

POLITICAL PARTY FINANCING REGULATION AND GAPS FOR CORPORATE DONATIONS: CASE OF THE DEVELOPING COUNTRY

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Abstract

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The excessive corporate involvement in funding political parties jeopardizes the quality of performance of political parties (Mietzner, 2015). This paper aims to analyze the extent to which existing regulations govern the finances of political parties and to find gaps that corporations and political parties often exploit. Moreover, this paper practically seeks to provide practical policy recommendations. This study used qualitative methods, including in-depth and semi-structured interviews with seven purposefully selected informants. This study also involved library research through the collection of various regulations, factual data, and expert opinions from various secondary sources, namely the government and non-governmental organizations. The study found that existing regulations play a very limited role in maintaining the integrity of political parties. The issues found range from irrational donation limits, unregulated spending limits, and incomprehensive financial statements, as well as low supervision and law enforcement by election organizing agencies. Criminal acts against organizations, committed by both corporations and political parties, are still left unaddressed by the law enforcement. Therefore, this paper recommends the formulation of a law that specifically regulates political party finances. Independent institutions that can oversee the parties' finances as well as legal breakthroughs is also essential in promoting transparency and honesty.

Keywords: Corporate Donation, Political Party Finance, Party Regulation, General Elections, Election Management Bodies

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1. INTRODUCTION

The financial management of political parties is part of the management of modern political parties

(Hofmeister & Grabow, 2011). Although it is not the focus of political parties, it is one of the main determinants of their behavior and policies (Bértoa, 2012; Hofmeister & Grabow, 2011). The management

of a party's finances is not the only important aspect to consider — equally crucial is the manner in which the party procures its funding. Good funding will increase the level of political participation, representation, and support, while a bad financial system will lead to various corrupt actions that ultimately threaten democratic principles and values (Hamada & Agrawal, 2021).

Political party financing faces a wide variety of challenges in different countries. Political party corruption scandals not only occur in democracies that are not yet established but also in countries that have maintained a good reputation. In their study, Rhodes et al. (2002) revealed that political party corruption in Western European countries, such as that of Germany and the United Kingdom (UK), revolves around financing activities of political parties. Meanwhile, the prevalence of corruption is also a challenge for countries in Southeast Asia. Apart from funding, other issues are commonly related to the lack of transparency and accountability, such as regulatory issues, corporate influence, bookkeeping, and compliance levels (Mobrand et al., 2019; Simandjuntak, 2021).

The financial support of the private sector shows that there is political support from the community. However, this funding source must be strictly regulated because it has the potential to cause abuse of power from elected political actors if this private funding is dominated by business people (corporations) (Mietzner, 2015). There is considerable potential for power abuse as most political parties are funded by the private sector (Hamada & Agrawal, 2021). In more detail, there are at least several sources of private funding of political parties that are prohibited in various countries in the world. Table 6 shows the types of donations that are prohibited to be given to political parties and the percentage of countries based on the policies of each country.

The global data presented in Table 6 include 180 countries, namely countries that hold multi-party elections. Donations from anonymous sources are shown in the form of aggregated data from countries that either fully restrict such donations or restrict them to a certain extent. In line with global trends, Indonesia is among the countries that prohibit both anonymous donations and donations from overseas sources. This prohibition is intended to ensure transparency so as to enable supervision, and to prevent foreign influence — principle of self-determination (Hamada & Agrawal, 2021).

Several countries have begun to ban corporate donations since the discovery of scandals involving the funders that led to the weakening of electoral democracy. In Canada, for example, the ban on corporate donations was triggered by various cases, one of which was the controversy surrounding donations at the city and provincial election levels that arose in the Province of Alberta (Mertz, 2013). In addition, in South Korea, a complete ban on corporate donations was also stimulated by the scandal of political parties receiving huge amounts of funds during the 2002 presidential election campaign (Sim, 2018). Indonesia is not a country that prohibits donations from corporations. However, the government imposes a limit on the amount that corporations can contribute. Ironically, there has been a significant

increase in donation limits (see Table 2–5). In fact, Indonesia is not a stranger to cases involving business actors and party members who assume legislative and executive positions. Based on Indonesia Corruption Watch (ICW) records, during 2010–2017, there were at least 215 regional heads suspected of corruption cases handled by the Corruption Eradication Commission (*Komisi Pemberantasan Korupsi, KPK*), police, and prosecutors (ICW, 2018).

The reason is that the heads' continuation depends heavily on political decisions, such as: 1) budget allocations for certain programs/projects; 2) permits to make use of certain natural resources (mining, forestry, and marine); 3) permits to import certain goods or services; 4) permits to export certain goods or services; as well as 5) political protection and physical security of their companies and families. Various transaction activities involving large funds were suspected to occur, but the problem was the difficulty in uncovering them. Based on ICW's findings about the 2009 presidential election, the candidate pair was indicated to have received donations from four corporations and the total amount exceeded the donation limit (Fariz & Ilyas, 2018). Several other major cases gained public suspicion, such as the loss of 'tobacco verses' in the text of the Health Bill that had been agreed upon (Pawitan, 2010). Some cases in recent years include: 1) a mining business scandal involving *Freeport-McMoRan Inc.* (Tan, 2015); 2) the electronic ID's (e-KTP) procurement corruption (Pertiwi, 2017); 3) a beef import scandal involving *PT Indoguna Utama*¹ (Tampubolon et al., 2020); and so on.

At the local level, the various relationships between corporations and parties or candidates are also no less interesting. A study conducted in East Java Province found that a local business owner made donations to all competing candidates, but one pair of candidates received a larger donation than others because they were considered more likely to be elected (Surbakti & Supriyanto, 2011). The same thing happened in Lampung Province, where the largest sugar company in Indonesia, had some involvement in the process of electing governors and deputy governors in the last two regional elections, namely 2014 and 2019. This corporation even acted as a 'political party' by placing some people as candidates in the 2014 gubernatorial election, who finally succeeded in defeating other competitors who had more experience in politics (Kurniawan et al., 2019). This maneuver by the sugar company became increasingly evident during the next election in 2019, when the corporation switched its support to other important candidates, influencing their victory (Hanif, 2021).

