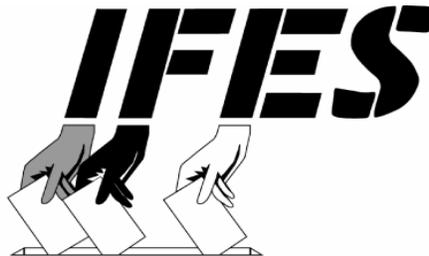


# Campaign Finance in Indonesia

NOVEMBER 2002



**EXTENDING THE REACH OF DEMOCRACY**

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## INTRODUCTION

Indonesia has faced significant challenges in democratic development during the past four years. In particular, Indonesia's politics remain troubled by a legacy of corruption and "money politics" from the New Order era. News stories continue to report charges of secret political party funds and diversion of state budget funds during June 1999 general elections. Allegations of vote-buying were widely reported in the recent election of Jakarta's governor. Despite public demand for political reform, old habits appear hard to break.

Since 1998, the International Foundation for Election Systems (IFES) has provided analysis and encouraged discussion regarding "money politics" problems in Indonesia. This effort has focused on both illegal aspects (vote-buying, bribery and manipulation) and, more extensively, electoral policy issues of political finance regulation and disclosure.

In December 1999, IFES issued a report entitled *Money Politics: Regulation of Political Finance in Indonesia*. The report described efforts by the General Elections Commission (KPU) and the Supreme Court of the Republic of Indonesia to implement provisions of political laws relating to political party finance controls and financial reporting during Indonesia's general elections of June 1999.<sup>1</sup> IFES issued a follow-up report in June 2000, entitled *Electoral Reform in Indonesia: Political Finance Update*, regarding the status of regulation and public disclosure of political parties' financial activity in Indonesia one year after general elections.<sup>2</sup> Both reports included recommendations for improving mechanisms for political finance regulation and transparency in Indonesia.

### ***Current Legislative Action on Political Finance Issues***

On May 29, 2002, the Ministry of Home Affairs and Regional Autonomy (*DepDagri*) submitted draft proposals for new general election and political party laws to the People's Representative Assembly (*DPR*). Both draft laws contained provisions related to political party funding and financial disclosure.<sup>3</sup> *DPR* has established two separate *Pansus* (special committees) to review the draft election and political party laws. These committees are currently examining the draft laws and receiving input from *DPR* factions and from the public. It is hoped *DPR* will approve a general election law and political party law by the end of 2002. Following *DPR*'s approval of revised political laws, the *KPU* will prepare implementing regulations, including regulations related to political finance controls.

This report is intended to assist the process of revising Indonesia's general election law and political party law. IFES encourages Indonesia's policy-makers to give serious attention to

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<sup>1</sup> The term 'political laws' refers to *Law No. 2 of 1999 on Political Parties*, *Law No. 3 of 1999 on General Elections* and *Law No. 4 of 1999 on the Structure and Organization of the MPR/DPR*.

<sup>2</sup> IFES cosponsored a conference in Jakarta in July 2000 (with the International Republican Institute [IRI]) for "Controlling the Illegal Influence of Money Politics and Regulating Political Finance."

<sup>3</sup> Political finance regulation in Indonesia, as in many countries, is almost exclusively concerned with political party finance. Candidates for *DPR/DPRD* are presumed, but not specifically obligated by law, to raise and spend any money used for election campaigns within and through their respective parties. Political finance activity of 'outside' groups is indirectly regulated and disclosed if treated as a contribution to a political party.

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issues of political finance regulation and disclosure, to closely examine *DepDagri's* proposals in the draft laws, and to consider further improvements.

### **Report Overview**

This report includes:

- 1) Updated status report of political finance regulation and disclosure in Indonesia;
- 2) New **Key Elements of Political Finance Laws** section<sup>4</sup>;
- 3) Review of relevant provisions of *DepDagri* draft laws on general elections and on political parties; and
- 4) Substantially expanded **Recommendations** section.

## **ADMINISTRATION AND ENFORCEMENT: STATUS REPORT**

### **Role of Indonesia's Supreme Court**

IFES' June 2000 *Money Politics* report observed:

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 on 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.

As described in IFES' previous report, the Supreme Court of the Republic of Indonesia established a Directorate of Political Affairs to perform its responsibilities for supervising regulation of political parties under *Law No. 2 of 1999 on Political Parties*. The Director was assigned the task of summarizing financial reports received from political parties and forwarding his review to the Supreme Court's Registrar (Secretary-General). The Director also could refer cases of violations of the law to the Registrar.

IFES previously noted, however, that no money was allocated in the Supreme Court's budget for hiring a public accountant to audit party reports. The Court has not initiated any administrative proceedings against any political party pursuant to its authority. The Court did not devise routine mechanisms for public disclosure of party financial reports. Nor did the Court develop any procedures for receiving and acting upon administrative complaints from the public regarding political finance.

Apparently only one complaint regarding political finance violations was filed with the Court—an action against *Golkar* party seeking to dissolve the party and withdraw the right of the party to contest elections in 2004 for alleged misuse of state funds for political purposes in

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<sup>4</sup> This section is an adaptation of an article in the forthcoming *Money & Politics Handbook: A Guide to Transparency in Emerging Democracies*, published by the United States Agency for International Development (USAID).

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the 1999 elections. That case was widely regarded as poorly presented by plaintiffs, and was dismissed by the Supreme Court on July 31, 2001, for lack of evidence.

### ***Political Party Compliance with Reporting Obligations***

IFES' June 2000 report also noted that the Directorate of the Supreme Court had formally requested all 141 political parties then-registered with the Ministry of Justice to send to the Court their year-end reports for 1999 (and to also provide copies of pre- and post-election financial reports for the June 1999 elections that had been submitted to the KPU). According to Court records, as of March 1, 2000, only five of 21 political parties that won seats in *DPR* in 1999 (and only 12 of 48 political parties contesting the June 1999 elections) complied with the requirement under the political party law to submit year-end financial reports to the Supreme Court. Also as of March 1, 2000, 74 of 141 parties had submitted no financial reports to the Court at all (including one party that won a *DPR* seat in 1999).

IFES has since been informed that additional political parties submitted annual financial reports for 1999 to the Supreme Court. A total of 47 political parties (eight of 21 parties holding seats in *DPR*) eventually complied with this requirement as to 1999. The Supreme Court did not request annual financial reports for the year 2000 from registered political parties, although five parties voluntarily submitted such reports. In mid-2002, the Court requested annual financial reports for the year 2001 from political parties, and 22 parties (9 of 21 parties holding seats in *DPR*) had submitted such reports as of September 27, 2002. (See: **Appendix One** for listing of parties that submitted financial reports for 1999, 2000 and 2001.) Thus, Indonesia's system for regulation and disclosure of political party finance remains poorly administered and lacks enforcement.

IFES' prior *Money Politics* reports recommended eliminating the quasi-administrative role of Indonesia's Supreme Court in regulating political parties. This type of regulatory function is more appropriate for an administrative body, and such a role compromises the Court's neutrality in its judicial function.

Proposed new drafts of the election law and political party law from *DepDagri* would end the administrative role for the Supreme Court (see: excerpts from the draft laws at **Appendix Two** and **Appendix Three**). However, as discussed below, these new proposals from *DepDagri* do not clearly or consistently assign administrative or enforcement responsibility for political finance controls and public disclosure. Such responsibility must be clearly specified and integrated in new laws on general elections and political parties to make effective a reformed system for regulating political finance in Indonesia (see: **Recommendation 4**).

## **KEY ELEMENTS OF POLITICAL FINANCE LAWS**

### ***Purposes of Political Finance Regulation***

Laws that regulate financing related to election campaigns, candidates and political parties are usually intended to achieve some or all of these policy purposes:

- Deter corruption and undue influence by "special interests";
- Provide equity and fairness in financial resources of candidates and parties ("level the playing field");
- Promote competition among parties and candidates;

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- Limit overall spending on election campaigns and political activity; and
  - Encourage transparency and public access for political finance information.

These policy purposes serve the larger goal of encouraging respect and public confidence in the election process and political institutions.

The “anti-corruption” purpose is the most common justification for political finance regulation. The political process is viewed as vulnerable to corruption by improper, excessive or secret influence of money. Some sources of political funding (such as foreign donors) may be prohibited. Contributions from legal sources may be limited in terms of the amount of donations from a single donor to a political party or candidate. Over-dominance or excessive influence over political parties, candidates and officeholders by a few, large “special interests” is seen to distort public policy, divert public resources, threaten the integrity of elections and undermine democracy.

Decisions about regulating political finance activity—especially restrictions on sources of funds and spending of funds by political parties and candidates—are important policy choices. Many examples from international practice are available as models. Policy choices should be appropriate to the political culture and circumstances of a particular country. Policy-making should take into account the capacity of administrative and law enforcement bodies to implement the policies.

A full review of policy aspects of political finance regulation is beyond the scope of this section of IFES’ report. Instead, these key elements concentrate on components of political finance laws related to transparency—financial reporting and public disclosure. This discussion (and **Recommendations**, below) is intended to provide practical suggestions for making Indonesia’s political finance disclosure laws more comprehensive and effective.

### ***Financial Reporting and Public Disclosure Requirements***

Laws requiring reporting and public disclosure of political finance activity have two main purposes. First, these laws seek to provide valuable information to the voting public about the raising and spending of funds by political parties and candidates—especially regarding parties’ sources of financial support. Second, reporting and public disclosure laws assist enforcement of regulatory restrictions upon political finance activity (especially prohibitions or limitations upon contributions to parties or candidates) and encourage political parties and candidates to comply with such regulation.

To facilitate transparency in political finance, it is essential that disclosure laws:

- Establish the scope of the law and define terms;
- Describe the process, format, content and timetable for reporting obligations;
- Assign responsibility within political parties (or other reporting entities) for compliance with reporting obligations;
- Identify enforcement policy, violations and penalties for non-compliance; and
- Mandate public disclosure of financial information.

### ***Scope of Regulation***

Political finance laws should clearly state their intended scope of regulation. Such laws should be written to fully encompass all relevant financial activity within their regulation and reporting requirements (and to specifically exclude any activity outside regulation).

If the scope of regulation is not clearly stated, political parties and candidates (and their supporters) will ignore the law's intended authority over their financial activity. Political parties and candidates will exploit 'loopholes', operate through 'off-the-books' financing, and coordinate with allies to conduct political activity 'by surrogate'. If the intended scope of regulation is widely avoided, accounting of party/candidate funds will not provide a complete or accurate picture of political activity undertaken on their behalf; financial reporting and public disclosure of party/candidate funding will then become a mere formality and a sham.

The next two sections discuss important components for describing and protecting the scope of regulation in political finance laws. (See: **Recommendation 2** for suggested statutory language for scope of regulation.)

### **Definition of Terms: Contribution and Expenditure**

To be effective in establishing scope of regulation, political finance laws must clearly define key terms. An important first step is to define political "contributions" and "expenditures." The meaning of those terms may seem obvious, but legal definition is necessary to encompass all activity intended to fall within the scope of regulation of political finance laws. (See: **Recommendation 3** for suggestions for other important definitions.)

Definition of these terms should apply to political finance activity of candidates for DPD (Regional Representative Council) in the same way as for candidates for DPR/DPD and for political parties. However, other aspects of political finance regulation will necessarily be different for campaigns of candidates for DPD (see: **Recommendation 10**).

#### **Contribution**

Political "contribution" is most simply defined by focusing on the recipient – who is receiving a donation. Thus, in Indonesia, a "contribution" is: *Any donation or gift of money, or any loan of money, or any donation of non-monetary resources (goods, services, or use of personnel, facilities or equipment), that is provided to a political party or candidate, including anyone acting as representative/agent of a political party or candidate.*<sup>5</sup>

Loans to political parties or candidates are contributions, particularly from any source not already in the business of making loans to non-political clients. Loans to political parties by banks or commercial lending companies should also not be encouraged by political finance laws; such transactions are often not impartial, 'arms-length' or commercially reasonable, and parties should be discouraged from taking on debts they may not be able to repay.

Also as noted, "contribution" includes non-monetary (in-kind) donations:

- Providing goods (computers, vehicles, fuel, paper, etc); or
- Providing services (transport, printing, television production, etc.); or
- Providing use of personnel (company employees, etc.), facilities (office space, etc.) or equipment (use of computers or vehicles, etc.).

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<sup>5</sup> Some political finance systems also seek to include donations to non-party political organizations within the definition of 'contributions', and may define the term according to the intent of a donor to influence elections.

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Non-monetary contributions should be valued and reported at market value at the time of receipt by a political party or candidate. Discounts in prices on sale of goods or services, which are provided to parties or candidates and not normally given to all customers, are also non-monetary contributions to the full amount of the unusual discount.

