



Electoral Integrity and Criminal Policy: Addressing Regional Election Offences in Democratic Governance

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Abstract: Electoral integrity constitutes a fundamental prerequisite for democratic governance, yet regional elections (*pilkada*) in Indonesia continue to face persistent challenges arising from electoral offences, including money politics, intimidation, abuse of authority, and administrative manipulation. This study aims to examine the construction of criminal provisions governing regional election offences under Law Number 10 of 2016 and to formulate a criminal policy framework capable of preventing violations throughout the electoral cycle. Employing normative legal research, this study adopts a statutory, conceptual, and case-based approach. Primary legal materials consist of the 1945 Constitution of the Republic of Indonesia, regional election legislation, electoral regulations, and implementing rules issued by the General Election Commission (KPU) and the Election Supervisory Agency (Bawaslu). Secondary materials include legal doctrines, scholarly books, and peer-reviewed journal articles. The collected materials are analyzed through qualitative legal reasoning to identify normative inconsistencies and evaluate the effectiveness of existing enforcement mechanisms. The findings reveal that regional election offenses are fragmented across multiple regulatory provisions, predominantly characterized as formal offenses, and enforced within restrictive procedural timelines that depend heavily on inter-institutional coordination within the Integrated Law Enforcement Center (Gakkumdu). Consequently, criminal sanctions function primarily as a reactive instrument rather than an effective mechanism for electoral prevention and integrity protection. This study proposes a reorientation of criminal policy through the strengthening of core electoral offences, particularly those related to money politics, intimidation, administrative falsification, and abuse of public office; the integration of administrative and criminal sanctions; the simplification of evidentiary requirements; and the institutionalization of preventive measures based on campaign finance transparency, participatory oversight, and electoral risk management.

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These findings contribute to the development of electoral criminal law scholarship by advancing a preventive-oriented criminal policy model that reinforces electoral integrity and democratic accountability in regional governance.

Keywords: Criminal Policy; Democratic Governance; Electoral Integrity; Electoral Offences; Regional Elections.

Introduction

Laws and regulations are established to provide certainty for every holder of rights and obligations to achieve order in a country based on the principle of legal certainty,¹ the implementation of local government must basically be carried out according to the principles of democracy, this is then ensured by Article 18 paragraph (4) of the 1945 Constitution of the Republic of Indonesia which regulates that regional heads are democratically elected; further arrangements are seen in Law No. 23 of 2014 concerning Government Regions that open a direct election mechanism by nominating through political parties/party coalitions or individual candidates.² Conceptually, direct elections are understood as an instrument for deepening local democracy that expands participation, strengthens legitimacy, and increases regional heads' accountability to voters, thereby encouraging better local governance. On the other hand, the regional elections also provide a leadership recruitment arena, opening up opportunities for the emergence of regional figures with integrity and for their inclusion in the elite circular route towards wider leadership.³

Along with the start of the direct elections, since then there have been regulations governing the regional elections, starting with Law No. 32 of 2004 concerning Regional Government to the latest current regulation, namely Law No. 10 of 2016 concerning the Second Amendment to Law No. 1 of 2015 concerning the Stipulation of Government Regulations in place of Law No. 1 of 2014 concerning the Election of Governors, Regent, and Mayor. Decentralization stops at the lowest levels of government and does not end at society. This is clearly different from democratization, which substantially returns state power to the people.⁴ The word "democratically elected" is flexible and can

¹ Muhammad Deniardi et al., "Criminal Law Arrangements in Indonesia Related to Judicial Review," *Russian Law Journal* 11, no. 3 (2023): 1705–1716.

² Ridho Imawan Hanafi, "Pemilihan Langsung Kepala Daerah di Indonesia: Beberapa Catatan Kritis Untuk Partai Politik," *Jurnal Penelitian Politik* 11, no. 2 (2014): 16.

³ A. Asrifai, "The Impact of Simultaneous Local Elections (Pilkada) for the Achievement of Democratic Consolidation in the Election of Governors and Deputy Governors of Central Sulawesi," *Jurnal Bina Praja* 12, no. 2 (2020).

⁴ Bungasan Hutapea, "Dinamika Hukum Pemilihan Kepala Daerah di Indonesia," *Jurnal Rechtsvinding* 4, no. 1 (2015): 1–20.

include direct or indirect elections conducted by the DPRD.⁵ To ensure free and fair elections, it is necessary to protect voters, those who participate in elections, and the public at large from all forms of fear, intimidation, bribery, fraud, and other fraudulent practices that could affect the purity of election results.⁶

The election regulations formed by the government and the House of Representatives of the Republic of Indonesia seem to have not been prepared seriously to strengthen honest, fair, and democratic elections, so that they still leave a gap that can be used by political interests, especially political parties, to facilitate the victory of cadres in the regions and secure the electoral agenda at a broader level, namely elections.⁷ In fact, state institutions are expected to be at the forefront of building a superior regional leadership recruitment mechanism by establishing rules that can fortify the election process against fraud and violations.⁸ Weak regulations overseeing regional elections have the potential to perpetuate fraudulent practices, increase disputes and protests, and trigger horizontal conflicts and social polarization, thereby undermining the initial spirit of direct elections as an instrument of democratization at the local level.

Therefore, starting from the various changes in the current election regulations that do not provide a guarantee of protection for an honest, fair and democratic election process, and even tend to be an election process that is filled with fraud and violations and then leads to horizontal and vertical conflicts in society, it is considered necessary that there should be a regulatory guarantee that provides protection and settlement of all forms of fraud and violations in the election process. The most important of these is the handling of the criminal Pilkada. Given the various problems in the regulations governing regional elections, there must be an election crime system capable of ensnaring all forms of election-related criminal violations and imposing effective sanctions against their perpetrators. For these reasons, it is considered necessary to develop an ideal concept for criminal provisions regulating regional elections, given the ineffectiveness of criminal offenses under current regulations in realizing an ideal democracy in Indonesia.

⁵ Jimly Asshiddiqie, "Konsolidasi Naskah UUD 1945, Setelah Perubahan Keempat, Pusat Studi Hukum Tata Negara, Fakultas Hukum," *UI. Jakarta*, 2002.

⁶ Syamsul Bachri and Winner A. Siregar, "Penegakan Hukum Tindak Pidana Pemilu Terhadap Penggunaan Hak Pilih Orang Lain," *Audito Comparative Law Journal (ACLJ)* 2, no. 3 (2021): 143–154.

