

MONEY POLITICS PRACTICES IMPLICATING THE DISQUALIFICATION OF ALL CANDIDATE PAIRS IN REGIONAL HEAD ELECTIONS

(Case Study: Constitutional Court Decision Number 313/PHPU.BUP-XXIII/2025)



Geri Permana^{1*}

Doctoral Program in Law, National University

*Korespondensi: e24geripermana@student.unas.ac.id

Abstrak

Putusan Mahkamah Konstitusi (MK) dalam perkara Perselisihan Hasil Pemilihan Bupati dan Wakil Bupati Barito Utara Tahun 2024 telah menimbulkan diskursus hukum yang signifikan karena menjatuhkan sanksi diskualifikasi kepada dua pasangan calon secara bersamaan, meskipun tidak dimohonkan secara eksplisit dalam petitum permohonan. Penelitian ini bertujuan untuk: *pertama*, menganalisis bagaimana pengaturan politik uang di dalam Undang-Undang tentang Pilkada; dan *kedua*, bagaimana substansi pertimbangan hukum dan amar putusan hakim MK dalam Putusan Nomor 313/PHPU.BUP-XXIII/2025, terutama dalam konteks pelanggaran politik uang yang terstruktur, sistematis, dan masif, serta menilai pendekatan penafsiran konstitusi yang digunakan MK, sekaligus meninjau ketentuan larangan politik uang sebagaimana diatur dalam Undang-Undang No. 10 Tahun 2016. Penelitian ini menggunakan tipe penelitian yuridis normatif, dengan pendekatan peraturan perundang-undangan, konseptual, dan kasus. Hasil penelitian menunjukkan bahwa: *pertama*, ketentuan larangan politik uang telah jelas diatur dalam Undang-Undang No. 10 Tahun 2016 yang menegaskan urgensi menjaga integritas demokrasi elektoral melalui norma hukum yang tegas dan berdaya paksa. Dan *kedua*, pertimbangan hakim MK dalam Putusan Nomor 313/PHPU.BUP-XXIII/2025 telah tepat yang menegaskan posisi MK sebagai penjaga integritas elektoral yang tidak sekadar memeriksa kuantitas suara, melainkan menjamin kualitas demokrasi berdasarkan prinsip keadilan substantif. Dengan mendiskualifikasi kedua pasangan calon tanpa petitum eksplisit dari pemohon, MK menerapkan penafsiran progresif terhadap konstitusi dan hukum pemilu, untuk menjawab ancaman serius terhadap asas pemilu yang jujur dan adil akibat praktik politik uang yang terstruktur, sistematis, dan masif.

Kata Kunci: *Pilkada Bupati dan Wakil Bupati Barito Utara Tahun 2024; Politik Uang; Perselisihan Hasil Pemilihan.*

Abstract

The Constitutional Court's decision in the case of the 2024 North Barito Regent and Vice Regent Election Result Dispute has sparked significant legal discourse due to its imposition of simultaneous disqualification sanctions on two candidate pairs, despite such a sanction not being explicitly requested in the petitioner's petitum. This study aims, first, to analyze the regulation of vote-buying (money politics) under the Law on Regional Head Elections; and second, to examine the legal reasoning and ruling of the Constitutional Court in Decision No. 313/PHPU.BUP-XXIII/2025, particularly in the context of violations involving structured, systematic, and massive (TSM) money politics. The study also seeks to assess the constitutional interpretation approach adopted by the Court, while reviewing the vote-buying prohibition stipulated in Law No. 10 of 2016. This research employs a normative juridical method, using statutory, conceptual, and case-based approaches. The findings reveal that, first, the prohibition against vote-buying is clearly regulated in Law No. 10 of 2016, which emphasizes the urgency of safeguarding electoral democratic integrity

through firm and enforceable legal norms. Second, the Constitutional Court's reasoning in Decision No. 313/PHPU.BUP-XXIII/2025 is appropriate, reaffirming the Court's role as the guardian of electoral integrity—concerned not merely with the quantity of votes, but with ensuring the quality of democracy based on the principle of substantive justice. By disqualifying both candidate pairs without an explicit petitum from the petitioner, the Court employed a progressive interpretation of the Constitution and election law to respond to the grave threat posed to the principles of fair and honest elections by structured, systematic, and massive vote-buying practices.

Keywords: 2024 North Barito Regent and Vice Regent Election; Money Politics; Election Result Dispute.

