

## Existence of Criminal Trials against Electoral Crimes of Regional Heads (Analysis of Pekanbaru High Court Decision Number 40/Pid.Sus/2021/PT.PBR)

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### Abstract

*The process of organizing regional head elections is certainly not without constraints and dynamics. There are many violations found in every stage of both administrative violations, violations of the code of conduct and criminal violations. After several changes and changes in the rules on the election of regional heads (Governors, Regents/Mayors), in the end even though Law No. 6 of 2020 describes the special crimes of elections in it, but in its application can not override the provisions of the Criminal Code. One of them is related to the criminal act of probation contained in Article 53 and Article 54 of the Criminal Code. The research conducted is normative juridical research using secondary data by processing data from primary legal materials, secondary legal materials and tertiary legal materials. Based on the results of the study, it is known that the handling of electoral crimes of regional heads in Indonesia, namely through integrated law enforcement (Gakkumdu) centers consisting of Election Supervisory Board (Bawaslu), Police and Prosecutors. Furthermore, criminal liability for perpetrators of Criminal Trials in the General Election of the Regional Head must first meet the criminal elements in Article 187A paragraph (1) Law No. 6 Year 2020 concerning the Election of Governors, Regents and Mayors and Article 53 paragraph (1) of the Criminal Code. Once both elements of the article are fulfilled, against the severity of the prison sentence and the fine should be reduced by one-third of the maximum penalty in Article 187A paragraph (1) that is to a maximum of 4 years in prison. The last legal analysis of the Pekanbaru High Court's Decision No. 40/Pid.Sus/2021/PT.PBR the judge's decision has been appropriate the judge gave a sanction of 3 (three) years in prison to the perpetrator. It is in accordance with the provisions of Article 187A of Law Number 6 of 2020 Jo Article 53 paragraph (1) of the Criminal Code. Because the intention of the act and the nature of harming the interests of others are fulfilled.*

### Keywords

Existence; criminal probation; regional head elections; analysis



## I. Introduction

The real form of democracy is elections. This election in modern times established an inevitability as a channel of rakyat will. In order for elections to be a good representation in terms of the will of the people, the principles in organizing elections must also be formulated in accordance with the standards of international elections. The principles of elections established in Indonesia and become the basic principles of election implementation have been established in Article 22E paragraph (1) of the 1945 Constitution which includes direct principles, general principles, free principles, secret principles, honest principles, and fair principles implemented every 5 (five) years. In a

more exclusive setting, the principles are set forth in the laws and regulations on Elections, both in the form of laws, KPU regulations, Bawaslu regulations, DKPP regulations, and Joint Regulations (Perber) KPU, Bawaslu and DKPP.

As a democratic state, elections become a benchmark of the level of dignified democratization, although elections are not the only benchmark in seeing the degree of democracy in a country that embraces democracy. Realizing elections that have a high degree of degree can be realized if the principles of elections are upheld and run entirely by the government without exception. The application of these principles applied in elections is motivated by people's expectations to create fair and dignified elections. (Zainal Arifin Hoesein and Arifudin. 2017: 18)

The framework of a democratic state, in the implementation of elections (elections) is a very important momentum for the formation of government and the implementation of the country in the next period. Elections, in addition to being a mechanism for the people to choose representatives can also be seen as a process of evaluation of social contracts. One of the juridical consequences of a democratic legal state system in Indonesia is the removal of leaders in a democratic way. The selection of such leaders, including the selection of leaders in the region or commonly known as regional heads. (Rusmanto. 2019: 101-102)

Elections are a state mechanism for electing state leaders (executives) and lawmakers (legislatures). The quality and routine of organizing elections will determine the level of democracy of a Country. because elections are a consequence of the State of democracy, elections are the most basic form of political participation of the people or citizens of the State to determine the government and programs according to its wishes, at least the government or programs it accepts. (Rahmat Bagja and Dayanto. 2020: 8)

