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Reconception of Criminal Liability for Money Politics Crimes in General Elections Under Law No. 7 of 2017

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Abstract: This research addresses the issue of money politics as a serious criminal offense that threatens the integrity of electoral democracy in Indonesia. Law Number 7 of 2017 on General Elections has indeed stipulated criminal sanctions for money politics practices; however, its regulation remains limited to formal actors such as campaign teams and election organizers. It creates a normative gap, as intellectual actors such as legislative candidates, funders, and other informal networks remain beyond the reach of the law. Based on this weakness, then the research aims to formulate a reconception of criminal liability that is more just, progressive, and responsive to the complexity of money politics crimes, which are collective and structural in nature. The method used in this study is a normative-empirical method supported by several approaches. The main approaches are the statute approach and then the conceptual approach, while the supporting approaches include the case approach, philosophical approach, sociological approach, and comparative approach to countries that have succeeded in holding structural actors in money politics accountable, such as South Korea, Brazil, and Italy. The theories used in this research are the rule of law theory (grand theory), progressive law theory (middle range theory), and criminal liability theory (applied theory). The results of this study are expected not only to enrich the discourse on electoral criminal law but also to provide a theoretical and normative foundation for regulatory reform. As a scholarly contribution (novelty), this research offers proposed reforms to the Election Law and the concept of collective-structural criminal liability, which can go beyond direct perpetrators to include functional roles within the criminal networks of money politics in elections. This research is relevant to promoting more substantive law enforcement in elections and ensuring democratic justice in line with the principles of the rule of law.

Keyword: Criminal Liability, General Election, Money Politics, Electoral Crime

INTRODUCTION

According to Indonesian constitutional doctrine, popular sovereignty places the highest authority in the hands of the people as the holders of the political power mandate (Asshiddiqie, 2022: 78). In the Indonesian context, this is realized through the commitment to establish a just

and prosperous society as mandated by Pancasila. As a modern legal state, Indonesia integrates popular sovereignty within the framework of representative democracy, where general elections serve as an essential mechanism for political participation. The quality of democracy itself can be measured by the level of transparency and integrity in the conduct of elections.

General elections, or *pemilu*, are the primary instrument for realizing the principle of popular sovereignty in a democratic state. As a democratic legal state, Indonesia views elections not only as a periodic five-year political event but also as a mechanism for legitimizing power based on the principles of justice, participation, and accountability. The conduct of elections has a clear legal basis in Article 22E of the 1945 Constitution of the Republic of Indonesia, which establishes the fundamental principles of elections. The Constitution explicitly states that elections must be conducted in a direct, general, free, secret, honest, and fair manner.

The electoral mechanism is designed to enable the people to directly elect various public officials, including the President and Vice President, members of the House of Representatives (DPR), the Regional Representative Council (DPD), and members of Regional Legislative Councils (DPRD). In this electoral system, political parties participate as contestants in elections for DPR and DPRD members, while individuals can participate in elections for DPD members. The election process is managed by the General Elections Commission (KPU) as an independent, national, and permanent institution.

Within the framework of the *rechtsstaat* (state based on law) concept, governance must be grounded in the principle of the supremacy of law, where legal sovereignty serves as the primary foundation for achieving order in governance. Furthermore, to achieve the national ideals as mandated in the Preamble to the 1945 Constitution, general elections serve as a crucial instrument in realizing popular sovereignty. Through democratic mechanism, a legitimate and representative government is formed, based on the values of Pancasila and the constitution (Mahfud, MD, 2020): 112). Therefore, elections are not merely a means for the rotation of power but also a guarantee for the sustainability of a democratic legal state.

The implementation of general elections is specifically regulated under Law Number 7 of 2017 concerning General Elections. In addition, the right to vote and to be elected is guaranteed under Law Number 39 of 1999 concerning Human Rights, particularly in Article 43 Paragraph (1). This right is an inherent part of human rights, naturally attached to every individual, universal in nature, and must be protected without being diminished or ignored by anyone. In line with this right, every citizen also bears fundamental duties towards others and society in the life of the nation and state.

In the implementation, the potential for violations, whether administrative or criminal, cannot be overlooked. The prevalence of electoral crimes has become a serious concern, as the success of election administration serves as a crucial benchmark for the quality of a country's democracy. To foster a healthy political competition climate, enhance public participation, and strengthen accountable representation systems, the quality of election administration must be continuously and sustainably improved to remain free from various forms of violations (Ellis, 2014: 45). In practice, several regulatory weaknesses persist that allow for the exploitation of legal loopholes by election participants.

The provisions in Articles 280 and 284 of Law No. 7 of 2017 on General Elections limit the legal subjects liable for sanctions solely to election organizers, participants, and campaign teams. This restriction creates a significant legal loophole, as parties outside these three categories technically cannot be legally processed even if they commit acts that substantively violate election provisions.

This condition has the potential to create injustice in law enforcement and is also contrary to the principles of democratic elections. Furthermore, the absence of sanctions for perpetrators outside these three groups diminishes the deterrent effect and instead encourages electoral violations by parties who feel immune to the law. This regulatory gap requires serious attention

from policymakers. Indeed, contemporary reality demonstrates that elections are often hijacked by the practice of money politics, which not only undermines the integrity of the democratic process but also threatens the fundamental principles of a rule-of-law state. These practices manifest as a form of power transactionalism, where the people's votes are exchanged for various forms of material benefits, such as cash, staple goods, job promises, and even structural and systemic fund flows.

The phenomenon of money politics in Indonesian elections can no longer be considered an ordinary violation, as it has formed a deeply rooted and structured pattern. A study by the Committee for Monitoring Regional Autonomy Implementation (KPPOD) revealed that 80% of regional head candidates admitted to using funds from unofficial sources during elections, largely for vote buying (KPPOD, 2018: 7). This is reinforced by data from Indonesia Corruption Watch (ICW), which notes that money politics has been one of the most dominant forms of electoral violation over the past two decades. ICW argues that this practice is not only carried out by campaign operators but also by non-formal actors such as political backers, vote brokers, and other informal networks (ICW, 2020: 17).

Stipulated in Law Number 7 of 2017 concerning General Elections, regulations against the criminal act of money politics have indeed been explicitly established. However, regrettably, these regulations remain highly limited to perpetrators who are formally registered as election participants, such as campaign operators, success teams, or organizers. In contrast, intellectual actors such as legislative candidates or regional head candidates, as well as third-party funders, tend to remain beyond the reach of legal sanctions. This demonstrates a normative and implementation gap in election law, where the law still operates within a formal-individual framework and has not yet been able to address the collective-structural dimension of money politics crimes.