1. INTRODUCTION

The election of regional leaders (Pilkada) represents a crucial pillar in Indonesia's democratic architecture, firmly rooted in the 1945 Constitution (UUD 1945). A significant transformation in the method of selecting these leaders emerged as a result of post-reform constitutional amendments—most notably Article 18 (4) of the Constitution—which articulates that “Governors, Regents, and Mayors, as heads of provincial, regency, and municipal administrations, shall be chosen through democratic means.” This clause has predominantly been interpreted to mean that local executives are to be elected directly by the people. This democratic mandate is further operationalized through Law No. 1 of 2015, along with its subsequent revisions,¹ which collectively form the statutory foundation for the conduct of direct regional elections. Within this legal and constitutional structure, Pilkada not only exemplifies the expression of local-level popular sovereignty but also functions as a procedural vehicle for the establishment of accountable, participatory, and responsive regional governance.² In order to fully actualize the democratic aspirations embedded in the implementation of regional elections (Pilkada), the electoral process must be safeguarded through integrity, transparency, and the absence of any form of manipulation—especially the practice commonly known as money politics. This phenomenon represents a profound challenge to democratic quality, as it diverts public choice from rational political evaluation toward transactional motivations rooted in material gain.³ Within the landscape of Pilkada, the pervasiveness of money politics not only distorts fair political competition but also risks the emergence of local leaders who prioritize self-interest or factional loyalties over the broader public good.⁴ As such, dismantling the structure that enables money politics becomes essential to consolidating Indonesia's constitutional democratic framework.

Theoretically, money politics can be described as the act of transferring, offering, or pledging monetary or material inducements to voters with the explicit aim of swaying their electoral decisions. This conceptualization resonates with the analysis of Aspinall and Sukmajati, who categorize money politics as the strategic distribution of tangible rewards by electoral candidates

¹ Law Number 1 of 2015 has been amended three (3) times, namely by Law Number 8 of 2015, Law Number 10 of 2016, and Law Number 6 of 2020.

² Jimly Asshiddiqie, *Pengantar Hukum Tata Negara Indonesia*, Konstitusi Press, Jakarta, 2010, p. 690.

³ Bivitri Susanti, “Demokrasi Elektoral dan Ancaman Politik Uang,” *Jurnal Konstitusi*, Vol. 17, Number 3, 2020, p. 779.

⁴ *Ibid.*, p. 781.

or their campaign operatives to mobilize voter support.⁵ Such practices are intrinsically linked to broader patterns of political clientelism, systemic corruption, and electoral bribery. Robin Hodess further characterizes money politics as an exploitative exercise of political authority for individual or partisan advantage, occurring at any stage of political tenure—whether pre-election, during office, or post-term.⁶

From the standpoint of Indonesian statutory law, the prohibition of money politics within the framework of regional elections (Pilkada) is clearly articulated in Law No. 10 of 2016, which serves as the second amendment to the Regional Election Law. According to Article 73 (1), both candidates and their campaign teams are expressly forbidden from offering or promising monetary or material benefits with the intent to sway voters or influence election officials. To reinforce this prohibition, Article 187A of the same legislation outlines criminal penalties for any such violations. Nevertheless, despite this explicit legal structure, the prevalence of money politics continues to persist as a deep-rooted challenge across successive local election cycles.

A number of empirical studies have shown that money politics practices are common in the lead-up to election day, often in the form of cash handouts, goods, or promises of certain facilities. This reflects the strong patron–client relationship embedded in local political culture, where voters tend to be pragmatic and are more easily influenced by material incentives. As a result, the quality of local democracy deteriorates significantly, as electoral orientation shifts from vision, mission, and policy programs to transactional considerations.⁷

The destructive impact of money politics on democracy cannot be overlooked. First, money politics undermines the principle of popular sovereignty, as voters' choices no longer reflect their free will but are instead the result of manipulation by those with greater financial resources.⁸ Secondly, leaders elected through this practice tend to lack integrity and competence because selection is determined by financial capacity rather than leadership qualities.⁹ Thirdly, money politics reinforces a culture of corruption because public officials feel the need to recoup the 'political capital' they have spent.¹⁰ Fourthly, this creates inequality in electoral competition because only candidates with substantial funds have a chance to win, while potential candidates are excluded from the competition.¹¹ As a consequence, the democratic system experiences degradation, public trust in democratic institutions weakens, and the governance process becomes morally and legally illegitimate.

In this context, the Constitutional Court (MK) Decision Number 313/PHPU.BUP-XXIII/2025 became an important precedent. The dispute originated from the objection of candidate pair

⁵ E. Aspinall dan M. Sukmajati, *Politik Uang di Indonesia: Patronase dan Klientelisme dalam Pemilu*, PolGov UGM, Yogyakarta, 2015, p. 8

⁶ R. Hodess, *Transparency and Anti-Corruption Measures in Electoral Processes*, Transparency International, Berlin, 2004, p. 2.

⁷ Bivitri Susanti, *Op. Cit.*, p. 781.

⁸ *Ibid.*

⁹ E. Aspinall dan M. Sukmajati, *Op. Cit.*, p. 8.