⁷ Burhanuddin Muhtadi, "Politik Uang Dan Dinamika Elektoral Di Indonesia: Sebuah Kajian Awal Interaksi Antara "Party-ID" Dan Patron-Klien," *Jurnal Penelitian Politik LIPI*, 2013.

⁸ Efa Rodiah Nur et al., "Reinforcing the Role of the Gakkumdu Center in Electoral Law Enforcement: A Contemporary Analysis from the Perspective of Fiqh Siyash Dusturiyah," *MILRev: Metro Islamic Law Review* 4, no. 2 (November 2025): 1281–1296, <https://doi.org/10.32332/milrev.v4i2.11108>.

Several previous studies have examined electoral crimes and the enforcement of the regional election law in Indonesia. First, research on the effectiveness of the Integrated Law Enforcement Center (Sentra Gakkumdu) found that electoral law enforcement remains ineffective due to institutional coordination problems, procedural constraints, and limited investigative capacity, resulting in a low rate of successful prosecutions for electoral offenses.⁹ Second, studies on money politics in regional elections have highlighted the persistence of vote-buying practices and identified weaknesses in existing legal regulations, particularly regarding enforcement mechanisms and the deterrent effect of criminal sanctions. These studies generally conclude that electoral criminal law has not been sufficiently effective in safeguarding electoral integrity.¹⁰

Although these studies have contributed significantly to understanding electoral law enforcement and money politics, they primarily focus on specific offences or institutional weaknesses in electoral law enforcement. Limited attention has been devoted to the broader construction of criminal policy governing regional election offences and its capacity to function as a preventive mechanism throughout the entire electoral cycle. Accordingly, the novelty of this study lies in its effort to develop a preventive-oriented criminal policy framework that integrates substantive criminal provisions, administrative sanctions, evidentiary mechanisms, and electoral risk management to strengthen electoral integrity. Based on this gap, this study addresses two research questions: how can a criminal policy model be designed to function not only as a repressive instrument but also as a preventive mechanism capable of minimizing electoral violations during the pre-election, campaign, voting, and post-election stages?

Method

This study employs doctrinal legal research, drawing on statutory, conceptual, and case approaches, to examine the regulation of regional election offenses and the formulation of preventive criminal policies within Indonesia's electoral system. The statutory approach is used to analyze relevant legal frameworks, including the 1945 Constitution of the Republic of Indonesia, Law Number 10 of 2016 on Regional Elections, Law Number 7 of 2017 on Elections, and implementing regulations issued by the General Election Commission (KPU) and the Election Supervisory Agency (Bawaslu). The conceptual approach facilitates the examination of theories and

⁹ Fahmi Suleman, Roy Marthen Moonti, and Ibrahim Ahmad, "Evaluation of The Effectiveness of The Handling Time of Election Violations Election by Gakkumdu," *International Journal of Sociology and Law* 2, no. 1 (2025): 167–176, <https://doi.org/10.62951/ijsl.v2i1.324>.

¹⁰ Liky Faizal, "The Problems in Implementing the Function of the Integrated Law Enforcement Center (Gakkumdu) as an Election Law Enforcement Institution," *As-Siyasi: Journal of Constitutional Law* 3, no. 2 (December 2023): 199–213, <https://doi.org/10.24042/as-siyasi.v3i2.19553>.

doctrines related to electoral integrity, criminal policy, and democratic governance, while the case approach provides insights into the practical application of electoral criminal law through selected legal cases and enforcement practices. Data collection is conducted through document analysis of primary and secondary legal materials, including legislation, judicial decisions, scholarly books, peer-reviewed journal articles, institutional reports, and other relevant legal documents.

The collected legal materials are analyzed qualitatively through systematic, grammatical, and teleological interpretation, supported by legal reasoning techniques to assess the adequacy of offence formulations, the effectiveness of enforcement mechanisms, and the suitability of existing sanctions in preventing electoral violations. The analysis further explores the relationship between criminal law, administrative sanctions, and preventive measures within the broader electoral governance framework. To ensure the validity and reliability of the findings, this study applies source triangulation by comparing statutory provisions, legal doctrines, judicial considerations, and academic perspectives. In addition, interpretative consistency and cross-referencing among legal materials are employed to enhance analytical rigor and ensure that the conclusions accurately reflect both the normative structure and practical challenges of regional election law enforcement.

Results and Discussion

Electoral Integrity and the Preventive Orientation of Criminal Policy in Regional Elections

An ideal democracy rests on several fundamental pillars: people's sovereignty, healthy political competition, and open access to participation for all segments of society without discrimination.¹¹ In the context of the Regional Head Election (Pilkada), which is one of the fundamental instruments of local democracy in Indonesia. During the Regional Elections, people's sovereignty is directly exercised through the election of governors, regents, and mayors deemed capable of representing the aspirations and interests of the local community.¹² However, in practice, the Regional Elections are often marked by various forms of violations, such as money politics, voter intimidation, data manipulation, and abuse of power,¹³ causing serious problems for the integrity of democracy.

¹¹ Muhammad Mutawalli Mukhlis et al., "Dynastic Politics in Regional Elections: Challenges to Democracy and the Need for Legal Reform in Indonesia: Politik Dinasti Dalam Pemilihan Kepala Daerah: Tantangan Terhadap Demokrasi Dan Urgensi Reformasi Hukum di Indonesia," *Jurnal Konstitusi* 21, no. 4 (2024): 565–587.

¹² Sarbaini Sarbaini, "Penyelenggaraan Pemilihan Kepala Daerah Secara Langsung Dan Demokratis Sebagai Bentuk Perwujudan Hak Asasi Politik Masyarakat di Indonesia," *Legalitas: Jurnal Hukum* 12, no. 1 (2020): 107–136.

¹³ Cantika Tresna Rahayu, Avishtya Siti Karaniya, and Rifa Fadhilahtun Nisa, "Manipulasi Kekuasaan Dalam Pilkada Serang 2024: Analisis Yuridis Terhadap Pelanggaran Pemilu Yang Terorganisir," *Media Hukum Indonesia (MHI)* 3, no. 3 (2025).

From the perspective of criminal law, this condition requires a penal system that not only functions repressively (cracking down on violations after they occur) but is also preventive-oriented. This is because the effectiveness of the law is not measured solely by how harshly the punishment is imposed, but also by the extent to which it prevents potential violations from an early age.¹⁴ In other words, the main purpose of regulating criminal acts in the Regional Elections is not just to punish, but to maintain the purity of the principles of democracy and people's sovereignty.