The most fundamental weakness of Indonesian election law in addressing the phenomenon of money politics lies in the limitations of its criminal liability framework. The model of criminal liability employed in Law No. 7 of 2017 remains rooted in the classical criminal law paradigm, which is individualistic and positivist in nature. Within this paradigm, only legal subjects who directly commit criminal acts can be held accountable. Consequently, key actors in money politics practices, such as legislative candidates, regional head candidates, funders, and other informal networks, often remain beyond the reach of criminal law, as they cannot be proven to be direct perpetrators (Ellis, 2014: 45).

To this day, Indonesia has yet to successfully prosecute legislative candidates, executive candidates, or intellectual actors behind money politics through criminal law. Law No. 7 of 2017 only targets formal campaign operators, while money politics occurs systemically through shadow actors and patron-client networks, with no precedent for punishing structural actors. In contrast, South Korea has established a more progressive legal mechanism. Its Public Official Election Act (Articles 99–100 and 70) enables direct prosecution of candidates and indirect actors, even if they merely instruct the execution of money politics within their party networks. In Brazil, the Mensalão scandal serves as a concrete example of collective-structural money politics, where 38 perpetrators, including senior politicians, bureaucrats, and business figures, were tried by the Supreme Court for a legislative bribery system that allowed corporate funds to flow into legislative campaigns. Another comparative example is Italy, where criminal norms such as *concorso esterno in associazione mafiosa* (Article 416 bis of the Criminal Code) have been used to prosecute politicians colluding with mafia structures to buy votes or political influence during elections, as part of efforts to combat structural corruption.

The gap between existing legal norms and the complexity of money politics practices in elections demonstrates an urgent need to reformulate the theoretical framework and norms of electoral criminal law. The rule of law theory serves as an unavoidable philosophical foundation, as within this framework, the state is obligated to realize the protection of its citizens' rights and the fair exercise of power. The rule of law speaks not only of legality but

also of legitimacy, justice, and substantive legal certainty. In the context of elections, substantive justice means that the law must not allow money politics crimes to undermine the democratic process without an effective mechanism to enforce criminal accountability.

However, the rule of law theory needs to be bridged by a more dynamic framework of thought, namely through progressive legal theory. This theory, as developed by Satjipto Rahardjo, positions law as a tool that must side with substantive justice, not merely as a guardian of legislation. Progressive law rejects rigid legal positivism and calls for intellectual courage to achieve legal breakthroughs for social justice. The reform of electoral criminal law must be carried out through a progressive approach that recognizes money politics as a form of structural crime that must be addressed with adaptive, responsive, and just norms.

As the primary analytical tool, the theory of collective-structural criminal liability emerges as a new construct designed to respond to forms of money politics crimes unreachable by classical liability theories. This theory not only expands legal subjects but also restructures the construction of relationships between direct perpetrators, initiators, and systemic supporters of money politics crimes. Through this approach, legislative candidates as funders, political backers supplying campaign logistics, and other informal network structures can be included in the framework of criminal liability through concepts of conspiracy, active permitting, or structural control over criminal acts.

With the combination of these three theoretical frameworks, this research is designed to address the problem of weaknesses in the electoral criminal law regulations and then offer a reconceptualization that is fairer, more adaptive, and responsive to contemporary developments. Therefore, it is necessary to reconceptualize criminal liability to ensnare 'shadow' actors through a revision of Law No. 7 of 2017, supported by progressive law enforcement. This research offers scientific novelty (novelty) in its ideas regarding collective-structural criminal liability, which has not yet become mainstream in the discourse of Indonesian electoral criminal law.

METHOD

This research employs a normative-empirical juridical method, which is an approach in legal research that focuses on the analysis of library materials or secondary data and examines the application or implementation of legal norms in various legal events that occur within society . The implementation of these norms depends on the clarity, firmness, and completeness of the formulation of applicable normative legal provisions, which in turn can create legal certainty and responsiveness to societal needs. This research is also prescriptive and reconstructive in nature, as it aims not only to critique the weaknesses in the current regulation and application of electoral criminal law but also to formulate a new concept of collective-structural criminal responsibility.

This research employs several approaches, categorized into two main groups: primary approaches and supporting approaches. Primary Approaches: These include (a) a statutory approach to analyze the Election Law, the Criminal Code (KUHP), and the related technical regulations; and (b) a conceptual approach to construct the theoretical foundation for the concept of criminal liability under study. Supporting Approaches: These encompass (a) a case approach to examine relevant court rulings; (b) a philosophical approach to explore the fundamental values of law; (c) a sociological approach to observe law enforcement in society through interviews and observations; and (d) a comparative approach to derive applicable comparative studies.

The research data sources consist of secondary data, classified as follows. Primary Legal Materials: Legislation such as the 1945 Constitution, Law No. 7 of 2017 concerning General Elections, the Criminal Code (KUHP), as well as regulations from the General Elections Commission (KPU) and the Elections Supervisory Agency (Bawaslu). Secondary Legal Materials: Legal literature including books, scientific journals, and previous research findings

that provide analysis of primary legal materials. Tertiary Legal Materials: Legal dictionaries, encyclopedias, and catalogs that serve as supporting reference materials.

Data collection techniques were carried out through: (1) Literature Study of all primary, secondary, and tertiary legal materials, (2) Documentation of relevant official documents and records. (3) Semi-structured interviews with practitioners and experts in election law. (4) Observation to obtain empirical data on the legal phenomena under investigation. Data analysis was conducted using descriptive qualitative methods to elaborate and interpret the obtained data. In addition, prescriptive-reconstructive analysis was also employed to provide normative conceptual formulations and recommendations for legal reform, particularly concerning collective-structural criminal liability in systematic money politics offenses.

RESULTS AND DISCUSSION

This section contains data (in brief form), data analysis, and interpretation of the results. Results can be presented in tables or graphs to clarify the results verbally because sometimes the display of an illustration is more complete and informative than the display in narrative form. This section must answer the problems or research hypotheses that have been formulated previously.

1) Money Politics in Elections as a Collective-Structural Crime

Within the framework of the *rechtsstaat* (state based on law) concept, governance must be founded on the principle of the supremacy of law, where legal sovereignty serves as the primary basis for achieving order in governance. This effort to establish order is manifested through the principle of legality (*legaliteitsbeginsel*), as reflected in Article 1 Paragraph (1) of the Indonesian Criminal Code (KUHP), which emphasizes that an act can only be punishable if it has been regulated in prior applicable legislation (*nullum delictum sine praevia lege poenali).*

Article 43 Paragraph (1) of Law No. 39 of 1999 stipulates, that every citizen has the right to be elected and to vote in general elections based on equal rights through direct, general, free, secret, honest, and fair voting in accordance with the provisions of legislation. This principle emphasizes the importance of equality and integrity in the democratic process, ensuring that citizen political participation is fair and transparent.