Political participation is the activity of a group of people to actively participate in political life, among others by choosing a state leader, directly or indirectly, influencing government action (public policy), this includes actions such as voting in general elections, attending public meetings, holding relations (contacting) or lobbying with government officials or members of parliament, becoming members of the party or one of the social movements with direct action and so on. (Budiarto in Matondang and Lubis. 2018: 183). Political liberation led to the emergence of many parties. In reality it is seen that the large number of parties participating in the General Election clearly adds to the nuance and pressure of competition. The concept of competition that had not been seen during the New Order era, suddenly became a thing that colored the scene in the nuances of Indonesia politics post reform. (Azhar. 2018: 95)

One of the functions and objectives of elections in a democratic State is to ensure the occurrence of restrictions on power, especially on the aspect of the limit of power, namely the limitation of power so that the position of power in a State is not held by a person or a group of people indefinitely. The absence of restrictions on power from the limit of power aspect not only creates the existence of unevaluated stakeholders, but further potentially makes the regent grow into a tyrannical and authoritarian ruler who in turn becomes the trigger for the use of ways outside the constitution (outside the constitution) to stop the practice of tyrants or authoritarians. (Rahmat Bagja and Dayanto. 2020: 9)

In the current era of globalization, the development of criminal acts has spawned new types of crime, transnational crime, one of which is corruption, money laundering, terrorism, human smuggling, human trafficking, and cyber crime. This is very interesting to the attention of the international community. (Kartika. 2020: 948)

In Indonesia today, elections are categorized against several things ranging from presidential elections, vice presidents, legislative elections, including regional head

elections. Regional head elections are one of the important aspects of elections in order to mentor regional leaders in Indonesia, both provincial and district/city levels. Certainly in the implementation of the general election of the head of this region there are several issues, be it ranging from administrative violations to criminal offenses. Against that, it can be seen that the issue of the election of the head of this region needs to be regulated properly and carefully.

Such thinking has been in accordance with the application of the principle of legality in criminal law (Criminal Code), namely as formulated expressly in Article 1 paragraph (1) of the Criminal Code "Nullum delictum nulla poena sine praevia lege poenali" or in other adagium this term can be known "no criminal without fault".(Hadi Jumhadi. 2021: 32-33)

According to Andi Hamzah wrote, the rules of criminal law norms contained outside the Criminal Code can be said to be the law (criminal) or also called criminal law outside codification or non-codification. H.J.A. Nolte made a dissertation, which is spoken in Indonesian would become criminal law in its own law. W.P.J. Pompe, said that Nolte began with a basic philosophical view and legal history. There is a criminal law partly within the Criminal Code (codification) and partly outside the Criminal Code or in its own laws. (Aziz Syamsuddin.2018: 8)

The crime of electoral elections of regional heads is one of the special crimes whose criminal arrangements are outside the provisions of the Criminal Code. This is given the urgency of the implementation of the general sorter of the head of the region itself, so it is no longer relevant to use the provisions of the Criminal Code. The crime of regional head elections is also a special rule because the forms of election violations regional head itself have a variety of things that can be done by various parties. Article 177 to Article 198 Law No. 6 Year 2020 concerning The Establishment of Government Regulation Replacement Law No. 2 Year 2020 on The Second Amendment Law No. 10 Year 2016 on the Third Amendment to Law No. 1 Year 2015 on the Determination of Government Regulation Replacement Law No. 1 Year 2014 on the Election of Governors, Regents and Mayors into Law, governing the provision of sanctions for the perpetrators of criminal elections regional head.

