

Extensification of Corporate Crimes Against Political Parties for Undercover Campaigns in Places of Worship

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Abstract. *The practice of covert campaigning in places of worship constitutes an exploitation of sacred spaces that undermines the integrity and substantive justice of general elections. Law enforcement under the current Election Law regime faces a structural deadlock due to the overly rigid application of the lex stricta principle, which can only prosecute implementers, participants, and campaign teams officially registered with the General Election Commission. Consequently, cases involving covert campaign actors outside these three legal subjects are frequently dismissed, thus breeding impunity for political party elites who factually profit from such covert maneuvers. This article aims to reconstruct criminal liability in elections by shifting the enforcement paradigm toward the conception of corporate criminal offenses based on Law Number 1 of 2023 concerning the Criminal Code (KUHP 2023). Employing a normative legal research method with statutory and conceptual approaches, the study confirms that political parties fulfill the qualifications as subjects of corporate criminal offenses. Maneuvers by covert campaign actors do not nullify the criminal offense; Rather, they are constructed as acts committed by third parties acting on behalf of the corporation, in this context, the political party. The attribution of malicious intent (mens rea) is established through the construction of the offense of omission (tacit consent), where in the political party is proven to unlawfully enjoy electoral benefits without undertaking preventive measures. Integrating this corporate criminal architecture serves as a condition sine qua non to resolve the electoral law deadlock and exact layered criminal liability extending to the apex of the political party hierarchy.*

Keywords: Campaign; Corporate; Election; Political.

1. Introduction

The implementation of healthy and integrity-based elections always requires a very clear demarcation between the arena of political power struggles and the sacred realm of religion. This demarcation is not merely an administrative election regulation, but a fundamental necessity to maintain democratic reasoning while protecting the sanctity of places of worship from practical political interests. Practical political intervention into places of worship not only violates the principles of honest and fair elections but also triggers social segregation based on theological sentiments. The use of identity politics and the exploitation of religion as instruments of electoral victory are forms of violation of the principle of electoral justice, which ultimately can undermine voter rationality and undermine the consolidation of democracy at the grassroots level (Santoso & Budhiati, 2019). Therefore, sterilizing spaces of worship from political agitation is a prerequisite for creating an honest, fair, and dignified election climate.

Acting on the awareness of this latent danger, the Constitutional Court took decisive action through Decision Number 65/PUU-XXI/2023. This decision specifically revised the norms on campaign exceptions in government facilities and educational institutions, while also firmly locking in the ban on campaigning in places of worship without any exceptions (Constitutional Court Decision Number 65/PUU-XXI/2023, 2023). This decision serves as a binding historical milestone for restoring the essential function or purification of places of worship in Indonesia. The Court convincingly closed all loopholes and exceptions by imposing a total ban on all forms of campaign activity in places of worship. This step is truly a form of constitutional rescue, where the highest law of the state intervenes directly to ensure that religious doctrines and noble values are not reduced to mere practical political commodities in the run-up to election day. However, the noble intentions and constitutional supremacy that have been upheld by the Constitutional Court must clash strongly with the gaps in empirical reality on the ground.

In empirical reality, pseudo-compliance is often practiced through legal smuggling. Election participants and political party elites engineer winning operations by bypassing structural lines. Aware of the prohibition on campaigning in places of worship, political structures can smuggling the law by mobilizing third-party extensions deliberately removed from party administrative legality (Isra, 2017). Political parties can mobilize field political agents who are deliberately not registered administratively with the General Elections Commission (KPU) as part of the official campaign team. These shadowy entities operating outside the institutional radar then operate as "covert campaign actors."

Covert campaign actors infiltrate places of worship with great freedom to exploit religious assemblies to exert influence, manipulate congregational sentiment, and mobilize electoral support, neatly packaged in a religious narrative. Ironically, because these covert campaign actors operate outside the formal electoral

structure, political parties can easily abdicate responsibility and evade legal action when their operations are uncovered. This sharp clash between the idealism of the Constitutional Court's ruling and the manipulation of campaign structures on the ground is what ultimately exposes the fragility of Indonesia's election law enforcement system.

