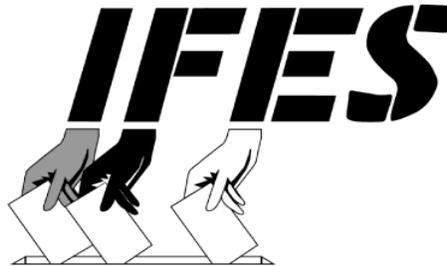


# Campaign Finance in Indonesia

JUNE 2000



**EXTENDING THE REACH OF DEMOCRACY**

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June 2000

## INTRODUCTION

On December 1, 1999, IFES issued a report entitled ***Money Politics: Regulation of Political Finance in Indonesia***.<sup>1</sup> The report focused on the regulation of campaign finance activity of political parties during Indonesia's June 1999 elections, pursuant to *Articles 48 & 49 of Law No. 3 of 1999 on General Elections*. The IFES report described efforts by the National Election Commission (KPU) to implement these provisions and concluded with eleven recommendations for electoral reform in the area of political finance controls and public disclosure.

## LEGAL AND JURISDICTIONAL ISSUES

Administrative responsibility for the regulation and reporting of political party finance in Indonesia currently resides with the KPU only during the election campaign period. *Article 17 of Law No. 2 of 1999 on Political Parties* gives general authority to the Supreme Court of the Republic of Indonesia to supervise and enforce the regulation of political parties. *Chapter VI of Law No. 2* addresses political party financing. It sets limitations upon the source and amount of donations to parties in *Articles 12 & 14* and includes requirements under *Article 15* for parties to report their financial activity to the Supreme Court. The IFES ***Money Politics*** report noted the overlapping and inconsistent treatment of political finance rules under the 1999 political party and general election laws (*Laws No. 2 & No. 3*):

[T]he interrelationship between regulation of party campaign funds under the election law and regulation of financial activity of parties generally under the political party law remains ambiguous. The supplementary "Explanations" attached to the election law specifically distinguished general party funds raised pursuant to the political party law from the campaign funds regulated under the election law's *Article 48(2)*, but offered no further explanation of how and when the line is drawn.

Both laws require parties to file pre-election reports 15 days prior to the election. However, as the prior IFES report noted, "The reporting regime under the party law is oddly inconsistent with the reporting requirements of the election law for post-election reports." The party law specifies that reports are due 30 days after the election and the election law has reports due 25 days after the election. *Article 15* of the political party law also includes an annual financial reporting obligation for all parties (although the official English translation of the law awkwardly expresses the obligation to report as "by the end of the year"). The Supreme Court has interpreted the year-end report as covering the entire previous calendar year (or, as in 1999, beginning when the party was registered with the Ministry of Justice). As described below, the Court is still seeking compliance from political parties in submitting last year's reports.

## SANCTION AUTHORITY AGAINST POLITICAL PARTIES

*Article 18 of Law No. 2 of 1999 on Political Parties* authorizes the Court to impose sanctions:

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<sup>1</sup> The ***Money Politics*** report was included as Attachment 1 to IFES' *Report on the 7 June 1999 Parliamentary General Election and Recommendations for Electoral Reform*. The report is also available through the IFES website at [www.ifes.org](http://www.ifes.org) in the section regarding IFES' Indonesia program.

1. The Supreme Court of the Republic of Indonesia can give administrative sanctions in the form of suspension of contributions from the state budget if political parties are proven to have violated *Article No. 15*;
2. The Supreme Court of the Republic of Indonesia may revoke the right of a political party to participate in the general election if proven to have disobeyed the law as meant by *Article 13* and *Article 14*, which address prohibitions against commercial activity by parties and limitations upon contributions and requirements for financial record-keeping by political parties, respectively;
3. Revocation of the rights as meant by clause (2) is carried out after hearing the consideration of the Central Board of the political party concerned and after going through court.

### **IMPLEMENTATION DURING THE 1999 GENERAL ELECTIONS**

Efforts at political finance regulation and disclosure during the 1999 general elections in Indonesia reflected the uncertainties of jurisdictional responsibility under the new political laws, as well as the administrative inexperience in this area. As noted in a prior IFES report:

[T]he Supreme Court apparently felt obligated to implement the administrative policies and to embrace its role under the political party law—even in the midst of the election campaign. On May 20, 1999, the Court issued a decree containing regulations regarding its oversight of political parties and its powers to sanction them for violating the political party law. The regulations included forms for parties to report political finance activity, including receipt of donations and making expenditures. It does not appear the Supreme Court took any legal action against parties pursuant to its regulations, nor did parties appear to recognize a separate responsibility to report “campaign funds” to the Court.