Corporate involvement is not only on the process of making certain candidates win but also continues at the time supported candidates are in power — at this stage, corporations can buy their way into having certain policies adopted. Corruption committed by Regent Buol Amran Batalipu² is the most appropriate example of how regional heads trade their authority for business licenses

¹ Based on Supreme Court Decision No. 1195 K/Pid.Sus/2014, September 15 2014.

² Based on Decision of the Jakarta Pusat District Court No. 00064/PID.B/TPKOR/2012/PN.JKT.PS, February 11, 2013

(Rastika, 2013). This bribery is prone to occur in oil palm areas, mines, and other extractive industries. Procurement of goods and services has been carried out openly with clear rules of the game. However, corruption in the procurement of goods and services is still rampant. The KPK pointed out that 80% of corruption cases have been related to the procurement of goods and services (ICW, 2018). One of the biggest examples is the bribery case for a project at the Office of Public Works and Public Housing (*Dinas Pekerjaan Umum dan Perumahan Rakyat, Dinas PUPR*) and the ratification of the Regional Revenue and Expenditure Budget (*Anggaran Pendapatan dan Belanja Daerah, APBD*) of Muara Enim Regency in 2019³. This corruption involved 15 former and members of the Regional House of Representatives (*Dewan Perwakilan Rakyat Daerah, DPRD*) of Muara Enim Regency (Ferdiansyah, 2022).

Some previous studies have examined the finances of political parties in Indonesia, for example, research which revealed that oligarchic donations are the largest source of revenue for political parties (Ford & Pepinsky, 2014; Mietzner, 2015). Meanwhile, other research, for example, looks at the influence of these donations on political party policies (Hamada & Agrawal, 2021). In contrast to these studies, this research seeks to look at the regulations that govern political party finances. The rise of scandals that involve various corporations because of their large contributions to political parties and political officials is a reflection that this study provides to see how national regulations govern political party finances, especially donations from corporations as well as to find gaps that are often exploited by both political parties and corporations. Therefore, the contribution of this study is very crucial in order to provide recommendations for better regulation so that political parties are free from corporate influence and become truly democratic public institutions.

This article is divided into six sections. Section 1 explains the background to this study. Then, Section 2 outlines the theoretical and conceptual foundations in the literature review. Next, Section 3 describes the research methodology. Meanwhile, Section 4 lays out the research findings. The discussion is presented in Section 5. Finally, Section 6 provides the conclusion.

2. LITERATURE REVIEW

2.1. The concept of party finance

Researchers have used a wide variety of terms that refer to the same concept, such as: 1) campaign fund/finance (La Raja & Schaffner, 2015; Mazo & Kuhner, 2018; Nugent, 2019); 2) party finance (Nassmacher, 2011; Roper & Ikstens, 2008); and 3) political finance (Fедerman, 1989; Smilov, 2007). More generally, *party finance* is understood as all income and expenditure (of political parties) used in the political process (Sangkaew, 2021). More specifically, *party finance* is defined as financing the activities of political parties and their electoral campaigns, either by candidates or political parties (Alexander & Heidenheimer, 1970). This definition

not only refers to party financing during the election campaign, but also to their various activities during the non-election period (such as for office building leases, political education, social activities, political consultant recruitment, research, and so on). Meanwhile, Wiltse et al. (2019) define political party funding as consisting of campaign finance and ongoing organizational activity but excludes broader categories such as interest groups and lobbyist regulation.

Various kinds of literature on party finance can generally be categorized into three main areas. The first area relates to the source of income received by the party. Some of these are membership dues (Duverger, 1954; Hardin, 1982), individual and corporate donations (Fisher, 2002; Nassmacher, 2003), and public funds (Gidland, 1991; Katz & Mair, 1995). Furthermore, the second area revolves around examining political party expenditures, which include expenditures during campaigns (Samuels, 2002; Smulders & Maddens, 2019) as well as expenditures during non-election periods. Meanwhile, the third area is related to regulations governing party finance, such as: 1) donation limits, 2) financial statements, 3) public fund assistance provisions, and so on (Geddes, 1991; Scarrow, 2004).

In addition to the said study areas, various kinds of literature have also examined the effects of party finance regulation on political settings and political equality. There is evidence that the party system of a country is influenced by party finance (Katz & Mair, 1995; Van Biezen, 2000). The findings of van Biezen (2000), for example, show that in Spain and Portugal, the emergence of the dominant party was the result of the allocation of state funds to the party in the early phase of democracy, preventing new parties from entering the electoral process. Related to that, party finance can also have an effect on how political parties in advanced democracies compete at an equal level (Kölln, 2015; Potter & Tavits, 2015). Conversely, in a newly developed democracy, party finance design can potentially result in unfair competition. Various regulations that favor the dominant party and prevent the formation of a new party are found in some of these democracies (Rajeev Gowda & Sridharan, 2012; Greene, 2007). Furthermore, the design of party finance regulations also has the potential to exacerbate political corruption by providing loopholes for the ruling party to access funds from questionable sources for party campaign and operational purposes (Rajeev Gowda & Sridharan, 2012; Ukase, 2016).

2.2. Political party finance and democracy

Money has a dual role in democracy: From the citizens' side, it plays a role in providing support to political parties or candidates, while from the political party's side, it plays a role in reaching out to their constituents. Various studies show that funds have a strong correlation with the possibility of obtaining a victory in the election (Dendere, 2021). Another study has also shown that the implementation of strict financial regulations has hindered the ruling party, which has so far obtained funding from unclear sources (Carlson & Nakabayashi, 2023). Funding of political parties must be followed by strict control arrangements.

³ Based on Palembang Court Decision No. 33/Pid.Sus-TPK/2022/PN Plg

If it goes against the arrangement, it will be a threat to the democratic process (Ayeni, 2019).

