

Legal Position of Criminal Act of Political Corruption as Part of Reflection Money Political Practice

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Abstract: Until now, there has been no specific regulation regarding the crime of political corruption in the laws and regulations in Indonesia, but this kind of activity has become familiarly mentioned. This phenomenon makes the legal position of the criminal act of political corruption worthy of being a separate offense in a material criminal law regulation. The purpose of writing this article is to determine the legal position which can later be used as material to formulate a new criminal act in the form of political corruption in the applicable positive law. This article uses the normative juridical research method through statute approach, comparative approach, and conceptual approach, which aims to critically examine the legal position of the criminal act of political corruption as part of the reflection of money politics practices. The study results indicate that in the context of future legal reforms, money politics as a form of political corruption must be regulated as a special offense in the law on eradicating corruption. The novelty offered by the authors in this article is the idea of the need to criminalize political corruption as a separate crime in the future.

Keywords: democracy, political corruption, general election, money politics, crime.

政治腐败犯罪行为的法律地位作为反思的一部分金钱政治实践

摘要: 迄今为止, 印尼的法律法规中还没有关于政治腐败罪的具体规定, 但这种活动却被大家耳熟能详地提及。这种现象使得政治腐败犯罪行为的法律地位值得在重大刑法规定中单独犯罪。撰写本文的目的是确定法律立场, 该立场可以作为材料在适用的实在法中以政治腐败的形式制定新的犯罪行为。本文运用规范性司法研究方法, 通过成文法、比较法和概念法, 批判性地考察政治腐败犯罪行为的法律地位, 作为金钱政治实践的一部分。研究结果表明, 在未来法律改革的背景下, 金钱政治作为一种政治腐败形式, 必须在反腐倡廉法中作为一项特殊罪名加以规范。

关键词: 民主、政治腐败、大选、金钱政治、犯罪。

1. Introduction

Proceeding from the idea that humans are wolves for others (*homo homini lupus est*) who are always selfish and do not care about the needs of others, a rule or norm is needed to regulate it. Security and order in society will be created and maintained if every community member obeys the rules (norms) that exist in the community itself, and obeying them requires a sanction for violators. These norms include norms of decency and morality, religious and legal norms [1].

Indonesia is a state of law that has been explicitly stated in Article 1 paragraph (3) of the 1945 Constitution of the Republic of Indonesia. The characteristics of a state of law include, among others, [2]:

- 1) The existence of the Protection of Human Rights;
- 2) The existence of the supremacy of law;
- 3) Separation and division of state power;
- 4) Free judiciary.

The separation and division of state power as one of

the characteristics of the rule of law manifests the popular sovereignty theory coined by adherents of natural law teachings such as Locke, Rousseau, Montesquieu, and Kant. They generally stated that power needed to be limited by dividing or separating state power into legislative, executive, and judicial, popularly known as the *trias politica* theory [3].

The power and authority of the *trias politica* institution must be limited in a balanced manner with mutual monitoring (checks and balances) and providing a fairly broad guarantee in terms of respect, protection, and fulfillment of human rights and citizens' rights, which in its development, have experienced a variant of the conception of power, one of which is the existence of general elections [4].

The general election as a form of democracy is seen as the most appropriate and ideal choice for all modern political and social organization systems today. Democracy as the basis of state life, in general, provides an understanding that at the last level, it is the people who provide provisions in the main issues regarding their lives, including in assessing government policies, because these policies determine the lives of their people. Meanwhile, a democratic state is organized based on the will and power of the people, or if it is viewed from an organizational point of view, it means an organization of the state carried out by the people themselves or with the consent of the people because sovereignty is in the hands of the people [5].

Therefore, usually, countries that call themselves democracies have the practice of organizing the general elections to elect public officials in the legislative and executive fields, both at the center and the regions. Democracy and general election are *qonditio sine qua non*. One cannot exist without the others [6].

The general elections have become an important part of the modern constitutional tradition. The general elections can change the structure of voters considered bad by the power or maintain a power structure that most voters consider good. The general elections are important based on the assumption that if the general elections are good, the quality of the elected representatives will be good. Thus, the general election is the starting point for making changes toward improvement [7].

