

PENAL FRAMEWORK LIMITATIONS AGAINST ELECTORAL MONEY POLITICS IN MODERN INDONESIA

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Abstract

This study aims to critically evaluate the systemic clash between the constitutional idealism of elections and the reality of political money that disrupts the democratic climate in Indonesia. The Constitution guarantees general elections in the noble ideals of the Indonesian nation, as in the preamble to the 1945 Constitution. Political money is not just a form of violation of formal law, but an existential threat that deprives citizens of the substantive right to vote and injures the integrity of democratic values in Indonesia. Normative Juridical Law Research Methods with Statutory Approaches and Conceptual Approaches. The results of the study show that money politics in campaigns are triggered by the accumulation of several determining factors, including the weak effectiveness of law enforcement sanctions, low voter political literacy, which leads to economic pragmatism, and high political costs that must be borne by legislative contestants. The consequences of the enduring practice of money politics have wide implications for the decline in the quality of leadership circulation, the decay of democratic institutions, and the birth of corrupt public policies due to the orientation of campaign capital returns. Therefore, it is necessary to reconstruct the penal law formula that is more progressive and strengthen participatory supervision to break the chain of money politics in the electoral ecosystem in Indonesia.

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Introduction

A democratic state is a state that adheres to a form or mechanism of government that realizes the sovereignty of the people over the state, which is exercised by the government. There are several principles underlying a democratic state, such as people's sovereignty, the rule of law, separation of powers, free and fair elections, transparency and accountability, citizen participation, protection of rights, and responsiveness and effectiveness (Bahmueller, Johnston, et al., 2007). Indonesia is a state based on the rule of law with a democratic form of government. The current political system adopted in Indonesia is Pancasila democracy (Madung & Mere, 2021). Democracy grants every citizen the right to voice and participate, directly or through representatives, in the drafting, formulation, and development of laws within its system of government. Democracy also plays a role in the social, economic, and cultural systems, implementing political freedom in social and state life (Wisnaeni & Herawati, 2020).

Democracy in Indonesia upholds human rights. Human rights include the right to participate in the political system, one of which is the right to vote in general elections. General elections are a democratic event or procedure held by a country for all citizens to elect a leader. Elections are a central pillar of a democratic system. This historic momentum was first held in Indonesia on a national scale during the simultaneous regional elections in 2015, followed by the 2017 elections, and the simultaneous elections for President/Vice President, Regional Heads, and Legislative Members in 2018, 2019, and 2024.

According to Article 1, paragraph 1 of Law of the Republic of Indonesia Number 8 of 2012 concerning General Elections, "Elections are a means of implementing the people's sovereignty, carried out directly, generally, freely, secretly, honestly, and fairly in the Unitary State of the Republic of Indonesia based on Pancasila and the 1945 Constitution of the Republic of Indonesia." The underlying principle of elections is Luberjurdil (direct, general, free, honest, and fair). This principle is an absolute requirement for producing qualified, competent, and trustworthy representatives who can optimally carry out the functions of the legislative institution (Susanto, 2021). In connection with elections, campaign activities by candidates for representatives are a series of mandatory events and procedures. Political campaigns are organized efforts that seek to influence the decision-making process within a specific group. Campaigns are conducted to introduce the profiles of the candidates for elected representatives and to convince the public of the legislative candidates' vision and mission.

Modern political campaigns typically focus on the general election of candidates for head of state and head of government. Campaign activities are persuasive, aiming to influence the beliefs and behavior of others through communicative appeal. Legislative candidates will present themselves as good and competent representatives, thereby gaining political support from the public. According to Law Number 1 of 2015 concerning the General Election of Members of the House of Representatives, Regional Representative Council, and Regional People's Representative Council (DPRD), campaigning, in Article 1, number 26, is "an activity by election participants to convince voters by offering their vision, mission, and programs."