At the beginning of its development, the majority of political parties are lived through contributions from their members, otherwise known as *mass parties*. The trend of the mass party model is weakening in various countries. Mass political parties are believed to be the most democratic form because they have the general public as their base that will sustain party financing (Hopkin, 2004). However, much of the existing literature shows that over time, the distance between political institutions and citizens has widened (Fan et al., 2009; Quaranta, 2015; Siaroff, 2009; Treisman, 2007). This situation has led to a decrease in citizen participation in political parties, so the parties need a model or strategy to remain resilient amidst this shift. One of the strategies adopted by parties today is the externally financed *elite party*. However, in this situation, the party becomes more elitist. The result of this limited membership is the weakening of the party's financial resources, meaning that one of the solutions is to '*cooperate*' with political donors, both individuals and corporations. This condition in turn can damage the independence of the party in fighting for the interests of citizens (Hopkin, 2004). There are other strategies used by political parties, such as: the *clientelistic mass party*, in which parties exploit state resources to attract the masses with various incentive distributions; the *self-financing elite party*, in which party elites who have abundant resources and strong personal interests in a certain set of political results fund political parties that they formed themselves; and the *cartel party*, in which the public finances the operation of political parties (Hopkin, 2004). The cartel party strategy works mostly in new democracies, but not in established democracies (Rashkova & Su, 2020). The emergence of these last four strategies reflects the weakening democracy seen from the low participation of the masses in supporting political parties. Party elites must inevitably use other resources to keep the party alive, such as by providing various incentives to the masses, inviting, and receiving donations from individuals and corporations, financing the party themselves with their own financial strength, and securing state funds to support the party.

3. RESEARCH METHODOLOGY

This study on the one hand collected information to describe the object of research (Creswell, 2018), which is the condition of political party funding coming from corporations, and on the other hand provides a comprehensive framework to identify problem areas related to political party funding coming from corporations (Halperin & Heath, 2020). For this purpose, this study uses qualitative methods, including in-depth and semi-structured interviews with purposively selected informants, namely election organizers (General Elections Commission, *Komisi Pemilihan Umum*, KPU, and General Election Supervisory Agency, *Badan Pengawas Pemilihan Umum*, BAWASLU) and academics. The informants involved in this study were seven people, among whom two are from KPU, namely, the training, research, and development centre; and one person each from the legal and human resources sections; three people from BAWASLU, namely from two people from

the violation handling division; and one person from the sub-district supervisory committee. Meanwhile, there are two academics concerned with legal issues and political parties. Selected informants were considered to have '*knowledge of or experience with the problem of interest*' (Rubin & Rubin, 2012).

In addition to interviews, data was also collected through library research, in which the researcher studied factual or personal information or expert opinions on research questions from books, journals, articles, online sources, and documents (George, 2008). A wide variety of secondary sources have contributed to the analysis of regulations and policies that are already adequate and those that need to be improved (Bhat, 2020). To analyze the extent to which existing regulations govern corporate donations and loopholes that are often used by corporations (as well as political parties), data from various government and non-governmental institutions were also collected, such as data from KPU, BAWASLU, the International IDEA, the Organisation for Economic Co-operation and Development (OECD), the Association for Elections and Democracy (*Perludem*), the ICW, as well as various data and expert opinions obtained from books and articles of thought and research. Meanwhile, the main sources of analysis of this paper are regulations related to political parties, namely Law No. 2/2008 and its amendments on general elections, namely Law No. 7/2017 on General Election, Law No. 10/2016 on Regional Head Elections, and various regulations related to criminal acts. Additionally, this paper is enriched with experiences from other countries only as a comparative model to discuss and make the explanation more comprehensive.

4. RESULTS

4.1. Party finance regulations related to corporate donors and the regulations' loopholes

The financial arrangements of political parties in Indonesia are regulated by two types of laws, namely laws on political parties that regulate party acceptance outside the election period and laws on general elections that regulate party acceptance during the campaign period (at the time of the election). These two types of regulations have had different developments. Political parties in Indonesia started to be regulated by the authoritarian regime of the New Order (*Orde Baru*, *Orba*) with the issuance of Law No. 3/1975. The law, which was only revised once in 1985 through Law No. 3/1985, lasted more than two decades until the fall of President Suharto. Since the Reform Era (*Era Reformasi*), regulations have been changed and revised several times. The first 'democratic' law began with Law No. 2/1999, then Law No. 31/2002, and finally Law No. 2/2008 (which was later amended by Law No. 2/2011).

The enactment of Law No. 3/1975 marked the start of regulation of the political party financing and its sources, including from non-binding donations (one of which is corporations). However, this law does not set maximum limits. Unlike during the New Order era, the laws of political parties after the Reformation had set limits on donations from corporations. The following is the development of laws governing of limit setting for donations from corporations.

Table 1. Rules regarding donations from corporations in relevant political party laws

| No. | Law | Corporate donation limit |
|-----|-----------------|--|
| 1 | Law No. 3/1975 | Unregulated. |
| 2 | Law No. 2/1999 | Maximum IDR150 million (or about USD10,000) per year. |
| 3 | Law No. 31/2002 | Maximum IDR800 million (or about USD54,000) per year. |
| 4 | Law No. 2/2008 | Maximum IDR4 billion (or about USD270,000) per year. |
| 5 | Law No. 2/2011 | Maximum IDR7.5 billion (or about USD500,000) per year. |

Source: Author's compilation (2022).

In addition to the rules regarding the acceptance for corporations to fund political party activities (outside the election period), there are also special regulations governing donations from corporations for campaign purposes, both for legislative elections and presidential and regional

elections. Different types of elections are regulated by different laws (except for the 2019 legislative and presidential elections which were held simultaneously in accordance with the same regulation, namely Law No. 7/2017).

