

Speedy Trial in Election Crimes in Indonesia: Between Judicial Efficiency and Evidentiary Integrity

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Abstract

Speedy trials in regional election criminal cases are essential for maintaining democratic integrity, but they raise concerns about balancing efficiency with substantive justice. This study examines the implications of implementing speedy trial principles on evidence quality, access to justice, human rights protection, and judicial system integrity through normative legal analysis of primary sources. The research reveals that accelerated judicial processes create tensions between procedural speed and thoroughness, potentially compromising the examination of evidence, disadvantaging resource-limited defendants, and risking due process violations. The findings demonstrate that expedited timelines may undermine comprehensive legal reasoning in judicial decisions. A balanced



framework is essential to achieve both procedural efficiency and substantive justice in electoral criminal proceedings.

Keywords

Election Crime; Evidence; Justice; Speedy Trial.

HOW TO CITE:

Chicago Manual of Style Footnote:

¹ Riezka Eka Mayasari, La Ode Awal Sakti, Siti Hudzaifah Miftahul Jannah, Yahyanto Yahyanto, and Eduardo Andres Cellis. “Speedy Trial in Election Crimes in Indonesia: Between Judicial Efficiency and Evidentiary Integrity.” *Indonesian Journal of Criminal Law Studies* 10, no 2 (2025): 953-984. <https://doi.org/10.15294/ijcls.v10i2.29811>.

Chicago Manual of Style for Reference:

Mayasari, Riezka Eka, La Ode Awal Sakti, Siti Hudzaifah Miftahul Jannah, Yahyanto Yahyanto, and Eduardo Andres Cellis. “Speedy Trial in Election Crimes in Indonesia: Between Judicial Efficiency and Evidentiary Integrity.” *Indonesian Journal of Criminal Law Studies* 10, no 2 (2025): 953-984. <https://doi.org/10.15294/ijcls.v10i2.29811>.

Introduction

Law enforcement is an effort to create order, security and public peace, both preventively and repressively. In the criminal justice system, the legislation regulating court procedures is called procedural criminal law (Criminal Procedure Law), which is generally regulated in the Criminal Procedure Code. However, criminal acts in local elections are specifically regulated through Law No. 1 of 2015, in conjunction with Law No. 10 of 2016, which implements the concept of a speedy trial as a mechanism to expedite the judicial process.

Regional Head Elections are essentially part of the general elections in Indonesia. This is affirmed in Article 18 paragraph (4) of the 1945 Constitution, which states that "Governors, Regents, and Mayors as heads of provincial, regency, and city governments, respectively, shall be elected democratically." Therefore, Pilkada is not merely a political mechanism, but also a concrete implementation of Article 1 paragraph (2) of the 1945 Constitution, which states that "Sovereignty is in the hands of the people and is exercised according to the Constitution." On this basis, each region in Indonesia is obliged to hold general elections to determine its respective regional head in accordance with the applicable legal framework.¹

In the context of organizing regional elections, the continuity of legal processes that may arise from disputes over election results must be ensured to proceed quickly, accurately and fairly. This is in line with the principle of *contante justitie*, which emphasizes that the resolution of cases should not be prolonged, as delays can harm the people's right to exercise their sovereignty.

¹ Baharita, "Analisis Yuridis Tindak Pidana Pemilihan Umum Kepala Daerah Undang-Undang Pemilukada." *Jurnal Legalitas* 1, no. 2 (2023): 30-49. [https://doi.org/10.58819/jurnallegalitas\(jle\).v1i2](https://doi.org/10.58819/jurnallegalitas(jle).v1i2).

The principle of *contante justitie* is often equated with the concept of a speedy trial, meaning that justice must be delivered promptly. This principle emphasizes that law enforcement should not be prolonged, as delays have the potential to result in injustice. This principle is particularly relevant in cases that require a swift process, such as regional election offences. However, the implementation of a speedy trial raises challenges: on one hand, a quick method is expected to uphold the legitimacy of elections, but on the other hand, it can create obstacles in gathering evidence that requires more time to ascertain the material truth. This creates a tension between the goals of speed, legal certainty and substantive justice. As Sudikno Mertokusumo stated, “Justice delayed is justice denied,” Law enforcement must balance procedural speed with the fulfilment of a sense of justice.²

The principle of a speedy trial is intended to ensure justice within a reasonable time, in line with Article 28D paragraph (1) of the 1945 Constitution regarding legal certainty. However, procedural acceleration often conflicts with the need for due process of law.³ One significant implication of implementing a speedy trial is the potential tension between the acceleration of procedures and the quality of evidence. A process constrained by strict deadlines can reduce the space for investigators or judges to conduct in-depth analysis. Although there is currently no jurisprudence explicitly showing a failure of evidence due to expedited trials, this concern remains theoretically relevant. The main primary risk is a decision that poorly reflects substantive justice, thereby creating legitimacy issues, particularly in election cases that have far-reaching impacts on political stability.