Election Crimes can be formulated as any action (active/passive) that violates the provisions in the stages of organizing elections and threatened with criminal sanctions. Many people who state that at this time the General Election in Indonesia has been tainted with various types and modes so that it is appropriate that anyone who tarnishes and commits fraud in the election must be strictly acted upon. (Mohd, Din, et al. 2020: 290)

Although the implementation of prosecution of electoral criminal cases basically using the Criminal Procedure Law Book/KUHAP (lex generalis) but in the Election Law also determines the mechanism/law of the event itself (lex specialis) considering all settlements related to elections including law enforcement is required to be completed quickly, so that the implementation of elections as a form of democratic implementation can be carried out democratically and cleanly. (Hadi Jumhadi. 2021: 34)

One example of the imposition of criminal sanctions on a person who tries to commit electoral crimes of the regional head is contained in the decision of the Pelalawan District Court No. 385/Pid.Sus/2020/PN Plw Jo of pekanbaru High Court No. 40/Pid.Sus/2021/PT.Pbr. The case in the verdict involved a successful team of Pelalawan Regent Candidate number 4 Adi Sukemi-M Rais named Simon Siahaan (SS) who was ultimately convicted of attempted criminal acts as provided for in Article 187A of the Law on the Election of Governors, Regents and Mayors Jo Article 53 paragraph (1) of the Criminal Code. This means that it can be explicitly interpreted, although in Law No. 6 of

2020 is not regulated criminal acts of probation, but the criminal rules contained in the law can be communicated with the rules of criminal trials in the Criminal Code.

On the basis of the overall description above, there are several issues, especially concerning the application of criminal for perpetrators/defendants who commit criminal trials, especially in the realm of electoral crimes of regional heads. This becomes interesting because the criminal act has not been done, but is still in the trial stage, in other words the consequences of the criminal act has not harmed any party. Therefore, there needs to be an assessment of the elements of error for the perpetrators of the trial who will commit crimes of regional head elections. This means that between the probationary crimes stipulated in the Criminal Code in general and the electoral crimes of regional heads specifically regulated in Law No. 6 of 2020 concerning the Election of Governors, Regents and Mayors, must be thoroughly studied on the criminal elements that exist. Based on this, the researchers took the title of the study "Existence of Experimental Crimes Against Electoral Crimes of Regional Heads (Analysis of Pekanbaru High Court Decision Number 40/Pid.Sus/2021/PT.PBR)"

## II. Research Methods

Research method is one of the important factors to answer a problem that will be discussed, where the research method is the main way that aims to reach the level of scientific research. In accordance with the formulation of problems and research objectives, in the research method used normative law research (normative juridical) and the approach is based on the rule of law of legislation. Furthermore, the nature of this research is a analysis descriptive. The data sourced to conduct this normative juridical research is sourced from secondary data that uses legal materials in the form of primary legal materials, secondary legal materials and tertiary legal materials. Alat data collector in this study is by studying libraries / documentation studies and analyzing the data and existing laws and regulations. Documentation study is a study that examines various documents, both related to legislation and existing documents. (Salim HS and Erlies Septiana Nurbaini. 2019:19)

In the end this study will be analyzed data, analysis data is the most important and decisive stage in the writing of thesis. Through the research process was conducted analysis and construction of data that has been collected and processed (Soerjono Soekamto. 2014: 1). This study uses qualitative analysis, namely data analysis that does not use numbers, but rather provides descriptions with words on the findings, and therefore prioritizes the quality of the data. (Salim HS and Erlies Septiana Nurbaini. 2019:19)

## III. Results and Discussion

### 3.1 Handling of Electoral Crimes of Regional Heads in Indonesia

Criminal acts are acts / actions that by the rule of law are prohibited and threatened with criminal, where the sense of action here in addition to active actions (doing something that is actually prohibited by law) as well as passive acts (not doing something that is actually required by law). (Teguh Prasetyo. 2018: 50)

Criminal acts are touched from *strafbaar feit*, in the Criminal Code there is no explanation about the actual meaning of *strafbaar feit* itself. Usually criminal acts are equated or synonymous with delik, which comes from the Latin word *delictum*. Based on the existing description, delik (*strafbaar feit*) contains several elements as follows:

1. A thing of man's deeds;
2. Such acts are threatened and prohibited by law;
3. The act is done by someone who can be held accountable. (Teguh Prasetyo. 2018: 47)

The formulation of criminal acts in the description in the Criminal Code usually begins with the word whoever. This means that those who can commit a criminal offence or a criminal offence in general are human beings. Including from criminal threats that can be sanctioned as described in Article 10 of the Penal Code such as death penalty, prison sentence, criminal confinement, fines and additional criminal about the revocation of rights, and such shows that that can be criminalized in general human or *person*. (Teguh Prasetyo. 2018: 54) Similarly, the crime of election of the head of this region is certainly carried out by the subject of human law that can indeed be held accountable.

