

## **THE IMPACT OF MANY VOTE-BUYING CASES IN ELECTIONS ON THE LEGAL CULTURE IN SOCIETY AND DECRIMINALIZATION POLICY IN INDONESIA**

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**Abstract:** Vote-buying has happened a lot in general elections in Indonesia. Indonesian criminal law already regulates the prohibition of vote-buying and has been enforced, but the number of cases is increasing so the consequences can be bad in society. However, it is not yet known what the adverse effects of vote-buying will be on the results of the general election, and the legal code and policy of decriminalization. This article was written using desk research by conducting a study on documents using the documentation study technique. The contents of the document were then analyzed using content analysis techniques. This study obtained 2 findings as follows: vote-buying can have a negative impact on the results of the general election, including the election of several unprofessional people, blocked people's political channels, elected candidates committing criminal acts of corruption, a decrease in Indonesia's democracy index. The impact of vote-buying on legal culture in society, among others, considers vote-buying as a normal activity that is not categorized as a crime. Legislators can use the legal culture in the community as the basis for determining policies for decriminalizing the crime of vote-buying in the Election Act and Regional Head Elections Act.

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**Keywords:** vote-buying, legal culture, decriminalization

### **INTRODUCTION**

Elections in Indonesia are the first means that must be passed by someone to gain power (Dienaputra, 2010). General elections in Indonesia are used as a means to elect the President and members of the legislature as regulated in the Election Act, and to elect regional heads, namely governors, regents, and mayors as regulated in the Election Act for Governors, Regents, or Mayors. The election is carried out by the people on the principle of direct, general, free, confidential, honest, and fair. However, many candidates have committed dishonest acts, including giving money or other materials to prospective voters in order to vote or not to vote for certain candidates. This method can be referred to as vote-buying. Vote-buying is the use of money or other materials directly by a candidate to influence a voter's decision in a general election, whether to vote for a particular candidate or not to vote for a particular candidate (Baidoo et al., 2018).

Apart from being a dishonest act, vote-buying in general elections and regional head elections is a crime. In the Regional Head Election Act, giving money or other materials as bribes to prospective voters, both parties can be punished, but in the General Election Act, prospective voters who accept money or other materials as bribes cannot be criminally charged. The regulation shows that in the General Election Act and in the Regional Head Election Act, vote-buying is categorized as a crime, the difference being on who the perpetrators are who can be convicted, and the criminal threats. Bribery in vote-buying is an unlawful act that has an impact on the legal, social, cultural, economic, and democratic processes and outcomes, and justice (Anton Diary Steward Surbakti<sup>1</sup>, Ediwarman, Madiasa Ablisar, 2020) in the short and long term, for example, policies in law-making.

Cases of vote-buying often occur during the campaign until the time of voting in general elections in several developing and developed countries (Baidoo et al., 2018). The practice of money politics (including vote-buying) continues to occur in Indonesia, (Kencana, 2022) the cases and modes from 2004 to 2019 are increasingly varied (Masduki, 2004), even, and the number is increasing. (Katadata.com, 2019). The majority of these cases are the result of ongoing exchange interactions between parties, repeated in several kinds of elections, and are considered mutually beneficial actions by the seller and the voter (Kramon, 2013). The cost of bribes to voters can outweigh the legal costs of elections (Darma, 2022). There are many causes for vote-buying, including weak legal provisions, a limited number of supervisors, less than optimal supervision, lack of cooperation between community members and law enforcement officers in reporting crimes and processing criminal acts, and the punishment imposed by the court is categorized as a minor crime. However, it is necessary to know further what are the impacts of votebuying on the process and results of the general election, whether vote-buying will have a negative impact on the legal culture in Indonesian society, then whether legal culture can be used as the basis for determining decriminalization policies by legislators. These two issues are the main issues that will be discussed in this article.

### **THEORETICAL FRAMEWORK**

Vote-buying is a way of getting voters' votes by giving money or other materials to prospective voters to vote for certain recommended people (Lumolo, 2007). Vote-buying as an illegal technique to get votes from voters (Tirto.id, 2018) is one of the four modes of money politics in Indonesia (Masduki, 2005). The groups of prospective voters who are most vulnerable to vote-buying are the economically poor and irrational voters (Masduki, 2004). Vote-buying mode in Ghana, Vote-buying doesn't just happen; sometimes voters demand incentives from politicians, but sometimes politicians also give bribes to voters of their own accord. A group of people may be forced to ask for or ask for wages from the candidate to be elected or from a successful team who visits and declares his political ambitions and the prospective leader asks for help or support from prospective voters (Baidoo et al., 2018).

