

Political Rights Enforcement and Democratic Framework Strengthening

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Abstract

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This study examines the enforcement of political rights and the protection of democracy through an analysis of the Human Rights Act, the Election Act, and the Regional Government Act. Although these legal frameworks normatively provide strong foundations for safeguarding citizens' political rights, their implementation faces persistent challenges. Phenomena such as vote-buying, information inequality, institutional fragmentation, and disparities in local government capacity reveal a gap between legal norms and practical outcomes. Using a normative juridical approach, this study evaluates regulatory structures, enforcement effectiveness, and the need for legal reconstruction to ensure that democracy functions substantively. The findings highlight that political rights enforcement cannot rely solely on legislation; it also requires institutional strengthening, improved public political literacy, and adaptive oversight mechanisms responsive to social and technological developments. This research underscores the urgency of multidimensional reform to ensure that the protection of political rights operates effectively, inclusively, and consistently with the objectives of modern democratic governance.

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1. Introduction

The enforcement of political rights and the protection of democracy are two aspects that are interrelated and become a benchmark for the quality of the implementation of the rule of law. Political rights including the right to vote and be elected, freedom of opinion, freedom of association and assembly are the main instruments of citizen participation in the political process. National legal instruments that regulate and guarantee these rights, including human rights laws, general election regulations, and local government regulations, form a normative framework that provides legitimacy and limits to political practices (Hikmawan, 2017). The normative framework aims not only to provide a basis for rights, but also an enforcement mechanism that allows for the restoration of rights in the event of a violation.

In practice, the political process often faces a variety of phenomena that challenge the substantial realization of political rights. One of the phenomena that often receives attention is the practice of money politics which can interfere with freedom of choice, affect the quality of representation, and damage public trust in the electoral process.¹ In addition, structural pressures, such as inequality of access to information, intimidation, and weakness of surveillance mechanisms, are also factors that hinder equal and meaningful political participation.² These phenomena show that the existence of legal norms alone is not always enough; The effectiveness

¹ Hariman Satria. "Politik Hukum Tindak Pidana Politik Uang dalam Pemilihan Umum di Indonesia." *Integritas: Jurnal Antikorrupsi* 5, no. 1 (2019): 1-14.

² Felani Ahmad Cerdas and Hernadi Afandi. "Jaminan perlindungan hak pilih dan kewajiban negara melindungi hak pilih warga negara dalam konstitusi (kajian kritis pemilu serentak 2019)." *Sasi* 25, no. 1 (2019): 72-83.

of the protection of political rights depends on the capacity of enforcement institutions, the independence of the organizing body, and the active participation of civil society.

The linkage between formal norms and field realities is also seen in the dynamics of decentralization. Decentralization provides space for the strengthening of local democracy through public participation and supervision at the regional level, but at the same time poses new challenges such as the heterogeneity of local government capacity and the risk of dominance of certain local interests that can limit political space for vulnerable groups.³ Therefore, the reading of local government laws cannot be separated from the analysis of the implementation context in various regions that have different socio-political conditions.

Empirical and juridical studies in recent time frames emphasize the need for an integrated approach: normative analysis that maps the adequacy of the rule of law needs to be combined with an empirical evaluation of the implementation and effectiveness of sanctions and preventive mechanisms. On the one hand, electoral and human rights laws provide substantive norms; on the other hand, the institution of the organizers, accountability mechanisms, and law enforcement capacity are key elements so that these norms are not only declarative.⁴ In addition, the literature also highlights the importance of political education and community empowerment as a

³ Harahap Insan Harapan. "Kampanye Pilpres 2019 melalui media sosial dan pengaruhnya terhadap demokrasi Indonesia." *KOMUNIKOLOGI: Jurnal Ilmiah Ilmu Komunikasi* 17, no. 01 (2020).

