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Political money crimes from the perspective of positive law and Islamic criminal law

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Abstract: The practice of vote-buying has been prohibited by law, but it remains a problem in the conduct of elections in Indonesia. Normatively, vote-buying is classified as a criminal offense, yet its persistence highlights a tension between the ideal of electoral justice and transactional political practices. This study aims to analyze the regulation of money politics as a criminal offense in Law No. 10 of 2016 and to examine its normative relevance to the concept of risywah as well as ta'zīr sanctions in Islamic criminal law. This study employs a normative legal approach using descriptive-analytical and qualitative research methods, incorporating legislative, conceptual, and comparative legal approaches through an examination of legislation, legal doctrine, and fiqh al-jinayah literature. The research findings indicate that money politics substantially shares similar characteristics with bribery, as both involve the provision of material benefits to unlawfully influence choices or decisions. Furthermore, the sanction provisions in Law No. 10 of 2016, which grant judges discretion through minimum and maximum sentencing limits, demonstrate conceptual alignment with ta'zīr in Islamic criminal law. This normative alignment confirms that both positive law and Islamic criminal law regard vote-buying as a prohibited act because it contradicts justice, the public interest, and the integrity of the democratic process.
Keywords: Money politics, risywah, ta'zīr, Islamic criminal law.

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Introduction

The practice of vote buying in Indonesia's electoral system is a long-standing phenomenon that recurs in every election. Since the first general election in 1955, indications of the use of material rewards as a means to influence voters' choices have emerged and have tended to increase in subsequent election cycles. This trend indicates that vote-buying has become an inseparable part of the dynamics of electoral democracy in Indonesia. In fact, the reality of this issue is also evident in the 2024 Regional Elections. As a contextual illustration at the regional level, the compilation of violations in West Java Province recorded 297 reports and 67 findings totaling 364 cases with 209 registered cases and 155 unregistered cases. Within the scope of election related criminal offenses, the figures recorded 205 reports and 44 findings, totaling 249 cases, with 165 registered cases and 84 unregistered cases. The inclusion of this data is solely intended to demonstrate that violations within the regional election system, including vote buying, remain factually relevant, thus requiring a more in depth normative analysis from the perspectives of positive law and Islamic criminal law (Bawaslu Provinsi Jawa Barat, 2024).

A number of studies and public acknowledgments indicate that such practices not only influence voter preferences but also contribute to the distortion of election results, which directly impacts the quality of democracy. This situation leads to a shift in voter orientation from rational consideration of candidates' visions, missions, and platforms toward pragmatic considerations focused solely on material gain thereby undermining the very substance of democracy, which should be grounded in the free will

and political consciousness of the people. Therefore, money politics must be examined not only in terms of its impact on democracy but also in its normative construction as a criminal offense under Law No. 10 of 2016, as well as in relation to the concepts of bribery *(risywah)* and *ta'zir* sanctions in Islamic criminal law.

Within a democratic framework, local elections should guarantee political freedom and equality for all members of society. Pratama, Saebani, and Nasrudin assert that a nation can stand firm only if its governance ensures the principles of freedom, equality, and fraternity for all segments of society. This perspective is relevant to this study because the practice of vote-buying actually undermines these very freedoms and equalities. Voters, who should make their choices based on political awareness, may be driven to vote in exchange for material rewards, so that elections no longer fully reflect the free will of the people but instead shift into transactional practices (Pratama et al., 2024).

One factor contributing to the rise of vote buying in Indonesia is the still significant socioeconomic inequality, where low income groups are often the primary targets because material rewards are viewed as an urgent need whose benefits can be felt immediately. This situation indicates that vote buying is not merely an individual issue, but a reflection of structural inequality within society. On the other hand, the rise of this practice is also influenced by a permissive political culture, particularly in certain regions, where vote buying is considered a common and tolerable practice as long as it is not openly disclosed. In fact, in certain contexts, this practice has become deeply entrenched as part of electoral dynamics, thereby complicating law enforcement efforts. The phenomenon of money politics thus not only impacts the quality of political competition but also reflects a weak legal culture, as legal norms and electoral ethics are often disregarded and perceived as commonplace in the democratic process (Basarah & Hasanah, 2024).

