

## The Urgency of Criminal Law Reform: From Money Politics to Criminal Acts of Corruption in Indonesian Elections

Faikar Sir Zadataqi<sup>1</sup>, Eko Soponyono<sup>2</sup>

<sup>1,2</sup>Master of Law program, Faculty of Law, Diponegoro University

**ABSTRACT:** The implementation of general elections aims to embody the democratic system understood by the Indonesian people. General elections are conducted with public awareness of the importance of electing leaders who can bring about social welfare and protect the community. However, with the development of community dynamics, the level of awareness and understanding of choosing leaders based on the vision, mission, and needs of the community has changed due to the existence of criminal acts that are inseparable from every election. These criminal acts are specifically related to money politics. The prevalence of money politics is caused by various shortcomings, one of which is the formulation of regulations that prohibit money politics. In particular, it is known that accountability and sanctions tend to be less than ideal in their aim to prevent political money crimes. From another perspective, the formulation of political money norms in the Election Law is basically similar to the norms of corruption crimes, which prohibit “promising and/or giving money or other material things as compensation.” Given these facts, the hope of creating and realizing free and fair elections can be realized through the revision of criminal law, which initially classified money politics as a criminal act, to classify it as a criminal act of corruption.

**Keywords-** democracy, general elections, free and fair, money politics, criminal acts of corruption,

### I. INTRODUCTION

Indonesia's current situation is inseparable from various problems, ranging from social and economic issues to political problems. One of the problems that will be faced in the future is a political problem related to democratic elections. Indonesia adheres to a democratic system of government based on the will and desires of the people. From an organizational perspective, the state is organized by the people because sovereignty lies entirely in their hands. A functioning democratic system does not rely on a single form of government but moves dynamically in line with the ever-changing understanding of the people. Meanwhile, according to Keith Graham, democracy has standard norms related to equality, freedom, and populism. Therefore, for democracy to function properly, law enforcement and the protection of rights are an integral part of democracy.<sup>1</sup>

One of the prominent characteristics of a democratic constitutional state is the holding of general elections. In Indonesia, this is specifically provided for in the fourth paragraph of the preamble to the 1945 Constitution, and Pancasila democracy is the spirit behind the implementation of elections in Indonesia. The regulation of elections is also explicitly stated in Article 22E of the 1945 Constitution. The urgency of regulating elections in the constitution is a form of commitment carried out by the Indonesian state in exercising people's sovereignty and providing legal certainty. The principle of people's sovereignty is a foundation in the implementation of a democratic state, which is related to the fact that people's sovereignty views the people as the main holders of power, known as “from the people, by the people, and for the people”.<sup>2</sup> Recognizing the impossibility of giving power to the people, an agreement was reached to hold direct elections for some of them to exercise power. However, in practice, various problems have arisen in the political world, especially in the context of holding elections, which will have a negative impact on the image of a democratic state.

According to Juan Linz, a system of government can be considered democratic if it provides regular constitutional opportunities for peaceful and honest competition for political power among different groups or individuals without resorting to violence.<sup>3</sup> Given the importance of the electoral process in a democratic country, the honesty and fairness of the elections reflect the quality of democracy in that country. On the other hand, the maturity of the people as participants in the general election in the

<sup>1</sup> Parulian Donald, 1997, *Challenging the Elections*, Jakarta: Pustaka Sinar Harapan, p. 3

<sup>2</sup> Mhd. Hasbi, Tengku Mabrar Ali, *Weaknesses in Electoral Crime Regulations in Preventing and Combating Money Politics*, Judge: Law Journal, Vol. 05, No. 02, 2024, 32-42, p. 34.

<sup>3</sup> Parulian Donald, *Op. Cit.*, p. 2

## The Urgency of Criminal Law Reform: From Money Politics to Criminal Acts of Corruption in Indonesian Elections

realization of democracy can be seen from a country's ability to realize or demonstrate honest and fair elections. Considering that the results of an election can be said to be of high quality when viewed from the perspective of the electoral process, which is conducted democratically, honestly, and fairly, as well as from the perspective of the results, which produce representatives and leaders who are capable of bringing prosperity to the people.<sup>4</sup>