As discussed next, the law should view a political party or candidate as having received a contribution if any other person or group makes an expenditure that is clearly intended to support or promote that political party or candidate (or oppose another party or candidate), and such expenditure has been made with the consent or at the suggestion of, or in cooperation or coordination with, the recipient party or candidate.

### **Expenditure**

Defining a political “expenditure” is more difficult than defining political “contribution”; the term “expenditure” focuses not only on who is spending funds but also on what activity is being financed. Thus, a political expenditure is: *Any payment of funds by a political party or candidate, or any payment made by any other person or group that is clearly intended to support, promote or oppose a political party or candidate.* Thus, expenditures would generally include:

- Payments by any political party for any purpose:
  - For administrative costs (including routine and ongoing operational expenses, recruitment and political development, research, fund-raising, or general public communications), and
  - For election campaign purposes (to promote the party and its candidates during the election campaign period or to support or oppose any other political party or candidates for public office);
- Payments by any candidate for public office for election campaign purposes (to promote his/her candidacy or to support or oppose a political party or another person’s candidacy);
- Payments by any other entity or person during the election campaign period to support or oppose any political party or any candidates for public office.

The third aspect can cause particular problems. Political finance laws in some countries impose separate reporting obligations upon persons or groups that engage in ostensibly independent activity in support of political parties or candidates (independent expenditures). At this stage of Indonesia’s democratic development, this type of regulation would be too ambitious. A more reasonable goal for the political finance reporting system would be to try to encompass all support provided to political parties and candidates by “outside” persons and groups that is provided with the consent or in coordination with those parties and candidates.<sup>6</sup> As noted above, such coordinated expenditures are defined as contributions to the political party and candidates receiving benefit from the activity.

Under this definition, all payments made for election campaign purposes—expenditures clearly intended to influence the political result of an election—are within the definition of

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<sup>6</sup> Thus, under the definition of expenditure above, independent political activity may be an ‘expenditure’ but, unless coordinated with a political party or candidate, may not be currently subject to reporting.

political expenditures.<sup>7</sup> But the definition of expenditure also includes all spending by parties, whether or not occurring during the election campaign period. As described below, party election campaign expenditures should be reported separately from routine operational expenses. Also, expenditures by DPR/DPRD candidates to further their candidacy (or contributions received by them) should be treated as expenditures by (or contributions to) the political party that nominated these candidates; political finance activity of such candidates should be reported in the party's consolidated financial reports. DPD candidates should have separate reporting obligations (see: **Recommendation 10**).

### **Safeguards for Comprehensive Reporting and Public Disclosure**

To give effect to the law's definitions, and to preserve the law's scope of regulation, a political finance disclosure law should include provisions to:

- Require each political party to conduct all financial activity through designated and reported bank accounts –
  - Political parties must make all party expenditures (including for election campaign expenses) from, and deposit all monetary contributions into, such accounts;
  - For accounting, audit and reporting purposes, all political party accounts must be combined and included within financial reports for either the party's Administrative Account or Election Campaign Fund Account (see: **Recommendations 4, 13 & 15**, and discussion below).
- Prohibit political parties from consenting to or coordinating with other persons or entities to spend other funds or use other resources outside the parties' designated bank accounts in support of the party and its candidates.
- Require each political party to separately establish, maintain and report one or more accounts within two categories of accounts –
  - Administrative Account shall be used for routine and ongoing operational expenses, recruitment and development, research, fund-raising, or general public communications;
  - Election Campaign Fund Account shall be used for all election campaign expenses.
- Require candidates to finance all campaign activity in support of their candidacy either through a separate Candidate Account or through the designated accounts of the party that nominated them<sup>8</sup>; for contributions received by candidates, either –
  - Contributions shall be forwarded by candidates to their political party for deposit in party election campaign fund accounts; or
  - Candidates who raise and spend funds for political purposes through their own Candidate Account must notify their party of all funds received and spent for election campaign purposes; candidate funding is fully reported by their party.

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<sup>7</sup> The election law should also define the time frame for the official 'election campaign period', but should provide for setting up of election campaign funds prior to that period. See: **Recommendations 5 & 15**.

<sup>8</sup> This issue becomes particularly important if 'open-list' voting system is adopted for DPR/DPRD. See: IFES' July report *Electoral System Proposed in Draft Election Law: Multi-Member District Proportional Representation and Open-List Voting*. DPD candidates should be subject to separate regulation (see: **Recommendation 10**).

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- Require political parties to appoint a person to be the financial officer of the party, who is legally responsible for financial record-keeping and for complying with all political finance regulations and reporting requirements (see: Accountability section, below).
  - Require each political party to maintain consolidated financial records of contributions to and expenditures made by:
    - Subordinate party organizations at all geographic levels (using threshold-amount requirements for subordinate party committees to report financial activity to central party headquarters [see below]); and
    - Candidates nominated by the party, including money raised and spent through separate Candidate Accounts.
  - Prohibit political parties and candidates from accepting anonymous contributions or falsely reporting the true identify of contribution donors:
    - No contributions may be accepted from anonymous or unidentified sources (except under circumstances specifically permitted under implementing regulations, such as donations received from pass-the-hat solicitations at public meetings [which would be specially noted in financial reports]);
    - Contributions that have been passed through a person or entity acting as intermediary (go-between) for the true donor may not be reported as donated by the intermediary.
      - ⇒ Contributions may not be reported as having been received from someone other than the original source of the donation (contributions may not be made in the name of another);
      - ⇒ Trust funds or other conduit accounts set up by parties to hide original donors must be specifically prohibited;
      - ⇒ Persons or entities identified on political finance disclosure reports as making contributions to a political party or candidate may not receive advance payments or reimbursements for such contributions from other persons or entities.
    - The chairman and financial officer of each party must sign financial reports submitted to election authorities and affirm that the donors of all contributions have been truthfully reported to the best of their knowledge and belief.
  - Require all political advertising communicated to the general public to contain a clear and accurate statement of sponsorship (sometimes called a disclaimer) to identify who paid for the communication.
    - Political communications are those that support, promote or oppose political parties or candidates (whether financed by political parties or candidates or by any other persons or entities);
    - Newspaper advertisements, leaflets or posters must contain written statement of sponsorship; television and radio advertisements must contain audio statement of sponsorship;
    - Newspapers and television/radio broadcasters are prohibited from providing advertising space/time for political communications lacking a statement of sponsorship.
  - Identify specific violations of law for failure to observe requirements for financial record-keeping and reporting, and set out appropriate penalties and sanctions for such violations.

For further suggestions for related law provisions, see: **Recommendations**, below.

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## **Types of Political Finance Reports**

Requirements for periodic reporting of political finance activity vary greatly among democratic election systems. The following is a brief description of the main types of reports required by political finance disclosure laws in many countries:

### **Baseline Financial Statement**

- Provides full snap-shot accounting of all assets and liabilities of each political party.
  - Assets include all cash, property or other resources under direct or indirect control of a political party.
- Sets factual foundation for subsequent reports of receipts and expenditures.
- Often required once (for existing political entities at enactment of law, and at time of registration/certification of new parties) or on a cyclical basis, such as before each election campaign period.

### **Routine Reports of Receipts (Contributions) and Expenditures**

- Accounting of ongoing financial transactions during specific time frame –
  - Receipts and expenditures (raising contributions; spending of money; receipt and use of non-monetary donations; receipt of investment income [if permitted]).
- Required of all political parties and often of candidates and ongoing non-party political organizations.
- Based on calendar timeline, such as annual (usually calendar year, reported soon after year-end), biannual or quarterly reporting schedule.

### **Reporting During or After Election Campaign Period**

- Reports of financing of political activity during election campaign period (to influence election outcomes, particularly to support or oppose candidates).
- Timing often just before election (such as report due ten days before the election, covering activity up to fourteen days before election) and post-election (such as report due thirty days after the election, covering activity since prior report and twenty days past election).
- Policy dilemma is that pre-election reports timed closer to election reveal more relevant information for voters (such as the identity of donors to parties and candidates), but such reports are more burdensome for busy election participants.

### **Reports of Particular Political Activity**

- Includes:
  - Independent expenditure reports by persons or groups other than political parties or candidates engaged in direct but independent support of (or opposition to) political parties or candidates;
  - Reports of large contributions (as defined by law) received by political parties or candidates during the election campaign period (close to an election); or
  - Reports by media outlets identifying buyers of paid broadcast time for election-related communications.
- Timing: required during election campaign period; reports due almost immediately after transaction (e.g., within 48 hours after receiving large contribution, etc.).

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## **Financial Report Information**

### **Format and Content of Reports**

- International practice varies widely and provides numerous models.
- Format should reflect nationally accepted accounting standards; provide logical flow of financial data; and (for periodic reports of ongoing activity) require receipts, expenditures and beginning and ending cash-on-hand to balance.
- Content requirements should be thorough but not overly detailed or complicated.
- Receipts itemization should include information about all contributions received and any non-monetary donations, loans, investment income (if permitted) or proceeds from sales of assets.

### **Reporting Thresholds**

- Disclosure laws often employ threshold amounts to differentiate what information must be reported for particular types of receipts and expenditures. For example:
  - Contributions exceeding a minimal amount must be itemized in reports to include donor's name, address and date of contribution; contributions exceeding a higher amount must also include donor's occupation and employer.
  - Expenditures exceeding a particular amount must be itemized to include payee's name, address and date of expenditure.
- Choosing threshold amounts must weigh the value of information requested against administrative burden to reporting entities and disclosure authorities.
- Total amount of money received and spent by political parties and candidates must be fully reported, even when using threshold amounts for some reporting requirements; transactions involving less than threshold amounts must still be included in aggregate numbers for total contributions and expenditures; relevant records/ documents for all financial activity must be maintained.

### ***Accountability: Responsibility for Complying with Legal Requirements***

Political finance laws should require political parties to assign responsibility to particular persons within political party organizations for financial record-keeping and for preparing and submitting financial reports required by law. Someone within each political party organization must be held accountable for complying with restrictions and requirements of the disclosure law.

Thus, each political party that is required to submit financial reports should be required to designate a financial officer (sometimes called a treasurer) within their organization.<sup>9</sup> The Financial Officer:

- Must be professionally qualified to work as an accountant and must follow accepted accounting procedures for record-keeping and reporting;

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<sup>9</sup> The same requirement should be made of candidates, candidate committees or other political organizations if the disclosure law imposes a separate reporting obligation upon such persons or groups; candidates may be held legally responsible for their election campaign funds. For suggested regulation of candidates for *DPD*, see: **Recommendation 10**.

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- Is legally responsible for keeping complete and accurate records of the political party's financial activity (receipts/disbursements; assets/liabilities) and for submitting true and accurate reports of this activity in accordance with requirements and schedule for reporting stated in the political finance laws and regulations;
  - Should have authority within the party organization to approve all party expenditures (that exceed a specified amount) and all receipts/contributions (that exceed a specified amount) for conformity of such transactions with legal requirements;
  - Should be provided unrestricted access to all political party financial records and receive full cooperation from all party officials;
  - Must cooperate with and facilitate all audits or any official investigations of political party accounts within his/her responsibility.

### ***Enforcement / Penalties for Non-Compliance***

Requirements in election laws for financial record-keeping and reporting by political parties and candidates must be fully and fairly enforced. Regarding reporting and disclosure, political finance laws should clearly specify:

- Government bodies with responsibility for enforcement (usually, the election authority, supported by law enforcement bodies [police and prosecutors] and courts);
- Particular violations related to political finance reporting, such as late filing of reports; failure to file reports; submitting false or incomplete information in reports; inadequate record-keeping or failure to maintain documentation; and conducting political finance activity outside of the officially reported account or in coordination with surrogates;
- Process for adjudication of complaints and prosecution of violations, including format of complaints, procedural timelines, requirements for evidence, investigation mechanism, jurisdiction of election authorities and courts, and process for appeals. Procedures and requirements of evidence will be different for criminal prosecutions (rather than administrative proceedings) related to political finance violations;
- Penalties and sanctions:
  - Based on a graduated scale proportionate to the financial amount, seriousness and degree of culpability (mistake, negligence or deliberateness) of the violation; and
  - Include civil penalties for administrative violations (monetary fines or political consequences such as denying candidate list certification, suspending election campaigning, dissolving political party), and criminal sanctions for deliberate or very serious violations.

