

# Violations and Administrative Disputes Completion in the Local Election: A Case Study of Crossing a Candidate Pair of JR Saragih-Ance Selian Candidates in 2018 North Sumatra Election

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**Keywords:** Administrative Violations, Local Election Disputes, Administrative Completeness.

**Abstract:** Problems of violations and administrative disputes often occur in every election in Indonesia. This study examines the case of the crossing of a candidate pair of JR Saragih and Ance Selian by the General Election Commission (KPU) in the 2018 North Sumatra Pilkada. This study aims to empirically describe the administrative violations and dispute between candidate pairs in the process of organizing democracy. This research is a qualitative case study research with data collection techniques through in-depth interviews, observations and documents related to purposive sampling technique. While data analysis in this study uses descriptive qualitative methods of data analysis and interactive models, namely interactive model data analysis, which begins with the process of collecting data, presenting data, and drawing conclusions. From the results of the study, it was obtained that the determination of the status of the candidate pair of JR Saragih-Ance Selian by the General Election Commission (KPU) to be ineligible (TMS) had met the administrative stages. This was based on the election law because JR Saragih did not attach the legalization of the high school diploma. Furthermore, administrative violations developed into criminal violations because JR Saragih was proven to attach legalization and fake signatures.

## 1 PRELIMINARY

Implementation of direct local elections is substantially understood and constructed to be an important and inseparable part of the ideals of reform in the political field related to decentralization in order to strengthen the guarantee of people's political sovereignty in the regions. Empirically, the direct elections that have taken place since 2005 to date have provided many important experiences and lessons in the journey of democracy in Indonesia (Ardiantoro, 2017).

On March 18, 2015, President Jokowi has passed two laws related to simultaneous local elections, namely in Law Number 8 of 2015 concerning Election of Governors, Regents and Mayors Becoming Laws. While Law No. 9 of 2015 concerning Regional Government (detiknews, 05/26/2015). Since the law was passed, there have been three (3) times that Indonesia has conducted simultaneous local elections, namely 2015 simultaneous local elections held in 269 regions,

simultaneous regional elections in 2017 which were implemented in 101 regions and simultaneous local elections in 2015 2018 which was held in 171 regions.

The election of the Governor of North Sumatra must be recognized as one of excellent in 171 regions that will hold the 2018 elections simultaneously, consisting of 17 provinces, 39 cities, and 115 districts. Because, in terms of population the number of voters in the Province of North Sumatra ranks number 4 in the largest in Indonesia after West Java, East Java and Central Java. The uproar that colored the news related to dynamics, issues and political constellation related to the election of the Governor of North Sumatra became an interesting discussion to be discussed by academics, practitioners, researchers and the public. Do not miss the hectic discussion related to 2018 Pilgubsu not free from debates on various social media, such as; *Facebook*, *Twitter*, *Instagram* and *whatsApp* groups.

In 2018, there were 3 prospective candidates who registered with the General Election Commission (KPU), first, the couple Edy Rahmayadi-Musa Rajeckshah who was promoted by the parties; Gerindra, Golkar, PKS, PAN, Nasdem, Hanura (60 seats in the parliament of North Sumatra). Second, couples Djarot Saiful Hidayat-Sihar Sitorus carried by the PDI-P and PPP (20 seats) and third, the pair Jopinus Ramli Saragih-Ance Selian promoted by the Democratic Party, PKB and PKPI.

However, on February 12 2018, the pair of prospective JR Saragih-Ance Selian candidates failed to qualify as candidate pairs because administrative requirements were declared ineligible (Simatupang, 2018a). The reason was that JR Saragih did not attach a photocopy of the high school diploma that had been legalized by the authorities. Because JR Saragih's school when he was attending senior high school at Iklas Prasasti High School, Central Jakarta was closed in 1994, the authority to legalize JR Saragih's diploma rested with the DKI Jakarta Provincial Education Office.