¹⁰ Indonesia Corruption Watch, *Laporan Tahunan Praktik Korupsi Pemilu di Indonesia*, ICW, Jakarta, 2022, p. 1

¹¹ Bivitri Susanti, *Op. Cit.*, p. 781.

number 2, Akhmad Gunadi Nadalsyah and Sastra Jaya, regarding the results of the 2024 Barito Utara regional election, which was narrowly won by candidate pair number 1, Gogo Purman Jaya and Hendro Nakalelo. The MK then ordered a re-vote (PSU), but the result was reversed. Candidate pair number 1 subsequently filed a new lawsuit through case Number 313/PHPU.BUP-XXIII/2025.¹²

During the trial, it was revealed that both candidate pairs were proven to have engaged in massive and structured money politics at several polling stations, such as TPS 01 in Melayu Subdistrict and TPS 04 in Malawaken Village. The Constitutional Court (MK) considered that these practices violated the principles of honest and fair elections as stipulated in Article 22E paragraph (1) of the 1945 Constitution. Based on these considerations, the MK imposed disqualification sanctions on both candidate pairs as a form of enforcing electoral integrity and a stern warning against serious violations of constitutional democracy.¹³

This ruling marks an important milestone, demonstrating that the Constitutional Court not only functions as the guardian of the constitution but also as a key actor in upholding the integrity of democracy. The decision to disqualify all candidates sends a strong signal to regional election contestants not to use money politics as a political strategy. More than that, this ruling is expected to serve as a collective reflection for society, election organizers, and law enforcement officials to work together in realizing clean, fair, and dignified regional elections, in line with the ideals of constitutional democracy grounded in social justice.¹⁴

This article seeks to highlight the substance contained within the Constitutional Court Decision Number 313/PHPU.BUP-XXIII/2025, which disqualified all candidate pairs in the 2024 Barito Utara Regional Election, for which a re-vote (first) had previously been conducted based on Constitutional Court Decision Number 28/PHPU.BUP-XXIII/2025. This means that following Constitutional Court Decision Number 313/PHPU.BUP-XXIII/2025, the residents of Barito Utara Regency will conduct a second re-vote in its entirety, no later than 90 days after the issuance of Constitutional Court Decision Number 313/PHPU.BUP-XXIII/2025. In further analysis, the author uses the theory of constitutional interpretation and the theory of justice. Therefore, the research problems in this article include: first, how is money politics regulated in the Law on Regional Elections; and second, what is the analysis of the judges' considerations and decisions in the Constitutional Court Decision Number 313/PHPU.BUP-XXIII/2025.

2. METHODOLOGY

This article employs normative legal research. According to Philipus M. Hadjon, normative legal research aims to discover and formulate legal arguments through analysis of the core issues.¹⁵ The approaches used are the statutory approach, the conceptual approach, and the case approach. Peter Mahmud Marzuki explains that the statutory approach involves examining or studying all

¹² Constitutional Court Decision Number 313/PHPU.BUP-XXIII/2025, p. 1-3.

¹³ Constitutional Court Decision Number 313/PHPU.BUP-XXIII/2025, p. 2.

¹⁴ Bivitri Susanti, *Op. Cit.*, p. 781.

¹⁵ Bachtiar, *Metode Penelitian Hukum*, Unpam Press, Tengarang Selatan, 2018, p. 50-51.

laws, regulations, and policies related to the legal issue under review.¹⁶ Meanwhile, the conceptual approach is based on the views and doctrines that have developed within legal science.¹⁷ This article uses secondary data or legal materials consisting of primary, secondary, and tertiary legal sources. The technique for obtaining these legal materials is conducted through library research.¹⁸ This article employs qualitative analysis techniques, which tend to analyze data without using numbers, instead providing descriptions of the findings and prioritizing the quality of the data.¹⁹

3. DISCUSSION

a. Provisions on Money Politics in the Law on Regional Head Elections

The prevalence of money politics during regional head elections (Pilkada) represents a significant challenge to the credibility and legitimacy of Indonesia's democratic processes. Recognizing the detrimental effects of such practices, the Indonesian legislature enacted Law Number 10 of 2016, which serves as the second amendment to Law Number 1 of 2015, to establish a clear legal framework prohibiting money politics. Specifically, Article 73 paragraph (1) of this law unequivocally forbids candidates and their campaign teams from offering or promising money or any other material incentives to sway the decisions of election officials or voters.

To ensure compliance and deter violations, the law imposes strict administrative and criminal consequences. Article 73 paragraph (2) stipulates that candidates found guilty of engaging in money politics may face administrative penalties, including the possibility of being disqualified from the election by the relevant Provincial or Regency/City General Election Commission (KPU). This is further reinforced by Article 73 paragraph (3), which provides that campaign teams proven, through a court ruling with permanent legal effect, to have violated the aforementioned prohibitions are subject to criminal penalties as prescribed by prevailing laws and regulations. Article 73 paragraph (4) further elaborates on the prohibition, emphasizing that any acts of money politics directed at voters are strictly forbidden.