From a legal dogmatic perspective, the regime of Law Number 7 of 2017 concerning General Elections (hereinafter referred to as the Election Law) is actually experiencing a very serious structural impasse. This impasse is rooted in the formulation of the norm prohibiting campaigning, which places a restrictive limit on its subjects, resulting in a very narrow scope of enforcement and failing to address the complexity of modern electoral crimes (Law of the Republic of Indonesia Number 7 of 2017 concerning General Elections, 2017).

The law, which should be the primary instrument for safeguarding electoral justice, appears to be faltering when confronted with the increasingly invisible maneuvers of modern politics. The current regulatory framework remains highly conservative, focused solely on formal boundaries. Consequently, when election crimes are perpetrated by covert campaign actors who deliberately fail to register with the election organizers, the Election Law loses its binding force and becomes paralyzed before it can reach the root of the crime. This structural impasse is most evident in the Integrated Law Enforcement Center (Gakkumdu), the institution at the forefront of addressing election crimes. In processing complaints about covert campaigning in places of worship, law enforcement officers (Gakkumdu) are often held hostage by the overly rigid application of *the lex stricta doctrine* (Hiariej, 2014). Consequently, election criminal law loses its flexibility in responding to the camouflage of crimes that are not clearly defined in the legal text. As a result, the lack of official registration as part of a campaign team with the General Elections Commission (KPU) has been reduced to a pretext for dismissing criminal charges against covert campaign actors. Cases of political agitation that blatantly desecrate places of worship easily result in the issuance of an Investigation Termination Order (SP3) because the Election Law only prohibits campaign organizers, participants, and official campaign teams from campaigning in places of worship.

This type of law enforcement practice ultimately creates an illusion of legal certainty that is extremely dangerous for the nation's democratic climate. On paper, the law appears to have been upheld and case handling procedures have been carried out according to administrative rules. However, in reality, adherence to procedural legality actually negates the material truth on the ground. The fact that voters' free will was forcibly taken away in a place of worship is simply ignored simply because the perpetrators were not part of the official campaign team registered with the General Elections Commission (KPU). The law is reduced to an administrative document, while the substantive justice that the public desires is

left neglected. The law's entrapment in this administrative formality demonstrates the urgency of systemic restructuring. The law must not simply rely on rigid normative texts but must be integrated with moral values and institutional rationality to be able to dismantle structural crimes and return to its effective function as an instrument of societal reform (Atmasasmita, 2012).

Furthermore, these loopholes in the electoral legal structure are in turn exploited by political party elites and institutions. Political parties are well aware that the current positive law only covers implementing entities, participants, and official campaign teams. Therefore, these political actors devise a campaign operational strategy that deliberately disconnects from the formal structural ties of the political party and enjoys electoral advantages achieved through practices of spiritual coercion, manipulation of dogma, and psychological intimidation aggressively spread among congregants in sacred spaces of worship. This situation creates an asymmetry of justice that is highly dangerous for democracy, where political parties reap all the benefits of power from electoral crimes, yet bear no criminal burden for the destruction of social cohesion and the polarization of the congregation left behind after the vote.

The series of anomalies and lack of justice that recurs in every election cycle clearly cannot be allowed to continue. To break this deadlock, law enforcement can no longer rely solely on conventional approaches. There must be a radical paradigm shift in the concept of criminal responsibility. The crucial momentum for this dogmatic change has already been provided through Law Number 1 of 2023 concerning the Criminal Code (hereinafter referred to as the 2023 Criminal Code). The 2023 Criminal Code has progressively laid the foundation for a highly modern, holistic, and comprehensive corporate accountability architecture, no longer viewing crime solely as a natural human act.

Based on the progressive proposals of the 2023 Criminal Code, the move to reconstruct the electoral legal system is an unavoidable necessity. This paper aims to reimagine corporate crime within the national electoral legal landscape, with a primary focus on specifically and in-depth analysis of the dogmatic mechanisms that can be used to bring political parties into the realm of criminal liability. Using the analytical tools of the 2023 Criminal Code, this study seeks to provide a solution so that political parties can no longer hide from the law for the dirty maneuvers of covert campaign actors in places of worship, while ensuring that those who benefit most from a crime must bear the greatest responsibility.

