneficial. These charts would provide a clear overview of the structured approach taken to ensure that election crimes are effectively and fairly addressed, thus preserving the integrity of the electoral process.¹¹

Given the short timeframes for addressing election crimes, the bureaucracy involved in handling these cases must be simplified. The current system separates the roles of the police and prosecutors from the election supervision process managed by election supervisors. To enhance efficiency, it is suggested that the police and prosecutors be integrated into a single election monitoring institution responsible for enforcing election criminal law. This could be achieved by redesigning the institutional structure of election supervisors to include the police

⁸ Eylesia Elkel, Hendrik Salmon, and Sherlock Halmes Lekipiouw, "Pelaksanaan Tugas Komisi Pemilihan Umum Daerah Dalam Sosialisasi Undang-Undang Nomor 7 Tahun 2017 Menjelang Pemilukada Dimasa Pandemi Covid-19," *TATOHI: Jurnal Ilmu Hukum* 1, no. 7 (2021): 722–27.

⁹ Fajlurrahman Jurdi, *Pengantar Hukum Pemilihan Umum* (Bandung: Kencana, 2018).

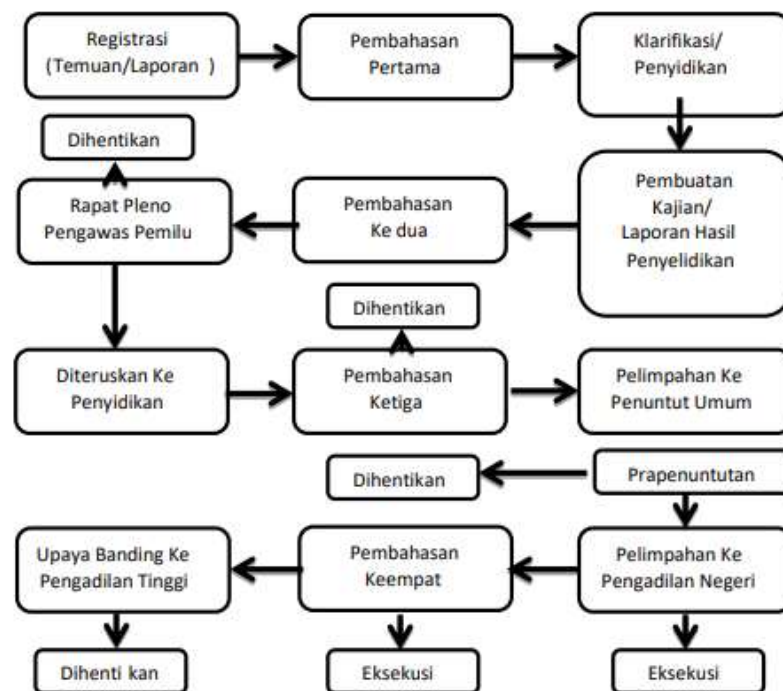
¹⁰ Taufiqurrahman Taufiqurrahman, Siti Hasanah, and Firzhal Arzhi Jiwantara, "Sistem Penyelesaian Sengketa Pemilihan Umum Di Negara Hukum Demokrasi (Studi Komparatif)," *JATISWARA* 38, no. 2 (2023): 241–54.

¹¹ Nanik Prasetyoningsih, "Dampak Pemilihan Umum Serentak Bagi Pembangunan Demokrasi Indonesia," *Jurnal Media Hukum* 21, no. 2 (2014): 23.

and prosecutors on an ex officio basis, thereby streamlining the process of investigation, inquiry, and prosecution under a unified command. Such a change would likely improve the enforcement of election criminal law within the limited time available.¹²

The current process for handling election crimes, as outlined above, reveals a complex bureaucracy, making it more complicated than dealing with ordinary crimes, which typically only involve the police, prosecutors, and courts. The involvement of election supervisors in addition to these bodies contributes to the system's inefficiency. This complexity is a significant factor in the ineffective handling of election crimes. For instance, during the 2019 General Election, *Bawaslu* received 2,724 reports or findings of election crimes, which is considerably fewer than the 6,017 cases reported during the 2009 Legislative Election. Of the 2,724 reports from 2019, only 582 cases proceeded to the investigation stage, with 132 cases stopping at the investigation stage and 41 cases at the prosecution stage. Ultimately, only 320 cases resulted in a final legal decision (*inkracht van gewijsde*). While various factors contributed to cases being dropped at the investigation and prosecution stages, a significant issue was the lack of a shared understanding among *Bawaslu*, the police, and the prosecutor's office in handling election criminal cases simultaneously.