Vote-buying cases have created a legal culture in society because vote-buying, even though it has been prohibited by law, is still happening. An understanding of the definition of legal culture in society needs to be studied in more depth, starting from the terminology and its use in sociological and legal studies, then the types and processes of forming legal culture and their influence on law formation. It is difficult to study the definition of legal culture because legal ideas and expectations, and how they are made operational, are difficult to identify precisely. However, in general, the notion of legal culture is a relatively stable pattern of law-oriented social behavior and attitudes (Nelken, 2004). Thus, although the meanings vary, in the most general context the notion of legal culture in society is a social phenomenon related to different values, attitudes, and behaviors in society in understanding the existing legal rules (Čehulić, 2021).

Based on its existence in society, there are 2 types of legal culture, namely professional internal legal culture, and external legal culture in society. Professional internal culture, namely legal culture within law enforcement officers. While the external legal culture of citizens who interact with the legal system, namely the legal culture that exists in society (Weinstein, 2001). The term legal culture is intended to describe various social phenomena that can be measured in principle. Based on these definitions and types, the legal culture studied in this article belongs to the type of external legal culture, namely the legal culture that exists among members of the voting community in the general election process.

In the study of the sociology of law, there are the terms legal culture and legal awareness. These two terms are often used analytically to identify the understanding and meaning of the law that occurs in social relations between humans in society. The prefix of the term "legal" in the term legal culture refers to an aspect of culture in the general definition associated with the rule of law, legal institutions, actors, and legal behavior. Legal culture refers to phenomena at the aggregate level (macro-sphere or at the group level); while legal awareness usually refers to social action at the micro-level, namely about individual ways of interpreting and mobilizing the meaning and signs or regulations of law.

Correlational, legal culture is closely related to legal awareness in society. The higher the legal awareness of the community, the easier it will be to create a good legal culture and this situation can change people's mindsets about the applicable law. Sociologists and sociologists in the field of law view law as a product of community culture, so without a legal culture, the legal system will die, unable to operate as originally intended to regulate humans (Diary et al., 2020). The general culture in society also can support and shape the legal culture. Thus, legal culture can actually be studied interdisciplinary using empirical techniques, cultural science, or historiography, as an aid to examining human attitudes towards the legal order (Friedman, 1990). Thus, the legal culture in society is one of the main components considered in the legal change process.

One way to form state law is the making of laws by legislators. Each law usually regulates human actions, including the provisions of criminal law which regulate which actions are ordered by the state to people and which actions are prohibited from being carried out by people, even accompanied by the threat of criminal sanctions. The process of making criminal law policies can be in the form of a process of making a normal action a crime than by law (criminalization policy), and there is also a criminal law policy process that turns a crime into a noncriminalization policy (decriminalization policy). In general, the definition of decriminalization is the process of changing legal provisions with the aim of turning an act that has been designated as a crime into a non-criminal act (United Nations, 2007). In relation to legal culture and decriminalization policies, there are two benchmarks for actions in society, namely indicators of the social status of people who are suspected of having high moral character, and the behavior of that person. If the two indicators clash, namely people who are not consistent with their moral character, then usually what will usually be resolved by changing the method of character evaluation to be consistent with the evaluation of actions (Lempert, 2010)

## **METHOD**

This article was written based on the results of research using the desk research method, namely reviewing library materials and secondary data containing data on vote-buying cases in Indonesia, and the rules for prohibiting votebuying. Desk research was conducted by collecting vote-buying case data for the years 2004-2019 obtained from websites on news portals, and data published in articles in scientific journals. The results of this study can be used as a prescription for what stakeholders should do to resolve existing legal problems and issues (Marzuki, 2001). The data that has been obtained is then classified based on the formulation of the problem and finally analyzed (Soerjono, Soekanto. Sri, 1995) using content analysis techniques (Kreikhoff, 1995). Content analysis techniques are carried out by reading and assessing the cases and conditions of the community contained in secondary data and then linked to the contents of legal regulations and texts in government policy documents, (Widodo, 2020) using inductive, deductive, and analytical thinking techniques and comparative (Soekanto, 1982).

## **RESULTS AND DISCUSSION**

### **The Impact of the Number of Vote-Buying Cases on the Results of General Elections and Regional Head Elections, and the Indonesian Democracy Index**

The negative impact of vote-buying on democracy and society can be categorized into 2, namely (a) on the results of the general election/regional head election, (b) legal culture in society

#### **(a) Negative Impact of Vote-Buying for General Election Result/Regional Head Election**

Vote-Buying can damage the democratic system and the integrity of elections. Money politics in the form of votebuying undermines the integrity of elections, (Ghaliya, 2019) as a manifestation of the democratic system that is used as a means to elect leaders with integrity and capability to lead the process of achieving state goals. Because of vote-buying, the election failed to become an instrument in producing public officials with integrity and become the initial source of damage to the political integrity of the state (Muhtadi, 2019).