Furthermore, according to the Republic of Indonesia Election Commission Regulation (PKPU RI) Number 3 of 2017 concerning the Nomination of the Election of the Governor and Deputy Governor, the Regent and Deputy Regent and / or Mayor and Deputy Mayor Article 4 paragraph 1 Letter c which states that *"the lowest educated school advanced level or equivalent"*. Then corroborated by article 42 paragraph 1 letter P said that the conditions for candidates for governor/deputy governor are *"photocopies of diplomas / graduation certificates, which have been legalized by the competent authority, as proof of fulfillment of candidate requirements as referred to in Article 4 paragraph (1) letter p"*.

After the stipulation of General Election Commissions, the candidate pair of JR Saragih-Ance Selian did not meet the requirements. The JR Saragih-Ance Selian legal team then reported to the North Sumatra Bawaslu, then the JR Saragih problem entered the Governor Election Deliberation Assembly with the applicant JR Saragih-Ance Selian. This refers to Article 142 b of Law Number 8 Year 2015 which discusses disputes between Election Contestants and Election organizers as a result of the issuance of General Election Commissions.

Where the Bawaslu's task is to compile and stipulate technical guidelines for resolving election disputes (Law Number 8 of 2015 Article 22B letter a) and Bawaslu is also the most authorized institution to resolve election disputes (Law No.1 /

2015 Article 143 paragraph 1) by deciding on election disputes no later than 12 (twelve) days from the date of receipt of the application.

After going through 5 (five) trials, on March 3<sup>rd</sup> 2018 the North Sumatra Bawaslu decided to grant part of the JR Saragih-Ance Selian petition with the substance of the decision namely the applicant (JR Saragih) to legalize the photocopy of the high school diploma owned by the applicant together with the relevant authorities together with Respondent (North Sumatra General Election Commissions) and supervised by North Sumatra Bawaslu then submit it to the North Sumatra KPU no later than 7 days after the decision of the Governor Election Deliberation Assembly as administrative requirements become a candidate for the Governor of North Sumatra 2018.

However, on March 15, 2018 the North Sumatra Regional Police (North Sumatra Regional Police) named JR Saragih as a suspect because of a suspected forgery case legalizing a diploma and the signature of the Head of the DKI Jakarta Education Agency.

This paper will substantially explain empirically administrative violations and disputes of candidate pairs of JR Saragih-Ance Selian in Pilgubsu 2018. Then explain the facts about how ultimately JR Saragih was determined as a suspect and entered the criminal realm for violating Law Number 10 of 2016 Article 184 regarding Regional Head Election.

## 2 METHOD

This paper is a qualitative research with descriptive research type. The primary data of this study determined 3 (three) key informants; one from North Sumatra General Election Commissions, one from North Sumatra Bawaslu commissioner, and one lecturer from the Political Science department of the Universitas Sumatera Utara. Secondary data came from journals, books and other documents concerning administrative violations and disputes in the elections. Collecting research data is also done through a review of the results of interviews, journals and reports relating to the focus of research.

## 3 THEORY PERSPECTIVE

### 3.1 Law Enforcement Theory

Enforcement of justice is inseparable in the democratic process. In theory, law enforcement has

3 (three) elements that must be considered, namely legal certainty (*Rechtsicherheit*), expediency (*Zweckmassigkeit*) and Justice (*Gerechtigkeit*) (Sumaryono, 2002).

Legal certainty is a definite condition, provisions or has a legal determination. The law must be absolutely certain and fair. It must be a code of conduct and fair because the code of conduct must support an order that is considered reasonable. Only because it is fair and implemented with certainty the law can carry out its functions. Legal certainty is a question that can only be answered normatively, not sociologically (Kusumohamidjojo, 2004).

According to Kelsen in Rato (2010), law is a norm system. Norms are statements that emphasize the aspect of *das sollen* (supposedly), by including some rules about what must be done. Norms are deliberative human products and actions. Laws that contain general rules serve as guidelines for individuals behaving in society, both in relations with fellow individuals and group relations in society.

Related to law enforcement in the context of democracy in particular elections or elections is a process in an effort to enforce or function of legal norms as a real guideline for state behavior. Moreover, looking at election compliance and law enforcement standards is certainly very important to ensure fair elections.

