



Judicial analysis of the determination of sanctions for money politics in legislative elections during the campaign in the city of Serang

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ABSTRACT

Indonesia is a democratic country that has the concept of supreme sovereignty in the hands of the people. elections are a form of political participation of the people in a democratic country, so the integrity and fairness in organizing elections reflect the quality of democracy. In the general election system, political problems that often occur, one of which is Money Politics. The purpose of this study is to determine the judicial analysis of the determination of sanctions for money politics in the legislative elections during the campaign in Serang City based on Law No. 7 of 2017 concerning Elections. In this research, the approach taken is a qualitative approach. The research method used by the author in this research is literature study. In this study, in addition to primary data, researchers also used secondary data in the form of literature, namely books, journals, internet sites, and legislation related to the research. Based on the results of the research, it was found that the action in the form of sanctions against money politics during the legislative election campaign period in Serang City was still ineffective in carrying out its duties, marked by the lack of socialization in several areas and the many reports, complaints and findings received by Bawaslu Serang City related to the problem of money politics in the legislative elections but none were successfully handled based on existing legal procedures.

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1. Introduction

There are several cultural factors that may support the continued practice of money politics in Serang and other parts of Indonesia Patronage Culture In many communities, there is a tradition where local leaders provide favors or money to the community as a form of loyalty. This creates a mutually beneficial relationship where the community feels obliged to support a particular candidate. Social Norms In some areas, the practice of money politics is considered normal or even natural. This can be triggered by past experiences where people feel that such contributions are part of the electoral process. Lack of Political Education People's low

understanding of the importance of clean and democratic elections can make them more easily influenced by offers of money or goods. Economic Deprivation In difficult economic conditions, many people may prefer to accept money rather than consider the long-term impact of unethical political practices. Distrust of the System Distrust of political institutions and the electoral process can encourage people to seek direct benefits through money politics, as they feel that their voices will not be heard. Intense Competition In situations where many candidates are vying for a seat, the practice of money politics is often a strategy to attract attention and support from voters. Tradition and Cultural Heritage In some areas, this practice may have been going on for years, and become part of a tradition that is difficult to change. Understanding these factors can help in designing more effective strategies to eradicate the practice of money politics and promote cleaner and fairer elections.

Regulation and law enforcement play a crucial role in curbing the practice of money politics. The following are some key points regarding this role and the effectiveness of existing sanctions

The Role of Clear Regulations Clear regulations regarding the limits and prohibitions of money politics help create awareness of the legal consequences of the practice. This includes a clear definition of what constitutes money politics. **Transparency Regulations** that require campaign finance reports and political donations can increase transparency, allowing the public to monitor and oversee money politics practices. **Voter Education Regulations** can also include education programs for voters about their rights and how to report money politics. **The Role of Law Enforcement** Consistent enforcement of strict and consistent enforcement of laws against money politics offenses can have a deterrent effect. If violators feel real consequences, they will be more likely to avoid the practice. **The Role of Supervisory Institutions** Supervisory institutions such as the General Election Commission (KPU) and the Election Supervisory Agency (Bawaslu) must be active in monitoring and taking action against money politics, as well as providing transparent reports to the public.

Effectiveness of Existing Sanctions While there are sanctions set out in the law, such as fines or bans on running for office, their effectiveness is often questioned. Many violators feel that these sanctions are not severe enough to deter them from practicing money politics. **Lack of Enforcement** In some areas, law enforcement is weak, and cases of money politics are often not followed up. This makes existing sanctions less effective. **Public Awareness** The level of public awareness and participation in reporting money politics also matters. If people are more proactive in reporting, then this practice can be more easily suppressed. To effectively tackle money politics, a combination of strict regulations, consistent law enforcement and active community participation is needed. Existing sanctions need to be reviewed and strengthened to have a more deterrent effect, and there needs to be a continuous effort to raise public awareness about the importance of clean elections.

