



Analysis of the Settlement of Money Political Criminal Actions in the Election of Regional Head in Majene District

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Abstract

This study aims to determine and analyze the settlement of Money Politics Crimes in the Regional Head Election in Majene Regency. In this study, the author uses a juridical empirical research method, The legal materials are analyzed using a statutory approach and a conceptual approach. The results of the study indicate that: (1) The process of resolving criminal acts of money politics in the Regional Head Election of Majene Regency is considered not optimal, due to frequent conflicts of opinion related to regulations between the Sentragakkumdu parties, namely Bawaslu, the Prosecutor's Office, and the Police, which is an obstacle for the Agency. General Election Oversight (BAWASLU) in handling cases of money politics. This difference of opinion should not have occurred because the regulations governing the Violation of Money Politics Crimes have been specifically regulated in Law Number 10 of 2016 concerning the Election of Governors, Regents, and Mayors, which in these rules are very clear on which ones can be categorized as Violations. Money Politics Crime. (2) A person can be held criminally responsible if he has fulfilled the elements or formulation of the offense that has been determined in the laws and regulations. Besides that, the most important thing from criminal responsibility is the existence of errors inherent in the perpetrators.

Keyword: Settlement, Money Political Criminal, Money Political

A. Introduction

The existence of a democratic state in Indonesia is regulated in the Preamble to the 1945 Constitution. Some of these provisions can directly reveal their democratic character, but some are still neutral, so that their democratic nature is still highly dependent on existing political policies. In the Preamble to paragraph 4 of the 1945 Constitution and paragraph 4 of Pancasila, it is formulated that "Democracy is led by wisdom in deliberation or representation". Thus, Pancasila democracy is a democracy of deliberation.

Good democracy is based on the principles of honesty and fairness. However, in its implementation in democracy there are often deviations, one of which is the occurrence of money politics in the Pilkada. A prospective participant who wants to be influential in the Pilkada by providing material rewards in an effort to gain power as a vote holder in a political process, whether privately owned, is carried out by giving rewards known as politics.

Literally it can be interpreted that money politics is the process of buying and selling votes in the process of getting people's votes by giving rewards. The Pilkada process will run well when all the candidates for Pilkada are honest and do not commit

money politics. The existence of money politics can be an issue that is an election activity.¹

A good election constitutionally is one of the prerequisites for the creation of an ideal democratic life in a country. The implementation of a good Pilkada process requires commitment from all stakeholders involved in the election process such as election organizers (Regional KPU, Panwaslu), candidates or election participants and all parties involved in it. A good election process is based on the principle of Title Luber (direct, general, free, honest and fair). This political principle is expected to provide good and responsible leaders and have high legitimacy to run the wheels of government. In the Schumpeterian (procedural) model the only source of legitimacy is the result of the Pilkada process.²

However, in practice, it is very difficult to carry out a good election based on the principles of honesty and fairness. This often happens because it is influenced by the lack of involvement of the office holders and the interests involved in the implementation of the election which leads to violations committed by the candidates and their success teams. This will have a negative impact and affect the course of political life and government. The order of political life will change and give a different color to public decision-making. A good and dedicated leader will always put the interests of the community first.

All existing decisions and policies will be based on what the community needs, not what the leader wants. For this reason, in the election process, the people should vote based on the legitimacy of the prospective participants, not on material gifts or promises. In addition to having an impact on future hopes for the progress of the country, this money politics action will also threaten the existence of the existing democratic system.

The election of regional heads is a demand for democracy at the local level so that the people can determine for themselves who will lead them for the next five years.³ Regional heads are no longer directly appointed as was the case during the New Order era, but it is the will of the people who can determine through the direct election mechanism.

The general election for regional heads (Pilkada) is a process to achieve formal legal authority which is carried out on the participation of candidate voters and controlled by supervisory institutions, in order to gain legitimacy from the community which is ratified by applicable law. Pairs of candidates for Regional Head and Deputy Regional Head who will lead a region in the form of a certain period of time in the future.

Pilkada in Indonesia has undergone several changes in the conduct of voters. Therefore, at this time the Indonesian people carry out direct elections for the President, DPR, Governor, Regent/Mayor, to Village Heads. By direct voting, it is hoped that local and national individuals will be able to find leaders who match their aspirations. The implementation of the Pilkada includes several stages, namely the determination of the voter list, registration and determination of regional head/deputy regional head candidates, campaigning, quiet period, voting, vote counting,

¹Tjahjo Kumolo, *Legal Politics of Simultaneous Regional Head Elections*, p.79. 2015

²Edward Aspinal, et al, *Money Politics in Indonesia*, p. 56. 2015

³Fajlurrahman Jurdi, 2018, *Introduction to General Election Law*. Kencana, Jakarta, p. 111.

determination of the elected regional head/deputy regional head candidate pairs and finally ratification and inauguration.

One of the stages of the election, namely the campaign is an attempt to influence the people persuasively (not coercively) by conducting mass communication, lobbying and others. Campaigning is a part of the electoral process that has an influence on the outcome of the election. Campaigns aimed at gaining support achievement, are usually carried out by a group of people who are organized to carry out an achievement strategy in order to make the campaign successful. In order to win the vote count, sharing efforts to attract and obtain votes is allowed and carried out, as long as it does not violate official law. That is the implementation that has been agreed upon.