² Sudikno Mertokusumo, *Mengenal Hukum: Suatu Pengantar* (Yogyakarta: Liberty, 2003).

³ Tri Suhendra Arbani, “Pemenuhan Unsur Keadilan Dalam Pembuktian Perselisihan Hasil Pemilihan Umum Pilpres Dengan Konsep Speedy Trial.” *Call For Paper Evaluasi Pemilu Serentak 2019 Bidang Evaluasi Aspek Hukum Pemilu* (2019). www.jurnal.kpu.go.id.

Furthermore, access to justice is also threatened by the implementation of speedy trials. In local elections, there is a disparity in resources between the parties involved. The party with greater financial means can access better legal advisers and has more developed legal strategies. Conversely, the less affluent party is forced to face an accelerated legal process without adequate preparation.

The protection of human rights is also an essential concern in the implementation of speedy trials. The speed of the judicial process can often overlook the basic rights of the defendant, such as the right to defend themselves and the right to receive adequate legal advice.⁴ Human rights violations in the context of expedited justice can foster public distrust in the judicial system and erode its integrity, as human rights are inherent in every individual.⁵

Lastly, the integrity of the judicial system itself can be called into question. If decisions are made without thoroughly considering all aspects of evidence and facts, the legitimacy of the judicial system could be threatened. Society will feel that justice is no longer being upheld, but instead produced merely to meet the demands for speed. This is extremely dangerous for democracy and public trust in legal institutions.

In this analysis, it is evident that although a speedy trial has a good purpose in accelerating the judicial process, its implementation in regional head election criminal cases carries several implications that need to be considered. The quality of evidence, access to justice, protection of human rights and the integrity of the judicial system can all be negatively affected.

⁴ Ali Masyhar et al., "Legitimacy of Social Justice in the Terrorism Regulations: Insight from Several Countries," *Bestuur* 12, no. 1 (2024): 23–48, <https://doi.org/10.20961/bestuur.v12i1.78576>.

⁵ Anang Dony Irawan and Umar Sholahudin, "Analisis Penegakan Hukum dan Hak Asasi Manusia di Indonesia." *Jurnal Citizenship Virtues* 4, no. 2 (2024): 848-857. <https://doi.org/10.37640/jcv.v4i2.2082>.

Although speedy trials have been implemented in several legal systems, in-depth studies on their impact on the Indonesian criminal justice system, particularly in the context of local elections, are still very limited. This research stems from gaps in the literature on criminal law and election law in Indonesia. Previous studies have generally emphasized the importance of the principle of speedy trials (simple, fast, and low-cost) without critically discussing the risks associated with their application in election cases.⁶

As a result, there is still little analysis specifically highlighting how the acceleration of trial processes may in fact, compromise the quality of evidence and substantive justice, especially in regional head elections, which are often influenced by political interests. In fact, crimes in regional head elections have unique characteristics: their organized, systematic, and massive nature requires comprehensive evidence analysis, yet they are constrained by a very limited time.

For comparison, the United States legal system recognizes the Speedy Trial Clause in the Sixth Amendment of the US Constitution, which requires that criminal proceedings be conducted without undue delay. However, the US Supreme Court in *Barker v. Wingo* (1972) emphasized that the speed of the trial should not compromise the defendant's right to adequate defence. Similarly, practice in the UK as outlined in the Criminal Procedure Rules, emphasizes the balance between time efficiency and the court's duty to ensure a fair process. This comparison underscores the urgency of the research, particularly in ensuring that the implementation of a speedy trial in the Indonesian context does not merely focus on procedural acceleration but also guarantees substantive justice.⁷

⁶ Novry Yardi, Otong Rosadi, and Iyah Faniyah, "Tindak Pidana Pemilihan Kepala Daerah Tahun 2020," *Jurnal Sakato Ekasakti Law Review* 3, no. 1 (2024): 10–21, <https://doi.org/10.31933/8dhk8m28>.

⁷ *Barker v. Wingo*, "Supreme Court of the United States," 1972, <https://supreme.justia.com/cases/federal/us/407/514/>.

Based on this background, the research questions in this study are: What are the implications of speedy trial regulations on the process of evidence? And what is the impact of a speedy trial on justice and the protection of human rights?