2. Research Methods

This research is a normative legal research (*doctrinal legal research*). The approach used includes a statute approach *to* analyze the synchronization between the Election Law and the 2023 Criminal Code, as well as a conceptual approach *to*

dissect the doctrine of corporate criminal liability. The analysis is conducted descriptively-analytical and prescriptively to formulate a new legal construct.

3. Results and Discussion

3.1 The Construction of Political Parties as Subjects of Corporate Crimes

The development of civilization and the complexity of social relations have forced modern criminal law to make a fundamental evolutionary leap. Throughout history, classical criminal law dogma has been shackled by a legal fiction that believes in the *university adage delinquere non potest*, which places crime exclusively as the monopoly of natural human actions (*natuurlijk persoon*). This doctrine a priori denies that collective entities have the inner capacity (*mens rea*) to be accounted for in criminal law (Sjahdeini, 2017). This classical construction assumes that only human individuals possess will, evil intent (*mens rea*), and the ability to commit material acts (*actus reus*). However, over time, this framework has proven paralyzing when faced with the reality of modern crime, which is collectively driven, structured, and sheltered behind organizational entities or legal entities whose destructive power far exceeds the capacity of individual crimes.

Responding to the pressing need to address organizational crime, the national criminal law system finally underwent reform through the ratification of the 2023 Criminal Code (KUHP). This change is not merely a textual revision, but a paradigm revolution that firmly demolishes the principle of *societas delinquere non potest* (legal entities cannot commit crimes) inherited from colonial law. The demolition of this classical principle is fully in line with the development of modern criminal doctrine which stipulates that corporate entities can and must be blamed when they are proven to have benefited from a crime, as an effort to destroy the shield of corporate impunity (Ali, 2013).

Therefore, the 2023 Criminal Code comes with the dogmatic courage to place fictitious entities on an equal footing with natural humans in the eyes of the law. The culmination of this paradigm shift is explicitly manifested in the norm of Article 45 paragraph (1) of the 2023 Criminal Code (Law of the Republic of Indonesia Number 1 of 2023 concerning the Criminal Code, 2023), which provides legal legitimacy without a doubt that corporations are now legal subjects of criminal acts and can be held fully accountable before the courts. The sharpness of the criminal instruments in the 2023 Criminal Code does not only stop at recognizing the status of legal subjects, but also includes defining the scope of corporations which is formulated in a very progressive and extensive manner. Through the formulation of Article 45 paragraph (2) (Law of the Republic of Indonesia Number 1 of 2023 concerning the Criminal Code, 2023), the legislators consciously broke down the conventional boundaries that had previously identified corporations solely with profit-oriented commercial institutions. The

2023 Criminal Code expands corporations beyond traditional forms such as limited liability companies, state-owned or regional-owned enterprises, limited partnerships, cooperatives, and foundations.

The most crucial and relevant dogmatic breakthrough in the expansion of the meaning of the corporation lies in the insertion of the phrase "association, whether a legal entity or not" in Article 45 paragraph (2) of the 2023 Criminal Code and entities equated with it. This phrase has an extraordinarily broad reach because it successfully captures all forms of human association that have a common goal, regardless of whether or not there is administrative legalization that binds them. The recognition of "association" as an integral part of the corporate entity is the most solid dogmatic foundation for drawing non-profit institutions, including mass organizations and political parties, into the epicenter of criminal responsibility when these entities are proven to be riding on or facilitating structured crimes in the context of general elections.

If drawn into the realm of constitutional law and administrative law, the position of political parties is essentially a legalized association of citizens in the form of a legal entity, where this existence is deliberately established to fight for the political interests of the community through the general election mechanism. If this institutional character is examined using the perspective of modern criminal law, the interpretation of the very broad formulation in Article 45 paragraph (2) of the 2023 Criminal Code provides uncompromising clarity. Political parties clearly fulfill all the qualifications of the elements needed to be called a "corporation", so that legally there are no longer any obstacles for political party institutions to act as legal subjects that can be held accountable for criminal acts.