Democracy has been an option since Indonesia proclaimed its independence on August 17, 1945. Indonesia's democratic system, known as Pancasila democracy, places the people as the owner of supreme sovereignty, but in the implementation of constitutional life, the owner of sovereignty sends his representatives to occupy political positions (Chandra & Ghafur, 2020). The mechanism to occupy these political positions is carried out through General Elections (hereinafter referred to as Elections), a process that must be carried out by the people (Laowo, 2018). conducted by a country that adheres to a democratic system. Article 22E paragraph (1) of the 1945 Constitution states that "General elections are held directly, freely, secretly, honestly and fairly every five years. From the aspect of Good Governance, the momentum of the General Election is one of the "production" processes to produce representatives of the people who will sit in the legislature who will carry out their functions with full responsibility to oversee the process of implementing good governance in accordance with the Constitution. The mandate of Law Number 28 of 1999 concerning the administration of a state that is clean and free from corruption, collusion and nepotism (Lira, 2024). The law states that in order to realize state administration that is able to carry out its duties and functions seriously and responsibly, it is necessary to lay down the principles of state administration which include the principle of legal

certainty, the principle of orderly state administration, the principle of public interest, the principle of openness, the principle of proportionality, the principle of professionalism and the principle of accountability¹. On the other hand, they are figures nominated by election participants, in this case political parties, to take part in the general election process whose nomination mechanisms are carried out by the political parties concerned (Daerah et al., 2018).

Democracy in Indonesia is considered one of the best among many other democracies. Indonesians value harmony, respect and tolerance among fellow citizens when practicing democracy (Menurut & Tahun, 2017). Maintaining tolerance and mutual respect supports human rights as stipulated in the Constitution and Law No. 1 of 1945. Number 39 of 1999 on Human Rights. In the context of democracy, freedom is defined as the right given by a government to the people to choose leaders who are competent and capable of carrying out their leadership responsibilities. The practical manifestation of this freedom can be seen in the general election process which includes presidential and vice presidential elections, parliamentary elections, and regional head elections held every five years where citizens participate in direct voting according to regulations (Irawan et al., 2024). Regulated in Law Number 7 of 2017 concerning Elections.² In this case, elections are one of the concrete manifestations of procedural democracy, but democracy is not the same as elections, even though elections are one of the most important aspects of democracy and must still be carried out democratically.² Therefore, it is common in countries that call themselves democracies to have a tradition of elections to elect public officials in the central and regional legislative and executive institutions (Desember & Muhdar, 2023).

Elections are a means of exercising people's sovereignty and are held directly, publicly, freely, secretly, honestly and fairly in the Unitary State of the Republic of Indonesia in accordance with Pancasila and the 1945 Constitution of the Republic of Indonesia.³ Direct elections, honesty and impartiality are absolute prerequisites for producing qualified, competent and reliable representatives of the people and being able to optimally carry out their legislative duties, so that when an election is held, the campaign must certainly be carried out (Harefa, 2020). Election campaigns are carried out as part of a series of processes that are used as an effort to introduce the profile of a candidate or candidates who will later be elected by the public (Jayuska & Wijaya, 2020). An election campaign is one of the procedures that must be carried out in order to organize an election, so when an election is held, the campaign must certainly be carried out as part of a series of processes. Election campaigns are used as an effort to introduce the profile of candidates or candidates who will later be elected by the public (Arqon et al., 2024). It cannot be denied that political actors are free to attract any group of voters through these campaign activities in order to gain support later.⁴ Because of this competition, legislative candidates often use different methods to get the most votes in their campaigns, which can lead to campaign violations (Arthanaya, 2021). The Election Criminal Law Framework is established as a basis or normative basis to ensure that the Election process runs in accordance with the corridors of the rules that have been set to ensure that there are no actions or efforts to violate the principles of direct, general, free, secret, honest and fair (Prasetyo, 2020). Ensuring that no citizen has their political rights hijacked, there is no vote manipulation that leads to the impurity of valid votes that will be converted into seats as the basis for determining legislative seats (Ananingsih, 2017). In other words, the application of election criminal law is to protect the election process so that it takes place in a free and fair manner. One of the types of norms and sanctions that have been strengthened is sanctions against election violations committed by legislative candidates (Dari et al., 2021). Law Number 7/2017 on Elections regulates the types of violations that result in additional sanctions for election participants who are legally and convincingly and after going through a court decision that has permanent legal force proven to have committed an offense, as stated in several articles in the law⁵. In the general election system, political problems that often occur, one of which is money politics, often occurs during general elections (elections) and is often detected by law enforcement officials and election organizers so that the government must act decisively in the sanctions that must be given to

these individuals. In the context of criminal law, legislative candidates in a broad legal sense can be subject to criminal liability for their unlawful acts or deeds. On the other hand, they are figures nominated by election participants, in this case political parties, to take part in the general election process whose nomination mechanisms are carried out by the political parties concerned (M. Politik & Pemilihan, 2022).