The impact of money politics demonstrates that this issue cannot be understood merely as an ethical violation in political contests, but also as a legal issue concerning electoral justice, voters' freedom to make choices, and the integrity of the democratic process. On this basis, money politics is thus classified under positive law as a prohibited act. In Indonesian positive law, the prohibition of political bribery is regulated in Article 523 of Law No. 7 of 2017 on General Elections (Pemilu) and in Article 187A of Law No. 10 of 2016, the Second Amendment to Law No. 1 of 2015 regarding the Election of Governors, Regents, and Mayors. However, in practice, the enforcement of sanctions against perpetrators of political bribery is not optimal. This practice constitutes a serious violation of the principle of justice in Islamic criminal law, as it falls under the category of prohibited bribery *(risywah),* and undermines a fair and dignified electoral system. Nevertheless, the implementation of the law still faces various structural and normative weaknesses. Loopholes in definitions and ambiguities in the evidentiary process are often exploited by perpetrators to evade legal consequences. This lack of clarity undermines the principle of justice in positive law and causes the law to lose its deterrent effect (Yuliana Novitasari et al., 2025). This situation indicates that the practice of democracy remains mired in transactional practices. Vote-buying is not merely a technical violation but has become a systemic tool in the struggle for power. Conceptually, vote-buying can be understood as the practice of offering material incentives to voters to influence their political preferences. In the context of elections, this practice can also be classified as a form of electoral corruption because it involves the use of material benefits to mobilize political support in an unlawful manner and contrary to the principles of democratic justice. With such characteristics, money politics not only undermines the freedom to vote but also threatens the integrity of the democratic process (Yusuf et al., 2024). In the perspective of Islamic law, this act constitutes bribery, which undermines the principles of trust and public justice (Eka Prakusya & Sabiq, 2024).

Various academic studies have examined the phenomenon of vote buying by analyzing it from the perspectives of both Islamic law and positive law. Is Susanto explains that the practice of vote buying in elections constitutes a form of campaign violation that has long been entrenched in society and is

difficult to eradicate. According to him, both Islamic law and positive law unequivocally view vote buying as a prohibited act because it has far-reaching consequences for social justice and the stability of the economy (Susanto, 2018). This view is supported by research by Hanafi and Rajin Sitepu, who characterize vote-buying as an act that runs counter to the values of justice and public integrity. In their study of Islamic criminal law, the two classify money politics as a crime falling under the category of *ta'zīr*, where the determination of the penalty is left to the competent authority, taking into account the level of social harm caused by the act (Hanafi & Sitepu, 2025).

Study based on literature studies, Janeko and Uzlah Wahidah concluded that there is a convergence of views between Islamic law and positive law in regarding money politics as a prohibited act. Nevertheless, a fundamental difference lies in their normative foundations and legal frameworks, particularly as Islamic law classifies political bribery as a form of *risywah*, whereas positive law treats it as a violation of statutory provisions (Janeko & Uzlah Wahidah, 2024). A study that specifically examines the legal framework governing regional elections was conducted by Ahmad Parlindungan. His research focuses on the enforcement of laws regarding political bribery under Law No. 10 of 2016, emphasizing aspects of criminal liability as well as the operational mechanisms of law enforcement agencies in addressing violations of regional election regulations (Parlindungan, 2019). On the other hand, Jefry Tarantang and his colleagues examined money politics through an epistemological approach to the fatwas of the Indonesian Ulema Council. The study confirms that the prohibition of money politics is based not only on the normative idealism of Islamic law but also on legal realism regarding the effectiveness of fatwas in social life. However, this study has not yet directly linked the concept of prohibition to the construction of criminal offenses within the framework of positive law governing regional elections (Tarantang, 2022). These limitations indicate that there remains room for further in-depth study, particularly regarding how vote-buying is classified as a criminal offense under Law No. 10 of 2016 and its normative relationship with the concepts of bribery and *ta'zir* sanctions in Islamic criminal law. Therefore, this study offers a more focused innovative perspective. The novelty of this study lies in its specific focus on examining money politics as a criminal offense under the framework of Law No. 10 of 2016 on Regional Head Elections, and then linking it normatively to the concepts of *risywah* and *ta'zir* sanctions in Islamic criminal law. In terms of methodology, this study does not merely employ a general normative legal approach but integrates legislative, conceptual, and comparative legal approaches to clarify the normative relationship between positive law regarding regional head elections and Islamic criminal law in addressing money politics. The contribution of this study lies in strengthening the conceptual and normative foundations regarding money politics as a prohibited act, while also reinforcing the relevance of positive law and Islamic criminal law in combating money politics within the regional head election system.

Based on the background description, a review of previous research, and the affirmation of this study's novelty, it can be understood that the practice of political bribery in regional head elections is not only related to ethical issues in political practice but also raises normative issues within the framework of both positive law and Islamic criminal law. Therefore, this study aims to examine several key issues, namely how the criminalization of political bribery is regulated in Law No. 10 of 2016 on Regional Head Elections, how such political bribery practices are understood from the perspective of Islamic criminal law as a form of *risywah* subject to *ta'zīr* sanctions, and how the relationship and relevance between the regulation of political money crimes in Law No. 10 of 2016 align with the concept of bribery and the application of *ta'zir* sanctions in Islamic criminal law.

This study aims to analyze the provisions regarding the criminal offense of political bribery in Law No. 10 of 2016 and to examine its normative relevance to the concepts of *risywah* and *ta'zir* sanctions in Islamic criminal law. Thus, this study seeks to clarify the conceptual relationship between positive law and Islamic criminal law in viewing political bribery as a prohibited act.

