

CRIMINAL ACT OF MONEY POLITIC ON THE ELECTION OF THE HEAD OF SRIBATARA VILLAGE LASALIMU DISTRICT, BUTON REGENCY

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ABSTRACT

In the implementation of the Sribatara Village Head Election in 2018, many people were saddened by money politics, it was even said that money had distorted the implementation of democracy and this showed that the power of money in politics cannot be denied and things like this can damage the image of our democracy which has an impact on development in the village. This research was conducted in Sribatara Village, Lasalimu District, Buton Regency with the type of empirical juridical research. While the research specifications used are descriptive qualitative. The research data used in this study are primary data and secondary data. The method of data collection is done by interview and documentation which is analyzed descriptively with inductive technique. Research result explained that most of the people of Sribatara Village were involved in money politics in the Sribatara Pilkades, this was due to the fact that the settlement of money politics crimes had not been explicitly regulated, so that almost all Sribatara Village Head candidates were also involved in money politics which was carried out at the pre-voting stage, and there was no format. complaints of disputes, whether process disputes, outcome disputes or money politics, then in the Buton Regional Regulation number 8 of 2015 concerning Procedures for the Election, Appointment and Dismissal of Village Heads, it can be said that there is a legal vacuum. Settlement of the crime of Money Politics for the Village Head Election of Sribatara Village in the Perda in question there are no legal rules that specifically regulate how Settlement of money politics crimes. This results in difficulties in resolving money politics criminal cases legally, which means ideally through legislation and regulation the settlement of which should be examined, tried and decided by a court institution so that it is able and can guarantee the completion of the Crime of Money Politic for the Sribatara Village Head Election.

Keyword: Buton Regency, Money Politics, Regional Regulation,

1. INTRODUCTION

One of the characteristics of a democratic country is the holding of scheduled and periodic general elections. Therefore, without holding elections, the democratic nature of a country will be lost. Thus, so that the nature of the democratic state can be guaranteed by the existence of elections, the implementation of elections must be carried out with integrity and quality. Money politics is one practice that can create political corruption. Money politics as the mother of corruption is the main problem and most often occurs in Indonesia, both in the Village Head Election (Pilkades) [1].

The hope for holding a quality general election turned out to be a very small hope because that hope was tainted by the many violations in the administration of elections, one of which was money politics, which is a form of election crime. According to Yusril Ihza Mahendra [2] the definition of money politics is very clear, namely influencing the general election with material rewards. The practice of money politics in addition to destroying the

morality of the nation, also damages the next generations of the nation, and makes the election failure to produce leaders who are in favor of the interests of the people, who make money the most effective way to get what they want by way of which is not true.

Election is the process of selecting people to fill certain political positions. The general election system has an honest and fair democratic mechanism and process that is guaranteed by a number of laws. The 1945 Constitution of the Republic of Indonesia Article 2 paragraph (1) states that "sovereignty is in the hands of the people and is carried out according to the Constitution". The election of the Village Head is regulated in Law Number 6 of 2014 concerning Villages article 37 paragraph (6) in the Settlement of disputes over the results of the election of the village head or the Village Head elected directly by and from the Village residents, Citizens of the Republic of Indonesia and requirements with a term of office 6 (six) years from the date of inauguration.

The Election of Village Heads in Law Number 6 of 2014 is regulated to be carried out simultaneously in all Regency/City areas and for the Election of Village Heads for the Buton Regency it is regulated in Regional Regulation Number 8 of 2015 concerning Procedures for Election [3], Appointment and Dismissal of Village Heads with the aim of to avoid negative things in its implementation. However, in the political context of Pilkades, money politics often occurs which is used by village head candidates with sufficient finances to attract voter sympathizers so that they can win certain village head candidates, while those who have adequate capacity and resources as Village Heads if they don't have enough finances are difficult. To win the Pilkades.