Method

This research employs normative legal research, which examines law as a system of norms and principles. According to Mukti Fajar and Yulianto Achmad⁸, Normative legal research is a type of legal research that views law as a structure within a normative system. The norm system referred to concerns principles, norms, rules from legislation, court decisions, agreements, and doctrines (teachings). According to Bahder Johan Nasution⁹, the starting point of empirical legal research is the legal phenomena of society or social facts present within the community.

In this study, the normative method is operationalized by using several approaches:¹⁰

- 1) The legislative approach (statute approach), which involves examining regulations related to speedy trials in regional head election criminal cases, such as the 1945 Constitution, Law No. 48 of 2009, and Law No. 1 of 2015 in conjunction with Law No. 10 of 2016.
- 2) Conceptual approach, by examining doctrines and legal principles, in particular the principle of constant justice and the principles of simple, fast, and low-cost trials, as well as the concept of speedy trial in criminal law literature.

⁸ Mukti Achmad, Yulianto and Fajar, *Dualisme Penelitian Hukum Dan Empiris* (Yogyakarta: Pustaka Pelajar, 2013).

⁹ Bahder Johan Nasution, *Metode Penelitian Ilmu Hukum* (Bandung: Mandar Maju, 2008).

¹⁰ Maria SW. Sumardjono, *Metodologi Penelitian Ilmu Hukum*, Universitas Gadjah Mada (Yogyakarta: 2014).

The data sources used include:

- Primary legal materials: legislation
- Secondary legal materials: criminal law and procedural law literature, legal journals, and expert legal opinions.
- Tertiary legal materials: legal dictionaries and encyclopedias to strengthen understanding of terms.

The analysis technique employed is qualitative descriptive analysis, which involves describing the applicable legal norms and then comparing them with doctrine and court practice, as well as examining the implications of applying a speedy trial on aspects of evidence, access to justice, and human rights protection. Through this approach, the research does not stop at mere conceptual exposition, but also attempts to provide a comprehensive overview of the legal issues studied within the framework of positive law, theory and court practice.

Result and Discussion

A. Implications of the Speedy Trial Regulation on Evidence in Regional Head Election Crimes

The handling of regional head election criminal offences has its own peculiarities compared to general criminal offences as it is carried out in an integrated manner through the Integrated Law Enforcement Centre (Gakkumdu), involving Bawaslu, the Police, and the Prosecutor's Office. The establishment of Gakkumdu, as regulated in Law No. 1 of 2015 in conjunction with Law No. 10 of 2016 and its implementing regulations, is intended to address the issue of fragmented authority among law

enforcement agencies. With this model, it is expected that the handling of regional election cases will be faster, coordinated, and non-overlapping.

In practice, Gakkumdu operates based on the principles of criminal procedure law such as equality before the law, the presumption of innocence, and the principle of legality. However, applying of these principles in the context of regional elections is not always straightforward. For instance, the principle of equality before the law may face challenges when the person under investigation is an incumbent candidate with political power. Similarly, the presumption of innocence can clash with political pressure and public opinion demanding a swift resolution.¹¹

Therefore, additional principles such as speed, simplicity, and low cost (*contante justitie*) are considered crucial to strengthen the legitimacy of local elections. This principle is then translated into the concept of a speedy trial as a special procedural law mechanism. However, this is precisely where the problem lies: accelerating case handling does address the demand for legal certainty, but it also has the potential to reduce the scope for substantive justice if evidence is not carefully examined.

The handling of election crime violations is carried out based on reports and findings. A report is a direct report from Indonesian citizens who have voting rights, election participants, or election observers to Bawaslu and/or Bawaslu Regency/City, Sub-district Panwaslu, Village/Sub-district Panwaslu and/or TPS Supervisors at each stage of the election implementation. Meanwhile, findings are the results of supervision by Bawaslu, Provincial Bawaslu and/or Regency/City Bawaslu, Sub-district Panwaslu, Village/Sub-district Panwaslu, and TPS Supervisors at

¹¹ Fachrul Rozi, "Sistem Pembuktian Dalam Proses Persidangan Pada Perkara Tindak Pidana." *Jurnal Yuridis Unaja* 1, no. 2 (2018): 19-33. DOI: 10.5281/jyu.v1i2.486.

each stage of the regional head election implementation that contain suspected violations.

Based on the report and findings, the first discussion is then conducted within a maximum of 1 x 24 hours from the date the Election Supervisory Board receives the report or findings to perform the first discussion. This is carried out to identify election criminal acts, search for and collect evidence, and subsequently determine the articles to be charged in relation to the reported or discovered incidents. Furthermore, an examination of election violations is conducted by inviting the reporter, the reporting party, witnesses and/or experts to provide testimony and/or clarification, which is taken under oath and documented in the Clarification Minutes. The result of the election violation review process by the Election Supervisory Board is a document of the report or findings review.

