

The Imperative Power of Election Law on Money Politics

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ABSTRACT

Election rules have been regulated in Law no. 7 of 2017, in which this law contains imperative norms. The imperative norm talks about the rules that prohibit the practice of money politics during the electoral process. A rule is made to implement the function of controlling behaviour in social and political life. When the rules are violated, the perpetrator will face legal proceedings and receive appropriate sanctions. Money politics and elections in Indonesia are commonplace for all people and are considered a culture and inseparable. This research was done to review imperative norms in implementing ineffective elections in preventing money politics practices. This study uses a qualitative research approach with triangulation technique analysis. From this study, the authors found that the power of normative law in election activities in Indonesia is still relatively weak, and several political practices continue to occur so that they can tarnish the democratic process

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INTRODUCTION

General Election Commission Having a heavy-duty in maintaining democracy, the General Election Commissions (KPU) is obliged to protect every registered voter from exercising their voting rights in general elections, including for persons with disabilities (Amrurobbi et al., 2020). Elections are part of the scope of democracy and people's sovereignty (Andiraharja, 2020). Elections are held to form a government that can present the desire of all elements of the nation to form and continue the concept of statehood (Nasir, 2020). The implementation of elections in Indonesia is regulated in this Law No.7 of 2017 concerning General Elections (Manurung & Heliany, 2020). This law no. 7 of 2017 contains the implementation, candidacy requirements, registration to campaigns and campaign funds. For the public, money politics is considered a bonus that often occurs during elections. For politicians, Money politics is one of the tools used by candidates for people's representatives to win people's hearts to be elected in general elections (Abhipraya et al., 2020). Money politics is a campaign violation by giving money or goods in the form of promises to bribe people who do not give their rights according to their wishes at the time of general election and choosing a bribe.

The practice of money politics indirect, general elections has a high tendency, as reported by several survey institutions in Indonesia. The Indonesian Survey Institute or LSI shows the magnitude of national money politics in the “Experience with Vote Buying and Selling” based on the 2014 elections in public opinion in 2013 (Pradhanawati et al., 2019)., The data shows that as many as 11% of respondents admitted to receiving offers in t-shirts, goods or gifts, groceries and cash for voting for a particular political party. LSI shows an attitude towards buying and selling votes as much as 57% where they choose not to report the practice of money politics, then 1% choose to report it if the number is considered small or insufficient (Nail, 2019). The practice of money politics can be sanctioned, but from the point of view of law enforcement, it is still relatively weak, so that it is a commonplace in society and continues from year to year. As a result of the increasing popularity of the practice of political money among people’s representatives, it is suspected that the existing laws are still weak (Muhtadi, 2019).

In Kherid (2021), it is stated that the current tendency of society is transactional, where they will ask for incentives or reciprocity if asked to give their voting rights to certain candidates. During the election of several candidates for the President, House of Representatives and Regional Representative Council, simultaneously the practice of money politics was seen in the implementation of direct elections, which was increasingly intense as if it had been entrenched. For example, the police and the Anti-money politics Task Force team in Jakarta made arrests regarding the practice. Money politics during the quiet campaign period, several envelopes were found containing money with a nominal value of Rp. 500,000, which were addressed to the voting place witness without a number (Nafi, 2019). Another incident where the Deputy Regent of Padang Lawas Utara helped a candidate win voting rights by conducting money politics where money was found in 87 envelopes with a nominal envelope of IDR 200,000 and the name card of the candidate (Ayuningtyas, 2019).

The practice of money politics can generate illegal funds during elections (Hayati & Noor, 2020). This is because candidates want to increase their popularity and spend more effort to get votes from the public, but when their financial capabilities are inadequate, there is an opportunity for black funds from outsiders and allows illegal funds in it. There is an opportunity for black funds from outsiders and allows there to be illegal funds in it, such as external support to elect candidates for representatives of the people to weaken or change existing regulations. So, this will become a debt when he has successfully won the election, allowing him to be regulated because he has mutual obligations, business interests, or interests during his term of office. This creates public concern that can cause various effects regarding the not optimal political participation indirect elections. . Furthermore, electoral crimes such as cyberbullying and hoaxes are becoming more common, even during general elections. Such acts are referred to as cybercrime, a criminal act forbidden by every country on the planet (Sukayasa & Suryathi, 2018).

Similar research by Simon et al. 1 (2018) shows that socialization, money politics and black campaigns by vilifying and spreading hoax news about rivals will affect political participation, especially the community. Other research by Solihah (2017) states that the existence of transactional politics can cause distrust of supporters and the public towards political parties and can raise doubts about the political choices of their parties because they raise several irresponsible officials, regional autonomy that does not correlate properly, decreases people’s welfare and the quality of life of its people. Here the author chooses a different point of view from several previous studies on money politics where the author sees in terms of the law that each element does not follow the rules that have been determined. This is important to be studied from various perspectives because more and more candidates for people’s representatives are elected because of money politics, not because of self-competence; it will accelerate the destruction of a country.