Moreover, Article 187A of the same law prescribes criminal sanctions for any individual who, either directly or indirectly, promises or gives money or other valuables to voters with the intention of influencing their electoral choices. The penalties for such offenses are severe, ranging from a minimum prison sentence of 36 months to a maximum of 72 months, and fines starting from IDR 200 million up to IDR 1 billion. These stringent measures reflect the seriousness with which the Indonesian legal system treats the offense of money politics.

The phenomenon of money politics in Pilkada fundamentally undermines the core values of democratic elections, which are intended to be direct, general, free, confidential, honest, fair, and conducted periodically. In the Indonesian context, money politics is not only an ethical breach but has evolved into a pervasive and systemic threat that jeopardizes the very foundation of electoral integrity. This practice distorts the rational decision-making of voters, shifting their focus

¹⁶ Muhaimin, *Metode Penelitian Hukum*, Mataram University Press, Kota Mataram, 2020, p. 56.

¹⁷ *Ibid.*, p. 57.

¹⁸ *Ibid.*, p. 65.

¹⁹ Salim HS dan Erlies Septiana Nurbani, *Penerapan Teori Hukum Pada Penelitian Tesis dan Disertasi*, Ed. 1, Cet. 3, Rajawali Pers, Jakarta, 2014, p. 19.

from evaluating candidates based on policies and qualifications to making choices driven by immediate, material gain. As a result, the sanctity of popular sovereignty is eroded, as the electoral outcome becomes a reflection of short-term economic inducements rather than the genuine, autonomous will of the people. This dynamic leaves the democratic process highly susceptible to manipulation and corruption, ultimately weakening the legitimacy of elected officials and the institutions they represent.²⁰

The explicit prohibition of money politics, as set forth in Law Number 10 of 2016, serves as a crucial safeguard to protect the electoral process from undue transactional influence. By stipulating that candidates for regional leadership positions and their campaign teams who are found to have engaged in money politics can be disqualified, the law aims to uphold the sanctity of the people's vote. This regulatory framework is intended to ensure that electoral competition remains fair, transparent, and grounded in the principles of electoral justice, rather than being distorted by material inducements or unethical practices.

From a constitutional perspective, the prohibition against money politics carries profound significance, as it is intimately connected to the realization of popular sovereignty—a principle enshrined in Article 1 paragraph (2) of the 1945 Constitution of the Republic of Indonesia. When elections are compromised by the influence of money, the legitimacy of the government that emerges from such a process is fundamentally undermined, both morally and constitutionally. In this context, the ban on money politics is an embodiment of the rule of law, which mandates that authority must be attained through transparent, equitable, and lawful means. Consequently, the provisions contained in Law Number 10 of 2016 are not merely administrative or procedural in nature, but are integral to the constitutional essence of democracy in Indonesia.

Moreover, the persistence of money politics aggravates the patron-client dynamic between political elites and the general populace. As highlighted in the research conducted by Aspinall and Sukmajati, the prevalence of money politics in local elections reflects a deeply entrenched system of patronage at the grassroots level. In such a system, voters are often relegated to the role of passive recipients of short-term material gains, rather than being empowered as active participants in the democratic process and policy formation. This dynamic has far-reaching negative consequences for the quality of local democracy, as it incentivizes elected officials to prioritize the recovery of their campaign investments over genuine public service and sustainable governance. Therefore, addressing money politics is not only a matter of regulatory necessity but also a structural and cultural imperative for democratic advancement.

Ultimately, the state's firm stance against money politics is a tangible manifestation of its commitment to upholding electoral integrity. In the context of democratic governance, electoral integrity encompasses more than just the technical aspects of election administration; it also involves adherence to ethical standards and the pursuit of electoral justice. The dedication to maintaining the integrity of elections is part of the broader effort to combat the erosion of political morality at the regional level, which poses a significant obstacle to the consolidation of democracy. Accordingly, the eradication of money politics through comprehensive regulation and effective

²⁰ Bivitri Susanti, *Op. Cit.*, p. 780-782.

law enforcement is not simply a policy choice, but a constitutional obligation that must be fulfilled to safeguard the future of Indonesia's democracy.²¹

From the perspective of the theory of legal certainty, as articulated by Gustav Radbruch, the law must fulfill three fundamental values: justice, utility, and legal certainty.²² In this context, the regulation prohibiting money politics in the Regional Election Law reflects an effort to provide legal certainty for all parties involved in the electoral process. However, the implementation of this provision often faces challenges, particularly in terms of evidence and consistent law enforcement.