This explicit recognition of political parties as corporate entities plays a highly progressive role because it successfully breaks the chain of deadlock that has paralyzed Indonesia's election law enforcement system for years. Until now, when structural violations occurred, the election law regime often became trapped in a deadlock, where the law enforcement process was always at a standstill and focused solely on the individual accountability of party officials, commonly known as the main controlling actors (*directing minds*).

3.2 The Relationship between Covert Campaign Actors and Corporations (Political Parties)

The modus operandi of electoral crimes that infiltrate religious spaces is rarely executed openly or directly by top figures, such as political party officials at the regional and central levels, or campaigners holding official mandates. These political elites are well aware of the legal risks and damage to their public image if their involvement is publicly exposed. Therefore, in reality, these electoral crimes are almost always carefully planned and executed through the hands of third parties. These illegal acts are usually driven by covert campaign actors, whether

they be sympathizers, fanatical volunteers, or even religious leaders who deliberately operate covertly to manipulate the consciousness and direct the political preferences of the congregation.

The introduction of the concept of corporate crime within the 2023 Criminal Code has undermined a defense mechanism that has often been abused by various entities to avoid legal action. In the past, the lack of formal employment status or the unregistered registration of field actors (covert campaign actors) as part of official instruments was often seen as a loophole that broke the chain of criminal responsibility. However, this paradigm is no longer relevant. Modern criminal law has completely closed this loophole, allowing covert campaign actors and corporations (political parties) to be held criminally accountable through the construction of Article 46 of the 2023 Criminal Code (Law of the Republic of Indonesia Number 1 of 2023 concerning the Criminal Code, 2023). This progressive criminalization policy explicitly outlines that a corporate crime is no longer limited to or only recognized if the act is executed by management who structurally occupy functional positions within the organization. Furthermore, the 2023 Criminal Code has now expanded its scope to target anyone who commits a criminal act based on a legitimate employment relationship, as well as those who act based on other relationships outside the formal structure, as long as the act is carried out for and on behalf of a corporation (political party).

The existence of a specific article that specifically accommodates the phrases "other relationships" and "acting in the interests of the corporation" has become a crucial legal instrument. This broadening clause essentially serves as a dogmatic bridge to unravel the complexities and map the hidden relationships between corporate entities and covert campaign actors in the field. Thus, all forms of covert maneuvering and agitation carried out purely for the benefit and advantage of corporations (in this case, political parties) can now be held accountable to those corporate institutions.

In practice, the evidence for the phrase "for corporate interests" becomes crystal clear when we examine incidents of exploitation in places of worship. When covert campaign actors deliberately use the pulpit of worship to convey their visions and missions, and even to build a positive image of election participants, including political parties, the essence of these actions can no longer be interpreted as a stand-alone personal initiative. In real and visible terms, the entire narrative of agitation conveyed among the congregation is rooted in one primary goal: to gain electoral votes, which ultimately flow as profits for the political party institution. Furthermore, political maneuvering in places of worship is almost impossible to occur spontaneously without a well-thought-out plan. Often, the movements of covert campaign actors in the field are structured by behind-the-scenes intellectuals who dictate the scenario, provide direction, and hold the direction of campaign operations, even though their identities are never listed in the party's

management structure or official campaign team list. Facing this kind of clever operation without formal traces, the new criminal law instrument has included excellent norms through Article 47 of the 2023 Criminal Code (Law of the Republic of Indonesia Number 1 of 2023 concerning the Criminal Code, 2023) where the law makers have convincingly closed the loopholes for these intellectual actors to escape.

This provision provides certainty that corporate crimes remain legitimate and enforceable, even if the crimes are executed or ordered by figures administratively far outside the corporate organizational structure. Thus, political party officials at the regional and central levels who have acted as order givers, primary controllers, or beneficial owners of a political party institution no longer have impunity from criminal sanctions. As long as these intellectual actors are proven to have real control over the corporation, any instructions or covert campaign maneuvers carried out to exploit places of worship will immediately drag the political party entity into the vortex of corporate criminal liability in its entirety.

