

## **Presidential Campaign Authority in The General Election Law**

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### **ABSTRACT**

*The President's Authority to Campaign during the General Election has recently become an interesting topic of discourse among the public. Some people think that the President should not campaign to maintain the neutrality of elections, the President's dignity, and so on. However, on the other hand, the public thinks that it is okay for the President to campaign because basically it is not the norm in the laws and regulations that has been violated. Therefore, this research aims to examine the President's authority to campaign in Law Number 7 of 2017 concerning General Elections. This research is a qualitative research with a normative approach that uses legislative regulations as the main focus to elaborate and explain comprehensively the authority of the President's campaign in the General Election Law. The data used in this research is secondary data that researchers obtained from statutory regulations, scientific journals, books, credible websites, and a number of other sources that are commonly used in every research. These data were analyzed using grammatical and teleological legal interpretation methods. The result in this article show 1. There are two different opinions, namely those who agree with the president's campaign with the argument of maintaining ELECTION neutrality, potentially causing abuse of power, and maintaining presidential ethics. But on the other hand, they think it's okay because no rules have been violated. 2. Article 281 paragraph 1 of Law Number 7 of 2017 concerning General Elections regulates the President's ability to campaign as long as he does not use state facilities and takes leave. However, this article was interpreted differently by Bivitri Susanti because it relates to the President who will nominate again and the President must be registered in the campaign team. Apart from that, Zainal Arifin Mukhtar also has the same opinion that the President's campaign could cause legal complications and could potentially lead to the practice of nepotism. 3. The researcher does not agree with the two constitutional experts because there is an inconsistency in Bivitri Susanti's argument that initially the president was not allowed to campaign by interpreting market 281 paragraph 1 as relating to the incumbent President,*

*but in the next sentence it seems to allow it by requiring the President to be included in the campaign team. Regarding Zainal Arifin Mukhtar's opinion, researchers consider that campaigning and nepotism are two very different things. Can campaigning is something that has not happened and is stated in the laws and regulations, whereas nepotism is something that has already happened and needs to be proven first and it does not necessarily mean that the President campaigning is nepotism. The researcher adheres firmly to the principles of Nullum Delictum, Nulla poena sine praevia lege poenali" and the fiqh rule "Al-Ashlu Fil Muamalah Ibahah Hatta Yadulla Daliil 'Ala Tahrimiha". The researcher believes that article 281 paragraph 1 has provided a comprehensive explanation regarding these abilities and the limits of the President. if you want to campaign.*

**Keywords :** Presidential Campaign, Authority, General Election Law

## INTRODUCTION

Since the 1998 reform, the socio-political dynamics in this country have been quite colorful. When connected to the election process, each candidate or candidates will carry out their political campaign with the following objectives. has been mentioned above. In some cases, we sometimes see unhealthy campaign processes. The use of radical methods, perhaps due to misunderstanding or other reasons, sometimes occurs. However, the number is relatively small. The political campaign process in Indonesia so far can still be said to be normal and consistent as it should be. Although once again, sometimes we also encounter black campaigns (Herpamudji, 2015).

In modern politics, the most prominent political campaigns are focused on elections and candidates for head of state or head of government. The most obvious example is the election of the president or head of state. We can see each candidate and supporters campaigning for each other's parties. According to Rice and Paisley, a campaign is the desire to influence the beliefs and behavior of other people with communicative appeal. A political campaign is a form of political communication carried out by a group of people, a person or a political organization at a certain time with the aim of obtaining political support from the community. The definition of campaign based on Law Number 1 of 2015 concerning General Elections of Members of the People's Representative Council, Regional Representative Council, and Regional People's Representative Council in article 1 point 26 is "the activities of Election Participants to convince voters by offering the vision, mission and program of Election Participants" (Fatimah, 2018).

According to (Rogers, 2002), a campaign is a number of planned communication actions that aim to create certain consequences or effects for a large audience and are carried out continuously at a certain time. Several communication experts admit that the definition given by Rogers and Storey is the most popular and widely accepted by communication scientists. So, basically campaigns are a common thing that is often found.

Even at certain times, the realization or implementation of campaign processes very often does not comply with regulated regulations.