Ultimately, without justification under the law, the KPU reconciled these two political finance reporting systems under the election law and political party law by ignoring the laws’ reporting timelines and by sending copies to the Supreme Court of parties’ audited reports of campaign funds first submitted to the KPU (along with a copy of the KPU’s general summary). The KPU cast off responsibility for investigating or punishing any failures or violations relating to reporting requirements to the Court. As of this writing, the Supreme Court has not initiated or referred any enforcement actions against any party for breaches of political finance rules, but has complained that the KPU political finance reporting format is not consistent with the forms presented in the Court’s Decree of May 20.

### **CURRENT ADMINISTRATIVE PRACTICE**

To implement its responsibilities under the political party law, the Supreme Court of the Republic of Indonesia has established a Directorate of Political Affairs. The Directorate has six employees, including the Director. The Director reports to the Court’s Registrar (who is also the Court’s Secretary-General). The Director is theoretically responsible for referring cases that arise from political party regulation to the Registrar.

The Director has been assigned the task of summarizing financial reports received from political parties and forwarding his review to the Court’s Registrar (Secretary-

General). *Article 15(2)* of the party law contemplates that reports of the parties “may” be audited by a public accountant appointed by the Supreme Court. Unfortunately, no money has been allocated in the Court’s budget for hiring the accountant. Even if the Court hired an accountant, this function would almost certainly be limited to analyzing whether money received and spent by parties complied with the law based only upon information provided on the face of their reports. Absent obvious mathematical discrepancies or open acknowledgement of illegal (or excessive) donations or improper spending, the Court’s audit would be unlikely to uncover violations of the political party law’s political finance provisions.

Thus, the political party law offers even less potential for extensive scrutiny in auditing political party finances than the campaign finance provisions of the general election law. In 1999, for pre- (and post-) election reports, the KPU assigned a public accountant to each of the 48 political parties contesting the election to review their financial records. As noted in the IFES *Money Politics* report, however, the work of the KPU auditors was superficial, party records generally lacked significant detail or supporting documentation, the review was limited to looking for obvious discrepancies and violations, and auditors had no powers to investigate problems or seek further documentation. The Supreme Court can hardly do better with fewer (or no) auditing resources.

Moreover, even if the Supreme Court eventually hires a public accountant to conduct audits of political party reports, the Court’s Directorate is not viewed as having independent authority to take action against any party for which such audits indicate violations of the law. The Court would instead wait for external complaints to be filed. This enforcement posture seems to necessitate: 1) access to party financial reports by the public, including competing parties; and 2) procedures for filing complaints with the Supreme Court (complaints presumably would then be referred to a district level court of “first instance” [trier of fact]).

The Court has indicated it will facilitate public review of party reports upon written request to its Secretary-General. But no mechanisms for public disclosure or complaint adjudication have yet been devised by the Court, since no one—no political party, journalist or other person or group—has even asked the Court to see the financial reports submitted to it by parties. The exact process and approach that would be followed by the Court’s Directorate, pursuant to approval of the Registrar (Secretary-General), remains to be seen if and when such a request to review reports is made or a complaint is filed. For now, the Court’s performance of an administrative role in regulating political party finances is very limited.

## **PARTY COMPLIANCE WITH REPORTING OBLIGATIONS**

The Directorate has formally requested all 141 political parties registered with the Ministry of Justice to send to the Court their year-end reports for 1999, as well as pre- and post-election financial reports for the June 1999 elections (applicable to the 48 parties that contested the elections). IFES obtained from the Court a summary of political party compliance with financial reporting obligations under the political party law as of March 1, 2000.<sup>2</sup> The Court’s summary shows the following:

- **Of 141 registered parties, 74 submitted no reports to the Court at all**, including one party that won a DPR seat in 1999 (*Partai Politik Islam Indonesia "Masyumi"*). The

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<sup>2</sup> An overview regarding the 21 parties represented in the national People’s Representative Assembly [DPR], organized into categories of reporting compliance, is provided as *Attachment 1*.

remaining 73 “no-shows” are parties that did not qualify to compete in the June 1999 elections; they presumably would have no expenditures to report in a pre- or post-election report of “campaign funds” but would be subject to the year-end reporting obligation. The twenty other parties that did not qualify to compete in 1999 elections all submitted year-end reports to the Court.

- Five of 21 parties that won seats in the DPR in 1999 submitted all three reports to the Court; 15 submitted one or both campaign reports but not the year-end report required by the political party law (and, as noted above, one successful party submitted no reports). Six of 27 parties that competed in the elections but did not win national DPR seats have submitted all three reports to the Court; 20 submitted one or both campaign reports but not the year-end report; one submitted the year-end report but not the pre-election report.
- Thirty-five of 48 parties competing in 1999 elections submitted to the Court one or both campaign period reports but not the year-end report—acknowledging the Court’s general jurisdiction even as they fail to meet their obligation to provide the annual report. For these parties, the campaign reports previously prepared for the KPU by KPU-appointed accountants are probably easier to submit than providing new and unassisted year-end financial reporting for the Court.
- **Thus, of 48 political parties contesting the June 1999 general elections, only twelve have complied with the requirement under the political party law to submit a year-end financial report to the Supreme Court.**

Most (if not all) parties that submitted pre- and post-election reports to the Court have apparently sent the same reports previously submitted to the KPU in compliance with the general election law (despite the Court’s Decree of May 20, 1999, prescribing a different format). Although the KPU reportedly forwarded copies of political party reports to the Supreme Court last year, reports filed with the Court have apparently not been forwarded to the KPU. No plan presently exists for comparing reports filed with the two bodies—although it may be unlikely that pre- and post-election reports filed by a political party at both the KPU and the Court would be substantively different.