In the context of the national legal system, the prevention of criminal violations in the Regional Elections reflects Indonesia's legal ideals (*rechtsidee*), which place the law as a means of community development.¹⁵ This is in line with the view of Barda Nawawi Arief, who emphasized that criminal law policy must be directed to efforts to protect the community (social defence) and social welfare (social welfare).¹⁶ Thus, the Pilkada criminal system must be understood as part of social and political policies that prioritize educational, preventive, and corrective values, rather than mere retaliation.

Topo Santoso provides three alternative approaches to coverage of election crimes, namely: first, all criminal acts related to the holding of elections are regulated by the Election Law. Second, all criminal acts related to the holding of elections that are regulated both inside and outside the Election Law (for example, in the Political Party Law or in the Criminal Code), and third, all criminal acts that occur during the election (including traffic violations, persecution (violence), vandalism, and so on). According to Santoso, the third definition is too broad and difficult to accept because, during the implementation of the election, many criminal acts are covered by various regulations, such as the Criminal Code, the Traffic Law, the Corruption Law, the Election Law, the Political Party Law, and so on. On that basis, Santoso defined election crimes as all criminal acts related to the conduct of elections, as regulated by the Election Law and the Election Crimes Law.¹⁷

After the theoretical and normative context of election crimes, in this section, election crimes will be explained by referring to Law No. 7 of 2017 concerning General Elections, and Law No. 10 of 2016 concerning the Second Amendment to Law No. 1 of 2015 concerning the Stipulation of Government Regulations instead of Law No. 1 of 2014 concerning the Election of Governors, Regents, and Mayors Becoming Law. The two laws, in this text, will be referred to as the Election Law and the Regional Election Law/Election Law. To make it more systematic, the description will be divided into the following sections.

¹⁴ Achmad Irwan Hamzani, *Perlunya Reorientasi Sistem Pidana di Indonesia* (Penerbit NEM, 2022).

¹⁵ Aermadepa Aermadepa et al., *Pengakuan Hukum Pemilu Di Indonesia: Tantangan Dan Prospek Keberlanjutan Demokrasi* (PT. Sonpedia Publishing Indonesia, 2024).

¹⁶ Barda Nawawi Arief, "Kebijakan Hukum Pidana," *Bandung: Citra Aditya Bakti*, 2002, 48.

¹⁷ Topo Santoso, *Tindak Pidana Pemilu* (Jakarta: Sinar Grafika, 2006).

The Essence of Criminalization and the Legal Basis of the Regional Elections

Criminalization in the Indonesian legal system serves a much broader purpose than mere retaliation against crime perpetrators. In the classical view, punishment is often interpreted as a form of retributive justice, which is a commensurate retribution against the perpetrator for unlawful acts.¹⁸ According to Muladi, the essence of criminalization is the process of upholding legal norms while also attending to human values, justice, and social interests.¹⁹ Criminalization should not be interpreted as a means of state revenge against its citizens, but as a tool to uphold a just social order. Meanwhile, Barda Nawawi Arief emphasized that criminalization must have a preventive, repressive, and curative function, so that it can deter and, at the same time, improve the perpetrator's behavior. This means that criminal sanctions are not the final goal, but a means of social development and control.

Criminalization in the context of democracy is not only aimed at punishing violators, but also as a tool to prevent violations so that the democratic process runs fairly. The criminal justice system must be run freely, impartially, and accountable to the people, who are the holders of sovereignty in a democratic country.²⁰ Law enforcement accountability is very important so that justice can be realized objectively and does not deviate from the spirit of democracy. This makes criminalization part of the mechanism to maintain the integrity of the democratic process, including in regional elections.

The regulation of criminal acts during regional elections is oriented towards preventing violations through effective law enforcement and robust, active supervision. Bawaslu, as an election supervisory body, has both preventive and repressive functions, including conducting socialization, supervising, and enforcing compliance with the law.²¹ Prevention is achieved by educating the public and election participants about the laws and rules so that violations can be minimized from the outset. Criminal sanctions serve as a deterrent to perpetrators of election crimes and as a warning to others.

The nature of criminalization in the Regional Elections is strategic because violations such as money politics, voter intimidation, and abuse of office not only violate criminal law, but also injure the sovereignty of the people and the legitimacy of democracy. Therefore, the criminal system must function to protect the integrity of local democracy, restore public trust, prevent the recurrence of violations, and strengthen the legitimacy of the election results through the enforcement of electoral justice, public morality, and accountability, while still upholding the principles of

¹⁸ Hamzani, *Perlunya Reorientasi Sistem Pidana di Indonesia*.

¹⁹ R. Achmad, "Hakekat Keberadaan Sanksi Pidana Dan Pidana Dalam Sistem Hukum Pidana," *Legalitas: Jurnal Hukum* 5, no. 2 (2017): 79–104.

²⁰ I. N. S. Saleh et al., *Buku Referensi Sistem Peradilan di Indonesia: Proses, Hak, Dan Keadilan* (PT. Sonpedia Publishing Indonesia, 2024).

²¹ Saleh et al.

pluralism and jurisprudence so that the process takes place cleanly, transparently, and fairly.

Normatively, the regulation of criminal acts in the Regional Elections is regulated in Law Number 10 of 2016 concerning the Election of Governors, Regents, and Mayors. This Law is an amendment to Law No. 8 of 2015. It has been amended by Law No. 6 of 2020 concerning the Stipulation of Government Regulations instead of Law No. 2 of 2020 concerning the Third Amendment to Law No. 1 of 2015 concerning the Stipulation of Government Regulations instead of Law No. 1 of 2014 concerning the Election of Governors, Regents, and Mayors into Law into Law, and become the main legal umbrella in the implementation of direct regional elections in Indonesia. Criminal provisions are contained in Chapter XXII, Articles 178A to 178I, which regulate various forms of violations and criminal sanctions for perpetrators.

In addition, further arrangements are found in the Bawaslu Regulation and the General Election Commission Regulation (PKPU), which are technical, as well as in the coordination of law enforcement carried out by the Gakkumdu Center (Integrated Law Enforcement) involving Bawaslu, the Police, and the Prosecutor's Office. This institutional structure is intended to ensure that criminal law enforcement during the Regional Elections runs effectively, quickly, and in an integrated manner. From a legal perspective, the criminal act in the Regional Elections is generally classified into three major groups.