Previous research has shown that campaign activities can indeed influence public opinion about the political perspectives of legislative candidates. Campaign messages can emphasize ideas that the candidate wants to share with voters. It is common for legislative candidates to promote specific issues/topics during election campaigns and offer solutions to the public if they are elected as legislative members who will represent the people (Permata & Khasanah, 2020). The public tends to normalize this fraudulent act of money politics, even though it is a criminal offense that violates election principles and threatens democratic freedoms. The rise in money politics cases has drawn the author's attention to describe and explain the crime of money politics, which has become commonplace and threatens the Pancasila democratic system in Indonesia (Nabila et al., 2020). The general election in Indonesia, which still does not explicitly acknowledge the existence of political money ahead of

the election day, shows that there is an attitude contrary to Islamic law. It is possible that this practice is in the form of cash, digital money, and the provision of projects, the severity of which is also supported by structural, cultural, and infrastructure factors. These actors who play in money politics are opportunistic and pragmatic and just want to win elections at all costs (Fernando et al., 2024). Several factors make money politics exist due to poverty, low public understanding, a lack of a supervision system, and a weak judicial system (Adlin et al., 2022). Money politics can be solved if the legal system, in the form of regulations, election organizing bodies, and collective culture, runs effectively and efficiently. There is a need for regulatory reform, a commitment to strengthen the integrity of Economic Management Boards, sustainable political education, and the implementation of participatory-based information technology systems to counter money politics (Al-Hamdi et al., 2025). The most important thing is the efforts made by state officials who must dare to enforce the law against money politics. Repressive, preventive, and curative steps must be taken to eradicate corruption in Indonesia, which may be rooted in elections full of political money (Daud, 2020).

Ultimately, this study aims to critically evaluate the systemic clash between the constitutional idealism of elections as an instrument of people's sovereignty and the reality of rampant money-political criminality during political campaigns in Indonesia. Specifically, this study intends to unpack the socio-legal factors that drive the perpetuation of money politics and examine its destructive consequences for the erosion of democratic freedoms and the rule of law in electoral practices.

Research Method

This study adopts a rigorous normative-juridical research method to dissect the criminalization and socio-legal implications of money politics within Indonesian electoral campaigns. Rather than treating election offenses as isolated administrative infractions, this methodological framework approaches them as systemic disruptions to democratic integrity. To achieve a comprehensive analysis, the study operationally employs two distinct legal research approaches: the statute approach to scrutinize the consistency of penal provisions in election laws, and the conceptual approach to evaluate how the practice of money politics violates the philosophical doctrines of popular sovereignty and individual voting freedom.

The textual corpus under examination is systematically gathered from primary and secondary legal materials. Primary legal materials comprise foundational statutory frameworks, including the 1945 Constitution of the Republic of Indonesia (UUD 1945), Law No. 7 of 2017 concerning Elections, and relevant constitutional court judgments. Secondary legal materials consist of authoritative academic treatises, peer-reviewed legal journals on electoral corruption, and official reports from the Election Oversight Body (Bawaslu). The retrieved data corpus is subsequently subjected to a qualitative-descriptive content analysis method. By evaluating these legal texts against the benchmark of substantive democracy, the analytical procedure maps the operational loopholes within the current penal frameworks, uncovers the socio-economic drivers of political pragmatism, and synthesizes the long-term consequences of legislative corruption on the modern Indonesian legal system.

Results and discussions

Factors Causing the Criminal Acts of Money Politics

The definition of money politics itself is the unlawful act of promising money or other material rewards to Indonesian citizens, either directly or indirectly, to influence voters not to exercise their right to vote in a particular way. This type of money politics is considered inconsistent with the values of Pancasila democracy, which is the identity of the Indonesian nation (Wahid et al., 2024). With the rise in money politics cases, it is certain that several factors

contribute to their occurrence. Factors that encourage the practice of money politics in general election campaigns in Indonesia, such as the electoral systems implemented by the government, can also influence this act of money politics. The electoral system consists of a proportional system. Proportional systems are divided into two types: closed-list and open-list systems. In a closed-list system, voters must choose a political party, not a legislative candidate. In an open-list system, voters not only choose a political party image but also a candidate image nominated by that political party.