Method

This study employs a normative legal approach using descriptive-analytical research methods and a qualitative research design. The normative legal approach is used to examine law as a system of norms consisting of principles, rules, and doctrines derived from legislation, court decisions, and expert opinions. In line with Peter Mahmud Marzuki, the purpose of normative legal research is to identify legal rules, principles, and doctrines as the basis for formulating normative prescriptions regarding the legal issues under examination (Sigit Sapto Nugroho, Anik Tri Haryani, 2020). The subject of this study focuses on the regulation of political bribery offenses in Law No. 10 of 2016 on the Election of Governors, Regents, and Mayors, as well as its normative relevance to the concepts of *risywah* and *ta'zīr* sanctions in Islamic criminal law. The approaches used include a legislative approach, a conceptual approach, and a comparative law approach. The statutory approach is used to examine the provisions of positive law governing political bribery; the conceptual approach is used to understand the concepts of *risywah* and *ta'zīr* in Islamic criminal law; while the comparative law approach is used to compare the normative construction of political bribery in positive election law with the concepts of *risywah* and *ta'zīr* sanctions in Islamic criminal law (Muhaimin, 2020).

The legal materials used consist of primary, secondary, and tertiary sources. Primary legal materials include legislation related to the criminal offense of political bribery, specifically Law No. 10 of 2016. Secondary legal materials include books, journal articles, and academic works discussing political money, election law, bribery, and *ta'zīr,* while tertiary legal materials include dictionaries, encyclopedias, and other relevant supporting sources. The collection of legal materials was conducted through literature review by reading, analyzing, and tracing both printed and electronic legal sources, then systematically classifying them. This study also utilized official documents summarizing the handling of election violations obtained through a public information request on the PPID website of the West Java Provincial Election Supervisory Agency (Bawaslu). These documents were used solely as supporting materials to strengthen the factual context in the introduction. The validity of the legal materials was ensured through the selection of relevant and authoritative sources, as well as careful scrutiny of the interrelationships between the laws and regulations, legal doctrines, and scholarly literature used. The legal analysis was conducted using a qualitative-normative approach through the stages of inventory, identification, classification, and systematization of legal materials, which were subsequently analyzed through content review and legal interpretation, including grammatical, systematic, historical, and teleological interpretations. Comparative legal analysis is conducted by juxtaposing the regulation of political money in Law No. 10 of 2016 with the concepts of *risywah* and *ta'zīr* sanctions in Islamic criminal law to assess the normative relationship and their compatibility in viewing political money as a prohibited act (Widiarty, 2024).

Results and Discussion

Regulations on Political Bribery Offenses in Law No. 10 of 2016

In Indonesia's positive legal system, vote-buying is defined as an act intended to influence voters' political preferences through the provision of money, goods, or other forms of compensation. This practice is understood as a strategy to influence voters by offering material benefits or specific services with the intent of securing their votes in elections (Edi Junaedi, 2022). However, vote-buying cannot be understood solely as a strategy to secure electoral support, because at the same time, this practice reflects an exchange of interests that runs counter to the principles of freedom of choice, voter rationality, and justice in electoral democracy. Thus, money politics is not only a matter of political ethics but also a legal issue that should be classified as a prohibited act under the electoral legal framework.

Money politics in the context of electoral democracy is viewed as a practice that undermines the quality of the electoral process because it shifts political competition from a contest of ideas to transactional relationships (Janeko & Uzlah Wahidah, 2024). Classifying vote-buying as a form of vote trading that undermines the integrity of elections and erodes the principles of free and fair elections. Meanwhile (Muslim, 2023), identifies vote-buying as a fundamental problem in electoral democracy because this practice restricts voters' freedom and creates an imbalance of opportunity among election participants. Both perspectives indicate that money politics is not merely problematic at the level of political ethics but also has direct implications for the fairness of competition, freedom of choice, and the legitimacy of elections; thus, the state has grounds to regulate and restrict it through legally binding and enforceable mechanisms. This line of reasoning aligns with the findings of research conducted by Janeko and Uzlah Wahidah as well as research conducted by Muslim however, in this study, money politics is not merely interpreted as an issue of electoral democratic integrity but is further framed as a criminal offense within the framework of Law No. 10 of 2016.