Based on the existing legal framework, the right to vote and to be elected in elections is not merely a constitutional right but also falls within the realm of human rights that must receive legal protection. The implementation of this right requires a comprehensive electoral system regulation as a manifestation of the democratic rule of law principle that can guarantee (Asshiddiqie, 2006: 245).

a) Legal certainty in the administration of elections;
b) Efficiency and effectiveness of the electoral process;
c) Mechanisms for channeling people's aspirations that uphold Luber (direct, general, free, secret) and Jurdil (honest and fair).

Massive and systematic money politics practices during the campaign period have proven to be the seed of corruption for officials once they assume office. When candidates or funders invest resources to secure victory, the pressure to "return the investment" often drives them to engage in post-appointment corruption, such as gratuities, buying and selling positions, misappropriation of state budgets, and even illegal licensing. The Corruption Eradication Commission (KPK) explicitly confirms this phenomenon, noting that among the thousands of corruption cases they have handled over the past 10 years (2015-2024), the proportion of political officials becoming suspects is exceptionally high. Below is the table:

Table 1.Percentage Table of KPK Suspects (2015–2024)

Department Category	Amount	Percentage (%)
Members of the DPR and DPRD	278	20.14%
Governor/Regent/Mayor/Deputy	143	10.36%
Minister/Head of Institution/Ministry	21	1.52%
Total Legislative & Executive	**442**	**32.02%**
Other Professions (Private, ASN, etc.)	938	67.97%

Source: Komisi Pemberantasan Korupsi, 2025

Data shows that of the 1,380 suspects from various professional backgrounds, 442 (32.02%) were public officials, both legislative and executive. This strengthens the argument that money politics is not merely an administrative violation but is the structural root of elite corruption.

According to Satjipto Rahardjo, law should not merely be a “guardian of the status quo” but must be capable of adapting to societal dynamics and serving as a tool for social change. He argued that law which rigidly adheres to normative texts without considering sociological context is law that has lost its soul of justice. Law is not merely about norms but also an institution that must continually seek its relevance in social reality (Rahardjo, 2000: 69-70). This statement is highly relevant when discussing the failure of election law to capture the complex and systemic reality of money politics.

Furthermore, money politics cannot be separated from power structures involving political patronage and electoral corruption. In this context, elections are no longer merely a democratic process but have become an arena for power distribution determined by capital rather than integrity and capability. According to a study by Pippa Norris and Andrea Abel van Es: "*electoral integrity is not only about procedures, but also about systemic corruption that distorts the fairness of political competition."*

This means that fairness in elections cannot be achieved if money politics continues to be treated as a crime merely subject to administrative sanctions or minor criminal penalties without targeting its main actors.

However, in reality, the practice of money politics operates within a complex and systemic socio-political structure involving more than one individual and is inherently collective. Therefore, in this context, criminal liability theories based on individualism are no longer adequate. Consequently, a new approach is needed that views money politics as a collective-structural crime, not merely as an individual act. This idea aligns with the perspective of Barda Nawawi Arief, who emphasized the importance of criminal law's ability to evolve and adapt to societal needs, arguing that criminal accountability needs to be developed to address structural crimes, including money politics, beyond the individualistic paradigm (Nawawi, 2020: 45).

In the international realm, approaches to collective-structural crimes are also beginning to be developed, particularly in international and corporate criminal law. Legal principles such as "command responsibility" and "joint criminal enterprise" in the Rome Statute of the International Criminal Court (ICC) demonstrate recognition of liability forms that extend beyond individual perpetrators. This concept is crucial to adapt in the context of Indonesian elections, given the structure and dynamics of money politics involving organized cooperation among various parties. On the other hand, national criminal law doctrines also provide space for the expansion of criminal liability in the context of crimes committed collectively (concursus realis and concursus idealis), as well as involvement in conspiracies (complot). However, its implementation in the electoral context remains highly limited because the legal approach employed focuses more on the formality of roles and legal status of perpetrators, rather than their substantive function in money politics.

Money politics is a systematic strategy or effort to influence the behavior and political choices of individuals or groups through the provision of material rewards or specific promises. The essence of this practice is fundamentally a mechanism of vote trading that can infiltrate various political processes and power struggles. This phenomenon is ubiquitous, present and observable at almost every level of the electoral process, demonstrating complex and structural dynamics ranging from the most micro level, such as village head elections, to macro strata, such as a nation's presidential elections.

At the macro level, such as in a nation's presidential election, money politics is essentially a strategic mechanism aimed at influencing the preferences and political behavior of individuals or groups through the provision of material compensation. This practice is often manifested in the form of vote trading, which infiltrates the entire political process and its hegemonic contestation. Furthermore, this modus operandi involves the distribution of financial resources, whether sourced from personal funds or collective political party finances, with the sole purpose of directing voters' electoral choices (voters' behavior).

These forms of material intervention range from the distribution of cash in specific amounts, staple goods, public facility improvements, appointment to positions, to the funding of specific groups. Conceptually, these are classified as variants of money politics. This classification is based on the transactional nature of such interventions, where the assistance provided carries an expectation of reciprocal support in the form of votes, thereby blurring the line between sincere philanthropy and instrumental political investment (Umam, 2006: 24).

The practice of money politics, deeply entrenched in the socio-cultural system, operates like a chronic pathology that systematically undermines the integrity of the democratic process. Its existence impedes the realization of a healthy and substantive democratic order due to the destructive impacts it generates. The complexity and resistance of money politics to eradication efforts stem from its symbiotic nature; it is not only motivated by economic scarcity and low political literacy at the electoral level but also sustained by corrupt incentive structures and a profound crisis of trust in political institutions at the elite level. Therefore, efforts to combat it cannot be limited to legal-formal approaches through harsher sanctions but must become a multidimensional socio-political reconstruction project.

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2) The Inadequacy of Legal Positivism in Addressing Systemic Electoral Crimes

Based on the perspective put forward by Topo Santoso, the construction of electoral crimes can be analyzed through three cumulative aspects that form its scope. First, the normative-formal aspect, which includes all offenses explicitly regulated within the election law itself. Second, the normative-substantive aspect, which encompasses all criminal acts related to the administration of elections as regulated in legislation outside the election law, such as the Political Party Law or the Criminal Code (KUHP). Third, the temporal-contextual aspect, which refers to all forms of conventional criminal offenses (e.g., traffic violations, assault, or vandalism) that occur during the election period, regardless of whether the election regulations specifically address them or not. Thus, the scope of electoral crimes holistically includes all criminal acts related to the election process, whether regulated specifically in the election law or in other legislation (Santoso, 2006: 3).

