



THE PROBLEMS OF THE CONSTITUTIONAL COURT'S DECISION NUMBER 65/PUU-XXI/2023 ON THE PERMISSION OF EDUCATIONAL INSTITUTIONS AS CAMPAIGN SITES

Roni Sulistyanto Luhukay

Faculty of Law, Widya Mataram University.

roniluhukay22@gmail.com

Abstract: According to the Republic of Indonesia's 1945 Constitution, the government is responsible for protecting the entire Indonesian nation and homeland, as well as improving the general welfare and intellectual life of the country through social justice principles. This mandate requires them to work toward the establishment of a national education system that maximizes his potential, possesses religious spiritual strength, self-control, personality, intelligence, noble character, and the skills required by himself, society, nation, and state. The presence of campaigns in educational institutions has the potential to cast a gloomy shadow over educational institutions that are currently mired in practical politics. To address this research, the author investigates normative research methods. The importance of allowing educational institutions to serve as campaign sites in accordance with the Constitutional Court's decision Number 65 / PUU-XXI / 2023, under the guise of developing political education in the learning process that attempts to understand citizens' rights and obligations in relation to good competencies. This takes the form of intellectual and participatory efforts to effectively form voter maturity in democracy in organizations, as well as the political skills of Indonesian youth, which can determine citizens' perspectives and attitudes toward democracy. On the other hand, this has implications for injustice and political campaign tendencies in educational institutions that use government facilities. Its use will not be evenly distributed among all political parties and candidates, as it will be determined by each participant's proximity to the local government. It is feared that regional heads will not be impartial because they are typically candidates from political parties that support or oppose one another. They have been given a seat, and using educational seats will be unfair to candidates with a high school education background. This is for the reason that it is certain that access to universities and Islamic boarding schools will be significantly limited compared to candidates with an S1 (bachelor's) or degrees or higher educational background. In order to prevent discrimination against campaign participants, graduates of Islamic boarding schools are also prohibited..

Keywords: Problems, Campaigns, Political Parties, Educational Institutions

INTRODUCTION

The right of every citizen to receive an education is guaranteed in the preamble of the fourth paragraph of the Republic of Indonesia's 1945 Constitution, which also states that "the duty of the state is to educate the nation". The constitution guarantees every citizen the right to basic education, so upholding these rights is an important act of human respect.[1]

The Republic of Indonesia's 1945 Constitution requires the government to protect the entire Indonesian nation and the entire Indonesian spilled blood, as well as to advance the general welfare, educate the nation's life, and participate in the implementation of a world order based on independence, lasting peace, and social justice.[2] It is very clear that the government has the responsibility to strive to organize a national education system that enhances religious belief and devotion to God Almighty and noble morals in order to educate the nation's life which is regulated by law [3] based on this mandate then National education is poured in Law No. 20 of 2003, concerning the national education system, which is a planned effort to create a learning environment and learning process in which students actively develop their potential for religious spiritual strength, self-control, personality, intelligence, noble character, and skills required by themselves, society, nation, and state.

This education is designed to shape a person who is aware of and capable of accepting moral responsibility for the consequences of his actions.[4] As a result, educational containers are formed beginning with basic education (elementary school), middle school (junior high school), and high school, as well as in the world of universities,

beginning with undergraduate, secondary, and tertiary education with various faculties or study programs. This type of educational institution serves as a light in the darkness and a light of rationality in the development of self-knowledge and science. In the realm of education.

Constitutionally, it is clear that the government is responsible for all aspects of education, but this does not mean that the community is immune. Changes, as well as the development and organization of education, require community participation and responsibility.[5] According to Article 3 of Law No. 20/2003 on the National Education System, national education serves to develop abilities and shape the character and civilization of a dignified nation in order to educate the nation's life. It seeks to develop students' potential to become human beings who have faith and devotion to God Almighty, have noble character, are healthy, knowledgeable, capable, creative, independent, and become democratic and responsible citizens.

In fact, the national education system is fully regulated by the constitution, but it has not been implemented properly or fully. Furthermore, its development is always influenced by the most recent political developments, such as the Constitutional Court's (MK) Decision 65/PUU-XXI/2023, which granted a lawsuit against Law Number 7 of 2017, especially Article 280 paragraph (1) letter h, which addresses the permissibility of practical political practices, states that parties campaigning are prohibited from using educational facilities unless they obtain permission from the person in

charge of the place of education and attend without campaign attributes.[6] The provisions of Article 280 paragraph (1) letter h of the Election Law state that implementers, participants, and election campaign teams are prohibited: (h). utilizing government facilities, places of worship, and educational institutions. The provisions of Article 280 paragraph (1) letter h emphasize that no organizer, participant, or election campaign team may use government facilities, places of worship, or places of education for campaign purposes without exception. Because of the significance of this prohibition, the Election Law includes quite severe criminal sanctions to ensure that it is not violated, as stipulated in the provisions of Article 521 of the Election Law, with a maximum imprisonment of 2 (two) years and a maximum fine of Rp 24,000,000 (twenty-four million rupiah).