The prohibition on vote-buying in regional head elections is stipulated in Law No. 10 of 2016. Article 73(4) of the law prohibits any person from promising or giving money or other material benefits with the intent to influence voters (Undang-Undang Republik Indonesia Nomor 10 Tahun 2016 tentang Perubahan Kedua atas Undang-Undang Nomor 1 Tahun 2015 tentang penetapan peraturan pemerintah pengganti Undang-undang Nomor 1 Tahun 2014 tentang pemilihan Gubernur, Bupati, dan Wali Kota menjadi , 2016). From a normative perspective, this provision indicates that the legislature formulated a prohibition with a broad scope of application, as it is directed not only at candidates or candidate pairs but also includes political party members, campaign teams, volunteers, and other parties involved in the election process. This scope demonstrates an effort to limit the involvement of various actors in the practice of political money. However, the normative effectiveness of this article is not yet fully robust, as the phrasing "other materials" is broad and has the potential to lead to multiple interpretations in its application. Thus, although Article 73(4) has established a relatively broad basis for the prohibition, the clarity of its wording still requires careful interpretation to support more certain and consistent law enforcement.

The legal prohibition against the practice of vote-buying is reinforced by the criminal provisions in Article 187A of Law No. 10 of 2016. This article classifies the act of promising or providing money or other items to influence voters' choices as an election related criminal offense. The phrase "any person" in Article 187A(1) must be interpreted systematically in conjunction with Article 73(4), such that the subjects of the political bribery offense include candidates, political party members, campaign teams, volunteers, and other parties who intentionally commit unlawful acts during the election process. With this construction, political bribery is legally treated as a special criminal offense within the legal system governing local elections (Mandayani et al., 2025).

Violations of the prohibitions set forth in Article 73(4) and Article 187A(1) of Law No. 10 of 2016 are punishable by imprisonment with minimum and maximum terms, as well as substantial fines for perpetrators of vote-buying. The provisions regarding imprisonment for a minimum of 36 months and a maximum of 72 months, as well as a fine of at least Rp200,000,000.00 and at most Rp1,000,000,000.00, indicate the application of the concept of a specific minimum penalty (Undang-Undang Republik Indonesia Nomor 10 Tahun 2016 tentang Perubahan Kedua atas Undang-Undang Nomor 1 Tahun 2015 tentang penetapan peraturan pemerintah pengganti Undang-undang Nomor 1 Tahun 2014 tentang pemilihan Gubernur, Bupati, dan Wali Kota menjadi , 2016). From a legal drafting perspective, the criminal penalty indicates that the legislature views vote-buying as a serious criminal offense warranting severe sanctions. However, the normative effectiveness of these sanctions is determined not only by the severity of the criminal penalty but also by the clarity of the legal provisions and the consistency of their application. Thus, although Article 187A(1) demonstrates a punitive orientation, its deterrent effect remains dependent on the norm's ability to be applied with certainty and

without creating interpretive leeway that could weaken its enforcement. Thus, an analysis of Article 73(4) and Article 187A(1) not only confirms the existence of a prohibition and a criminal penalty but also reveals that the issue of money politics in positive law still leaves unresolved problems regarding the clarity of the norms, which require further normative examination.

While regulations on political corruption in positive law include clear prohibitions and the threat of criminal penalties, various normative legal studies continue to highlight weaknesses in the formulation of these norms. One point of criticism centers on the use of the phrase "other materials," which is not defined in a restrictive manner, thereby leaving room for diverse interpretations. This situation has the potential to create legal uncertainty in the enforcement of election-related criminal offenses (Susanto, 2018). Therefore, the legal framework governing political corruption under positive law must be continuously reviewed and refined to align with the objectives of safeguarding electoral integrity and ensuring democratic justice, which in turn underscores the need for an analysis from the perspective of Islamic criminal law to assess political corruption as bribery and to establish the basis for imposing *ta'zīr* sanctions on such acts.

Money Politics as Bribery and the Application of *Ta'zīr* Sanctions in Islamic Criminal Law

The practice of vote-buying can be understood as having a normative equivalence to the concept of *risywah* (bribery) in Islamic criminal law, since its primary criterion lies in the purpose and intent behind the gift. Ibn Hajar al-Asqalani, in Fath al-Baari, citing the view of Ibn al-Arabi, explains that *risywah* is the giving of wealth to obtain honor or power in order to justify something that is not justified under Islamic law thus, its essence lies in the intent to influence a decision or authority unlawfully, not in the material form of the gift. This understanding aligns with the view of Ibn al-Atsir, who defines bribery as a means of achieving a goal through the giving of money or goods a term etymologically derived from *al-risya* (a well rope), a tool for obtaining something that cannot be attained through natural means. In the context of elections, money politics constitutes a mechanism of material provision to secure political advantage or power through means contrary to justice and integrity, as it fulfills the elements of bribery the giver (*al-rāsyi*), the recipient (*al-murtasyi*), the object of the bribe (*al-risywah*), and an illegitimate purpose such as subverting the truth or securing an interest unfairly. Therefore, from a normative legal perspective in Islamic jurisprudence, money politics is viewed as an act of bribery that is prohibited because it undermines the moral integrity of individuals while simultaneously undermining the justice and legitimacy of the political process (Masruri, M Sauqi Iza, 2024).