Table 1. Classification of Regional Election Crimes Based on Perpetrators and Forms of Violations

Category of Regional Election Crimes	Actors Involved	Examples of Criminal Offences
Crimes Committed by Campaign Participants or Campaign Teams	Candidates, political parties, campaign teams, and their supporters	Money politics (vote-buying), conducting campaigns outside the official schedule, misuse of state facilities or government resources for electoral purposes.
Crimes Committed by Election Organizers	Election officials and administrators	Manipulation of vote-counting or recapitulation results, abuse of authority, violations of electoral procedures, and breaches of the election code of ethics.
Crimes Committed by Third Parties	Individuals or groups outside the formal electoral structure	Violence or intimidation against election organizers, voter coercion, dissemination of disinformation, and incitement to abstain from voting (golput).

Source: author's interpretation

In addition to being regulated in Law No. 10 of 2016, relevant provisions for the criminal act of the Regional Elections are also found in the Criminal Code (for

example, forgery of letters and insults/defamation) and Law No. 7 of 2017 concerning Elections, which share a close normative principle. However, conceptually, the regulation of regional election crimes in positive law still tends to be repressive-oriented, namely emphasizing post-event action, while prevention instruments have not been adequately integrated. This condition shows an imbalance between penal and non-penal approaches, even though criminal sanctions should be placed as the ultimate remedy, preceded by strengthening preventive measures, such as political education, participatory supervision, and enforcement of political ethics.

Mulder emphasized that criminal law serves the same purpose as other laws: to enforce the law. Criminal law lacks its own nature, so it is illogical to place it as the *ultimum remedium*; the postulate of *remedium* must be seen solely not as a means of remedying violations of the law or compensating for damages, but as a means of calming the riots that arise in society. While other legal means may still be used to address the riots, criminal law is not always the first option. Criminal law has its own nature as an *ultimum remedium*.²²

Bemmelen, whom Enschede supports, asserts that criminal law and criminal process are only used as exceptions to cover losses. Therefore, criminal law is the ultimate remedy if an act does not cause significant harm. However, in certain circumstances, such as crimes with a massive impact or causing irreversible losses, criminal law can serve as a *primum remedium*.²³ The postulate of criminal law as the ultimate remedy departs from its nature as a "double-edged sword," which, in addition to upholding justice, can also violate the human rights of perpetrators. Therefore, criminal law must be used with caution and as a last resort after administrative and civil sanctions are ineffective. However, the limitations of non-criminal sanctions open the possibility of shifting the function of criminal law from *ultimum remedium* to *primum remedium*, especially in environmental crimes, as emphasized by Wijnnober.²⁴

The argument that criminal law is the ultimate remedy is also found in the criminal laws of other countries, such as the United States, Sweden, and Germany. However, the term *ultima ratio regis* means the final goal or the last means/ultimate weapon. This concept relates to the argument that criminal law may be used only as a last resort. The question then is, when can the last resort postulate be applied in criminal law? Answer this question. Husak stated that the principle of *ultima ratio* is closely related to the criminalization process. This stage plays a very important role because it carefully determines and provides reasons why an act is made a crime.²⁵

The principle of subsidiarity places criminal law as a last resort after settlement efforts by the parties and non-criminal sanctions are ineffective, in line with the principle of prospective proportionality. In practice, the use of criminal law as a

²² Topo Santoso and Hariman Satria, *Hukum Pidana Pemilu* (Jakarta: Rajawali Pers, 2023).

²³ *Ibid*

²⁴ *Ibid*

²⁵ *ibid*

primum remedium is not always effective, thereby encouraging a shift back to the ultimum remedium position. In the context of the Regional Elections, although criminal offenses have been regulated, the regulation still needs to be strengthened with a preventive orientation to build an ethical and law-abiding socio-political system. Electoral crimes threaten the sovereignty of the people and local democracy, with forms of violations such as voting rights obstruction, money politics, fraud, voter impersonation, voting thwarts, and violence and threats.

According to Barda Nawawi Arief's opinion, "The problem of law enforcement, both in abstracto and in concreto, is an actual problem that has recently received sharp attention from the public. Regarding this problem, legal experts, of course, cannot remain silent to play a role in improving the quality of law enforcement, among others through the implementation of professional law education, to improve the quality of law enforcement human resources demanded by the community today, especially the quality of law enforcement materially/substantially" such as: first, the protection of human rights, the second the upholding of the values of truth, honesty, justice and trust between others, thirdly there is no abuse of power/authority, fourthly clean from favoritism, fifth, the realization of independent law enforcement, and the upholding of the code of ethics/professional code, sixth, the implementation of a clean and authoritative government".²⁶

Barda emphasized that the quality of law enforcement in abstracto is highly determined by the process of lawmaking and regulation. Mistakes at the legislative stage are strategic mistakes that can hinder law enforcement in practice, as evidenced by the many problematic laws that must be revised or amended immediately. This condition interferes with the effectiveness of criminal law enforcement. In addition, differences in academic views, for example, regarding the concept of criminal acts, also show that there is no unity of understanding, as evidenced by the distinction between criminal acts (*actus reus*) and *strafbaar feit*, which includes criminal liability.²⁷ Along with the euphoria of post-reform democracy, political and legal policies related to elections have undergone rapid development, among them the legislative product on the implementation of direct elections for people's representatives and government officials, namely the Elections/Regional Elections Law. When the definition of a criminal act is linked to the term 'General Election,' the problem becomes more complex.

According to Topo Santoso's opinion, "from the point of view of political law (Criminal Policy), we see developments in election crimes. These developments include the widening scope of election crimes, an increase in the type of criminal

²⁶ Barda Nawawi Arief, *Masalah Penegakan Hukum Dan Kebijakan Hukum Pidana Dalam Penanggulangan Kejahatan* (Jakarta: Prenadamedia Group, 2007).