Proving violations related to money politics remains a significant challenge due to the clandestine nature of these activities and the involvement of intricate, often concealed networks. Such covert operations make it difficult for authorities to gather concrete evidence, thereby creating a climate of legal ambiguity for both electoral candidates and voters alike. This uncertainty not only complicates the enforcement of electoral laws but also risks eroding public confidence in the democratic system as a whole. When citizens perceive that unlawful practices like money politics go unchecked, their trust in the fairness and legitimacy of elections diminishes. Consequently, it is imperative to develop and implement a robust, transparent, and accountable law enforcement framework that ensures the prohibition of money politics transcends mere statutory language and is rigorously enforced in real-world electoral contexts. This framework should incorporate advanced investigative techniques, whistleblower protections, and community engagement to detect and deter covert money politics effectively.

The Election Supervisory Board (Bawaslu) plays a pivotal role in overseeing the electoral process and addressing violations of money politics. Under Article 135A of the Regional Election Law, Bawaslu is empowered to recommend the disqualification of candidates who are found guilty of engaging in money politics in a manner that is structured, systematic, and massive (TSM). This authority is critical in maintaining the integrity of elections by holding candidates accountable for unethical practices. Nevertheless, the effectiveness of Bawaslu in fulfilling this mandate is contingent upon its institutional capacity, including adequate human resources, technical expertise, and financial support. Moreover, collaboration with other law enforcement bodies such as the police and the Corruption Eradication Commission (KPK) is essential to ensure comprehensive investigation and prosecution of offenders. Strengthening inter-agency coordination and enhancing Bawaslu's operational independence will be vital to overcoming challenges posed by political interference and limited resources.

To bolster legal certainty and enhance the overall effectiveness of anti-money politics measures, a thorough review and refinement of existing legal provisions are necessary. This includes clarifying the legal definitions and criteria that constitute money politics violations to eliminate ambiguities that hinder enforcement. Additionally, capacity-building initiatives aimed at improving the skills and resources of supervisory institutions like Bawaslu, as well as judicial and

²¹ Robin Hodes, *Transparency and Anti-Corruption Measures in Electoral Precesses*, Transparency International, Berlin, 2004, p. 7-9.

²² Gustav Radbruch, *Legal Philosophy. Translated by Kurt Wilk*, Oxford University Press, New York, 2006, p. 8-10

law enforcement agencies, are crucial. Such improvements will enable more effective monitoring, investigation, and adjudication of cases related to money politics. Ultimately, these efforts are expected to foster a clean, transparent, and equitable electoral environment that upholds the principles of the rule of law and democratic governance. By doing so, Indonesia can move closer to realizing elections that genuinely reflect the will of the people, free from corrupting influences.

b. Analysis of Legal Considerations and Judicial Decisions in Constitutional Court Decision No. 313/PHPU.BUP-XXIII/2025

The Constitutional Court (MK) Decision Number 313/PHPU.BUP-XXIII/2025 is an important precedent in law enforcement against the practice of money politics in regional elections (Pilkada). In this decision, the MK disqualified both candidate pairs in the Barito Utara Pilkada for proven structured, systematic, and massive (TSM) money politics. This ruling was made after a trial process that revealed facts of violations committed by both candidate pairs.²³

By carefully examining the entirety of the judges' considerations in the Decision, there are three main substantive points contained within it. First, the Constitutional Court stated that the practice of money politics was clearly carried out by both candidate pairs, following an almost identical pattern—namely, giving money to voters at strategic locations such as around the re-voting polling stations (TPSU), including TPS 01 in Melayu Subdistrict and TPS 04 in Malawaken Village.²⁴

Second, the Constitutional Court affirmed that the violation was of a structured, systematic, and massive (TSM) nature as referred to in Article 73 of Law Number 10 of 2016. The violation is categorized as “structured” because it involved campaign officials and official volunteers from the candidate pairs; “systematic” because it was carried out with specific planning and technical patterns; and “massive” because it had a widespread impact on voters in the areas where the re-voting (PSU) took place.²⁵

Third, the Constitutional Court held the view that no candidate pair was eligible to be declared the winner, as both had compromised the integrity of the election. Therefore, the Court ordered a re-vote to be conducted with new candidate pairs.⁴ This decision signifies that the Constitutional Court is not only acting as a “calculator court” but as a guardian of electoral integrity. It is not surprising that the Constitutional Court stated that the measure used as a basis for assessing the existence of money politics, leading to disqualification, is based on considerations or assessments that are not only quantitative but also qualitative.

From the perspective of constitutional interpretation theory, the Constitutional Court in this case employed a progressive-constitutional interpretation. Although the initial petition only demanded the annulment of the victory of one candidate pair, the MK expanded the scope of examination based on its constitutional authority to uphold the principles of honest and fair elections as stipulated in Article 22E paragraph (1) and Article 24C of the 1945 Constitution of

²³ Constitutional Court Decision Number 313/PHPU.BUP-XXIII/2025, p. 260-261.