In the implementation of the 2018 Sribatara Village Head Election, many people were saddened by money politics, it was even said that money had distorted the implementation of democracy and this showed that the power of money in politics could not be denied having played a strategic role in the election of any political office and things like this could damage the image of democracy. Therefore, this study intends to try to examine and explore how Positive law views money politics from the various aspects in it in the Election of the Sribatara Village Head, Lasalimu District, Buton Regency.

2. RESEARCH METHODS

This research was conducted in Sribatara Village, Lasalimu District, Buton Regency. This research is a type of empirical juridical research, namely the findings in the research will be analyzed in words or sentences. While the research specifications used are descriptive qualitative with the aim of collecting information or data to be compiled, explained and analyzed, and are not intended to test certain hypotheses but only describe what they are about a fact, symptom or situation [4]. The research data used in the study were classified as primary data in the form of written notes from interviews as well as direct documentation from respondents and secondary data.

The data collection method in this study used the interview and documentation method. The analytical method that the author uses in this research is descriptive analysis with inductive techniques. This analysis starts from data collection, data reduction, and data verification. Conclusions and presentation of research reports from the data obtained through interviews, so it can be analyzed and obtain an overview of the political crime of village head elections in a positive legal perspective in Sribatara Village, Lasalimu District, Kabupaten Buton

3. RESULTS AND DISCUSSION

Pilkades is a democratic presentation like a people's party, which is carried out simultaneously and in waves in various regions with village head candidates, namely the village community, usually having high participation during the Village Head Election. Nomination issues that sometimes seem sexy are often discussed one year before the Village Head Election takes place, the aim is to make the community aware that there will be a village head candidate who wants to be elected in the Village Head Election.

The simultaneous Pilkades was attended by 54 villages from 83 villages in Buton Regency, one of which was Sribatara Village, Lasalimu District. In the implementation of the Pilkades, of course, there must be a legal umbrella as a legal instrument that can be used in the process of implementing Pilkades activities in the Buton Regency area, namely:

- a. Buton Regional Regulation Number 8 of 2015 concerning Procedures for Election, Appointment and Dismissal of Village Heads, which are carried out simultaneously and in waves
- b. Decree of the Regent of Buton Number 225 of 2018 dated May 11, 2018 concerning the Implementation of Simultaneous Village Head Elections (Pilkades) in the Buton Regency Region.

3.1 Handling election crimes based on Law Number 7 of 2017 concerning General Elections

Criminal regulation is one of the corridors in organizing elections which is fully explained in Law Number 7 of 2017 concerning General Elections which formulated the money politics crime. The formulation of the Money Politics Crime can be seen in Article 519, Article 521 and Article 523 of Law Number 7 of 2017 concerning General Elections. The sound of these Articles is as follows:

Article 519

“Everyone who intentionally commits a fraudulent act to mislead someone, by forcing, by promising or by giving money or other materials to obtain support for the nomination of DPD members in the General Election as referred to in Article 183 shall be punished with imprisonment for a maximum of 3 (three) years. And a maximum fine of Rp. 36,000,000.00 (thirty six million rupiah).”

Article 521

“Every election campaign implementer, participant, and/or election campaign team who intentionally violates the prohibition on the implementation of an election campaign as referred to in Article 280 paragraph (1) letter a, letter b, letter c, letter d, letter e, letter f, letter g, letter h, letter i, or letter j shall be sentenced to a maximum imprisonment of 2 (two) years and a maximum fine of Rp. 24,000,000.00 (twenty four million rupiah).”

Article 523 paragraph (1)

“Every Election Campaign implementer, participant, and/or Election Campaign team who intentionally promises or gives money or other materials as a reward to Election Campaign participants directly or indirectly as referred to in Article 280 paragraph (1) letter j shall be punished with imprisonment for a maximum of 2 (two) years and a maximum fine of Rp. 24,000,000.00 (twenty four million rupiah)”

Article 523 paragraph (2)

“Every election campaign implementer, participant, and/or election campaign team who intentionally during the Calm Period promises or gives money or other material rewards to voters directly or indirectly as referred to in Article 278 paragraph (2) shall be punished with imprisonment for a maximum of 4 (four) years. Four) years and a maximum fine of Rp. 48,000,000.00 (forty eight million rupiah)”