In an effort to achieve these objectives, the Indonesian government has drafted and implemented various regulations, ranging from general provisions, community rights and obligations, to sanctions for violations of existing legal norms. These regulations have been drafted in light of developments in community behavior, which is changing dynamically in line with the times. The creation of the principles of direct, public, free, confidential, honest, and fair elections, which classify various acts of fraud as criminal acts, means that the enactment of the Election Law not only regulates the mechanism for conducting elections but also prohibits certain acts that could undermine the essence of free and fair elections, which are punishable by criminal penalties.<sup>5</sup>

Regarding the process of conducting general elections to realize a democratic constitutional system in order to ensure the consistency of free and fair elections and legal certainty, as well as effective and efficient general elections, Law No. 7 of 2017 on General Elections (Election Law) was enacted, which was subsequently amended by Substitute Regulation -Law Number 1 of 2022 concerning Amendments to Law Number 7 of 2017 concerning General Elections, which was then ratified into Law Number 7 of 2023 concerning Amendments to Law Number 7 of 2017 concerning General Elections. The revision of the Election Law and changes to the election implementation system in Indonesia are essentially aimed at improving the quality and democracy of the elections, so that the results of the elections will truly produce leaders who have the capabilities, capacity, and integrity that the people expect.

At the same time, the enactment of the Election Law, which stipulates the implementation of electoral justice, not only regulates election procedures and technical mechanisms for resolving election violations, such as candidate registration, party/candidate verification, voting, vote counting, and the announcement of results. However, the Election Law also regulates several forms of election violations, namely violations of the code of ethics, administrative violations, and criminal election violations.

The implementation of elections will undoubtedly be accompanied by violations, one of the main concerns in election violations being electoral crimes. According to Topo Santoso, electoral crimes are criminal acts related to the election process.<sup>6</sup> Electoral crimes differ fundamentally from general crimes in that they can only occur within the scope of a series of general elections held every five years. Elections involving various community groups lead to efforts to obtain and increase votes, which may result in intentional or negligent acts of fraud that violate the norms enshrined in the laws of society.

Electoral crimes that often occur during elections are rampant money politics. Sadly, for most political contestants, money politics seems to be a prerequisite for winning, and for most voters, money politics has become a normal and unavoidable practice. The phenomenon of money politics in elections has become uncontrollable, which will certainly result in the destruction of all aspects of state life. The political orientation that was aimed at serving the community has shifted to money politics. The occurrence of money politics will indirectly cause various impacts, starting with a change in the way people think when choosing leaders. In fact, general elections are a place for the people to choose their leaders or representatives in government based on their conscience or the suitability and relevance of the candidates' vision and mission to the issues facing society. With the occurrence of money politics, the public does not base their choice of leaders on these criteria, but instead shifts to the amount of money or other material goods that the candidate is able to provide. This change in perspective cannot be separated from the role of political parties and politicians. In participating in elections, political parties and politicians use money politics as a practical strategy to increase the electability of candidates and achieve victory.

Money politics in the election process is not a new phenomenon. In fact, it can be said that the practice of money politics has become rampant throughout the election period. Although there are laws and regulations that prohibit the practice of money politics, it still colors the election process. In essence, free and fair elections are a necessity that must be realized for the Indonesian people as a consequence of being a democratic country.<sup>7</sup> Therefore, legal policies are needed in an effort to realize free and fair elections, especially in an effort to prevent and deal with violations, particularly election crimes, namely money politics. Therefore, in this case, it is necessary to elaborate on the enforcement of existing regulations to review the position of money politics as an extraordinary crime within the scope of corruption in order to create new legal policies in line with the goal of achieving free and fair elections.

---

<sup>4</sup> Rozali Abdullah, 2009, *Realizing Higher Quality Elections (Legislative Elections)*, Jakarta: Rajagrafindo Persada, p. 3.

<sup>5</sup> Yusup Kurnia, Legal Analysis of "Dellneming" Participation in Criminal Law Enforcement in Elections: Evaluation of the 2019 Elections and Projections for the 2024 Elections, *Journal of Electoral Justice*, Vol. 02, No. 02, 2021, 61-74, p. 62

<sup>6</sup> Topo Santoso, 2006, *Electoral Crimes*, Jakarta: Sinar Grafika, p. 5

<sup>7</sup> Andri Herlina, Imas Rosidawati Wiradirja, Law Enforcement Against Money Politics in Legislative Elections, *Iustitia Omnibus Journal*, Vol. 03, No. 01, pp. 12-36