Since the 2019 elections, a full open list system has been implemented, where voters directly select candidates, and the elected candidate is determined based on the number of votes. Elections with an open list system can influence the mindset and behavior of voters. To secure the most votes, many legislative candidates engage in money politics, using their wealth to engage in financial approaches for personal gain and to gain votes and public support (Al-Hamdi et al., 2025). The open list system essentially aims to introduce the profile, goals, vision, and mission of legislative candidates, so that the public can make informed choices. However, this approach, which involves financial manipulation, is a deviation because it can harm and silence the people's right to vote. The open list system should provide an opportunity for legislative candidates to engage with the public, with various programs that can support their welfare and improve their standard of living. It is regrettable if this program instead becomes a financial and material competition to buy votes (Sari et al., 2025). It's undeniable that participating in elections requires significant funds, not to mention the high cost of politics, which can cost up to billions of rupiah. Political expenses incurred by legislative candidates include advertising, purchasing party paraphernalia, and campaigning. Therefore, many legislative candidates aspire to win elections through money politics, believing that their efforts and funds will be worthwhile if they win the people's votes.

Political habits also contribute to the emergence of various violations during elections. Political habits are divided into two categories: the political habits of legislative candidates and the political habits of the general public (Rinaldi et al., 2024). Money politics occur because the competition for government seats is not proportional to the number of candidates nominated. Consequently, many legislative candidates resort to methods considered illegal, even criminal, and inconsistent with election regulations to win votes and public sympathy (Hasan et al., 2023). Society has normalized and considered it normal to accept money from legislative candidates in every election to buy their votes. This has led to an increasing incidence of vote-buying, as people often become indifferent to it and rarely report such violations. Some factors that contribute to people's willingness to accept bribes from vote-buying practices include: the economic condition of many Indonesians still falls short of prosperity. Therefore, the monetary gifts from legislative candidates are perceived as a favor, and they no longer care about their right to vote in elections. The practice of money politics is also considered a reflection of a country with low levels of welfare and human resources (Holish et al., 2018). Political education in schools and educational institutions is still considered low. This is evidenced by the entrenched practice of vote buying. Yet, elections are not simply about choosing and being elected, but also a vehicle for political education for the public (Wulandari et al., 2024), and low levels of political education make it difficult for the public to understand the nature and purpose of general elections. This has led to an increase in the practice of money politics. If this continues, it will threaten sovereignty and the democratic order the government has built (Ersan & Erliyana, 2018).

Article 73, paragraph 3 of Law No. 3 of 1999 reads: "Anyone who, during the holding of general elections according to this law, by giving or promising to bribe someone, either so that the person does not exercise his right to vote or so that he exercises his right in a certain way, shall be punished with a maximum prison sentence of three years. This punishment shall

also be imposed on voters who accept bribes in the form of gifts or promises to do something (Law Number 3 of 1999 concerning General Elections, 1999).

As has been explained, general elections or elections are held as a means to fulfill the rights of the people in a democratic country. The embodiment of the principle of people's sovereignty as formulated in Article 1 paragraph (2) of the 1945 Constitution of the Unitary State of the Republic of Indonesia. According to the provisions of Article 1 point 1 of Law Number: 10 of 2008 concerning General Elections of Members of the People's Representative Council, Regional Representative Council and Regional People's Representative Council, that general elections hereinafter referred to as Elections are a means of implementing people's sovereignty which is carried out directly, generally, freely, secretly, honestly and fairly in the Unitary State of the Republic of Indonesia based on Pancasila and the 1945 Constitution of the Republic of Indonesia (Herdiana & Wiradirja, 2022).