Article 523 paragraph (3)

“Everyone who intentionally promises or gives money or other materials to voters on voting day not to exercise their right to vote or elect certain Election Contestants shall be punished with imprisonment for a maximum of 3 (three) years and a fine of a maximum of Rp.36,000,000.00 (thirty-six million rupiah)”

3.2 Handling of Election Crimes Based on Law Number 10 of 2016 concerning Regional Head Elections

A good election is one of the prerequisites for the creation of a democratic life ideal in a country (Mirriam. B, 2004: 47). Therefore, in Law no. 10 of 2016 stipulates that people who are involved in money politics are threatened with a maximum of 72 months in prison in addition to the corporal punishment, the perpetrators are also subject to a maximum fine of Rp. 1,000,000,000, - (one billion rupiah).

On September 21, 2018, the voting and counting of votes for the election of the Head of Sribatara Village, Lasalimu District, Buton Regency in 2018 was carried out which consisted of 3 (three) Hamlets namely Sribatara Hamlet, Lamangga Hamlet and Karawasa Hamlet.

Table 1. Results of the 2018 Sribatara Village Pilkades Committee Plenary Results

No.	Name of Village Head Candidate	hamlet Sribatara	Langga Village	Karawasa Village	Amount
1	Awaludin	59	27	45	131

2	Jamain	40	36	8	84
3	Kasmudin	36	49	48	133
4	Buntoro	0	14	15	29
5	Abdul Kudus Asamana	34	21	19	74
Amount		169	147	135	451

Data Source: Minutes of Plenary Results of the Sribatara Pilkades Committee in 2018

Based on Table. 5 above the valid votes, 451 (four hundred and fifty one) votes of which Dusun Sribatara was dominated by serial Number 1 (one) on behalf of Awaludin with 59 votes, and followed by serial Number 2 (two) on behalf of Jammain 40 votes while Dusun Lamangga The highest number of votes was won by serial number 3 (three), namely Kasmudin, 49 votes and the second highest vote was Jammain with 36 votes, Hamlet Karawasa the lowest vote was Jamin and the highest number was urut 3 (three) on behalf of Kasmudin. In accumulation, the average vote acquisition of the three dominant Hamlets is Kasmudin from the four rivals. So that the Pilkades contention was won by Kasmudin with the most votes 133 votes consisting of Hamlet Sribatara Dusun 36 (thirty six) votes, Hamlet Lamangga 49 (forty nine) votes and Hamlet Karawasa 48 (four eight) votes or a difference of 2 (two) votes. With his rival number 1 (one) on behalf of Awaludin, namely 131 votes.

The election of the village head is a political moment at the village level which shows that the village community has been involved in politics directly from the start. Based on the 2018 Village Building Index (IDM) data, the status of Sribatara Village is “underdeveloped” meaning that it is economically still lagging behind according to Fuji Hastuti saying that money politics culture cannot be separated from poverty, mentality, and culture factors that see politics as a means for things that materialistic nature. The slogan “there is a vote there is a picture” which can be interpreted as “no money, means no voting” [5], said that the factors that cause people to accept money politics are due to economic factors and change their minds in choosing.

So that on Thursday, September 20, 2018 at around 14.50 WITA, there was an alleged violation of money politics carried out by supporters of the candidate for Village Head Number 3 on behalf of the LP. According to Awaludin, one of the Village Head candidates explained that:

“Yes, it’s true that there was money politics carried out by LP Brothers. LP went to Marni and Mirna’s house and gave money on the grounds of transportation money from Bau Bau City to Sribatara Village, namely two envelopes each containing a fraction of Rp. 50.000,- 10 pieces, but the only reason is that the goal is actually to choose serial number 3 (three) because as far as I know they have never given that much money so far.