If it is associated with an election, it can be termed an electoral fraud or an electoral crime. By using the term delik or electoral crime, it will become more specific, which is only related to criminal acts that occur in the process of organizing elections. In a sense, the term electoral crime is intended for crimes that occur in or related to the implementation of election stages. (Khairul Fahmi I. 2016: 33)

Such complexity is also inherent in the issue of electoral law in the realm of electoral crime. At first glance it may seem simple but if immersed, setting up and enforcing law enforcement for electoral crimes also has certain complexities. Mainly the issue of evidentiary, the professionalism of law enforcement, and the bureaucracy of enforcement that is regulated in various laws related to elections (regional heads). (Khairul Fahmi II. 2015: 265-266)

Within that framework, all elements of the sub-system of law enforcement consisting of police, prosecutors, courts and correctional institutions are involved in a network of work that is interconnected with each other. (Khairul Fahmi I. 2016: 41) In relation to elections, another element in question is that the crime occurs in relation to / in the process of organizing elections. (Khairul Fahmi I. 2016: 42)

Criminal law experts generally classify criminal law into two large groups, general criminal and special criminal. Some scholars distinguish it from the *daiturnya* a delik in the Criminal Code, mak he called a common criminal. Furthermore, if delik is regulated in laws other than the Criminal Code (such as Law No. 6 of 2020), outside the Criminal Code, it is called a special criminal. (Ruslan Renggong. 2017: 28)

Based on the legal aspects of formil, the criminal law of Regional Head Elections is also subject to the provisions applicable in the Criminal Procedural Law (KUHAP). Where, the district court in examining, adjudicating, and deciding the criminal case of the Regional Head Election using the Criminal Procedure Law Book, unless otherwise specified in the Law on The Selection of Regional Heads.

The Police of the Republic of Indonesia has the task of conducting security at every stage of the implementation of the Regional Head Elections, so that the election of the Regional Head can run safely and smoothly conduct investigations into crimes in the Election of Regional Heads reported to the Police of the Republic of Indonesia (Polri) through the Election Supervisory Board (Bawaslu), the Election Supervisory Committee (Panwaslu) of the Province, Panwaslu Regency / City, perform other tasks according to the prevailing laws and regulations. (Magdalena Lurenzia Seba. 2017: 125-126)

The criminal investigators in the Regional Head Election are investigators of the Police of the Republic of Indonesia, investigators against crimes in the Regional Head Elections conducted by a team of criminal investigators in the selection of regional heads who have been appointed (investigators are not conducted individually) according to the provisions of the applicable law. For the handling of reports of Violations in the Selection

of Regional Heads as stipulated in Law No. 10 of 2016. (Magdalena Lurenzia Seba. 2017:126)

One of the reports of election violations that is forwarded to the National Police of the Republic of Indonesia (Polri) is the crime of elections. Electoral crimes are any person or legal entity or organization that intentionally violates the law, disrupts, obstructs or interferes with the course of elections held by law. (Magdalena Lurenzia Seba. 2017: 127)

Against the handling of electoral crimes regional heads are basically handling Always coordinate with the center Gakkumdu (Integrated Law Enforcement) consisting of the Police of the Republic of Indonesia, the Election Supervisory Board, and prosecutors. Therefore the report is only done by Bawaslu.