Money politics can be understood as a form of bribery under Islamic criminal law and should be examined in light of the intent and purpose behind it. Abdullah bin Abdul Muhsin asserts that bribery is characterized by the intent to nullify the truth, establish falsehood, seek improper favoritism, obtain benefits to which one is not entitled, or win a specific case. In the context of elections, the provision of material benefits by election candidates or their campaign teams intended to influence voting freedom or manipulate vote counts constitutes bribery because it violates the principles of justice and integrity. From a Sharia perspective, such acts are categorized as prohibited, placing both the giver and the recipient in a reprehensible position and rendering the acquired wealth unlawful, even if it is disguised as a gift, grant, or other form of donation. Therefore, the practice of money politics in regional elections is, in essence, not a gift without compensation, but rather a reciprocal relationship in the form of an exchange between money and votes, which confirms its classification as bribery under Islamic criminal law (Fuad, 2022).

The Qur'an serves as a normative foundation that explicitly prohibits all forms of bribery (*risywah*) and the acquisition of wealth through improper means. As the Word of God revealed to serve as a legal guide and solution to various life problems, the Qur'an provides moral guidance in regulating social relations. One of the social issues implicitly addressed is the practice of bribery, as stated by Allah:

وَلَا تَأْكُلُوْٓا اَمْوَالَكُمْ بَيْنَكُمْ بِالْبَاطِلِ وَتُدْلُوْا بِهَآ اِلَى الْحُكَّامِ لِتَأْكُلُوْا فَرِيْقًا مِّنْ اَمْوَالِ النَّاسِ بِالْاِثْمِ وَاَنْتُمْ تَعْلَمُوْنَ

Meaning: *"Do not consume one another's wealth through unjust means, and do not bring such matters before the judges with the intention of unlawfully taking a portion of another's wealth, even though you know better"* (Kementerian Agama Republik Indonesia, 2025).

The prohibition against the practice of political bribery from the perspective of Islamic criminal law has a clear normative basis in Quranic Surah al-Baqarah, verse 188, which prohibits the acquisition and use of wealth through unlawful means, including offering it to those in positions of authority to gain illicit benefits. The exegesis of this verse explains that the use of the term tudlū implies secretly offering something to influence a decision that benefits a specific party. In the context of modern politics, this meaning is relevant to the practice of political bribery because wealth is no longer merely given as a customary gift but is used as an instrument to influence voters' political choices and to obtain power unlawfully. Thus, even when carried out through formal electoral mechanisms, political bribery can still be viewed as an invalid act because, in substance, it distorts the decision-making process that should be free, fair, and in accordance with the principle of honesty. Therefore, in the context of elections, money politics cannot be separated from the substance of the prohibition in QS. Al-Baqarah verse 188, because in essence it is a form of acquiring power through the use of wealth in a manner not justified by Islamic law (Departemen Agama Republik, 2011).

The prohibition against bribery is also explicitly stated in the hadith of the Prophet Muhammad (peace be upon him). The Prophet (peace be upon him) strongly condemned the practice of bribery by stating:

عَنْ عَبْدِ اللَّهِ بْنِ عَمْرٍو، قَالَ لَعَنَ رَسُولُ اللَّهِ صلى الله عليه وسلم الرَّاشِي وَالْمُرْتَشِي

"From 'Abdullah bin 'Amr, who said: The Messenger of Allah, peace be upon him, cursed both the giver and the receiver of a bribe" (HR. Al-Tirmidzi.)

The hadith of the Prophet Muhammad (peace be upon him) regarding the prohibition of bribery demonstrates that accountability for bribery is not limited to the party offering the bribe, but also extends to the party accepting it; thus, this prohibition applies comprehensively to all parties involved (Siregar, 2023). This assertion indicates that bribery is viewed not merely as a violation of individual norms, but as an act with broader consequences, as it has the potential to undermine the principle of justice and disrupt the public interest, particularly when such practices occur during the electoral process to secure public office. Given the nature of such violations, the prohibition against bribery cannot be understood merely as an ethical or moral norm rather, it demands a legal response that is both repressive and preventive. Therefore, Islamic criminal law employs the *ta'zīr* sanction as a relevant instrument to impose legal consequences on the practice of political bribery classified as *risywah* while simultaneously serving as an effort to uphold integrity and justice within the social and political order.