⁴ Adhitya Widya Kartika. "Fungsi Mahkamah Konstitusi dalam sistem pemilihan umum dalam rangka penegakkan negara hukum dan demokrasi." *Fakultas Hukum Universitas Gresik: Jurnal Pro Hukum* 10 (2021).

preventive effort to reduce citizens' vulnerability to practices that undermine the integrity of democracy.⁵

In the context of policy, the discourse on the reconstruction of norms and practices is aimed at two main paths: first, strengthening legal instruments and enforcement procedures to close the loopholes of violations; Second, the development of non-punitive mechanisms such as political education campaigns, transparency of political financing, and information technology to increase public oversight. These reconstruction efforts require integration between legislation, institutional implementation, and civil society participation so that the protection of political rights is not only formal but also substantive and sustainable.^{6 7}

Based on the conceptual picture and findings of the literature, this paper is directed to answer two main research questions: first, how contemporary phenomena influencing political processes such as the practice of money politics and other implementative issues impact the enforcement of political rights according to the relevant legal framework; and second, what challenges arise in the implementation of the law as well as the urgency and direction of policy reconstruction or interventions needed to strengthen the protection of political rights and the quality of democracy as a whole

⁵ Deden Mauli Darajat and Muhtadi Muhtadi. "Strategi Literasi Politik untuk Mendukung Kesejahteraan Masyarakat Desa." *Sosio Informa* 6, no. 3 (2020): 305-317.

⁶ Fauzan Misra, Sudarmoko Sudarmoko, Apriwan Apriwan, Amri Hakim, Muhammad Ichsan Kabullah, and Fajri Rahman. "Kontekstualisasi Pilkada Riau: Sosiokultural, Relasi Klientalistik dan Indikasi Politik Uang." *Integritas: Jurnal Antikorupsi* 7, no. 1 (2021): 43-56.

⁷ Nurul Hasfi. "Komunikasi politik di era digital." *Politika* 10, no. 1 (2019).

2. Methods

This research uses a normative juridical approach, which is a legal research method that focuses on the study of applicable positive legal norms, principles, and rules. This approach was chosen because the research topic of political rights enforcement and protection of democracy through the Human Rights Law, the Election Law, and the Local Government Law is normative-doctrinal so that it requires a study of the legal materials that are the basis for the practice of state life. The normative juridical approach allows an analysis of the relationship between norms, the consistency of the legal system, and the conformity between the rules and the objectives of the protection of political rights within the framework of democracy.

In the initial stage, this study examines primary legal materials, namely laws that are relevant to political rights and democracy. The primary legal materials studied include Law Number 39 of 1999 concerning Human Rights, Law Number 7 of 2017 concerning General Elections, and Law Number 23 of 2014 concerning Regional Government and its amendments. The three laws were analyzed to look at the formulation of norms, the substantive protections provided, the institutional structures formed, and the regulated law enforcement mechanisms. The analysis of these provisions is carried out through legal interpretation techniques, both grammatical, systematic, and teleological interpretations, in order to understand the intention of the lawmakers and the conformity of norms with the purpose of protecting political rights.

In addition to primary legal materials, this research also uses secondary legal materials, namely scientific literature that discusses democracy, political rights, election law enforcement, decentralization, and implementation challenges in the context of developing countries. The secondary legal materials in question are scientific articles indexed by Google Scholar published in the last five years, constitutional law books, human rights journals, and studies on election integrity. Secondary legal materials serve as a source of critical analysis to assess the effectiveness and implementation of legal provisions, as well as provide theoretical and empirical perspectives on structural, institutional, and social barriers that can affect the protection of political rights.

The analysis method used in this study is normative qualitative analysis, which is an analysis that focuses on legal arguments based on interpretation of norms and literature data. The analysis is carried out by categorizing the main issues in three frameworks: first, the formulation of norms in the law; second, phenomena related to the enforcement of political rights in practice; and third, implementation challenges and the need for policy reconstruction. This separation of categories allows for the systematic drawing of conclusions about the relationship between norms and practices, as well as the extent to which existing legal frameworks are able to answer contemporary democratic problems.

The research procedure begins with an inventory of relevant legal provisions, then continues with a literature review to obtain a theoretical and empirical picture of the issue being studied. Furthermore, an integrative analysis was carried out between primary and secondary legal materials to see the conformity of norms with

the reality of their implementation. This research does not use empirical methods such as interviews or surveys, as the focus is on normative understanding of the rule of law as well as conceptual arguments regarding the protection of political and democratic rights.