Based on a philosophical analysis of the objectives of holding general elections, money politics occupies a position that is diametrically opposed and antagonistic to these three foundational pillars. First, money politics weakens the foundation of a democratic constitutional system instead of strengthening it, by transforming the electoral process into a form of political corruption that erodes the principle of popular sovereignty. Second, this practice destroys the principles of justice and electoral integrity, as the electoral corruption it perpetuates creates a skewed and unfair competitive arena. Third, money politics is the antithesis of effective and efficient election administration.

Money politics constitutes an erosive factor for democracy and fundamentally incompatible with the entire ratio legis of conducting general elections. An analysis of money politics as an electoral crime inherently necessitates an approach through the lens of criminal law. Within the framework of this discipline, such a study must revolve around the three fundamental pillars of the criminal law triad: first, the normative construction of the criminal act (actus reus and mens rea); second, the aspect of criminal liability for perpetrators; and third, the applicable sentencing system.

Normatively, the primary instrument regulating this matter is Law Number 7 of 2017 concerning General Elections (Election Law). In terms of legal systematics, its criminal provisions are codified in Book V titled "Election Crimes," encompassing Articles 488 to 554. This scope indicates that there are 66 articles specifically regulating election offenses. Anatomically, election crimes can be classified based on the subject of the perpetrator. One primary category is crimes committed by election organizers. This category is specifically regulated across 24 articles: Articles 489, 499, 501, 502, 503, 504, 505, 506, 507, 508, 513, 514, 518, 524, 537, 538, 539, 541, 542, 543, 545, 546, 549, and 551.

Based on legal subject classification, election crimes under Law No. 7 of 2017 can be categorized more comprehensively, extending beyond just election organizers. This classification reflects the complexity and multi-dimensional threats to the integrity of the electoral process. Anatomically, these categories are:

a) General Public: 22 articles regulate offenses that can be committed by this legal subject, spread across Articles 488, 491, 497, 498, 500, 504, 509, 510, 511, 515, 516, 517, 519, 520, 531, 532, 533, 534, 535, 536, 544, and 548.
b) Government Apparatus: Acting in their capacity as civil servants, this subject is specifically regulated in 2 articles: Articles 490 and 494.State Officials or Public.
c) Officials: Including officials outside technical election organizers, crimes by this subject are regulated in 2 articles: Articles 522 and 547.
d) Corporations: 5 articles regulate corporate criminal liability, including Article 498, Article 525(1), Article 526(1), Article 529, and Article 530.
e) Campaign Operators and Election Participants: This category, encompassing campaign teams and political parties, is regulated in 9 articles: Articles 495, 496, 521, 523, 525(2), 526(2), 527, 528, and 550.
f) Presidential and Vice-Presidential Candidates: As subjects with the highest potential conflict of interest, presidential candidates are regulated in 2 specific articles: Articles 552 and 553.

Based on the normative construction of Article 523 of the Election Law, it can be concluded that these three paragraphs establish a gradation of criminality based on the temporal dimension of the election process. Paragraph (1) regulates acts during the campaign period, Paragraph (2) during the cooling-off period, and Paragraph (3) on voting day. Although fragmented into three temporal situations, all three share the same fundamental constitutive elements in criminal law: actus reus (objective element) and mens rea (subjective element).

Article 523 of Indonesia’s Election Law delineates distinct objective elements (actus reus) across its three paragraphs, each targeting specific manifestations of money politics. Paragraph (1) criminalizes promises or provision of material benefits to campaign participants,

whether directly or indirectly. Paragraph (2) aggravates penalties for identical acts committed during the cooling-off period and explicitly targets voters. Paragraph (3) focuses on election-day interference, prohibiting coercion against voters to abstain or support specific candidates. Despite these contextual variations, all paragraphs uniformly require intentionality (mens rea), as explicitly stated through the legislative phrase "deliberately" (intentionally), encompassing the full spectrum of dolus, from direct intent to dolus eventualis.

The law exhibits significant discrepancies in legal subject scope and sanction severity. While Paragraphs (1) and (2) restrict liability to formal election participants (e.g., campaign teams or candidates), Paragraph (3) expands it to "any person," acknowledging the broader threat of election-day violations. Sanctions are disproportionately weighted toward cooling-off period offenses (4 years' imprisonment), followed by election-day acts (3 years), and campaign period violations (2 years). This gradation reflects a legislative policy prioritizing the protection of voter neutrality during the cooling-off period as critical to electoral integrity. However, the narrow subject scope and inconsistent penalties reveal structural limitations in addressing systemic money politics networks, particularly indirect actors such as funders or intellectual masterminds (Moelyatno, 2018: 70-71).

Normatively, a Kelsenian legal positivism approach limits prosecution only to subjects explicitly mentioned in the statutory formulation. Consequently, perpetrators who are not defined as legal subjects within the norm, such as intellectual actors or funders behind money politics, will escape legal accountability. Meanwhile, provisions regulating general subjects (*communa delicti*), such as the phrase "any person" in Articles 515 and 532 of the Election Law, are limited to actions on voting day. This situation results in many findings or reports of alleged money politics cases becoming deadlocked due to the failure to fulfill the element of the perpetrator's legal subject.

Criminal liability is fundamentally understood as a process of transferring blameworthiness for a criminal act to its perpetrator, whether viewed from the objective aspect of the act itself or the subjective aspect of the perpetrator's culpability. The principle underlying the existence of a criminal act is the principle of legality (*nullum delictum, nulla poena sine praevia lege poenali*), while the basis for punishing the perpetrator rests on the principle of culpability (asas kesalahan). The practice of money politics often fails to ensnare behind-the-scenes actors, and to date, there is no clear and firm legal regulation addressing indirectly involved perpetrators. This normative gap implications the weakness of election administration, which ought to be conducted honestly, fairly, and justly in Indonesia. Therefore, a legal conception is required capable of encompassing these informal actors, enabling them to be held criminally liable.

3) Structural and Substances Deficiencies in Indonesia's Legal Framework Against Money Politics

One of the most fundamental weaknesses in combating money politics crimes in Indonesia lies in the normative aspect, specifically the formulation of legal rules in Law Number 7 of 2017 concerning General Elections. Textually, this law prohibits the provision of money or other materials to influence voter choices, as articulated in Articles 515, 523, and 547. However, upon deeper examination, these regulations are highly casuistic, as they primarily focus on the direct relationship between the giver (typically campaign teams or legislative candidates) and the recipient (voters). Consequently, these regulations fail to reach intellectual actors or masterminds behind money politics practices, such as political party elites or candidates who design fund distribution strategies through informal networks. Thus, Indonesian election law tends to only punish the "couriers of money politics" in the field, rather than the masterminds of the crime.