The practice of money politics is also regulated in the Criminal Code (KUHP). The numerous problematic legislative products significantly hamper criminal law enforcement efforts. As stipulated in Article 149 of the Criminal Code (KUHP), Book Two, concerning Crimes - Chapter IV, Crimes Against the Performance of State Obligations and Rights, which states: whoever, during an election held based on general regulations, by giving or promising something, bribes someone so that they do not exercise their right to vote or so that they exercise that right in a certain way, shall be subject to a maximum prison sentence of nine months or a maximum fine of four thousand five hundred rupiah (Winters, 2016). The same penalty applies to voters who, by accepting gifts or promises, are willing to be bribed. As explained in the laws and regulations above, vote buying constitutes a serious violation and even constitutes a criminal offense. However, it is very rare for the public to report such political money crimes. They are given and promised money to remain silent and not exercise their right to vote in general elections. This type of political behavior requires correction from both the government and the public (Fatimah et al., 2025).

The Effects of Money Politics on the Sustainability of Indonesian Democracy

Indonesian democracy is crucial, as it will continue to be intertwined with human rights. In a democratic society, civil rights and freedoms are respected and upheld. However, the need for individual and social freedoms must be met. The struggle to uphold democracy is a human endeavor to guarantee and protect human rights, as democracy is a political system that respects basic human rights. In elections, the people have the sovereign right to choose the leaders who will determine the fate of the government for the next five years (Faqi et al., 2023).

Campaigning is essential in the process of holding elections and securing a mandate, and this is a natural part of the process. However, campaign programs are often misinterpreted as an attempt to buy votes. This is, of course, a violation of the people's democratic rights (Suswantoro, 2021). Money politics is one example, a violation that has become commonplace in society. The following are the impacts of money politics (Salman et al., 2025): Legislative candidates from certain parties use money politics to buy people's votes. This practice clearly demeans the dignity of the people in a democratic country where supreme power rests with the people. They value their votes and dignity with money, the true value of which will never compare to what they will receive for the next five years (Palinrungi & Akub, 2021). This is inconsistent with Article 22E paragraph (2), which states: "Everyone has the right to freedom of belief, to express their thoughts and attitudes, in accordance with their conscience. (The 1945 Constitution of the Republic of Indonesia)." Because they have received money from the legislative candidates, they ultimately choose candidates who do not align with their conscience, but rather out of gratitude for the legislative candidates who have helped them meet their needs (Andiraharja, 2020).

Elections should be competitive. Anyone who uses money politics to achieve their goals is actually setting a trap to trap the people. Money politics seems to encourage people to

advocate for change, but it's actually just a way to win the election. If a legislative candidate is elected, they will likely be busy for five years trying to recoup the money they lost during the campaign. These actions could lead to corruption, further harming the public (Pratama & Wahyudi, 2020). A very high percentage of cases where money-politics actors succeed in winning votes in general elections leads to further corruption. The most common form of corruption is the misappropriation of regional budgets, where collaboration between the executive and legislative branches occurs. The motivation for corruption is to recoup money and recover losses from state officials who have used it for their political campaigns to buy votes (Dipang, 2025).

General elections are a process of citizen involvement in the governance process. Citizens are actively involved in determining who has the right to control the government for a specific period. Progress in a government system will never be achieved if criminal acts such as money politics continue to occur and become a normalized habit (Djufri, 2023). If allowed to continue, this act of money politics will threaten the democratic system of government that has become the foundation of the Indonesian state. The government and society need to contribute to addressing this practice of money politics. Through various analyses, the author has sought solutions to prevent and stop the practice of money politics, which is currently rampant in Indonesia. The following are efforts that the government and society can take to address the criminal case of money politics (Surahman et al., 2023):

1. Efforts from the Government

a. Strengthening and Maximizing Socialization

The government needs to maximize public awareness of politics and elections. This is seen as a preventative measure against vote-buying, as it provides the public with an understanding of the purpose of the general election. This awareness-raising is crucial for educating the public about various fraudulent practices that could harm them in the future.

This awareness-raising can be optimized through educational institutions, community organizations, and various organizations with strong public ties. It is hoped that this awareness-raising program will help the public understand the essence of elections. This program also demonstrates the government's commitment to the democratic system and the human rights of its citizens.

b. Participatory Supervision

Due to the low number of people reporting vote-buying practices, it would be beneficial for the government to monitor legislative candidates participating in elections. This effort aims to reduce the increasing number of vote-buying cases occurring during elections.