The nominated legislative candidate is actually a figure of The choice that has passed through a fairly selective and open candidate phase within their respective parties where they become cadres or members of the party, what is meant by the chosen figure here is a personification that has the capacity and political ethics as well as high moral integrity. Serang City is one of the cities and the provincial capital of Banten Province, Indonesia. Located in the northwestern part of Banten Province, the city is in the Greater Serang metropolitan area. Based on the phenomenon in terms of money politics, especially in legislative candidates, especially in Serang City. The news published (Banten.instens, February 10, 2024) in which the Election Supervisory Body of Serang City emphasized that perpetrators of money politics were sanctioned with disqualification and imprisonment. However, the 2024 elections in Serang City were not free from money politics or money politics. Ahead of the voting day, the success team (timses) went to the residents while giving dawn attacks. Based on information obtained by RadarBanten.co.id, the value of this dawn attack varies, ranging from Rp. 100 thousand to Rp. 200 thousand (M. J. Politik et al., 2024). One of the Serang City legislative candidate team who declined to be named admitted that he had distributed hundreds of envelopes ahead of voting day. The value is IDR 100 thousand. "One envelope is Rp. 100 thousand, 200 have been distributed," he said, Thursday February 15, 2024. According to him, the practice of money politics is considered commonplace. The candidate's team does not seem to be alone. One candidate has several teams and all of them have usually prepared envelopes for dawn attacks, the practice of money politics is quite effective in boosting votes (Josviranto, 2024). The number of votes obtained by candidates is quite significant. The practice of money politics in Serang City is considered normal by residents during the election period. The community itself, he said, had expected and wanted a dawn attack.⁶ Based on some news about the practice of money politics. The news published by (banteninside.co.id) stated that Bawaslu Serang City traced a number of photos related to alleged money politics and two stickers with the face of DPR RI candidate Dapil 1 DPRD Serang City, Roni Alfanto, both Nasdem Party cadres. Members of Bawaslu Serang City, information about the alleged distribution of money and other materials immediately ordered the ranks at the kelurahan / village supervisory level (PKD) which was carried out on February 13, 2024, we immediately ordered the supervisory apparatus in the kelurahan to immediately conduct a search," said Fierly when confirmed at the Serang City Bawaslu office, if it is proven that the alleged money politics was carried out on February 13, 2024 or during the calm period, then the heaviest sanction is criminal or disqualification if elected. In this case, Bawaslu Serang City has warned more than 5 times so that election participants do not practice money politics that can damage democracy Another case according to information received by BANPOS, a Legislative Candidate (Candidate) from the Prosperous Justice Party (PKS) of Serang City, EK allegedly committed acts of money politics by distributed several items, such as a set of scissors and knives, wall decorations and also a dish soap packed in a tote bag. Meanwhile, this unscrupulous PKS candidate for Walantaka-Curug District 4 distributed groceries and other goods at night in Block H Persada Banten, Walantaka District, Serang City. When Banten Pos tried to confirm the practice to the person concerned. Ek did not answer whatsapp messages and when BANPOS tried to contact via Whatsapp phone, he did not answer the call (Yuhandra et al., 2023).

As two journalists from Serang City, Fauzan Dardiri and Wibowo Sangkala, said during a Podcast with Radar Banten on Tuesday, June 6, 2023. To fight the pragmatism of the community regarding money politics, the two journalists who became Bacaleg have prepared several methods to avoid money politics. If we are honest, the dawn attack is IDR 100,000, but the community pawned it for five years. This is inversely proportional, we hope that people can

be smarter. There are many ways for us to package and be accepted by the community," Wibowo said. He admitted that he will utilize his various networks to gain as many votes as possible in order to get into the DPRD seat. "If a candidate does not go down to the community, there is no hope. Right now is the air war phase, although I also face to the community through our network of friends, professions, and others," he explained. Different With Wibowo, Fauzan admitted that the people of Serang City are urbanized and open to accessing information every day. "This access to information is a vitamin. So they can evaluate. We like to invite the optimism of the younger generation, inevitably the pragmatism of voters cannot be eliminated. We can only provide choices," said Fauzan. He admits that he is optimistic, there are many methods to gain votes and fight the pragmatism of politics that still exists in society (Yuridis et al., 2023).