Based on the Law of the Republic of Indonesia Number 7 of 2017 concerning General Elections in Chapter II Principles, Principles and Objectives Article 2 confirms that elections are carried out on the basis of direct, general, free, confidential, honest and fair principles. Continuing to Article 3, namely In holding elections, the implementation of elections must be carried out based on the principles as referred to in Article 2 and the implementation must comply with the principles:

- 1) independent
- 2) Honest
- 3) Fair
- 4) Legal certainty
- 5) Orderly
- 6) Open
- 7) Proportional
- 8) Professional
- 9) Accountable
- 10) Affective and
- 11) Efficient

Events in the form of violations in elections often occur, especially during the campaign period, one of which is Money Politics, the Money Politics activity carried out by many candidates and from the success team in order to gain votes and sympathizers. Money Politics that occurs at various levels of elections in almost all regions in Indonesia. The authors found data to strengthen evidence of the Money Politics incident where there were findings from the police who confiscated evidence in the form of hundreds of millions of rupiah, which had become a tool to influence citizens in exercising their voting rights.

The majority of the public said they were willing to accept money gifts from candidates for legislators or political parties ahead of the legislative elections on April 9, 2016. As many as 69.1 percent said they were willing to accept money gifts from candidates or parties, although with different reasons or pretexts. Meanwhile, in the 2009 election, the LSN survey on money politics showed that there were still less than 40 percent of the public who were willing to accept money from candidates or parties. Out of 1,230 respondents in 34 provinces throughout Indonesia, only 30.9 percent of respondents would firmly refuse to give money from any candidate or party.⁴

In the Regional Election of the District. Majene In 2020, Bawaslu found findings that allegedly violated money politics, where one person who claimed to be a success

⁴ Survey results National survey institutes (LSN)

team from one of the pairs of candidates for Regent and Deputy Regent was proven to have practiced money politics, namely handing over a sum of money to the community with the motive for that person to use his voting rights. to select the candidate proposed by the money giver.

The findings were found when the Bawaslu kab. Majene is conducting patrols at night before the voting through the regional head election (Pilkada). The purpose of the patrol is as a form of socialization to the community so that the community can safely make the local election successful without money politics or better known as the dawn attack.

The findings were then registered by the Regency Bawaslu. Majene with Number 32/TM/PB/Kab30.02/XII/2020 and further processing is carried out to the Police and the Prosecutor's Office. However, after the findings were processed by Bawaslu Kab. Majene, this actually resulted in the termination of the handling of cases of alleged money politics from the police and prosecutors.

Based on the Criminal Code, Article 149 is:

1. Any person who, when an election is held based on general rules, by giving or promising something, bribes someone so that he does not exercise his right to vote or to exercise that right in a certain way, shall be punished by a maximum imprisonment of nine months or a maximum fine of four thousand and five hundred rupiah.
2. The same punishment applies to voters who, by accepting a gift or promise, are willing to be bribed.

Further arrangements are regulated in Law Number 10 of 2016 concerning the Second Amendment to Law Number 1 of 2015 concerning Stipulation of PP in Lieu of Law Number 1 of 2014 concerning the Election of Governors, Regents, and Mayors to become Laws, Article 73 explains that:

- a) Candidates and/or Campaign teams are prohibited from promising and/or giving money or other materials to influence the Election organizers and/or Voters.
- b) Candidates who are proven to have committed violations as referred to in paragraph (1) based on the decision of the Provincial Bawaslu may be subject to administrative sanctions of cancellation as a candidate pair by the Provincial KPU or Regency/Municipal KPU.
- c) The Campaign Team who is proven to have committed the violation as referred to in paragraph (1) based on a court decision that has permanent legal force will be subject to criminal sanctions in accordance with the provisions of the legislation.
- d) Apart from Candidates or Candidate Pairs, members of Political Parties, campaign teams, and volunteers, or other parties are also prohibited from intentionally committing unlawful acts by promising or giving money or other materials in return for Indonesian citizens, either directly or indirectly for:
 - 1) influencing voters not to exercise their right to vote;
 - 2) use the right to vote in a certain way that results in an invalid vote; and
 - 3) influence to choose certain candidates or not to choose certain candidates.
- 4) The provision of administrative sanctions for violations as referred to in paragraph (2) does not invalidate the criminal sanctions.

The case of money politics that occurred in the regional elections of Kab. Majene in 2020 is not the first time this has occurred in the implementation of the celebration

of democracy in Kab. Majene, previously in 2017 there was also a case of money politics which was processed through a criminal offense case with the decision number 15/Pid.Sus/2017/PN.Mjn, however this case was processed to the stage of a court decision. In contrast to the case in 2020 where the alleged violation of money politics was found directly by the Kab. In fact, Majene was dismissed from investigating the case.

Based on the description of the background of the problem, the research limits the subject matter to be studied:

- a) How is the process of settling money politics in the regional head election in Majene Regency?
- b) What are the implications and sanctions for accountability for money politics?

