

RINGKASAN

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**ANALISIS YURIDIS TERHADAP TINDAK
PIDANA PENGUSAKAN ATRIBUT PARTAI
POLITIK DALAM KAMPANYE PEMILU
(Dr. Zul Akli, S.H., M.H., dan Dr. Elidar Sari,
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Pelaksanaan kampanye pemilihan umum seharusnya berlangsung secara tertib dengan perlindungan terhadap atribut partai politik sebagai sarana komunikasi politik peserta pemilu. Namun, masih sering terjadi tindak pidana pengrusakan atribut partai politik oleh simpatisan peserta pemilu yang menghambat penyampaian visi dan misi, serta penjatuhannya sanksi pidana terhadap pelakunya belum optimal karena pengaturannya belum dirumuskan secara eksplisit dan terperinci. Permasalahan yang diangkat dalam penelitian ini adalah mengenai bagaimana urgensi pengaturan hukum terhadap tindak pidana perusakan atribut partai politik berdasarkan Undang-Undang Nomor 7 Tahun 2017 serta bagaimana pertanggungjawaban pidana bagi para pelakunya dalam sistem hukum Indonesia. Adapun tujuan dari penelitian ini adalah untuk mengetahui dan menganalisis urgensi pengaturan hukum mengenai tindak pidana pengrusakan atribut partai politik dalam kampanye pemilu menurut UU Pemilu serta pertanggungjawaban sanksi pidana terhadap pelaku pengrusakan atribut partai politik.

Metode Penelitian ini merupakan penelitian hukum yuridis normatif dengan pendekatan perundang-undangan (*statute approach*) dan pendekatan kasus (*case approach*), bersifat deskriptif analitis, menggunakan data sekunder berupa bahan hukum primer, bahan hukum sekunder, dan bahan hukum tersier, dengan teknik pengumpulan data melalui studi kepustakaan serta dianalisis melalui tahap pengumpulan, pengklasifikasian, dan penarikan kesimpulan.

Hasil penelitian menunjukkan bahwa urgensi pengaturan hukum mengenai pengrusakan atribut partai politik terletak pada kebutuhan memperjelas hubungan antara Pasal 491 dengan Pasal 521 jo. Pasal 280 ayat (1) huruf g Undang-Undang Pemilu, terutama mengenai subjek pelaku, bentuk perbuatan, objek yang dilindungi, dan konteks kampanye. Pertanggungjawaban pidana terhadap pelaku harus didasarkan pada pembuktian perbuatan, kesalahan, kemampuan bertanggung jawab, tidak adanya alasan penghapus pidana, serta ketepatan norma yang diterapkan. Analisis Putusan Nomor 36/Pid.Sus/2024/PN Mlg dan Putusan Nomor 58/Pid.Sus/2019/PN Lbo menunjukkan bahwa penerapan sanksi harus disesuaikan dengan fakta dan unsur pasal, sedangkan penyertaan hanya dapat diterapkan apabila keterlibatan pihak lain didukung alat bukti yang sah dan memadai dalam proses pembuktian perkara.

Oleh karena itu, pembentuk undang-undang perlu memperjelas hubungan Pasal 491 dengan Pasal 521 jo. Pasal 280 ayat (1) huruf g Undang-Undang Pemilu agar terdapat kepastian mengenai subjek, bentuk perbuatan, dan objek yang dilindungi. Aparat penegak hukum juga perlu menerapkan pertanggungjawaban pidana secara cermat, proporsional, dan berdasarkan alat bukti yang sah, sesuai tingkat kesalahan setiap pelaku.

Kata Kunci: *Tindak Pidana, Pemilu, Perusakan, Atribut Politik, Pertanggungjawaban Pidana*

ABSTRACT

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JURIDICAL ANALYSIS OF THE CRIMINAL OFFENSE OF DESTRUCTION OF POLITICAL PARTY ATTRIBUTES DURING ELECTION CAMPAIGNS

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The implementation of election campaigns should be conducted in an orderly manner, with legal protection afforded to political party campaign attributes as a means of political communication for election participants. However, acts of vandalism and destruction of political party campaign attributes by supporters of election contestants continue to occur, hindering the dissemination of campaign visions and missions. This research examines the urgency of the legal framework governing the criminal offense of damaging political party campaign attributes under Law Number 7 of 2017 on General Elections,. The objective of this study is to identify and analyze the effectiveness of the existing legal regulations concerning the destruction of political party campaign attributes during election campaigns under the Election Law and to examine the criminal liability and sanctions applicable to those responsible for such offenses.

This research employs a normative juridical method using both the statutory approach and the case approach. It is descriptive-analytical in nature and relies on secondary data consisting of primary, secondary, and tertiary legal materials. Data were collected through library research and analyzed through the stages of data collection, classification, and legal interpretation to formulate conclusions.

The research findings indicate that the urgency of establishing legal regulations concerning the destruction of political party attributes lies in the need to clarify the relationship between Article 491 and Article 521 in conjunction with Article 280 paragraph (1) letter g of the Election Law, particularly with regard to the subject of the perpetrator, the form of the prohibited conduct, the protected object, and the campaign context. Criminal liability for the perpetrator must be based on proof of the unlawful act, culpability, capacity to be held responsible, the absence of grounds for excluding criminal liability, and the proper application of the relevant legal provision. An analysis of Decision Number 36/Pid.Sus/2024/PN Mlg and Decision Number 58/Pid.Sus/2019/PN Lbo demonstrates that the imposition of sanctions must be adjusted to the established facts and the elements of the applicable provision, while participation by lawful and sufficient evidence in the judicial proceedings.

Therefore, the legislature needs to clarify the relationship between Article 491 and Article 521 in conjunction with Article 280 paragraph (1) letter g of the Election Law in order to provide legal certainty regarding the subject of the offense, the form of the prohibited conduct, and the protected object. Law enforcement officials should also apply criminal liability carefully and proportionately, based on lawful evidence and in accordance with the degree of culpability attributable to each perpetrator.

Keywords: Criminal Offense, General Election, Destruction, Political Attributes, Criminal Liability.