The general elections in Indonesia are carried out directly by the people against their representatives in the executive and legislative institutions. Therefore, they are the real form of democracy actualization, as stated in Article 1 paragraph (2) of the 1945 Constitution of the Republic of Indonesia, stipulating that sovereignty is in the hands of the people and implemented according to the Constitution.

Based on the variants of the types of general elections held, there have been respective laws that regulate them, namely:

a. Law Number 1 of 2015 concerning the Stipulation of Perppu Number 1 of 2014 concerning the

Election of Governors, Regents, and Mayors to become Laws as has been amended several times, most recently by Law Number 10 of 2016 concerning the Second Amendment to Law Number 1 of 2015 concerning the stipulation of Government Regulation in place of Law Number 1 of 2014 concerning the Election of Governors, Regents, and Mayors into Law, as the legal basis for the implementation of the post-conflict local election some time ago;

b. Law Number 7 of 2017 concerning General Elections, as the legal basis for the implementation of presidential and legislative elections, which is a reflection of Law Number 42 of 2008 concerning General Elections for President and Vice President, Law Number 8 of 2012 concerning General Elections for the members of House of Representatives (DPR), Regional Representative Council (DPD), and Regional People's Representative Assembly (DPRD), as well as Law Number 15 of 2011 concerning the Implementation of General Elections.

The high level of complexity of potential legal problems in general elections makes many institutions involved in the pattern of handling them, including the Election Organizing Honorary Council (DKPP), the General Election Commission (KPU), the Election Supervisory Body (Bawaslu), the Indonesian Police, the Indonesian Attorney General's Office, the District Court and High Court, State Administrative Court, and State Administrative High Court, Supreme Court, and Constitutional Court.

Specifically for handling general election crimes, they facilitate interconnection between individuals and institutions in the executive realm and establish an Integrated Law Enforcement Center (the Sentra Gakkumdu), consisting of elements of the Election Supervisory Body (Bawaslu), the Police, and the Prosecutor's Office. This Sentra Gakkumdu is a concrete form of guarding and supervising the implementation of general elections from a criminal perspective.

The motto of democracy, "from the people, by the people, and for the people," must be paid dearly by the state for a political contestation through clean and correct general elections to produce the expected leaders. The high cost of holding general elections is also followed by the high costs that candidates may incur for representatives of the people as contestants.

Starting from the nomination process through a political vehicle to obtain party recommendations and facilities until the effort to win over potential voters through various persuasive approaches creates great potential for the practice of money politics. From the giving of money entitled humanitarian aid to the onslaught of "dawn attacks" are some hidden variants of modifying money politics.

Corruption and politics are always interesting to be discussed, but the concept of political corruption is still a matter of debate. The cycle of causality in the

practice of money politics will have a high chance of being reflected in the criminal act of political corruption. Furthermore, the concept of a new type of corruption is not specifically regulated in the legislation but is now becoming familiar is mentioned. This kind of phenomenon makes the legal position of the criminal act of political corruption worthy of being a separate offense in a material criminal law regulation and makes the author interested in critically reviewing the legal position of the criminal act of political corruption as part of the reflection of money politics practices.

2. Research Methods

This study used normative juridical research with the statute, comparative, and conceptual approaches [8]. The sources of legal materials used are primary legal materials in the form of related laws and regulations, secondary legal materials in the form of books on law, and non-legal materials in books outside the law [8]. The deductive method is used for analyzing legal materials, starting from basic principles and then presenting the object to be studied, in other words, passing from general principles to specific principles [8].

3. Result and Discussion

3.1. Regulation of Money Politics Practices as General Election Crimes and Typical Handling Patterns

The term general election crime has the same terminology and is part of the broad definition of a criminal offense. Criminal offense comes from a term in Dutch law: *strafbaarfeit* (culpability). Some call it a *delict* which comes from Latin *delictum* (fault). As explained in [9], *strafbaarfeit* is an act or action threatened with punishment by the law, is against the law, and is carried out by someone capable of being responsible.