B. Method

The type of research that will be used in this research is empirical research, which means that the research focuses on the elaboration of library materials related to the object to be studied and implementation in the field in order to obtain solutions to problems. This study will analyze the authority of Bawaslu in deciding violations of money politics in the process of selecting regional heads.

The empirical research method is a legal research method that functions to be able to see the law in a real sense and examine how the law works in the community.⁵

The types and legal materials obtained and will be used by the authors in this research are as follows:

- a) Primary legal materials, namely laws and regulations that apply in accordance with the hierarchy of laws and regulations in Indonesia, as well as other legal norms;
- b) Secondary legal materials are all publications on law that are not official documents which include textbooks, legal dictionaries, legal journals, and comments on court decisions.⁶ namely legal materials that provide further explanations regarding primary legal materials including, jurisprudential court decisions, Bawaslu decisions, legal writings published in book form, existing scientific research results, related expert opinions, journals from legal scholars, and other scientific works that have relevance to the object of study;
- c) Tertiary legal materials are legal materials that provide meaningful instructions or explanations for primary and secondary legal materials such as dictionaries, encyclopedias and others.⁷

C. Results and Discussion

1. Process of Settlement of Money Politics Crimes in Regional Head Elections in Majene Regency

a. Money Politics Crime Settlement Process

⁵Irwansyah, Choice of Legal Research Methods & Practice of Writing Revised Articles, Mirra Buana Media, Yogyakarta. 2020. p. 174

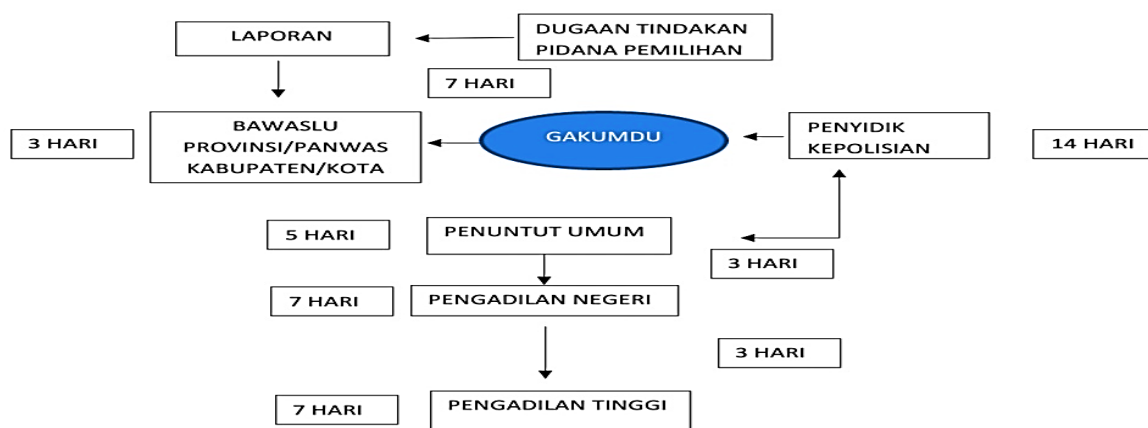
⁶Ibid, p. 181

⁷Johnny Ibrahim. 2012. Theory & Methodology of normative legal research. Malang: Bayumedia Publishing. page. 392

1) The process of settling money politics based on Law no. 7 of 2017 concerning General Elections.

The process of law enforcement for election crimes is carried out through various stages. These various stages are regulated in several regulations, including Law Number 7 of 2017 concerning General Elections and various derivative regulations such as Perbawaslu Number 31 of 2018 concerning the Gakkumdu Center and others.

Mechanism of Settlement of Criminal Actions for Election of Governors, Regents, and Mayors



The process of law enforcement for election crimes starts from receiving reports or findings, after which discussions will be carried out at various levels. The details are as follows:

a) Report Receipt⁸

The process begins with receiving the report, Bawaslu is accompanied by the Gakkumdu center conducting an assessment in accordance with the format for the completeness of the findings or reports of alleged election crimes. The completeness format includes formal and material requirements. The conditions are in the form of:

a. Formal Terms:

- 1) Reporting party;
- 2) Reporting time does not exceed the time limit; and
- 3) The validity of the alleged violation report which includes the suitability of the signature on the alleged violation report form with the identity card; and reporting date.

b. Material requirements:

- 1) Identity
- 2) Events and descriptions of events;
- 3) The time and place the event occurred;
- 4) Witnesses with knowledge of the incident; and
- 5) Evidence that may be obtained or known.

After the file is declared to meet the formal and metrical requirements, the report and findings will be given a report number and recorded in the report receipt register no later than 1 (one) day since the report or finding is received. If the report or finding is declared to have not met the formal and material requirements, Bawaslu will give time to complete the requirements for a maximum of 3 (three) days.

⁸ Bawaslu regulation Number 31 of 2018 concerning the Gakkumdu Center, article 19

b) First Stage Discussion

The first phase of discussion begins with the Election Supervisor together with Investigators and Prosecutors no later than 1x24 (one time twenty four) hours conducting the first discussion as of the date the findings or reports are received and registered by the Election Supervisors. These discussions are led by the Gakkumdu Coordinators at each level. This first stage discussion aims to determine the completeness of the requirements and determine the articles that will be suspected of the findings and reports that have been registered. The results of this discussion will be included in the Minutes of Discussion I.⁹

c) Election Violation Study

At this stage, the process begins with the Election Supervisor conducting a review of the findings or reports of election violations as referred to in Article 20 paragraph (5) of Perbawaslu Number 31 of 2018 concerning the Gakkumdu Center no later than 7 (seven) Days after the findings or reports are received and registered by Election Supervisor.