Cases of money politics linked to social assistance programs in various regions demonstrate that such modus operandi often escape legal repercussions because they are not

explicitly listed in the offense formulations of the Election Law. This limitation creates legal loopholes exploited by candidates to disguise transactional practices as legitimate political activities. Beyond the narrow formulation of offenses, normative weaknesses are also evident in the absence of regulations concerning the criminal liability of political parties as legal entities.

In many cases, money politics practices cannot occur without the involvement of political parties as institutions that organize, fund, and distribute resources. Political parties in this context often function as "political corporations", acting as the driving force behind transactional electoral strategies. However, to date, political parties cannot be held criminally liable for money politics practices carried out by their officials, members, or endorsed candidates. This contradicts developments in modern criminal law theory, which recognizes the principle of corporate criminal liability, a legal doctrine that imposes criminal responsibility on legal entities for offenses committed by their representatives or individuals acting in their interests (Satria, 2020: 9-10). In the context of money politics, the absence of a collective liability mechanism for political parties creates structural impunity, as criminal responsibility stops at the individual executors, while the entities that gain the greatest political benefits remain free from legal accountability.

Theoretically, this condition demonstrates the existence of what is termed legal gaps, voids in criminal law that result in the weak reach of legal norms over money politics crimes. Satjipto Rahardjo emphasized that overly rigid and socially unresponsive law will only lead to legal impotence in the face of complex societal realities (Rahardjo, 2020: 45). From a criminal law perspective, legal gaps are dangerous because they create opportunities for selective enforcement, where only minor perpetrators are prosecuted while major actors escape accountability. Thus, the normative weakness in money politics regulations is not merely a technical issue of legislative drafting but also reflects a structural disparity between who should be held responsible and who is ultimately brought to trial.

Furthermore, the theory of "integrated criminal policy" teaches that criminal law policy must be positioned within a comprehensive criminal policy framework, combining both penal and non-penal approaches (Muladi dan Nawawi, 2019: 72). In the context of money politics, criminal enforcement cannot stand alone but must be integrated with preventive measures, political education, and the strengthening of legal culture within society. Thus, a criminal law theory approach to money politics provides the foundation that the use of criminal law instruments is not merely to punish perpetrators but also to strengthen the democratic system and prevent the recurrence of similar practices in the future.

Beyond normative constraints, there are structural limitations in law enforcement. First, limited resources among law enforcement agencies pose a major obstacle. The Election Supervisory Agency (Bawaslu), the Police, and the Prosecutor's Office often face shortages of personnel, facilities, and adequate investigative capabilities to address reports of money politics. Second, weak coordination among law enforcement institutions is frequently problematic. In practice, differing interpretations among institutions regarding the fulfillment of criminal offense elements often occur, causing many money politics reports to stall at early stages and never reach trial. Third, there are issues related to time constraints in handling cases. Strict deadlines make it difficult for law enforcement officials to gather sufficient evidence and witnesses. Consequently, many money politics cases end without follow-up or are dismissed due to unmet formal requirements (Munawar and Hendra, 2024).

In practice, the enforcement of these provisions faces numerous obstacles. Transactions involving money politics are not always conducted openly or directly. Perpetrators tend to leverage more complex informal networks, including family members, volunteers, campaign teams, funders, or other third parties acting as intermediaries. This strategy allows candidates or political parties to obscure the flow of money or facilities provided, making it difficult for law enforcement agencies to trace. Common modus operandi include the distribution of social

assistance ahead of elections, provision of staple goods, vouchers, or public service facilities packaged within a social context, often funded by mysterious sources through intermediaries. As a result, proving the direct involvement of givers or recipients becomes highly challenging (Hafiz, 2024).

This phenomenon has broad implications for the legitimacy of the legal system. When the law is no longer able to enforce rules effectively, society begins to doubt the credibility and integrity of the legal system itself. This aligns with the perspective of Satjipto Rahardjo, who emphasized that law incapable of upholding substantive justice will lose its social legitimacy, even if it remains formally valid. In the context of money politics, the inability of the law to hold main actors accountable not only weakens law enforcement but also risks fostering a permissive culture toward corrupt practices in the political sphere (Rahardjo, 2009: 210).

Furthermore, limitations regarding evidence and witnesses highlight the need for procedural reforms in the electoral criminal law system. For instance, implementing mechanisms such as a reversed burden of proof or recognizing collective roles in money politics liability could serve as solutions to bridge the gap between legal norms and on-the-ground practices. Such strategies would enable law enforcement agencies to target higher-level actors within money politics networks, rather than merely field operatives, thereby making law enforcement more effective and deterrent.

The discrepancy between the ideal legal norm (das sollen) and empirical practice (das sein) in money politics has a significant impact on the legitimacy of Indonesia's legal system. Theoretically, the law should function not only as a formal rule but also as an instrument for upholding substantive justice. When money politics occurs massively yet law enforcement remains weak, society perceives the law as an ineffective instrument vulnerable to political and economic influences. This phenomenon not only weakens the credibility of the law but also fosters a perception of injustice among voters and other political actors, thereby eroding public trust in legal institutions and the democratic process as a whole.

From the perspective of the rule of law theory, the legitimacy of law heavily depends on its ability to reflect the principles of substantive justice. Radbruch emphasized that law which is fundamentally unjust, even if formally valid, loses its normative legitimacy (Radbruch, 2006). In Indonesia, this injustice is clearly visible in numerous cases of money politics across general and regional elections, where influential actors or political elites evade prosecution while law enforcement predominantly targets minor perpetrators or field operatives.

This situation creates a structural imbalance: formal law exists, yet materially it fails to reach key actors who possess the capacity to manipulate the flow of funds, facilities, or witnesses. This disparity inevitably impacts public political behavior. Voters who witness elite impunity may lose trust in elections and the democratic system, allowing a permissive culture toward money politics to persist. Furthermore, candidates aware that the law struggles to hold main actors accountable tend to adopt more covert and organized money politics strategies, increase the complexity of transactional political networks.

There are three fundamental considerations regarding the urgency of criminal law. First, the necessity for criminal law lies not in its ultimate objectives but in the fundamental question of to what extent the use of state coercion can be justified to achieve those objectives, and how to balance the value of the goals pursued with the protection of individual freedoms. Second, even if rehabilitation or improvement programs exist, there must still be a proportional reaction to norm violations to avoid creating an impression of permissiveness. Third, the effects of criminal sanctions target not only offenders but also society at large, thereby serving as an educational and deterrent tool to discourage law-abiding citizens from engaging in criminal acts (Arief, 2011: 55-57). Thus, any weakness at the formulative level will have systemic repercussions and become a serious obstacle to crime prevention and control. Therefore, penal policy is fundamentally identical to criminal law enforcement policy, which should be viewed

as an integrated process encompassing the formulation, application, and execution of criminal law.