The next stage is the second discussion. The second discussion must take place no later than 5 (five) days after Election Supervisors receive the report/findings. This second discussion is conducted to determine whether the report or findings constitute a suspected election crime or do not constitute an election crime, supported by at least 2 (two) pieces of evidence. If a report or finding meets the elements of an election crime, the conclusion of the discussion meeting must be to continue the report or finding to the investigation stage. If a report or finding does not meet the elements of an election crime, the conclusion of the discussion will be to terminate the handling of the report or finding.

Next, the election crime investigators presented the results of the investigation in the third discussion. This third discussion was conducted during the investigation process. The third discussion can result in the conclusion that the case file is submitted to the Public Prosecutor. Based on the process, it is described how quickly the handling of election crimes

proceeds. Simply put, the timeframe for resolving regional head election crimes can be outlined as follows:

No.	Process Stages	Time Limit
1.	Investigation	14 days
2.	The case file is incomplete, returned by the Public Prosecutor	3 days
3.	Document completion/improvement by the Investigator	3 days
4.	Prosecution	5 days
5.	Court hearing	7 days
6.	Submission of an appeal	3 days after the verdict was read
7.	Referral of the case file to the High Court	3 days
8.	Appeal Process at the High Court	7 days
9.	Court of Appeal ruling	Final and binding

The implementation of a speedy trial in resolving electoral crimes can have a significant impact on the evidentiary process. Evidence in criminal cases is one of the most crucial aspects of the criminal justice system. Without a proper and lawful evidentiary process, justice in law enforcement cannot be achieved. In the context of criminal law, evidence refers to the process of proving whether someone has committed a crime and whether the defendant deserves punishment based on the available evidence.

In general, the presentation of evidence in a criminal case is the process by which the party involved (usually the prosecutor, as the prosecuting party) presents evidence in court to convince the judge that the alleged act occurred and that the defendant is the person who committed it.¹²

The basis of proof in criminal law is regulated in Article 183 of the Criminal Procedure Code, which states that a judge can only impose a sentence if they have a conviction based on at least two valid pieces of evidence.¹³ The principle of *in dubio pro reo* ensures that doubts must be resolved in favor of the defendant. This standard is intended to prevent hasty judgments. However, in the context of a speedy trial in local election cases, strict time limits can make it difficult for judges to fully establish a conviction, creating a tension between the speed of the process and the quality of evidence.

Criminal procedural law aims to accurately uncover the material truth by determining who can be held accountable through a fair trial process. Article 183 of the Criminal Procedure Code stipulates that a judge can only impose a penalty if he has a conviction based on at least two valid pieces of evidence. The system of proof used is a negative system according to the law, meaning the judge's conviction must be built upon a minimum of two pieces of evidence.¹⁴

However, in the context of regional head elections, which utilize the speedy trial mechanism, this standard faces significant challenges. The extremely tight deadlines for investigation, prosecution, and trial may limit the scope for judges and public prosecutors to verify evidence thoroughly. Consequently, the process of proof may proceed hastily, while Article 183 of the Criminal Procedure Code actually demands caution and full conviction.

¹² P.A.F. Lamintang, *Dasar-Dasar Hukum Pidana Indonesia* (Bandung: Citra Aditya Bakti, 1997).

¹³ Undang-Undang Republik Indonesia Nomor 8 Tahun 1981 Tentang Hukum Acara Pidana

¹⁴ Adami Chazawi, *Pelajaran Hukum Pidana Vol. 1* (Jakarta: Raja Grafindo Persada, 2010).

Thus, there is a tension between the principle of procedural speed and the primary objective of proof in criminal law, which is to ascertain the material truth and ensure substantive justice.¹⁵

Evidence in criminal cases has several essential functions that are not only normative but also determine the legitimacy of the judicial system, especially in the context of regional elections that are fraught with political interests:¹⁶

- 1) Ensuring Substantive Justice: The function of evidence is to ensure that only the truly guilty party is punished. In local elections, mistakes in assessing evidence can have profound implications, for example, if a candidate is convicted without substantial evidence, it undermines the political legitimacy of the region. Therefore, procedural speed should not compromise the thoroughness in evaluating evidence.
- 2) Protecting the Rights of the Defendant/Accused: The principle of presumption of innocence requires that the defendant not be treated as guilty before being proven guilty. However, in a speedy trial, the defendant may not have adequate time to prepare a defense. If this right is ignored, the process of proving guilt instead becomes a tool for political pressure, rather than an instrument of justice.
- 3) Providing Legal Certainty: Legal certainty is indeed the main objective of expediting cases. However, certainty without the quality of evidence only produces hasty and fragile rulings. For example, if a judge is compelled to make a decision based on evidence that has not been fully verified, formal legal certainty is achieved, but substantive justice fails to materialize.