It is undeniable that money politics is an attempt to buy votes indirect elections, and it is an open secret that depends on the nominal or amount of incentives given to candidates. However, it will have a significant impact if the money used is from debt or funds from outside, which results in elected officials will emphasize the objectives set by the owner of the capital. This

study aims to reveal money politics and how existing electoral law can counter the practice of money politics. This research is necessary because it can serve as a reference for the government in seeing the power of law in preventing or even disappearing money politics.

METHODS

The author is conducting this research uses a qualitative research approach. Qualitative research aims to understand social phenomena from the participant's perspective (Sugiyono, 2019). The type of research used in this research is library research, which collects data or scientific work related to the object of research or a collection of primary and secondary information and data to solve a problem with an in-depth critical study based on relevant library materials so that this research can be accounted for. The library materials used in this research are textbooks, scientific journals, statistical references, the internet, thesis and various other sources. Sources of data used in this study came from primary data and secondary data. Primary data is a source that provides information or data directly and is the original source. This study uses the experience of writers who are political participants in election activities, while secondary data are taken from textbooks, journals and previous research theses and also the internet.

Furthermore, this study uses content analysis techniques (Ahmad, 2018) and triangulation. This research is an in-depth discussion of the content of written information in mass media or public communication media to further analyze the data obtained and drawn into a single unit in conclusion. Thus, the research results conducted by the author can be a source of public literature regarding the political activities of money that are rife in Indonesia and then checked again with triangulation analysis to ensure the data obtained.

RESULTS AND DISCUSSION

The Election Law has a legal function to control political behaviour in creating order and order in the political context in the Election process (Utami, 2019). UU no. 7 of 2017 contains many guidelines on how to behave in politics and contains prohibitions (imperative norms) related to political behaviour and the threat of criminal sanctions or administrative sanctions. In general elections in Indonesia, we often hear the term money politics. Money politics is carried out by parties who want to win political battles (Hertel-Fernandez et al., 2018). The practice of money politics is one form of inappropriate political behaviour in elections. This is clearly stated in Article 280 paragraph (1) letter J of the Election Law and Article 284 of the Election Law, which explains that executors, participants and campaign teams are prohibited from making promises or giving (materials) to campaign participants the public. The function of the Election Law does not only apply during the campaign period, but also during calm periods where there are imperative norms to maintain order and election rules.

The case of money politics in Indonesia is difficult to follow because it is difficult to prove. As an independent institution, the Election Supervisory Body is not given full authority to carry out complete investigations with various pressures and time constraints in doing its work (Sandy, 2019). So that money politics will continue and tend to be the beginning of an act of corruption. There are many cases where regional leaders get caught in corruption cases after participating in the election. This is allegedly related to the money politics they carried out during the campaign. So, when in power, the elected leaders may try to return the previously issued capital. Humans who have power tend to abuse that power, but humans who have unlimited power will undoubtedly abuse it infinitely (Indarti et al., 2020). If the Election is carried out through corrupt practices, manipulation, and money politics to get votes, the Election is deemed unqualified and produced corrupt leaders (Schedler, 2002).

The people's desire to live a more prosperous and prosperous life is mere talk. Therefore the leaders they choose will only use their power to prioritize personal or group interests. Thus it is dangerous and must be prevented from spreading or becoming a habit. This is in line with the thoughts of Lord Action in Hill (1999) when talking about absolute power.

Imperative Power of Election Law

General elections and money politics have become inseparable things in every election administration. The number of findings on money politics made by candidate leaders, success teams, and political parties, this phenomenon shows that the imperative rules or norms of the

Election Law are not effective in their implementation. According to Nurita and Lubi Research Team (2019), the main problem with money politics is that existing provisions cannot be sufficient to supervise and handle money politics. Kohler-Hausmann (2018) explained that the implementation of the legal function as a means of social control is determined. by the factor of the legal norm itself and the implementing factor (person) of the law. Law enforcers referred to here are people who are involved in the context of the Election, not only members of the KPU (General Election Commission), prosecutors, judges, police or advocates but, what is meant is that all parties who know and are bound by imperative norms in the Election which govern money politics practices. The subject (person) in question could be a candidate for a candidate in the general election, a success team, to a campaign member.

The practice of money politics reflects that legislative candidates' level of law compliance against the prohibition of money politics is still very weak. Besides the phenomenon of money politics, we know that not all legislative candidates practice money politics, but do they have legal compliance with the prohibition of high money politics practices? This can be concluded through a statement from Soekanto (1988) he states that there are three categories in one's obedience to the rule of law:

1. Obedience is compliance, which is when someone obeys the rule of law for fear of being penalized.
2. Obedience is identification, which is when someone obeys the rule of law because he is afraid that his good relationship with someone will be damaged.
3. Obedience is internalization, which is when a person obeys the rule of law because he feels that the rule of law follows the values he holds.