3.3 Conditions for Criminal Responsibility of Political Parties (Crime of Neglect)

Proving a physical crime in the field, commonly known as *actus reus*, is only half the legal framework for criminal prosecution. When a covert campaigner is legally and convincingly proven to have exploited a place of worship, this empirical evidence merely fulfills the objective elements of a crime. The mere fact that a covert campaigner has violated the law in a place of worship is not sufficient to be the sole legal basis for imposing sanctions.

In criminal law doctrine that upholds the principle of justice, there is a fundamental adage known as "*geen straf zonder schuld*," meaning there is no crime without fault. This principle serves as a clear deterrent to ensuring that the law is not enforced haphazardly. Therefore, proof of material acts committed by covert campaign actors at the grassroots level does not automatically and immediately render political party institutions liable to criminal penalties. The law rejects the logic of punishment based solely on the existence of physical consequences or actions without examining the mental state of the perpetrator. This paradigm shift emphasizes that the element of fault is no longer reduced solely to the internal psychological state of a natural human being. Fault has now become a concrete failure of an entity to fulfill its legal obligations and comply with the law to prevent a crime (Huda, 2006).

To hold a political party liable for corporate corruption, law enforcement officials are required to pursue a far more essential level of evidence: the subjective element. Measured and irrefutable efforts must be made to prove *mens rea*, or malicious intent, originating from the political party. Without careful and measurable evidence of this culpable relationship, political parties have ample

room to evade and absolve themselves of any legal responsibility for the actions of their supporters.

The process of proving *mens rea* in an entity such as a political party certainly requires a different dogmatic construction than proving malicious intent in a natural person. The connection between the corporation and the material actions of the covert campaign actor must be established through the mechanism of attribution of blame. Law enforcement is required to clearly analyze the political party's internal state when electoral campaign crimes in places of worship occur, to ensure that the actions in the field are truly correlated with the corporate entity that oversees them.

Addressing the complexity of tracing the malicious intent or *mens rea* of political party entities, lawmakers have formulated a very adequate dogmatic breakthrough. Through the formulation of Article 48 of the 2023 Criminal Code (Law of the Republic of Indonesia Number 1 of 2023 concerning the Criminal Code, 2023), the deadlock in attribution of fault was successfully resolved by presenting a series of very rigid yet progressive parameters as a clear guideline, so that law enforcement officials can quickly determine when a maneuver of a covert campaign actor in the field can be drawn into a legitimate criminal liability burden for a corporation (Amrani & Zaidan, 2019).

The uniqueness of Article 48 of the 2023 Criminal Code lies in its alternative, rather than cumulative, application. In this case, the Gakkumdu Center or law enforcement agencies are not required to prove all qualifying elements simultaneously to charge a political party. Corporate criminal charges can be legally and convincingly imposed if the political party is proven to meet at least one of the several conditions or prerequisites outlined in the 2023 Criminal Code.

The first alternative parameter places a heavy emphasis on material motives and organizational acceptance. A political party entity can be immediately found guilty if the agitation carried out by covert campaign actors in places of worship is proven to unlawfully benefit the corporation. Likewise, if the covert campaign is allowed to continue because it has been tacitly or overtly accepted as part of the corporation's instrument or policy to garner public sympathy. In the next parameter, the law specifically emphasizes structural negligence and negligence on the part of those in control of the organization. This corporate criminal trap will automatically be met if the political party is proven unwilling to take adequate preventative measures or fails to ensure internal legal compliance to prevent criminal acts. The pinnacle of this instrument lies in the "inaction clause," where the 2023 Criminal Code very firmly targets penalties for corporate entities that remain silent and allow these covert campaign activities to occur, even though the political party has full authority and capacity to stop them.

Of all the parameters provided by the 2023 Criminal Code, the formulation of the prerequisite for "allowing the crime to occur" and the clause "benefiting a corporation" are the sharpest dogmatic analytical tools when applied to election crimes. Unlike direct evidence, which is often hampered by the difficulty of tracing agreements within closed doors, these two elements operate in a much more visible and empirical realm. The law no longer focuses solely on the search for command or structural relationships, but rather on the passive attitude of political party entities amidst covert campaign activities.