With a normative juridical approach, this study aims to provide a comprehensive overview of how the existing legal framework in both human rights, elections, and local government aspects is designed to protect citizens' political rights and how its implementation challenges can be understood and critically evaluated. This approach also allows the formulation of normative recommendations in order to strengthen regulations, improve the integrity of organizing institutions, and optimize democratic mechanisms as a basis for the protection of political rights.

3. Results and Discussion

3.1. Contemporary Phenomena in the Enforcement of Political Rights Based on Legal Frameworks

The enforcement of political rights in contemporary practice shows a plurality of interrelated phenomena and has a substantial impact on the quality of democracy. These main phenomena can be categorized into five problematic areas that interact with each other: money politics and political corruption; weak enforcement capacity and accountability mechanisms; inequality of access to information and political literacy; regulatory fragmentation and overlapping authority; as well as challenges in the digital era to freedom of opinion and election integrity. Analysis of these five areas is important to understand how the legal framework, especially provisions on

human rights, elections, and local government interact with the socio-political realities on the ground.

First, the practice of money politics remains the most destructive phenomenon to the realization of substantive political rights. Money politics changes the right to vote from deliberative actions to decisions influenced by economic incentives, thereby reducing the quality of representation and legitimacy of election results.⁸ From the perspective of the election law, there are rules that criminalize and regulate sanctions against money politics; However, the effectiveness of this norm is limited by weak detection mechanisms and barriers to proof. As a result, the available sanctions do not always serve as an effective deterrent. In addition, less transparent political funding opens a gap for more systemic political corruption practices, so law enforcement efforts must involve reforms in campaign finance regulations and stronger reporting mechanisms.⁹

Second, the weakness of the capacity of enforcement agencies and organizers results in inconsistencies in the application of norms. Election supervisory agencies and law enforcement officials often face resource constraints, technical capacity, and sometimes political pressures that hinder operational independence.¹⁰ The impact is in the form of slow handling of violations, incomplete cases, or disproportionate sanctions. Formal legal systems without practical institutional strengthening risk

⁸ Almas Ghaliya Putri Sjafrina. "Dampak politik uang terhadap mahalnya biaya kemenangan pemilu dan korupsi politik." *Integritas: Jurnal Antikorupsi* 5, no. 1 (2019): 43-53.

⁹ Hariman Satria. "Politik Hukum Tindak Pidana Politik Uang dalam Pemilihan Umum di Indonesia." *Integritas: Jurnal Antikorupsi* 5, no. 1 (2019): 1-14.

¹⁰ Patawari Patawari. "Standar Hukum Internasional Penyelenggara Pemilihan Umum, Dan Pengaruhnya Terhadap Hukum Negara Indonesia." *Pleno Jure* 8, no. 1 (2019): 25-38.

becoming purely declarative texts, so the need to increase institutional capacity including budgets, training, and protection against political intervention becomes very urgent.¹¹

Third, inequality in access to information and low political literacy hinder the ability of citizens to use their political rights meaningfully. Freedom of opinion and the right to information are normatively guaranteed, but disparities in communication infrastructure and political education make certain groups more vulnerable to disinformation, social pressure, and opinion manipulation practices. Political education and critical literacy programs are needed so that the right to vote is realized not only procedurally but also substantially, so that voters can assess candidates and policies based on adequate information.¹²

Fourth, regulatory fragmentation and overlapping authority between legal instruments (for example, between human rights provisions, the Election Law, and the Local Government Law) create gaps in legislation that are used by perpetrators. Disagreements in definitions, handling and evidentiary procedures, and jurisdictional differences between institutions often slow down or thwart enforcement efforts. Therefore, the harmonization of regulations and the preparation of guidelines for coordination between institutions are important normative agendas so that the handling of violations can run in an integrated and effective manner.¹³

¹¹ Felani Ahmad Cerdas and Hernadi Afandi. "Jaminan perlindungan hak pilih dan kewajiban negara melindungi hak pilih warga negara dalam konstitusi (kajian kritis pemilu serentak 2019)." *Sasi* 25, no. 1 (2019): 72-83.