The definition of general election crime specifies the definition of a criminal offense in general. It means that the act is only related to criminal offenses occurring in the administration of general elections, or related to the implementation of the general election stages, as a form of unlawful acts against the general election law. In short, it can also be understood that general election crimes are all crimes related to the administration of general elections as regulated in the general Election Law [10].

Based on the type, general election crime consists of crimes and violations, regulated in detail in Article 117 to Article 198A of Law Number 1 of 2015 concerning the stipulation of government regulation superseding Law Number 1 of 2014 concerning the Election of Governors, Regents, and Mayors. This Law was amended several times, most recently by Law Number 10 of 2016 concerning the Second Amendment to Law

Number 1 of 2015 concerning the stipulation of government regulation in place of law Number 1 of 2014 concerning the Election of Governors, Regents, and Mayors into Law, and also in Article 488 to Article 554 Law Number 7 of 2017 concerning General Elections.

Politics and money seem to be inseparable. Most contestants who nominate need big capital to give confidence to their constituents. However, like a tit for tat, some voters have also opened their hands to accept the practice of money politics. This kind of thing makes it difficult to achieve the goal of finding a clean leader.

The practice of money politics in general elections has become part of general election crimes which are explicitly regulated in the General Election Law, one of which is Article 523 paragraph (1) (2) (3) Law Number 7 of 2017 concerning General Elections, namely:

(1) As referred to in Article 280 paragraph (1) letter j, every general election campaign implementer, participant, and/or general election campaign team who intentionally promises or gives money or other materials as a reward to general election campaign participants directly or indirectly shall be punished with imprisonment for a maximum of 2 (two) years and a maximum fine of Rp. 24,000,000 (twenty four million rupiahs).

(2) As referred to in Article 278 paragraph (2), every general election campaign implementer, participant, and/or general election campaign team who intentionally, during the quiet period, promises or gives money or other material rewards to voters directly or indirectly shall be punished with imprisonment for a maximum of 4 (four) years and a maximum fine of Rp. 48,000,000 (forty eight million rupiahs).

(3) Every person who intentionally promises or gives money or other materials to voters on the voting day not to exercise their right to vote or to vote for certain general election participants shall be punished with imprisonment for a maximum of 3 (three) years and a fine of a maximum of Rp.36,000,000 (thirty-six million rupiahs).

Although the purpose of punishment is not solely for retaliation but rather for coaching, however, if we examine it from the side of the consequences, the threat of criminal sanctions in the article is relatively light, even though the practice of money politics in general elections has the potential to form the mindset and the pattern of action toward corrupt practices as a continuous causal cycle.

As with general crimes, the process of resolving election crimes also runs in the criminal justice system. The Criminal Justice System is the system in which society identifies, accuses, tries, convicts, and punishes those violating the criminal law. The criminal justice process is the series of procedures by which society identifies, accuses, tries, convicts, and punishes offenders [11].

As part of general election crime, the pattern of handling money politics follows the specifics of the general Election Law. The general criminal justice system always involves sub-systems within their respective scopes, starting from the Police, Prosecutors, Courts, Correctional Institutions, and Advocates/Lawyers as a counterweight [12]. In addition, an election management institution, namely the Election Supervisory Body (Bawaslu), is also inserted as one part of the sub-system, in which the Election Supervisory Body (Bawaslu), the Police, and the Prosecutor's Office, are incorporated in a mini system called Sentra Gakkumdu.

Sentra Gakkumdu is one of the concrete manifestations of overseeing the electoral process, which integrates general election management institutions, investigative institutions, and prosecution agencies that work in one mindset and attitude. This certainly provides opportunities for more effective and efficient work patterns. However, later it will allow monitoring between institutions in official checks and balances to be slightly reduced.

The effectiveness of the work pattern of Sentra Gakkumdu is considered quite good by becoming a mini system within an extensive system and removing official barriers between general election organizers and law enforcers in handling general election crimes. Therefore, Sentra Gakkumdu deserves to be used as a role model for ideal law enforcement today. Moreover, Sentra Gakkumdu has a crucial position in law enforcement for general election crimes because Sentra Gakkumdu almost dominates all parts of the flow of the criminal justice system in general election crimes.