Ta'zīr is understood as a concept of punishment in Islamic criminal law that, linguistically, conveys the meaning of *al-man'u wa al-raddu,* preventing and deterring reprehensible acts as well as *al-ta'dib,* which denotes an educational and corrective function it also carries the meaning of *al-nuṣhrah,* as it serves to protect society by preventing the occurrence of injustice. Terminologically, *ta'zīr* is used to refer to both the form of punishment and the type of *jarimah*, namely acts of disobedience for which the Sharia has not explicitly prescribed a sanction and which do not fall under the categories of *ḥudud* or *kifarat*. Al-Mawardi defines *ta'zīr* as an educational punishment for a sinful act that has no prescribed penalty in the text, while Wahbah al-Zuḥaili asserts that *ta'zīr* is a sanction for a crime whose punishment is left to the discretion of the judge or ruler (Hamim, 2020). Given these characteristics, the primary purpose of *ta'zīr* is not only to serve as a deterrent but also to prevent the perpetrator from repeating the offense and to uphold public order and the common good. The type of

punishment for *ta'zīr* offenses falls within the authority of the ruler to serve the public interest. The determination of the punishment is not rigid but may be decided by the judge through ijtihad, taking into account the nature, severity, and consequences of the offender's actions. This concept is relevant to money politics as bribery, because sanctions against bribery are not specifically determined in the text. Therefore, the form and degree of the sanctions can be left to the judge or ulil amri by considering the public interest (Senja et al., 2025). In the context of elections, the practice of political bribery, which is classified as *risywah*, fulfills the elements of a *ta'zīr* offense because it constitutes a sinful act that undermines the justice and integrity of the political process, despite the absence of specific criminal sanctions in the text. Consequently, the application of *ta'zīr* serves as the normative basis for imposing sanctions to protect the legitimacy of public office and the interests of society.

Scholars divide *ta'zīr* into two main categories *ta'zīr 'ala al-ma'aṣi* and *ta'zīr li al-maṣlaḥah al-'ummah. Ta'zīr 'ala al-ma'aṣi* is imposed for acts of disobedience that is, committing acts prohibited by Islamic law or neglecting obligations established by Islamic law, whether concerning the rights of Allah or the rights of individuals when there is no explicit textual evidence (*nash*) clearly specifying the form and degree of the punishment. Meanwhile, *ta'zīr li al-maṣlaḥah al-'ummah* is directed at acts that disrupt order, harm interests, and endanger the public good, the enforcement of whose sanctions aims to maintain social stability and public interests, as exemplified by the practice of detention once carried out by the Prophet Muhammad (peace be upon him) for the sake of the public good. Within the framework of criminal jurisprudence, *ta'zīr* falls under the category of crimes whose punishment is left to the discretion of the judge or ruler, unlike *ḥudud* and *qiṣaṣ* crimes, whose sanctions are directly prescribed by Islamic law (Novalia et al., 2024). In the context of elections, the practice of vote-buying fulfills the criteria of both forms of *ta'zīr,* as it constitutes a sinful act that violates the values of justice and honesty, while simultaneously causing harm to the public interest and the common good thus, it is subject to *ta'zīr* sanctions under Islamic criminal law.

Sanctions against bribery offenders under Islamic criminal law are not specifically stipulated in the Quran or the hadith, their handling falls under the category of *ta'zīr* a form of punishment in which the type and severity of the penalty are left to the discretion of the judge or ruler, based on the principles of justice and the public interest. *Ta'zīr* serves as a means of prevention and rehabilitation to create a deterrent effect, with a variety of flexible sanctions, including reprimands, the imposition of fines (*gharamah*), imprisonment, exclusion from certain social circles, and even removal from public office, the application of which is tailored to the severity of the offense and the impact of the act. In imposing *ta'zīr* sanctions, judges are required to make careful assessments based on sufficient evidence to avoid errors, while taking into account the offender's remorse, the social consequences caused, and the potential for future rehabilitation (Rahma, 2024).

The practice of vote-buying, which is classified as bribery in the context of elections, is directly linked to the application of ta'zīr, since such acts not only violate sharia norms but also undermine the moral integrity of society and harm justice as well as the legitimacy of public office; thus, the imposition of *ta'zīr* sanctions is normatively necessary to maintain order, protect the public interest, and prevent the recurrence of abuse of power. From the series of analyses presented, it can be understood that the practice of political bribery does not merely remain an ethical issue or a moral deviation in political activities, but has reached a level of violation that, normatively, can be subject to criminal sanctions within the framework of *ta'zīr* under Islamic criminal law. This conclusion provides a conceptual foundation for continuing the discussion in the next stage, namely examining the extent to which the construction of criminalization from the perspective of Islamic law is related to and relevant for the regulations and practices of positive law enforcement in Indonesia.

The Relevance of the Provisions on Political Bribery Offenses in Law No. 10 of 2016 to the Concepts of *Risywah* and *Ta'zīr* Sanctions in Islamic Criminal Law

The conduct of regional head elections as an instrument for the realization of popular sovereignty requires mechanisms grounded in the principles of honesty and fairness so that the resulting authority gains legitimate recognition. Legitimacy in the electoral process is not only determined by the public's political acceptance of the election results, but is also underpinned by legal legitimacy arising from compliance with legal norms and the consistent enforcement of election regulations. Within this framework, the practice of vote-buying is viewed as an act that undermines both dimensions of legitimacy, as it interferes with voters' freedom and undermines fairness in democratic competition (Panggabean, Renaldi Immanuel, 2025). Therefore, the criminalization of political corruption under Law No. 10 of 2016 reflects the state's normative efforts to safeguard the integrity of elections and ensure that the acquisition of political power occurs through lawful and fair procedures.