Money politics can be defined as an effort to influence the behavior of others by using certain rewards. Some define money politics as the act of buying and selling votes in the political and power process. The action can occur in a wide range, from village head elections to the general elections of a country. Law Number 7 Year 2017 concerning Elections regulates the types of violations that result in additional sanctions for election participants who are legally and convincingly and after a court decision that has permanent legal force has been proven to have committed a violation, such as listed in several articles in the law.¹⁰ The causes of the implementation of the practice of Money politics are election participants (legislative candidates) and the community as voters (Josviranto, 2024). One of the reasons why candidates do money politics is that they are afraid of losing the competition with other candidates. Newly competing candidates are still looking for a form of dawn attack. They have the potential to commit money politics. Candidates who have run in previous elections are certainly more skilled in money politics and will certainly repeat the same thing. Elections are held based on MPR RI Decree Number III/MPR/1988 which is based on the consideration that in the MKRI based on Pancasila, sovereignty is in the hands of the people and is fully exercised by the MPR RI. In order to realize the real sovereignty of the people in the life of the nation and state, it is necessary to hold elections democratically, transparently, honestly and fairly, held by giving and voting directly, generally, freely and secretly.¹² Behavior is a natural human trait that distinguishes it from other humans, and characterizes individuals over other individuals. In the context of politics, behavior is categorized as as the interaction between government and society, government institutions, and among groups and individuals in society in the context of the process of making, implementing, and enforcing political decisions is basically political behaviour (No et al., 2024). After the amendment of the 1945 Constitution, all members of representative institutions and even the president and regional heads are elected by the mechanism of General Elections. General elections are an agenda that is held periodically in Indonesia.¹⁴ Legislative elections are universally Elections are an instrument of realizing people's sovereignty which intends to form a legitimate government and a means of articulating the aspirations and interests of the people (Yuhandra et al., 2023).

2. Method

Conduct interviews with relevant parties (law enforcement, political parties, community) to explore their perceptions of the effectiveness of disincentive sanctions and the factors that influence the success of law enforcement. Evaluation of Disincentive Sanctions Sanction Characteristics Analyze whether the types of sanctions applied are in accordance with the characteristics of money politics violations in Serang Regency. Effectiveness of Sanctioning Assess whether the process of imposing sanctions has been effective and fair. Deterrent Effect Analyze whether the sanctions imposed have had a deterrent effect on perpetrators of money politics violations. Research questions that can be asked include whether the types of sanctions regulated in Law No. 7/2017 are effective enough to prevent money politics How is the role of law enforcement agencies in taking action against perpetrators of money politics Are there any obstacles faced How big is the level of public awareness of the dangers of money politics and their role in prevention efforts Are there other factors besides legal sanctions that affect the level

of money politics violations. By conducting further research, it is hoped that more comprehensive and accurate findings can be obtained regarding the effectiveness of law enforcement against money politics in Serang Regency. These findings can serve as input for policy makers to make improvements and refinements to existing laws and regulations. In addition, this research can also contribute to the development of legal and political science, especially in the field of elections and democracy. Serang City is one of the cities and the provincial capital of Banten Province, Indonesia. The city is located in the northwestern part of Banten Province, the city is in the Greater Serang metropolitan area. Based on the phenomenon in terms of money politics, especially in legislative candidates, especially in the city of Serang. Serang. News published (Banten.instens, February 10, 2024) in which Bawaslu Serang City emphasized that perpetrators of money politics were sanctioned with disqualification and imprisonment. However, the 2024 elections in Serang City were not free from money politics or money politics. Approaching the day of voting, the success team (timses) went on the move to visit residents while providing dawn attacks. Based on this problem, this research was conducted to find out the juridical determination of sanctions against money politics in the legislative election during the campaign in Serang City based on Law No. 7 of 2017 concerning Elections by describing the research findings (Magister et al., 2023). This research aims to reveal the data in the field by describing and interpreting something like what is in the field, and connecting cause and effect to something that happened during the research, with the aim of obtaining a picture of the reality regarding the juridical determination of sanctions against money politics in legislative elections during campaigns in Serang City based on Law No. 7 of 2017 concerning Elections. At first the researchers made observations and initial surveys, it turned out that there were interesting things to research. After obtaining permission to research from the company, there was a positive response to conduct research (Bencana et al., 2022). This research method uses normative juridical research. Normative Legal Research is legal research conducted by examining library materials or secondary data. Normative legal research is also called doctrinal legal research, normative legal research is a process for finding the right law (M. J. Politik et al., 2024). A rule of law, legal principles, or legal doctrines to answer the legal issues at hand. In this type of legal research, often the law is conceptualized as what is written in laws and regulations or the law is conceptualized as rules or norms that are a benchmark for human behavior that is considered appropriate (Hukum et al., 2022).