In addition, in terms of the procedural law for handling general election crimes, there are also changes and shifts in handling criminal offenses in general, namely:

1. Relatively short time limit, namely: maximum 5 (five) days investigation, maximum 14 (fourteen) day investigation, maximum 3 (three) days examination of files by the public prosecutor, maximum 3 (three) days of returning files from investigators to public prosecutor three) days, the delegation of cases to the District Court for a maximum of 5 (five) days, trial time for a maximum of 7 (seven) days, time for appeal and memory for appeal a maximum of 3 (three) days, and execution for a maximum of 3 (three) days;

2. Implicitly there is no termination of the investigation because the opportunity to terminate the report/finding only exists during the investigation stage;

3. There are no back and forth case files between the investigator and the Public Prosecutor because the return of case files is only limited to 1 (one) time. The return of this case file may very rarely be done because, in the previous Sentra Gakkumdu, it had to be discussed and explained first between the investigator and the Public Prosecutor;

4. There is no further legal effort after the appeal.

Table 1 The specialty of handling the general election crimes (Joint Regulation of the Chairperson of the Election Supervisory Body, the National Police Chief, and the Attorney General regarding the Sentra Gakkumdu in the Election of Governor and Deputy Governor, Regent and Deputy Regent, and Mayor and Deputy Mayor)

Legal basis	Activity
Article 15 paragraph (1) to paragraph (6)	The Election Supervisory Body receives reports/Findings are accompanied by Investigators and Prosecutors
Article 16 paragraph (1)	The Election Supervisory Body, Investigators, and Prosecutors conduct the First Discussion within 1x24 hours after the report/finding
Article 17	The Election Supervisory Body conducts a Violation Study with a request for information/clarification accompanied by Investigators and Prosecutors
Article 15 paragraph (7)	The Election Supervisory Body issues the task order to carry out the investigation
Article 15 paragraph (8)	Investigators issue an Investigation Warrant
Article 17 paragraph (6)	Investigations by Police Investigators are accompanied and monitored by the prosecutor
Article 19	The Election Supervisory Body, Investigators, and Prosecutors conduct a Second Discussion regarding the fulfillment of elements within a maximum of 5 days after the report/finding. If it meets the elements, it will proceed to the investigation stage. If not, then the handling of the report/finding is stopped
Article 20	The Plenary Meeting increases the handling of cases to the investigation stage, or the case is terminated
Article 21 paragraph (1) to paragraph (3)	Investigators issue an Investigation Order and a Notice of Investigation Commencement on the same day
Article 21 paragraph (4)	Investigation maximum 14 days from the report/finding
Article 21 paragraph (5)	The investigation by Police Investigators accompanied and monitored by the prosecutor
Article 22	The third discussion was attended by Investigators, Prosecutors, and the Election Supervisory Body, to conclude the delegation of cases to the prosecutor
Article 23 paragraph (1)	Submission of case files by Investigators to Prosecutors is a maximum of 14 days from the report/ findings
Article 23 paragraph (2)	P-18 and P-19 by the prosecutor a maximum of 3 days from receipt of the file
Article 23 paragraph (3)	Investigators complete the prosecutor's instructions a maximum of 3 days from P-18 and P-19
Article 23 paragraph (4)	P-18 and P-19 are only valid once
Article 23 paragraph (5)	Submission and return of files is made at the Sentra Gakkumdu
Article 24	Submission of Phase II, namely sending the suspect and evidence from the investigator to the prosecutor
Article 25 paragraph (1)	Delegation of cases from the Public Prosecutor to the District Court for a maximum of 5 days
Article 25 paragraph (5)	The Public Prosecutor's indictment letter was copied to the investigator and the Election Supervisory Body as the Sentra Gakkumdu
Article 26 paragraph (2), paragraph (3)	The results of the Court's Decision are submitted to the Sentra Gakkumdu. Then a discussion is carried out to take a stand
Article 26 paragraph (5)	The appeal by the Public Prosecutor is a maximum of 3 days after the decision is read
Article 27	The prosecutor executes a maximum of 3 days after the decision is received and can be accompanied by investigators and the Election Supervisory Body