### ***Public Disclosure***

Political finance laws should specifically guarantee rights of public access to political party finance reports and provide appropriate means for public examination of these reports. Broad access to financial reports increases the amount and quality of information available to the voting public. Access permits increased scrutiny and self-policing of election law violations through the watchfulness of competing parties, civil society and the news media. Important components of a public disclosure system include:

- Political finance laws should clearly assign responsibility for public disclosure of political party finance reports to a political finance disclosure authority (usually the national election commission). The disclosure authority must be provided adequate resources to assist public examination of financial reports:
  - Personnel and equipment to receive, photocopy, organize, file and make available such reports for public scrutiny.
    - ⇒ Public access to information should be according to a reasonable timeline (such as within 48 hours of receipt of reports by the disclosure authority).
  - Suitable facilities to assist public examination of financial reports and permit photocopying at a reasonable cost and in a convenient manner.
- Any restrictions on public access to copies of political party finance reports must be clearly presented in the political finance law and justified by public policy; decisions about rights of access cannot be left to the discretion of the disclosure authority. Generally, access should be allowed any person or group interested in examining such information. Disclosure laws may sometimes identify particular persons (from news media, civil society or political parties) to specifically guarantee right of access, but such guarantees should not serve to restrict general public access.
- In addition to assuring public access to political party finance reports, disclosure laws should require disclosure authorities (or other bodies) to publish summaries or comparative analyses of financial information contained in such reports. Publication may consist of data posted on the Internet or in official gazettes or newspapers.

## **DRAFT LAWS: REVIEW, COMPARISON AND COMMENT**

As previously noted, the Ministry of Home Affairs and Regional Autonomy (*DepDagri*) submitted proposed drafts for a new election law and political party law to the People's Representative Assembly (*DPR*) in late May. Provisions in these draft laws related to political finance controls are excerpted in **Appendix Two** (Law on Political Parties [*Parties*]) and **Appendix Three** (Law on General Elections Law [*Elections*]), attached to this report.

Both draft laws utilize elucidation sections following the main body; most provisions are self-described as sufficiently clear. Elucidation comments from drafts are noted for provisions as applicable.

### ***Scope and Structure of Draft Laws***

*DepDagri's* draft laws offer a small advance forward from 1999 political laws for purposes of regulation and public disclosure of political party finance. However, these drafts are not sufficient in terms of scope, specificity and, most notably, integration between the two laws.

As a beginning point, the draft laws could be improved if they:

- Describe the full scope of their regulatory jurisdiction and acknowledge the jurisdiction of each other (see: Recommendation 2);
- Define basic terms, and use terms consistently in both laws (see: Recommendation 3);
- Clarify characteristics and relationship of political party accounts named in laws;
- Coordinate basic requirements, procedures and timetables for financial reporting;

- Identify areas that will require further elaboration of political finance rules through KPU implementing regulations (e.g., accounting standards).

### ***Distinguishing Party General Funds & Campaign Funds***

*Parties: Article 8* stipulates ten obligations for political parties, including three points regarding political finance. Point (j) requires parties to form a Special Election Campaign Fund Account and to submit an audited financial statement of this account to the KPU within six months after Election Day. The elucidation for *Parties: Article 8(j)* states that the Special Election Campaign Fund Account must be separate from party accounts holding funds for purposes other than the election campaign.<sup>10</sup>

Further, point (i) in *Article 8* obligates parties to prepare annual financial statements (audited by public accountant) and to submit these statements to KPU. Financial statements under point (i) are presumably distinct from reports for Special Election Campaign Fund Accounts in point (j). Unfortunately, the concept of different political party accounts is not further developed; *Parties* provides no further clarification regarding separating party campaign funds from routine administrative funds.

Nor is this idea of separate party accounts coordinated between *DepDagri's* two draft laws. *Chapter IX, Part 2, of Elections* simply refers to "campaign funds," but neither specifically requires political parties to establish a separate election campaign fund nor acknowledges the requirement in *Parties* for Special Election Campaign Fund Accounts. *Elections: Article 112* requires political parties to submit audited financial reports of party campaign funds to KPU within 30 days after Election Day and makes no reference to requirements under *Parties* for post-election or annual financial reports. Thus, the draft laws do not adequately differentiate or integrate regulation of party general funds and campaign funds.

Also, as discussed below, the two drafts stipulate different limitations on contributions to political parties from individuals (see: *Parties: Article 15(1)* and *Elections: Article 111(2)*). However, neither draft indicates an intention to apply its contribution limits to certain party funds separately from the other law (e.g., for different party accounts, or within separate time frames). An effort to impose different or separate contribution limits under the two laws would raise numerous implementation and enforcement problems. The drafts do not address problems of consolidating and reconciling different types of party accounts in the process of accounting, auditing and reporting. As noted, auditing/reporting requirements for the Special Election Campaign Fund Account under *Parties* and campaign funds under the *Elections* are on a different timetable.

Thus, the new draft laws do not resolve the problem IFES noted in the December 1999 *Money Politics* report with respect to *Laws Nos. 2 & 3 of 1999* and their implementation: "The 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." (See: ***Recommendations***, below, for suggested approaches for distinguishing political party administrative funds from party election campaign funds for purposes of political finance regulation and disclosure.)

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<sup>10</sup> The draft political party law (and elucidation) does not specify that this requirement is only for parties qualified to participate in the election. By comparison, the draft election law describes election campaign funds as obtained by "participating political parties" (*Article 111*).

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## **Restrictions, Prohibitions and Limitations upon Parties' Fund-Raising**

### **Source of Funds – General**

*Parties*: Article 14(1) provides that financing for political parties shall be obtained from (a) members' periodic fees and (b) lawful contributions. This description continues a distinction in current law for party membership fees. No special conditions for such fees are stipulated in *Parties*, however. Par. 2 of Article 14 (includes non-monetary donations within meaning of contributions) and Article 15(1) (limit upon contributions to political parties from individuals) seem intended to cover membership fees also.

Thus, membership fees would appear to be treated no differently than other contributions from individuals for purposes of limitation or public disclosure. If reference to membership fees is considered necessary in these laws, a simpler and more accurate approach would be to refer to contributions as "including members' periodic fees."

By comparison, *Elections*: Article 111(1) states:

Election campaign funds may be obtained by the Party Central Committee of a participating political party from:

- a) Members ... including candidates for DPR, DPD, Provincial DPRD and Regency/Municipal DPRD;
- b) Other non-binding sources including private legal entities or persons, whether given to the participating political party or to the candidates for the DPR, DPD, Provincial DPRD and Regency/Municipal DPRD.<sup>11</sup>

The most obvious problem with this provision in *Elections* is its mention of candidates for *DPD* as being a source of, and conduit for receiving, contributions to political parties. Since *Elections*: Article 5 otherwise states that political participants for elections for the new *DPD* (Regional Representative Council) shall be individual persons rather than political parties, the language of Article 111 that includes *DPD* candidates in partisan fundraising is presumably a drafting error. Regulation and disclosure of political finance activity of *DPD* candidates should be separate and distinct from provisions regarding political parties and candidates for *DPR/DPRD* (see: **Recommendation 10**).

The emphasis in Article 111 on the role of candidates in raising money for party election campaign funds—with candidates viewed both as a source of party funds and as intermediaries for contributions to parties—raises fundamental issues that need to be resolved in these draft laws:

- By specifically including candidates as a source of party funds, *Elections*: Article 111(1) (a) infers that candidates should contribute money to their party. This language raises questions of seat buying or expectations of entry fees for candidates. Absent such motives, for purposes of regulation (as with references to members' fees), contributions to political parties from candidates should not be treated differently than contributions from individual persons generally.
- As discussed in **Key Elements of Political Finance Laws**, raising contributions and spending election campaign funds by candidates must be brought within the regulated political finance system. Money raised and spent by candidates or their representatives/agents must be consolidated for accounting purposes (and publicly reported) within the

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<sup>11</sup> The term "non-binding" means donors giving donations without qualifications or expectations of return.

party's financial reports (unless a separate reporting obligation is imposed on candidates by the election law). The entire regime for regulating and reporting contributions to political parties is undermined unless funds received and spent by party candidates are subject to the party's contribution limitations, properly documented, and integrated into the audited reports of political party accounts.<sup>12</sup> Thus, allowing candidates to raise funds for their party should not be merely permitted by the law but also regulated. (See: **Recommendation 5** for suggested approaches for regulating and reporting candidate fundraising and candidate expenses.)

*Elections: Article 111(1)* states that "Election campaign funds may be obtained by the Party Central Committee of a Participating Political Party ..." However, the term "Party Central Committee" is not defined and does not appear elsewhere in *Elections*. The term "Party Central Committee" does not appear at all in *Parties*. Also, the draft election law makes numerous references to party "administrators"<sup>13</sup>, and *Parties* refers to "Board of Administrators" at all levels of political party organization. Perhaps all political parties in Indonesia have some form of national party central committee to which "Party Central Committee" is applicable, or describe their leadership at all levels as "Board of Administrators." But these terms should be defined and used consistently in the draft laws, and any legal requirements imposed upon such party committees should be stipulated.

Use of the term is important, because *Elections: Article 111* states that election campaign funds "may be obtained" by party central committees. That statement could be read to mean that only central committees of parties may obtain such funds. Such a restriction would be a good step to facilitate consolidated accounting of party funds at the central party headquarters for purposes of financial reporting. But the intent of *Elections* is not clear on whether such responsibility is centralized at the national level of political parties; the absence of clear direction leaves a substantial loophole for party financial reports. If responsibility for fundraising is not centralized and other levels of party organization may accept contributions, then these draft laws must further stipulate how party organizations are to consolidate and report all political finance activity. (See: **Recommendations** for suggested approaches for requiring consolidated reports of political parties.)

*Parties: Article 14(2)* states that contributions "may be in the form of money, goods, facilities, equipment and/or services." The elucidation for *Elections: Article 111(2)* states: "Election campaign funds are in the form of money, goods and other services and/or that can be considered the same or valued with money." Both provisions suggest, but neither makes clear, that non-monetary (in-kind) contributions must be reported in political party audited reports at market value in the same manner as monetary contributions. These definitions should be uniform and require broadening to include gifts, the use of personnel and equipment, and sales discounts. (See: **Recommendation 8**, below, for suggested approaches for reporting requirements for non-monetary contributions.)

### **Source of Funds – Prohibitions**

*Parties: Article 16(3)* prohibits political parties from:

- a. receiving and making contributions in any form from or to foreigners, whether directly or indirectly; or

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<sup>12</sup> This issue of candidate funds becomes more important if an "open-list" voting system is used for DPR/DPRD. See: IFES' July report *Electoral System Proposed in Draft Election Law: Multi-Member District Proportional Representation and Open-List Voting*.

<sup>13</sup> See: *Elections: Articles 14, 23, 28, 51, 52, 65, 81 & 90*.

- b. receiving contributions, whether in the form of goods or money, from any party that does not clearly identify itself; or
- c. receiving contributions from individual persons and/or corporations/business [for-profit] entities exceeding the specified limit; or
- d. requesting or receiving funds from state/region-owned enterprises and humanitarian organizations.<sup>14</sup>

Similarly, *Elections: Article 113(1)* prohibits both political parties and candidates from accepting donations from foreigners (without elucidation) and from “a contributor whose identity is not clear.”

Regarding *Parties: Article 16(3)*, above:

- The elucidation states:
  - Point *a* – “Foreigners” means foreign citizens, foreign public organizations and foreign governments, and
  - Point *b* – “Clear identity” includes information on the name and complete address of the relevant individual or company.
- Point *c* clearly states that political parties are prohibited from receiving contributions that exceed the specified limits. Without this statement, provisions in both draft laws regarding contribution limits simply say “contributions ... shall not exceed.”

Provisions in both draft laws prohibiting receipt of contributions from donors “whose identities are not clear”—if enforced—would mark a significant improvement from practices in Indonesia’s 1999 general elections, when substantial funds were raised from unidentified sources. As noted in ***Key Elements of Political Finance Laws***, the requirement for donors to be fully identified must also include prohibitions on contributions in the name of another—donations given through an intermediary and listed in financial reports as received from someone other than the true donor. (See: ***Recommendation 6.***)

*Elections: Article 113(2)* also adds a prohibition on “accepting and/or agreeing to direct funding of their campaign activities.” This article does not benefit from elucidation, and it is not clear to what type of action “direct funding” refers (particularly since, as noted above, both draft laws explicitly allow for in-kind contributions).

*Article 113(2)* might be intended to prohibit political parties and candidates from consenting to and coordinating with outside (surrogate) supporters to directly spend funds in support of such parties and candidates. Such support would be funded by outside parties’ election campaign fund accounts and would avoid reporting and disclosure by political parties and their candidates, and represents a significant potential loophole that should be plugged. If the intent of *Article 113(2)* is to prohibit such coordinated activity, the purpose is good but the language is too ambiguous. Election campaign spending by outside persons or groups should be treated as a contribution to a political party if outside spending has been made with the consent of, or in cooperation with, a political party (or the party’s candidates or representatives/agents). (See: discussion in ***Key Elements of Political Finance Laws*** and suggested approaches for regulating coordinated activity in ***Recommendations.***)

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<sup>14</sup> Also, the elucidation for *Parties: Article 15(2)*—regarding contribution limits—states that “state owned enterprises” are not within the category of “corporations or any other form of legal entities” from which contributions are permitted. *Parties: Article 16(4)* continues the prohibition in *Law No. 3 of 1999 on Political Parties* upon parties “establishing a business entity and/or holding shares in a business entity.”