Ideally, the center gakkumdu able to complete considering the role of the Integrated Law Enforcement Center (Gakkumdu) as an integrated law enforcement center has an important role in the handling of electoral crimes, the establishment of Gakkumdu intends to equate the understanding and pattern of handling election crimes by Bawaslu, the State Police of the Republic of Indonesia, and the Attorney General of the Republic of Indonesia. (Muhammad Junaidi. 2020: 227)

### **3.2 Criminal Liability for Perpetrators of Attempted Crimes in Local Elections**

Accountability in criminal law is closely related to the responsible ability of a person. If a person or business entity or legal subject commits an act that violates the provisions of the laws and regulations in the criminal realm, it will be imposed on him due to the law in the form of criminal law liability.

Liability which is the essence of the offence referred to in criminal law is liability according to criminal law. Although in fact according to ethics everyone is responsible for all his actions, but in criminal law the subject matter is only behavior that results in the judge dropping the criminal. (Teguh Prasetyo. 2018: 85)

Simons who has a monist mind does not mention the problem of these consequences or consequences, but he mentioned that in the positive law the ability to be responsible is not considered as an element of a criminal act, but rather as a personal circumstance of a person who can abolish such a crime in Article 58 of the Criminal Code. (Teguh Prasetyo. 2018: 88)

The Criminal Code regulates criminal sanctions for violations at the time of election contained in Chapter IV on crimes against performing obligations and rights of the state. This rule is stipulated in Articles 148-153 of the Criminal Code. Where these types of regulated acts are acts of violence in elections, bribery in elections, acts of thwarting elections, using the identity of others and causing a person to lose the right to vote in elections.

In the Criminal Code applies a pattern of threats of single criminal sanctions or contains only one basic criminal sanction, namely prison sentences. The highest prison sentence imposed in the Electoral Code is two years in prison under Article 152. While the lowest threat of imprisonment is Nine months in Article 150 of the Criminal Code. (Hirda Rahmah, Purwoto and Indarja. 2017: 3-4). The provision of criminal sanctions to the perpetrators of electoral crimes of regional heads is inseparable from the principle of criminal liability embraced in the Criminal Code in accordance with the Criminal Sanctions in the Election Law. (Adami Chazawi I. 2017: 2-3)

In the past in this case criminal offenses, never embraced understand criminal liability without noticing the existence of wrongdoing on the maker. This understanding is also called the understanding of material deeds. That is, if the person's actions are in

accordance with the act in law, then without regard to the fault of the person, the judge can impose a criminal. (Adami Chazawi II. 2018: 151)

This is only questioned in terms of setting the warning of the verdict by the judge so that the verdict reaches the highest degree of justice. In the practice of law, it becomes only a matter after there is doubt about the soul of the maker, whether or not it can be accounted for the actions he did. (Adami Chazawi II. 2018: 151)

According to the provisions of Article 10 of the Criminal Code there are several types of punishment (criminal liability) that can be imposed on a person who has committed a criminal offence, where the punishment to be imposed can be:

1. Principal criminal:
  - a. Death penalty
  - b. Prison sentence
  - c. Confinement
  - d. Fine.
2. Additional criminal charges:
  - a. Revocation of certain rights
  - b. Confiscation of certain items
  - c. Announcement of the judge's decision. (Teguh Prasetyo.2018: 117)

Theories on the basis of the criminalization of experiments can be distinguished from objective experimental theories and subjective experimental theories. Proponents of objective experiment theory include D. Simons, while proponents of subjective experimental theory include G.A. van Hamel. (Astri C. Montolalu. 2016: 75)

This objective theory of experimentation primarily looks at deeds. The act in question, even if it has not violated a legal interest, but has endangered the interests of the law. Regarding the subjective theory of experimentation, it was suggested by Jan Rummelink that this theory is a heavy point of emphasis on the intentions of the perpetrator. (Jan Rummelink. 2003: 290)

Against the severity of the prison sentence and the fine should be reduced by one-third of the maximum penalty in Article 187A paragraph (1) above. This means that the prison penalty that can be applied to the perpetrators of the trial pidana regional head is a maximum of 72 months (6 years) in prison minus a third, meaning that the perpetrator of the crime of attempted elections can only be penalized with a maximum of 4 (four) years in prison. Similarly, the criminal fines in Article 187A paragraph (1) maximum Rp. 1.000.000.000,- (one billion rupiah) reduced by a third to about the maximum fine that can be imposed is a fine of Rp. 700.000.000,- (seven hundred million rupiah).

