

# CHAPTER I

## INTRODUCTION

### A. Background

Money Politics and vote-buying have also made election results have little or nothing to do with the performance in office of politicians. Precisely because performance is not a critical factor in electoral outcome, the incentive to perform is very weak. And because vote-buying is very effective in achieving electoral victory the resort to it is very high. Consequently, elected public office holders who spent huge sums of money to secure victory at the polls would usually have a greater propensity to pursue their private business and financial interest and sometimes those of their corporate sponsors or mentors and financiers. In this situation, public interest takes the back seat in the calculation, thus degrading the responsibilities of the elected officials to the people.<sup>1</sup>

The term money politics is not recognized in the legislation on elections, both the general elections of the House of Representatives (DPR), the Regional Leadership Council (DPD) and the Regional Representatives Council (DPRD), the President and Vice President as well as the law on the Election of Regional Head-Deputy Regional Head.<sup>2</sup> Weaknesses in the electoral system provide opportunities for legislative candidates to play money politics due to defects in supervision. Violations of Article 301 paragraph (1)

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<sup>1</sup> Ovwasa O. Lucky Ph.D (Associate Professor), "Money Politics and Vote Buying in Nigeria: The Bane of Good Governance", *Mediterranean Journal of Social Sciences MCSER Publishing*, Rome-Italy, Vol 5 No 7 (2014), hlm.104.

<sup>2</sup> Imawan Sugiharto, 2021, *Politik Uang dan Permasalahan Penegakan Hukumnya*, Pekalongan, PT. Nasya Expanding Management - Anggota IKAPI, hlm. 11.

of Law Number 8 of 2012, which legislative candidates mostly carry out during the campaign period, are money politics, the majority distributing money and goods to prospective voters during the campaign.<sup>3</sup>To influence people's decisions to vote for these candidates in the General Election, the practice of money politics is a practice that is very much against democratic values. The practice of money politics is mysterious because it is difficult to find data to prove the source of the practice because those who accept prospective voters are waiting for gifts from the candidates or their success teams, let to report them to the supervisory committee authorized parties, but ironically this money politics practice has become a habit and an open secret in Indonesia. In reality, the democratic electoral system in Indonesia still needs a lot of improvement.

Money politics is a terrifying scourge for Indonesia's democratic process. Politics and money are two distinct groups that cannot separate. It's because people need money to do politics and can only do politics with money. The money politic is essentially a rather enticing forum to conduct various transactions. Actually, legal instruments have anticipated this (criminal law instruments) by providing a prohibition on money politics, violations of politics have at least two solutions, namely the settlement of administrative and criminal sanctions by the police.<sup>4</sup> Another thing that needs to be emphasized by the author in his writing this time is related to the

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<sup>3</sup> Asnawi, "Penegakkan Hukum Tindak Pidana Politik Uang Pemilihan Umum Legislatif pada Masa Kampanye di Kabupaten Serang", *Jurnal Mimbar Justitia*, Vol. II, No.02 (2020), hlm. 25.

<sup>4</sup> Lihat pasal 93, 94 ayat 3 bagian c UU No 7 tahun 2017 tentang Pemilihan Umum. "tugas bawaslu ialah mencegah politik uang" "bawaslu memeriksa, mengkaji, dan memutus pelanggaran politik uang".

understanding of money politics itself, because it is undeniable that democratic parties/general elections in any part of the world do require money/capital both by the organizers and the election participants themselves, so an understanding is needed.

The same thing regarding what actions and how money politics can be categorized as an act of election violation and even fall into the category of election crime. For example, during the campaign period, election participants/candidates for President or vice president are given time and space to conduct open campaigns and present large numbers of masses/communities, on the other hand, in the case of people coming to the campaign venues, a certain amount of money is given by election participants. In this case, giving the amount of money can be categorized in money politics activities, things like this need good and correct affirmation based on the point of view of legal science.<sup>5</sup> First To answer this first problem, the author will start by presenting an argument about the need for money/capital elections. Wherever, and whenever an election is held, both the implementation and the participants of the election cannot be denied that it requires no small amount of money, because it is impossible in an election event that an election participant does not spend money/capital to participate in the election. Even the minister of home affairs also conveyed the same thing, that a candidate for regent or mayor needs at least 20 to 100 billion in political capital or costs to

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<sup>5</sup> Muhammad Hoiru Nail, "Kualifikasi Politik Uang dan Strategi Hukum dan Kultural Atas Pencegahan Politik Uang dalam Pemilihan Umum", *Jurnal Yuridis*, Vol. 5, No. 2 (2018), hlm. 248-250.