A person's obedience to legal rules related to the prohibition of money politics in the Election Law is inseparable from political morals and ethics (Fautanu et al., 2020; Rahman & Mimbar, 2018). Ideally, a prospective leader or candidate should refrain from all the temptations of money politics during the campaign, the period before the voting process. This is stated in the Election Law (Article 278 paragraph (2), Article 280 paragraph (1) letter j, and Article 284 of the Election Law), because a candidate for the leader is a representative of the people who are treated with respect and is elected to an honourable position by following the election process. Therefore, the moral and political ethics perspective of a legislative candidate who violates the prohibition rules or imperative norms of money politics practice does not deserve to get an honourable position if the effort to achieve that position is carried out in a way that is not honourable in the eyes of the public.

In-person, each candidate must know the sanctions that will be obtained if the rules on the prohibition of money politics are violated, which will result in the cancellation of the candidate's name on the Permanent Candidate List (DCT) or the cancellation of candidates for members of the legislative body. Who concluded that one way to overcome money politics apart from cultivating halal politics, of course, legal firmness must be the main thing in achieving a clean election and producing leader output (Septiadi et al., 2020; Wibowo, 2019).

Handling Money Practices in Elections

An independent institution, namely, the Election Supervisory Agency (BAWASLU), is one of the election organizers besides the KPU (Ja'far, 2018). In Article 1, number (7) of Law No.1 of 2015, it is stated that the General Election Supervisory Agency is an election management institution tasked with overseeing the implementation of general elections throughout the territory of the Republic of Indonesia. Every time there is a suspicion of fraud in the Election, BAWASLU will examine the findings/report. However, the fact is that the authority of BAWASLU in taking action against fraud is minimal, in which BAWASLU is only given 5 (five) days, meaning that the handling of cases of money practice, for example, does not exceed what has been determined. If it exceeds the predetermined time limit, the findings / the report will expire not be followed up.

The existing regulations do not support the Election Supervisory Body in cracking down on election fraud. This obstacle has made it difficult for cases of money politics to be processed until the courts. For this reason, the government issued a new regulation, namely Law no. 7 of

2017, affirming that the role and function of Bawaslu will be further strengthened by several changes in regulations (Haryanti & Pujilestari, 2019). However, this change in rules still does not make BAWASLU strong in resolving election conflicts. One reason is that the adjudication judges for the settlement of election disputes are not in their knowledge discipline (Saputra, 2020). money politics, so the practice of money politics is rampant in the General Elections.

So on this basis, the regulation regarding the authority of Bawaslu must be strengthened so that it can solve the practice of fraudulent money politics. One thing that can be done is to make BAWASLU a special institution with the authority to resolve election disputes. It does not have to reach the ground of the constitutional court, of course. Of course, this can still be reviewed. Several other studies, such as Susanti (2019), found the problem that the position of the Election Supervisory Committee should be the same as the Provincial Bawaslu. However, when in the Regency in practice, there is an imbalance between the position of the Election Supervisory Committee and the General Election Commission (KPUD), this can create a gap for money politics actors to avoid the snare of the law that they will receive, strengthening and affirming and direct application of predetermined punishments can create a deterrent effect. It can slightly change the new culture in general elections.

Besides that, every candidate must uphold morals and ethics in politics and think about what happens to him if he violates the imperative norms of money politics. Legislative candidates who practice money politics are prospective leaders who do not have ethics in politics to become their responsibility. Replied the political party that was promoted. UU no. 2 of 2011 (Law on Political Parties) stipulates that the purpose of political parties is to build political ethics and culture in the life of the nation and state (Article 10 paragraph (2) Letter c). Supporting political parties must also provide political education for their members and society so that they can become Indonesian citizens who are capable of conducting political recruitment in the process of filling democratic political positions so that the political parties that their legislative candidates promote must be legally responsible if there are members who become legislative candidates. The practices of money politics have tarnished the General Election.

CONCLUSION

The law is the main pillar of the existing regulations in Indonesia, which aims to maintain the country's stability and make the country a safe place for the people. UU no. 7 of 2017 contains many guidelines on how to behave in politics and contains prohibitions (imperative norms) related to political behaviour and threats of criminal sanctions or administrative sanctions. Candidates for leaders who do not practice money politics mean that they are financially capable. They are less likely to commit acts of corruption or manipulation and can be categorized as candidates who uphold moral and political ethics and legally enforce election law rules, especially prohibitions. Likewise, a prospective leader who practices money politics can be categorized as a candidate who does not have moral and political ethics and does not have the responsibility to enforce election law. To create an election that is avoided from money politics, it must be based on each legislative candidate's moral awareness and personal ethics. Suppose this has been implemented, and there is no coercion from within him to violate the rules of money politics practice. In that case, there will be hope in realizing a clean election. It can be seen that the imperative rules originate from the moral awareness of candidates, and in realizing order in politics, law and ethics must go together and complement each other. The presence of the election supervisory body and political parties is expected to minimize violations of the rules of political practice so that law enforcement can be applied firmly and the general election will run optimally to achieve real democracy.

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