¹⁵ Susanti Ante, "Pembuktian dan Putusan Pengadilan Dalam Acara Pidana." *Lex Crimen* 2, no. 2 (2013). <https://ejournal.unsrat.ac.id/v3/index.php/lexcrimen/article/view/1544>.

¹⁶ Hizkia Andhytia Wijaya and Muhammad Rustamaji, "Urgensi Pembuktian Dalam Persidangan Tindak Pidana Elektronik." *Jurnal Verstek* 11, no. 3 (2023): 525-530. <https://doi.org/10.20961/jv.v11i3.73615>.

- 4) **Maintaining Public Trust:** In regional elections, the public is susceptible to court rulings. If the evidence process appears rushed or biased, public trust in the election results can be lost. Conversely, presenting evidence transparently and thoroughly, although time-consuming, actually strengthens the legitimacy of the election results.

Based on the explanation of the importance of the evidentiary stage, there are several critical considerations regarding the use of the speedy trial concept in resolving regional head election criminal offences:

- 1) **Limited Quality of Evidence:** Regional election cases generally involve various types of evidence, including witness testimony, expert opinions, documents, and electronic evidence, which require thorough verification. With tight deadlines, investigators and prosecutors often lack sufficient time to test the validity of such evidence, which can result in a decline in the quality of evidence presented in court.
- 2) **Difficulty in Accessing Evidence and Witnesses:** Tight deadlines force authorities to work quickly, while on-the-ground realities often require more time, for example, to bring in witnesses who are in remote locations or reluctant to give testimony. These limitations can reduce the completeness of the evidence presented.
- 3) **Risk of Premature Judgement:** A rushed evidence examination process increases the likelihood of judges making decisions based on evidence that has not been thoroughly verified. This situation presents two risks: the defendant may be convicted despite weak evidence or may be acquitted due to insufficient evidence. Both scenarios are equally detrimental achieving of substantive justice.
- 4) **Legitimacy and Integrity of the Judiciary:** The speed of legal processes can indeed give an impression of decisiveness and transparency, thereby maintaining public trust. However, if the quality of evidence is

compromised, the public may perceive the judiciary as merely a formality. This has the potential to undermine the integrity of judicial institutions and weaken the legitimacy of the election results.

Thus, public trust in the legal system can be maintained. On the other hand, if the quality of the evidentiary process is compromised due to time constraints, it can undermine the integrity of the legal process itself, as the public may feel that court decisions are not based on careful consideration.

In addition to considerations regarding evidence, the application of a speedy trial in regional head election criminal offences also faces several practical obstacles:

- 1) Complexity of Local Election Cases: Local election cases often involve many parties, ranging from candidates, campaign teams, organizers, and voters. The evidence submitted is also layered, including witness statements, official documents, campaign activity recordings, and digital data. This complexity requires a thorough examination that is difficult to complete within a short timeframe. As a result, there is a risk that some evidence may be overlooked or not adequately tested, which could mean the judge's decision does not fully reflect the material truth.
- 2) Limitations of Law Enforcement Resources: The fast-track judicial mechanism requires law enforcement officials to have expertise, forensic facilities, and quick access to documents. In fact, many regions organizing local elections still face resource limitations. This can result in the quality of case files submitted to the court being suboptimal. For judges, this situation presents a dilemma: whether to proceed with the trial using incomplete files or to postpone the resolution, thereby risking exceeding the legal time limits.

Electronic Evidence and Technological Challenges: One of the distinctive features of local election violations is the prevalence of electronic evidence, such as recordings of vote-buying or digital messages on social media. Analyzing this evidence requires technical expertise and a considerable amount of time. Within the framework of a speedy trial, judges are often faced with electronic evidence that has not been thoroughly verified. Consequently, judges may issue a ruling based on weak evidence, conversely, reject necessary evidence due to a lack of time to examine it. Both options directly impact the legitimacy of the ruling and can generate public controversy.