### **3.3 Criminal Liability for Perpetrators of Attempted Crimes in Local Elections**

A court ruling of legal force remains one way to achieve the purpose and function of the law. Because the decision issued by a valid court and authorized is a benchmark or basis for a person to ask for his rights that have been violated by other parties. It is through a fair court ruling that the law can actually be applied. The judge's ruling is part of law enforcement. Law enforcement is intended as an effort to bring legal ideas or desires into reality.

In order to realize the ideas or desires of the law can not be separated from the aspect of management, namely a set of activities or processes to coordinate and integrate the use of resources with the aim to achieve goals through people, techniques and information carried out based on a particular organizational structure. Therefore, in a law enforcement organization is also covered by people, behavior, facilities and also organizational culture.

(M. Syamsudin. 2015: 50). Therefore the judge in giving the final verdict must look at various aspects and elements that can affect the content of the verdict to be given. (Mhd. Teguh Syuhada. 2021: 170)

In this case, to assess and analyze the decision of the Pekanbaru High Court Number 40/Pid.Sus/2021/PT.PBR related to the precise or not criminal sanctions for perpetrators of criminal acts of attempted election of the Regional Head in the case must first look at the right evidentiary system. In other words, the articles indicted, prosecuted and considered by the judge in sanctioning the accused/perpetrator must be fulfilled all elements in the evidentiary process.

Evidence is the central point of examination of cases in court hearings. Evidence is the provisions containing the ratification and guidelines on the ways in which the law proves the wrongdoing alleged to the accused. Prove is also a provision that regulates the legal evidence that can be used by the judge to prove the alleged wrongdoing. The court should not at will and arbitrarily prove the defendant's guilt. (M. Yahya Harahap. 2005: 273). A wishful thinking until the truth embodied in the verdict based on the results of the acquisition and elaboration that is out of line with the justified system of proof. Odorless and colored by the feelings and opinions of the subject of the judge. (M. Yahya Harahap. 2005: 274)

KUHAP does not provide a definition of the definition of "proof". Nevertheless, KUHAP provides arrangements on the types of evidence tools that are valid according to the law as specified in the provisions of article 184 paragraph (1) KUHAP, therefore the definition of "proof" refers to the opinion of experts in the field of criminal procedural law. Martiman Prodjo Hamidjojo argues that the process of proof or proving contains the intention and effort to reveal the truth of an event, so that it is acceptable to reason against the truth of the event. In addition, Darwan Prinst argues that proof means that a criminal event has occurred and that the accused is guilty of doing so, so he must be held accountable. (Aristo Pangaribuan, et al. 2018: 273)

Lawrence M. Friedman assesses whether or not the law is enforced depending on the three components of the legal system. First, the substance of the law. The substance of the law is the rules, norms, and patterns of real human behavior that are in that system. (Lawrence M. Friedman. 2001: 7). Second, the legal structure or the structure of the legal system. Friedman calls it a skeleton or skeleton or part that survives or a part that gives some sort of shape and boundary to the whole. (Lawrence M. Friedman. 2001: 7)

The existence of a legal structure is very important, because no matter how good the legal norms are, but if not supported by good law enforcement officers, law enforcement and justice are only in vain. Third, legal culture. Legal culture is opinions, beliefs (beliefs), habits, ways of thinking, and ways of acting, both from law enforcement and from citizens about the law and various phenomena related to the law.