According to Zaman (2016: 47), money politics is money intended for certain purposes, such as the designation of certain political interests. Based on the statement above, this is a way for village head candidates in terms of money politics that is carried out before voting by visiting the homes of prospective voters to choose certain candidates through the Winning Team or Volunteer for each Village Head candidate. His statement is in line with the statement of Abdul Kudus Asamana who is also one of the candidates for the Sribatara Village Head who stated that:

“At that time, my team said that Brother LP (initials) was divided into Rp. 500.000,- per head only based on my team’s consideration, if it’s from our side who reports it will have a bad impact on our victory, because the people are supporters of Candidate number 3 it’s impossible for them to want to vote for me, okay...what do you want to do with that It’s a team decision.”

ThereforeThen money politics itself is carried out by the perpetrators in various ways in order to convey the political goals of the candidate for village head in gaining support from prospective voters. One of the residents of Sribatara Village with the initials SM who belongs to the lower class of SM, admitted to accepting and choosing candidates for Village Heads who carried out money politics. According to him, the phenomenon of money politics ahead of the Village Head Election can help meet the needs of his family, this informant interprets the game of money politics as an unexpected fortune. The following is a statement from one of the informants who did not want to be named with the initials SRN when interviewed stated that:

“Emmh... in my opinion, the practice of money politics ahead of the Village Head Election is fortunate, it can be said that it is a blessing in itself for people whose lives are deprived like me, sir... With the distribution of money and sarongs, at least it can help in fulfilling their needs. Necessities of life, especially by relying solely on rattan income, sometimes it is not enough to fill my family’s stomach”

This statement is one form of culture that will be reflected in the pattern of relationships that occur between individuals (group members) with one another, between individuals and their groups, and between groups and groups. The pattern of relations in the political system of a particular society is called Political Culture (Political

Culture). The meaning of this culture is politics is a pattern of behavior, as stated by Rusadi Kantaprawira [6], that political culture is nothing but a pattern of individual behavior and orientation towards political life that is lived by members of a political system. In fact, the term certain political culture is inherent in every society, which consists of a number of individuals living in both traditional and modern political systems...”.

Based on some of the results of the interviews above, it can be seen that due to the lack of political education so that people do not have political knowledge, according to Ramlan Surbakti, in providing an understanding of political education, it is necessary to explain in advance about political socialization [7]. This opinion implies that political education is part of political socialization. Political education teaches people to be more familiar with their country's political system. It can be said that political socialization is the process of forming political attitudes and orientations of members of society. Through this process of political socialization, community members acquire attitudes and orientations towards political life that takes place in society. In this case it can be seen that political education is not only studying individual attitudes and behavior. However, political education tries to relate the attitudes and behavior of these individuals to the stability and existence of the political system.

So that on September 26, 2018, one of the Sribatara Village Community Leaders on behalf of Adikurniawan, SH, reported an alleged criminal act (money politics) at the Sribatara Village Pilkades to the District Supervisory Committee and Lasalimu Police in the Buton Police Region, and in the village election it was deemed to have violated the provisions of the Regional Regulation. Buton Number 8 of 2015 concerning Procedures for Election, Appointment and Dismissal of Village Heads article 9 paragraph (1) states that:

“Voters who exercise their right to vote must be registered as voters based on data from the Regional Population Administration Information System (SIAPK).

The Buton Regional Regulation Number 8 of 2015 only stipulates a prohibition on the implementation of the campaign as outlined in Article 30 paragraph (1) letter j which states that: “and promising or giving money or other materials to Campaign participants”. As for then there was a violation in the implementation of the sanction campaign given to the candidate for the village head which was only limited to an oral warning which can be seen in Article 31 letter a it is stated that [8]:

“Campaign implementers who violate the campaign prohibition as referred to in Article 30 paragraph (1) are subject to sanctions: a written warning if the campaign implementer violates the prohibition even though there has not been a disturbance.