B. The Impact of Speedy Trial on Justice and the Protection of Human Rights

Access to justice, according to Francesco Fraccionni, is essentially the right of every individual to obtain legal protection as well as the existence of effective remedies, either through the courts or other equivalent mechanisms. This definition emphasizes that justice is not only procedural, simply providing an opportunity to access legal institutions, but also substantive, ensuring that the process truly reflects the values of justice present in society. In the context of regional elections, access to justice becomes important because legal processes that are too rapid risk only fulfilling procedural aspects, but fail to guarantee substantive justice for the parties involved.¹⁷

When discussing the value of justice, we are also engaging in debates about legal philosophy. From the perspective of natural law, the primary purpose of law is to achieve justice. However, in practice, the value of justice is often difficult to align with the values of legal certainty or utility. As a

¹⁷ Fuad Nur, Lade Sirjon and La Ode Muhamad Sulihin. "Akses Keadilan Bagi Korban Tindak Pidana Dalam Perspektif Hak Asasi Manusia." *Innovative: Journal Of Social Science Research* 3, no. 5 (2023): 7588-7603. <https://doi.org/10.31004/innovative.v3i5>.

middle ground, according to Gustaf Redbruh, the value that should take precedence should be adjusted according to the case at hand.

Substantive justice, also known as material justice, is a type of justice that provides a fair and appropriate share, focusing not on equality but on what is right and siding with the truth. In the application of substantive justice, the party in the right will prevail according to the evidence that supports their truth.¹⁸

Access to justice in the criminal justice system refers to the ability of every individual to receive fair, equal and transparent treatment throughout the legal process, from investigation to court decision. This concept is crucial in ensuring that the fundamental rights of everyone, whether defendants, victims, or witnesses, are respected and protected throughout the criminal justice process. Access to justice is not only about providing someone with the opportunity to access the courts, but also encompasses various aspects such as substantive, procedural and fair distribution within the legal system.

The following are some critical dimensions of access to justice within the criminal justice system, which in the context of speedy trials for local elections face specific challenges:

- 1) Access to Information: Transparency in legal processes is key to access to justice. However, in local election cases that are resolved quickly, parties often lack sufficient time to understand the case proceedings, applicable rules, or legal consequences. As a result, defendants or

¹⁸ Tri Suhendra Arbani, "Pemenuhan Unsur Keadilan Dalam Pembuktian Perselisihan Hasil Pemilihan Umum Pilpres Dengan Konsep Spedy Trial." *Call For Paper Evaluasi Pemilu Serentak 2019 Bidang Evaluasi Aspek Hukum Pemilu* (2019). www.Journal.kpu.go.id

concerned voters may lose the opportunity to monitor and supervise the legal process.¹⁹

- 2) Access to Effective Legal Defense: The principle of a speedy trial can in fact limit the space for the defendant to obtain an adequate defense. For instance, a lawyer needs time to gather counter-evidence or prepare witnesses, but short deadlines often make the defense merely a formality. This threatens the principle of equality of arms between the prosecution and the defendant.
- 3) Access to a Fair Trial: A fast process does provide legal certainty, but procedural justice is often neglected. When trials must be concluded within days, there is a risk that the defendant may not be heard adequately or that the evidence presented may not be examined thoroughly. As a result, formal justice is achieved, but substantive justice is overlooked.
- 4) Access to Human Rights Protection: Fundamental rights such as the right to be treated equally before the law and the right not to be convicted without thorough evidence are highly vulnerable to violations in expedited procedures. For example, a defendant's right to call mitigating witnesses can be hindered by the short time limits set by law.
- 5) Equality for All Layers of Society: This dimension is most apparent in the context of regional elections. Candidates with substantial resources can typically access legal advisors and implement quick strategies. In contrast, candidates or other economically disadvantaged parties struggle to keep pace with the rapid pace of a speedy trial. This inequality creates the risk that the acceleration of cases may actually widen the gap in access to justice.

¹⁹ Anis Widyawati et al., "Strengthening the Correctional System through Electronic Supervision of Prisoners: A Comparative Legal Study for Reforming Indonesia's Penitentiary Law," *Jurnal Hukum Novelty* 16, no. 2 (2025): 262–281, <https://doi.org/https://doi.org/10.26555/jhn.v16i2.30503>.

Based on the above explanation, access to justice is a fundamental right for every individual involved in the legal process. In the context of criminal justice, access to justice concerns not only the transparency of the legal process but also the speed of case resolution, ensuring that protracted procedures do not hinder parties. In Indonesia, the concept of a speedy trial has started to receive serious attention alongside the increasing complexity of issues in the criminal justice system. The implementation of a speedy trial has the potential to improve judicial efficiency, but it can also affect the quality of justice received by the parties.