¹² Gun Gun Heryanto. *Literasi Politik*. Yogyakarta: IRCiSoD, 2019.

¹³ Dede Sri Kartini. "Demokrasi dan Pengawas Pemilu." *Journal of Governance* 2, no. 2 (2017).

Fifth, the dynamics of the digital era add to the complexity of political rights enforcement. Social media and digital platforms accelerate the dissemination of information as well as disinformation, give rise to covert campaign practices, and facilitate mobilization that is not always transparent. Existing regulations are often lagging behind the evolution of technology and political communication techniques, so it is necessary to update norms that balance freedom of expression with protection against information manipulation and foreign intervention; at the same time, cooperation with the private sector platform providers is needed for transparency and accountability mechanisms for digital campaigns.¹⁴

The interaction between these five phenomena shows that the enforcement of political rights requires a comprehensive approach that combines the improvement of legal norms, institutional capacity strengthening, reforms in political funding, and political education programs for the public. From a juridical-normative perspective, reform must not only evaluate the existence of articles and sanctions, but also the effectiveness of enforcement procedures, inter-institutional coordination mechanisms, and the conformity of norms with contemporary social dynamics. In conclusion, contemporary phenomena suggest that although legal frameworks provide a legal basis, the success of political rights enforcement is highly dependent on operational implementation and the underlying institutional-economic context.

¹⁴ Harahap Insan Harapan. "Kampanye Pilpres 2019 melalui media sosial dan pengaruhnya terhadap demokrasi Indonesia." *KOMUNIKOLOGI: Jurnal Ilmiah Ilmu Komunikasi* 17, no. 01 (2020).

3.2. Challenges of Implementing the Law, the Urgency of Reconstruction, and the Implications of Cases That Color Practice

The application of laws intended to protect political rights and strengthen democracy faces diverse structural and practical obstacles, which if not addressed immediately will continue to undermine the effectiveness of legal norms. The first challenge is the institutional capacity gap. Election organizers and supervisors and law enforcement officials often experience limited budgets, trained human resources, and technical infrastructure for the implementation of overall supervision and enforcement tasks. This limitation causes the handling of violations to be slow or incomplete, so that sanctions do not function as an effective deterrent.¹⁵ Without adequate investment in institutional capacity, good rules will remain a useless text.

Second, unclear norms and overlapping authorities exacerbate implementation barriers. Differences in definitions, evidentiary procedures, and jurisdictions between legal instruments, such as human rights provisions, election rules, and local government regulations, often create legal loopholes that political actors use to avoid accountability. This disharmony not only complicates enforcement at a practical level, but also blurs the line of responsibility so that coordination between institutions becomes ineffective.¹⁶ Therefore, the harmonization of regulations and coordination procedures between institutions is an urgent agenda.

¹⁵ Patawari Patawari. "Standar Hukum Internasional Penyelenggara Pemilihan Umum, Dan Pengaruhnya Terhadap Hukum Negara Indonesia." *Pleno Jure* 8, no. 1 (2019): 25-38.

¹⁶ Adhitya Widya Kartika. "Fungsi Mahkamah Konstitusi dalam sistem pemilihan umum dalam rangka penegakkan negara hukum dan demokrasi." *Fakultas Hukum Universitas Gresik: Jurnal Pro Hukum* 10 (2021).

The third challenge is the politics of money and the vulnerability of the political funding system. While a number of norms criminalize this practice, weaknesses in prevention mechanisms including lack of transparency in campaign funding, weak audits, and low reporting incentives open up opportunities for corrupt practices that undermine election integrity. Countering money politics requires reforming political funding regulations that combine reporting obligations, independent audits, and proportionate administrative and criminal sanctions.¹⁷ Without strong funding arrangements, economic incentives encourage the recurrence of practices that reduce voting rights to a commodity.

Fourth, the lack of political literacy and inequality of access to information reduce the ability of citizens to use their political rights meaningfully. When people are less educated about the political process, whistleblowing reporting mechanisms, or indicators of a candidate's integrity, they become more vulnerable to money politics, disinformation, and social pressure. Therefore, legal remedies must be combined with formal and non-formal political education programs that target vulnerable groups and regions with limited access to information.¹⁸ Effective political education can strengthen social control and increase accountability demands for political actors.