In conducting this study, Bawaslu may invite the reported parties, witnesses and/or experts to be asked for information or clarification aimed at providing additional information. This process is carried out no later than 14 (fourteen) days after the findings and reports are received and registered. Before being asked for information, the reported, witnesses and/or experts must take an oath first and it will be stated in the Minutes Under Oath. The results of this entire process are included in the document of the study and investigation process.¹⁰

d) Second Discussion

This second stage of discussion begins with election supervision. Together with investigators and prosecutors, they will conduct a second discussion no later than 14 (fourteen) days after the findings or reports are received and registered by the election supervisor. This discussion is led by the Gakkumdu Coordinator at each level with the aim of discussing the study of election supervisors and reports on the results of the investigation.

This discussion aims to determine whether a report or finding constitutes an election crime or not an election crime. If the report or finding of a criminal act is declared a criminal act, the election supervisor will continue the handling of the alleged election crime to the investigator. If it turns out that the report and findings do not find elements of an election crime, then the handling is stopped.¹¹

e) Election Supervisory Plenary Meeting

Election Supervisors carry out plenary meetings to decide whether findings or reports are raised to the investigation stage or terminated based on the results of the second discussion, election monitoring studies and reports on the results of the investigation.

At this plenary meeting, the election supervisor announces the increase or termination of the report or finding by announcing the status of the finding or report along with the reasons for discontinuing the handling to the complainant. If the report

⁹ Perbawaslu Number 31 of 2018 concerning the Gakkumdu Center, Article 20

¹⁰ Perbawaslu Number 31 of 2018 concerning the Gakkumdu Center, Articles 21-22

¹¹ Perbawaslu Number 31 of 2018 concerning the Gakkumdu Center, Article 23

is increased at the investigation stage, the election supervisor will forward the findings or reports to the investigator and issue a task order to carry out the investigation.¹²

f) Investigation

Investigators carry out investigations after the issuance of an investigation order by the Gakkumdu coordinator from the Indonesian National Police. Investigators carry out investigations no later than 14 (fourteen) days as of the report on alleged election crimes which are forwarded from the Election Supervisors as referred to in Article 24 paragraph (6) of Perbawaslu Number 31 of 2018 concerning the Gakkumdu Center.¹³

g) Third discussion

Investigators convey the results of the investigation in the third discussion which will be led by the Gakkumdu Coordinator from the National Police. The third discussion was attended by Election Supervisors, Investigators, and Prosecutors to discuss the results of the investigation. The third discussion resulted in the conclusion whether or not the case could be delegated to the Prosecutor.

Police investigators submit the results of their investigations accompanied by case files to the public prosecutor no later than 14 (fourteen) days from the receipt of the report and can be carried out without the presence of the suspect. In the event that the results of the investigation are incomplete, within a maximum period of 3 (three) days the Public Prosecutor shall return the case file to the National Police Investigator accompanied by instructions on what must be done to complete it.

The return of case files resulting from the investigation as from the Public Prosecutor to the Investigator is only carried out 1 (one) time. After the case file is received by the public prosecutor and declared complete, the investigator submits the responsibility of the suspect and evidence to the public prosecutor.¹⁴

h) Prosecution

The Public Prosecutor delegates the case file to the District Court no later than 5 (five) days from the time the case file is received from the Investigator and a cover letter for the delegation signed by the Gakkumdu Trustee from the Prosecutor's Office according to the level. The indictment that has been prepared by the Prosecutor, a copy of which is submitted to the Coordinator of Gakkumdu.¹⁵

i) Pretrial

In the event that there is a pretrial application either at the level of investigation or prosecution, the Election Supervisor, Investigator and/or Public Prosecutor shall provide assistance and monitoring.¹⁶

j) Fourth Discussion

After the court's decision is read, the Public Prosecutor reports to the Gakkumdu Coordinator from the Prosecutor's Office according to the level. Gakkumdu according to level conducts the fourth discussion led by the Coordinator from the Prosecutor's Office no later than 1x24 (one time twenty-four) hours after the court's decision is read. The fourth discussion aims to determine the attitude of Gakkumdu in:

a. Take legal action against court decisions; or

¹² Perbawaslu Number 31 of 2018 concerning the Gakkumdu Center, Article 24

¹³ Perbawaslu Number 31 of 2018 concerning the Gakkumdu Center, Article 25

¹⁴ Perbawaslu Number 31 of 2018 concerning the Gakkumdu Center, Articles 26,27,28

¹⁵ Perbawaslu Number 31 of 2018 concerning the Gakkumdu Center, Article 29

¹⁶ Perbawaslu Number 31 of 2018 concerning the Gakkumdu Center, Article 30

b. Implement court decisions¹⁷

2) Settlement of Money Politics Crime by Majene Regency Bawaslu

The regulation regarding the prohibition of Money Politics in the Democratic Pilkada makes the people have the highest position to make choices in the Pilkada process. Basically good government is by the people, of the people and for the people. This indicates that when people can make selective elections so that the government will run well and in accordance with the order of a clean political life.