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## **Use of Government (State) Resources**

*Elections: Article 107(g)* prohibits political parties from using government facilities, religious locations, and educational locations in conducting election campaigns; *Parties* appears to include no such restriction upon use of government (state) resources for political purposes.

*Elections: Article 107(g)* raises several policy and drafting concerns:

- This restriction is included within a list of nine other prohibitions that are all related to offensive election campaign behavior or disruptions to public order. Sanctions identified in *Elections: Article 109* for violation of prohibitions in *Article 107*, (including point (g) regarding government facilities) are clearly intended to prevent ongoing disturbances to public order. Thus, (g) is out of place in *Article 107*.
- In apparent contradiction to *Article 107(g)*, *Elections: Article 106(2)* states:  
The regional administration shall provide equal opportunities to each Participating Political Party and/or each candidate member for the DPR, DPD, Provincial and Regency/City DPRD to use public facilities.
- Public policy interests do not demand prohibiting all use of public facilities by political parties and candidates for election campaign purposes, if the law stipulates that political parties shall have equal access to such facilities –
  - Consistent with *Article 106(2)*, the election law should permit use of government facilities (such as meeting halls) by competing parties and candidates on an equal basis. However, decisions about providing use of government facilities to parties should be made by the regional election committee, in consultation with the regional administration.
  - Educational facilities may also be permissible for purposes of political meetings, if provided on an equal basis to all political parties and candidates, or used for multi-partisan purposes (e.g., candidate debates).
  - A prohibition on use of religious locations should be careful in defining “conducting election campaigns.” Does the law intend that any candidate appearance or remarks at religious locations are a violation?<sup>15</sup>
- *Elections: Article 107(g)* is not complete as a restriction upon use of government (state) resources. Both draft laws should be revised to make this prohibition (upon use of government [state] resources for political purposes) broader, clearer, stronger and consistent between the two laws. (See: **Recommendation 6**, below.)

*Elections: Article 108(1)* prohibits “election campaigns ... from involving” numerous public officials. Although this provision is not a direct regulation upon political finance, *Article 108(1)* indicates an undue emphasis upon preventing exercise of political rights by public officials rather than a more appropriate concern with preventing use of public assets and resources for political activity. The broad and ambiguous language of this provision also raises several problems for implementation (particularly if presidential elections are held simultaneously with general elections).

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<sup>15</sup> A similar problem with vagueness is evident in prohibitions in *Elections: Article 108(1)* against political parties’ election campaigns “involving” public officials.

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## **Contribution Limits**

= Limitation Amount & Terminology. As noted above, *DepDagri's* two draft laws are not uniform in the limitation amount placed upon some contributions to political parties, and the two laws use different terminology for types of donors:

- Both appear to place a limit of 500 million rupiah upon contributions to parties from legal entities:
  - *Parties: Article 15(2)* – “from corporations or any other form of business [for-profit] entities”;
  - *Elections: Article 111(2)* – “from a private legal entity.”
- However, as to contributions from individual persons,
  - *Parties: Article 15(1)* sets a limit of 100 million rupiah upon contributions “from members and non-members”;
  - *Elections: Article 111(2)* sets a limit of 50 million rupiah upon contributions “from any individual person.”

The draft laws should coordinate both contribution limitation amounts and terminology for donors (see: discussion below and ***Recommendation 11***).

= Limitation Time Period. *Parties: Article 15* states that limits upon contributions to political parties (both from individuals and corporations/entities) are applicable “within a one year period.” That language is deficient as a political finance control, as it suggests the limitation time period is different for each particular contributor, depending on when each contribution is made. Such a floating time period would be difficult to monitor, both by parties internally and by monitoring organizations and enforcement bodies. Contribution limitations based upon calendar year would be far simpler and more effective.

*Elections: Article 104* does not specify a time period for the election campaign. *Elections: Article 111* does not specify a time period for limitations upon contributions to campaign funds or a time period during which political parties are permitted (or required) to use campaign funds. Also, *Parties* does not make any further reference to the Special Election Campaign Fund Account after *Article 8*, does not explain application of contribution limits to this special fund, and does not identify any time period for the election campaign itself.

= Aggregation. Neither draft law states that all contributions from the same donor to the same recipient must be aggregated for purposes of contribution limits. “Aggregating” refers to combining amounts of any separate contributions from one donor to one particular party (or candidate) over the time period of the law’s contribution limitation.<sup>16</sup> Without aggregation of contributions per donor per recipient, contribution limits are meaningless—donors could simply split their contributions to a political party or candidate into separate pieces (over a period of days, or to different representatives/agents of the party or candidate) to avoid the contribution limits. Failure to include aggregation requirements in these draft laws in applying contribution limitations would be a serious setback for new political finance controls in Indonesia.

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<sup>16</sup> Aggregation of donors’ contributions does not refer, in this instance, to all contributions by a donor to all (different) recipients. An overall limit upon all contributions made by a donor would unnecessarily constrain political activity, be difficult to enforce and encourage efforts to circumvent the limit through off-the-books support of parties and candidates.

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= Loans. *Parties* does not specifically mention loans made to political parties or candidates. *Elections: Article 111(3)* stipulates that “campaign funds ... in the form of a loan from a company or private legal entity shall not exceed the amount as specified” in the contribution limitation. Unfortunately, this language of “company or private legal entity” is not consistent with other terminology in either draft and is ambiguous. This language suggests that loans to parties or candidates from individuals—and from entities other than a company or private legal entity—are not subject to contribution limitations.<sup>17</sup>

= Summary. The draft laws need to clarify and integrate contribution limitations.<sup>18</sup> Specifically, the draft laws would be significantly improved if:

- The same terms are used to define contributions from individual persons or legal entities;
- Contribution limitations (amounts) from each type of donor are same in both laws;
- Loans from legal entities and individuals are included in the definition of contribution;
- Contributions are aggregated per donor for each recipient (political party or candidate) for purposes of contribution limitations;
- Time period for limitations is defined as the calendar year.

(See: **Recommendation 11**)

### **Election Campaign Expenditures**

Neither draft law prescribes limitations on overall spending by political parties or candidates. Spending caps were attempted through *KPU* implementing regulations in 1999 for each level of party organizational activity, and these limits appear to have been wholly ignored in practice. Statutory limitations upon overall expenditures by political parties are very difficult to monitor and enforce and are not recommended.

*Elections: Article 110(1)* prohibits candidates from “promising and/or giving money or other materials with the aim of affecting voters.” Vote-buying is a serious problem for elections in Indonesia. A prohibition upon vote-buying must be included in the election law, and violations of such a prohibition should be viewed as a serious criminal offense. However, the range of persons covered by this prohibition should be expanded beyond only candidates. Moreover, in acknowledgment of widespread practices in Indonesia (and to avoid diluting the objective of this prohibition), the scope of activity covered by this provision should probably be narrowed to not include some harmless campaign promotions, such as giving out T-shirts to supporters. (See: **Recommendation 7**.)

### **Record-Keeping, Accounting and Audits**

As noted above, *Parties: Article 8* (points *h-j*) stipulates three new obligations for political parties with regard to political finance:

- To maintain bookkeeping and to publicly disclose contributions;
- To prepare annual financial statements and to submit such statements to the *KPU* after an audit by public accountant; and

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<sup>17</sup> As noted above, *Parties: Article 15(2)* – regarding contribution limits – states that “state owned enterprises” are not within the category of “corporations or any other form of legal entities” from which contributions are permitted.

<sup>18</sup> Attempting to set different limits in each law, or apply them separately to different party accounts or time periods, would raise serious problems for implementation and enforcement. One solution may be to permit a somewhat higher contribution limit for the calendar year in which elections are conducted.

- To form a Special Election Campaign Fund Account, and to submit an audited financial statement of this account to the *KPU* within six months after Election Day.

Also, *Parties: Article 20* describes duties of a supervisory body with respect to prohibitions upon political party fund-raising. That provision states that the duties of this body shall include "to request the result of financial audit and balance statement of a political party as referred to in *Article 8 ...*" and "to conduct examination over the possibility of violation against prohibitions applicable to political parties as referred to in *Article 16.*"

By comparison, *Elections: Article 112* provides that:

- (1) All campaign funds, whether income or expenditures, must be audited by a registered Public Accountant by no later than 30 days following Election Day.
- (2) The report from the audit as referred to in paragraph (1) must be submitted to the *KPU* accompanied by all valid evidence of contributions and expenditures with regard to the election campaign by no later than 30 (thirty) days following election day.
- (3) All documents pertaining to the report on campaign funds must be maintained and kept by the *KPU* and must be made available to the public.

Both draft laws move in a good direction. However, these laws require further elaboration and additional provisions to improve regulation and monitoring of political finance practices in Indonesia:

- The *KPU* (or other election authority) should be authorized to prepare implementing regulations regarding uniform record-keeping requirements, format of financial reports, and standards for accounting and auditing of political finance reports;
- Particular persons within political parties should be assigned legal responsibility for record-keeping and accounting and for preparing and submitting political finance reports pursuant to law's requirements (see: **Key Elements of Political Finance Laws and Recommendations**).

Also, *DepDagri's* draft laws continue the practice of placing responsibility upon political parties to audit their own records and reports before submitting information to the *KPU* (or other election authority). The experience of Indonesia's 1999 general elections showed the difficulties faced by auditors in reviewing political party finances and the need for bringing uniformity and reliability to the auditing process (see: IFES' prior **Money Politics** reports). It is unrealistic to expect accuracy or thoroughness in auditing of political party finance records if parties are responsible for hiring the personnel and bearing the costs of such scrutiny. The auditing function should be formally brought under management of the election authority and costs of audits borne by the state. Audits should be conducted by independent and professional auditors under the supervision and guidance of the election authority. Auditors should be temporarily hired by the election authority or recruited temporarily from qualified personnel from government bodies. (See: **Recommendation 19.**)

## **Financial Reporting**

### **Reporting Schedules**

As noted above, the two draft laws do not integrate the types of political party accounts or schedules for reporting of political finance activity:

- *Parties: Article 8* obligates each political party to submit to *KPU* (after audit by public accountant) both an annual financial statement and a post-election financial statement for the Special Election Campaign Fund Account within six months of Election Day.
- *Elections: Article 112* requires each political party participating in elections to have reports of “all campaign funds, whether income or expenditures” audited by a “registered Public Accountant” and submitted to *KPU* within 30 days after Election Day.

These two reporting requirements are not contradictory but should be coordinated so that financial information obtained under both regimes is defined and capable of comparison, including uniform financial reporting components and formats. (See: **Recommendations 13, 14 & 15** for suggested approaches to financial reporting schedules.)

Moreover, while the intent of the *Elections* provision seems commendable, preparation of a full audited report of financial activity within 30 days after the election may be difficult for many parties. And, as noted above, these laws do not provide standards for accounting or auditing practices for political finance reports, nor do they empower the *KPU* to set such standards. Further, these drafts leave responsibility for conducting financial audits with each party (before submitting such reports according to the reporting schedule), instead of placing the auditing process within government supervision and independent implementation. (See: discussion above and **Recommendation 19** for suggested approaches to financial auditing.) The public has a strong interest in gaining access to information regarding political party finance activity as soon as possible, but deadlines in reporting schedules should be realistic.

### **Threshold Reporting Requirements**

*DepDagri's* draft election law utilizes a threshold-amount provision for imposing a reporting requirement for contributions. *Elections: Article 111(4)* provides that contributions of more than five million rupiah made to participating political parties and candidates “must be reported to *KPU* / Provincial Election Committee / Regency/Municipal Election Committee with regard to the form and amount of the contribution and the full identity of the contributor.” Further, *Article 111(5)* states: “The *KPU*/ Provincial Elections Committee/Regency/City Elections Committee shall publicize the contributions report as referred to in paragraph (4) to the public through the media.”

*Article 111(4) & (5)* represent a step forward from existing political finance regulation in Indonesia. These provisions acknowledge the need for both comprehensive reporting and public disclosure of information about donors of large contributions. Moreover, reporting thresholds are a common feature in political finance disclosure laws (see: **Key Elements of Political Finance Laws**). However, the requirements in *Article 111(4) & (5)* raise numerous questions regarding interpretation, scope and implementation:

- Does this provision mean that parties or candidates are not required to (ever) report contributions of less than five million rupiah? Does it mean parties or candidates do not have to collect and keep information about the form, amount and full identity of contributions of less than five million rupiah?
- How can this provision be reconciled with the general requirements of *Article 112(1) & (2)* that “all campaign funds, whether income or expenditures” must be audited and reported to *KPU*? How are contribution reports under *Elections: Article 111(4)* integrated with other requirements for financial reporting by parties?