## **RECOMMENDATIONS**

Political finance regulation and disclosure remains badly articulated in Indonesia’s political laws. Administrative efforts by the Supreme Court (and KPU) to implement these provisions receive little attention or support, and these efforts have proved grossly inadequate as a means for public disclosure or legal enforcement. Particularly since political finance regulation is ongoing under the political party law, this area deserves immediate review to advance Indonesia’s progress in electoral reform. To supplement and reinforce recommendations included in IFES’ previous *Money Politics* report, IFES offers the following recommendations for improving political finance regulation:

- The political party law (*Law No. 2 of 1999*) and the election law (*Law No. 3 of 1999*) need to be fully reviewed. Inconsistencies between them must be reconciled and ambiguities of jurisdiction resolved, particularly as to political finance regulation and disclosure. The laws need to clearly distinguish rules applying to receipts and expenditures by political parties during the election period (“campaign finance”) from general regulation under the political party law. The laws also must anticipate raising and spending of money by candidates or by “outside” persons or groups to influence elections.

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- The administrative role of the Supreme Court in regulating political parties, including its role in receiving and auditing financial reports of political parties, should be eliminated. This administrative task would be better performed within comprehensive regulation of political finance by an independent and non-partisan KPU. The Court has no competence as a regulatory body, and its perceived neutrality should not be compromised for this purpose.
  - The court system generally should perform a more conventional adjudicative role, instead of (or perhaps in conjunction with) the quasi-adjudicative bodies collectively called *Panwas*. Under almost any conception of an improved system in Indonesia for resolving complaints and disputes arising from elections, the neutrality of the Supreme Court should be preserved and used for final appellate review.
  - If regulation of political finance is consolidated within an independent and non-partisan KPU, meaningful public disclosure of political party reports should be facilitated through appropriate library services for such records. For purposes of auditing party reports and legal enforcement, the KPU should develop standards consistent with professional accounting principles for bookkeeping and maintaining records.

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ATTACHMENT 1

**Requirements for Financial Reporting to the  
Supreme Court of the Republic of Indonesia  
Under Law No. 2 of 1999 on Political Parties:**

**Overview of Compliance by Political Parties as of March 1, 2000**

**21 Political Parties Represented in National People's Representatives Assembly  
(DPR)**

Filed all three reports: pre- and post-election reports and year-end report

Partai Amanat Nasional / National Mandate Party (PAN)  
Partai Daulat Rakyat / People's Rule Party (PDR)  
Partai Demokrasi Kasih Bangsa / Love the Nation Democratic Party (PDKB)  
Partai Keadilan / Justice Party (PK)  
Partai Keadilan dan Persatuan / Justice and Unity Party (PKP)

Filed one or both pre- and post-election reports but no year-end report

Partai Bhinneka Tunggal Ika / Indonesian Unity in Diversity Party (PBI)  
Partai Bulan Bintang / Crescent Star Party (PBB)  
Partai Demokrasi Indonesia / Indonesian Democratic Party (PDI)  
Partai Demokrasi Indonesia – Perjuangan / Indonesian Democratic Party of Struggle (PDI-P)  
Partai Golongan Karya / Functional Group Party (GOLKAR)  
Partai Ikatan Pendukung Kemerdekaan Indonesia / Independence Vanguard Party (IPKI)  
Partai Katolik Demokrat / Democratic Catholic Party (PKD)  
Partai Kebangkitan Bangsa / National Awakening Party (PKB)  
Partai Kebangkitan Umat / United Believers Awakening Party (PKU)  
Partai Nahdlatul Umat / Nahdlatul Umat Party (PNU)  
Partai Nasional Indonesia – Front Marhaenis / Indonesian National Party – Front Marhaenis (PNI-FM)  
Partai Nasional Indonesia – Massa Marhaen / Indonesian National Party – Marhaen (PNI-MM)  
Partai Persatuan / United Party (PP)  
Partai Persatuan Pembangunan / United Development Party (PPP)  
Partai Syarikat Islam Indonesia / Indonesian United Islam Party (PSII)

Filed no reports

Partai Politik Islam Indonesia "Masyumi" / Masyumi Islamic Political Party (PPIIM)