Table 2. Rules regarding campaign donations from corporations in legislative (DPR, DPRD, and DPD) election laws

| No. | Law | Corporate donation limit |
|-----|-----------------|--|
| 1 | Law No. 15/1969 | Unregulated. |
| 2 | Law No. 4/1975 | Unregulated. |
| 3 | Law No. 2/1980 | Unregulated. |
| 4 | Law No. 3/1999 | Regulated by KPU. |
| 5 | Law No. 12/2003 | Maximum IDR750 million (or about USD50,000). |
| 6 | Law No. 10/2008 | Maximum IDR5 billion (or about USD333,000) for DPR and DPRD. Maximum IDR500 million (or about USD33,000) for DPD members. |
| 7 | Law No. 8/2012 | Maximum IDR7.5 billion (or about USD500,000) for DPR and DPRD. Maximum IDR500 million (or about USD33,000) for DPD members. |
| 8 | Law No. 7/2017 | Maximum IDR25 billion (or about USD1.7 million) for DPR and DPRD. Maximum IDR1.5 billion (or about USD100,000) for DPD members. |

Note: DPRD — the House of Representative (Dewan Perwakilan Rakyat Daerah); DPD — the Regional Representative Council (Dewan Perwakilan Daerah, DPD).

Source: Author's compilation (2022).

Table 3. Rules regarding campaign donations from corporations in general election laws president and vice president

| No. | Law | Corporate donation limit |
|-----|-----------------|--|
| 1 | Law No. 23/2003 | Maximum IDR750 million (or about USD50,000). |
| 2 | Law No. 42/2008 | Maximum IDR5 billion (or about USD50,000). |
| 3 | Law No. 7/2017 | Maximum IDR25 billion (or about USD1.7 million). |

Source: Author's compilation (2022).

Table 4. Rules regarding campaign donations from corporations in general election laws regional head and deputy regional head

| No. | Law | Corporate donation limit |
|-----|-----------------|--|
| 1 | Law No. 32/2004 | Maximum IDR350 million (or about USD23,000). |
| 2 | Law No. 1/2015 | Maximum IDR500 million (or about USD33,000). |
| 3 | Law No. 10/2016 | Maximum IDR750 million (or about USD50,000). |

Source: Author's compilation (2022).

Indonesia is one of the countries that does not prohibit political parties and candidates from receiving donations from corporations, either for party finances in general or for campaigns. This provision is regulated in Law No. 2/2011 Article 34 §1 letter b, in which the financial resources of political parties can be sourced from 'legal donations' (Pemerintah Indonesia, 2011, p. 10). This legal contribution is then explained in Article 35 §1 letter c, namely from 'company and/or business entity'. Likewise, according to Article 326 of Law No. 7/2017 concerning general elections, campaign funds can come from "legal and non-binding donations and can come from individuals, groups, companies, and/or non-governmental business entities" (Pemerintah Indonesia, 2017, p. 203).

While corporations are allowed to make donations, regulations also govern their restrictions. The limit on corporate donations to political parties and candidates is stipulated in Article 40 §3 letter c

of Law No. 2/2008 on Political Parties. Political parties are prohibited "from receiving donations from individuals and/or companies/business entities exceeding the limits set out in the laws and regulations". In letter d, parties are not allowed to "request or receive funds from state-owned enterprises, regional-owned enterprises, and village-owned enterprises or by other designations" (Pemerintah Indonesia, 2008, p.15). The limit referred to is explained in Article 35 §1 letter c, saying that the contribution limit of companies and/or business entities is at most IDR7.5 billion (or about USD500,000) per company and/or business entity within one budget year. Likewise, in the provisions related to the campaign such as in Law No. 7/2017 concerning elections; in Article 327 §2 (for presidential elections) and Article 331 §2 (for DPR and DPRD member elections), "Campaign funds originating from groups, companies, or non-governmental business entities... shall not exceed

IDR25 billion” (or approximately USD1.7 million) (Pemerintah Indonesia, 2017, p. 203). Meanwhile, for the election of DPD members, it is stipulated in Article 333 §1 that “*the electoral campaign funds of DPD members coming from contributions of other groups, companies, and/or non-governmental business entities... do not exceed IDR1.5 billion*” (or about USD100,000) (Pemerintah Indonesia, 2017, p. 207). Meanwhile, the election of regional heads is regulated by Law No.10/2016 in Article 74 §5, which says that “*donation of campaign funds... from private legal entities at most IDR750 million*” (or about USD50,000) (Pemerintah Indonesia, 2016, p. 34).

The limit setting for corporate financial donations to political parties for activities outside the election or during the campaign (in this situation, also including donations to candidates)

has increased significantly. But this increase has no clear basis because the amounts of corporate donations reported by all political parties are way below the donation limit. Judging from political party campaign reports on the last two elections, the 2014 and 2019 elections, the majority of campaign funds came from each candidate. In the 2014 election, the percentage reached 85.10% and in the 2019 election, it slightly decreased to 84.71%. Meanwhile, funding from political parties became the second largest source for candidates’ campaigns, namely 11% in the 2014 election, and 13.4% in the 2019 election. Thereafter, sequentially, 2.67% (2014) and 0.64% (2019) of campaign funds came from private companies; 0.67% (2014) and 0.4% (2019) came from groups; and 0.56% (2014) and 0.84% (2019) came from individuals (Salabi, 2021).

Table 5. Total donations from corporations to political parties in the 2019 legislative election

| <i>Political party name</i> | <i>Total amount contributions</i> |
|-----------------------------|--|
| PKB | IDR7,425,000,000 (or about USD500,000). |
| Golkar | IDR395,000,000 (or about USD27,000.) |
| Nasdem | IDR1,000,000,000 (or about USD67,000). |
| PSI | IDR5,270,503,540 (or about USD356,000). |
| Total | IDR15,090,503,540 (or about USD950,000). |

Source: Report on Revenue and Expenditure of Campaign Funds (LPPDK) for the 2019 DPR Election in Pratama et al. (2021).