²⁴ *Ibid.*, p. 259-262.

²⁵ *Ibid.*

the Republic of Indonesia. The MK also relied on an interpretative approach to substantive justice norms, including the protection of authentic voting rights free from financial intervention.

This matter is clearly elaborated when the Justices, in their legal reasoning, stated that in assessing violations involving voter preference manipulation due to money politics, and in determining the appropriate remedy, the applicable standard is the “structured, systematic, and massive” (TSM) parameter. In practice, the Constitutional Court has adopted two forms of resolution for money politics violations in regional elections: the disqualification of candidate pairs or the ordering of a revote (Pemungutan Suara Ulang, or PSU), depending on the extent to which the violation is proven to have spread. For instance, in Decision Number 224/PHPU.BUP-XXIII/2025, the Court imposed disqualification because the political contract was conducted on a massive scale across nearly all districts in Mahakam Ulu Regency. Meanwhile, partial PSUs have been ordered in areas where the violations occurred, such as in Decision Number 99/PHPU.BUP-XXIII/2025, which ordered a PSU in four polling stations in West Bangka, and Decision Number 51/PHPU.BUP-XXIII/2025, which ordered a PSU in one subdistrict in the Talaud Islands.²⁶

However, in the present case, since the violations were proven only in two polling stations—namely TPS 01 in Melayu Subdistrict and TPS 04 in Malawaken Village—the Court emphasized that, beyond the quantitative aspect, the quality of the violation must also be considered. In other words, the gravity and influence of money politics practices on the election results must be substantively assessed. The main purpose of conducting a PSU is to improve the quality of the election outcome, not to worsen the democratic process, which should uphold the principles of honesty and fairness in producing clean and integrity-based leadership.²⁷

In its further considerations, based on a series of evidentiary findings and legal facts presented during the hearing, the Constitutional Court stated that it had found factual evidence of vote-buying practices aimed at securing the victory of Candidate Pair Number 2, involving payments of up to IDR 16,000,000 for a single voter. In fact, witness Santi Parida Dewi testified that she had received a total of IDR 64,000,000 for one family. Similarly, votes were also bought in favor of Candidate Pair Number 1, with payments reaching up to IDR 6,500,000 per voter, and accompanied by a promise of an umrah pilgrimage if the candidate won, as testified by witness Edy Rakhman, who received a total of IDR 19,500,000 for his family.²⁸

Regarding these legal facts, the Court held that the money politics practices that occurred during the PSU at TPS 01 in Melayu Subdistrict, Teweh Tengah District, and TPS 04 in Malawaken Village, Teweh Baru District, had a significant impact on the vote tallies for each side. Therefore, even though the 50 other individuals alleged by the Petitioner—as recipients or witnesses or informants of the money distribution—as well as the 17 individuals alleged by the Related Party to have received money were not further substantiated in court, the Court found, within reasonable bounds of inference, that vote-buying practices involving both candidate pairs in the PSU for the North Barito regency regional election were proven to be true.²⁹

²⁶ *Ibid.*, p. 260.

²⁷ *Ibid.*, p. 260-261.

²⁸ *Ibid.*, p. 261.

²⁹ *Ibid.*, p. 261.

This MK decision reflects a living constitution approach, where the constitution is interpreted dynamically in accordance with societal developments and the needs of substantive justice.³⁰ This approach allows the MK to adapt legal interpretations to changing social and political contexts and to provide legal solutions that are responsive to the problems faced by society.

In adjudicating electoral disputes, the Constitutional Court (MK) has demonstrated that its role transcends mere textual interpretation of statutory provisions. Instead, the Court actively incorporates fundamental constitutional values that underpin Indonesia's democratic framework, including principles such as honesty, fairness, and integrity in the conduct of general elections. This approach reflects a commitment to substantive democracy—where the quality and fairness of the electoral process are prioritized over procedural formalities alone. By embedding these values into its decisions, the MK seeks to reinforce public confidence in electoral outcomes and the democratic system as a whole.

From the standpoint of justice theory, the Constitutional Court's reasoning reveals a deliberate alignment with substantive justice rather than a narrow procedural focus. The Court's decision to impose total disqualification on candidate pairs proven to have engaged in money politics serves as a manifestation of zero tolerance toward electoral manipulation. This stance resonates with the principles of distributive justice, which emphasize equitable and impartial treatment for all participants in the political arena. By disqualifying both offending candidate pairs, the MK sends a clear message that electoral violations will be met with firm sanctions, irrespective of the individuals involved.³¹ Such decisiveness is essential to safeguard the integrity of the electoral process and to protect voters from exploitation or undue influence.