According to M. Cherif Bassiouni, the criminal law enforcement process can be understood through three main stages: the formulation stage (legislative process), the application stage (judicial process), and the execution stage (administrative process). The first stage, legislative policy, essentially represents law enforcement in abstracto, as it involves the formulation of criminal norms by lawmakers. Meanwhile, the second stage (judicial policy) and the third stage (executive policy) can be categorized as law enforcement in concreto, as they pertain to the application and implementation of legal norms in concrete cases. These three stages reflect the three forms of power and authority inherent in the criminal law system: the legislative power to define acts as criminal offenses and prescribe sanctions, the judicial power to apply the law through court proceedings, and the executive power to enforce legally binding criminal judgments (Bassiouni, 2013: 107-110).

To address this issue, legal reform must be holistic, encompassing normative, procedural, and institutional aspects. Normatively, revisions to the election law are necessary to hold intellectual actors, candidates, and political parties as legal entities accountable, rather than solely targeting direct givers or field operatives. Procedurally, mechanisms such as reversed burden of proof and the recognition of collective liability could bridge the gap between legal norms and practical enforcement. Additionally, robust witness protection, independence of law enforcement agencies, and consistent oversight must be integral to the reform strategy to ensure laws are enforced fairly and effectively.

4) The Accountability Gap: Elite Impunity and the Limits of Current Legal Frameworks

Money politics has emerged as a major challenge in Indonesian elections, undermining democratic principles and distorting the essence of popular sovereignty. By transforming voters from active political subjects into objects of material influence, it replaces genuine political choice with transactional dynamics. Financially advantaged candidates gain disproportionate competitive edges, prioritizing resource distribution over programmatic quality and perpetuating a political culture that normalizes corruption. This systemic imbalance erodes public trust and reduces elections to mechanisms of material exchange rather than instruments of democratic representation. This further degrades the quality of democracy, as voters no longer base their choices on rational deliberation but on immediate material gains. Moreover, money politics opens the door to corrupt practices. Candidates who incur significant costs to win elections often seek to recoup these investments after being elected, frequently through abuse of power or corruption. Thus, money politics not only undermines electoral integrity but also worsens governance and weakens the legal system.

Money politics is a manifestation of electoral corruption characterized by the illicit provision of material rewards to secure votes, an act fundamentally opposed to democratic principles of justice. This phenomenon represents a form of power distortion by political actors, which in turn erodes public trust in the democratic process. Despite regulatory efforts, their effectiveness in curbing money politics remains limited, indicating a gap between regulatory design and implementation, as well as the likely influence of structural and cultural factors that perpetuate this practice (Yusuf, 2024: 104). Money politics not only erodes the quality of democracy and popular sovereignty but also fundamentally undermines the integrity of Indonesia's rule of law. Conceptually, the core pillars of the rule of law require the supremacy of law, equality before the law, and guarantees for the protection of citizens' constitutional rights (Asshiddiqie, 2020: 45-46).

This fosters a culture of impunity among perpetrators while simultaneously eroding public trust in law enforcement institutions. Consequently, when the law fails to be enforced impartially and electoral transactionalism is allowed to flourish, the foundational principles of the rule of law inevitably suffer systematic degradation, causing the law to lose its authority

and function merely as an instrument for the powerful (law as a tool of power). This phenomenon is evident in how influential political actors leverage financial resources to sway voters and manipulate political processes. While formal laws exist, such as Law No. 7 of 2017, which criminalizes both givers and recipients of money politics, in practice, law remains ineffective in holding elite perpetrators or intellectual architects of these transactions accountable.

Moreover, this permissive culture toward money politics fosters public apathy. Voters increasingly view such practices as normal or even acceptable within democratic processes, reducing social pressure for law enforcement. Consequently, enforcement agencies often face direct or indirect resistance, including fears of political intervention or elite influence, leading to sluggish or selective prosecution.

Money politics blatantly distorts the integrity of the rule of law in its formal dimension. Stahl's theory of the *gesetzmässige Staat*, which emphasizes legal certainty through formal legality, is devalued when laws prohibiting money politics (Articles 515 and 558 of Law No. 7/2017) are enforced inconsistently and partially (Stahl, 2010: 118-120). Money politics transforms law from a guardian of certainty into a tool of pseudo-legitimacy that protects perpetrators through discriminatory enforcement. This inefficacy creates what Hans Kelsen termed the *ineffectiveness of the legal order*, where legal norms lose their sociological binding force (Kelsen, 2009; 119). Thus, money politics not only violates positive law but, more critically, erodes the authority and credibility of the entire legal system.

At its core, money politics constitutes a denial of substantive and progressive legal ideals. This practice blatantly contradicts Radbruch's Formula, which asserts that unjust law (*unrichtiges Recht*) must yield to a higher justice (*übergesetzliches Recht*). Money politics also represents the antithesis of Satjipto Rahardjo's progressive law, which emphasizes emancipatory and humanizing legal principles. Rather than liberating, money politics enslaves voters within patronage networks and reinforces structural injustice. Furthermore, it undermines the principle of equality before the law, a cornerstone of the modern rule of law. By making wealth the primary determinant of political influence, this practice not only damages democracy but fundamentally betrays the very spirit and soul of the rule of law itself. The urgency for legal reform in this matter is exceedingly high. Merely improving the normative text of the Election Law is insufficient; what is required is a more effective enforcement mechanism, robust witness protection, and an independent oversight system to ensure that perpetrators of money politics, whether at the grassroots or elite political levels are held legally accountable. Money politics is not merely an ethical issue or an illegal electoral practice; it has systemic consequences that threaten the quality of democracy and governance in Indonesia. First, money politics has shifted political priorities from public interests to the financial interests of candidates and political actors. Popular sovereignty, which should be the core principle of democracy, becomes distorted as voters are influenced by material incentives rather than rational assessments of candidates' vision, capacity, or integrity.

Furthermore, money politics creates a cycle of corruption that undermines good governance. The substantial funds expended during campaigns are often viewed as "political investments" that must be recouped after a candidate's election, typically through corrupt practices, collusion, or nepotism in public policy-making and budgeting. This results in the neglect of accountability and transparency principles in governance. Studies by Aspinall and Berenschot demonstrate how money politics not only influences voters but also fosters a corrupt political ecosystem at the elite level, where public policies are traded to parties who have made financial contributions (Aspinal and Berenschot, 2019: 112-115. Consequently, the resulting policies tend to benefit the interests of a handful of elites while ignoring the needs of the broader public, exacerbating social inequality and weakening democratic legitimacy.