The typical pattern of handling the practice of money politics as part of the general election crime can be described as follows (Figure 1):

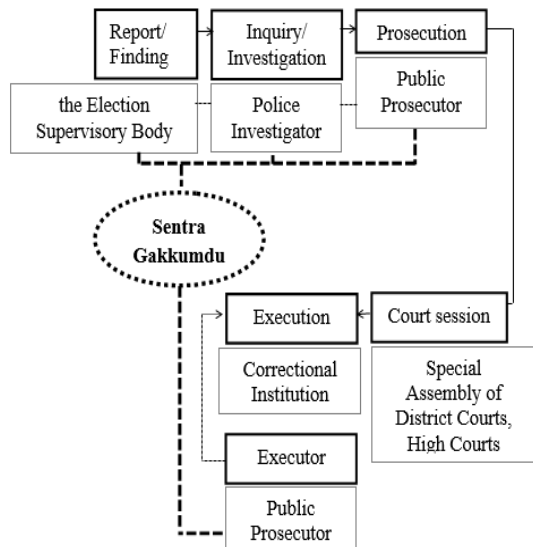


Fig. 1 The typical pattern of handling the practice of money politics as part of the general election crime (Criminal Procedure Law, General Election Law, Joint Regulations (Chairman of the Election Supervisory Body, Head of Indonesian Police, Attorney General), election supervisory body regulations)

3.2. Legal Position for Political Corruption Crimes as *Ius Constituendum*

The word corruption comes from the Latin word, namely *Corruptie*, which means bribery, moral destruction, wrongdoing from the office, forgery, etc.

Corruption can also be understood as bad acts such as embezzling money, accepting bribes, etc. [13].

Corruption comes from the word *Corrupteia*, which in Latin means bribery or seduction [14]. The word bribery can then be interpreted as giving or handing over money to someone with the intention that a bribed person acts for the giver's benefit [14].

Furthermore, based on the formulation of Article 2 and Article 3 of Law Number 31 of 1999 in conjunction with Law Number 20 of 2001 concerning the Eradication of Criminal Acts of Corruption, an understanding can be drawn that corruption is an act of enriching oneself, or another person, or a corporation against the law, abusing the authority, providing an opportunity or facilities available to him because of his position, which can harm the state finances or the state economy.

Corruption practices have been mutually agreed upon as extraordinary crimes and serious crimes. Corruption is one of the most dangerous types of unconventional crimes. Corruption can touch various interests related to human rights, ideology, state finances, and the economy, which are systematic and difficult to eradicate. Because corruption has become an extraordinary crime, handling and eradication must also be done extraordinarily.

Based on the provisions of Law Number 31 of 1999 concerning Eradication of Corruption Crimes as amended by Law Number 20 of 2001 concerning amendments to Law Number 31 of 1999 concerning the Eradication of Criminal Acts of Corruption, there are 7 (seven) groups of criminal acts of corruption, namely:

1. Harming the country's finances/economy;
2. Bribery;
3. Embezzlement in office;
4. Blackmail;
5. Cheating;
6. Conflict of interest in procurement;
7. Gratification.

Plus 6 (six) other criminal acts related to corruption, namely [15]:

1. Obstructing the process of examining corruption cases;
2. Not giving information/providing information that is not true;
3. Banks that do not provide information on the suspect's account;
4. Witnesses or experts who do not provide information or provide false information;
5. People who hold office secrets do not provide information/provide false information;
6. The witness reveals the identity of the reporter.

The relation between politics, money, and corruption seems to fit the current situation. Based on the results of the Global Corruption Barometer (GBC) survey conducted by Transparency International Indonesia (TII) in 2017, the House of Representatives

(DPR) is the most corrupt institution in Indonesia, followed by the Bureaucracy institution and the Regional People's Representative Council (DPRD) [16].