The above information shows that only four of the 14 parties that had seats in the 2019 election, admitted to receiving donations from corporations, even then with an amount that is far below the limit of IDR25 billion. Meanwhile, Gerindra, PDIP, Garuda, Berkarya, PKS, PAN, Hanura, Demokrat, PBB, and PKPI did not report any revenue from corporations. Based on the report, the amount of donations issued by the corporation is relatively small. This situation does not necessarily reflect the reality. Supported by data released by the LPPDK of the 2019 DPR election, out of 8,077 total candidates who ran for office, there were 560 candidates who did not report their campaign funds (Pratama et al., 2021). An informant from the legal and human resources division of the KPU said: “*The report seemed to have been taken as a joke because either the candidates were underreporting their funds or they just made a report out of obligation*” (Nani Siti Aisyah, KPU’s legal and HR division, online, personal communication, January 27, 2023). Meanwhile, an informant from the violation handling division of BAWASLU said: “*The political parties did not include in detail the contributors, and not necessarily all contributors were reported*” (Ade Sunarya, BAWASLU’s violation handling division, online, personal communication, January 27, 2023).

The main cause of the lack of transparency was the incomprehensibility of regulations — KPU had difficulty conducting audits and the public did not have access to supervise the financial statements submitted by the parties (Sukma, 2019). Currently, Article 187 of Law No. 10/2016 on regional elections has regulated criminal sanctions against improper reporting of campaign funds, but the state does not yet have regulatory tools that can guarantee and ensure the honesty of reporting campaign funds. Furthermore, election organizers do not have comparable data on expenditure records, and the audits of campaign funds conducted by the Public Accounting Firm (KAP) were only limited

to compliance audits (ICW, 2018). An informant from the legal and human resources division of the KPU said: “*KPU does not have the authority to monitor political party finances. KPU only receives and manages financial statements*” (Nani Siti Aisyah, KPU’s legal and HR division, online, personal communication, January 27, 2023). Meanwhile, an informant from the division of violation handling division of BAWASLU said: “*Supervision is limited to campaign funds and is only administrative (on reports received from the KPU). The points reported are not described in detail. Including the contributors. So (the process goes like this) the public accounting firm submitted the audit results to the KPU, then the KPU informed BAWASLU*” (Ade Sunarya, BAWASLU’s violation handling division, online, personal communication, January 27, 2023). The same thing was also conveyed by an informant from the election supervisory committee: “*BAWASLU faces limitations in investigation reports on campaign funds, let alone reports of the whole party finances*” (Encep Iman Adisunarya, BAWASLU’s election supervisory committee, online, personal communication, January 27, 2023).

Another loophole found from regulation is the possibility for corporate donations (and other external parties) in the form of goods and services. According to an informant from BAWASLU’s violation handling division:

“*If you look at the 2019 election trends, there were minimal cases involving political party finance because identifying such cases was quite tricky and there was a lot of room to move around [meaning loopholes in the regulations]. For example, the amount reported both on the initial balance [the beginning of the campaign] and the final balance was very small, yet we saw that during the campaign, they organized many activities, such as travelling, printing attributes, providing entertainment. All of it just didn’t add up*” (Diyar

Ginanjjar, BAWASLU's violation handling division, online, personal communication, January 27, 2023).

A study conducted by Supriyanto and Wulandari (2015), for example, found that it is common for hotel owners to provide places for congresses, conferences, meetings, and the like, either for free or at significant discounts. Clearly the regulations do not cover the obligation of parties to report the source of revenue from donations — political parties are only required to report receipts from public funds to Supreme Audit Agency (BPK) once a year (Article 34a §1 of Law No. 2/2011) (Pemerintah Indonesia, 2011, p. 11).

In addition to donations, the provisions regarding the amount of party expenditure are not regulated at all in the Political Party Law (in KPU Regulation No. 5/2017). Restrictions are only applied to candidates on regional head elections during the campaign period. The restrictions are based on voter turnout, electoral areas, and regional price standards (KPU, 2017). Meanwhile, at legislative and presidential elections, the restrictive provisions are not enforced, even though these elections are based on the same principles and participants.

Another critical issue is the enforcement of administrative violations related to party revenue and expenditures. The state apparatus has difficulty in cracking down on political parties because the parties are considered to have complied with the rules throughout the administrative report. An informant from KPU's training, research, and development center who refused to be named said, "As long as there are no missing parts in the financial statements, political parties will not be given sanctions. That's the problem" (an unnamed informant, KPU's training, research, and development center, online, personal communication, January 24, 2023). Furthermore, the informant believes that the government has political reasons for not tightening regulations because financing political parties is not easy, especially in the eastern part of Indonesia⁴. Various problems involving the limit amount, financial reporting, supervision, and enforcement show that existing regulations are still not able to prevent potential dishonesty in corporate donations.

4.2. The enforcement of penal provisions against corporations: An unnoticed area

Another equally important aspect besides regulations related to donation limitations or political party revenue sources, as regulated in the political party law and election law, is the enforcement of rules against corrupt behavior involving corporations and political parties as organizations. Various law enforcement actions have so far only targeted corporate individuals or political party administrators even though often these criminal acts benefit organizations both companies and political parties. For example, in Indonesia, corporate criminal cases due to corruption have only occurred in 2017, one year after the enactment of Supreme Court Regulation No. 13/2016. Based on Komisi Pemberantasan Korupsi (KPK, 2023), the number of convicted corporations is four

companies. In fact, however, as many as more than 80 sectoral laws that are relevant today have recognized corporate criminal acts. As seen in various laws, such as Law No. 20/2001 on corruption, Law No. 8/2010 on Prevention of the Crime of Money Laundering, and Law No. 1/2023 on the Criminal Code ("New KUHP"), Indonesian criminal law allows not only individuals but also corporations to be considered as legal subjects.