Nevertheless, the decision to disqualify both candidate pairs inevitably raises complex political and administrative questions. The MK's directive to conduct a new regional election (Pilkada) with an open registration of candidates reflects a proactive effort to restore electoral integrity and provide voters with genuine choices. This remedial measure underscores the Court's dual commitment: not only to uphold legal norms but also to ensure that democratic processes adhere to constitutional principles of fairness and legitimacy. By mandating a fresh electoral contest, the MK attempts to remedy the disruption caused by electoral malpractice and to reaffirm the electorate's sovereign right to select leaders of integrity.

While the simultaneous disqualification of both candidate pairs may appear unprecedented or even drastic, it marks a significant evolution in the enforcement of electoral ethics and morality in Indonesia. The proven impact of vote buying in the North Barito Regional Election (Pilkada) ultimately, according to the Constitutional Court, continues to influence voters and cannot be disregarded. Both candidate pairs were found to have committed serious violations in the form of money politics. This implies that any elected regional head would be a figure legally tainted as declared by the Constitutional Court. Moreover, if the Court were to choose either of the two

³⁰ B. Friedman, *The Will of the People: How Public Opinion Has Influenced the Supreme Court and Shaped the Meaning of the Constitution*, Farrar, Straus and Giroux, New York, 2009, p. 15–20.

³¹ John Rawls, *A Theory of Justice*, Harvard University Press, Cambridge, 1971, p. 60–65.

candidates, it would fail to create a deterrent effect for future elections, both for the candidates, their campaign teams, and the political parties that supported them. This would risk the repetition of similar violations in subsequent elections.³²

In this regard, money politics constitutes a grave electoral violation that is entirely intolerable. Therefore, in this case, it is both proper and just for the Constitutional Court to declare that both Candidate Pair Number 1 and Candidate Pair Number 2 in the 2024 North Barito Regional Election have engaged in vote-buying practices that fundamentally undermine the principles of elections as enshrined in Article 22E paragraph (1) of the 1945 Constitution. Put more simply, such practices have severely damaged and degraded the integrity and honesty of the electoral process. Consequently, the Constitutional Court had no hesitation in declaring the disqualification of both Candidate Pair Gogo Purman Jaya and Hendro Nakalelo (Number 1), as well as Akhmad Gunadi Nadalsyah and Sastra Jaya (Number 2), from the 2024 North Barito Regent and Vice Regent Election held on 27 November 2024 and the subsequent re-vote (PSU) on 22 March 2025.³³

This decision reinforces the MK's role as the ultimate guardian of electoral justice, affirming its authority to impose stringent sanctions to preserve democratic values. The ruling aligns closely with John Rawls' theory of justice, which advocates for both procedural fairness and substantive justice as foundational to the political structure. According to Rawls, a just society must be built on principles that ensure fairness for all, and the MK's decision exemplifies this ideal by prioritizing justice over political expediency.

Furthermore, this landmark ruling highlights the dynamic nature of constitutional adjudication in Indonesia, showcasing the Court's capacity to adapt legal interpretations in response to evolving democratic challenges. By adopting a progressive, value-oriented approach, the MK contributes not only to the resolution of individual electoral disputes but also to the broader strengthening of Indonesia's democratic institutions. This jurisprudential stance fosters a culture of accountability and ethical governance, which is indispensable for the consolidation of democracy in a diverse and complex society.

In addition, the decision serves as a deterrent against future electoral violations by signaling that manipulative practices such as money politics will incur severe consequences. This deterrence effect is critical in promoting a level playing field for all candidates, thereby enhancing the legitimacy and credibility of electoral outcomes. The MK's firm stance thus supports the development of a political culture grounded in integrity and respect for the rule of law, which ultimately benefits the democratic process and society at large.

In conclusion, Constitutional Court Decision No. 313/PHPU.BUP-XXIII/2025 exemplifies how a constitutional judicial body can play a pivotal role in defending democratic integrity and advancing substantive justice. Through its progressive interpretation of constitutional values, the MK not only resolves electoral conflicts but also reinforces the foundations of democracy and the rule of law in Indonesia. This decision stands as a testament to the Court's vital function in shaping

³² Constitutional Court Decision Number 313/PHPU.BUP-XXIII/2025, p. 261.

³³ *Ibid.*, p. 261-261.

a just political order that respects both legal norms and the ethical imperatives of democratic governance.