²⁷ Andi Hamzah, *Hukum Pidana Indonesia & Perkembangannya* (Jakarta: PT Sofmedia, 2015).

offense, and an increase in criminal sanctions."²⁸ The regulation of election crimes has existed since the enactment of the Criminal Code through Law Number 1 of 1946 and has developed in line with the dynamics of the political and legal spheres, especially after the reform that encourages the holding of direct and simultaneous elections. In the Indonesian criminal law system, election crimes are part of a special criminal law (*lex specialis*) outside the Criminal Code, which aims to maintain democratic order and justice. Therefore, the application of criminal law in elections should be placed as the ultimate remedium, which is used only when other legal instruments are no longer effective, as Van Bemmelen argues.²⁹

The definition of election crimes in Article 260 of Law Number 8 of 2012 concerning the General Election of Members of the House of Representatives, Regional Representative Councils, and Regional People's Representative Councils, states that election crimes are criminal offenses of violations and/or crimes against the provisions of election crimes as regulated in this law. The law, along with laws that regulate elections such as Law Number 42 of 2008 concerning the General Election of the President and Vice President, and Law Number 15 of 2011 concerning the Implementation of General Elections, were simplified into one in Law of the Republic of Indonesia Number 7 of 2017 concerning General Elections, as a basis for holding general elections simultaneously. Election crimes in the law include: First, Handling of Election Crimes, which contains procedures for handling election crimes, the Special Assembly for Election Crimes, and the Integrated Law Enforcement Center. Second, it explains the Election Criminal Provisions.³⁰

Similar to the Election Law, Law Number 10 of 2016 on Regional Head Elections comprehensively regulates electoral offences through Articles 177 to 198A, reflecting the integration of criminal law enforcement within the broader electoral legal framework. These provisions cover a wide range of prohibited conduct throughout the electoral cycle, including voter registration manipulation, falsification of voter data, deprivation of voting rights, multiple voting, vote-counting fraud, obstruction of electoral processes, forgery of electoral documents, intimidation of voters, and violations related to candidate nomination procedures. The law also criminalizes campaign-related misconduct, such as campaigning outside the authorized schedule, receiving or providing prohibited campaign contributions, submitting false campaign finance reports, and engaging in money politics. Furthermore, criminal liability extends not only to candidates and voters but also to election organizers, political party officials,

²⁸ Santoso, *Tindak Pidana Pemilu*.

²⁹ Sri Mulyani, Hamzah H. A. Rasyid, and Andi A. Pasinringi, "Resepsi Hermeneutika Dalam Penafsiran Teks," *Iqro Journal of Islamic Education* 7, no. 2 (2024): 197–208, <https://doi.org/10.24256/iqro.v7i2.5240>.

³⁰ Undang-Undang Republik Indonesia Nomor 7 Tahun 2017 Tentang Pemilihan Umum (Buku Kelima: Tindak Pidana Pemilu, Pasal 476-554) (2017).

campaign teams, monitoring institutions, and public officials who abuse their authority or violate electoral neutrality.

The breadth of these criminal provisions demonstrates the legislature's intention to protect electoral integrity at every stage of regional elections, from voter registration and candidate nomination to campaigning, voting, vote counting, and the determination of results. However, the extensive distribution of offences across numerous provisions has created a highly complex enforcement structure involving multiple institutions and stakeholders. Many offences are formulated as formal offences that emphasize procedural compliance rather than substantive electoral harm, while enforcement depends heavily on coordination among election management bodies, supervisory agencies, law enforcement authorities, and the Integrated Law Enforcement Center (Gakkumdu). Consequently, despite the comprehensive scope of criminalization, challenges remain in ensuring effective, timely, and consistent enforcement that can prevent electoral violations and safeguard democratic legitimacy.

Types and Characteristics of Regional Election Crimes

Criminal acts in the Regional Elections have characteristics distinct from those of general crimes. If general criminal acts (such as theft, persecution, or murder) are more oriented towards violations of individual interests, then the criminal act of the Regional Elections is a violation of the public interest and the principles of constitutional democracy. This means that the crime of the Regional Elections not only causes losses to certain parties but also undermines the political legitimacy and morality of local government implementation.

Substantially, the criminal acts of the Regional Elections can be classified including: (a) money politics, namely the provision of money/goods/promises to influence the choice of voters who are convicted according to Article 187A of Law No. 10 of 2016; (b) abuse of state positions and facilities by especially incumbents, including the use of regional budgets, government facilities, and social assistance programs as campaign instruments prohibited by Article 71 of Law No. 10 of 2016, and is a form of abuse of power that is contrary to the principles of good governance; (c) falsification of documents and manipulation of voter data, including falsification of individual candidate support, recapitulation of results, and DPT which are sanctioned under Articles 177-178 of Law No. 10 of 2016 for attacking the principle of honesty and damaging public trust; and (d) political violence and intimidation against voters and organizers.

In essence, criminal acts in the Pilkada process are driven by the strong interest in winning certain candidates supported by individuals, which gives rise to fanaticism and a strong drive to achieve victory by using any means. In practice, across various regions, this is seen through irregularities, including the manipulation of formal requirements

and other improper actions to ensure election.³¹ In fact, the Regional Elections are an essential instrument in a democratic country with a representative system, functioning as a political selection mechanism to filter figures who will represent the mandate, vote, and interests of the people in the implementation of government.³² Therefore, the elected candidate is seen as having the capacity and obligation to act on behalf of a wider segment of society, both through political parties and through individual channels, making political parties an inevitable element in modern democratic political life.³³

The crime of electing regional heads has distinctive characteristics compared to other criminal acts. Because the crime of election of regional heads is only possible in direct regional head elections. Because direct regional head elections in Indonesia are held once every five years, the crime of regional head election occurs only within that period. Meanwhile, other criminal acts, such as theft, murder, and corruption, can occur at any time. From the perspective of criminal law theory, the problem can be understood as a law enforcement deficit, in which legal norms designed to maintain electoral justice are inconsistently implemented.³⁴ In this context, the success of the penal system is not solely measured by the number of perpetrators punished, but by the extent to which the law prevents the recurrence of violations in the next Regional Elections.

Therefore, the penal system in the Regional Elections must be directed at two main goals:³⁵

1. Prevention through legal awareness by strengthening political education, legal socialization, and public supervision so that the public understands the legal consequences of each violation.
2. Consistent and fair law enforcement – by ensuring effective coordination between law enforcement agencies and avoiding political interference in the legal process.

Thus, the law enforcement mechanism in the Regional Elections not only functions as a law enforcement mechanism but also as an instrument of democratic protection, namely a tool to maintain the integrity of the democratic system against the

³¹ Anita Marwing, Asni Asni, and Widia Astuti, “The Concept of Impeachment in The Indonesia’s Constitutional System from The Perspective of Fiqh Siyasah,” *Al-’Adalah* 19, no. 2 (December 2022): 339–356, <https://doi.org/10.24042/adalah.v19i2.14289>.