Departing from these three indicators, the ineffectiveness of the enforcement of electoral criminal law also can not be released from the problems contained in the election legislation, especially related to electoral crimes; issues of professionalism of law enforcement officers consisting of election supervisors, police, prosecutors and judges in the District court and the High Court; and the legal culture of organizing elections that are far from healthy. (Khairul Fahmi II. 2015: 282). When the case enters the judiciary it will go through stages such as criminal cases generally, namely through the District Court, the High Court and the Supreme Court at the Cassation level. (Topo Santoso and Ida Budhiati. 2019: 41). On the food and attributes of the party (*goodie bag*) there is the inscription 'Bersama Golkar Peduli'. There is even a picture of pelalawan regent, Adi Sukemi-Rais. Adi Sukemi was the son of Pelalawan Regent HM Harris. From the search at his boarding



house in Pelalawan, suspect Simon Siahaan is a survey team (timses), making the criminal case pelalawan elections. (E. Pangaribuan. *In Online Articles*: 2021)

Then the criminal case of attempted elections continued at the court of appeal, which in the end the Panel of Judges gave the Decision of the Pekanbaru High Court Number 40/Pid.Sus/2021/PT. PBR, which warns as follows:

1. Received an appeal request from the Public Prosecutor;
2. Strengthening the Decision of pelalawan District Court No. 385 /Pid. Sus/2020/PN Plw, dated January 11, 2021, which was requested by the appeal;
3. Charge the Defendants in both levels of the court. (Decision of pekanbaru High Court Number 40/Pid.Sus/2021/PT.PBR. )

The decision of the judge who gave criminal sanctions to the perpetrators of criminal trial elections in the Pelalawan District Court and Pekanbaru High Court above can be assessed as a reference to continue the existence of the Probationary Crimes set forth in Article 53 of the Criminal Code. Existence here means that not only parties who have committed criminal acts can be sentenced to criminal law, but perpetrators who try to commit criminal acts as long as it is proven that there is an intention that endangers the interests of others can be penalized, even if the act does not exist.

In this case the law that has been violated must be enforced. It is through law enforcement that this law makes a reality. In enforcing the law there are three elements that must always be considered, namely: legal certainty (*rechtssicherheit*), benefit (*zweckmassigkeit*) and justice (*gerechtigkeit*). (Sudikno Mertokusumo and A. Pitlo. 2017: 1)

Based on the special character that election crimes have, such as the short time of handling, it actually requires provisions related to more specific evidence than those stipulated in kuhap. If only referring to kuhap, the handling of electoral crimes will be far from effective. Especially for the purpose of controlling the integrity of honest and fair elections. (Khairul Fahmi II. 2015: 280)

#### IV. Conclusion

1. Handling of Electoral Crimes of Regional Heads in Indonesia, namely through the Integrated Law Enforcement Joint Center (GAKKUMDU) consisting of the Election Supervisory Board, the Police of the Republic of Indonesia and the State Prosecutor's Office.
2. Per criminal responsibility for the perpetrators of Criminal Trials in the General Election of the Regional Head must first meet the criminal elements in Article 187A paragraph (1) Law No. 6 Year 2020 on the Election of Governors, Regents and Mayors and Article 53 paragraph (1) penal code.
3. Legal analysis of pekanbaru High Court Decision No. 40/Pid.Sus/2021/PT.PBR the judge's decision has been juridical, philosophical and sociological. The judge gives a verdict of 36 (thirty-six) months in prison or 3 (three) years in prison to the perpetrator. It is in accordance with the provisions of Article 187A of Law Number 6 of 2020 Jo Article 53 paragraph (1) of the Criminal Code. Convicted of the experiment there are two subjective views that assume that the person conducting the experiment should be in pidana because of the dangerous nature of the person. And an objective view that considers that the basis for criminalizing the experiment is due to the dangerousness of the actions carried out. It has been proven in the court, so it is appropriate that the decision of the Palalawan Jo District Court pekanbaru High Court decision can be a reference, the existence of criminal sanctions for criminal perpetrators probation in the General Election of the Regional Head.

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