In the electoral process of the democratic process, this is the key to the beginning of the success or failure of a democratic system. In principle, democracy in an election activity or Pilkada is based on the Luber Jurdil principle, namely honest, free, confidential and fair. The direct election process carried out by the people will greatly affect the victory or failure of the candidates for Pilkada. For this reason, community participation is very important and determines the position of prospective Pilkada participants in determining whether to get a seat or not. In the selection process there are several standards or criteria that must be met to become a candidate for Pilkada.

Because there are more than one election participant, it will cause competition in the election process. This is what triggers legal deviations in the political process. One form is the emergence of money politics. Money politics is a disturbance in the political process in which participants or cadres or success teams as well as parties supporting candidates take actions that violate the law by providing rewards or materials and or other forms of compensation to influence the votes that will be cast by voters. Money politics is not justified by law. This will cause chaos in the legal and political paradigm in Indonesia.

The principle of democracy cannot be implemented properly. Freedom to make choices based on one's own conscience is no longer a top priority. A new paradigm emerges in the minds of the people, where those who will have power are those who have money. This will affect the structure of government. As the bearer of the aspirations of the community, the leader should be able to represent the voice of the people's heart. If from the beginning there was no election based on the people's own choice, wouldn't the final decision also definitely not be in accordance with what the community expected.

For this reason, money politics has now become the government's concern and it is hoped that its presence in elections can be minimized, both in the general election and in the regional head elections. Regarding the existence of money politics during the election process, Law Number 10 of 2016 was issued which regulates the prohibition of money politics activities. In the regulation, it is emphasized that each candidate participating in the Regional Head Election is prohibited from promising or giving rewards in the form of money or goods that will influence voters. The Law also stipulates what actions candidates may not take against voters. The vote acquisition should be based on the vision and mission of the prospective Pilkada participants, not on the promised rewards.

Based on the results of a direct interview with Syofian Ali S.pd.I (Bawaslu Commissioner) Majene Regency, West Sulawesi Province on October 1, 2021 at the Majene Regency Bawaslu office, explained that Bawaslu, provincial Bawaslu,

¹⁷ Perbawaslu Number 31 of 2018 concerning the Gakkumdu Center, Article 31

Regency/Municipal Bawaslu conduct dispute resolution in the election process through stages:

1. Receive and review applications for dispute resolution in the election process.
2. Bringing the disputing parties together to reach an agreement through mediation or deliberation and consensus.

Efforts to handle the results of the report are that every report that comes in from the results of the picket of Bawaslu members, we immediately give a formula, the form is called form model b-1 and the complainant fills in from-from, namely what model of alleged violation they report then we ask for the chronology and when happened.

If the report has been submitted, the first thing we will do is review it, what we call a preliminary study, whether this meets the elements of the Formal requirements and whether the material is fulfilled, and if it is fulfilled, we register and if it is not fulfilled, we inform the reporter that it exists. the shortcomings so that the conditions are not fulfilled but if the complainant wants to fulfill within three days when the reporter comes to report then we will register if the reporter is able to fulfill the requirements, both formal and material.

So if in terms of direct findings found by Bawaslu, it means that Bawaslu first also conducts an investigation to ensure that the findings really meet the requirements as violations. The investigation itself takes seven working days, so within those seven working days we have to determine whether it is a condition of violation or not, and if it meets the formal and material requirements then we will proceed to handling actions, and if in the study the Bawaslu commits a violation. then Bawaslu recommends according to the level of violation.

For example, if an ASN commits a violation, then Bawaslu recommends it to the ASN commission, if for example the violation is in the form of a crime, then Bawaslu recommends it to the Police, and if the violation is of an administrative type, we recommend it to the KPU.

3. Efforts to Prevent Money Politics in the General Election of Regional Heads in Majene Regency

Talking about the prevention of criminal acts is actually the legal scope of criminology. Likewise with the prevention of money politics, the approach that can be used is a criminological approach so that the root cause of the problem can be identified, including how to suppress it. This is one of the advantages of criminology when compared to criminal law. Criminology can function before a crime is committed while criminal law can only be used if a crime has already occurred.

According to Dennis Chapman, there are 2 ways to prevent the occurrence of criminal acts, namely FIRST, looking for the driving factors for the occurrence of criminal acts. For that there are 2 things that must be considered. First, through the abolitionistic system, which eliminates the factors that drive crime. Second, through a moralistic system, namely prevention through religious spiritual showers. This system will strengthen moral values so that it is expected to be able to suppress the evil instincts of the SECOND human being, optimize law enforcement.¹⁸

A similar opinion was expressed by Walter C. Reckless, that there are 5 things needed to prevent crime. First, a good police system and organization. Second, the

¹⁸Dirdjosisworo, Criminology. p.140. 1984

effective implementation of justice. Third, authoritative law. Fourth, coordinated crime prevention and control. Fifth, community participation in crime prevention efforts¹⁹.

In this regard, there are at least 5 important points that the author can put forward in order to prevent the recurrence of this money politics crime.