The general election and regional head elections are an arena for making money for prospective voters, not looking for a professional leader in a democratic manner. General elections and regional head elections are not used as a means of selecting candidate leaders but instead are used by prospective voters as a means of making money. This is evidenced that in the December 2017 national survey, only 15% admitted to receiving

double envelopes, then in February 2018 18% of those who were offered money received “double envelopes”, then in March 2019, 35% of respondents were willing to make multiple payments from candidates or political parties (Muhtadi, 2019). The number of voters involved in money politics is increasing. The number of voters involved in vote-buying in the 2019 elections is between 19.4 percent to 33.1 percent. From 2009-2013 only 23.7%, then in 2014, it rose to 27.4%, and in 2019 between 19.4%-33.1% (between 37.3 million to 63.5 million prospective voters) were willing to accept money (Muhtadi, 2019). There is plenty of evidence from pre-election surveys that candidates do target specific voters with rewards and incentives (Baidoo et al., 2018).

The bad impact of vote-buying is that candidates who do not vote-buying in the process are difficult to be elected because many members of the community have not voted for people who do not give money in return. This situation raises concerns that the candidates are those who have a lot of money but are not politicians who from the start have careers as politicians who are professionally trained. In fact, only 33% of political party cadres became candidates for legislative members in 2014 (Muhtadi, 2019). Another bad impact is that officials elected for vote-buying commit corruption crimes. There are at least 13 cases of political corruption handled by the Corruption Eradication Commission allegedly related to vote-buying, including corruption in the procurement of goods and services by regional heads (Ghaliya, 2019).

Apart from these negative impacts, it is difficult for a leader who is elected because of vote-buying to work professionally because he is a politician who has no experience in the field of politics. The next negative impact is that people's aspirations cannot be conveyed convincingly because the elected candidates are not able to filter aspirations and are unable to convey people's aspirations so that they become government policy instruments. If there is an elected candidate doing vote-buying, then the process of channeling the aspirations of constituents to legislators and to the government is also often blocked because the elected candidates are not reliable (Ghaliya, 2019). In 2014, 58.86% (More than 50% of permanent legislative candidates) were entrepreneurs or professionals (Muhtadi, 2019).

The final result is related to the prestige of Indonesia as a democratic country. Lowering the Indonesian Democracy Index which causes a decrease in investment from foreign countries. Lowering Indonesia's democracy index. Indonesia is ranked 64th in the world in the Democracy Index released by the EIU with a score of 6.3. Even though Indonesia's ranking is still the same as the previous year, the score has decreased from the previous 6.48 (Putra, 2021). This fact has caused Indonesia to be ranked third in the world after Uganda and Benin, as the place where money politics took place in elections, (Medcom.id, 2019) and in 2018 and 2019, Indonesia was included in the category of countries that implement a flawed democracy (flawed democracy). The Democracy Index is an index compiled by the Economist Intelligence Unit (EIU) since 2006, with the aim of measuring the state of democracy in 167 countries in the world. Indonesia is ranked 64th (out of 167 countries) in the world in the Democracy Index released by the EIU with a score of 6.3. Even though Indonesia's ranking is still the same as the previous year, the score has decreased from the previous 6.48. This is the lowest figure obtained by Indonesia in the last 14 years (Putra, 2021). Indonesia is categorized as a country with a flawed democracy. Indonesia is ranked as the third country with the highest level of money politics in the world. (Muhtadi, 2019). If Indonesia's rating continues to decline, Indonesia may lose many investors because investors prefer to invest their capital in countries with good democracies, which are usually more secure. middle-income countries, including Indonesia, the quality of democracy has an effect on trade (Tambunan, 2020).

#### **(b) Negative Impact of Vote-Buying on legal culture in society**

The negative impact of vote-buying is that it makes society materialistic, namely prioritizing material considerations in the form of money or other forms of material rewards in selecting candidates compared to considerations of the capacity and capability of the candidates. Vote-buying in general elections and regional head elections is a widespread phenomenon in Indonesia. Usually in vote-buying prospective voters see the general election as a purely economic exchange in which voters will sell their votes to the highest bidder (the moneymaker) (Boix, 2007). In fact, the majority of Regional People's Representative Assembly voters in Indonesia vote for who gives the highest return. Vote purchases carry different meanings to different people.

(Aspinall, 2019) The closer the election, the greater the chance that voters will receive a double envelope (Muhtadi, 2019).