participate in the election.<sup>6</sup>

Thus, it cannot be denied that the participation of election participants or regional heads requires money/capital, it is not a problem when the capital is actually used for the benefit of winning in the true sense (purchase of attributes, advertisements, t-shirts and others that are justified in elections), but not a few of the election participants with very big ambitions used prohibited methods, such as by carrying out money politics.<sup>7</sup> Furthermore, money politics undervalues the electorate, leaders, and the nation's political institutions. Consequently, it also triggers conflicts, which wreak *havoc* on national stability. Money politics creates an unpredictable political climate and situation, limiting the opportunities for eligible district heads, affecting people's political engagement in the district and general elections, and hurting both democracy and the people. The explanation for money politics has been explained in many aspects ranging from law enforcement against election violations, weak party institutions, to unintelligent voters.<sup>8</sup>

One of the crucial issues in Indonesian polls that have not been wholly combated is money politics; as stated by Jeffrey A Winters, money politics is the political act of mobilizing voters to elect certain political parties and candidates at the polling stations by giving a sum of money in return, goods or

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<sup>6</sup> Kompas.com, 2018, *Mahalnya Ongkos Politik*, [Nasional.kompas.com/read/2018/01/12/09494501/mahalnya-ongkos-politik](https://nasional.kompas.com/read/2018/01/12/09494501/mahalnya-ongkos-politik), (Diakses tanggal 11 Oktober 2020 Pukul 20.15 WIB).

<sup>7</sup> Muhammad Hoiru Nail, "Kualifikasi Politik Uang dan Strategi Hukum dan Kultural Atas Pencegahan Politik Uang dalam Pemilihan Umum", *Jurnal Yuridis*, Vol. 5, No. 2 (2020), hlm. 250.

<sup>8</sup> Sunaji Zamroni, Titok Hariyanto, DKK, 2016, *Partai Politik, Uang, dan Pemilu*, Yogyakarta, Perpustakaan Nasional: Katalog dalam Terbitan (KDT), hlm. 17.

services.<sup>9</sup>

We often encounter money politics in Indonesia just before the General Election. Not only in the election of state leaders but also in the election of legislative candidates. They started from the election of village apparatus, district/city, provincial, to central level institutions. Even though there is an Election Supervisory Body (Bawaslu), we can still find the practice of money politics in the field. This was done to gain the support and sympathy of the people with shortcuts. Money politics in elections can open the proliferation of corruption in elections, such as election malpractice, election manipulation, and election fraud. In this case, elections are not consequential to a democratic system because they have made elections as mere means of gaining power but have nullified the democratic process.<sup>10</sup>

Although it is evident in Points 1 and 2, the applicant has submitted an application related to the indication of Money Politics in the 2020 South Kalimantan Governor Election conducted by candidate pair No. 01 and was rejected by the Constitutional Court because there is still a lack of evidence and or formal requirements to prove the occurrence the practice of money politics. Still, we can see in Constitutional Court Decision Number 124/PHP.GUB-XIX/2021 that the Constitutional Court Justices did not reject all of the points in the main points of the petitioner's application and have accepted some of the points of the petitioner's petition, namely those contained

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<sup>9</sup> Jeffrey A. Winters, 2011, *Indonesia Negara Demokrasi Tanpa Hukum*, <https://ugm.ac.id/id/berita/3251-jeffrey-winters-indonesia-negara-demokrasi-tanpa-hukum>, Accessed on April, 29 2021 at 1.20 pm.

<sup>10</sup> Sarah Birch, 2007, *The SAGE Handbook of Comparative Politics*, London, SAGE Publications Ltd, hlm. 395–409.

in points 5, 6, and 7 :<sup>11</sup>

1. 100% Voter Attendance at 24 TPS in Binnuang District, Tapin Regency.
2. South Banjarmasin District, Banjarmasin City open a Ballots box by PPK.
3. There is an inflated vote in Banjar Regency.

From the case in the 2020 South Kalimantan Governor Election, I suspect there has been a structured practice of injustice or unfairness in the election process. The petitioner also proposes some points of Money Politics. Although it is difficult to prove it, we can analyze the main issues of the petition received by the Constitutional Court carefully. Therefore, the Constitutional Court decided to hold re-election in several polling stations, which indicated that the Luber-Jurdil (Direct, Public, Free, Secret - Honest and Fair) principle was carried out by several parties.

That from the manipulation of voter attendance to 100%, inflating the vote, to the opening of the election ballot box, from here I suspect that the person who committed and carried out the violation saved it for nothing, or it can be said that this is where the indication of money politics is applied. Because money politics is very difficult to prove clearly, the recipients will be afraid to complain to the authorities, and sanctions or punishments can ensnare them. Many Constitutional Law Experts say that; money politics is like a fart, there is a smell but no form; that's the term.

According to the Constitutional decisions Number 124/PHP.GUB-

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<sup>11</sup> Constitutional Court Decision Number 124/PHP.GUB-XIX/2021 about Dispute Over The Results of the Kalimantan Governor Election 2020.