1. A clear (*lex certa*) and firm (*lex stricta*) election regulation is needed in regulating the formulation of money politics, including criminal sanctions, which must also be maximized. It is no longer possible to use conventional regulatory models as in the current Election Law, which still uses the perspective of the Criminal Code. What needs to be emphasized is that criminal sanctions must be able to provide a deterrence effect through staff in the form of an indeterminate sentence.
2. It takes law enforcement officers with integrity, credibility and commitment in carrying out their duties and responsibilities. In that context, the Gakumdu Center as a control center for the process of money politics must not be infected by viruses of corruption such as bribery or other deceitful acts.
3. The trial of money politics must be carried out with the principle of due process of law, which is characterized by fair, objective, fast and simple justice. At this point law enforcement will appear authoritative.
4. Election organizers, especially the Election Supervisory Body (Bawaslu) must be placed not only as partners with the General Elections Commission (KPU) but also as community partners. Bawaslu cannot be an exclusive organ in carrying out supervision but must be able to integrate with the surrounding community so that the potential for money politics can be predicted from a long time ago and can be prevented as early as possible. For this reason, Bawaslu commissioners are also needed who can maintain their integrity so that they are not easily bought by democratic criminals.
5. The KPU must be able to provide political education to the public as much as possible by cooperating with political parties to educate the public in terms of preventing money politics. The ways of political education so far that seem formalistic need to be changed. Society as the subject as well as the object in the election needs to be made a special approach, such as: Tertiary approach. In that context, people can be rehabilitated so that they are able to realize that a healthy democracy will only be born from healthy people's minds which in the end will give birth to healthy leaders from corruption. The community must have a sense of belonging to their region or country so that they are not easily persuaded into transactional and corrupt behavior – this is what is known as a secondary approach.

The supervisory function carried out in preventing criminal acts in the General Election in Majene Regency, Bawaslu is still conducting socialization about the prohibitions of money politics, in particular, we increase knowledge to voters so that they are not influenced by the promises of the election participants themselves in the sense that the legislative candidates and head candidates area in the election.²⁰

Continuing from the results of a direct interview with the chairman of the Bawaslu commissioner, he explained that one of the programs pursued by the Majene Regency Bawaslu is a citizen forum, namely we invite the community, both youth

¹⁹Ibid, p. 11

²⁰ Interview results from the Majene Regency Bawaslu commissioner

voters and women and others who have influence in the community itself and we socialize it. regarding prohibitions in the general election. There is also one action that Bawaslu has taken, namely that the Bawaslu leadership itself goes to every political party and socializes the prohibitions in elections, be it the election of candidates for regional heads or candidates for regional heads.

Law enforcement efforts against election crimes are a way to produce an honest and fair election carried out by utilizing criminal sanctions in the form of imprisonment and confinement/fines. The use of criminal sanctions as an instrument of law enforcement is the application of criminal law in an effort to tackle crime as part of legal politics. The security of the general election is functioned by the police because the police are a subject that is included in the vortex of the political agenda itself. Elections that are free, honest and fair are clearly indicators of a mature democratic country.²¹

The facts in the field obtained by the author through the interview process with the Satreskrim Polres Majene Regency regarding the police efforts that have been and will be carried out in tackling election crimes are divided into three stages, namely the pre-emptive stage, the preventive stage, and the repressive stage. Efforts or efforts to overcome election crimes at the pre-emptive stage, Majene District Police have provided guidance to the community through socialization and counseling regarding election crimes. This socialization and counseling has been and will be carried out to people in rural areas as well as those in the educational environment.

With the stipulation of strategies in order to realize the main policies above, it is also necessary to arrange efforts for each strategy so that it can be realized in real terms. At the same time, this effort involves various parties, both the government (executive, legislative, judicial), political parties, and society in general.

In order to avoid the possibility of electoral manipulation as well as strengthening control institutions, apart from recruiting the implementing committee from independent circles through an open selection system, it also involves public participation to oversee the implementation of the election, with the necessary improvements related to:

- a. Completion of the apparatus recruitment system by prioritizing ability, competence, expertise, and integrity.
- b. Completion of the professional education system by prioritizing a curriculum that supports mastery of legal materials and juridical technical skills, supports increased moral integrity, supports fostering commitment and discipline.
- c. Improved income in accordance with the burden of duties and responsibilities carried out. It is also necessary to apply a reward and punishment system in every task implementation.
- d. Improvement of the promotion system by prioritizing work performance, track record, and competence.

4. Forms of Implications and Sanctions for Accountability for Money Politics in the Pilkada

One form of violation of the general election process that often occurs is the case of money politics in the campaign process. Money politics can be carried out by various

²¹ The results of the interview from the Majene Regency Police Criminal Investigation Department on September 29, 2021

parties, whether candidates for regional elections, the success team and other parties involved in the election process. The form of money politics is to provide rewards in the form of money or material and can also be in the form of daily necessities such as basic necessities, to gain public sympathy by expecting the community to vote for candidates for regional elections.