Specifically, the legal framework must provide every voter, candidate and political party with an opportunity to submit an objection to the General Election Commissions when violations of electoral rights occur including administrative disputes. The law requires the court as a follow-up to provide an immediate decision to avoid the aggrieved party losing his electoral rights. The law also provides an opportunity to file a lawsuit with a higher KPU or court with the authority to review and make jurisdictional decisions regarding a dispute or particular case.

Because legally the election legislation protects the political process from violations, obstacles, bad influences, certain interests, fraud, fraud, intimidation, and all forms of illegal actions, and corrupt practices.

Non-criminal and criminal sanctions are imposed for violations by election administrators and law enforcement. Opportunities to challenge election results and resolve problems for aggrieved parties must be provided by law. The process for filing complaints and reporting violations must be regulated.

The impact of violations on election results must also be regulated in law. Any party who raises an objection, denies the election results or the rights of other political parties has access to justice and resolution of the problem for the realization of law enforcement. (Surbakti, Supriyanto and Santoso, 2011).

### 3.2 Electoral Integrity Election

Electoral integrity election is the most ideal condition of a country aspired by many groups in democracy. Despite efforts to achieve an ideal democracy and elections with integrity are very difficult to implement. Specifically, elections in the context of consolidating democracy require just conditions (Heywood, 2014).

This means that holding democratic elections requires elections with integrity. Election organizer with integrity means that the organizer contains elements that are honest, transparent, accountable, careful and accurate in carrying out their duties and authorities. The integrity of election organizers is important, because it is an indicator of the election with integrity. There are several main points in realizing elections with integrity, namely:

1. Respect the principles of democratic elections.
2. The code of ethics, the integrity of elections also depends on the ethical behavior of the election organizers, candidates, parties and all participants in the election process.
3. Professionalism and accuracy, elections with integrity are often assumed to originate from honest election practices.
4. Protection of EMBs. To guarantee an election with integrity, it is better if the EMB is independent and independent in carrying out the electoral process.
5. Supervision and law enforcement. The function of supervision and the legal framework is for election administrators and participants to be responsible for the election process.
6. Transparent and accountable, the transparency of the organizer in providing information to the public about all electoral processes is one of the efforts in realizing elections with integrity (Nurahwati, 2017).

Meanwhile according to Norris (2017), integrity of elections needs to be seen from various aspects, such as legislation, because through elections with integrity, public trust in various political institutions will be built. Likewise, aspects of political behavior are measured by increasing public participation in elections.

Community involvement in the administration of government and able to reduce community protest activities related to the election results process. Furthermore, the integrity of elections can facilitate the strengthening of the quality of political representation, overcoming conflicts and improving the political system. Moreover, the integrity of elections is correlated with regime transitions, the process of democratization and reform of bureaucratic institutions which will result in the future (Norris, 2017).

Not only that the holding of democratic elections in the context of elections with integrity can be categorized based on justice with several key conditions: (1) high integrity; (2) involving many residents; (3) based on high certainty law; (4) impartial and fair; (5) professional and independent; (6) transparent; (7) on time according to plan; (8) without violence or free from threats and violence; (9) regularly; (10) election participants accept fair losing or winning (Fukuoka and Thalang, 2014).

## 4 DISCUSSION

### 4.1 Missing Candidates for JR Saragih-Ance Selian

The elimination of a candidate for the governor of North Sumatra, Jopinus Ramli Saragih (JR Saragih) - Ance Selian by General Election Commissions was one of the unique and interesting issues to be discussed during the 2018 simultaneous elections.

Because, the pair JR Saragih-Ance Selian was the only pair of prospective candidates who were crossed out by the KPU after the support met the minimum requirements of political party support and had registered themselves with the KPU of North Sumatra. The pair of JR Saragih-Ance Selian was supported by 3 political parties which in total had 20 seats in the North Sumatra Parliamentary, namely the Democratic Party (13 seats), PKB (3 seats) and PKPI (3 seats).