Fifth, the digital era introduces new challenges related to misinformation, programmatic campaigns, and digital funding opacity. Digital platforms accelerate

¹⁷ Hariman Satria. "Politik Hukum Tindak Pidana Politik Uang dalam Pemilihan Umum di Indonesia." *Integritas: Jurnal Antikorupsi* 5, no. 1 (2019): 1-14.

¹⁸ Deden Mauli Darajat and Muhtadi Muhtadi. "Strategi Literasi Politik untuk Mendukung Kesejahteraan Masyarakat Desa." *Sosio Informa* 6, no. 3 (2020): 305-317.

the dissemination of information as well as manipulate public opinion. Existing regulations are often lagging behind technological innovations, so there is a need to update the norms that govern digital campaigns, platform responsibilities, and online campaign funding traceability mechanisms. In addition, cooperation between regulators, technology platforms, and civil society is important to design verification and transparency mechanisms that respect freedom of expression but suppress manipulative practices.¹⁹

The urgency of legal reconstruction arises from this combination of obstacles: reconstruction needs to be multidimensional not only to tighten prohibitions and raise the threat of sanctions, but also to refine institutional design, preventive mechanisms, and inter-institutional coordination procedures. At the judicial level, reconstruction includes harmonization of definitions and procedures, updates of funding rules, and responsive arrangements for digital campaigns. At the institutional level, reconstruction includes increasing resources, training, and protection against political intervention.^{20 21}

The lessons from the various empirical cases that emerged show some practical implications. First, a delayed or partial legal response tends to reduce the deterrent effect; Therefore, faster, transparent, and coordinated ad-hoc procedures should be developed to crack down on priority violations. Second, an integrated approach between repressive and preventive measures is more effective than

¹⁹ Nurul Hasfi. "Komunikasi politik di era digital." *Politika* 10, no. 1 (2019).

²⁰ Dede Sri Kartini. "Demokrasi dan Pengawas Pemilu." *Journal of Governance* 2, no. 2 (2017).

²¹ Fauzan Misra, Sudarmoko Sudarmoko, Apriwan Apriwan, Amri Hakim, Muhammad Ichsan Kabullah, and Fajri Rahman. "Kontekstualisasi Pilkada Riau: Sosiokultural, Relasi Klientalistik dan Indikasi Politik Uang." *Integritas: Jurnal Antikorrupsi* 7, no. 1 (2021): 43-56.

repressive measures alone; The combination of strict law enforcement with political education programs, funding transparency, and strengthening whistleblowing mechanisms will reduce the space for fraudulent practices.^{22 23} Third, administrative technical improvements such as standardized electronic reporting systems and technology-based campaign funding audits can increase accountability while accelerating the enforcement process.²⁴

Finally, political factors and the political will to reform the system also determine the success of reconstruction. Normative reform will be futile if it is not supported by the implementive commitment of political actors, organizing institutions, and other stakeholders. Therefore, the involvement of civil society, the media, and international institutions as independent observers can support the reformist pressure needed to create a legal and political environment conducive to the substantive protection of political rights.^{25 26}

4. Conclusion

The enforcement of political rights and the protection of democracy are fundamental elements in maintaining the integrity of the political system and the legitimacy of the government. A study of the three main legal frameworks on human

²² Felani Ahmad Cerdas and Hernadi Afandi. "Jaminan perlindungan hak pilih dan kewajiban negara melindungi hak pilih warga negara dalam konstitusi (kajian kritis pemilu serentak 2019)." *Sasi* 25, no. 1 (2019): 72-83.

²³ Gun Gun Heryanto. *Literasi Politik*. Yogyakarta: IRCiSoD, 2019.

²⁴ Harahap Insan Harapan. "Kampanye Pilpres 2019 melalui media sosial dan pengaruhnya terhadap demokrasi Indonesia." *KOMUNIKOLOGI: Jurnal Ilmiah Ilmu Komunikasi* 17, no. 01 (2020).