³² M. Rizal Qosim et al., “The Politicization of Religion and Law Enforcement in Indonesia’s Democratic Elections: An Islamic Legal Perspective,” *Al-Manahij: Jurnal Kajian Hukum Islam* 19, no. 2 (2025): 313–334, <https://doi.org/10.24090/mnh.v19i2.15244>.

³³ Sartono Sahlan and Awaludin Marwan. *Op.Cit.*

³⁴ Muhammad Faisal et al., “Government Social Media Communication as a Political Public Relations Strategy for Advancing Social Welfare,” *Nusantara: Journal of Law Studies* 5, no. 1 (April 2026): 421–35, <https://doi.org/10.66325//nusantaralaw.v5i1.215>.

³⁵ M. Abas et al., “Kesadaran Hukum Masyarakat Pada Tindak Pidana Politik Uang Dalam Penyelenggaraan Pemilu Dan Pilkada Tahun 2024 Di Karawang,” *Pro Patria: Jurnal Pendidikan, Kewarganegaraan, Hukum, Sosial, Dan Politik* 8, no. 1 (2025): 1–15.

threat of fraudulent practices and abuse of power. Democracy, as a basic principle of the Indonesian legal state, has a substantive dimension that not only emphasizes the implementation of election procedures but also guarantees the values of honesty, justice, and meaningful participation. In the context of the Regional Elections, the principle of honest and fair elections is an integral part of the legal ideal of constitutional democracy as guaranteed by Article 1 paragraph (2) and Article 22E paragraph (1) Undang-Undang Dasar 1945.

The principle of honesty means that all stages of the implementation of the Regional Elections, from registration and campaigning to voting and vote recapitulation, must be carried out in accordance with the principles of openness, data authenticity, and honest behavior by participants. Violations of the principle of honesty, such as vote manipulation or money politics, constitute a distortion of the people's sovereignty. Meanwhile, the principle of fairness requires equal rights and opportunities for all Pilkada participants. This principle applies not only in the formal context, but also in the substance of the organization, including access to the media, the use of campaign funds, and equal legal treatment before organizers and law enforcement.³⁶ According to Jimly Asshiddiqie, a healthy democracy can only be realized if electoral justice is upheld through an objective and impartial legal mechanism. Without justice, the Regional Elections are merely a formal procedure that lacks moral legitimacy.³⁷

This principle is both an ethical value and a legal norm. In enforcing criminal law during the Regional Elections, this principle serves as a parameter for determining whether a violation affects the integrity of the results. Therefore, a prevention-oriented criminal system must be designed to maintain the principles of honesty and justice through an effective, transparent, and participatory legal mechanism. Substantially, from a formal legal aspect, the handling of criminal acts of the Regional Head Election is subject to the Criminal Code, so that examinations, courts, and decisions by district courts are carried out based on the Criminal Procedure Code, as long as they are not otherwise specified in the Election Law. In order to ensure a safe, peaceful, orderly, and smooth Regional Elections, reports of violations are handled by the Indonesian National Police which is tasked with securing each stage, receiving and following up on reports through Bawaslu and the ranks of Panwaslu, carrying out investigations of Pilkada crimes, and carrying out police service duties related to campaign activities in accordance with the provisions of laws and regulations.

³⁶ Aermadepa et al., *Pengakuan Hukum Pemilu Di Indonesia: Tantangan Dan Prospek Keberlanjutan Demokrasi*.

³⁷ Fahrin Amrullah, *Konsep Ideal Penyelesaian Sengketa Pemilihan Umum Di Indonesia Yang Berbasis Nilai Keadilan* (Universitas Islam Sultan Agung (Indonesia), 2021).

In law enforcement, the criminal act of the Regional Election has its own character because it involves three main institutional elements that are members of the Integrated Law Enforcement Center (Gakkumdu Center), namely:³⁸

1. The Election Supervisory Agency (Bawaslu) is the supervisor and recipient of violation reports,
2. The National Police of the Republic of Indonesia is an investigator of criminal acts, and
3. The Prosecutor's Office of the Republic of Indonesia is a public prosecutor.

The Gakkumdu Center's work mechanism is coordinated, with the three institutions working simultaneously to handle reports of violations. Bawaslu has the authority to conduct initial clarification and determine whether an act meets the elements of an election crime. If fulfilled, the case will be forwarded to the Police for investigation, and then to the Prosecutor's Office for prosecution in the district court.

In practice, the law enforcement mechanism of the Regional Elections often faces several obstacles, including:

- a. Differences in perceptions between institutions in determining the elements of criminal acts;
- b. Limited handling time (because the stages of the Regional Elections are running fast);
- c. Lack of evidence and witnesses, especially in money politics cases that are difficult to prove;
- d. Intervention of political interests that may affect the objectivity of law enforcement.

Supervision of the implementation of the regional head election is carried out by the General Election Supervisory Agency, the Provincial General Election Supervisory Agency, the Regency/City General Election Supervisory Committee, the District General Election Supervisory Committee, and the Field General Election Supervisor. The General Election Supervisory Board and the Provincial General Election Supervisory Board, as intended in paragraph (1), are permanent. Regency/City General Election Supervisory Committee, District General Election Supervisory Committee, Field General Election Supervisor. As referred to in paragraph (1), the ad hoc is. The Regency/City General Election Supervisory Committee, the District Election Supervisory Committee, and the Field Election Supervisor shall be formed no later than 1 (one) month before the first stage of the election begins and ends no later than 2 (two) months after all stages of the election implementation are completed.³⁹

Furthermore, the establishment of the General Election Supervisory Agency at the place where the General Election is held is carried out by the Field Election Supervisor as stipulated in Law Number 15 of 2011, stating that the Field General Election

³⁸ M. Junaidi, "Tindak Pidana Pemilu Dan Pilkada Oleh Sentra Penegakan Hukum Terpadu," *Jurnal Ius Constituendum* 5, no. 2 (2020): 220–34.

³⁹ See *Article 69, Law Number 15 of 2011 concerning the Holding of General Elections*.