The clear and firm prohibition stipulated in Article 280 paragraph (1) letter h of the Election Law is explained in the following way: Government facilities, places of worship, and places of education can be used if election participants are present without election campaign attributes at the invitation of the party in charge of those facilities. The term "place of education" refers to the building and/or yard of a school or university. The Explanation of Article 280 paragraph (1) letter h, based on reasonable reasoning, will undoubtedly result in constitutional losses that have the potential to create legal uncertainty in the prohibition of campaigns using government facilities, places of worship, and educational institutions. The legal uncertainty arises from the

contradictory nature of the contradiction in terminis, as seen in Article 280 paragraph (1) letter h, which expressly prohibits without exception and without conditions campaigns using government facilities, places of worship, and places of education, but in the explanation, it actually excludes it with the condition that it be invited by the person in charge and without campaign attributes. The existence of two (two) provisions that regulate differently has resulted in ambiguous legal standards.[7]

The presence of campaigns in educational institutions has the potential to give birth to the impact of a gloomy shadow depicted from educational institutions that today wallow in practical politics, which means that some schools or campuses will only invite one presidential candidate, while others will invite multiple presidential candidates. Students at one school or campus have different options than students at another, and the polarization of the 2024 Election is likely to cause camp divisions. As a result, this has an impact on negative polarization, which can endanger safety, given that there are still many students or students who are immature in their responses to the democratic party that is currently running and have not received the expected political education.

Ideally, educational institutions can organize better forums than simply campaigns. The most appropriate format is an intellectual discussion based on arguments and data, educative rather than provocative; additionally, educational institutions have a large number of novice voters, so the government has an obligation to provide political education to these

voters. Without that, there will be brawls and scenes of violence. This potential problem must be addressed as part of the state's efforts to promote healthy political education and protect educational institutions from efforts to transform educational institutions into party-wing institutions that can later be used by political actors with specific political interests.

MAIN PROBLEM

1. What is the significance of allowing educational institutions as campaign venues in light of Constitutional Court Decision Number 65/PUU-XXI/2023?
2. What are the practical political implications of using educational institutions as campaign sites under Constitutional Court Decision No. 65/PUU-XXI/2023?

METHOD OF RESEARCH

This research employed normative legal research, also known as normative juridical. This research is guided by literature studies that align with this, "normative legal research is research that departs from the scientific nature of law as the main component of research". In accordance with this, Peter Marzuki discovered normative research, also known as "Legal Research is legal research that uses approaches, statutory approaches (*Statute Approach*), conceptual approaches (*Conceptual Approach*)," in normative legal research, using a doctrinal legal approach, as library research or document studies.

RESEARCH RESULT AND DISCUSSION

A. The urgency of allowing educational institutions to serve

as campaign sites is examined in light of the Constitutional Court's decision Number 65/PUU-XXI/2023.

Education in Indonesia has the potential to assist people achieve their goals and have a positive impact in this era of globalization[11]. Political education is a learning process that aims to help citizens understand their rights and obligations. As a social dimension, education has a significant impact on social development[12]. Therefore, in the field of political education, a conscious and planned effort is required to transform everything related to citizens' rights and obligations, particularly in a democratic country like Indonesia. The characteristics of good citizens include being independent, disciplined, responsible, nationalism, patriotism, mutual respect, and personal resilience[13]. The concept of political education for young citizens in the Indonesian context in the cognitive dimension is related to political knowledge. In this case, Pastarmadzhieva states that political knowledge is a key concept in the theory of political culture. Political culture reflects political values in society, modifies the political system, and is modified by the latter[14].

The element of political culture that defines civic values and behavior and is a definable object is political knowledge. Political knowledge for citizens is useful in today's digital era because it allows them to combine their ideas about politics in the vortex of abundant information, thereby increasing their political intelligence. This is consistent with the views of Leonhard, Karnowski, and Kumpel, who believe that political information is an important source and is widely

available; understanding its use and impact on citizens' political knowledge is critical [15]. In this case, the Constitutional Court's decision on the permissibility of campaigning on campus is an effort to build political education for students who are considered novice prospective voters, while also applying various provisions to overcome various conflicts that will occur, resulting in restrictions on the use of government facilities, places of worship, and places of education". With the explanation given that exceptions are made only for educational places if the initiative is taken, permission is obtained from the head of the educational institution, election participants are given equal opportunities, and the teaching and learning process is not disturbed. Even though there are exceptions, the sanctions for violations are also determined, namely: a written warning if the election campaign organizer violates the prohibition despite the absence of a disturbance; or the cessation of campaign activities.