3. Analysis and Results

Basically, the legal umbrella related to criminal law in Indonesia is based on the Criminal Code or commonly referred to as the Criminal Code as a material crime and the Criminal Procedure Code (KUHAP) as a formal criminal law. However, in the law itself there is the principle of *lex specialis derogate legi generalis*, which means that special provisions override Legislative provisions. This means that in the practice of law in Indonesia, the Criminal Code is a reference for Legislative crimes, while there are still many special criminal acts that are regulated outside of the Criminal Code itself, including Legislative Election Crimes which rely on Law Number 7 of 2017 concerning Legislative Elections or Elections. Criminal provisions against perpetrators of legislative election crimes have been regulated in a separate chapter in Law Number 7 of 2017 concerning Legislative Elections. Which is based on various existing literature, that the perpetrators of election crimes can be held accountable for The perpetrators of electoral criminal offenses, provided that they can fulfill the elements of guilt and do not apply to perpetrators who are incompetent and spiritually unhealthy or insane (Chandra & Ghafur, 2020). This means that as long as the perpetrator of the election crime has fulfilled the elements of guilt, the legal subject must be criminally responsible for the mistakes made in the election act based on the electoral criminal provisions stipulated in Law Number 7 of 2017 concerning Legislative Elections. Based on the Provisions of the 1945 Constitution, Legislative Elections are a means of affirming the sovereignty of the people, the Constitutional basis of elections is expressly mentioned in the Constitution, so its existence is very strong, this is also an inseparable part of the concept of popular sovereignty and Legislative sovereignty used in the context of the Republic of Indonesia, in this case it needs to be emphasized that sovereignty is in the hands of

the people, namely by the people, from the people and for the people (the principle of Democracy) (Dari et al., 2021).

“Legislative elections hereinafter referred to as elections are a means of people's sovereignty to elect members of the people's representative council, members of the regional representative council, president and vice president, and to elect members of the regional people's representative council which are carried out directly, Legislative and free and secret, honest and fair in a unitary state of the Republic of Indonesia. based on Pancasila and the Law The 1945 Constitution of the Republic of Indonesia (Yuridis et al., 2023). Efforts are a dynamic aspect of a position (status), if a person carries out his rights and obligations in a position then that person has carried out his role. Basically the role and position (status) are interrelated and interconnected, because there is no role without position (status) and vice versa there is no position without role. Every human being has a role in his life that varies from the family environment, society to office holders in a country. This is In the social structure, status and role are two elements that have important meaning in the social system (Laowo, 2018). Where the social system regulates the reciprocal relationship between individuals with individuals, individuals with community groups, and groups with groups in social life (Daerah et al., 2018). Carrying out the duties as described in Law Number 7 of 2017 concerning Legislative Elections in article 101 letter c Bawaslu is tasked with preventing the practice of Money Politics in the Regency / City area.¹⁹ Therefore, one of the duties of the Regency / City Bawaslu is to prevent the practice of Money Politics in the Regency / City area. The money politics that is carried out by political party candidates who want to occupy the position of legislative institutions, especially in the Serang City area (Yuridis et al., 2023). Based on the results of research that has been conducted on the efforts of Bawaslu Serang City in preventing the practice of money politics during the campaign period in Serang City, it is still considered less effective due to the lack of public understanding of sanctions in money politics (Dan & Mahasiswa, 2024). This is due to the lack of socialization from Bawaslu to the community such as the initials MNF, AN, FA and ST claimed to have never participated in the activity so that the first time they participated in the election was still confused, the efforts of Bawaslu Serang City are needed to reduce or eradicate the practice of money politics that occurred during the implementation of the Legistalif Election, including continuing to improve and improve its members, then conducting educational socialization to the community so that it is expected to increase participatory supervision considering the limited number of Bawaslu members in Serang City and the geographical conditions of the vast government area of Serang City (Belakang, n.d.). Legislative elections but none were successfully dealt with based on existing legal procedures, this was due to weak evidence that did not meet the formal and material requirements to be followed up in court (Arthanaya, 2021).