The impact of implementing a speedy trial in resolving election-related criminal offences on access to justice has both positive and negative effects. The positive implications arising from the application of the speedy trial concept in resolving election-related criminal offences are:

- 1) **Accelerating the Judicial Process and Ensuring Legal Certainty:** One of the main advantages of a speedy trial is the acceleration of the court process so that parties promptly obtain a verdict. This aligns with the principle of legal certainty as stipulated in Article 28D paragraph (1) of the 1945 Constitution. In the case of local elections, acceleration is necessary because prolonged criminal disputes can create uncertainty in election outcomes and disrupt local political stability.
- 2) **Reducing Unnecessary Detention:** With a short time limit in the investigation, prosecution, and examination stages, defendants who are not proven guilty can be released promptly. This reduces the risk of prolonged detention which has social, psychological, and economic impacts on the defendant and their family.
- 3) **Enhancing Public Trust in the Judicial System:** In the case of regional elections, the public pays excellent attention to the integrity of the legal process because the election results determine the direction of local

governance. Swift and efficient case resolution can reinforce the image that the legal system is responsive and does not allow violations to persist.

Thus, a speedy trial has the potential to increase public confidence in the objectivity of the judiciary, as long as the speed still guarantees substantive justice.

Besides the positive impact, the implementation of speedy trials also causes negative impacts, namely:

- 1) Inequality of Access to Legal Aid: The speedy trial mechanism tends to favor parties with sufficient legal resources, for example, candidates who can afford experienced legal advisers. Conversely, parties from economically disadvantaged backgrounds often struggle to develop a legal strategy within a short timeframe. This creates a justice gap that contradicts the principle of equality before the law.²⁰
- 2) Limited Opportunities for Effective Defense: Tight deadlines mean that defendants and their legal counsel do not have sufficient time to present witnesses, conduct expert examinations, or submit electronic evidence that requires technical verification. This situation diminishes the right to adequate defense as guaranteed by Article 28D paragraph (1) of the 1945 Constitution.
- 3) Risk of Formalistic and Less Substantive Decisions: Because judges are pressured to resolve cases quickly, there is a tendency for decisions to emphasize adherence to procedural schedules rather than in-depth fact-finding. As a result, the justice achieved is more formal (timely decision) but lacks substance (fair decision based on complete evidence).
- 4) Potential Decline in Public Trust: While a speedy legal process can give the impression of responsiveness, if the public perceives that the process

²⁰ Jimly Asshiddiqie, *Peradilan Etik Dan Etika Konstitusi* (Jakarta: Sinar Grafika, 2014).

disregards the fundamental rights of the defendant or overlooks crucial evidence, trust in the judicial system may actually decline. In regional elections, this is particularly dangerous, as it can undermine the legitimacy of the election results themselves.

In addition to the impact on access to justice, the implementation of the speedy trial concept also affects the protection of human rights (HR). Some potential impacts include:

- 1) Risk of neglecting the right to defense: A process that is too swift can reduce the time available for the defendant to prepare an adequate defense. This risk disregards the defendant's right to obtain a competent lawyer and sufficient time to examine the evidence.
- 2) Violation of due process: In some cases, attempts to expedite case resolution may reduce the opportunity for the defendant to file an appeal or other legitimate legal challenges.
- 3) Inequality of legal access: The implementation of speedy trials can exacerbate disparities in access to justice, where individuals who cannot afford legal counsel or who are less legally educated may get caught in procedures that are too fast and potentially unfair.

Based on the above explanation, the application of speedy trials in regional head election criminal cases carries profound implications for access to justice and the protection of human rights. Normatively, this mechanism is designed to ensure legal certainty. Still, in practice, it creates tension with the principle of due process of law, which requires caution and thoroughness in case examination.

First, as stated by Fatmawati (Chairperson of Bawaslu Kolaka Regency), the very short time span from the receipt of the report to the

issuance of the appeal decision makes it difficult for authorities to conduct investigations, gather evidence, and clarify witness statements. The principles of criminal procedural law require that every process should aim to uncover the material truth, not merely meet procedural formalities. When a tight schedule forces authorities to focus only on meeting deadlines, the quality of law enforcement is at risk of declining.

Secondly, the number of reports received almost simultaneously is often disproportionate to the authorities' available resources. Here, a clash is seen between the principle of legal certainty (quick decisions) and the principle of substantive justice (correct and fair decisions). If all reports are processed hastily, there is a risk of formalistic decisions without adequate verification of evidence.²¹

Third, Rosman Ahmad (Gakkumdu Investigator) highlighted the limited time for investigation (5 days) and inquiry (14 days). Theoretically, the evidentiary system under the Criminal Procedure Code requires judges to be convinced based on at least two valid pieces of evidence (Article 183 of the Criminal Procedure Code). However, within the framework of a speedy trial, it is challenging for investigators to ensure that the evidence is thoroughly verified, especially if the suspect is uncooperative and there is no mechanism for conducting an *in absentia* examination. This illustrates the real tension between strict legal norms and the principle of caution in evidence.