Procedure related to simultaneous voting that was held on June 27, 2018 related to Stages, Programs and Schedule for the 2018 Regional Election contained in General Election Commissions Regulation No. 1 of 2017. Where the registration process of candidate pairs of candidates promoted by political parties to North Sumatra General Election Commissions was carried out on 8 - January 10, 2018. The pair of JR Saragih-Ance Selian entered the administrative requirements file on January 10, 2018. There were 19 (nineteen) items that must be

completed by the pair of candidates in accordance with P General Election Commissions Regulated Number 3 of 2017 concerning the Nomination of the Election of the Governor and Deputy Governor, the Regent and Deputy Regent and / or Mayor and Deputy Mayor. Where is the post date determined by the General Election Commissions as the registration deadline.

If there are incomplete files, they can be fulfilled and completed administratively on January 20, 2018. This means that the General Election Commissions has a 10-day deadline for repairs and completes the administrative documents before being factually examined before the General Election Commissions determines the candidate pair. .

Furthermore, the process of determining candidates was carried out on 12 February 2018. The North Sumatra General Election Commissions then determined 2 pairs of candidates who fought in the 2018 Election Governor Election candidate candidate Edy Rahmayadi-Musa Rajeckshah and candidate pair Djarot saiful Hidayat-Sihar Sitorus. Meanwhile, the JR Saragih-Ance Selian pair was declared Not Eligible (TMS) for not attaching the legalized diploma.

The team of candidates for JR Saragih-Ance Selian then reported and sued the North Sumatra General Election Commissions. Where North Sumatra General Election Commissions then held a deliberation session of nominating dispute resolution (applicant) prospective North Sumatra Governor JR Saragih was held at the North Sumatra General Election Commissions.

### 4.2 Deliberation on Nominating Dispute Resolution

In accordance with article 143 paragraph (3) b of Law Number 8 Year 2015 concerning Election Dispute Settlement through consensus agreement to reach an agreement. The trial was then carried out with a request for dispute was JR Saragih on the decision of the General Election Commissions of North Sumatra related to the determination of the candidate pairs of election participants.

This was confirmed by the North Sumatra election oversight body Aulia Andri who said;

"The process of deliberations on the nomination dispute resolution process was proposed by JR Saragih as the petitioner. Where in accordance with the regulations, the applicant is a candidate pair who registers or is registered with the provincial General Election Commissions, which is a political party or a combination of political parties supporting the candidate pairs and

prospective pairs who feel disadvantaged. The JR Saragih case yesterday was tried 5 (five) times, where the last hearing was held on February 28, 2018". (Interview 1/8/2018)

Furthermore, the Commissioner of North Sumatra General Election Commissions, Benget Silitonga said

"After the deliberation session on the nomination dispute settlement, the decision was announced on March 3 2018 with the General Election Commissions decision canceling the Decision issued by North Sumatra KPU namely General Election Commissions Decree No. 07/PL.03.3Kpt/12/Prov/II/ 2018 regarding determination of the status of Not Qualifying Jr Saragih-Ance Selian pair and granting some of the election dispute requests submitted by Jopinus Ramli (JR) Saragih-Ance Selian status" (Interview) , 3/8/2018).

Related to the decision granted by Election Oversight Body related to the applicant, in this case the prospective JR Saragih-Ance Selian, namely *first*, ordered the applicant (JR Saragih) to legalize the photocopy of the applicant's high school diploma to the authorized agency. In accordance with applicable laws and regulations related to the procedure for legalizing diplomas, together with the respondent (North Sumatra General Election Commissions) and overseen by the North Sumatra B Election Oversight Body.

*Second*, instructing the applicant to submit a copy of the high school diploma certificate of the applicant that has been re-legalized to the respondent with a special receipt signed by the applicant and the respondent.

*Third*, instructing the respondent to carry out the legalization of the photocopy of the applicant's high school diploma from the competent agency into the minutes signed by the applicant, the respondent and became the basis for the respondent to determine the status of fulfillment / completeness of the applicant's educational requirements document in the election of the governor and deputy governor of 2018 (Simatupang, 2018b).

### 4.3 Handling JR Saragih Administrative Violations

Supervision of the electoral process after reform was instituted the formation of the Election Oversight Body . Besides there is also supervision of the electoral process carried out by the public towards the election monitoring activities. Election watchers and observers are equally needed for the implementation of honest and fair elections.