Regarding sanctions for candidates for regional elections who carry out money politics, there are various rules:

Based on the Criminal Code, Article 149 is:

- a) Any person who, when an election is held based on general rules, by giving or promising something, bribes someone so that he does not exercise his right to vote or to exercise that right in a certain way, shall be punished by a maximum imprisonment of nine months or a maximum fine of four thousand and five hundred rupiah.
- b) The same punishment applies to voters who, by accepting a gift or promise, are willing to be bribed.

Further arrangements are regulated in Law Number 10 of 2016 concerning the Second Amendment to Law Number 1 of 2015 concerning Stipulation of PP in Lieu of Law Number 1 of 2014 concerning the Election of Governors, Regents, and Mayors to become Laws, Article 73 explains that:

- 1) Candidates and/or Campaign teams are prohibited from promising and/or giving money or other materials to influence the Election organizers and/or Voters.
- 2) Candidates who are proven to have committed violations as referred to in paragraph (1) based on the decision of the Provincial Bawaslu may be subject to administrative sanctions of cancellation as a candidate pair by the Provincial KPU or Regency/Municipal KPU.
- 3) The Campaign Team who is proven to have committed the violation as referred to in paragraph (1) based on a court decision that has permanent legal force will be subject to criminal sanctions in accordance with the provisions of the legislation.
- 4) Apart from Candidates or Candidate Pairs, members of Political Parties, campaign teams, and volunteers, or other parties are also prohibited from intentionally committing unlawful acts by promising or giving money or other materials in return for Indonesian citizens, either directly or indirectly for:
 - a. influencing voters not to exercise their right to vote;
 - b. use the right to vote in a certain way that results in an invalid vote; and
 - c. influence to choose certain candidates or not to choose certain candidates.

5. The provision of administrative sanctions for violations as referred to in paragraph (2) does not invalidate the criminal sanctions.

Article 187A

- a) Anyone who intentionally commits an unlawful act promises or gives money or other materials in return for an Indonesian citizen either directly or indirectly to influence voters not to exercise their right to vote, to exercise their right to vote in a certain way so that the vote becomes invalid, to vote certain candidates, or not choosing certain candidates as referred to in Article 73 paragraph (4) shall be punished with a minimum imprisonment of 36 (thirty six) months and a maximum of 72 (seventy two) months and a minimum fine of Rp. 200,000,000.00 (two

hundred million rupiah) and a maximum of Rp.1,000,000,000.00 (one billion rupiah).

- b) The same punishment is applied to voters who intentionally commit an unlawful act of accepting a gift or promise as referred to in paragraph (1).

Although in Article 73 Junto Article 187 A it is emphasized that the prohibited act is giving or promising "money or other materials", but in the explanation of Article 73 paragraph 1 it limits what is meant by money or other materials.

Elucidation of Article 73 paragraph 1:

What does not include "giving money or other materials" includes the provision of food and drink costs for campaign participants, transportation costs for campaign participants, costs for procurement of campaign materials at limited fund meetings/or face-to-face meetings and dialogues, and other prizes based on the fair value and expensiveness of an area that determined by KPU regulations.

Regarding the exception from a criminal act, another material which can be interpreted as a gift or promise in the form of goods, then a gift or promise in the form of goods, the giving of money for the purpose of food and drink costs for campaign participants, transportation costs, procurement costs for campaign materials, and other prizes, as long as everything is within reasonable limits, it cannot be considered a criminal act of bribery to voters.²²

Regarding the perpetrators of the crime of bribery to voters in the Criminal Procedure Code, it is only stated that the word "whoever" means anyone or anyone. Whereas in the election law, the perpetrators of criminal acts are concretely named, especially in Article 73 paragraphs (1), (2), and (4) including: candidates, campaign teams, volunteers, members of political parties, and other parties.²³

Meanwhile, the method of realizing this need in the Criminal Procedure Code, it is stated that by giving or promising. Similarly, in the election law, it is also stated that the way to make it happen is by providing funds/or promising. In KUHAP these elements can apply alternatively and can apply cumulatively.

What is meant by giving and promising in these terms?

- a) Giving is an action in the form of giving something to another person or group of people.
- b) Promising is enough for the perpetrators to only speak with the lure of something.²⁴

Based on the explanation of the laws and regulations above, it can be concluded that anyone who is proven to have intentionally committed an unlawful act promises or gives money or other materials as a reward to Indonesian citizens, either directly or indirectly to influence voters not to exercise their right to vote. using the right to vote in a certain way so that the vote becomes invalid, choosing a certain candidate, or not choosing a certain candidate can be punished based on a court decision in accordance with the sanctions written in the regulations that govern it.

However, for candidates who are proven to have committed a crime, money politics is criminalized as stated in Law Number 10 of 2016 concerning Pilkada. In the phrase of Law Number 10 of 2016 paragraph 2 it reads, administrative sanctions apply

²² Amir Ilyas, Crime of Regional Head Election p. 43

²³ Amir Ilyas, Op.cit p. 41.

²⁴ Amir Ilyas, Op.cit, page 42

to pairs of candidates, if a pair of candidates is proven to have committed money politics, Bawaslu can cancel as a candidate for regional head, and if the result of the determination of the majority of votes then there are pairs of candidates who object to the the results of the vote on the grounds of alleged money politics, other paslons can report to Bawaslu for alleged violations of TSM Administration provided that it has been proven to have violated the TSM administration, the Bawaslu can abort the candidate as a candidate participant as regulated in Bawaslu Regulation No. 9 of 2017 in Chapter II. Authority and Object

Article 3

- (1) Provincial Bawaslu has the authority to handle violations of TSM Election Administration.
- (2) In handling violations of TSM election administration as referred to in paragraph (1), the provincial Bawaslu is assisted by the secretariat of the Provincial Bawaslu.