4. CONCLUSION

- a. The prohibition of money politics in Law Number 10 of 2016 emphasizes the urgency of safeguarding the integrity of electoral democracy through firm and enforceable legal norms. Explicitly, Article 73 regulates administrative sanctions in the form of disqualification of candidate pairs proven to have promised or given money to voters or election organizers, while Article 187A stipulates criminal sanctions for any perpetrators with a maximum imprisonment of six years and fines of up to one billion rupiah. This regulation demonstrates that the state positions money politics as a systemic threat to the principles of popular sovereignty and electoral justice, while simultaneously making the prohibition a manifestation of the constitutional principle of the rule of law. In this context, the Regional Election Law (Pilkada Law) functions not only as a technical electoral instrument but also as a constitutional means to ensure that the people's vote is not hijacked by corrupt transactional practices. Thus, this regulation is not merely a form of legal certainty but also a normative strategy to prevent the delegitimization of power arising from unfair and manipulative electoral practices.
- b. The legal considerations and judicial decision in Decision Number 313/PHPU.BUP-XXIII/2025 affirm the Constitutional Court's position as the guardian of electoral integrity, which not only examines the quantity of votes but also ensures the quality of democracy based on the principle of substantive justice. By disqualifying both candidate pairs without an explicit petition from the applicant, the Court applied a progressive interpretation of the constitution and election law to address the serious threat to the principle of honest and fair elections caused by structured, systematic, and massive money politics. The substance of the judges' considerations in this decision reflects constitutional courage that places political morality and electoral ethics as essential conditions for the legitimacy of the democratic process. In this context, the Constitutional Court has set an important precedent that the legitimacy of power derives not only from the majority of votes but also from a process that is clean, fair, and constitutionally integral

5. ACKNOWLEDGEMENTS

Upon the successful and timely completion of this article, the author would like to express sincere gratitude to all staff members of Universitas Nasional, especially Prof. Rumainur, Ph.D., as the author's primary supervisor. To maintain the quality of this article, the author has requested a colleague to provide advice and input during the writing process. Therefore, with his permission, the author extends sincere thanks to Herman Dirgantara (Gajah Mada Analitika).

REFERENCES

Book and Journal

- Asshiddiqie, Jimly, *Pokok-Pokok Hukum Tata Negara Indonesia Pasca Reformasi*, Jakarta: Bhuana Ilmu Populer, 2007.
- _____, *Pengantar Hukum Tata Negara Indonesia*, Jakarta: Konstitusi Press, 2010.
- Bachtiar, *Metode Penelitian Hukum*, Unpam Press, Tangerang Selatan, 2018.
- Aspinall, Edward, dan Mada Sukmajati, *Politik Uang di Indonesia: Patronase dan Klientelisme dalam Pemilu*, Yogyakarta: PolGov UGM, 2015.
- Bumke, Joachim. *Money Politics in Emerging Democracies*. Berlin: Friedrich Ebert Stiftung, 2014.
- Friedman, Barry, *The Will of the People: How Public Opinion Has Influenced the Supreme Court and Shaped the Meaning of the Constitution*, New York: Farrar, Straus and Giroux, 2009.
- Hodess, Robin, *Transparency and Anti-Corruption Measures in Electoral Processes*, Berlin: Transparency International, 2004.
- HS, Salim and Erlies Septiana Nurbani, *Penerapan Teori Hukum Pada Penelitian Tesis dan Disertasi*, Ed. 1, Cet. 3, Rajawali Pers, Jakarta, 2014.
- Indonesia Corruption Watch, *Laporan Tahunan Praktik Korupsi Pemilu di Indonesia*, Jakarta: ICW, 2022.
- Muhaimin, *Metode Penelitian Hukum*, Mataram University Press, Kota Mataram, 2020.
- Radbruch, Gustav, *Legal Philosophy*, Diterjemahkan oleh Kurt Wilk. New York: Oxford University Press, 2006.
- Rawls, John, *A Theory of Justice*, Cambridge: Harvard University Press, 1971,
- Susanti, Bivitri. "Demokrasi Elektoral dan Ancaman Politik Uang." *Jurnal Konstitusi* 17, No. 3, 2020.

Acts

- The 1945 Constitution of the Republic of Indonesia.
- Law Number 1 of 2015 concerning the Stipulation of Government Regulation in Lieu of Law Number 1 of 2014 concerning the Election of Governors, Regents, and Mayors into Law.
- Law Number 8 of 2015 concerning the Amendment to Law Number 1 of 2015 concerning the Stipulation of Government Regulation in Lieu of Law Number 1 of 2014 concerning the Election of Governors, Regents, and Mayors into Law.
- Law Number 10 of 2016 concerning the Second Amendment to Law Number 1 of 2015 concerning the Stipulation of Government Regulation in Lieu of Law Number 1 of 2014 concerning the Election of Governors, Regents, and Mayors into Law.

Money Politics Practices Implicating The Disqualification Of All Candidate Pairs In Regional Head Elections (Case Study: Constitutional Court Decision Number 313/PHPU.BUP-XXIII/2025)

Court Decision

Constitutional Court Decision Number 313/PHPU.BUP-XXIII/2025.