Substantially the differences between election observers only monitor violations, while election supervisors have a broader role, namely resolving violations and election disputes (Simanjuntak, 2017).

According to the Political Science lecturer Fernanda Putra Adela at the University of North Sumatra related to the JR Saragih case said;

"In the administrative violations committed by JR Saragih who in the end named him a suspect by the North Sumatra Regional Police (North Sumatra Regional Police). Because JR Saragih was suspected of faking a diploma and the signature of the Head of the DKI Jakarta Provincial Education Office, Sopan Andrianto. By law the JR Saragih case has entered the criminal domain because it was determined as a document forgery when registering to become a candidate for governor of North Sumatra". (Interview, 5/8/2018)

It means that JR Saragih violated the Criminal Code Article 263 paragraph (1) of the Criminal Code related to falsification of signatures reads as follows:

"Whoever makes a false letter or falsified a letter, which can issue something rights, something agreement (obligation) or something debt relief, or which may be used as information for something done, with the intention of use or order others to use the documents as if they were authentic and not falsified, so using them can bring about something to be punished for falsification of the letter, with a sentence of up to six years in prison".

With regard to violations, obstacles, ill effects , certain interests, fraud, cheating, intimidation, and all forms of illegal action al, and corrupt practices.

Non-criminal and criminal sanctions must be imposed on the offenders. This provision focuses on the law of substance or material such as the types of violations, and sanctions against violations.

The aim to be achieved is law enforcement to prevent violations or fraud that threaten the integrity of the election. Every violation must be corrected. Institutions that differ from their respective mechanisms can be responsible for upholding that integrity, which is specifically contained in the legal framework.

JR Saragih committed an administrative violation due to falsifying the signature of the administrative file attached when registering as a candidate for the Governor of North Sumatra. The existence of the provisions of election violations in the electoral law becomes very important because the motives and opportunities to violate the electoral law remain a potential threat like the case committed by JR Saragih.

Empirically the law enforcement for the JR Saragih violation case shows the quality of the democratic process, creating losses for other parties and the public in general because JR Saragih is *running* to become a public official. If the law is not enforced according to existing laws, bad behavior during the election process will violate public trust and illegal actions.

This means that enforcement of strict sanctions in particular has entered into the realm of crime is carried out to face the problem. institutions that have the authority in terms of the mechanism for resolving these cases should be able to be responsible for upholding elections with integrity as mandated by the legislation and legal framework in Indonesia.

## 5 CONCLUSION

Settlement of disputes and violations of election administration is a separate challenge for election organizers, both Election Oversight Body and General Election Commissions. Because, administrative disputes and administrative violations become one of the legal problems that often arise from every election organizer's decision regarding election participants.

This dispute occurs between parties who feel disadvantaged either political parties or prospective candidates with the election organizer who issued the decision. The candidate pair of Governor and Governor of North Sumatra, JR Saragih-Ance Selian was dropped from the 2018 Pilgubsu's participation, which had gone through stages by stage of dispute resolution, such as a deliberation session on dispute resolution. On the journey the Integrated Law Enforcement Team of North Sumatra Regional Police determined JR Saragih a suspect because it was proven to falsify the signature of the Head of the DKI Jakarta Education Office for administrative purposes registering with the North Sumatra KPU. However, there is still no certainty about the legal decision regarding JR Saragih. This is because the regulation of administrative violations is still very weak because it is set too general, the types of administrative violations and types of sanctions are not regulated, and how the resolution is done. That is, learning from the JR Saragih case is still a lot of improvements and arrangements that must be addressed to deal with violations and the implementation of elections. This condition becomes very important to be considered again for the sake of integrity of law enforcement related to general

elections (elections). That the objective of electoral regulation with integrity must be carried out immediately in order to ensure that elections are fair and fair if weak law enforcement cannot be overcome to the maximum. This means that it is in this context that election evaluation is important for the sake of improving our democratic system, which of course is accompanied by improvements in legislation.

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