Supervisor is an officer formed by the District Field Supervisory Committee who is tasked with supervising the implementation of the Regional Head Election in the village or other name/sub-district. The duties of the Field General Election Supervisor, as contained in the provisions of Law Number 15 of 2011, are to carry out the duties imposed on him by the General Election Supervisory Agency, which are the same as the duties of the General Election Supervisory Agency as mentioned above. Likewise, the obligations of the Field Supervisory Committee, as stipulated in Law Number 15 of 2011, are identical to those of the General Election Supervisory Board.⁴⁰

Systematically, the criminal procedure law in the Election Law is in the fourth part, under the title of election crimes, from the second paragraph to the fourth paragraph, and from Article 146 to Article 152. Thus, in total, there are six articles regarding the criminal procedure law. Details will be described as follows:⁴¹ FIRST, Substantially, Police investigators in the Gakkumdu Center can conduct an investigation/investigation after receiving a report of violations from the Provincial Bawaslu or the Regency/City Panwas, including searching, confiscating, and collecting evidence without the permission of the Chairman of the local District Court. The results of the investigation and the case file must be submitted to the public prosecutor no later than 14 working days from the receipt of the report; If it is incomplete, the prosecutor returns the file within 3 working days with instructions, and the investigator is required to complete and send it back within 3 working days. The public prosecutor transfers the case to the District Court no later than 5 working days; The case is examined by the Special Assembly and decided no later than 7 days from the handover. An appeal is filed no later than 3 days after the decision; the appeal file is transferred to the High Court within 3 days; the appeal is decided no later than 7 days; and the decision of the High Court is final and binding. The verdict shall be submitted to the public prosecutor no later than 3 days after it is read and must be carried out no later than 3 days after it is received, and for cases that affect the acquisition of votes, it must be completed no later than 5 days before the determination of the results by the KPU; a copy of the decision must be received by the KPU and the election participants on the day the verdict is read.

Second, the special panel for criminal crimes in the Regional Elections consists of special judges (career judges) in the District Court and the High Court determined by the decision of the Chief Justice of the Supreme Court, provided that they have a minimum of three years of experience (unless otherwise available), are exempt from handling other cases, and are obliged to master elections/regional elections. To unify understanding and handling of cases, Bawaslu/Panwas, the Police, and the prosecutor's office established a Gakkumdu Center attached to Bawaslu, funded from the Bawaslu budget, and regulated through joint regulations with the National Police

⁴⁰ See *Article 1 number (20), Article 81, Article 82. Law Number 15 of 2011 concerning the Implementation of General Elections.*

⁴¹ Santoso and Satria, *Hukum Pidana Pemilu.*

Chief, the Attorney General, and the Chairman of Bawaslu. Normatively, the criminal procedure provisions in the Election Law and the Regional Election Law are essentially the same because they refer to the Criminal Code, and both set a deadline of about 51 days from report to execution, confirming the character of a speedy trial.

Third, a special assembly was formed from career judges of the district court and high courts who handle election crimes. Such a formulation is also used in the Election Law. It is just that the Election Law emphasizes that special judges must master the election of regional heads. Since the issue of regional elections is a regular five-year agenda item, in the future, the government should consider treating election criminal justice as a separate process, with investigators, prosecutors, and judges recruited and trained separately so they can produce quality, integrity-based decisions.

Fourth, regarding the integrated law enforcement center. Substantially the same as what is regulated in the Election Law. The organs are just a collection of the Bawaslu, the Police, and the prosecutor's office. It should be suspected that such a formula is made to facilitate the coordination of the handling of criminal acts of the election/election because it is also related to the speed and accuracy of the process, which will be delegated to the court, which will then be sentenced by the judge as a special assembly.

Prevention-Oriented Criminal System

The penal system in the context of the Regional Elections should be placed within the framework of modern criminal law that focuses not only on retributive justice but also on protecting democratic values and the political rights of citizens. This new paradigm departs from the view that electoral crimes not only harm individuals but also undermine the social order and the legitimacy of locally elected governments.

According to Muladi, the purpose of punishment must be integrative, encompassing community protection, crime prevention, and the development of perpetrators. In the context of the Regional Elections, the orientation toward criminalization not only punishes perpetrators of money politics, black campaigns, or data manipulation but also serves as a social deterrent and strengthens the legal awareness of the voting community.⁴² Thus, a prevention-oriented criminal paradigm must place the Regional Elections as a healthy arena of political education. This means that the criminalization of perpetrators of Pilkada violations should not be seen solely as a repressive instrument, but also as an educational and corrective measure.

A change in the criminal paradigm for the Regional Elections is necessary because the system remains reactive: the law only works after the violation occurs, even though speed, accuracy, and deterrent effect determine the quality of local democracy. The delay in handling cases actually fosters the perception of impunity. On the other hand, law enforcement is still fragmented between the criminal, administrative, and ethical regimes, so that one act can be judged differently by the General Election Commission,

⁴² D. J. S. Joko, *Politik Hukum Pidana* (2023).

the General Election Supervisory Agency, and law enforcement officials, resulting in many cases stopping in the administrative realm or being declared insufficient evidence even though it substantially harms the principles of honesty and fairness. Therefore, the new paradigm must integrate criminalization with political ethics and democratic education in order to function not only to punish, but also to shape law-abiding political behavior; within this framework, the Gakkumdu Center (elements of the National Police of the Republic of Indonesia and the Prosecutor's Office of the Republic of Indonesia) is positioned as a coordinating mechanism to prevent overlap and strengthen the handling of systemic election crimes.⁴³ However, the effectiveness of Gakkumdu in practice still faces various obstacles. First, differences in perceptions among Gakkumdu member institutions often lead to slow investigation and prosecution processes. Second, the limited handling time (only 14 working days) results in many cases being incomplete. Third, there are non-legal factors, such as political pressure and fear of power intervention, that hinder the apparatus's independence.

Election law enforcement will be effective if it meets three main conditions, namely: legal certainty, justice, and utility.⁴⁴ In the context of Gakkumdu, legal certainty means procedural clarity and realistic deadlines; justice means that law enforcement is carried out without discrimination; and usefulness means that the law has a positive effect on the integrity of the Regional Elections.

The effectiveness of the Gakkumdu Center needs to be strengthened by increasing human resource capacity through specialized training in election law, developing an early warning system to detect potential violations, and expanding public participation in supervision and reporting to enable the prevention function to operate. Without preventive orientation, Gakkumdu risks becoming a purely reactive institution; it needs to be positioned as a center for enforcement, prevention, and coordination from the outset of the Pilkada stage. Another weakness of the Pilkada penal system is the dominance of the penal approach, even though low political ethics and community participation also influence electoral crimes; Therefore, criminal law policy must be integrated, including formulaic, applicative, and preventive policies as a synergy between criminal law, political systems, and community legal culture.