This mechanism for proving passivity is highly relevant to today's social reality. Law enforcement officials simply rely on valid *circumstantial evidence* to gauge a political party's level of knowledge of covert campaign maneuvers in the field. For example, when a political agitation operation by a religious figure in a sacred space spreads widely and quickly becomes a topic of public discussion on social media, or even becomes an open secret within the community, the claim of ignorance by political party officials becomes completely unreasonable. This widespread public knowledge automatically invalidates the excuse of ignorance by political party elites, placing the political parties in a position of full awareness that a legal violation is occurring that involves or impersonates election participants from a particular party and/or even the name of that political party.

In situations where knowledge of the crime is evident, yet political party elites choose to remain silent, turn a blind eye, and fail to issue even the slightest public protest or rebuttal, that is when modern criminal law, through the 2023 Criminal Code, comes into play. This deliberate silence while continuing to enjoy the benefits of the support generated by theological manipulation, is dogmatically categorized as a form of omission. Modern criminal law interprets this omission not as a form of neutrality, but as tacit consent. Political parties are seen as deliberately allowing covert campaigns to continue because of rational calculations recognizing the electoral benefits that could unlawfully influence vote acquisition.

The intersection of structural neglect and the acceptance of electoral benefits ultimately led to a highly progressive shift in responsibility. The burden of criminal prosecution, previously limited to field actors (covert campaign actors), now extends to larger entities: political parties. Thus, political parties can no longer absolve themselves of the damage to democracy, having legally transformed into corporations that share criminal responsibility for covert campaign activities in places of worship. This attempt by political institutions to avoid legal entanglements is a common pattern that has been widely studied in various countries. Political parties deliberately exploit complex and informal volunteer networks to break the chain of criminal responsibility. This practice ultimately creates a protective shield that makes it difficult for law enforcement to prosecute and prove the party's institutional culpability.

The logical consequence of this shift in accountability carries very serious legal implications for political parties. Based on the provisions of Article 49 of the 2023 Criminal Code (Law of the Republic of Indonesia Number 1 of 2023 concerning the Criminal Code, 2023), criminal sanctions are no longer imposed abstractly on the political party's corporate body itself, but can extend to every layer of the power structure within it. This approach ensures that political party institutions do not simply pay administrative fines, while political party elites retain power. With the new criminal punishment instrument concept in the 2023 Criminal Code, criminal penalties can be applied in layers and simultaneously to various management structures, even to the intellectual actors giving orders behind the scenes, even though these legal subjects are not registered in the official party management structure. Nevertheless, as a rational legal system that upholds the principle of balanced justice, the 2023 Criminal Code still guarantees the right to a proportional defense for every entity charged. Through the formulation of Article 50 of the 2023 Criminal Code (Law of the Republic of Indonesia Number 1 of 2023 concerning the Criminal Code, 2023), the legislators fairly still open space and provide an opportunity for political party corporations to submit defenses, both containing justifications to eliminate the unlawful nature, as well as excuses to eliminate the element of error before the court. The availability of this legal defense space confirms that the new concept of corporate crime is not at all a form of arbitrariness, but remains subject to strict, measurable, and objective principles of material evidence.

4. Conclusion

The impasse in law enforcement regarding covert campaign practices in places of worship stems from the rigid application of *the lex stricta principle* within the Election Law. This approach reduces criminal liability solely to administrative requirements, resulting in impunity for political parties that actually benefit from electoral gains from covert campaign actors. To achieve substantive justice, the concept of corporate crime in the 2023 Criminal Code provides a dogmatic basis that qualifies political parties as subjects of corporate crime. Through this legal construction, the lack of formal legality for field actors (covert campaign actors) no longer invalidates the criminal offense, but is instead accommodated as an act committed based on "other relationships" for the benefit of the corporation (in this case, a political party). The attribution of fault (*mens rea*) to political parties is ensnared through alternative parameters in the formulation of Article 48 of the 2023 Criminal Code, which specifically uses the construction of *tacit consent*. When a political party is proven to have obtained electoral benefits from the unlawful exploitation of places of worship without taking preventive measures, criminal responsibility can shift to the political party entity. Integrating this corporate accountability paradigm into election law is *a conditio sine qua non* to break the chain of impunity for covert campaign actors and ensure the imposition

of layered criminal sanctions, including those at the political party's intellectual level.

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