Campaigns have several types. The General Election Commission (KPU) through decision letter no. 35 of 2004 regulates all forms or types of campaigns. According to these regulations, there are at least 9 types/forms of campaigning, namely: (1) Public debate/open debate between candidates, (2) Other activities that do not violate statutory regulations, (3) Installation of props in public places, (4) Dissemination of campaign materials to the public, (5) Distribution via print and electronic media, (6) Broadcasting via radio and/or television, (7) Limited meetings, (8) General meetings, and (9) Face to face and dialogue. In addition, still regarding the meaning of campaign, Law article 1 paragraph 26 No. 10 of 2008 states that a campaign is an activity carried out by election participants to convince voters by offering a vision, mission and programs offered by election participant candidates (Dinawan, 2011).

When a political campaign is interpreted as an activity to persuade voters with the aim of increasing electability and popularity, a candidate needs to have a thorough strategy and planning. The candidates who take part in the election certainly have different campaign methods from other candidates. Campaigns which are a means of achieving political ideals require strategy, which will be very important. This is for the purpose of winning the election and the ideals that the legislative candidates and supporting parties want for the future (DANA KAMPANYE 2018 PERATURAN KPU NOMOR 24 TAHUN 2018 BN RI NOMOR 974 PERATURAN KOMISI PEMILIHAN UMUM NOMOR 24 TAHUN 2018 TENTANG, 2019).

Issues surrounding the campaign have recently become a hot debate on two sides, namely those related to the Presidential Campaign. On the one hand, some parties believe that the President should not campaign to maintain the President's dignity, Presidential ethics and Presidential neutrality. However, others believe that there are no significant problems if the President campaigns because basically no laws and regulations have been violated regarding General Elections, Presidential Authority, and so on. Based on the explanation above, this research aims to analyze the President's authority to campaign in Law Number 7 of 2017 concerning General Elections .

## **RESEARCH METHODS**

The President's Authority to Campaign during the General Election has recently become an interesting topic of discourse among the public (Lexy J. Moleong, 2018). Some people think that the President should not campaign to maintain the neutrality of elections, the President's dignity, and so on (Sugiyono, 2019). However, on the other hand, the public thinks that it is okay for the President to campaign because basically it is not the norm in the laws and regulations that has been violated. Therefore, this research aims to examine the President's authority to campaign in Law Number 7 of 2017

concerning General Elections (Henni, 2015). This research is a qualitative research with a normative approach that uses legislative regulations as the main focus to elaborate and explain comprehensively the authority of the President's campaign in the General Election Law (Manzilati, 2017). The data used in this research is secondary data that researchers obtained from statutory regulations, scientific journals, books, credible websites, and a number of other sources that are commonly used in every research (Budijanto & Rahmanto, 2021). These data were analyzed using grammatical and teleological legal interpretation methods (Budijanto & Rahmanto, 2021).

## **RESULT AND DISCUSSION**

### **Presidential Campaign**

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### **Presidential Campaign Authority In The General Election Law**

Basically, there is not a single legal regulation that prohibits the President from taking sides or even campaigning in General Elections. In line with the legal adage that is often echoed, namely "Nullum Delictum, Nulla poena sine praevia lege poenali" which means "There is no prohibition, until there are legislative regulations that prohibit it". In Islamic law there is also a similar rule, namely "Al-Ashlu Fil Muamalah Ibahah Hatta Yadulla Daliil 'Ala Tahrimiha" meaning "As long as an action/muamalah is permitted until there is a verse/legislative regulation that prohibits it"(Gustanto & Mubarok, 2023). Based on these adages and rules, basically the president takes sides and even campaigning is allowed as long as there are no laws and regulations that prohibit it. This

can be compared to a culture where exercising, eating and so on are permitted as long as they do not violate the rules (Hallojendela, 2023).

Further to the explanation above, Article 281 paragraph (1) of the Election Law reads as follows: "Election campaigns involving the President, Vice President, ministers, governors, deputy governors, regents, deputy regents, mayors and deputy mayors must comply with conditions: 1). Do not use facilities in their position, except for security facilities for state officials as regulated in statutory provisions. 2). Undergoing leave outside the state's responsibility (Undang-Undang Nomor 7 Tahun 2017 Tentang Pemilihan Umum, 2017).