This oversight can also be applied to individuals who continue to accept bribes through vote-buying practices. Perpetrators of vote-buying practices will be punished according to applicable law. This effort helps maintain democratic stability during the election period (Pasaribu, 2025)

c. Optimizing Political and Anti-Corruption Education

Knowing that vote buying ultimately leads to corruption, the government should educate the nation's future generations about the political landscape. Early political education can equip students in schools with the meaning and purpose of elections. This will equip the next generation with the skills to prevent vote buying. This will also help reduce corruption, leading to a more prosperous society.

2. Efforts from the Community

a. Reject all forms of bribery.

A society well-equipped with civic education will develop awareness and sensitivity to law and politics. Political education, coupled with preventive measures, is implemented to prevent the practice of vote buying. Rejecting this form of bribery is also seen as a public contribution to a corruption-free government (Surahman et al., 2023).

b. Report all forms of political money bribery.

After understanding the nature and purpose of elections, it is hoped that the public will continue to exercise their rights as holders of the highest power in a democratic system. Reporting criminal acts of money politics is a form of upholding public sovereignty by the public itself. This will ensure effective law enforcement efforts, and no government or legislative candidates will dare to tarnish the people's dignity (Dairani, 2021).

c. Carrying out elections in accordance with the Luberjurdil Principle

The principles of direct, free, honest, and fair elections can be effectively implemented if the public is no longer trapped by money politics. This way, the election of legislative candidates will be entirely carried out by the people without any influence from any party. The progress of democracy in Indonesia is inseparable from the significant role of the public. As a primary player in democracy, the public has the right to know how a country's government (Silambi et al., 2023).

Conclusion

The implementation of direct, free, honest, and fair elections is crucial, as they are the embodiment of the democratic system itself. A democratic system gives the people a choice to determine the future of the nation; this should be utilized effectively by the people, as the holders of supreme power in a democratic system. However, elections are often marred by fraud by legislative candidates. Money politics causes significant harm to both society and the government system. Money politics does not necessarily mean the giving of money or other material goods by election participants to voters; rather, it is an act that fulfills the elements of money politics. The public tends to normalize this fraudulent act of money politics, even though it is a criminal offense that violates election principles and threatens the public's democratic freedoms. From the discussion, it can be concluded that there are factors causing money politics, such as: Political habits of legislative candidates, Economic conditions of the community, Low quality of political education, and people do not understand the purpose of the election. Money politics is a criminal act as recorded in Article 149 of the Criminal Code (KUHP) Book Two on Crimes - Chapter IV Crimes Against Carrying Out State Obligations and Rights. The consequences of this money politics act include degrading the dignity of the people, money politics is a trap for the people, and money politics will lead to acts of corruption. Various efforts to eradicate the crime of money politics/money politics will also be the responsibility of the government and society.

Declaration of AI and AI-Assisted Technologies in the Writing Process

During the preparation of this manuscript, the author employed Artificial Intelligence (AI)-assisted technology, specifically ChatGPT (OpenAI). The author is solely responsible for the final content, interpretation, and conclusions presented in this publication.

CRedit Authorship Contribution Statement

1. **Muhammad Abdillah Alkamil:** Conceptualization, Data Curation, Formal Analysis, Methodology, Writing – Original Draft, Writing – Review & Editing.
2. **Syamsuri:** Resources, Writing – Review & Editing, and Translation.

Declaration of Competing Interest

The author declares that no financial, professional, or personal conflict of interest could affect the research process, interpretation of findings, or publication of this article.

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Data Availability Statement

Data supporting the findings of this study are available from the relevant authors upon reasonable request via email at **29alkamil0304@gmail.com**. All materials and sources used in this study were obtained from relevant academic literature and library-based scientific resources.

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The author emphasized that this research was conducted in accordance with established academic and research ethics standards. As a library-based study, this study did not involve human participants, personal data, or identifiable respondent information. Therefore, formal ethical approval is not required for the implementation of this research.

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