From 2004 to 2017, 313 (three hundred and thirteen) Regional Heads were involved in corruption cases [17]. From January to July 2018, there have been 19 (nineteen) regional heads were designated as suspects by the Corruption Eradication Commission (KPK) for being involved in corruption [18].

Furthermore, in cases of members of the legislature (DPR/DPRD), the Corruption Eradication Commission (KPK) explained that more than 145 (one hundred and forty-five) DPRD members throughout Indonesia spread across 13 (thirteen) provinces were processed in corruption cases. In total, if added between the DPRD and the DPR, more than 220 (two hundred and twenty) people have been processed [19].

The data above cause great concern about the relationship between politics, money, and corruption. Even as many as 41 (forty-one) members of the Malang City Regional House of Representatives were appointed simultaneously because they were involved in corruption cases.

As stated in [20], corruption and money politics were two things that were related during the democratization period. Generally, the source of political support built by politicians is obtained through the proceeds of corruption. This means that if a politician succeeds in obtaining a political position in the future, he will commit corruption to replace the costs that have been used to achieve his political goals.

According to [21], corruption in Indonesia occurs systematically and widely so that it is detrimental to state finances and violates the social and economic rights of the community at large.

The link between politics, money, and corruption will become a cycle of causality in the practice of money politics which will have a high chance of being reflected in the criminal act of political corruption. The stages of corruption motives, namely corruption by need, greed, and design, are very likely to be formed. For example, for regional heads or elected members of the legislature who spend large amounts of capital, it is not impossible to form a mindset on how to return the capital. This situation provides an early opportunity to create an early stage of corruption, namely corruption out of necessity. Furthermore, if corruption has become a comfortable and convenient habit, the motive for the next stage of corruption begins to emerge, namely corruption due to greed.

The culmination of this habit of corruption eventually gave rise to a pattern that had been designed to consider corruption no longer as corruption. In this phase, experts in their respective fields will also be involved in regulating corruption to disguise or eliminate it, so it does not look like corruption. This is where a congregation of corrupt communities is

formed.

The definition of political corruption was formulated in [22]: corruption committed by public officials and the proceeds of crime are channeled for political activities. However, as emphasized in [5], political corruption does not exist in law. Still, this term has existed in our law since 2015. It happened when the Supreme Court decided on Anas Urbaningrum's verdict for political corruption. Indeed, there is no political corruption in legal terms. However, the decision of the Supreme Court, which already has legal force, still mentions two cases, namely, the political corruption case of Anas Urbaningrum and Rina from Karangayar. Thus, according to [23], political corruption is carried out using political positions. Therefore, the above suggests formalizing the terminology of political corruption, making it a special criminal offense in the corruption law, either as a completely new offense or in the form of a follow-up clause of an offense that is qualified or aggravated due to certain circumstances accompanying the action. So that later, the qualification of political corruption adopted will be declared a punishable act, according to a legal formulation

This suggestion is also to fulfill the principle of "nullum delictum nulla poena sine praevia lege poenali", which means there is no offense, no crime without prior regulations [9]. Based on this principle, it can be said that there is no prohibited act and is threatened with a criminal sanction if it is not determined in advance in the legislation.

In this regard, the author tries to provide legal arguments related to the rationale for reconstructing money politics in elections. Legal arguments are not part of logic but are part of legal theory because the science of law is a science that has a distinctive personality. Legal argumentation, also known as legal reasoning, is a legal process bound by the type of law, legal sources, and legal levels [24].

Efforts to eradicate political corruption must be carried out comprehensively, starting from upstream to downstream in a legal system theory proposed in [25], which divides the legal system into three parts: legal substance, legal structure, and legal structure legal culture.

Eradication of political corruption must have been built since the legislation was formulated. The legal substance can be said as norms, rules, and real human behavior in the system. Legislators should not only be fixated on what legal norms are to be prohibited or recommended but should think further to the extent of the consequences that may arise from the substance of the prohibition or the recommendation of the legal norm.