If you examine the previous regulations or laws, Law Number 3 Year 1999, which deals with criminal threats for violations of the use of government facilities, places of worship, and places of education, provides for imprisonment for a minimum of one (one) month or a maximum of six (six) months, as well as a fine of at least Rp100,000.00 (one hundred thousand rupiah) or a maximum of Rp1,000,000.00 (one million rupiah). If one looks further, Law Number 3/1999 on General Elections contains a similar campaign prohibition norm, but it is only limited to the prohibition of using government facilities and means of worship, whereas Article 47 paragraph (1) letter

g of Law 3/1999 emphasizes in its Explanation that the existence of this prohibition is intended to ensure that the campaign runs freely, smoothly, safely, and orderly, and does not jeopardize national unity and integrity. The first paragraph of Article 47 of Law 3/1999 is explained. As a law enacted during the early reform era and used to organize the 1999 elections, the formulation is shorter than other election laws, and there is no complete arrangement of criminal sanctions for violating the prohibition of Article 47 paragraph (1) letter g of Law 3/1999.

According to historical records, campaign prohibitions on using government facilities, places of worship, and places of education have been regulated since the reform era. In fact, criminal sanctions have been established in the event that the prohibition is violated. On the other hand, if we pay close attention to the norms of Article 280 paragraph (1) letter h of Law 7 of 2017, which re-quotes the norms of Article 299 of Law 8 of 2012, we can see that both prohibit campaign implementers, participants, and teams from conducting campaigns using government facilities, places of worship, and places of education. Moreover, the prohibition in Article 280 paragraph (1) letter h of Law 7 of 2017 specifies sanctions, including imprisonment for a maximum of two (2) years and a maximum fine of Rp24,000,000.00 (twenty-four million rupiah).

According to the provisions of Article 521 of Law 7 of 2017, this criminal provision reiterates the formulation stipulated in Article 299 of Law 8 of 2012. The issue is whether the criminal sanction can be effectively applied, as stated in the Explanation of

Article 280 paragraph (1) letter h of Law 7 of 2017. It is determined that there is an exception to the regulation that government facilities, places of worship, and places of education can be used if election participants are present without election campaign credentials at the invitation of the party in charge of government facilities, places of worship, and places of education. Added to that, it is explained that the term "place of education" refers to the building and/or yard of a school or university. These technical provisions have provided guidance or guidelines in formulating the explanation, its meaning, and its function as the legislator's official interpretation of certain norms in the body. As a result, the explanation consists solely of a description of words, phrases, sentences, or the equivalents of foreign words or terms in the norm, which may be supported by examples. Explanation is a method of clarifying norms in the body that should not obscure the norm in question. This means that the elucidation does not employ formulations that include hidden changes to the provisions of the legislation".

In this connection, the explanation of Article 280 paragraph (1) letter h of Law 7 of 2017 according to the phrase "Government facilities, places of worship, and places of education can be applied if election participants are present without election campaign attributes at the invitation of the party in charge of government facilities, places of worship, and places of education" has given rise to a condition of contradiction with the content material or main norms of Article 280 paragraph (1) letter h of Law 7 of 2017. In the explanation

provided of Article 280, paragraph (1), letter H of Law 7 of 2017, the phrase in question has the meaning of granting the authority or right to do something in a limited manner, even if the limit or condition has been determined as a prohibition. Therefore, when placed in the understanding of the subject matter, which provides a prohibition or limitation to conduct campaigns using government facilities, places of worship, and places of education, the material of the explanation a quo, along with the phrase requested by the plaintiffs, consists of the meaning of an exception rather than an explanation, which is an official interpretation of the meaning, scope, and implications of the main norm material it explains. The requested phrase differs from the explanation of what "place of education" means: "the building and/or yard of schools and/or universities." It expressly prohibits campaign activities from taking place in government buildings, places of worship, and educational institutions. Furthermore, it has determined the criminal sanctions of imprisonment and/or fines imposed on parties who violate the prohibition, where the provisions of these sanctions may be difficult to implement. As a result, if the norm containing exceptions to the norm of Article 280 paragraph (1) letter h of Law 7 of 2017 a quo is still required, it should be included in the body of Law 7 of 2017 as a separate norm that excludes things that are prohibited during the campaign, rather than in the Explanation section. That means the explanation of Article 280 paragraph (1) letter h of Law 7 of 2017 according to the phrase "Government facilities, places of worship, and places of education can be used if election participants are present