4. Conclusion

Of course, improving the law enforcement mechanism in handling reports and findings by Bawaslu is very important. The following are some recommendations to improve the process Reporting Process Improvement Creating a more accessible reporting system, both physically and digitally, so that the public can report violations quickly and efficiently. The provision of responsive communication channels is also very important. Transparency of the Handling Process Provide clear information on procedures for handling reports, including deadlines and steps to be taken. This will increase public trust in Bawaslu. Training for Bawaslu Staff Provide ongoing training for Bawaslu members on law enforcement and investigations, so that they can handle reports more professionally and effectively. Coordination with Law Enforcement Agencies Improve cooperation and communication between Bawaslu and law enforcement agencies such as the Police and the Attorney General's Office. This could include establishing joint protocols for handling cases of election violations and sharing information. Special Team for Handling Violations Establish a special team consisting of Bawaslu members and representatives from law enforcement agencies to handle cases of serious violations. This team can speed up investigations and law enforcement. Monitoring and Evaluation Conduct periodic

evaluations of the process of handling reports and findings to identify weaknesses and areas for improvement. This also includes monitoring the follow-up of reports by law enforcement agencies. Public Socialization Educate the public about their right to report violations and the processes involved, so that more people are willing to report and engage in oversight. With these steps, it is hoped that the enforcement mechanism can be improved, increasing public confidence in the integrity of elections and Bawaslu's role in upholding justice. Of course, there are several concrete solutions that can be considered to overcome the problem of the limited number of Bawaslu members and the vast area of Serang. Here are some ideas that can be implemented Utilizing Technology Using mobile applications or digital platforms to report election violations in real-time. This allows the public to actively participate in supervision and speeds up the reporting process. Collaboration with Local Communities Engaging civil society organizations, youth groups or local communities to become volunteer monitors. Training can be provided so that they understand their duties and responsibilities in monitoring elections. Use of Drones and CCTV Use drones to monitor hard-to-reach areas and install CCTV cameras in strategic locations to aid visual surveillance. Awareness and Education Campaigns Conduct ongoing campaigns that educate the public about the importance of election monitoring and how they can get involved. Human Resource Enhancement Recruiting and training volunteers from various backgrounds to become supervisors who can assist in hard-to-reach areas. Building a Communication Network Establishing an efficient communication network between Bawaslu, volunteers and the community to share information quickly and effectively. Data Analysis Using big data to predict and monitor potential election violation-prone areas based on existing patterns. The implementation of some of these solutions can increase the effectiveness of election supervision in the Serang region even with the limited number of Bawaslu members.

The action in the form of sanctions against money politics during the legislative election campaign in Serang City is still not effective in carrying out its duties, this is indicated by the lack of socialization in several areas as well as the many reports, complaints and findings received by Bawaslu Serang City related to the problem of money politics practices in the legislative election campaign. The efforts of Bawaslu Serang City are needed to reduce or eradicate the practice of money politics that occurred during the implementation of the Legistalif Election, including continuing to improve and improve its members, then conducting educational socialization to the community so that it is expected to increase participatory supervision considering the limited number of Bawaslu members in Serang City and the geographical condition of the vast government area of Serang City. To attract many people, Bawaslu of Serang City held the socialization by holding an event in which there were entertainment performances such as music and cultural performances to attract many people to attend. Bawaslu Serang City is also required to be honest and fair in handling findings and reports so that the principles of the Election are truly implemented.

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