XIX/2021, In the principal petition of the petitioner, it is stated that the votes acquired by the candidate pair for governor and deputy governor number 1 (H. Shobirin Noor - H. Muhidin) in ways that violate the principles of LUBER (Direct, General, Free, Secret) and JURDIL (Honest and Fair) as the principle has been regulated in Article 22E paragraph (1) of the 1945 Constitution. Under Laws and regulations, especially the implementation process which must be guided by the principles of Direct, Public, Free, Confidential, Honest, and Fair (Luber and Jurdil) as stipulated in Article 2 attachment of Law 1/2015 which has the same spirit as Article 22E paragraph (1) the 1945 Constitution which states, "General elections are held in a direct, general, free, secret, honest and fair manner every five years."

So, from these cases, it has been proven that the governor election in South Kalimantan was carried out with elements of unfair election.. Therefore, the Constitutional Court decided to conduct re-election in several sub-districts, confirming an unfair election. In addition, the re-election was because the difference in votes between candidate pair number 1 (Shabirin Noor - Muhidin) and candidate pair number 2 (Denny Indrayana - Difriadi) very thin. Then after re-election, pair number 1 is the winner. From this case, we can see that re-election in election disputes will not deter the perpetrators. Still, the perpetrators will think of more practical things or ways to get high votes by violating the rules set out in the 1945 Constitution. And because In the re-election, the two related parties who have been proven to have committed violations won and got the highest vote again, then the applicant filed another

lawsuit to the Constitutional Court.

Still, the applicant's claim was rejected on the pretext that the difference in votes between pair number 1 and pair number 2 was very far. To obtain the purity of the votes, and for the sake of the validity of the respective votes, pairs of candidates will increase the legitimacy of each candidate's vote acquisition, as well as to realize the principle of democracy that respects every vote of the voter, and also to uphold the principle of a fair and fair general election, then to all TPS in 5 (five) sub-districts, namely Sambung Makmur Sub-district, Aluh-Aluh, Martapura District, Mataraman District, and Astambul District, must be re-election by provisions as will be mentioned in the *quo case* decision.<sup>12</sup> Then, The local KPU runs the assistance of the new voting group (KPPS) and the new sub-district election committee (PPK). The new KPPS and PPK are under the order of the Constitutional Court.<sup>13</sup> There are 827 polling stations in the PSU with several voters according to the final voter list (DPT) of 266,736 people. From that issue, we can conclude that the practice of money politics still occurs in Indonesia.

Election fraud is illegally interfering in elections by increasing someone's vote candidate, reducing votes to other candidates, or both. At the same time, corrupt campaign practices are a campaign carried out using state facilities and money country by the candidate who is holding power. In short, corruption politics are always intertwined with corruption electoral, for example, fraud in a campaign or at the polls. As a result of the occurrence of

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<sup>12</sup> Constitutional Court Decision Number 124/PHP.GUB-XIX/2021 about Dispute Over The Results of the Kalimantan Governor Eleccion 2020.

<sup>13</sup> *Ibid.*



money politics on the sustainability of democracy in Indonesia, repeated campaign violations have even become a culture within politics in every election period is money politics here are some of the consequences of the culture of money politics in a democratic system. In Indonesia money politics demeans people's dignity, money politics is a trap for the people, money politics kills political cadre, money politics will lead to corruption, money politics kill Society Transformation.<sup>14</sup>

If examined more deeply, the essence of money politics is not in line, and compound with three purposes of operation Elections are as follows: first, strengthen the constitutional democratic system. Second, realizing elections fairness and integrity. Third, realizing effective elections and efficiency.<sup>15</sup> Money politics obviously cannot strengthen the constitutional system because it hijacked democracy through electoral corruption.

## **B. Research Problem**

1. How is the impact of money politics on Democratic System in the case of the South Kalimantan Local Election?
2. How to overcome the practice of money politics in the local election?

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<sup>14</sup> Nisa Nabila, Paramita Prananingtyas, Muhamad Azhar, "Pengaruh Money Politic dalam Pemilihan Anggota Legislatif Terhadap Keberlangsungan Demokrasi Indonesia", *Notarius*, Volume 13 Nomor 1 (2020), hlm. 20.

<sup>15</sup> Hariman Satria, "Politik Hukum Tindak Pidana Politik Uang Dalam Pemilihan Umum di Indonesia", *Integritas Jurnal Anti Korupsi KPK*, Vol. 5 No. 1 (2019), hlm. 30.

### **C. Objective of Research**

Based on the problem formulation that has been stated, the objectives of this research are:

1. To understand the factors that influence the practice of Money Politics in elections.
2. To evaluate the impacts of Money Politics in the local Election of South Kalimantan 2020.
3. To propose recommendations on overcoming the problem of Money Politics in elections to create a better democratic system.

### **D. Benefit of Research**

1. Theoretical Aspect

The research contributes to the development of science. It helps increase the insight and knowledge of readers and related writers about the Impact of Money Politics to the Indonesian Democratic System: with special reference to the South Kalimantan Governor Election 2020.

2. Practical Aspect

The research will give recommendations and some suggestions to policymakers related to Money Politics.