without election campaign attributes at the invitation of the party in charge of government facilities, places of worship, and places of education," with an emphasis on the subordinate phrase "can be used if," actually creates ambiguity in understanding and applying the norms of Article 280 paragraph (1) letter h of Law 7 of 2017, which, when implemented, will result in legal uncertainty. However, the Constitutional Court (MK)'s decision now allows educational institutions such as universities and schools to serve as campaign sites for 2024 election participants. In some circles, this decision is deemed appropriate because educational institutions, particularly campuses, are thought to be suitable locations for testing election participants' ideas[16].

The Constitutional Court has revised the material in Article 280, paragraph (1), letter H of the Election Law. The article was changed to read, "Implementers, participants, and election campaign teams are prohibited from using government facilities, places of worship, and places of education, except for government facilities and educational places if they obtain permission from the person in charge of the location and are present without election campaign attributes", this means that political education for citizens, particularly when it comes young people in the Indonesian context, is in the psychomotor dimension related to abilities in the form of both intellectual and participatory, meaning that political expertise can be formed by young people through efforts to form maturity in observing the phenomena that occur today, which means that the allowance of political education is a construct that is introduced as a

competency needed to make voters mature in democracy effectively in organizations[17]. Furthermore, it can develop political competence by instilling a framework that influences behavior a multilevel, meta-theoretical framework that proposes how political skills operate to affect oneself and others in the organization. In general, the psychomotor dimension that can be obtained from political education in learning is heavily influenced by skills. In political education, the psychomotor dimension can be defined as citizens' political skills.

The relationship between political skills and task performance is mediated by personal reputation and self-efficacy [18]. If political skills are associated with self-rated quality of social life, perceived favorability based on perceptions, and positive sociality as rated by friends[19]. Then, political skills can influence how citizens think and act. Political skills can help young citizens, particularly those in secondary school, determine their role in the life of the state. This is consistent with Stringer's opinion, which states that political skills for citizens can channel political emotion toward something more useful than structural political skills. [20] In this case, the school prepares students for the "real" world, but there is a need for democratic maturity, which must be understood by every student or student who wishes to participate politically in the democratic party. Building political education for young citizens in the Indonesian context in the psychomotor dimension can lead to the development of ideal democratic conditions in the country [21]. This is consistent with Witschge, Rözer, and Werfhorst's assertion that, in addition to improving cognitive skills and

preparing students and university students for the labor market, one of the primary goals of education is to prepare citizens to participate in democracy [22]

The urgency of allowing educational institutions to serve as campaign sites in light of the Constitutional Court's decision Number 65/PUU-XXI/2023 is an effort to embed political education in the learning process, attempting to understand citizens' rights and obligations in educational institutions. XXI/2023 is an effort to develop political education in the learning process so that citizens can understand their rights and obligations in educational institutions. This is inextricably linked to the state's role in developing a psychomotor dimension related to skills in the form of both intellectual and participatory skills, implying that political expertise can be developed by young people through efforts to mature in their perception of current events. Political education is a concept introduced as a competency required to effectively mature voters in democracy in the organization and political skills of Indonesian young people in order to determine citizens' views and attitudes in interpreting democracy in Indonesia. Furthermore, good political education will produce wise politicians, or, in Mochtar Buchori's words, wisdom that can be gained through reflective thinking. Furthermore, Mochtar Buchori in *Sindhunata* [23] conveyed the conditions for humans to be wise, namely:

- a. Extensive knowledge (to be learned)
- b. Ingenuity (smartness)
- c. Common sense
- d. Insight, recognizing the core of what is known

- e. Prudence, discrete attitude
- f. Understanding the norms of truth. The ability to digest life experiences.

Wisdom and discretion can be formed early in a child's life because of their inherent nature. These two things cannot be measured but can be felt and seen in the results or products obtained. Furthermore, speaking of wisdom, we will think of democracy.

2. Practical political implications in educational institutions as campaign sites in accordance with the decision of Constitutional Court Number 65/PUU-XXI/2023.

In modern democracies, elections are the primary mechanism for establishing the state and forming government. Elections are seen as the most tangible form of sovereignty in the hands of the people, as well as the most concrete form of people's participation and the organization of the state. As a result, the election system and organization have always been major concerns. It is hoped that the government of, by, and for the people will be truly realized through the system's structure and the quality of election administration.[24]

Almost every modern country declares itself a democracy. One of the most distinguishing features is the holding of elections to elect representatives of the people, both in the legislature and in the executive, based on the programs proposed by election candidates. However, not every such country is automatically considered a democracy. Similarly, not all elections can be considered democratic. Elections are required as one of the mechanisms for implementing the principle of popular sovereignty.