Article 4

- (1) The object of handling the TSM Election Administration Violation as referred to in Article 3 is the act of a candidate in the form of promising and/or giving money or other materials to influence the election organizers and/or voters that occurs in a structured, systematic and massive manner.
- (2) Structured, Systematic, and Massive in violation of the Administration of TSM election as referred to in paragraph (1) includes:
 - a. Fraud committed by structural apparatus, both government apparatus and election organizers collectively or jointly
 - b. Violations that are carefully planned, structured, even very neat
 - c. The impact of a very wide violation of the influence on the election results is not only partial.

Sanctions for Election Contestant Candidates Who Conduct Money Politics One form of violation of the general election process that often occurs is the case of money politics in the campaign process. Money politics can be carried out by various parties, whether candidates for regional elections, cadres, success teams and other parties involved in the election process. The form of money politics is to provide rewards in the form of money or materials and can also be in the form of daily necessities such as basic necessities to get the sympathy of the community and hope that the community will vote for the prospective participants.

This has become one of the new paradigms in legal life, where approaching the election process there will be many issues regarding the existence of money politics. The existence of money politics in the midst of society will actually have a bad impact on politics and the democratic system in Indonesia. As a result of its long-term sustainability, now people are starting to distrust politics. For some people who will be in power in politics are those who have money. So basically power in politics will happen if you have money.

People's thinking like this is actually wrong and wrong. If there is a synergy between the community and the democratic system, the wheels of government will run well and people's lives will be in a better order of life. Money politics is one thing that is not justified by law. Money politics can have a negative influence on the community and the candidates for the Pilkada themselves.

The community will probably regret it if later the policies and work programs do not go as expected. Meanwhile, candidates for Pilkada will have the risk of being expelled from their participation rights in the Pilkada if they are found to have violated money politics. In an effort to overcome this problem, the Government has set strict sanctions for candidates who violate money politics. Regarding the sanctions for prospective participants

Pilkada that conduct Money Politics is contained in various regulations, namely Law Number 10 of 2016 and the Criminal Code. Law Number 10 of 2016 in Article 187A explains that:

"Whoever intentionally commits an unlawful act by promising or giving money or other materials in exchange for an Indonesian citizen, either directly or indirectly, to influence voters not to exercise their right to vote, to exercise their right to vote in a certain way so that the vote becomes invalid, choose certain candidates, or do not choose certain candidates as referred to in Article 73 paragraph (4), shall be punished with imprisonment for a minimum of 36 (thirty six) months and a maximum of 72 (seventy two) months and a fine of at least Rp. 200,000,000. (two) hundred million rupiah) and a maximum of Rp. 1,000,000,000 (one billion rupiah).

Meanwhile, in CHAPTER V of the Criminal Code regarding the inclusion of criminal acts, precisely in Article 55, it is explained that:

- 1) Convicted as a perpetrator of a crime:
 - a) those who do, who order to do, and who participate in doing the deed;
 - b) those who by giving or promising something by abusing their power or dignity, by means of force, threats or misdirection, or by providing opportunities, means or information, intentionally encourage others to take action.
- 2) Against the proponent, only actions that are intentionally recommended are taken into account, along with their consequences. Article 149
 - a) Whoever during a general election based on general regulations, by giving or promising something, bribes someone so as not to exercise their right to vote or to exercise their right in a certain way, is threatened with imprisonment for ever. nine months or a maximum fine of four thousand five hundred rupiah.
 - b) The same penalty applies to voters who by accepting a gift or promise want to be bribed.

D. CONCLUSION

Based on the results of research and analysis of discussions about the Analysis of Settlement of Money Politics in the Regional Head Election of Majene Regency

1. The process of resolving money politics in the Regional Head Election of Majene Regency is considered not optimal, because there are often conflicts of opinion related to regulations between the Sentragakkumdu parties, namely Bawaslu, the Prosecutor's Office, and the Police which has become an obstacle for Bawaslu in handling cases of Money Politics Crimes. This difference of opinion should not have occurred because the regulations governing the Violation of Money Politics Crimes have been specifically regulated in Law Number 10 of 2016 concerning the Election of Governors, Regents, and Mayors, which in these rules are very clear on which ones can be categorized as Violations. Money Politics Crime.
2. A person can be held criminally responsible if he has fulfilled the elements or formulation of the offense that has been determined in the legislation. Besides that,

the most important thing from criminal responsibility is the existence of errors inherent in the perpetrators. Based on Article 149 of the Criminal Code and Article 73 of Law Number 10 of 2016 both Articles explain that anyone who is proven to have intentionally committed an unlawful act promises or gives money or other materials as a reward to Indonesian citizens, either directly or indirectly for influencing voters not to use their right to vote in a certain way so that the vote is invalid, they can be punished based on a court decision in accordance with the sanctions written in the regulations that govern it.

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