In response to this, the teaching of Relevance Theory adopted by Langemeyer can be applied at this stage. Relevance theory is no longer a theory of causal relationships but rather about interpreting laws, a

theory of interpretation. According to [9], the main point in the Relevance theory is that when the law determines the formulation of the criminal offense, which behaviors are imagined by him to have prohibited consequences, the relevant behavior must be *conditio sine qua non* in the process of causing consequences.

Based on the description above, a legal norm that is produced will have higher quality because it can reach the next result of the regulation of the legal norm. Such legal norms can certainly be a clear and firm footing for the next component of the legal system, namely the legal structure in carrying out their duties.

The legal structure can be the framework of a permanent form of the legal system that keeps the process within its limits, determining whether or not the law can be implemented properly. The concrete form of the legal structure that we can easily see is the 4 (four) components in the integrated criminal justice system consisting of the Police, Prosecutors, Courts, and Corrections Institutions, which more specifically personally consist of Police, Prosecutors, Judges, and Correctional Officers. This integrated criminal justice system sees the interconnection between individuals and criminal law enforcement agencies. Therefore, it is hoped that a criminal justice process will be linked [12] that fulfills a sense of justice in society.

Generally, the management of legal structures has been included in procedural law. However, although various regulations equipping the procedural law in its implementation serve as further instructions for its application in legal practice, in reality, there are still attitudes and actions of law enforcement officers that fail to comply with the spirit contained in the Law of Procedure [26].

Suppose later political corruption has become a special criminal offense in the corruption law. In that case, it can be used as a strong legal basis for law enforcement officers such as the Police, Prosecutors, or the Corruption Eradication Commission to act preventively or even repressively. As a result, a legal structure based on legal substance is expected to be able to form a mindset and pattern of anti-corruption political action for political actors in particular and society in general as a legal culture.

Legal culture is the overall attitude of the community and the value system that exists in a society that will determine how the law should apply in the community concerned. Legal culture can be said to be the result of work of legal substance and legal structure. Therefore, the public will become aware of the law by itself. This community's legal culture will later serve as an entry point to combat political corruption in the long term.

People who are legally aware of the dangers of political corruption are expected to transmit to other communities like a domino effect, for example, by not selecting political contestants who are indicated to

practice money politics or are involved in corruption cases. The movement will also affect the candidates and political contestants, not to play with money politics or corrupt practices. Therefore, fighting the latent dangers of political corruption does not always have to be followed up by law enforcement officials. Still, prevention efforts as a counterbalance can be seen as progressive and humanist measures because they are not just intimidating with the threat of criminal sanctions.

2018/2019 is a political year. Currently, political corruption has become an interesting topic to be discussed. Many experts or observers talk about political corruption. Still, not all of them discuss it objectively because most people only view political corruption and its enforcement from the perspective of their respective subjectivity.

It is understandable because there is no official regulation on political corruption. Although there have been efforts to define political corruption based on what each understands, it can endanger the existence of understanding and enforcement of political corruption itself. Therefore, it is time for political corruption to become a special criminal offense within the scope of the law on eradicating corruption with regard to the provisions of Law Number 12 of 2011 concerning the Establishment of Legislations and other related laws and regulations.

4. Conclusion

The research in this article is limited to a normative juridical analysis of the legal problem of the existence of a legal vacuum in the regulation of money politics as part of political corruption in Indonesia. Withdrawing the practice of money politics in the general election process into a political crime has consequences for the specifics of how it is handled, both in terms of norms, implementing apparatus actors, and the law of procedure. The causal relationship between the practice of money politics and political corruption must be a concern. Considering the specifics, impacts, and consequences described above, it is not excessive if the concept of regulating political corruption as a special offense within the scope of the law concerning the eradication of criminal acts of corruption must be realized as a form of ideal regulation in the context of future legal reforms. Although this is a new idea that until today has never been thought of by legislators, this novelty departs from a scientific analysis of the existence of a legal vacuum against the regulation of political corruption in the legal system in Indonesia.

5. Recommendations

To strengthen the legal position, legislators should revise the law on eradicating corruption by including a clause on the criminal political corruption as a special criminal act. This innovation can become a strong legal basis for law enforcement officials to take preventive

and repressive measures to realize clean general elections and corruption-free politics.

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