Through elections, people vote not only for the people who will be their representatives in organizing the state, but also for programs whose policies will become state policies in the next government. As a result, the goal of elections is to elect representatives of the people and to put in place a government that reflects the people's preferences. Elections that fail to achieve these objectives will serve only as a means of legitimizing those in positions of power. Such elections have lost the essence of democracy.

To achieve this goal, elections must be conducted in accordance with certain principles. These principles apply to the entire electoral process and all parties involved, including organizers, participants, voters, and even the government. The Republic of Indonesia's 1945 Constitution states that elections must be direct, general, free, secret, honest, and fair.[26] Elections should ideally be carried out with four principles, among which are as follows: First, freedom must be understood as a self-development activity that involves socializing the availability of certain conditions. Second, the principle of equality should be viewed as one of the primary manifestations of equal rights to self-development. Third, reciprocity and joint activity serve as liberating social conditions while also influencing the forms and areas of democratic decision-making. Fourth, democracy can be used not only in politics, but also in the social and economic spheres.

When examining the evolution of today's elections, the democratic party is no longer placed in its spirit, where the democratic party is carried out freely without any kind of limitations,

one of which is regarding campaigns in educational institutions with practical political implications in educational institutions as campaign sites in accordance with the Constitutional Court decision Number 65/PUU-XXI/2023. This is also not an urgent matter because high school and vocational school students in educational institutions do not yet have the right to vote. As a result, there is a need for firmness in the form of laws that prevent partisan groups from using educational institutions as a political tool, such as prohibiting teachers and education personnel from incorporating practical political views into learning. Practical political views lead to exclusivity based on differences such as religion, ethnicity, economic status, and social class. This poses a significant threat to the community's polarization efforts.

The campaign's implications for educational institutions as campaign venues can be seen in the various descriptions below, including the following:

1. The use of government facilities will not be equally distributed among political parties and candidates because it will be determined by each participant's proximity to the local government. This is because, as is well known, the Regional Head in the Regional Head Election is promoted and backed by a political party. It is feared that the regional head will not be impartial because those who will be given facilities will primarily be candidates from political parties that support or oppose them.

2. The use of educational facilities will not be equitable for candidates with only a high school diploma or equivalent, because access to college campuses and Islamic boarding

schools will undoubtedly be much more limited than for candidates with S1 (bachelor's) degrees or higher and graduates of Islamic boarding schools. To avoid discrimination against campaign participants, campaigns are not permitted to use government facilities, places of worship, or educational institutions. With this prohibition, all participants will be unable to campaign in these areas, making it fair to all participants from various religious and educational backgrounds.

CONCLUSION

1. The urgency of allowing educational institutions as campaign sites in reviewing the perspective of the Constitutional Court's decision Number 65/PUU-XXI/2023 is an effort to build political education in the learning process that tries to understand the rights and obligations of citizens in educational institutions. XXI/2023 is an effort to develop political education in the learning process that tries to understand the rights and obligations of citizens in educational institutions. This cannot be separated from the role of the state in building a psychomotor dimension related to skills in the form of both intellectual and participatory skills, meaning that political expertise can be formed by young people through efforts to form maturity in seeing today's phenomena. This is inextricably linked to the role of the state in developing a psychomotor dimension related to skills in the form of both intellectual and participatory skills, implying that political expertise can be developed by young people through efforts to

mature in their perception of current events. Political education is a construct introduced as a competency required to mature voters in democracy effectively in the organization and political skills of Indonesian young people in order to determine citizens' views and attitudes in interpreting democracy in Indonesia.

2. The consequences of campaigning in educational institutions while using government facilities will not be evenly distributed among all political parties and candidates because it will be determined by each participant's proximity to the local government. Because, as previously stated, the Regional Head in the Regional Head Election is promoted and supported by a political party. It is feared that the regional head will be biased because those who will be given facilities are likely to be candidates from political parties that support them. The use of educational facilities will not be equitable for candidates with only a high school or equivalent education, as access to college campuses and boarding schools will undoubtedly be much more limited than for candidates with an S1 (bachelor's) degrees or higher education and graduates of Islamic boarding schools. The campaign's stronger implications stem from the prohibition on the use of government facilities, places of worship, and educational facilities in order to avoid discrimination against campaign participants. With this prohibition, all participants will be unable to campaign in these locations, making it fair to all participants from diverse religious and educational backgrounds.

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