Gambar 1. Alur Penanganan Tindak Pidana Pemilu



Source: Law No. 7 of 2017

The Election Law provides a detailed framework for addressing election crimes, specifying the types of offenses, their associated threats, and the mechanisms for handling these crimes.¹³ Given this comprehensive regulation, there should be no inherent concerns about the effectiveness of law enforcement against election crime perpetrators. However, the limited number of cases advancing to investigation, prosecution, and ultimately to court decisions with permanent legal force (*inkracht van gewijsde*) indicates that the handling of election crimes

¹² Aras Firdaus, "Money Politics Dalam Pemilihan Umum Oleh Badan Pengawasan Pemilihan Umum: Pengawasan Tindak Pidana Pemilu," *Jurnal Justika* 2, no. 1 (2020): 61–69.

¹³ Khairul Fahmi, "Sistem Penanganan Tindak Pidana Pemilu," *Jurnal Konstitusi* 12, no. 2 (2015): 264–83.

during the General Election has been ineffective, despite the presence of coordination channels through the *Gakkumdu* Center.¹⁴

Election violations are categorized as criminal acts within the broader criminal law or offense regime. Specifically, offenses in the context of general elections pertain to crimes occurring during the electoral process.¹⁵ Juridically, according to Supreme Court Regulation (*Perma*) No. 1 of 2018, general election crimes are defined as criminal offenses and/or violations as stipulated in the general election law. The general election criminal provisions outline the types of criminal acts associated with general elections as follows:

- a. According to Article 496 of the General Election Law, providing false information in election campaign finance reports, general election participants who violate this rule will be subject to sanctions in the form of imprisonment for a maximum of one year and also a fine of up to Rp. 12 million
- b. In article 497 of the General Election Law, any person who deliberately makes and provides information or information that is not clear and correct in a campaign finance report will be subject to a maximum prison sentence of 2 years and a maximum fine of Rp. 24 million
- c. In article 488 of the General Election Law, if you provide false information when filling in your personal data on the voter list, article 203 regulates criminal sanctions in the form of imprisonment for a maximum of one year and a fine of up to Rp. 12 million rupiah
- d. Article 490 of the Election Law, according to which if the village head benefits or harms general election participants, he will be threatened with imprisonment for a maximum of one year and a fine of a maximum of Rp. 12 million
- e. In article 491 of the general election law, if someone is caught disrupting, obstructing or disrupting an election campaign, the perpetrator will be subject to criminal sanctions with a maximum imprisonment of 1 year and a maximum fine of Rp. 12 million
- f. Article 492 of the General Election Law, where if the perpetrator carries out a campaign outside the schedule set by the KPU, Article 279 paragraph 2 regulates criminal sanctions for the perpetrator with the threat of imprisonment for a maximum of one year and a fine of up to Rp. 12 million
- g. Article 280 paragraph 1 of the General Election Law regulates the form of prohibition on implementers, participants and election campaign teams from using government facilities, places of worship and also places of education, questioning the state's foundations, namely the Constitution and Pancasila.¹⁶

Committing incitement, fomenting conflict between candidate pairs, and engaging in threats or violence against the public or general election participants are offenses punishable by imprisonment for up to 2 years and a fine of up to IDR 24 million. Additionally, Article 280, paragraph 2, of the General Election Law and Article 493 of the same law stipulate that violations related to these offenses are punishable by imprisonment for up to 1 year and a maximum fine of IDR 12 million.¹⁷

¹⁴ Evi Noviawati, "Perkembangan Politik Hukum Pemilihan Umum Di Indonesia," *Jurnal Ilmiah Galuh Justisi* 7, no. 1 (2019): 75–86.

¹⁵ Dudung Mulyadi, "Analisis Penerapan Bentuk-Bentuk Tindak Pidana Pemilu," *Jurnal Ilmiah Galuh Justisi* 7, no. 1 (2019): 14–28.

¹⁶ Muhammad Nur Ramadhan, "Evaluasi Penegakan Hukum Pidana Pemilu Dalam Penyelenggaraan Pemilu 2019," *Jurnal Adhyasta Pemilu* 2, no. 2 (2019): 115–27.

¹⁷ Parlin Azhar Harahap, Gomgom T P Siregar, and Syawal Amry Siregar, "Peran Kepolisian Daerah Sumatera Utara (Polda-Su) Dalam Penegakan Hukum Terhadap Tindak Pidana Pemilihan Umum," *Jurnal Retentum* 2, no. 1 (2021): 90–98.