- Does this provision intend for reporting at each level of election committee to correspond with level of candidacy of the recipient candidate? To which entity do political parties report such contributions? Does the place of donation or residence of donor affect where the contribution is reported?
- Are contributions to be aggregated by donor, so that this reporting threshold cannot be easily avoided by separating a large contribution into smaller installments (see discussion above)?
- What are time periods and deadlines for reporting such contributions? What are penalties for failure to report contributions under this provision?
- How are election committees at various levels to publicize these contribution reports through the media and in what time period (see discussion below)?

*Article 111(4) & (5)* appear intended to combine two policy objectives:

- 1) Threshold-amount requirement for political party candidates to report specific information about (itemize) large contributions; and
- 2) Special reporting obligation for large contributions (ongoing reports, at time of receiving contributions, rather than combined reporting according to regular schedule).

The objective in the second component [special reporting for large contributions] could be more effectively implemented if the amount of the threshold in the first component [the size of the contribution to be reported] were set at a higher amount. The laws should then clarify that this threshold amount is only for purposes of these special reports for large contributions and that political parties (and candidates) are required to collect and keep information about the identity of donors for all contributions and report such information in their regular periodic reports. (See: **Recommendation 11**.)

### **Public Disclosure**

As noted above, *Elections: Article 111(5)* provides: “The KPU/ Provincial Elections Committee/Regency/City Elections Committee shall publicize the contributions report as referred to in paragraph (4) to the public through the media.” *Elections: Article 112(3)* also states: “All documents pertaining to reports on campaign funds must be maintained and kept by KPU and must be made available to the public.” No comparable provisions appear in *Parties*.

The provisions in *DepDagri’s* election law draft are an effort at public disclosure, but they lack implementation details. Both drafts should be expanded to coordinate disclosure practices; establish guarantees of public access to financial reports of political parties; and require election authorities to publish political finance information. (See: **Key Elements of Political Finance Laws** and **Recommendation 20**).

### **Law Enforcement, Violations and Sanctions**

#### **Law Enforcement Responsibility**

*Parties: Article 21* provides:

- (1) Supervision and implementation of provisions of this law shall be conducted by the Government.
- (2) Reports on violations of prohibitions applicable to Political Parties as referred to in Article 16 paragraph (2), paragraph (3), paragraph (4) and paragraph (5) shall be submitted by the Government in accordance with the prevailing laws and regulations.
- (3) Investigation, indictment and examination in court shall be respectively conducted by Investigators, the District Attorney, and the Court within the jurisdiction of a general court of law as provided in Law No. 8 of 1981 concerning Criminal Procedural Law.

By comparison, *Elections: Article 125* places responsibility for supervising all election activity with *KPU*, including power to accept, investigate and provide reports regarding alleged election law violations. *Elections: Article 126* gives jurisdiction for resolving cases to the general judiciary.

The issues of election supervision, complaint adjudication and law enforcement are currently much-discussed topics in Indonesia during deliberation of these draft laws. A full review of these issues is beyond the scope of this report. Any system directed to complaint adjudication and enforcement objectives must be more fully described in these laws and consistent and coordinated between the two laws and with provisions of the criminal and administrative code generally.

However, reference in *Parties* to 'the Government' as the supervisory authority for political party finance is clearly inappropriate. This construction may signify uncertainty by the drafters about where to place such authority. But this language is far too ambiguous and, if read literally, suggests an improper grant to government departments of supervisory power over political activity of competing political parties and candidates.

### **Violations and Sanctions**

As discussed in ***Key Elements of Political Finance Laws***, above, political finance laws should clearly identify specific violations of law related to regulation and reporting of political finance activity. Penalties and sanctions for such violations should also be clearly described, and are more effective if using a graduated scale of administrative and criminal sanctions. A graduated scale means sanctions are proportionate to the amount, seriousness and degree of culpability (mistake, negligence or deliberateness) of the violation.

*DepDagri's* draft political party law makes a good effort in this direction. *Parties: Article 23* sets out a fairly extensive regime of administrative and criminal sanctions for violations related to political finance restrictions and reporting obligations (see **Appendix Two**). These sanctions are directed to requirements in *Parties* under:

- *Article 8*: obligates political parties to maintain bookkeeping and report contributions, to prepare annual financial statements and submit audited reports to *KPU*, and to establish Special Election Campaign Fund Account and submit audited report of such fund to *KPU* within six months of election;
- *Article 16*: prohibits political parties from receiving contributions from foreign persons and entities, from donors who are not clearly identified, from individuals or corporations and business [for-profit] entities that exceed allowable contribution limits, and from state/region owned enterprises and humanitarian organizations.

Specifically, *Parties: Article 23* provides, in part:

- (3) Violations of the provisions as referred to in Article 8 shall be subject to administrative sanction in the form of:
  - a. public reprimand;
  - b. suspension of the relevant Political Party for a one year period minimum;
  - c. ban from participating in at least one election.
- (4) Violations of the provisions as stipulated in Article 16 may be subject to the following sanctions:
  - a. violations of paragraph (1) shall be subject to sanctions in the form of refusal of registration of the relevant political party by the Minister of Justice;
  - b. violations of paragraph (2) shall be subject to administrative sanction in the form of:
    - (i) public reprimand;
    - (ii) suspension of the relevant Political Party for a one year period minimum;
    - (iii) ban from participating in at least one election.
  - c. administrator of a political party who commits a violation as set out in paragraph (3) shall be punishable by imprisonment for at least 180 (one hundred and eighty) days or a maximum fine of Rp. 1,000,000,000.00 (one billion rupiah);
  - d. violations of paragraph (4) shall be subject to administrative sanction in the form of open reprimand or dissolution of such business entity;
  - e. a political party administrator who uses his/her political party to conduct activities as referred to in Article 16 paragraph (15) shall be charged in accordance with the applicable provisions of the law and his/her political party may be dissolved.

Further, *Parties: Article 24* provides:

- (1) Any person who makes a contribution to a Political Party which exceeds the amount as set out in Article 15 shall be punishable by imprisonment for a maximum term of 90 (ninety) days or a fine in the maximum amount of Rp. 250,000,000.00 (two hundred and fifty million rupiah).
- (2) Any person who influences or coerces another person and/or business entity to make a contribution to a Political Party which exceeds the amount as set out in Article 15 shall be punishable by imprisonment for a maximum term of 180 (one hundred and eighty) days or a fine in the maximum amount of Rp. 500,000,000.00 (five hundred million rupiah).
- (3) A Political Party administrator who accepts a contribution in an amount exceeding that which is set out in Article 16 shall be punishable by imprisonment for a maximum term of 180 (one hundred and eighty) days or a fine in the maximum amount of Rp. 1,000,000,000.00 (one billion rupiah).
- (4) Accepted contributions which exceed the specified amount as referred to in paragraph (1), paragraph (2) and paragraph (3) shall be seized to become the property of the State.

Unfortunately, citation back to *Articles 8 & 16* in *Parties: Article 23* is too indirect to give clarity and proper emphasis to these violations. Obligations under *Article 8* are not comprehensive or clear as to legal requirements. In particular, *Article 8(h)* only refers to an

obligation to publicly disclose contributions. *Article 23* does not clearly establish that failure to submit timely and accurate financial reports is a serious violation within the scope of these sanctions, and criminal fines and penalties in *Article 24* do not include a 'failure to report' offense. Violations and sanctions in political finance laws should not only be directed to contribution limits and other controls; these laws should clearly establish that failure to maintain sufficient financial records and to properly report financial activity are breaches of the law subject to significant penalties.

The framework for violations and sanctions is less comprehensive in *DepDagri's* draft election law. *Elections: Article 113(3)* provides that candidates or parties which violate its prohibitions upon receiving contributions from foreigners or unidentified contributors, or accept direct funding, shall have nomination or participation in elections "declared void by a court of law." *Elections: Article 142(9)*, in the chapter on Criminal Provisions, provides that a person who makes contributions to campaign funds that exceed the contribution limits (upon a determination by the KPU) shall be punished by imprisonment up to three months or a maximum fine of one hundred million rupiah—a fine less than provided by *Parties* for the same offense.

Thus, provisions in these draft laws regarding violations related to political finance activity, and corresponding sanctions, are not fully developed within each draft and not synchronized between the two proposed laws. Requirements in these laws for political parties to keep records and report financial activity will be difficult to enforce unless violations and sanctions are clearly stated and integrated in the two laws. (See: **Recommendation 21**, below, for further description of categories of election offenses and sanctions.)

## RECOMMENDATIONS

The legal framework for political finance regulation and disclosure in Indonesia deserves special attention during *DPR's* consideration of draft laws to replace *Law No. 2 of 1999 on Political Parties* and *Law No. 3 of 1999 on General Elections*. Political finance issues risk being handled superficially in the rush of political debate, as *DPR* attempts to approve substantial changes to the political laws of 1999 by end of this year. Moreover, experience in other democracies shows that parliament members and political party leaders are highly resistant to adopting comprehensive political finance reforms unless responding to focused and intense public attention to these issues.

IFES offers the following recommendations for improvements in political finance regulation and disclosure in the particular circumstances of Indonesia:

### **Recommendation 1**

Scope and jurisdiction of draft laws should be clarified and coordinated regarding political finance regulation; each law should acknowledge the jurisdiction of the other. As a first step, *Pansus* for the general elections law and for the political party law should appoint a joint working group to review political finance provisions of their drafts and cooperate toward a comprehensive and integrated package.

### **Recommendation 2**

To clarify scope and jurisdiction of these draft laws –

= The law on political parties could include language such as:

- 1) This law governs:
  - a) Prohibitions and limitations upon contributions received, and restrictions upon expenditures made, for all funds raised and spent by political parties, including funds raised and spent for administrative and other routine operational expenditures;
  - b) Requirements for record-keeping, periodic financial reporting and public disclosure of all funds raised and spent by political parties, including funds raised and spent for administrative and other routine operational expenditures;
  - c) Enforcement of provisions under (a) and (b).
- 2) The Law on General Elections shall supplement the provisions of this law for purposes of regulating Election Campaign Funds of political parties and of candidates nominated for general elections.

= The law on general elections could include language such as:

- 1) This law governs:
  - a) Prohibitions and limitations upon contributions received, and restrictions upon expenditures made, for Election Campaign Funds of political parties and of candidates nominated for general elections;
  - b) Requirements for record-keeping, periodic financial reporting and public disclosure of Election Campaign Funds of political parties and of candidates nominated for general elections;
  - c) Enforcement of provisions under (a) and (b).
- 2) This law supplements regulation under the Law on Political Parties, which governs all funds raised and spent by political parties.

### **Recommendation 3**

Basic terms should be defined the same under both laws, either at beginning of law or through elucidation section; such terms include:

- *Contribution*: 1) Any donation or gift of money, or any loan of money, or any donation of non-monetary resources, that is provided to a political party or candidate, or provided to any representative/agent of a political party or candidate, or 2) a coordinated expenditure by any person or group to support a political party or candidate.
- *Coordinated Expenditure*: An expenditure by any person or group (other than a political party, candidate or representative/agent of a party or candidate) that is intended to support a political party or candidate and that is done with the consent or at the suggestion of, or in cooperation or coordination with, such party or candidate.
- *Non-monetary donation*: Contributions to political parties or candidates in the form of 1) providing goods, services, or use of personnel, facilities or equipment, or 2) discounts in prices on sale of goods or services, which are provided to parties or candidates and not normally given to all customers.

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- *Anonymous contribution*: Any donation of money or non-monetary resources from a donor whose identity is not clearly known, recorded and reported by the political party or candidate receiving such donation.
  - *Expenditure*: Any payment of funds, or commitment or obligation to pay funds, by a political party or candidate for political purposes, including for administrative expenses and for election campaign expenses.
  - *Administrative expense*: Expenditure (or obligation) by political party for routine operational expenses, including administration (overhead), party development and recruitment, research, fund-raising or general public communications.
  - *Election campaign expense*: Expenditure by a political party or candidate to influence the political result of an election by supporting or promoting (or opposing) any political party or candidate.
  - *Political party representative/agent*: Any person acting under the authority of a political party central committee or administrators of a political party to act on behalf of that party, either by formal designation or informal consent, including any candidate nominated by such party.
  - *Candidate representative/agent*: Any person acting under the authority of a candidate to act or speak on behalf of such candidate, either by formal designation or informal consent.
  - *Political party central committee*: National board of administrators of a political party with highest authority to decide policy and act on behalf of the political party, including principal authority for raising and spending funds of the political party;
  - *Financial Officer*: Person within a political party organization who has been designated to be legally responsible for the party's financial record-keeping and for complying with political finance reporting requirements.