Substantially, the reform of the criminal justice system in the Regional Elections needs to be directed at three aspects: (1) the reform of criminal norms that are adaptive to modern political crime modes, including digital money politics, social media abuse, and inadequately accommodated disinformation; (2) strengthening political ethics through internal party supervision and candidate integrity pacts, as well as the party's commitment to prevent the nomination of figures with a track record of

⁴³ S. Bambang, S. Setyadji, and A. Darmawan, "Penanganan Tindak Pidana Pemilu Dalam Sentra Penegakkan Hukum Terpadu (Gakkumdu)," *Jurnal Indonesia Sosial Teknologi*, 2021.

⁴⁴ Aermadepa et al., *Penegakan Hukum Pemilu Di Indonesia: Tantangan Dan Prospek Keberlanjutan Demokrasi*.

violations/corruption as the first Layer of prevention; and (3) strengthening public participation through community monitoring, media, and NGOs accompanied by community-based political education to increase transparency, narrow the space for manipulation, and support the effectiveness of law enforcement.

This integrative approach is consistent with the principle of total enforcement in law enforcement theory, which emphasizes that the effectiveness of a legal system is determined not only by the severity of sanctions imposed after violations occur but also by the capacity of social and institutional mechanisms to prevent violations from emerging in the first place. Consequently, criminal law enforcement, political ethics, and public participation should operate synergistically to safeguard the integrity and legitimacy of Regional Elections as a fundamental instrument of local democracy. Within this framework, a prevention-oriented criminal justice system for the Regional Elections can be developed through a three-layer integrative model. The first is the preventive-structural Layer, which focuses on strengthening regulations and institutional arrangements to become more responsive to evolving patterns of electoral crime. This includes establishing an Election Crime Monitoring Unit, under the coordination of Gakkumdu, to identify and address potential violations at the earliest stages of the electoral process. The second is the preventive-social Layer, which aims to enhance public legal awareness through political education, the dissemination of democratic ethics, and sustained anti-money politics campaigns. This Layer underscores that preventing electoral crimes is not solely the responsibility of law enforcement agencies but also a collective obligation of civil society. The third is the preventive-cultural Layer, which seeks to cultivate a political culture grounded in integrity by internalizing values such as honesty, accountability, and justice among political elites and election organizers. Such an approach is essential for transforming the prevailing paradigm of transactional politics into one that prioritizes ideas, public service, and democratic responsibility.

This model places criminal law as the ultimate means of remedium, not *primum remedium*. This means that criminal sanctions are still needed as a last resort legal guarantee, but the emphasis is on preventive efforts.⁴⁵ Thus, the criminal system of the Regional Elections can function more effectively, proportionately, and in accordance with the law's objectives: protecting the community's interests and maintaining the people's sovereignty.

Conclusion

This study demonstrates that the regulation of regional election offenses under Law Number 10 of 2016 remains fragmented and is characterized predominantly by formal offenses, whose enforcement is constrained by strict

⁴⁵ Yoserwan and S. H. L. M. H., *Doktrin Ultimum Remedium Dalam Hukum Pidana Indonesia (Implementasinya Dalam Hukum Pidana Ekonomi)* (Rajawali Pers, 2021).

procedural deadlines and by institutional coordination challenges within the Integrated Law Enforcement Center (Gakkumdu). As a consequence, criminal sanctions tend to operate as a reactive mechanism after violations have occurred rather than as an effective preventive instrument for safeguarding electoral integrity. The findings further reveal that the existing legal framework has not adequately integrated criminal, administrative, and preventive approaches to address recurrent electoral violations, particularly money politics, intimidation, administrative falsification, and abuse of authority. To strengthen democratic governance, a reorientation of criminal policy is required through the reformulation of core electoral offences, simplification of evidentiary mechanisms, integration of administrative and criminal sanctions, and enhancement of preventive strategies based on campaign finance transparency, participatory oversight, and electoral risk management throughout all stages of regional elections.

Despite providing a comprehensive normative analysis, this study is limited by its focus on legal doctrines and statutory frameworks, rather than an extensive empirical examination of enforcement practices across different regional contexts. Future research should therefore explore the practical implementation of electoral criminal law through empirical and comparative approaches involving election organizers, law enforcement agencies, political actors, and civil society organizations. Such studies would contribute to a deeper understanding of the effectiveness of preventive criminal policies and institutional coordination mechanisms, while also generating evidence-based recommendations for strengthening electoral integrity, democratic accountability, and public trust in regional election governance.

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Author Contributions Statement

Bayu Arjunah contributed to conceptualization, methodology, investigation, data curation, formal analysis, and writing—original draft preparation. Syamsul Bachri contributed to methodology, validation, supervision, writing, review, and editing. Aswanto contributed to conceptualization, supervision, formal analysis, and critical review of the manuscript. Khaleel Suliman Khaleel Arahamnah contributed to

investigation, resources, validation, and writing—review and editing. Mohammed Jasim Mohammed contributed to data curation, visualization, validation, and manuscript review. Ruslan Renggong contributed to supervision, project administration, conceptualization, writing, review, and editing. All authors have read and approved the final version of the manuscript and agreed to its submission for publication. Based on the widely adopted CRediT (Contributor Roles Taxonomy) framework, author contributions may be reported using roles such as conceptualization, methodology, investigation, formal analysis, supervision, validation, and writing.

AI Usage Statement

The authors declare that artificial intelligence (AI)-assisted tools were used solely to support language editing, grammar checking, and improvement of manuscript readability during the preparation of this article. All intellectual contributions, including the formulation of research questions, study design, data collection, data analysis, interpretation of findings, and conclusions, were performed by the authors. The authors carefully reviewed and verified all AI-assisted outputs to ensure their accuracy, originality, and compliance with academic and ethical standards. The authors assume full responsibility for the content of this manuscript.

Conflict of Interest

The authors declare that there are no conflicts of interest regarding the publication of this article. The research was conducted in the absence of any commercial, financial, or personal relationships that could be construed as a potential conflict of interest. All authors have disclosed any affiliations or relationships that might be perceived to influence the research and confirm that none exist. The authors are solely responsible for the content and conclusions presented in this manuscript.

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