Secondly, money politics weakens governance. Candidates who secure positions through transactional practices are highly likely to seek compensation for their campaign expenses,

often leading to corruption, nepotism, or abuse of authority. Thus, money politics not only disrupts electoral processes but also threatens bureaucratic effectiveness, public accountability, and the principles of good governance. This transforms democracy into a simulacrum, where formal legitimacy exists but the substance of justice and accountability is lost. From the perspective of rule of law theory, the systematic failure to enforce laws against money politics generates structural injustice within the judicial system. A clear disparity in legal treatment emerges: political actors with economic capital and powerful networks often evade legal accountability, while low-level operatives and field executors become scapegoats in legal proceedings. This disparity is not merely procedural but erodes the epistemic legitimacy of law enforcement institutions in the public eye. Furthermore, money politics reproduces a pathological cycle in the political ecosystem. Candidates who gain power through transactional mechanisms tend to replicate the same practices to maintain their dominance, embedding political pathology into the socio-political structure. The long-term consequence is the degradation of deliberative democracy and the weakening of checks and balances. Therefore, the urgency for reform must extend beyond improving legal norms or individual case enforcement to encompass systemic strategies.

Money politics in Indonesia is not merely a sporadic phenomenon but a systemic practice that has permeated various levels of elections, from legislative to executive branches. A frequently referenced case is the "dawn attack" (*serangan fajar*) during Legislative Elections (Pileg) for Regional Councils (DPRD). In this practice, legislative candidates or their success teams distribute cash or staple goods massively on voting day to influence voters. According to District Court and Supreme Court rulings, judges tend to interpret Articles 523–525 of Law No. 7 of 2017 with a focus on evidence of direct transactions between givers and recipients. Givers proven to distribute funds are sentenced to criminal penalties, while recipients or field executors acting as intermediaries often receive light sentences or no punishment at all, let alone the behind-the-scenes actors who remain entirely untouched.

The 2014 election money politics case, as reported by Indonesia Corruption Watch (ICW), provides the most extensive illustration. Here, the distribution of money politics was typically carried out by structured campaign teams, with candidates as the hidden initiators. In several rulings, judges emphasized documentary evidence such as eyewitness testimonies, recordings, and reports from the Election Supervisory Agency (Bawaslu), but difficulties in proving direct candidate involvement created legal loopholes. Consequently, even when money politics occurred in an organized manner, most intellectual actors, such as candidates and political parties bearing the costs, were rarely prosecuted, and major behind-the-scenes actors almost never faced the law.

Moreover, there is a trend of impunity for political elites often observed in money politics cases. Analysis of several court decisions reveals that law enforcement agencies tend to prioritize targeting field operatives, while actors with significant political and financial power frequently escape sanctions. This phenomenon reinforces the gap between *das sollen* (legal norms) and *das sein* (practical reality), fostering public perception that election law is incapable of holding politically elite violators accountable for structural offenses. Furthermore, money politics cases at the regional level, such as village head and regional council (DPRD) elections, demonstrate increasingly varied modus operandi. Beyond cash, distributions of staple goods, shopping vouchers, transportation facilities, and social assistance packages are used as tools to influence voters. This poses challenges for law enforcement, as the offense formulations in Law No. 7 of 2017 still focus primarily on direct or indirect provision of money or materials, without clarifying the forms these materials may take, and solely target campaign executors, participants, or teams.

From a criminal law perspective, the narrow interpretation by judges results in a limited deterrent effect. The criminal penalties imposed are largely minimal fines or short prison sentences, failing to reflect the seriousness of violations against democratic principles and

electoral integrity. In practice, field operatives or couriers are often targeted as scapegoats, while intellectual actors continue to reap political benefits from money politics schemes. This phenomenon underscores the need for a collective liability approach in enforcing laws against money politics. Several case studies in Indonesia demonstrate that without a clear legal mechanism to hold political parties, candidates, campaign teams, and behind-the-scenes actors collectively accountable, efforts to eradicate money politics will continue to face significant obstacles. In other words, current legal practices remain overly individualistic, while money politics is collective, structured, and organized. Thus, regulatory reform is a critical step to close these legal gaps.

5) Building a Collective-Structural Liability to Eradicate Money Politics in Indonesia

In stark contrast to nations that successfully prosecute the highest levels of political corruption, Indonesia has yet to establish a single legal precedent for criminally convicting legislative or executive candidates or the intellectual actors of money politics. This failure is not incidental but structural, rooted in a legal framework, epitomized by Law No. 7 of 2017, that is utterly unequipped to dismantle the systemic nature of the crime. The law operates on an individualistic and formalistic logic, narrowly targeting low-level campaign operatives who physically distribute funds, while willfully ignoring the sophisticated architecture of the practice. Consequently, it leaves the shadow actors, financiers, party elites, and the vast patron-client networks that orchestrate these schemes from the top with complete impunity. This critical enforcement gap creates a de facto license for elites to engage in electoral corruption, transforming the law from a deterrent into a mere instrument that punishes only the weakest links in a much larger and more powerful chain.

On the other hand, South Korea has established a more progressive legal mechanism to combat electoral corruption through its Public Official Election Act. Articles 99–100 and Article 70 create a system of strict and expanded liability, allowing for the direct prosecution of candidates, party officials, and campaign strategists even if they did not physically distribute funds themselves. Crucially, the law recognizes that instructions given within a party's hierarchy constitute a criminal act, enabling prosecutors to "pierce the veil" of formal campaign structures to hold masterminds accountable. This was demonstrated in the landmark 2013 conviction of National Assembly Speaker Park Hee-tae, who was found guilty of orchestrating a vote-buying scheme and authorizing cash distributions to fellow lawmakers, resulting in a suspended prison sentence and a heavy fine (Woo, 2019).

This verdict sent a powerful message through the Korean political establishment, affirming that the legal system can and will reach the intellectual and structural architects of money politics, regardless of their high office. The strength of the South Korean model lies not only in its stringent laws but also in its consistent enforcement by an independent judiciary and aggressive anti-corruption agencies. This creates a powerful deterrent effect, as elites perceive a genuine risk of exposure and punishment. The system is further reinforced by severe supplementary sanctions, including the loss of an elected seat and long-term bans from public office, which raise the political cost of corruption exponentially. This integrated approach combining broad legal definitions, proactive investigation, and politically consequential penalties, provides a valuable benchmark for Indonesia and other democracies seeking to dismantle the structures of electoral corruption.