Fourth, other issues arise from articles that are open to multiple interpretations and the limited number of election law experts in the regions. As a result, authorities often struggle to provide consistent interpretations and must bring in experts from outside. This situation

²¹ Fatmawati. Ketua Bawaslu Kabupaten Kolaka. Kolaka, 2024.

contradicts the goal of a speedy trial, which requires a fast process, as it actually slows down case handling.

Fifth, in several articles of the Election Law, criminal threats do not meet the minimum detention requirements. As a result, if the suspect is uncooperative, it is difficult for the authorities to ensure their presence at trial. On the one hand, this regulation protects the defendant's human rights; on the other hand, it weakens the effectiveness of a speedy trial, as legal process can be practically hindered.²²

From the above explanation, it can be concluded that the challenges faced by officials, including time limitations, resource constraints, case complexity, and issues with legal interpretation, indicate a fundamental contradiction. The speedy trial, intended to accelerate legal certainty, could potentially compromise the principles of substantive justice and due process of law. Therefore, a reform of the special election procedural law is needed to strike a better balance: ensuring speed while allowing sufficient room for evidence and the protection of human rights.

Conclusion

This study demonstrates that the regulation of speedy trials in resolving regional head election criminal cases has significant implications for evidence and access to justice.

First, regarding evidence, tight deadlines make it difficult for law enforcement to thoroughly verify evidence, especially electronic evidence and testimonies that require longer investigations. As a result, evidence collection tends to be rushed, emphasizing speed over quality. This condition has the potential to lower the standard of proof as stipulated in

²² Rosman Ahmad. *Penyidik Sentra Gakkumdu*. Kolaka, 2024.

Article 183 of the Criminal Procedure Code, which requires judges to be convinced based on at least two valid pieces of evidence. This can also undermine the integrity of the legal process, as verdicts may be seen as more formalistic than substantive.

Secondly, regarding access to justice and the protection of human rights, a speedy trial does ensure legal certainty quickly. Still, it creates serious problems, such as time constraints, which reduce the defendant's opportunity to prepare an effective defense, widen the disparity in legal access between the rich and the poor, and increase the risk of violating the right to a fair trial. The principle of due process of law, which should guarantee fair treatment at every stage of the trial, often conflicts with the logic of case acceleration.

From these findings, this study contributes by highlighting the existence of a normative gap: previous literature tends to emphasize procedural efficiency in handling electoral crimes. At the same time, this research reveals that mere efficiency can actually compromise the quality of evidence and access to substantive justice.

To balance efficiency with fairness, this study recommends:

1. Revision of election regulations: there is a need to adjust the deadlines for investigation and examination to provide sufficient time for evidence verification without neglecting the need for legal certainty in regional elections.
2. Strengthening the resources of law enforcement officers: increasing the number and capacity of investigators, prosecutors, and judges in the regions so that speed does not compromise quality.
3. Preparation of technical guidelines for proving election crimes: particularly regarding electronic evidence, so that judges have clear standards even when working under tight deadlines.

4. Guarantee of access to legal defense: There is a need for a fast legal aid mechanism (emergency legal aid) so that parties with limited resources do not lose their right to defense.
5. Coordination among Gakkumdu agencies: there is a need for aligned perceptions between Bawaslu, the Police, and the Prosecution to prevent differences in interpretation from creating obstacles in the implementation of a speedy trial.

Thus, this study not only concludes that the speedy trial affects the quality of evidence and access to justice, but also offers normative solutions to improve the legal framework of election procedures in Indonesia.

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DECLARATION OF CONFLICTING INTERESTS

The authors states that there is no conflict of interest in the publication of this article.

FUNDING INFORMATION

None

ACKNOWLEDGMENT

The authors wholeheartedly appreciate the support from the General Election Supervisory Agency, especially Fatmawati, the Chairperson of the Kolaka Regency Bawaslu, for the critical assistance provided during this research. We would also like to thank the lecturers at the Sembilanbelas November University of Kolaka, whose contributions greatly enriched the discussions throughout the research process. Although we are aware of certain limitations and several aspects that require further investigation, we believe that the results of this study can make a significant contribution to the development of criminal law. We believe that these findings will be beneficial for practitioners and support efforts to reform criminal procedure law.

HISTORY OF ARTICLE

Submitted : July 8, 2025
Revised : August 1, 2025
Accepted : October 31, 2025
Published : November 8, 2025

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