#### **Recommendation 4**

Fundamental principles and components of political party financing should be set forth in the political party law and implementing regulations.<sup>19</sup> These include:

- Each political party is required to conduct all financial activity through designated bank accounts that are open to inspection by supervisory authorities. All party expenditures (including for election campaign expenses) shall be made from, and all contributions received into, such accounts, and all financial activity must be fully reported and disclosed pursuant to reporting and disclosure regulations. Parties are prohibited from using any other funds or accounts to finance their activity apart from or outside their official, reported accounts.
- Political parties and their representatives/agents shall not cause, authorize, consent to or coordinate with other persons or entities to spend other funds or use other resources outside the parties' designated bank accounts for political purposes, unless

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<sup>19</sup> For provisions regarding election campaign financing in the election law, see: **Recommendation 5**. For provisions applicable to DPD candidates and elections, see: **Recommendation 10**.

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such activity is reported as a contribution. Any expenditure by any person or group made to support a political party or candidate and that is done with the consent or at the suggestion of, or in cooperation or coordination with, such party or candidate is treated as a contribution to that party and fully reported.

- For accounting, audit and reporting purposes, all political party accounts must be combined and included within financial reports for either the party's Administrative Account or Election Campaign Fund Account.
- Each political party must establish and maintain an Administrative Account, which shall be used for routine operational expenses, including administration (overhead), party development and recruitment, research, fund-raising or general public communications (outside of the election campaign period). All expenditures from, and contributions received in, a party's Administrative Account shall be fully and accurately reported in the party's Annual Financial Report. All contributions received in calendar years other than the year in which general elections are held shall be deposited in the Administrative Account.
- Regarding Election Campaign Fund Account, see: **Recommendation 5**.
- Each political party is required to appoint a Financial Officer of the party to be responsible for compliance with political finance regulations, including record-keeping and reporting obligations. A Financial Officer shall be:
  - Professionally qualified to work as an accountant and must follow accepted accounting procedures for record-keeping and reporting;
  - Legally responsible for keeping complete and accurate records of all financial activity of the political party (receipts/disbursements; assets/liabilities), for integrating and reconciling all financial accounts of the party, and for submitting true and accurate reports of this activity in accordance with requirements and schedule for reporting stated in the political finance laws and regulations;
  - Provided authority within the political party organization to approve all party expenditures that exceed [### rupiah] and all contributions that exceed [### rupiah] for conformity of these transactions with legal requirements;
  - Provided unrestricted access to all political party financial records and receive full cooperation from all party officials;
  - Obligated to cooperate with and facilitate all audits or any official investigations of political party accounts within his/her responsibility.
- Political party central committee must maintain consolidated financial records of contributions to, and expenditures made by, such party at all levels of organization, including subordinate party organizations at all geographic levels, who shall report to the central party headquarters all contributions received that exceed [### rupiah] and all expenditures that exceed [### rupiah].
- KPU (or other supervisory body), through implementing regulations, shall:
  - Prescribe standards for record-keeping, accounting and financial reporting;
  - Determine other specific procedures or provide further clarification for these provisions, as necessary.

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### **Recommendation 5**

Additional principles of political party financing regarding election campaign funds should be set forth in general elections law and implementing regulations.<sup>20</sup> These include:

- Each political party intending to compete in general elections must establish an Election Campaign Fund Account within the first 15 days of January of the calendar year in which general elections are held. This account shall be maintained separately from the party's Administrative Account. All expenditures made by a political party for election campaign expenses, including but not limited to all expenditures during the official election campaign period, must be made from the Election Campaign Fund Account. All financial activity in the Election Campaign Fund Account must be fully and accurately reported in the party's Election Campaign Fund Report.
- Contributions received by a political party during the calendar year in which general elections are held may be deposited in either the party's Election Campaign Fund Account or the party's Administrative Account. All contributions must be fully and accurately reported in the appropriate report for a party account.
- If party funds are transferred into the Election Campaign Fund Account from the party's Administrative Account (including all party accounts within Administrative Account) and used for election campaign purposes, the original donors of such funds must be identified and fully reported in the financial report of the Election Campaign Fund Account. The identity of such donors shall be determined according to the most recent contributions to the account from which the transfer was made and going back until accounting for donors of all funds transferred.
- For purposes of conducting the election campaign, a political party may use offices, facilities, supplies, materiel, equipment, vehicles, personnel or other party assets previously owned, rented, purchased or contracted for by the party prior to establishing the Election Campaign Fund Account. Any other expenditures or use of property for election campaign purposes must be made from, or identified as a non-monetary contribution to, the Election Campaign Fund Account.
- Any funds remaining in the Election Campaign Fund Account (not already obligated to pay for election campaign expenses) following the election shall be transferred to the party's Administrative Account by 31 October of the calendar year in which general elections are held. The balance of funds in the Election Campaign Account as of 31 October (not already obligated to pay for election campaign expenses) shall be transferred into the party's Administrative Account. The Election Campaign Fund Account may only be maintained and operated after 31 October for purposes of paying outstanding bills. Parties shall notify the KPU (or other election authority) when the Election Campaign Fund Account is finally closed.
- Candidates nominated by a political party shall be considered representatives/agents of such party for purposes of the provisions of this law and the Law on Political Parties. All contributions provided to candidates (including non-monetary donations) shall be considered as contributions to the political party that nominated such candidates and shall be subject to the same prohibitions, limitations and reporting

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<sup>20</sup> For provisions applicable to DPD candidates and elections, see: **Recommendation 10**.

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requirements as contributions to political parties under this law and the Law on Political Parties.

- All funds raised and spent by candidates for election campaign purposes shall be fully and accurately reported by the political party that nominated such candidates in the party's Election Campaign Fund Report. Candidates shall finance all campaign activity in support of their candidacy either through a separate Candidate Account or through the designated accounts of the party that nominated them. For contributions received by candidates, either –
  - Contributions shall be forwarded by candidates to their political party for deposit in party election campaign fund accounts; or
  - Candidates who raise and spend funds for political purposes through their own Candidate Account must notify their party of all funds received and spent for election campaign purposes; candidate financial activity is to be fully reported by their party.
- Candidates may use their own personal funds for personal expenses of themselves or immediate family members incurred during the election campaign period, without reporting such expenses as an election campaign expense –
  - Personal expenses include travel expenses for election campaign purposes within the candidate's electoral district. Expenses incurred for candidate travel for election campaign purposes that are paid by a political party (or any other person or group) must be reported in the Election Campaign Fund Report of the political party that nominated such candidate.
  - Personal expenses do not include expenditures for campaign materials or advertising space or broadcast time, or for any other direct election campaign expense.
  - Personal funds of a candidate may not be obtained from any gift or donation from any other person or entity. Gifts or donations to a candidate or representative/agent of a candidate from any other person or entity shall be treated as a political contribution.
- KPU (or other authority) shall be entitled to seek court action to revoke qualification of a political party to compete in general elections if such party –
  - Fails to appoint or keep filled the position of party Financial Officer; or
  - Fails to timely submit financial reports required by law, or submits financial reports containing significant or deliberate inaccuracies (particularly including *Financial Statement of Assets and Liabilities* or *Annual Administrative Account Report* required to be submitted in January of calendar year in which general elections are held [see: Recommendation 14]).

### **Recommendation 6**

Both laws should contain provisions strengthening basic prohibitions on expenditures and fund-raising, such as the following:

- Political parties and candidates are prohibited to use any government (state) funds, facilities, personnel, supplies, materiel, equipment or any other government (state) resources for election campaign or other political purposes, except as specifically authorized by law.

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- Political parties and candidates are prohibited from accepting “anonymous contributions” (except under conditions as specifically permitted by law, such as small donations received by pass-the-hat solicitations at public meetings).
  - Political parties and candidates are prohibited from accepting contributions given in the name of another. Political parties or candidates may not accept contributions that they know or should have known have been passed through an intermediary (conduit) from another donor, unless the identity of the original donor is reported as the source of the contribution.
  - Persons or entities identified on political finance disclosure reports as making contributions to a political party or candidate may not receive advance payments or reimbursements for such contributions from other persons or entities.

### **Recommendation 7**

Prohibition upon vote-buying at *Elections: Article 110(1)* should be clarified:

- The range of persons covered by this prohibition should be expanded to include “any representative/agent of a political party or candidate, or anyone acting at the request or with the consent of a political party or candidate or their representative/agent.”
- In acknowledgment of widespread practices in Indonesia, the scope of activity covered by this provision should probably be narrowed. An exception should be permitted for “flags, banners, T-shirts, hats, posters, leaflets and other election campaign materials of minimal value containing advertisement for a political party or candidate and distributed openly to the public.”

### **Recommendation 8**

Both laws should clarify legal status and reporting for non-monetary contributions:

Political parties may accept donations in non-monetary (in-kind) form, such as goods, services or use of personnel, facilities or equipment –

- All donations in non-monetary form are legally equivalent to contributions of money. Non-monetary donations are subject to limitations upon contributions under this law, and must be reported as contributions in the political party’s consolidated financial report.
- Amount of non-monetary contributions shall be determined at fair market value.
- Discounts in prices on sale of goods or services, which are provided to parties or candidates and not normally given to all customers, are considered non-monetary donations for the full amount of the unusual discount.
- Political parties have received non-monetary donations if any party representative/agent, including a candidate, accepts or uses the donated goods, services or facilities for any political purpose.

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**Recommendation 9**

Both laws should require the identity of sponsors of a political communication to be stated in the communication:

All political communications to the general public must contain a clear and accurate statement of sponsorship to identify who paid for the communication –

- Political communications are any form of advertising to the general public that supports, promotes or opposes political parties or candidates.
- Newspaper advertisements, leaflets or posters must contain written statement of sponsorship.
- Television and radio advertisements must contain audio statement of sponsorship.
- Newspapers and television/radio broadcasters are prohibited from providing advertising space/time for political communications lacking a statement of sponsorship.

**Recommendation 10**

As noted above, the draft law on general elections inappropriately includes candidates for *DPD* in regulatory provisions regarding donations to political parties that are received by (and made by) candidates during the election campaign period. Reference to *DPD* candidates should be eliminated from *Elections: Article 111(1)*.

A new section should be added to the election law providing separate and distinct regulation of *DPD* candidates and election campaigns for *DPD*, including to –

- Identify amount of contribution limits and permissible sources of election campaign funds for *DPD* candidates;
  - *DPD* candidates should be prohibited from receiving monetary or in-kind contributions from political parties, from candidates for national *DPR*, or from candidates for Provincial and Regency/Municipality *DPRD*.
- Require *DPD* candidates to establish and report a *DPD* Election Fund Account;
  - Regulation and reporting requirements should be similar to those for political party Election Campaign Fund Accounts, including timing for establishing and terminating the account, designation of a Financial Officer responsible for complying with political finance requirements, and reporting schedule (see: Recommendation 15).

**Recommendation 11**

Clarify and integrate contribution limitations for both laws –

- Use the same terminology and definitions for describing individuals and entities;
- Base the time frame for application of contribution limitations upon calendar year;
- Set different limits upon contributions to political parties from individuals and (distinct from) legal entities, but use limits for each type uniformly in both laws;
- Consider approving higher contribution limits for calendar year in which general elections are held;
- Include loans from legal entities and individuals in definition of contribution;

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- Aggregate (combine) contributions per donor for each recipient (political party or candidate) for purposes of applying contribution limitations;
  - Combine party administrative and election campaign accounts in calendar year for application of limitation per donor; donors may not contribute more than limitation to all accounts of one party per year.

### **Recommendation 12**

Both laws should contain a “return” requirement for impermissible contributions:

If a political party or candidate receives a contribution that is prohibited or in excess of amounts allowed by law, such contribution must be returned to the donor in its entirety or in the amount that exceeds the legal amount within 48 hours. The party or candidate receiving a prohibited or excessive contribution shall enter a record of the circumstances of the returned contribution on the party’s next financial report.

### **Recommendation 13**

Political party law should require political parties to submit (for review and audit) an annual financial report to the KPU [or other authority] –

*Annual Administrative Account Report.* Each registered political party shall submit an Annual Administrative Account Report no later than February 1 of each year.

- 1) The Report shall fully and accurately describe the financial transactions of the political party’s Administrative Account for the preceding calendar year, including all contributions received, all expenditures made, and all transfers of funds made from/to other party accounts<sup>21</sup>.
- 2) The Report shall be signed by the political party’s Chairman and Financial Officer; these party officers shall affirm that such report is accurate to the best of their knowledge.
- 3) KPU [or other authority] shall prescribe accounting standards, reporting procedures, and report contents/formats for this Report through implementing regulations.
- 4) KPU [or other authority] shall review and audit each party’s Report and shall be assisted in the audit process by [state auditing body]; political parties shall provide records, documentation or additional information about political finance activity upon request of KPU [or other authority].
- 5) Failure by a political party to submit the Report in a timely, complete or accurate manner shall be sufficient legal basis for KPU [or other authority] to:
  - a) Initiate proceedings in an appropriate court to seek monetary penalties from such party or to revoke registration of such party; or

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<sup>21</sup> Special requirements and accounting rules will be necessary for political parties that amalgamate (or split apart) during the time period covered by political finance reports.