## II. METHOD

The legal research conducted is normative legal research, which is legal research from an internal perspective with legal norms as its object of study. This normative legal research aims to provide a legal perspective when there is a void/ambiguity in norms and even conflicts between norms.<sup>8</sup> According to Soerjono Soekanto and Sri Mamudji, normative research is conducted by examining library materials (secondary data), which includes research on legal principles, legal systematics, comparative law, the level of synchronization of legislation, and legal history.<sup>9</sup> Specifically, this research was conducted using normative legal research based on the fact that the discussion will refer to the objective of obtaining a broader view of the application of money politics norms and the categories of criminal acts. By referring to normative legal research, it will be connected to the use of a legislative approach. In the legislative approach, it is understood that the research is conducted by studying all laws and regulations related to the object of study being discussed, using a regulatory and legislative approach. Primary legal materials are based on legislation, official reports, verdicts, or other state documents. In this study, the primary legal materials are mainly taken from legislation, namely Law Number 7 of 2017 concerning General Elections. The secondary legal materials are legal materials that include books, journal articles containing basic principles (legal principles), research results, legal dictionaries, and even the views of legal experts (doctrines), which specifically examine money politics and the enforcement of legislation.

## III. RESULT AND DISCUSSION

### A. Regulation of Money Politics in Indonesian Law

The scope of national criminal law is inseparable from the entire body of law applicable in Indonesia, which regulates acts that are not permitted or prohibited. In the case of such prohibited acts, this also includes criminal sanctions imposed on individuals who violate or commit prohibited acts. The criminal law system specifically regulates acts during the implementation of elections, as stipulated in Law Number 7 of 2017 concerning General Elections. The Election Law elaborates on criminal acts in the electoral sphere, regulating various violations that can influence or obstruct the conduct of elections.

One form of criminal act that has increasingly developed in every election is money politics. Money politics comes from two words in Indonesian, namely politics and money. These two words indicate different meanings. Politics has its own meaning, as does the word money. When these two words are combined, a new meaning emerges. Although the words politics and money are different, in reality they cannot be separated. To engage in politics, everyone needs money, and with money, they can engage in politics. In this case, money becomes a very significant intermediary or tool for controlling energy and resources. The equivalent term in English is often referred to as money politics.<sup>10</sup> The word “money” means money, while “politics” means politics or the process of decision-making and power distribution in society, a manifestation of a state. In addition, politics can also be interpreted as a process of gaining power through constitutional or non-constitutional systems.<sup>11</sup>

Money politics can be defined as an act aimed at influencing the public or voters by providing material rewards by candidate pairs or political parties in an effort to influence the outcome of the vote based on the concept that the rewards given will change the voters' decisions. The Great Dictionary of the Indonesian Language defines money politics as synonymous with bribery, and the meaning of the word bribery in the Great Dictionary of the Indonesian Language is a kickback. Thus, money politics is the exchange of money for political positions/policies/decisions in the name of the people's interests, but in reality, it is only to achieve the interests of a group/individual/political party.<sup>12</sup>

Money politics is an attempt to influence others (the public) by offering material rewards, or it can also be interpreted as buying votes in the political process and power, as well as the act of distributing money, whether personal or belonging to a political party, to influence voters. Money politics can also be interpreted as an attempt to influence the behavior of others.<sup>13</sup> Furthermore, Syarif Hidayat explained that the practice of money politics begins at the candidate nomination stage, continues through the campaign stage, and even extends to election day and the vote counting stage. There are two types of money politics: first, directly giving cash to voters; and second, indirectly giving goods or similar items that have high utility and exchange value.<sup>14</sup>

---

<sup>8</sup> I authored Pasek Diantha, *Normative Legal Research Methodology in Legal Theory Justification* (Jakarta: Prenada Media Group, 2016).

<sup>9</sup> Jonaedi Efendi and Johnny Ibrahim, *Normative and Empirical Legal Research Methods*, 2nd ed. (Jakarta: Kencana, 2018).

<sup>10</sup> Harun al-Rasyid, *Fiqh Corruption: Analysis of Money Politics in the Perspective of Maqshid Al-Syari'ah*, Jakarta: Kencana, 2016, p. 3.

<sup>11</sup> Muhammad Mona Adha, Dayu Dika Perdana, *Constitutional Law*, Yogyakarta: Suluh Media, 2021, p. 165.