### **The Impact of Many Vote-Buying Cases on Decriminalization Policy**

The Impact of Many Vote-Buying Cases on Decriminalization Policy (Rahayu, 2014). Legal awareness in society will form a legal culture that is obedient and subject to applicable positive laws. Elections are no longer seen by voters as a democratic mechanism to elect accountable public officials, but as a way to earn money. Vote-buying is considered a normal transaction that does not violate the law between politicians and prospective voters, because prospective voters consider that money as a substitute for public money that has been corrupted by politicians, or even considered a gift (Muhtadi, 2019). Corruption is considered a normal act in society, and accepting bribes is also considered normal in society without any guilt or shame (Diary et al., 2020). The psychological condition of the community greatly influences the implementation and enforcement of the law, so if the condition of the Indonesian people considers bribes to be normal in vote-buying, the enforcement of electoral criminal law will also weaken.

A good legal culture in society will make supporting community members able to express themselves well (Ismayawati, 2011) positively and negatively, and produce good works, and vice versa if the legal culture is bad it will produce bad legal awareness as well. The collapse of the legal culture will have a negative impact on the development of law in Indonesia (Jawardi, 2016). Based on this thought, if the condition of the legal culture, which is the condition of the legal culture of the Indonesian people towards bribery through vote-buying which is morally bad (because it is considered normal behavior in society), will be used as an empirical basis by legislators to decriminalize vote-buying in General Election Act and Regional Head Election L Act aw. Isn't it not considered a crime in the Election Act to receive money in vote-buying? Whereas in the Regional Head Election Act and in the Criminal Code, vote-buying is categorized as a crime. if the policy of decriminalization in the Election Act against the actions of voters who accept bribes is carried out, it can spread to decriminalization in other laws, and finally, legislators can legalize vote-buying, due to the fact that most Indonesian people no longer hate bribes. One of the reasons for decriminalization is that the community does not hate the act. If this is the case, then the legal culture in society and the policy of decriminalization will actually damage the value system in Indonesian elections and democracy. The values adopted by the community as part of the legal culture act as moral guides in the administration of the state (Akbal & Umar, 2017) and if the legal culture is tolerant of votebuying, then legislators may consider vote-buying normal because legal culture is the main material determining the content of the law (Friedman, 1990).

Theoretically, the decriminalization of vote-buying in Indonesia based on legal culture is possible, because all people have their own legal culture and ideas because legal culture is born from the habit of interpreting the law, which in turn can create different understandings of justice, peace, and other concepts. Another general concept (Zartner, 2012). Decriminalization of vote-buying can occur in Indonesia because legal culture can function as a direct source of law, an impetus for stasis or legal change (Friedman, 1990). Apart from that, it is also possible for legislators to consider the behavior and handling of vote-buying outside the criminal law to be categorized as not having a negative impact on public safety (United Nations, 2007). The policy of decriminalization may occur because legislators argue that when many people have good moral character and then engage in actions that are considered immoral (eg Vote-buying), it is necessary to make an assessment based on the morality of the action, and finally perhaps the legal culture will often be able to change the provisions of the law (Lempert, 2010).

If not eradicated, vote-buying can have a negative impact on several parties, for example harming honest candidates, damaging the election process, damaging election results, damaging the democratic system, damaging people's mentality, and can even lead to a new legal culture of Indonesian society which is materialistic and considers vote-buying as normal behavior in society, not a crime. Theoretically, the legal culture could include a number of other characteristics that play a role in the preferred methods of justice. In practice, the decriminalization (covertly) of the actions of prospective voters who receive money or other materials in votebuying has been carried out by legislators, namely by issuing Articles 515 and 523 in the

Election Act as a result of the decriminalization policy of Article 149 of the Indonesian Criminal Code, so that people who received money from vote-buying can no longer be criminalized. Whereas according to Article 149 of the Indonesia Criminal Code, recipients of money in vote-buying can be punished. Considering that the Election Act is a special law and its application is special in general elections, this Act will override general criminal provisions (namely the Indonesian Criminal Code). As a result, if vote-buying occurs during the election process, law enforcement officials will use Articles 515 and 523 of the Election Act as a basis for judging, not Article 149 of the Indonesian Criminal Code. As a result of the decriminalization policy in the law, currently, prospective voters who receive money or other materials in vote-buying cannot be punished, because the act has been decriminalized by legislators.

### CONCLUSION

Based on the discussion, it can be concluded that the number of vote-buying cases in general elections and regional head elections in Indonesia has a negative impact on the results of general elections and regional head elections, namely the election of candidates who are less professional, channels for conveying people's aspirations to policymakers are blocked, causing corruption. on elected candidates, non-election of candidates who have political capacity and capability, and the decline in Indonesia's democracy index. Vote-buying has an impact on the legal culture in society, among others, prospective voters become materialistic and consider bribery to be not a crime. The legal culture in this society can be used as a justification for legislators to decriminalize vote-buying in the Election Act and the Regional Head Election Act.

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