- b) Initiate proceedings in an appropriate court to seek monetary penalties from an individual person whose gross misfeasance or negligence caused such failure; or
- c) Refer cases of deliberate violation to prosecutors for further action.

#### **Recommendation 14**

To facilitate comprehensive reporting and enforcement, the political party law should require political parties to submit (for review and audit) a periodic baseline financial statement to the KPU [or other authority] prior to general elections. The law on general elections should specifically provide that parties will be denied certification of candidate lists if these reports are not submitted in a timely and accurate manner.

*Financial Statement of Assets and Liabilities.* Each registered political party shall submit a Financial Statement of Assets and Liabilities by February 1 of the calendar year in which general elections are to be held.

- 1) The Report shall fully and accurately include all assets and liabilities of the political party as of December 31 of the preceding year<sup>22</sup>:
  - a) Assets shall include all funds, property and everything of value owned by the political party, including all cash and cash equivalents; real estate, buildings, equipment, vehicles or other tangible property; accounts receivable or prepaid expenses;
  - b) Liabilities shall include debts, accounts payable, loans or other obligations;
  - c) Assets or liabilities that individually exceed [### rupiah] in value shall be individually itemized and described in a supporting note to the Statement.
- 2) The Statement shall be signed by the political party's Chairman and Financial Officer; these party officers shall affirm that such statement is accurate to the best of their knowledge.
- 3) KPU [or other authority] shall prescribe accounting standards, reporting procedures, and report contents/formats for this Statement through implementing regulations.
- 4) KPU [or other authority] shall review and audit each party's Statement and shall be assisted in the audit process by [state auditing body]; political parties shall provide records, documentation or additional information about political finance activity upon request of KPU [or other authority].
- 5) Failure by a political party to submit the Report in a timely, complete or accurate manner shall be sufficient legal basis for KPU [or other authority] to:
  - a) Deny certifying candidate lists of such party for participation in elections; or
  - b) Initiate proceedings in an appropriate court to seek monetary penalties from such party or to revoke registration of such party; or
  - c) Initiate proceedings in an appropriate court to seek monetary penalties from an individual person whose gross misfeasance or negligence caused such failure; or
  - d) Refer cases of deliberate violation to prosecutors for further action.

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<sup>22</sup> Special requirements and accounting rules will be necessary for political parties that amalgamate (or split apart) during the time period covered by political finance reports.

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**Recommendation 15**

The general election law should require political parties to submit (for review and audit) a report regarding election campaign funds to the KPU [or other authority] –

*Election Campaign Fund Report.* Each political party that qualified to compete in general elections, and for which the KPU certified nominations of candidate(s) to appear on the ballot in general elections, shall submit to KPU [or other authority] an Election Campaign Fund Report by December 31 of the calendar year in which general elections are to be held.

- 1) The Report shall fully and accurately describe the financial transactions of the political party's Election Campaign Fund Account since the account was established in January of the calendar year in which general elections are held until November 30 of same year, including all contributions received, all expenditures made, and all transfers of funds made from/to other party accounts.
- 2) The Report shall be signed by the political party's Chairman and Financial Officer; these party officers shall affirm that such report is accurate to the best of their knowledge.
- 3) KPU [or other authority] shall prescribe accounting standards, reporting procedures, and report contents/formats for this Report through implementing regulations.
- 4) KPU [or other authority] shall review each party's Report and shall be assisted in review process by [state auditing body]; political parties shall provide records, documentation or additional information about political finance activity upon request of KPU [or other authority].
- 5) Failure by a political party to submit the Report in a timely, complete or accurate manner shall be sufficient legal basis for KPU [or other authority] to:
  - a) Initiate proceedings in an appropriate court to seek monetary penalties from such party or to revoke registration of such party; or
  - b) Initiate proceedings in an appropriate court to seek monetary penalties from an individual person whose gross misfeasance or negligence caused such failure; or
  - c) Refer cases of deliberate violation to prosecutors for further action.

**Recommendation 16**

The general election law should also require major news media outlets—television and radio stations and newspapers and magazines of general circulation—to submit special reports regarding political advertising purchased by any person or group (including but not limited to political parties or candidates) during the election campaign period:

*Political Advertising Report.* Major news media outlets [defined by amount of broadcast area or print circulation] in the Republic of Indonesia must submit a Political Advertising Report to the KPU [or other authority], if three conditions apply:

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- i) During the period 90 days prior to Election Day;
  - ii) Broadcast time or print space is purchased from the media outlet for advertising that directly promotes or supports (or opposes) any political party or candidate; and
  - iii) Value of such advertising time or space exceeds [### rupiah, according to type of media outlet].
- (1) Reports of news media outlets required by this provision shall be submitted within 48 hours of receiving a payment, obligation to pay or contractual agreement to provide broadcast time or print space.
  - (2) Reports required by this provision shall clearly describe the circumstances of the purchase of advertising time or space, the value/amount of such purchase and the identity of the person or group making such purchase.
  - (3) The KPU [or other authority] shall prescribe accounting standards, reporting procedures and report contents/formats for this Report through implementing regulations.
  - (4) Failure by a news media outlet to submit the Report in a timely, complete or accurate manner shall be sufficient legal basis for KPU [or other authority] to:
    - a) Initiate proceedings in an appropriate court to seek monetary penalties; or
    - b) Refer cases of deliberate violation to prosecutors for further action.

### **Recommendation 17**

The election law should address the issue of providing free media opportunities (television and radio broadcast time) for political parties or candidates in general elections. If no such indirect subsidy for political activity is intended, then the law should state that providing of free media time to parties or candidates during the election campaign by television and radio stations is a contribution to such parties or candidates under the law.

If providing free media time is intended, then the law should stipulate:

- Which parties qualify for free media time;
- How much free media time parties will receive, including standards for allocating time if the amount of free media time is not the same for all parties;
- If (and how) candidates for DPR/DPRD will be provided free media time separately (particularly if voting system for DPR/DPRD is 'open list'<sup>23</sup>);
- If (and how) candidates for President and/or candidates for DPD will be provided free media time;
- The restrictions, if any, upon content or format in use of free media time;
- The guarantees and terms of compensation given to television and radio stations providing free media time to political parties and candidates;
- Which authority will supervise allocation of time and implementation of free media time provisions.

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<sup>23</sup> See IFES' July report *Electoral System Proposed in Draft Election Law: Multi-Member District Proportional Representation and Open-List Voting*.

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**Recommendation 18**

Political parties should be given pro-active assistance by the KPU [or other authority] to encourage compliance with political finance reporting requirements, such as:

- Providing each party's Financial Officer with reporting guidebooks and special computer software;
- Conducting training programs for Financial Officers and other appropriate political party officials.

**Recommendation 19**

Political parties should no longer be responsible for conducting (and paying for) audits of their own financial reports. The auditing function should be formally brought under management of the election authority, and costs of audits should be borne by the state.

- Audits of each financial report or statement required by law should be conducted by independent and professional auditors under the supervision and guidance of the KPU [or other authority]. Auditors should be temporarily hired by the KPU [or other authority] or recruited temporarily from qualified personnel from government bodies.
- At the request of the KPU [or other authority], or at the request of any political party required to submit reports under these laws, a state auditing body should determine the value of property owned or controlled, or received as a non-monetary contribution, by a political party.

**Recommendation 20**

The political party law should provide more detail about the obligation of the KPU [or other authority] to provide for public disclosure of information submitted in political party financial reports and news media reports:

Financial reports and statements submitted to KPU [or other authority] by political parties and news media pursuant to this law and the Law on General Elections –

- Shall be: 1) Copied, filed and organized by KPU [or other authority] within 48 hours of receipt; and then 2) Immediately made available for examination in a facility established and supervised by the KPU [or other authority] that provides suitable conditions for public examination of financial reports (and photocopying at reasonable cost).
- Shall be accessible for examination: 1) By persons or groups from the general public, including but not limited to representatives of political parties, news media, academics or non-governmental organizations; and 2) Pursuant to procedures determined in implementing regulations by the KPU [or other authority].

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### **Recommendation 21**

Laws on political parties and general elections should clearly describe violations—and sanctions and penalties for such violations—related to political finance regulation, reporting obligations (filing late or inaccurate reports) and public disclosure of financial activity of political parties and candidates. Political finance violations should be classified by type and coordinated between both laws.

- Classification, and appropriate penalty for violation, will depend on seriousness of violation, including:
  - Monetary amount of funding involved;
  - Significance of violation to integrity of political finance system; and
  - Degree of culpability of party officers or representatives/agents (behavior that arises from mistake, negligence or deliberate intent).
- Minor administrative violations -
  - Include: brief tardiness in submitting financial reports according to required timeline (late filing less than thirty days); failure to maintain adequate record-keeping or documentation (not materially affecting completeness or accuracy of reports);
  - Punishable by small monetary fines upon offending party and/or responsible officers/representatives/agents.
- Significant administrative violations -
  - Include: failure to submit, or substantial delay in submitting, required reports; significantly incomplete or inaccurate financial information on reports through mistake or negligence;
  - Punishable by large monetary fines or political sanction (such as revoking party's qualification to compete in elections or party registration).
- Violations constituting criminal acts -
  - Include: deliberately providing significantly incomplete or inaccurate financial information; accepting prohibited, excessive or unreported contributions; making expenditures for political purposes from funds outside reported party accounts, or consenting to or coordinating in the making of expenditures by other persons (unreported expenditures);
  - Punishable by criminal penalties proportionate to violation and consistent with crimes of similar seriousness.

POLITICAL PARTY FINANCIAL REPORTS SUBMITTED  
TO SUPREME COURT OF REPUBLIC OF INDONESIA

*\* Political Parties Holding Seats in People's Representative Assembly (DPR)*

**1999 Annual Financial Reports**

On December 1, 1999, the Supreme Court issued letters of notice (signed by Pranowo, Registrar/Secretary General of the Supreme Court) to all political parties advising them of the Political Party Law's requirement for submission of political party Annual Financial Reports to the Supreme Court. On June 13, 2000, the Supreme Court issued request letters (signed by Pranowo, Registrar/Secretary General of the Supreme Court) as a further reminder to all political parties for submission of 1999 Annual Financial Reports. Parties submitting reports as of September 27, 2002, are as follows; 8 of 21 parties holding seats in DPR submitted this report.

1. Partai Cinta Kasih Kristus Kebangsaan Indonesia
2. Partai Demokrasi Kasih Bangsa\*
3. Partai Uni Demokrasi Indonesia
4. Partai Era Reformasi Tarbyah Islamyah
5. Partai Rakyat Prima
6. Partai Syarikat Islam Indonesia – 1905\*
7. Partai Pekerja Indonesia
8. Partai Universal Rakyat Mahasiswa Indonesia Seutuhnya
9. Partai Aliansi Kebangkitan Muslim Sunny Indonesia
10. Partai Keadilan Sosial / Marata Saruksuk
11. Partai Ummat Islam
12. Partai Keadilan dan Persatuan\*
13. Partai Indonesia Raya
14. Partai Daulat Rakyat\*
15. Partai Pelopor Pendidikan Indonesia
16. Partai Umat Muslimin Indonesia
17. Partai Perjuangan Pelajar dan Pekerja
18. Partai Persatuan Thariqat islam
19. Partai Putra Bangsa
20. Partai Kerja Keras Nasional
21. Partai Perjuangan dan Doa Rakyat Indonesia
22. Partai Rakyat Marhaen
23. Partai Independen
24. Partai Kebangkitan Kaum Ahlussunnah Wal Jama'ah
25. Partai Ka'bah
26. Partai Reformasi Nasional
27. Partai Nahdlatul Ummat\*
28. Partai Kesatuan Wahdatul Ummah
29. Partai Lansia Indonesia
30. Partai Demokrasi Islam Republik Indonesia
31. Partai Budaya Bangsa Nusantara
32. Partai Rakyat Indonesia
33. Partai Masyumi Baru

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34. Partai Hijau
  35. Partai Umat Muslimin Indonesia
  36. Partai Islam Demokrat
  37. Partai Warga Bangsa Indonesia
  38. Partai Kedaulatan Rakyat
  39. Partai Nasional Indonesia
  40. Partai Cinta Damai
  41. Partai Trisila
  42. Partai Tunas Bangsa
  43. Partai Pembaharuan Indonesia
  44. Partai Patriot Indonesia
  45. Partai Amanat Nasional\*
  46. Partai Keadilan\*
  47. Partai Demokrasi Indonesia – Perjuangan\*

### **2000 Annual Financial Reports**

The Supreme Court never issued request letters to any political party for submission of 2000 Annual Financial Reports. However, some parties still submitted their 2000 reports. Parties submitting reports as of September 27, 2002, are as follows; 4 of 21 parties holding seats in DPR submitted this report.