<sup>12</sup> Pandom Media Nusantara Team. *New Edition of the Great Dictionary of the Indonesian Language*. (Jakarta: Pandom Media Nusantara). 2014, p. 157.

<sup>13</sup> Thahjo Kumolo, *Politics of Simultaneous Regional Elections*, Bandung: Mizan Publika, 2015, p. 155.

<sup>14</sup> Syarif Hidayat, *Pilkada, Money Politic, and The Dangerous of Informal Governance*, Singapura: ISEAS Publishing, 2009, p. 125.

## The Urgency of Criminal Law Reform: From Money Politics to Criminal Acts of Corruption in Indonesian Elections

The issue of money politics still lacks a clear legal definition, but there are four main points that need to be understood in relation to money politics. First, vote buying. According to Valeria Busco, vote buying is defined as the giving of money or, more commonly, consumer goods by a candidate or political party to the public in exchange for votes. Voters feel obligated to vote for the candidate or party that has given them something.<sup>15</sup> Money politics in general elections, regional elections, and even village head elections is nothing new. General elections are still far from being free and fair because money politics still often occurs. Money politics is very attractive and eagerly awaited because it is not only related to the giving of money, but can also take the form of basic foodstuffs, household appliances such as gas stoves, religious equipment, and even promised positions. This situation causes the public to eagerly anticipate such practices, and if they are not present, the public tends to choose to abstain from voting in general elections. In the terminology commonly used by the public today, this is often referred to as the “dawn raid,” which has become a necessity in every election, as if money politics were permitted in every general election.

Second, vote brokers or individuals/groups representing candidate pairs to distribute money/goods. Vote brokers are divided into three groups, namely (activist brokers who support candidates based on politics, ethnicity, religion, or other commitments; clientlist brokers who desire long-term relationships with candidate pairs with the aim of obtaining material benefits in the future; opportunistic brokers who only seek short-term benefits during the campaign period). Third, money or other materials that will be used as a means of exchange for people's votes. Fourth, voters who are the targets of money politics.<sup>16</sup>

On this occasion, many people decided to abstain from voting, which was exploited by the candidate pairs due to the public's limited understanding of the importance of general elections and to regain public sympathy.<sup>17</sup> The exploitation of weaknesses within society has made money politics a common practice that contradicts the principles of general elections. Regardless of how prevalent money politics is, it does not justify or permit money politics. The applicable provisions that provide the basis for the prohibition of money politics are regulated in the Criminal Code and Law Number 7 of 2017 concerning General Elections.

The existence of money has become a common practice that colors the electoral contestation process in Indonesia. Despite the fact that money transactions in elections are formally illegal, this practice has become so widespread that it is considered normal. Money politics is also considered normal and commonplace, with politicians refusing to be made the sole scapegoats and believing that there has been a shift in voters' views, who no longer see money politics as a means of expressing their political rights but rather as a source of financial gain. This phenomenon cannot be separated from the fact that money politics is rarely prosecuted. This is also a knock-on effect of the limited regulations that are enforced, which provide loopholes for money politics. The regulations that are legally enforced against money politics are not yet uniform internationally. This is evidenced by the regulations in Indonesia and Hong Kong regarding money politics. Based on this, it is essentially interesting to conduct further research on the nature of money politics itself and whether the enactment of money politics as an election crime can have a preventive effect on money politics and maximize the concept of a democratic state.

Article 149 of the Indonesian Criminal Code stipulates that during a general election, giving or promising something, bribing someone not to exercise their voting rights or to exercise those rights in a certain way, is punishable by imprisonment. Furthermore, the General Election Law does not explicitly mention the term money politics. The election law uses the term “promising or giving money or other material things as compensation” for every practice of money politics in the implementation of elections. Several articles that provide regulations regarding money politics are listed in full as follows:

1. Article 278 paragraph (2) states that during the quiet period as referred to in Article 276, organizers, participants, and/or campaign teams for the presidential and vice presidential elections are prohibited from promising or giving rewards to voters for (not exercising their right to vote; voting for a particular candidate pair; voting for a particular political party or election participant; voting for a particular candidate for the House of Representatives, Provincial Legislative Council, and Regency/City Legislative Council; and/or voting for a particular candidate for the Regional Representative Council).
2. Article 280 paragraph (1) Letter J, states that organizers, participants, and election campaign teams are prohibited from promising or giving money or other material benefits to election campaign participants.
3. Article 284 states that if it is proven that election campaigners and teams promise or give money or other material rewards directly or indirectly to election campaign participants in exchange for (not exercising their voting rights; exercising their voting rights by voting for a particular election participant in such a way that their ballot is invalid; to vote for a specific candidate pair; to vote for a specific political party participating in the election; and/or to vote for a specific DPD candidate), they shall be subject to the sanctions stipulated in this law.