If you look at the various regulations that govern the punishment of corporations, punishment not only targets corporations (businesses) but also various other organizations that are also considered as a corporation, including political parties. Law No. 1/2023 states that the definition of corporation "includes legal entities in the form of limited liability companies, foundations, cooperatives, state-owned enterprises, regional-owned enterprises, or the like, as well as associations both legal and non-legal entities, business entities in the form of firms, limited partnerships, or the like" (Pemerintah Indonesia, 2023, p. 17). When linked to Article 3 of Law No. 2/2011 on Political Parties, it is stated that political parties are organizations that have the status of legal entities. Thus, according to the various provisions, political parties can be categorized as corporations and it is possible to be given legal action if they are involved in criminal acts.

Punishment of individuals or political party administrators alone is not effective enough in resolving violations of political party donations. Political parties as organizations must also suffer the effect because they also use the money for the benefit of the organization. Article 2 §2 of Law No. 8/2010 on Prevention of the Crime of Money Laundering firmly states that "a criminal punishment is imposed on a corporation if the money laundering crime is committed or ordered by a controlling personnel of the corporation, carried out in order to achieve the purpose and goal of the corporation, carried out in accordance with the duties and functions of the perpetrator or commander, carried out with the intention of providing benefits for the corporation" (Pemerintah Indonesia, 2010, p. 6). Meanwhile, in Article 7 §1, it is stated that the main criminal punishment imposed on a corporation is a fine of up to IDR100 billion, and in §2, it is also stated that in addition to fines, corporations can also be administratively imposed additional penalties in the form of announcement of judicial decisions, freezing of activities, revocation of permits, and even dissolution (Pemerintah Indonesia, 2010). Apart from money laundering crimes, corruption crimes can also be applied to political parties. Donal Fariz, researcher of the legal and judicial monitoring division of ICW, said that if a corruption case involving a political party is resolved by the political party Law approach, the target of the law is only individuals, whereas if it is resolved by referring to the Corruption Act, criminal sanctions can also be imposed on party organizations (Paat, 2018).

5. DISCUSSION

Corporations having the permission to make contributions to political parties and candidates is grounded in the claims of freedom and equality to

⁴ Interview with an unnamed informant, KPU's Training, Research, and Development Center, online, 24 January 2023.

participate and make contribution in democracy – one way is through the provision of financial, material, and/or services contributions by corporations to political parties. Conversely, states that prohibit receiving donations argue that the influence of corporate interests over politics should be controlled to avoid co-optation and commercialization of political parties.

The restrictions on political donations vary in across countries. Of all types of prohibited donation sources, the data as presented in Table 6 shows that donations from corporations are the only type of

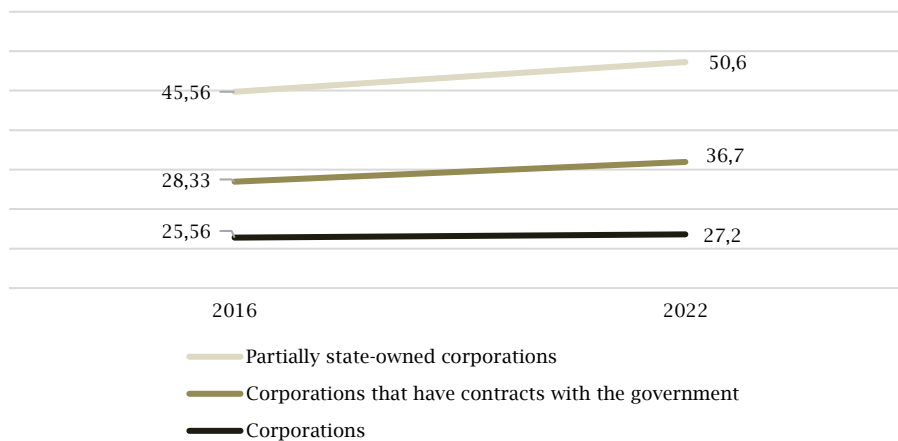
donation source where most countries do not implement the ban (International IDEA, 2022), and this also applies in Indonesia (Hamada & Agrawal, 2021). However, in recent years, there has been an increasing trend of countries limiting or even completely prohibiting corporations from financing political parties. The following Figure 1 shows the increasing trend of countries that ban corporate donations to political parties. The corporations are divided into three types, namely: corporations, corporations with government contracts, and corporations with government ownership.

Table 6. Number and percentage of countries that imposed donation bans from various sources to political parties and candidates in 2022

| Type and object of donation ban | Countries implementing the ban | | Countries not implementing the ban | | Without data | | Not applicable | |
|---|--------------------------------|---------|------------------------------------|---------|--------------|---------|----------------|---------|
| | Amount | Percent | Amount | Percent | Amount | Percent | Amount | Percent |
| <i>Anonymous source</i> | | | | | | | | |
| Political parties | 129 | 71.7% | 48 | 26.7% | 2 | 1.1% | 1 | 0.6% |
| Candidates | 95 | 53.1% | 66 | 36.9% | 14 | 7.8% | 4 | 2.2% |
| <i>Foreign sources</i> | | | | | | | | |
| Political parties | 126 | 70% | 53 | 29.4% | 0 | 0% | 1 | 0.6% |
| Candidates | 102 | 57% | 70 | 39.1% | 3 | 1.7% | 4 | 2.2% |
| <i>Corporations</i> | | | | | | | | |
| Political parties | 49 | 27.2% | 128 | 71.1% | 2 | 1.1% | 1 | 0.6% |
| Candidates | 41 | 22.9% | 131 | 73.2% | 4 | 2.2% | 3 | 1.7% |
| <i>Corporations that have contracts with the government</i> | | | | | | | | |
| Political parties | 66 | 36.7% | 98 | 54.4% | 15 | 8.3% | 1 | 0.6% |
| Candidates | 53 | 29.6% | 106 | 59.2% | 16 | 8.9% | 4 | 2.2% |
| <i>Partially state-owned corporations</i> | | | | | | | | |
| Political parties | 91 | 50.6% | 73 | 40.6% | 15 | 8.3% | 1 | 0.6% |
| Candidates | 69 | 38.5% | 91 | 50.8% | 14 | 7.8% | 5 | 2.8% |

Source: International IDEA (2022).

