

ABSTRAK

Masa kampanye Pemilihan Umum (Pemilu) serentak tahun 2024 diwarnai oleh maraknya pemasangan Alat Peraga Kampanye (APK) seperti baliho, spanduk, dan bendera partai politik secara sembarangan di ruang publik tanpa memperhatikan aspek keamanan struktur dan keselamatan publik. Ketidaktaatan terhadap zonasi ini menyebabkan banyaknya APK yang roboh dan menimbulkan korban luka-luka serius hingga hilangnya nyawa pengguna jalan, seperti peristiwa yang terjadi di Flyover Kuningan Jakarta dan Kabupaten Kebumen. Meskipun Peraturan KPU Nomor 15 Tahun 2023 telah melarang pemasangan APK di fasilitas yang mengganggu ketertiban umum, namun regulasi tersebut tidak memuat sanksi yang tegas bagi pelanggarnya. Di sisi lain, pengaturan sanksi dalam Undang-Undang Nomor 7 Tahun 2017 tentang Pemilu kurang memberikan efek jera bagi para pelanggar peraturan kampanye, dikarenakan sanksi yang diatur masih tergolong sangat ringan. Berdasarkan latar belakang tersebut, penelitian ini bertujuan untuk menganalisis kualifikasi perbuatan serta dinamika pengaturan sanksi pidana terhadap pemasangan APK Pemilu yang mengakibatkan luka dan matinya seseorang.

Penelitian ini merupakan penelitian hukum normatif (doktrinal) yang berfokus pada kajian konseptual dan telaah norma positif. Pendekatan penelitian yang digunakan meliputi pendekatan perundang-undangan (*statute approach*) dan pendekatan konseptual (*conceptual approach*). Teknik pengumpulan bahan hukum menggunakan studi kepustakaan (*library research*) yang bersandar pada bahan hukum primer berupa UU Pemilu dan PKPU Kampanye, serta bahan hukum sekunder dari literatur hukum ilmiah. Analisis bahan hukum dilakukan secara preskriptif guna memberikan argumentasi hukum yang objektif mengenai apa yang seharusnya menurut hukum.

Hasil penelitian menunjukkan bahwa pemasangan APK secara sembarangan hingga menimbulkan korban luka-luka atau kematian secara materiil telah memenuhi unsur delik kealpaan (*culpa*). Perbuatan tersebut melanggar ketentuan Pasal 71 Ayat (1) huruf f PKPU Nomor 15 Tahun 2023 dan dapat dijerat pidana menggunakan Pasal 359 KUHP (kealpaan menyebabkan matinya seseorang) serta Pasal 360 KUHP (kealpaan menyebabkan lukanya seseorang). Penggunaan KUHP umum terjadi karena adanya kelemahan normatif substantif dalam UU Pemilu Nomor 7 Tahun 2017. Pasal 521 jo. Pasal 280 Ayat (1) huruf e UU Pemilu dinilai tidak efektif dan gagal memberikan efek jera (*deterrent effect*) lantaran sanksi pidana maksimal 2 tahun dan denda Rp24.000.000,00 terlalu ringan bagi aktor politik, menggunakan stelsel hukuman maksimal (tanpa batas minimal), tidak mencakup wewenang penahanan karena ancaman di bawah 5 tahun, serta memuat ketidakjelasan subjek hukum yang harus dimintai pertanggungjawaban pidana. Oleh karena itu, reformulasi hukum ke depan sangat krusial dengan merumuskan stelsel pidana minimal khusus (*straf minima*), denda multiplikatif ratusan juta rupiah bagi kas partai politik, serta penegasan subjek hukum demi menjamin kepastian hukum dan keselamatan warga negara di ruang publik.

Kata Kunci: Alat Peraga Kampanye, Pengaturan Sanksi Pidana, Kealpaan (*Culpa*), Pemilihan Umum.

ABSTRACT

The 2024 simultaneous General Election campaign period was marked by the widespread and reckless installation of Campaign Props (Alat Peraga Kampanye/APK), such as billboards, banners, and political party flags in public spaces, without due regard for structural safety and public security. This non-compliance with zoning regulations caused numerous props to collapse, resulting in severe physical injuries and even loss of life among road users, as seen in the incidents at the Kuningan Flyover in Jakarta and Kebumen Regency. Although General Election Commission Regulation Number 15 of 2023 explicitly prohibits the installation of campaign props in public facilities that disrupt public order, the regulation lacks strict sanctions for violators. On the other hand, the sanctioning framework under Law Number 7 of 2017 concerning General Elections fails to provide a deterrent effect for campaign regulation violators, as the prescribed sanctions are still considered far too lenient. Based on this background, this study aims to analyze the legal qualification of such actions and the dynamics of criminal sanction regulations regarding the installation of election campaign props that result in injury and death.

This study is a normative (doctrinal) legal research focusing on conceptual studies and the analysis of positive legal norms. The research approaches employed include the statute approach and the conceptual approach. The data collection technique relies on library research, utilizing primary legal materials such as the Election Law and PKPU on Campaigns, as well as secondary legal materials from scientific legal literature. The analysis of legal materials is conducted prescriptively to provide objective legal arguments regarding what the law ought to be.

The research results indicate that the reckless installation of campaign props causing injury or death materially fulfills the elements of criminal negligence (*culpa*). Such actions violate Article 71 Paragraph (1) letter f of PKPU Number 15 of 2023 and can be prosecuted under Article 359 of the Criminal Code (negligence causing death) and Article 360 of the Criminal Code (negligence causing injury). The reliance on the general Criminal Code occurs due to substantive normative weaknesses within Election Law Number 7 of 2017. Article 521 in conjunction with Article 280 Paragraph (1) letter e of the Election Law is deemed ineffective and fails to provide a deterrent effect. This is because the maximum criminal penalty of 2 years imprisonment and a fine of IDR 24,000,000.00 are far too lenient for political actors. Furthermore, it uses a maximum sentencing system (without a minimum threshold), lacks detention authority during investigation since the threat is under 5 years, and contains ambiguity regarding the specific legal subject to be held criminally liable. Therefore, future legal reformulation is highly crucial by establishing a specific minimum sentencing system (*straf minima*), multiplicative fines amounting to hundreds of millions of rupiah levied directly against political party funds, and clear definitions of legal subjects to ensure legal certainty and the safety of citizens in public spaces.

Keywords: Campaign Props, Criminal Sanction Regulation, Negligence (Culpa), General Election.