2. A Comparison of Criminal Enforcement Process and Imposition of Electoral Sanctions in Nigeria

The Electoral Act of 2022 (as amended), similar to its predecessors, lacks a precise definition of electoral offenses. According to the Oxford Advanced Learner's Dictionary, an offense is "an illegal act or a crime," while a crime is described as "action that breaches the law" or "an illegal act or conduct that can be punished by law." In this context, an electoral offense is understood as any conduct, action, or omission that is prohibited and punishable under the Electoral Act.¹⁸

Electoral violations and malpractices have plagued Nigeria's democratic process since its inception. According to Okoye, election fraud and a lack of credibility in the voting process have long been issues in Nigerian elections, becoming entrenched in the political culture. This situation reflects a "do or die" mentality among some politicians and political parties, where electoral fraud becomes a norm rather than an exception due to the high likelihood of impunity for perpetrators.

The persistent issue of electoral fraud and rigging in Nigeria has significant implications for the country's democracy. These practices have evolved and been refined through various election cycles, including those in 1964, 1965, 1979, 1999, 2003, 2007, 2011, 2015, 2019, and 2023. Consequently, elections often undermine rather than strengthen the democratic process.

Historical instances of electoral malpractices include the parliamentary election of December 12, 1959, when corrosive substances were poured into ballot boxes to manipulate the election results. The campaign leading up to this election, involving major parties such as the NPC, AG, and NCNC, was marked by significant violence. On October 28, 1959, Governor General Sir James Robertson addressed the escalating violence, condemning the use of weapons and threats against political opponents and calling for an end to such hooliganism. This early example highlights that political and electoral violence were evident even before Nigeria's independence.

The 1964 electioneering campaign in Nigeria was marked by intense ethnic sentiment, thuggery, hooliganism, and violence. The campaign was characterized by accusations and counteraccusations of fraudulent electoral practices. Government authorities were reported to have jailed opposition candidates, manipulated the nominating processes to prevent UPGA candidates from being registered, and used physical and psychological intimidation to dissuade candidates. Additionally, local authorities withheld permissions for campaign meetings and employed thugs to disrupt these gatherings.

The 1983 elections were widely regarded as the most rigged in Nigerian history. The presidential, gubernatorial, senatorial, assembly, and representative elections were all tainted by widespread rigging, with no party being exempt from these practices. The only parties that did not experience election rigging were those without the resources to engage in such activities. The pervasive accusations of ballot stuffing during the 1983 elections contributed to a successful coup later that year, underscoring how election outcomes had become a zero-sum game, leading some defeated parties to support military intervention.

a. Offenses of Buying and Selling Voters Cards

Any person who (a) is in unlawful possession of any voter's card, whether issued in the name of any voter or not; (b) sells, attempts to sell, or offers to sell any voter's card, whether issued in the name of any voter or not; or (c) buys or offers to buy any voter's card, whether on their own behalf or on behalf of any other person, commits an offense and is liable, on conviction, to a fine not exceeding N500,000, imprisonment for a term not exceeding two years, or both.

¹⁸ Lauren Ploch, "Nigeria: Elections and Issues for Congress" (Library of Congress, Congressional Research Service, 2011).

b. Offenses Relating to Register of Voters

Any person who (a) after demand or requisition made under this Act, fails without just cause to provide any information in their possession or does not provide the information within the specified time; (b) in the name of any other person, whether living, dead, or fictitious, signs an application form for registration as a voter to register that other person as a voter; (c) transmits or is involved in transmitting to any person a declaration relating to registration that is false in any material particular, knowing it to be false; (d) intentionally procures the inclusion in the Register of Voters of themselves or any other person knowing that they or that other person ought not to have been registered; or (e) by themselves or any other person procures the registration of a fictitious person, commits an offense and is liable, on conviction, to a fine not exceeding N100,000, imprisonment for a term not exceeding one year, or both. Additionally, any person who (a) by duress, including threats of any kind, causes or induces any person or persons to refrain from registering as voters; or (b) in any way hinders another person from registering as a voter, commits an offense and is liable, on conviction, to a fine not exceeding N500,000 or imprisonment for a term not exceeding five years.