²⁵ Adhitya Widya Kartika. "Fungsi Mahkamah Konstitusi dalam sistem pemilihan umum dalam rangka penegakkan negara hukum dan demokrasi." *Fakultas Hukum Universitas Gresik: Jurnal Pro Hukum* 10 (2021).

²⁶ Almas Ghaliya Putri Sjafrina. "Dampak politik uang terhadap mahalnya biaya pemenangan pemilu dan korupsi politik." *Integritas: Jurnal Antikorupsi* 5, no. 1 (2019): 43-53.

rights, elections, and local government shows that normatively, Indonesia already has comprehensive enough rules to guarantee the right to vote, the right to be elected, freedom of expression, and the mechanism for organizing and supervising elections. However, various contemporary phenomena show that the existence of legal norms has not been fully realized into substantive protection for citizens. Phenomena such as money politics, information inequality, regulatory disharmony, and variations in local government capacity show that there is a gap between the formulation of rules and the reality of their implementation.

These implementation challenges require a multidimensional approach that not only focuses on repressive law enforcement, but also preventive measures, harmonization of regulations, institutional capacity building, and strengthening people's political literacy. Legal reform or reconstruction must be directed at improving supervisory mechanisms, affirming institutional authority, transparency of political funding, and adjusting norms to the dynamics of the digital era. In addition, the participation of civil society, the media, and independent institutions is an important factor in ensuring that political rights are not only recognized in the text of the law, but also effective in practice. Thus, the protection of political rights and the strengthening of democracy must be understood as a sustainable process that requires policy consistency, improvement of institutional quality, and active involvement of the community so that democracy can function substantively, inclusively, and responsive to the changing times.

References

- Cerdas, Felani Ahmad, and Hernadi Afandi. "Jaminan perlindungan hak pilih dan kewajiban negara melindungi hak pilih warga negara dalam konstitusi (kajian kritis pemilu serentak 2019)." *Sasi* 25, no. 1 (2019): 72-83.
- Darajat, Deden Mauli, and Muhtadi Muhtadi. "Strategi Literasi Politik untuk Mendukung Kesejahteraan Masyarakat Desa." *Sosio Informa* 6, no. 3 (2020): 305-317.
- Harahap, Insan Harapan. "Kampanye Pilpres 2019 melalui media sosial dan pengaruhnya terhadap demokrasi Indonesia." *KOMUNIKOLOGI: Jurnal Ilmiah Ilmu Komunikasi* 17, no. 01 (2020).
- Hasfi, Nurul. "Komunikasi politik di era digital." *Politika* 10, no. 1 (2019).
- Heryanto, Gun Gun. *Literasi Politik*. Yogyakarta: IRCiSoD, 2019.
- Kartika, Adhitya Widya. "Fungsi Mahkamah Konstitusi dalam sistem pemilihan umum dalam rangka penegakkan negara hukum dan demokrasi." *Fakultas Hukum Universitas Gresik: Jurnal Pro Hukum* 10 (2021).
- Kartini, Dede Sri. "Demokrasi dan Pengawas Pemilu." *Journal of Governance* 2, no. 2 (2017).
- Misra, Fauzan, Sudarmoko Sudarmoko, Apriwan Apriwan, Amri Hakim, Muhammad Ichsan Kabullah, and Fajri Rahman. "Kontekstualisasi Pilkada Riau: Sosiokultural, Relasi Klientalistik dan Indikasi Politik Uang." *Integritas: Jurnal Antikorupsi* 7, no. 1 (2021): 43-56.

- Patawari, Patawari. “Standar Hukum Internasional Penyelenggara Pemilihan Umum, Dan Pengaruhnya Terhadap Hukum Negara Indonesia.” *Pleno Jure* 8, no. 1 (2019): 25-38.
- Satria, Hariman. “Politik Hukum Tindak Pidana Politik Uang dalam Pemilihan Umum di Indonesia.” *Integritas: Jurnal Antikorupsi* 5, no. 1 (2019): 1-14.
- Sjafrina, Almas Ghaliya Putri. “Dampak politik uang terhadap mahalanya biaya pemenangan pemilu dan korupsi politik.” *Integritas: Jurnal Antikorupsi* 5, no. 1 (2019): 43-53.