Ruling terms *money politics* ideally it creates a deterrent effect for election participants, candidates, as well as the campaign team, namely regarding the team for imposing administrative sanctions that can strictly reduce or disqualify them from the competition process and prohibit them from becoming or carrying candidates in the next village head election. If it is not regulated clearly, then it will be very difficult for law enforcers because the Village Law does not regulate. Government regulations which are the implementing regulations of the Village Law also do not regulate, either PP No. 43 of 2014, PP No. 47 of 2015, as well as the second amendment to PP No. 11 of 2019. While Regional Regulations that are given an attributive mandate by law to establish policies for the simultaneous implementation of Village Head elections, in all districts/cities also do not regulate money politics sanctions, both in the dimensions of administrative law and criminal law..

If referring to the Buton Regent Regulation Number 4 of 2016 concerning Technical Guidelines for the Stages of the Implementation of the Village Head Election, article 52 paragraph (1) it is stated that [9]:

“Violations at each stage of the village head are reported to the sub-district level supervisory committee by the community and/or village head candidates”

Thus, when there is a violation that injures democracy in dirty ways, of course, the community or prospective village head who feels aggrieved are given space by regulations to then report the matter. In connection with the dispute over the village head election, in accordance with the Buton Regional Regulation Number 4 of 2016 in Article 53 paragraph (3), it is stated that:

“The sub-district level supervisory committee decides to follow up on reports of violations as long as they are disputed and do not contain criminal elements”

Meanwhile, according to Law Number 12 of 2011 concerning the formation of laws and regulations [10], it is stated in Article 15 paragraph (1) that the content on criminal provisions can only be contained in a. Law, b. Provincial Regulation, or c. Regency/City Regional Regulations.

Then it was reaffirmed that Law Number 23 of 2014 concerning Regional Government [11] in relation to criminal acts was opened as the basis for the formation of a regional regulation to accommodate criminal sanctions, namely through:

Article 238 paragraph (1) states that:

“Perda can contain the threat of imprisonment for a maximum of 6 (six) months or a maximum fine of Rp. 50,000,000.00 (fifty million rupiahs)”

And in Article 238 paragraph (2) it is reaffirmed by stating that:

“Perda can contain the threat of imprisonment or a fine other than as referred to in paragraph (2) in accordance with the laws and regulations.

Based on the Regional Regulation of Buton Regency above, both in the following articles, it is not stated if there is an allegation money politics crime, the sub-district level supervisory committee provides direct recommendations to the police or to the complainant so that the police can follow up so that on the other hand the police cannot process reports of alleged money politics crimes because they do not specifically regulate money politics even though in Permendagri Number 112 of 2014 concerning Village Head Election Article 49 paragraph 1 it is only stated that the Pilkades is regulated by a Regional Regulation [12]. Juridically technically, the word “with” must be interpreted to mean that the regulation regarding the Pilkades must be based on a regional regulation and no longer delegated to other forms of regulation. Different from the word “based on” which arrangements can be freely delegated by other regulations,

This can be seen from the unclear arrangement of the Pilkades dispute. As a result of the uncertain definition of the object of dispute, legal standing, settlement mechanism, authorized institution, of course, it will be very difficult to settle the case legally and legal certainty which means that the same standard must be applied in the Pilkades.

Just like the Pilkada, Pilleg and Presidential elections where everyone can follow the process with the same standardization together in resolving disputes so that justice seekers have no difficulty in realizing quality Pilkades

One of the crucial issues in the election of the Village Head is the dispute resolution mechanism that contains money politics. Like general elections (elections) and regional head elections (pilkada), regional head elections also have the potential to cause disputes between candidates. Law Number 6 of 2014 concerning Villages does not seem to include the election of Village Heads in either the electoral regime or the regional election regime, so that the settlement process is made as simple as possible [13].

Article 37 paragraph (6) only states:

“In the event of a dispute over the results of the Village Head election, the Regent/Mayor is obliged to settle the dispute within the period as referred to in paragraph (5)”.

So that no later than 30 days from the date of receipt of the submission of election results by the Village Head Election Committee Article 37 paragraph (5). And the dispute resolution mechanism does not use an adjudication forum as befits an election/pilkada dispute, or only through mediation, or even fully determined by the Regent/Mayor without the need to summon the parties.