1. Partai Demokrasi Indonesia – Perjuangan\*
2. Partai Golongan Karya\*
3. Partai Nasional Indonesia
4. Partai Demokrasi Kasih Bangsa\*
5. Partai Amanat Nasional\*

### **2001 Annual Financial Reports**

On June 19, 2002, the Supreme Court issued request letters (signed by Justice Moegihardjo, Secretary of Supreme Court's Political Party Supervision Administration Team) to all political parties reminding them of the requirement for submission of 2001 Annual Financial Reports. Parties submitting reports as of September 27, 2002, are as follows; 9 of 21 parties holding seats in DPR submitted this report.

1. Partai Amanat Nasional<sup>24</sup>\*
2. Partai Uni Demokrasi Indonesia<sup>25</sup>
3. Partai Demokrasi Kasih Bangsa\*
4. Partai Persatuan Pembangunan\*
5. Partai Kebangkitan Kaum Ahlusunnah Wal Jama'ah<sup>26</sup>
6. Partai Amanah Rakyat
7. Partai Lansia Indonesia
8. Partai Keadilan Sosial / Marata Saruksuk
9. Partai Reformasi Cinta Kasih Tuhan
10. Partai Rakyat Indonesia
11. Partai Keadilan\*

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<sup>24</sup> Filed before Supreme Court's 2002 request letters were issued.

<sup>25</sup> *Idem.*

<sup>26</sup> Reported no funds available or spent.

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12. Partai Kebangkitan Umat\*
  13. Partai Indonesia
  14. Partai Umat Muslimin Indonesia
  15. Partai Proklamasi 45<sup>27</sup>
  16. Partai Golongan Karya\*
  17. Partai Universal Rakyat Mahasiswa Indonesia Seutuhnya<sup>28</sup>
  18. Partai Demokrasi Indonesia – Perjuangan\*
  19. Partai Keadilan & Persatuan\*
  20. Partai Reformasi & Perjuangan Bangsa
  21. Partai Hijau
  22. Partai Kebangkitan Bangsa\*
- (Source: Supreme Court)*

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<sup>27</sup> Reported that it has no bank accounts.

<sup>28</sup> Reported no funds available or spent.

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**Excerpts: DEPDAGRI DRAFT LAW ON POLITICAL PARTIES**

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**CHAPTER V  
FUNCTION, RIGHTS AND OBLIGATIONS**

...

**Article 8**

A political party has the obligation to:

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- h. maintain bookkeeping and openly announce any contribution received to the public and government;
- i. prepare periodic financial statements annually and submit it to the General Elections Commission following an audit by a public accountant;
- j. own a Special Election Campaign Fund Account and submit a financial statement audited by a public accountant to the General Elections Commission by 6 (six) months at the latest following election day.

*Elucidation – Article 8, Point j.: "Special Election Campaign Fund Account" means an account opened for the purpose of holding election campaign funds, which must be separate from accounts holding funds for other purposes.*

...

**CHAPTER VIII  
FINANCIAL MATTERS****Article 14**

- (1) Financing for a Political Party shall be obtained from:
  - a. Member's periodic fee;
  - b. Lawful contributions.
- (2) Contributions as referred to in paragraph (1) point b may be in the form of money, goods, facility, equipment and/or services.

**Article 15**

- (1) Contributions from members and non-members as referred to in Article 14 paragraph (1) point b shall not exceed Rp. 100,000,000.00 (one hundred million rupiah) within a one year period.
- (2) Contributions from corporations or any other form of legal entities as referred to in Article 14 paragraph (1) point b shall not exceed Rp. 500,000,000.00 (five hundred million rupiah) within a one year period.

- (3) Contributions as referred to in paragraph (2) by corporations and any other forms of business [for-profit] entity shall be made pursuant to the provisions of the prevailing laws and regulations.

Elucidation – Article 15:

*Paragraph (1)*

*Contributions from individual members and non-members in the form of money or goods which is set to not exceed Rp. 100,000,000 (one hundred million rupiah) is intended as a means to prevent control by an individual over the relevant Political Party.*

*Paragraph (2)*

*Those excluded from [the definition of] a corporation or any other form of business entity are State Owned Enterprises.*

*Paragraph (3)*

*Contributions from corporations and other form of business [for-profit] entity in the form of money or goods which is set to not exceed Rp. 500,000,000 (five hundred million rupiah) is intended as a means to prevent control by a corporation owner over the relevant Political Party.*

## **CHAPTER IX PROHIBITIONS**

### **Article 16**

...

- (3) A Political Party shall be prohibited from:
- e. receiving and making contributions in any form from or to foreigners, whether directly or indirectly; or
  - f. receiving contributions, whether in the form of goods or money, from any party who does not state its clear identity; or
  - g. receiving contributions from individual persons and/or corporations/business [for-profit] entity exceeding the specified limit; or
  - h. Seeking or receiving funds from state/region owned enterprises and humanitarian organizations.
- (4) A Political Party shall be prohibited from establishing a business [for-profit] entity and/or hold shares in a business entity.

Elucidation – Article 16, Paragraph (3):

*Point a.*

*"Foreigners" means foreign citizens, foreign public organizations and foreign governments.*

*Point b.*

*"Clear identity" includes information on the name and complete address of the relevant individual or company.*

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## **CHAPTER XI SUPERVISION**

### **Article 20**

Supervision with respect to the prohibitions as referred to in Article 16 shall comprise of the following duties:

...

- f. request the result of financial audit and balance statement of a Political Party as referred to in Article 8 point h, point I, and point j.
- g. conduct examination over the possibility of violation against prohibitions applicable to Political Parties as referred to in Article 16;

### **Article 21**

- (4) Supervision and implementation of the provision of this law shall be conducted by the Government.
- (5) Reports on violations of prohibitions applicable to Political Parties as referred to in Article 16 paragraph (2), paragraph (3), paragraph (4) and paragraph (5) shall be submitted by the Government in accordance with the prevailing laws and regulations.
- (6) Investigation, indictment and examination in court shall be respectively conducted by Investigators, the District Attorney, and the Court within the jurisdiction of a general court of law as provided in Law No. 8 of 1981 concerning Criminal Procedural Law.

## **CHAPTER XII SANCTIONS**

### **Article 23**

...

- (5) Violations of the provisions as referred to in Article 8 shall be subject to administrative sanction in the form of:
  - a. public reprimand;
  - b. suspension of the relevant Political Party for a one year period minimum;
  - c. ban from participating in at least one election.
- (6) Violations of the provisions as stipulated in Article 16 may be subject to the following sanctions:
  - a. violations of paragraph (1) shall be subject to sanctions in the form of refusal of registration of the relevant political party by the Minister of Justice;
  - b. violations of paragraph (2) shall be subject to administrative sanction in the form of:
    - (i) public reprimand;
    - (ii) suspension of the relevant Political Party for a one year period minimum;
    - (iii) ban from participating in at least one election.
  - c. administrator of a political party who commits a violation as set out in paragraph (3) shall be punishable by imprisonment for at least 180 (one hundred and eighty) days or a maximum fine of Rp. 1,000,000,000.00 (one billion rupiah);

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- d. violations of paragraph (4) shall be subject to administrative sanction in the form of open reprimand or dissolution of such business entity;
  - e. a political party administrator who uses his/her political party to conduct activities as referred to in Article 16 paragraph (5) shall be charged in accordance with the applicable provisions of the law and his/her political party may be dissolved.

#### **Article 24**

- (5) Any person who makes a contribution to a Political Party which exceeds the amount as set out in Article 15 shall be punishable by imprisonment for a maximum term of 90 (ninety) days or a fine in the maximum amount of Rp. 250,000,000.00 (two hundred and fifty million rupiah).
- (6) Any person who influences or coerces another person and/or business entity to make a contribution to a Political Party which exceeds the amount as set out in Article 15 shall be punishable by imprisonment for a maximum term of 180 (one hundred and eighty) days or a fine in the maximum amount of Rp. 500,000,000.00 (five hundred million rupiah).
- (7) A Political Party administrator who accepts a contribution in an amount exceeding that which is set out in Article 16 shall be punishable by imprisonment for a maximum term of 180 (one hundred and eighty) days or a fine in the maximum amount of Rp. 1,000,000,000.00 (one billion rupiah).
- (8) Accepted contributions which exceed the specified amount as referred to in paragraph (1), paragraph (2) and paragraph (3) shall be seized to become the property of the State.

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**Excerpts: DEPDAGRI DRAFT LAW ON GENERAL ELECTIONS**

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**CHAPTER IX****ELECTION CAMPAIGNS  
AND ELECTION CAMPAIGN FUNDS****Part One  
Election Campaign**

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**Article 110**

- (1) Candidate members for the DPR, DPD, Provincial and Regency/City DPRD are prohibited from promising and/or giving money or other materials with the aim of affecting voters.
- (2) Candidates who are proven to have committed a violation as referred to in paragraph (1) shall be suspended as a candidate by the KPU/Provincial Election Committee/Regency/City Election Committee.
- (3) Procedure for the suspension of candidate as referred to in paragraph (2) shall be determined by the KPU.

**Part Two  
Campaign Funds****Article 111**

- (1) Election campaign funds may be obtained by the Party Central Committee of a Participating Political Party from:
  - a. members of the relevant Participating Political Party including candidates for the DPR, DPD, Provincial DPRD and Regency/City DPRD;
  - b. other non-binding sources including private legal entities, or persons, whether given to the Participating Political Party or to the candidates for the DPR, DPD, Provincial DPRD and Regency/City DPRD;
- (2) Contributions to Campaign Funds as referred to in paragraph (1) from any individual person shall not exceed Rp. 50,000,000.- (fifty million rupiah), and contributions from a private legal entity shall not exceed Rp. 500,000,000 (five hundred million rupiah).
- (3) Campaign funds as referred to in paragraph (1) in the form of a loan from a company or private legal entity shall not exceed the amount as specified in paragraph (2).
- (4) Contributions of more than Rp. 5,000,000.- (five million rupiah) made to any Participating Political Party and candidate members for the DPR, DPD, Provincial DPRD and Regency/City DPRD must be reported to the KPU/Provincial Election Committee/Regency/City Election Committee with regard to the form and amount of the contribution and the full identity of the contributor.

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*Elucidation – Article 111, Paragraph (2): Election campaign funds are in the form of money, goods and other services and/or that can be considered the same or valued with money.*

### **Article 112**

- (4) All campaign funds, whether income or expenditures, must be audited by a registered Public Accountant by no later than 30 days following Election Day.
- (5) The report from the audit as referred to in paragraph (1) must be submitted to the *KPU* accompanied by all valid evidence of contributions and expenditures with regard to the election campaign by no later than 30 (thirty) days following election day.
- (6) All documents pertaining to the report on campaign funds must be maintained and kept by the *KPU* and must be made available to the public.

### **Article 113**

- (1) Candidate members for the DPR, DPD, Provincial DPRD and Regency/City DPRD and/or Participating Political Parties are prohibited from accepting donations or other forms of assistance for the purpose of campaigns which come from:
  - a. foreigners;
  - b. a contributor whose identity is not clear.
- (2) Participating Political Parties and/or candidate members for the DPR, DPD, Provincial DPRD and Regency/City DPRD are prohibited from accepting and/or agreeing to direct funding of their campaign activities.
- (3) Candidate members for the DPR, DPD, Provincial DPRD, and Regency/City DPRD and/or Participating Political Parties which violate the provisions as stipulated in paragraph (1) and paragraph (2) shall have its nomination and/or participation in the Elections declared void by a court of law.

...

## **Part One Supervision and Legal Enforcement**

### **Article 125**

- (1) In supervising the election process, the *KPU* shall have the following powers:
  - a. To supervise all election activities;
  - b. To accept reports pertaining to violations of election laws;
  - c. To investigate violations against election regulations;
  - d. To prepare Reports on the investigation as referred to in point c;
  - e. To submit the Investigation Report as referred to in point d to investigators.
- (2) The mechanism for conducting supervision shall be determined by *KPU*.

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**Article 126**

- (1) Legal enforcement with respect to violations of this law shall be conducted by courts within the general judiciary.
- (2) The courts as referred to in paragraph (1), are the Land Courts as the first level and the Supreme Court as the appellate and final level.
- (3) Resolution of the violation as referred to in paragraph (1) shall be done by the first level court at a maximum of twenty-one days, and at Supreme Court level at a maximum of fourteen days.

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**CHAPTER XVII****CRIMINAL PROVISIONS**

...

**Article 142**

...

- (9) Any person who make a contribution to campaign funds exceeding the specified limits as determined by the *KPU* shall be punishable by imprisonment of up to 3 (three) months or a maximum fine of Rp. 100,000,000.- (one hundred million rupiah).