c. Offenses Relating to Registration

A person who (a) without authority destroys, mutilates, defaces, removes, or makes any alteration to any notice or document required for the purpose of registration under this Act; (b) presents themselves or performs any act whereby they are included in the register of voters for a constituency in which they are not entitled to be registered, or causes themselves to be registered in more than one registration or revision center; (c) publishes any statement or report which they know to be false or do not believe to be true, with the intent to prevent qualified persons from registering as voters; (d) makes any entry or statement in any record, register, or document required for registration, which they know to be false or do not believe to be true; (e) impedes or obstructs a registration officer or a revision officer in the performance of their duties; (f) without proper authority, wears the identification of a registration officer or assistant registration officer, or any other identification purporting to be that of a registration officer or assistant registration officer; (g) forges a registration card; or (h) carries out registration or revision of voters at a center or place not designated by the Commission, commits an offense and is liable, on conviction, to a maximum fine of N1,000,000, imprisonment for a term of 12 months, or both.

d. Offenses Relating to Nomination

Section 115 (1): A person who (a) forges any nomination paper or result form; (b) willfully defaces or destroys any nomination paper or result form; (c) delivers to an electoral officer any nomination paper or result form knowing it to be forged; (d) signs a nomination paper or result form as a candidate in more than one constituency at the same election; (e) forges any ballot paper or official mark on any ballot paper or any certificate of return or result form; (f) willfully destroys any ballot paper or official mark on any ballot paper or any certificate of return or result form; (g) without authority gives a ballot paper or result form to any person; (h) willfully places unauthorized paper or result form in any ballot box; (i) willfully removes from a polling station any ballot paper or result form, whether or not it was issued to them in that polling station; (j) without authority destroys or otherwise interferes with a ballot box or its contents or any ballot paper or result form then in use or likely to be used for the purpose of an election; or (k) signs a nomination paper consenting to be a candidate at an election knowing that they are ineligible to be a candidate at that election, commits an offense and is liable, on conviction, to a maximum term of imprisonment for two years.¹⁹

¹⁹ Akan Kevin Akpanke, Egbo Ken Amaechi, and Awe Ene Norah, "The Duality of Election Fraud and Criminality in Nigeria: The Alchemy and Agony of Winning the Votes and Losing the Counts," 2022.

The legal framework for the proper conduct of elections in Nigeria is arguably expansive in scope, but its implementation remains a challenge. In the recently concluded 2023 elections, there were flagrant violations of the Electoral Act, which were well-documented in audio-visual media. In many instances, provisions relating to secrecy in voting were disregarded, even by the candidates themselves. Ballot boxes were snatched by miscreants, sometimes in the presence of security agents. Ballot papers were stolen, defaced, or destroyed. Reports of monetary inducements were prevalent, and there were allegations of collusion between INEC officials and party agents to subvert the will of the people. As of the writing of this article, there is no news of widespread prosecution of offenders. The disheartening narrative of Nigerian elections has remained largely unchanged from the 1950s to the present. However, all hope is not lost. With the anticipated passage of the Electoral Offences Commission and Tribunal Bill, there is hope for a new era of integrity in the Nigerian electoral system. This comes in the wake of the dashed expectations surrounding the new Electoral Act, 2022 (as amended) and its technological advancements, which have been overshadowed by corruption. To address these issues, the National Assembly should expedite the passage of the Electoral Offences Commission and Tribunal Bill, granting the Commission the capacity to investigate all electoral fraud and related offenses, and to coordinate the enforcement and prosecution of all electoral offenses.²⁰

Stakeholders believe that many of the internal problems affecting the credibility of elections and overall management at INEC are due to the fact that INEC is a large bureaucracy whose organizational structure has remained relatively unchanged since its inception. The agency still suffers from inefficiencies, overload, unclear lines of control and responsibility, and nepotism, all of which can adversely affect the quality and integrity of elections. While recognizing that improvements have occurred as a result of reforms under the leadership of Chairman Jega and continued by Chairman Yakubu, stakeholders believe that INEC has not fully emerged from this legacy. External challenges include: the failure of the National Assembly and the president to agree on legal reforms; the behavior of external actors such as political parties, service providers, and the judiciary; and security.

Internal communication. For an institution that has successfully introduced sophisticated electoral technologies and practices, INEC has been reluctant to use more modern and efficient means of communication and coordination. Both inside and outside INEC, interlocutors acknowledged that it had failed to implement electronic filing or even the use of email. Some officials noted that activities within INEC may not be shared with fellow Commissioners or staff and that more inter-agency cooperation and “linkages” are needed as many electoral processes involve multiple departments and units. Lack of reforms to the electoral legal framework. Amendments to the Electoral Act and other laws are a determining factor in INEC's ability to improve election management. Stakeholders consistently cite the failure of the National Assembly and President Buhari to agree on amendments to the Electoral Act before the 2019 elections as the main reason why there has been no further progress in the organization of elections. Legal reforms are needed to improve voter registration, accreditation, results transmission and e-voting practices. Problems with the electoral dispute resolution system in Nigeria also require changes to the legal framework.