The political practice of money, bribery, and *risywah* at the conceptual level shows essential similarities because it is rooted in the act of giving that is directed to influence the attitude or decision of the other party for the achievement of certain interests. From a Sharia perspective, political bribery is categorized as *risywah*, namely a gift accompanied by the intent to win favor and unlawfully direct the will of another party, thereby containing the purpose of subverting the truth or reinforcing falsehood. This understanding aligns with the definition of bribery in the Lisan *al-'Arab and Mu'jam al-Washith,* which emphasize the element of giving to obtain an advantage that is not rightfully due, and is reinforced by the view of Yusuf al-Qaradhawi, who defines bribery as a means of giving to rulers or officials to influence policy, facilitate personal interests, or hinder the interests of others. Unlike gifts, donations, or charity given without instrumental motives, bribery particularly in the context of general elections is characterized by a hidden intent to secure specific interests through unjustified means. Given these characteristics, the practice of vote-buying in elections can be understood as a form of bribery that contradicts the values of honesty, trustworthiness, and the public good (Umar, 2015).

The practice of bribery in the context of government has been documented since the early days of Islam and has been dealt with firmly by religious authorities as a violation of the integrity of authority. One significant precedent occurred when the Prophet Muhammad (peace be upon him) sent Abdullah bin Rawahah to collect the *jizyah* tax however, the Jewish community attempted to influence this policy by offering a sum of money to have the obligation reduced, which was firmly rejected as it was deemed illicit wealth. A similar pattern is evident in the case of Ibn al-Lutbiyyah, a zakat collector who accepted gifts from the community under the pretext of a gift, but was subsequently directly reprimanded by the Prophet Muhammad (peace be upon him) because the gift was accepted due to his position as a public official. The Prophet's stance reflects the application of *ta'zīr* sanctions through open reprimands and the reaffirmation of ethical boundaries of office, aimed at preventing the abuse of authority and closing loopholes for bribery in government administration. From these incidents, it can be concluded that any gift intended to influence an official's decision or policy even if packaged as a gift is regarded as prohibited bribery. Substantively, this practice aligns with the nature of political corruption in modern electoral systems namely, the provision of material benefits intended to influence the exercise of public authority thus demonstrating a continuity of values between the concept of *ta'zīr* in Islamic criminal law and the regulation of political corruption offenses in positive law (Bahgia, 2013).

The provisions of Article 187A(1) and (2) of Law No. 1 of 2015, as amended, prescribe criminal penalties for vote-buying in the form of imprisonment with minimum and maximum terms specifically, a minimum of thirty six months and a maximum of seventy-two months accompanied by fines ranging from hundreds of millions to one billion rupiah for both the giver and the recipient. The formulation of sanctions using this range of penalties indicates that positive law does not impose punishment rigidly but rather grants judges discretion to assess the degree of fault and the impact of the act. This flexible sentencing model is conceptually consistent with *ta'zīr* in Islamic criminal law, which is a form of

punishment for acts of disobedience not explicitly defined by sharia neither in form nor in severity such that the determination of the sanction is left to the authority of ulil amri or the judge (Nur, 2020). Thus, the provisions regarding sanctions for vote-buying in positive law can be understood as a punitive instrument aimed at upholding substantive justice and the public interest in the conduct of general elections. Thus, the connection between positive law and Islamic criminal law extends beyond similarities in the concept of punishment; it is also evident in the consideration of proportionality when imposing sentences.

The range of penalties under Article 187A of Law No. 10 of 2016 indicates that criminal penalties for vote-buying are not imposed uniformly, but must take into account the degree of culpability and the impact of the act. In practice, the severity of sanctions under positive law can be assessed based on several indicators, such as the value or amount of material provided, the scope of the recipients, the perpetrator's position, the manner in which the act was committed, the presence or absence of planning, the involvement of other parties, and its impact on voter freedom and the integrity of the election. Thus, vote-buying conducted on a limited scale can certainly be assessed differently from vote-buying that is carried out systematically, involves large sums of money, involves many parties, and has a widespread impact on the legitimacy of the election.