Brazil's Mensalão scandal provides a stark example of collective-structural money politics at the highest levels of government, where the ruling Workers' Party orchestrated a vast vote-buying scheme through monthly payments to opposition congressmen. In a landmark 2012 trial, the Supreme Federal Court demonstrated a commitment to holding entire corrupt networks accountable by prosecuting 38 defendants across the political and business spectrum, including key figures like José Dirceu and José Genoino who were convicted for orchestrating the bribery network that funneled illicit funds to secure legislative support. This precedent was

further amplified by the massive Operation Car Wash scandal, which exposed how construction conglomerates systematically bribed Petrobras executives and politicians across party lines, with a portion of every bribe automatically diverted to illegal campaign funds. The investigations led to the imprisonment of dozens of elites and demonstrated that a robust, independent judiciary can successfully punish the intellectual architects and corporate sponsors of systemic corruption, providing a powerful lesson in confronting structural electoral crimes despite the eventual procedural controversies that emerged.

Another powerful comparative example can be found in Italy, which has developed a sophisticated legal instrument to combat political-criminal collusion through the crime of concorso esterno in associazione mafiosa (external complicity in a mafia-type association). This provision, under Article 416-bis of the Italian Penal Code, is critically potent because it prosecutes politicians not for formal mafia membership, but for intentionally collaborating with and benefiting from criminal organizations to achieve goals like buying votes or securing influence, as demonstrated in the seminal conviction of former Palermo Mayor Vito Ciancimino for facilitating mafia control in exchange for electoral support.[1] This legal concept provides a direct model for targeting the systemic networks of money politics by prosecuting candidates or party elites who knowingly outsource voter coercion and vote-buying to local brokers or informal networks. The Italian experience confirms that the key to dismantling systemic corruption lies in criminalizing the collaborative conspiracy that defines these structures, rather than merely the physical act of vote-buying, offering Indonesia a foundational basis for reconceiving its electoral criminal law to reach the intellectual architects of electoral corruption.

This necessitates a fundamental reconception of criminal liability to effectively ensnare the 'shadow actors' who orchestrate these schemes, achievable through a revision of Law No. 7 of 2017 and the adoption of a progressive law enforcement approach. It is precisely this urgent imperative to develop a theoretical framework capable of bridging the principles of the rule of law, the grim realities of electoral politics, and innovative legal renewal that makes a comparative study with other nations not just useful, but essential. Examining jurisdictions like South Korea, Brazil, and Italy provides critical, ready-made models for constructing a system of liability that is collective, structural, and equal to the sophisticated nature of the crime it aims to punish.

Indonesia's fundamental failure stems from a legal framework (Law No. 7 of 2017) that is misaligned with the nature of the crime it is supposed to combat. While other countries have developed laws and doctrines to target the structure, leadership, and beneficiaries of corruption networks, Indonesian law remains fixated on punishing the lowest-level executors. The urgent legal reform needed in Indonesia must incorporate lessons from this comparison:

a) Normative: Expand the definition of perpetrators in the law to include intellectual actors, financiers, and party leaders who instruct or fund money politics.
b) Doctrinal: Introduce a concept of collective-structural liability (Italy's *concorso esterno* or Brazil's *associação criminosa*) that focuses on the collaboration within a corrupt network.
c) Procedural: Empower law enforcement with tools like reversed burden of proof for certain elements and strengthen the use of financial intelligence and digital evidence.
d) Sanctions: Implement politically consequential sanctions such as mandatory loss of seat and long-term electoral bans for convicted candidates, making the cost of corruption unbearably high.

Without these fundamental changes, Indonesia's enforcement will continue to chase shadows while the architects of electoral corruption enjoy complete impunity. By transforming its legal architecture from a blunt instrument into a sophisticated scalpel capable of dissecting

corrupt networks, Indonesia can finally shift from a cycle of impunity to a future of accountability, ensuring that its elections truly reflect the will of the people, not the depth of their candidates' pockets. The path forward is clear, but the survival of democratic legitimacy depends on it.

CONCLUSION

The pervasive and systemic nature of money politics in Indonesian elections represents a fundamental threat to the nation's democratic foundations and the integrity of its rule of law. This practice, which transforms the electoral process from a mechanism of popular sovereignty into a transactional marketplace, is not merely an individual transgression but a collective-structural crime. It is orchestrated by sophisticated networks involving financiers, political party elites, and intellectual masterminds who operate with impunity, while the existing legal framework, Law No. 7 of 2017, disproportionately targets only the low-level operatives and couriers. This critical accountability gap reveals the profound inadequacy of a legal positivist approach that clings to an individualistic and formalistic conception of criminal liability, failing to capture the complex, organized, and systemic reality of electoral corruption.

Consequently, a paradigm shift in legal thinking is urgently required, moving from individual culpability towards a novel concept of Collective-Structural Criminal Liability. This reconceptualization is the cornerstone of the necessary reform, demanding that criminal liability be expanded beyond formal implementers to encompass the intellectual actors, financiers, and political parties as legal entities who design, fund, and benefit from these corrupt schemes. To operationalize this new liability model, a comprehensive revision of Law No. 7 of 2017 is non-negotiable. This normative overhaul must include the expansion of legal subjects within the articles criminalizing money politics, explicitly naming party chairs, campaign fund managers, and unofficial strategists as potential perpetrators. Furthermore, the law must integrate modern procedural mechanisms such as reverse burden of proof for the legitimate source of campaign funds and the aggressive use of digital evidence to trace illicit financial flows, tools that are conspicuously absent from the current legal arsenal. These changes are vital to pierce the veil of informal networks and hidden transactions that currently shield the elite from justice.

The urgency of this reform is underscored by compelling comparative jurisprudence. Nations like South Korea, with its strict liability for candidates, Brazil, with its prosecution of entire corruption networks as seen in the Mensalão trial, and Italy, with its doctrine of concorso esterno (external complicity) for those who collude with criminal structures, provide powerful models for holding the architects of corruption accountable. These examples demonstrate that effective enforcement requires laws that are deliberately designed to target the top of the patronage pyramid, not just its base, utilizing independent judiciaries and anti-corruption agencies to deliver deterrent sanctions, including loss of elected office and long-term political bans. Therefore, the fight against money politics cannot be won through legal reform alone; it must be part of a multidimensional socio-political reconstruction project. This entails strengthening the capacity and independence of oversight institutions like Bawaslu, ensuring robust witness protection, and fostering a cultural shift that rejects electoral transactionalism. The law must evolve, as Satjipto Rahardjo argued, from being a guardian of the status quo into a dynamic instrument for social change and emancipatory justice, capable of reflecting societal values and upholding substantive fairness over mere formal legality.

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