Competition for INEC's focus. Stakeholders expressed concern that INEC could be easily distracted by demands for new technologies (e.g. e-voting) without first perfecting existing technologies (e.g. SCR). Similarly, INEC may focus too much on operational matters and other “core” electoral issues at the expense of other issues such as voter participation, inclusion and political finance, especially in the absence of international support.

The envisioned Commission should be equipped with the capacity and legal authority to establish Mobile Courts for trying election offenses on election days. It should implement

²⁰ Shankyula Tersoo Samuel, “Political Thuggery and Election in Nigeria and the Law” (accessed, 2016).

measures to prevent and eradicate electoral malpractices and be open to exchanging scientific and technical information with other democracies through joint training programs aimed at eliminating electoral fraud. Civil society groups and organizations should engage in sustained media advocacy for the passage of the Electoral Offenses Commission Act and promote the sharing of best practices for handling election offenses and prosecuting offenders with Electoral Commissions and stakeholders from the West African sub-region. Additionally, the Inter-Agency Consultative Committee on Election Security should decentralize the training of security officers on electoral matters, ensuring that training occurs at various Local Government areas across the federation. These trainings should be regular and systematic, starting at least one year before general elections, and conducted quarterly at the Divisional Police Headquarters level. This approach will foster synergy among all security forces and agencies involved in election security, as they will be trained using a consistent Code of Conduct, the Electoral Act, 2022 (as amended), and the Constitution of the Federal Republic of Nigeria, 1999 (as amended).²¹

C. Conclusion

Election violations are actions that conflict with or are not in accordance with laws and regulations related to elections. These violations can be identified through findings or reports. Findings of election violations result from active supervision by *Bawaslu*, including provincial *Bawaslu*, district/city *Bawaslu*, sub-district *Panwaslu*, sub-district/village *Panwaslu*, overseas *Panwaslu*, and polling station supervisors at every stage of the election. In addition to findings, reports of election violations can be directly submitted by Indonesian citizens with voting rights, election participants, and election observers to *Bawaslu*. Effective law enforcement is crucial in addressing cases of general election crimes to ensure that elections are conducted smoothly and produce legally and fairly elected leaders. General election crimes encompass all forms of legal violations related to the conduct of general elections, including legislative and regional elections. According to the election law, every person is prohibited from engaging in actions that could cause injustice in the election or harm the rights of other election participants, as stated in Law No. 7 of 2017.

In Nigeria, the legal framework for the proper conduct of elections is arguably extensive. However, implementation remains a challenge. In the recently concluded 2023 elections, there were flagrant violations of the Electoral Act, which were well-documented in audio-visual media. Many provisions related to the secrecy of voting were disregarded, even by the candidates themselves. Ballot boxes were snatched by miscreants, sometimes in the presence of security agents, and ballot papers were stolen, defaced, or destroyed. Reports of monetary inducements surfaced, and INEC officials were alleged to have colluded with party agents to subvert the will of the people. As of the writing of this article, there is no news of widespread prosecution of offenders. The troubling narrative of Nigerian elections has remained largely unchanged since the 1950s. However, all hope is not lost. With the anticipated passage of the Electoral Offenses Commission and Tribunal Bill, there is hope for a new era of integrity in the Nigerian electoral system. This optimism comes despite the disappointment of high expectations from the new Electoral Act, 2022 (as amended) and its technological innovations being overshadowed by corruption.

²¹ Barnabas Suleiman, "Criminality and Election Outcomes in Nigeria," *Revista Brasileira de Planejamento e Desenvolvimento* 5, no. 1 (2016): 67–79.

D. Suggestion

The authority to make the final decision on election-related matters should remain with *Bawaslu*, given its perceived independence compared to other law enforcement agencies in handling election crimes. It is hoped that these efforts will ensure that elections are conducted in a dignified and constitutional manner. However, the legitimacy of such a concept depends on its alignment with the substantive provisions of existing laws and regulations that govern the role of *Sentra Gakkumdu* as a technical norm in the implementation of elections and regional elections. This requires the support and cooperation of political parties and their representatives in the House of Representatives of the Republic of Indonesia. Similarly, in Nigeria, the National Assembly should expedite the passage of the Electoral Offenses Commission and Tribunal Bill, thereby granting the Commission the capacity to investigate all forms of electoral fraud and related offenses and to coordinate the enforcement and prosecution of these offenses.

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