This analysis is relevant to Islamic criminal law through the concept of ta'zīr. Jaenudin and Faizal classify money politics as a form of bribery *(risywah*) if the gift is intended to obtain something through improper or invalid means. Since bribery does not have a fixed hadd penalty under Islamic law, its punishment falls under the category of *ta'zīr* and is within the authority of those in charge (ulil amri). Therefore, the severity of *ta'zīr* sanctions for money politics can be adjusted based on the value of the gift, the degree of wrongdoing, the extent of the impact, and the harm caused to society. Money politics with limited impact may be subject to lighter *ta'zīr* sanctions, such as reprimands, warnings, fines, or counseling. Conversely, vote-buying that is carried out systematically, involves large sums of money, involves many parties, and undermines the legitimacy of the election may be subject to heavier sanctions, such as imprisonment, the revocation of certain rights or positions, and even, in very severe cases causing significant harm to society, *ta'zīr* sanctions may reach the death penalty (Jaenudin, 2020).

The political practice of money in the Islamic perspective is understood to be more harmful than harmful because the impact is to damage personal life, family, society, to the order of the nation and state. Money politics negates justice (*al-'adalah*) through discriminatory decisions, resulting in the loss of the giver's wealth which is not used in a manner pleasing to Allah and causing the recipient to acquire wealth unjustly, which carries the implication of divine curse, while simultaneously eroding honesty as the foundation of leadership and fostering a pessimistic attitude that contradicts Islamic teachings regarding striving and hope in Allah's mercy (Joni Zulhendra, 2023). This practice also deprives vulnerable groups of the rights and opportunities they are entitled to, thereby creating an unequal and unhealthy social structure.

Money politics, from the perspective of maqāṣid al-syarī'ah, is an act that contradicts the fundamental objectives of Islamic law because it undermines the protection of religion *(ḥifẓ al-dīn)* through the practices of deception and breach of trust, threatens the protection of life *(ḥifẓ al-nafs)* due to the potential for social conflict and structural injustice, and weakens the protection of reason *(ḥifẓ al-'aql)* by promoting a pragmatic rationality that disregards moral values and the quality of leadership. Furthermore, money politics undermines the protection of wealth *(ḥifẓ al-māl)* by turning wealth into an instrument of power manipulation and leading to the abuse of authority, and it undermines the protection of lineage *(ḥifẓ al-nasl)* by bequeathing an unhealthy political culture to the next generation. Therefore, the rejection of money politics within the framework of *maqāṣid al-syarī'ah* is not merely a legal or administrative matter, but a moral and spiritual imperative to uphold the public interest and social justice within the Islamic political system (Syfaullah, 2025).

A comprehensive analysis of the provisions governing the criminal offense of political bribery in Law No. 10 of 2016 reveals that its values and objectives align with the concept of bribery and the *ta'zīr* sentencing framework in Islamic criminal law. This alignment is evident in how both legal systems view political bribery as an act that not only violates legal norms but also undermines justice, corrupts the integrity of the political process, and disrupts the interests of the broader public. The orientation of punishment, which emphasizes prevention, rehabilitation, and the protection of the public interest, along with the nature of sanctions that allow judges discretion based on the degree of fault and the impact of the act, demonstrates a conceptual overlap between positive law and Islamic law. Therefore, the regulation of money politics in Indonesian positive law can be understood not as standing separately, but rather as functioning and operating normatively in alignment with the principles of Islamic law in responding to the practice of money politics as an act that undermines social justice and the legitimacy of power.

Conclusion

Based on the results of a normative legal analysis of election laws, it can be concluded that the practice of vote-buying under Indonesian positive law has been explicitly prohibited and classified as a criminal offense. Law No. 10 of 2016 defines vote-buying as an act that undermines the principles of justice and freedom of choice, leading the legislature to classify it as a criminal offense subject to penalties. This legal construction indicates that vote-buying is viewed as an act that undermines the integrity of the electoral democratic process and is therefore subject to regulation through criminal law instruments.

The practice of political bribery aligns conceptually with *risywah* in the perspective of Islamic criminal law, namely the act of offering a reward intended to unlawfully influence a decision or exercise of power. Political bribery is understood as a sinful act that contradicts the values of justice and honesty; therefore, it is normatively subject to *ta'zīr* sanctions. The prohibition against *risywah* is not merely a theoretical norm but is also reflected in the governance practices of Islam during the time of the Prophet Muhammad, peace be upon him, and his companions, where attempts to offer rewards in public affairs were firmly rejected and treated as a reprehensible act deserving of *ta'zīr* sanctions. The application of *ta'zīr* classifies vote-buying as a reprehensible act, the punishment for which is left to the discretion of the judge or ruler, with the aim of preventing the recurrence of such acts, maintaining social order, and protecting the public interest.

The provisions on the criminal offense of vote-buying in Law No. 10 of 2016 demonstrate a normative connection to the concepts of bribery and *ta'zīr* sanctions in Islamic criminal law. The similarity in the nature of the acts, the alignment of the preventive orientation of punishment, and the objectives of protecting the public interest and social justice reveal a convergence of values between positive law and Islamic law in combating the practice of political bribery. This normative harmonization affirms that political bribery is an act that is legally and normatively rejected because it contradicts the principles of justice and integrity in the democratic process.

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