<sup>15</sup> Valeria Busco, Marcelo Nazareno, and Susan C Stokes, *Vote Buying in Argentina*, Latin America Research Review, Vol. 39, No. 02, 2004, (Pittsburg: Latin America Research Commons).

<sup>16</sup> Abdurrohman, *The Impact of Money Politics in Elections and Voting*, Journal of Elections and Democracy, Vol. 01, No. 02, 2021, 142-159, pp. 146-147

<sup>17</sup> Lina Ulfa Fitriani, L Wiresapta Karyadi, Dwi Setiawan Chaniago. *The Phenomenon of Money Politics in the Election of Legislative Candidates in Sandik Village, Batu Layar District, West Lombok Regency*. RESIPROKAL Vol. 1, No. 1, (53-61) 2019.



## The Urgency of Criminal Law Reform: From Money Politics to Criminal Acts of Corruption in Indonesian Elections

4. Article 286 paragraph (1) states that candidate pairs, candidates for the DPR, DPD, provincial DPRD, regency/city DPRD, campaign organizers, and/or campaign teams are prohibited from promising and/or giving money or other materials to influence election organizers and/or voters. Furthermore, Article 286 paragraph 2 explains further the sanctions for this article, which states that candidate pairs, candidates for the DPR, DPD, provincial DPRD, and regency/city DPRD who are proven to have committed violations as referred to in paragraph (1) based on the recommendation of Bawaslu may be subject to administrative sanctions of cancellation as candidate pairs and candidates for the DPR, DPD, provincial DPRD, and regency/city DPRD by the KPU. Paragraph (3) states that violations as regulated in paragraph (2) are violations that occur in a structured, systematic, and massive manner.
5. Article 515 states that any person who intentionally, during the voting process, promises or gives money or other material benefits to a voter in order to prevent them from exercising their right to vote, or to vote for a specific election participant, or to exercise their right to vote in a certain way so that their ballot is invalid, shall be punished with imprisonment for a maximum of 3 (three) years and a fine of up to Rp. 36,000,000.00 (thirty-six million rupiah).
6. Article 519, which states that any person who deliberately commits fraud to mislead someone, by coercion, by promising or giving money or other material benefits to obtain support for the nomination of DPD members in the elections as referred to in Article 183 shall be punished with a maximum imprisonment of 3 (three) years and a maximum fine of Rp. 36,000,000.00 (thirty-six million rupiah).
7. Article 523 paragraph (1) states that every implementer, participant and/or election campaign team who deliberately promises or gives money or other material as compensation to election campaign participants directly or indirectly as referred to in Article 280 paragraph (1) letter J shall be punished with imprisonment of up to 2 (two) years and a maximum fine of Rp. 24,000,000.00 (twenty-four million rupiah). Paragraph (2) states that every election campaign organizer, participant, and/or team who deliberately promises or gives money or other material rewards to voters, either directly or indirectly, during the quiet period as referred to in Article 278 paragraph (2) shall be punished with a maximum imprisonment of 4 (four) years and a maximum fine of Rp. 48,000,000.00 (forty-eight million rupiah). Paragraph (3) states that any person who deliberately promises or gives money or other material benefits to voters on election day in order to prevent them from exercising their right to vote or to vote for a particular election participant shall be punished with a maximum imprisonment of 3 (three) years and a maximum fine of Rp. 36,000,000.00 (thirty-six million rupiah).

The enactment of election laws specifically related to the regulation of money politics should cover all aspects of society in terms of regulation. In other words, the law should be able to fulfill and cover the future in terms of the desired legal system. However, legislators will never be able to formulate a perfect law, so there will always be shortcomings and weaknesses in the substance of a law. This is the basis for legal reforms that are adapted to developments and dynamics in society with the aim of preventing and combating crime.