Democracy at the village level is a framework for reforming village governance or the relationship between the village government, the Village Consultative Body (BPD) and elements of the wider village community. For this reason, the practice of money politics in a village head election is clearly contrary to existing democratic values and has a bad impact on the current democratic system. However, this practice tends to be entrenched and even preserved in the midst of society in general, therefore a fair legal settlement is needed.

Therefore, although there is no specific regulation that stipulates thoroughly about the crime of money politics in village head elections, it is at least possible in the Criminal Code Article 149 paragraphs (1) and (2) to break the deadlock in law enforcement in money politics in village head elections. Which is a form of violation in the implementation of the Pilkades.

Based on the Criminal Code Article 149 paragraph (1) it is stated that:

“Whoever, when an election is held based on general rules, by giving or promising something, bribes someone so as not to exercise their 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 months. Thousand five hundred rupiah

And in Article 149 paragraph (2) it is stated that:

“The same punishment applies to voters who, by accepting a gift or promise, are willing to be bribed.”

The election of the village head is certainly included in the category of elections based on general rules. The election of the village head is based on general regulations, ranging from laws, government regulations, regional regulations, to regent’s regulations. The elements of action formulated in Article 149 paragraph (1) of the Criminal Code are:

1. Giving or promising something;
2. Bribing someone;

In the context of village head elections, based on the author's notes, the use of Article 149 of the Criminal Code has no precedent. As an effort to enforce the law, this effort is important and strategic. If we look closely, Article 149 of the Criminal Code is a formal offense in which the aspect of proving the occurrence of money politics will be easier than if the money politics offense is formulated as a material offense. Criminal law functions to protect the interests of individuals, society and the state. With the enforcement of Article 149 of the Criminal Code against money politics in the election of village heads, it is hoped that the election of village heads with integrity and accountability can be realized.

Regulatory makers may think too positively that the value of deliberation is considered to be very inherent in the village community so that if there is a dispute, it will be resolved by deliberation. Although this assumption is not wrong, regulations should still guarantee legal certainty. So that all parties can consciously and respectfully respect the right process and eliminate the law of the jungle (who is strong or close to the strong person will win). So, if this problem is solved by non-litigation, it will be very difficult because it takes a big soul to make peace efforts

4. CONCLUSION

The village head election is a form of village autonomy in the political field, aiming to choose a candidate for leader, the village head election is a form of democracy at the village level. The problem that occurs is that most of the village people are involved in money politics in the pilkades of Sribatara Village, this is due to the fact that the settlement of money politics crimes has not been explicitly regulated, so that almost all village head candidates carry out money politics which are carried out at the pre-voting stage, and there is no the format of dispute complaints, both process disputes and outcome disputes as well as money politics crimes, then in the Buton Regional Regulation number 8 of 2015 concerning Procedures for the Election, Appointment and Dismissal of Village Heads, it can be said that there is a legal vacuum.

The Settlement of Money Politics for the Village Head Election of Sribatara Village in the Buton Regional Regulation Number 8 of 2015 concerning Procedures for Election, Dismissal and Appointment of Village Heads, has not explicitly regulated the settlement of money politics. This can be seen from the unclear regulation of the Pilkades dispute, which results in uncertain definitions of the object of dispute, legal standing, settlement mechanisms, and authorized institutions, of course, it will greatly complicate the legal settlement of money politics crime cases, meaning ideally through legislation and regulations. Settlement of the Pilkades Money Politic Crime which should be examined, tried and decided by the judiciary so that it is able and can guarantee the completion of the Pilkades Money Politic Crime based on legal certainty and legal protection for the relevant stakeholders.. Regulatory makers may think too positively that the value of deliberation is considered to be very inherent in village communities so that if there is a dispute it can be resolved by deliberation, even though this assumption is not wrong, but regulations should still guarantee legal certainty. And on the issue of money politics in the election of the Sribatara Village Head, although the BPD and the Committee mediate the disputing parties and have taken deliberation steps but to no avail.

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