When carrying out a campaign, you must pay attention to the legal corridors determined by statutory regulations. First, the president is obliged to pay attention to the continuity of his state administration duties. Second, during the campaign, the president is prohibited from using state facilities in the form of: 1. Mobility facilities, such as official vehicles; office buildings, official residences, official residences belonging to the government, provincial government, and district/city government except remote areas where implementation must be carried out with due regard to the principles of justice. 2. Office facilities, regional radio and code/telecommunication belonging to the provincial/regency/city government, and other equipment, and other facilities financed by the APBN or APBD. The use of state facilities attached to the office of president regarding security, health and protocols is carried out according to field conditions in a professional and proportional manner (Munawaroh, 2024).

However, according to Bivitri Susanti, in the article Here's an Expert's Review Regarding the President's Rules for Partial Campaigning, it is stated that when reading Article 299 paragraph (1) of the Election Law regarding the president's right to carry out a campaign, it must be intact because it is related to other articles. This provision essentially gives the president as an incumbent the opportunity to run for election as a candidate for president and vice president for a second term. Apart from that, according to Bivitri, the president must also be registered in the official campaign team of the candidate pair he supports. A deeper elaboration was provided by another constitutional law expert, namely Zainal Arifi Mochtar (Munawaroh, 2024).

According to him in the HTN UGM Academic article: President's Campaigning for Parties Gives Legal Complications, the Election Law gives the president and vice president the right to campaign. In general, the Election Law provides guidelines for the president to campaign, but the regulation does not explain everything in detail. According to Zainal, if the president campaigns, there will be many legal complications, because the Election Law does not regulate the details. The president's position on election matters can refer to the Government Administration Law which mandates that the president must not take actions or issue decisions whose purpose is not in the interests of the state, for example for personal interests. Then, Law 28/1999 clearly prohibits state administrators from committing corruption, collusion and nepotism (Munawaroh, 2024).

Even though the president applied for leave to campaign, according to Zainal, does this action benefit him personally, his family and others? If the president is registered as a campaign organizer, so he can campaign, the impact could benefit himself or others. Zainal also believes that Article 299 of the Election Law should be interpreted as the right of the president and vice president to campaign only for incumbents. In contrast to the two constitutional law experts above, researchers are of the view that nepotism and whether or not you can campaign for President are two different things. Whether or not a campaign is permissible is related to things that have not been done, whereas nepotism is something that has already been done and is against the law, meaning that declaring nepotism requires proof first. Therefore, in this study the researcher believes that there is no problem at all if the president takes sides and even campaigns.

## **CONCLUSION**

Based on the comprehensive explanation above, several things can be concluded in this research as follows:

1. There are two different opinions, namely those who agree with the president's campaign with the argument of maintaining ELECTION neutrality, potentially causing abuse of power, and maintaining presidential ethics. But on the other hand, they think it's okay because no rules have been violated.
2. Article 281 paragraph 1 of Law Number 7 of 2017 concerning General Elections regulates the President's ability to campaign as long as he does not use state facilities and takes leave. However, this article was interpreted differently by Bivitri Susanti because it relates to the President who will nominate again and the President must be registered in the campaign team. Apart from that, Zainal Arifin Mukhtar also has the same opinion that the President's campaign could cause legal complications and could potentially lead to the practice of nepotism.
3. The researcher does not agree with the two constitutional experts because there is an inconsistency in Bivitri Susanti's argument that initially the president was not allowed to campaign by interpreting market 281 paragraph 1 as relating to the incumbent President, but in the next sentence it seems to allow it by requiring the President to be included in the campaign team. Regarding Zainal Arifin Mukhtar's opinion, researchers consider that campaigning and nepotism are two very different things. Can campaigning is something that has not happened and is stated in the laws and regulations, whereas nepotism is something that has already happened and needs to be proven first and it does not necessarily mean that the President campaigning is nepotism. The researcher adheres firmly to the principles of Nullum Delictum, Nulla poena sine praevia lege poenali" and the fiqh rule "Al-Ashlu Fil Muamalah Ibadah Hatta Yadulla Dalilil 'Ala Tahrimiha". The researcher believes that

article 281 paragraph 1 has provided a comprehensive explanation regarding these abilities and the limits of the President. if you want to campaign.

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