### **B. The Urgency of the Reform of Criminal Law from Money Politics to Criminal Acts of Corruption**

The dynamics of conducting elections in various countries are still often marred by various violations and forms of electoral malpractice, ranging from election violations to even election crimes. Not only that, the complexity of these violations is partly driven by an excessive desire for power. Essentially, pursuing power through illegal methods or means can undermine the aspirations of the people, which should not be the case, so that the entire social order of society, the nation, and the state will become victims who suffer losses. Therefore, maintaining the integrity of elections is very important in this effort. This is related to the use of voting rights in the implementation of elections as both an obligation and participation of the people in the concept of a democratic state.

A further analysis of money politics shows that it is fundamentally incompatible with the three objectives of elections, which are: first, to strengthen the democratic constitutional system; second, to realize fair and honest elections; and third, to realize effective and efficient elections. Money politics clearly cannot strengthen the constitutional system because democracy itself has been undermined by money politics. Furthermore, the occurrence of money politics means that, *mutatis mutandis*, it is impossible to realize fair and honest elections, nor can they be effective and efficient. This is because money politics opens up the possibility of election disputes that result in re-elections. In fact, the consequence will be a waste of the state budget, and money politics will actually erode democracy in Indonesia's constitutional system.<sup>18</sup>

Seeing the need to restore the image of general elections held in Indonesia, policy reforms are needed in order to prevent and combat election crimes. This is related to the fact that when discussing money politics in elections, it can be said that we view election laws from a criminal law perspective. In this regard, there are three main points of discussion that are often referred to as key issues in criminal law. These key issues in criminal law are criminal acts or deeds, accountability, and the criminal justice

---

<sup>18</sup> Hariman Satria, Legal Politics of Money Politics in General Elections in Indonesia, *INTEGRITAS Anti-Corruption Journal*, Vol. 05, No. 01, 2019, p. 2.

## The Urgency of Criminal Law Reform: From Money Politics to Criminal Acts of Corruption in Indonesian Elections

system or punishment. In relation to the regulation of money politics crimes, this section will discuss criminal acts, liability, and the criminal justice system.

The regulation of money politics crimes is systematically formulated in several articles with provisions on promising or giving money or other material rewards. The discussion specifically relates to the prohibition of money politics as regulated in Article 278 paragraph (2), Article 280 paragraph (1) letter J, Article 284, Article 286 paragraph (1), Article 515, Article 519, and Article 523 of the Election Law. These articles explicitly prohibit election organizers, participants, and/or campaign teams from engaging in money politics during the stages of candidate registration, voting, and even vote counting.

A review of the structure of norms, or in this case the main issues of criminal law related to criminal acts or deeds, accountability, and the criminal justice system, particularly in articles related to money politics, will provide a wealth of knowledge that contributes both theoretically and practically. Theoretically, understanding these articles will sharpen the analysis of an article that is enforced. This is very important because political money crimes are crimes that are directly related to the implementation and fulfillment of the democratic values embraced by the Indonesian people. Therefore, understanding the articles on political money can provide an explanation and mapping of the elements of each article. In addition, in practical terms, the contribution of reviewing articles related to money politics will be very useful for law enforcement officials in resolving cases of money politics crimes. The review of these articles reveals that there are still weaknesses in the regulation of political money crimes. Therefore, it is hoped that this study can contribute to the creation of criminal laws that are in line with legal objectives and ideals.<sup>19</sup>

Third, in terms of *mens rea* or implied fault in the article, there is essentially a similarity in that the formulation “intentionally” implicitly adopts the theory of intent in criminal law with all its forms of intent, namely intent as purpose, intent as possibility, intent as certainty, or even conditional intent. Thus, in order for a person to be criminally liable under this article, the fault must be in the form of intent and not negligence.<sup>20</sup>

Fourth, in terms of criminal liability directed at legal subjects. Legal subjects are generally known to be persons or individuals and legal entities. The article stipulates that the legal subjects referred to are persons or individuals. However, in terms of liability based on the theory of strict liability, the enforcement of criminal law, particularly in the handling of political crimes that cause harm, affects the Indonesian people in general. In fact, in the context of political money crimes, substitute liability or vicarious liability can be applied. This is based on the fact that the leaders who mobilize funds or masses are candidate pairs who aim to achieve victory. However, the sanctions imposed on the candidate pair are merely a formality of the regulations to prevent political crimes. It is known that the acts or crimes were entirely carried out by the campaign team of a particular candidate pair. Therefore, on the basis of vicarious liability, it can be argued that these acts were known and approved, and even funded, by the candidate pair concerned. Thus, there is a need for a deeper understanding, particularly in the imposition of criminal liability, as a measure or effort to prevent political crimes in the future.