Figure 1. Increase in percentage of countries that imposed a ban on donations coming from different types of corporations to political parties in 2016 and 2022



Source: International IDEA (2016, as cited in Hamada & Agrawal, 2021).

Based on the data above, from 2016 to 2022, there was a growing number of countries that implemented a ban on parties receiving donations from all types of corporations. Amid the growing global trend of countries limiting and even prohibiting donations from corporations, Indonesia’s experience, on the contrary, further loosens the limit on the number of donations from corporations. In Table 1 to Table 4, it is shown that since the Reform era began in Indonesia, the limit on donations from corporations to political parties has increased significantly in each law. This shows that

the government is becoming more permissive. If the limit is higher, it is feared that the potential for political parties to be held hostage by corporate interests is higher. According to Indonesian researcher Hasna Azmi Fadhilah: “The high donation limit gives the party the opportunity to obtain financial support from the corporation legally, but what needs to be anticipated from the support is the exchange between money and policy” (H. A. Fadhilah, personal communication, January 30, 2023). Meanwhile, another researcher Ardika Nurfurqon argues that: “The high limit is due

to the state not being optimal in providing subsidies to them" (A. Nurfurqon, personal communication, January 30, 2023).

The question raised by the public is that the government has never issued information related to the formula for determining the donation limit (Pratama et al., 2021). This certainly demands a review of the amount that has been determined. However, before setting a more proportional limit, supervisory agencies need to ensure that financial statements (especially the donation part) released by political parties show the true condition. In their study of political parties as a result of the 2019 legislative elections, Pratama et al. (2021) found that there was only 1 party that posted the number of third-party donations on its website. Unfortunately, the party also did not provide complete data sources from the third party in question. To this day, the reported contribution of corporations on paper is very small, far below the specified limit, contradicting the findings of corruption involving businesspeople/corporations and politicians whose money flows to finance party activities including campaigns. According to Fariz and Ilyas (2018), corporations in Indonesia are illegal contributors to political parties. There are three reasons for that. The first reason is that by giving direct money to specific individuals within the political party, the party that can be held accountable for its promises when it is elected. Second, there is revenge behavior of political actors in Indonesia, which is a risk for corporate donors when the donation recipient does not win the election. The third reason is to avoid taxes (Salabi, 2018).

When a new mechanism has allowed political parties to report all donations received in a transparent manner, only then does the government make clear calculations so to determine the most appropriate donation limit. If the limit is too high then the arrangement will be of little significance in suppressing the potentially large influence of the corporation on the party. Conversely, if the limit is too low, then political parties and candidates will look for loopholes to outsmart the regulation (Falguera et al., 2014). In addition to setting nominal limitations on a clear basis, supervisory agencies also need to anticipate the possibility of corporate support that is not in the form of money, such as in the form of goods or services, as found in a study by Supriyanto and Wulandari (2015). This regulatory loophole is often used to circumvent donation limitations set by the government. Therefore, aspects of reporting and auditing need to be specifically regulated to detect various forms of donation.

In addition to the aspect of acceptance in the form of donations, spending limits need to be set, not only for competing candidates but also for political parties. Regulating expenditure is very important, not only to limit the amount of spending but also to create a level playing field for the parties (Hamada & Agrawal, 2021). The absence of rules for political parties may result in the party spending on behalf of the candidate. Therefore, it is necessary to set spending limits for both. There is also a growing number of countries restricting the spending of political parties and candidates. From 2012 to 2020, there was an increase in the number of countries that placed restrictions on parties by 5% and 6.7%

for candidates (Hamada & Agrawal, 2021). The thing to note is that the limit must also be realistic and based on sound calculations. For example, the Philippines set spending limits that are too low compared to election costs (Perdulem, 2021). Setting the limits too low will result in violations committed by parties and candidates (Perdulem, 2021).

The party's revenues and expenditures must be rigidly reflected in the political party's financial statements. Currently, political party financial reporting still refers to accounting standards that are generally applicable to non-profit organizations, namely Statement of Financial Accounting Standards Number 45 (PSAK 45). A Transparency International Indonesia study found that PSAK 45 cannot reflect and record the character of political parties because non-profit organizations have a very different character from political parties (Radikun et al., 2008). Therefore, the study recommends a special reporting standard for political parties whereby the contents reflect the annual routine financial statements and campaign reports. Moreover, the report also has to be prepared by various levels of political party management, ranging from village-level to national management (Radikun et al., 2008).

In addition to streamlining reports by designing specific standards for political parties, supervising agencies must also have comparative data to complement the audit results, so as to not only focus on compliance but also to reach the aspect of honesty in reporting. The ability to achieve honesty in reporting is absent from existing institutions. Currently, no institution has the authority to conduct comprehensive financial supervision of political parties. The KPU as the organizer and BAWASLU as the supervisor only focus on overseeing the election, meaning that their authority is limited to monitoring campaign funds. Both institutions have also been burdened with considerable responsibilities, ranging from planning, socialization, supervision, coordination, follow-up, to election evaluation. The workload of the two institutions is also getting heavier with the simultaneous national and regional elections in 2024 that will elect the President, members of the DPR, 38 governors and each member of the provincial DPRD, 415 regents and each member of the district DPRD, as well as 93 mayors and each member of the city DPRD.

Considering the heavy burden of election organizers that exist today, the presence of special institutions that function to enforce party financial laws is very reasonable. The institution must be independent of any conflict of interest. Currently, only a few countries have an agency with the authority to prevent financial violations by political parties both outside and during campaigns, thus the regulations in place are not fully enforced. Data from OECD (2016), for example, shows only 18% of OECD member countries with specialized institutions to handle political party finance. Some of them are in Italy through the Commission for Transparency and Control of Political Parties and Political Movements, and France through the National Commission for Campaign Accounts and Political Funding (CNCCFP). Meanwhile, the rest attach the function to other institutions, for example, Denmark and Germany through

the Parliament, Finland through the Ministry, Iceland and Slovenia through the financial watchdog, and Portugal and Turkey through the judicial body. Meanwhile, global data shows that only 14.4% designed a specific body to oversee political party financing. The majority (41.7%) still attach this function to electoral management bodies (EMBs). The rest is given to auditing institutions (18.3%), judicial bodies (11.7%), or ministries (8.3%) (Hamada & Agrawal, 2021).