Fifth, in relation to the criminal sanctions that will be imposed. The regulation provides the basis for imposing criminal sanctions in the form of imprisonment and criminal penalties with maximum limits. This is considered too lenient; the criminal sanction system in the election law should use a minimum penalty system, especially for criminal sanctions in the form of imprisonment. This would provide legal certainty, and its implementation would also have a deterrent effect and even prevent the occurrence of money politics crimes in accordance with the principle of the purpose of punishment, because money politics crimes are a specific problem and have a high urgency in terms of their purpose of realizing democratic values and achieving a good system of government with leaders who are capable of realizing social welfare and national security.

Sixth, the discussion of money politics in essence can be categorized as a criminal act of corruption.<sup>21</sup> Money politics is considered corruption based on the application of money politics norms and corruption have specific similarities related to “promising and/or giving money or other material things as compensation.” In the case of money politics, it is done to influence voters to use their voting rights in a certain way, such as voting for one party (the one giving the compensation). In addition, the prohibitions in Articles 5 and 6 of Law Number 31 of 1999 concerning the Eradication of Corruption refer to the provisions of the Criminal Code in Article 209, which states that anyone who gives or promises something to a public official with the intention of doing or not doing something, and Article 210 states that anyone who gives or promises something with the intention of influencing a judge's decision. With these regulations, it can be said that money politics is essentially corruption, but specifically, money politics is aimed at giving and promising money or other material rewards to voters with the intention of obtaining votes. Fundamentally, the norm contained therein is a criminal act of corruption with the public as the subject and the goal of obtaining more votes. Thus, in terms of terminology, money politics can be said to be a criminal act of vote corruption.

<sup>19</sup> Muammar, Iqbal Taufik, *Dissecting Political Money Crimes: An Analysis from the Perspective of Normative Structure*, Matakao: Corruption Law Review, Vol. 01, No. 02, 2023, 95-105, p. 103

<sup>20</sup> Hariman Satria, *Op.Cit.* p. 6

<sup>21</sup> Amalia Syauket, *Money Politics is the Forerunner of Electoral Corruption*, International Journal of Social Service and Research, Vol. 2, No. 8, 2022, 711-721, hlm 714.

## The Urgency of Criminal Law Reform: From Money Politics to Criminal Acts of Corruption in Indonesian Elections

Seventh, money politics is carried out during general elections by bribing the public, resulting in the emergence of corrupt leaders. This is because money politics is one of the practices that will lead to political corruption. Money politics is the main channel for creating leaders who are pro-personal and group interests, with the perception that during their leadership, they will think about how to recoup the capital spent during the election and gain more profits.

The discussion above shows that money politics in the implementation of general elections is very important to prevent and combat. This is aimed at creating a democratic system that conducts free and fair elections. In addition, the enforcement of money politics regulations requires policy formulation in terms of categorizing it as an extraordinary crime that is included as a criminal act of corruption. By regulating money politics as a criminal act of corruption, it is hoped that it can provide stricter regulations because of its crucial position in creating leaders who can achieve the state's goals in terms of protecting and improving the welfare of the people.

### CONCLUSIONS

1. Regulations on political money crimes have been enacted for the purpose of achieving free and fair elections. However, the applicable regulations in Indonesia do not explicitly prohibit money politics, but rather use certain phrases contained in Article 149 of the Indonesian Criminal Code (KUHP WVS) and the provisions of Articles 278, 280, 284, 286, 515, 519, and Article 523 of Law Number 7 of 2017. The regulation is formulated in the normative phrase “giving and/or promising money or other material as compensation.”
2. The regulation of political money crimes in election laws has given rise to a dilemma, particularly in terms of fundamental issues in criminal law relating to acts, accountability, and punishment. It is known that the formulation of political money crimes is similar to the formulation of corruption crimes. On the other hand, the application of liability tends to impose sanctions on perpetrators directly in the field without any sanctions being imposed on stakeholders, in this case, candidate pairs or election participants. Furthermore, the criminal penalties imposed only regulate the maximum criminal penalties, giving the impression that the criminal sanctions are quite light despite the importance of the general election in the context of a democratic country. Therefore, based on this reasoning, it is appropriate for money politics to be categorized or included as a criminal act of corruption. The hope is that by making it a criminal act of corruption, the maximum penalties that can be imposed will be more severe, and maximum law enforcement will have a deterrent effect on perpetrators and restore the essence of free and fair elections and create a democratic state order.

### REFERENCES

- 1) Abdurrohman, The Impact of Money Politics in Elections and Voting, *Journal of Elections and Democracy*, Vol. 01, No. 02, 2021, 142-159
- 2) Amalia Syauket, Money Politics is the Forerunner of Electoral Corruption, *International Journal of Social Service and Research*, Vol. 2, No. 8, 2022, 711-721
- 3) Andri Herlina, Imas Rosidawati Wiradirja, Law Enforcement Against Money Politics in Legislative Elections, *Iustitia Omnibus Journal*, Vol. 03, No. 01, pp. 12-36
- 4) Hariman Satria, Legal Politics of Money Politics in General Elections in Indonesia, *INTEGRITAS Anti-Corruption Journal*, Vol. 05, No. 01, 2019
- 5) Harun al-Rasyid, *Fiqh Corruption: Analysis of Money Politics in the Perspective of Maqshid Al-Syari'ah*, Jakarta: Kencana, 2016
- 6) I Made Pasek Diantha, *Normative Legal Research Methodology in Legal Theory Justification* (Jakarta: Prenada Media Group, 2016)
- 7) Jonaedi Efendi and Johnny Ibrahim, *Normative and Empirical Legal Research Methods*, 2nd ed. (Jakarta: Kencana, 2018)
- 8) Lina Ulfa Fitriani, L Wiresapta Karyadi, Dwi Setiawan Chaniago. The Phenomenon of Money Politics in the Election of Legislative Candidates in Sandik Village, Batu Layar District, West Lombok Regency. *RESIPROKAL* Vol. 1, No. 1, (53-61)
- 9) Mhd. Hasbi, Tengku Mabrar Ali, Weaknesses in Electoral Crime Regulations in Preventing and Combating Money Politics, *Judge: Law Journal*, Vol. 05, No. 02, 2024, 32-42
- 10) Muammar, Iqbal Taufik, Dissecting Political Money Crimes: An Analysis from the Perspective of Normative Structure, *Matako: Corruption Law Review*, Vol. 01, No. 02, 2023, 95-105
- 11) Muhammad Mona Adha, Dayu Dika Perdana, *Constitutional Law*, Yogyakarta: Suluh Media, 2021
- 12) Pandom Media Nusantara Team. *New Edition of the Great Dictionary of the Indonesian Language*. (Jakarta: Pandom Media Nusantara). 2014
- 13) Parulian Donald, 1997, *Challenging the Elections*, Jakarta: Pustaka Sinar Harapan
- 14) Rozali Abdullah, 2009, *Realizing Higher Quality Elections (Legislative Elections)*, Jakarta: Rajagrafindo Persada

## The Urgency of Criminal Law Reform: From Money Politics to Criminal Acts of Corruption in Indonesian Elections

- 15) Syarif Hidayat, Pilkada, Money Politic, and The Dangerous of Informal Governance, Singapura: ISEAS Publishing, 2009
- 16) Thahjo Kumolo, Politics of Simultaneous Regional Elections, Bandung: Mizan Publika, 2015
- 17) Topo Santoso, 2006, Electoral Crimes, Jakarta: Sinar Grafika
- 18) Valeria Busco, Marcelo Nazareno, and Susan C Stokes, Vote Buying in Argentina, Latin America Research Review, Vol. 39, No. 02, 2004, (Pittsburg: Latin America Research Commons).
- 19) Yusup Kurnia, Legal Analysis of “Dellneming” Participation in Criminal Law Enforcement in Elections: Evaluation of the 2019 Elections and Projections for the 2024 Elections, Journal of Electoral Justice, Vol. 02, No. 02, 2021, 61-74



There is an Open Access article, distributed under the term of the Creative Commons Attribution – Non Commercial 4.0 International (CC BY-NC 4.0) (<https://creativecommons.org/licenses/by-nc/4.0/>), which permits remixing, adapting and building upon the work for non-commercial use, provided the original work is properly cited.