Financial watchdogs with authority ranging from monitoring to enforcement are not only required during campaign periods but also before and after elections. Established supervisory institutions must at least meet several requirements, such as: the appointment of independent members and the security of their tenure, independent budgeting that provides sufficient resources, and expertise of specialized personnel and methodologies to detect illegal funding of parties and candidates (OECD, 2016). These designated institutions have the responsibility to enforce financial regulations and must also have a clear mandate and authority; they must also have not only the capacity but also the legal power to conduct investigations and prosecutions, as well as to impose sanctions.

Strengthening the function of financial supervision of political parties through special institutions must also be followed by public supervision. According to Ohman and Zainulbhai (2009), "raising public awareness on the issues of prevention and fight against corruption in the field of funding of political parties is essential to the good functioning of democratic institutions" (p. 17). Public oversight works when people have access to the information they need (Van Biezen, 2008). So far, the laws have also not regulated the obligation of political parties to report their management online. Online reporting will significantly improve the accessibility and transparency of political parties. Furthermore, the report will support the implementation of the open government partnership (OGP) principle. Although there are still a few who fulfill the obligation for online publication (OECD, 2016), there is a tendency for several countries in the past few years to issue policies for political parties to publish their financial statements to be easily accessible to the public (Casas-Zamora, 2005; Smulders & Maddens, 2016).

Indonesia already has regulations governing the finances of political parties, but they are not too rigid and the law enforcement is still weak. Jimly Asshiddiqie, former constitutional court judge and chairman of the Election Organizing Honor Council (DKPP), believes that in the future regulations should be able to enforce heavier administrative sanctions against parties that are not transparent, such as freezing management or even dissolution (Rachmaningtyas, 2016). In addition to administrative violations, a challenge that is no less crucial is the absence of enforcement of rules against criminal offences committed either by individuals or organizations. The latter is rarely touched by the law. Taking actions against corporations that make donations and political parties that accept and utilize these donations for various political activities can actually be carried

out, but enforcement against business corporations is still rarely applied, while for political parties, it has never been applied at all. However, in regulations, political parties are equal to business corporations and other organizations and can, therefore, be criminal subjects, with threats ranging from fines to dissolution. According to Indonesian legal researcher Ardika Nurfurqon: "*The main problem is the high influence of politics over the law*" (A. Nurfurqon, personal communication, January 30, 2023).

So far there has been no case where a political party has been made a legal subject and subjected to criminal prosecution. Despite this, there have been various cases of money laundering involving political party leaders that are used for the benefit of the party (ICW, 2018). These various cases indicate that the proceeds of corporate corruption crimes are used as contributions to political parties to finance party activities (Suparman, 2018). This causes political parties to be dragged into a vortex of money laundering. There is a mutually beneficial relationship between firms and political parties/candidates. On the one hand, political parties require large funds for their operations and for campaigning purposes, on the other hand, business companies rely on the policies of elected politicians to support their ventures.

6. CONCLUSION

Amid the rising number of countries that strictly restrict, or even ban corporate donations to political parties and candidates, Indonesia is relaxing donation restrictions. For example, the annual donation limit from corporations to political parties is 50 times higher in Law No. 2/2011 than in Law No. 2/1999. Similar increases were also found in the regulations of campaign donations to both political parties and candidates at various types and levels of elections. However, the increase in the limit is not accompanied by objective reasons — even the facts show contradictions, considering that the number of corporate donations to the financial statements of political parties is very far below the specified limit. This raises questions about the extent to which political parties properly disclose data in their financial reporting given that the current system is designed to demonstrate compliance, not honesty. Moreover, various cases of corruption and money laundering involving corporations and political parties also show the large flow of funds between the two groups. Therefore, what must be done is to design a system that is able to ensure political parties do not receive unreported donations from any entity, including corporations. Once transparency in reporting is achieved, it should be followed by setting a donation limit that is able to close the gap of corporate influence on political parties.

In addition to donation limits, putting a ceiling on spending, which is yet to be regulated comprehensively, is needed to create a level playing field among parties. Furthermore, given the differences in the characteristics of political parties with other non-profit organizations, technical regulations are also needed to establish special accounting standards for political parties in preparing reports. Considering the numerous

aspects that need to be improved and the absence of existing regulations, both in the political party law and the general election law, it makes sense for the government to create a law specifically on political party finances, separate from the political party law.

Apart from regulatory aspects, the strengthening of financial supervision of political parties also needs to be done institutionally by establishing a special institution that functions to enforce the law on political party finances. This independent institution will complement existing institutions and will focus on managing the reporting system for the sources of political party campaign funding. This institution also has the authority to verify, investigate, disclose, prosecute, as well as impose sanctions. The establishment of this institution needs to be balanced with a system of coordination with other institutions, such as the KPU, BAWASLU, and other law enforcement agencies. When the system of political party law enforcement and supervision is strong, then legal breakthroughs targeting both companies and political party institutions as criminal law subjects that have been difficult to reach can be achieved.

Based on the above explanation, this article shows that there are problems from the regulatory aspect that have not been able to create democratization within the body of political parties that guarantee the fulfilment of values of transparency and accountability, equality, integrity, and compliance. This paper also contributes to policy improvement by designing specific regulations to govern political party financing, establishing a special independent institution for the enforcement of political party financial regulations, and devising a legal breakthrough targeting organizations as a criminal law subject.

However, this study has limitations in examining another source of political party financing, namely public funds, which are crucial in funding parties to maintain political parties as democratic institutions. Therefore, further research is needed to see opportunities to increase public funding for political parties during both the campaign and non-campaign periods to make political parties in favor of the interests of their constituents.

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