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## THE DANGERS OF MONEY LAUNDERING FOR DEMOCRACY IN INDONESIA

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### ABSTRACT

#### KEYWORDS

money laundering,  
democracy, general  
election

Money Laundering is a serious crime. This crime occurred in several jurisdictions which made it a transnational crime. The impact caused can be detrimental to state finances and the state economy. The crime of money laundering is regulated in Law NO. 8 of 2010 article 1 paragraph 1. Democracy is a form of government in which all citizens have equal rights to make decisions that can change their lives. One form of democracy is general elections (elections) to elect national leaders. If the proceeds of crime are used as election funds, it will affect the policies of the elected leader, which will be greatly influenced by the wishes of the unscrupulous donors of funds. For example, law enforcement against crime is weak. Moreover, if the elected leader is supported by a significant vote in the legislature, then the situation will be even worse. If this is the case, it is certain that the government will no longer be able to exercise control over these criminals. Even policies in any field tend to side with the interests of the illegal financiers, therefore how the crime funds are not included in the costs of democracy

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### INTRODUCTION

This shows that the Indonesian people have had and applied democratic values at the level of life in the past as the original values of the Indonesian nation. These democratic values have developed in the noble culture of the Indonesian nation and were practiced in social life in the past. So the determination of democracy as a system of government in Indonesia has been very effectively implemented in other countries in the world, also because the democratic system is ingrained as the noble values of the Indonesian nation. Therefore, the implementation of democracy in Indonesia should be in line with and based on Pancasila and the 1945 Constitution. (Sutarman, 2017) As a means of implementing people's sovereignty, the general election after the amendment to the 1945 Constitution experienced very rapid development. This is indicated by the high level of need for election rules and the many types of elections that must be carried out in one period of government. However, these developments also have an impact on the emergence of complexity. (Isra, 2016)

General elections are held regularly and periodically regularly and continuously. With the existence of an orderly democratic system, welfare and justice can be guaranteed to be realized step by step as well as possible. This activity is also a means of channeling the basic human rights of citizens. Therefore, in the context of implementing the human rights of citizens is a must for the government to ensure the implementation of the general election in accordance with a predetermined constitutional schedule.

In a modern democratic system, however, the legality and legitimacy of government on the one hand must be formed based on the provisions of the law and the constitution, so that it can be said to be legality. On the other hand, the government must also be

legitimate, in the sense that in addition to being legal, it must also be trusted. This means that every democratic government that claims to come from the people must indeed be in accordance with the results of the general election as an important feature or main pillar in a modern democratic system (Mulyadi, 2013). At the local government level, elections are actualized into the post-conflict local election institutions (Mahfud, 2012). Here, there is room for deliberation for the community to determine the direction of government in the regions. Likewise, there is a deliberation of citizen participation in determining leadership in the regions. Through the post-conflict local election, the policies made by the elected regional head will be formulated based on the taste of the community, including their implementation. Public policies that benefit the community are the end of improving democracy through post-conflict local elections (Marijan, 2019).

This is done, with the hope that the voters will vote for them, because the catchphrases and slogans that are easy to remember can be directly chosen by the voters in the voting booths. Further studies regarding the presidential and vice-presidential elections, legislative elections, and regional elections have their own dynamics, from voters who can vote more than one, ballooning of ballots, involving children in campaigns, fictitious ballots, black campaigns, dawn attacks, and other things. Others that have been prohibited in the laws and regulations concerning the presidential and vice-presidential elections, legislative elections, and regional elections to the alleged practice of money laundering from the proceeds of corruption to finance the campaigns of candidates in the general election.

The funding for the political parties that carry the candidates must be very clear. Practically speaking, the factual existence of the party only resonates as if making the people the central theme before the campaign and or when the campaign is carried out through social activities, sporting events, demonstrations or other lip service displays that make the people a commodity. However, when they have been elected as people's representatives and even within the power elite, sometimes they set the expectations of the people who are lulled by a pile of promises during the frenetic celebration of the five-year democracy. Even in some legal cases, for example, elites seem to protect each other, cover up mistakes, and ironically commit corruption in congregation (Widodo, Darumurti, & Nurmandi, 2016).

In the midst of the excitement of the election which cost billions of rupiah, it turns out that there are still various problems that can interfere with the implementation of the election. Political funding regulations should be able to clearly regulate the system of supervision, management and law enforcement in the event of a violation of the legal norms of campaign financing, there must be clarity, who enforces the regulatory system, how the funding mechanism is carried out and supervision of contributors in building political party governance. the good one (Putri, 2017).

In this article the author tries to discuss several points including: 1. What are the sanctions received for candidates who receive money laundering funds for their campaigns? 2. How to prevent money laundering funds from entering the costs of democracy to one of the candidates?

## RESEARCH METHODS

This study uses a normative juridical research method, which is carried out using a statute approach, a comparative legal approach supported by primary legal materials in the form of applicable laws and regulations and secondary legal materials in the form of legal books relevant to the legal issues that are relevant raised in this journal

## RESULTS AND DISCUSSION

What are the sanctions for candidates who receive money laundering funds for their campaigns?

The difference in sanctions for Law Number 7 of 2017 and Number 10 of 2016 can be seen in the table above, that Law Number 7 of 2017 only imposes sanctions on the organizers and the Election Campaign team if they violate the provisions of Article 339 paragraph (2) "election participants, campaign implementers, and the campaign team that receives the donation as referred to in paragraph 1 is prohibited from using these funds and is obliged to report to the KPU and include the contribution to the State treasury no later than 4 ha-14 days after the election campaign period ends . means either a candidate or pair of candidates, campaign teams, volunteers, political parties and even other parties who intentionally receive or give campaign funds from or to prohibited parties as referred to in Article 76 paragraph (1) and/or do not fulfill the obligations as referred to in Article 71 may be subject to sanctions. This means that sanctions can be imposed for both the giver and the recipient. money laundering recipients are criminals and must be punished.

How to prevent money laundering funds from entering the costs of democracy to one of the candidates?

### The Dynamics of Financial Disclosure of Political Parties in General Elections

The success of democracy development in elections (presidential and vice-presidential elections, legislative elections, post-conflict local elections) directly depends on the operation of the selection systems at the level of political parties, administrative selection by the KPU, and political selection and the conscience of the people (Suharizal & Arifin, 2011). According to the understanding of popular sovereignty, the people govern and regulate themselves (democracy), only the people have the right to regulate and determine restrictions on themselves, in the sense that at the last level the people provide provisions in the main issues regarding their lives, including in evaluate government and state policies. Because it is wisdom that determines people's lives (Harun, 2016).

The implementation of popular sovereignty cannot be separated from elections because elections are a logical consequence of adhering to the principle of popular sovereignty (democracy) in the life of the nation and state. The basic principle of a democratic state life is that every citizen has the right to actively participate in the political process (Thalib & SH, 2018). The facts show that democracy at the local level is hijacked by the interests of capital and power. The practice of money politics and bureaucratic politicization dominates the election. Operations to hijack democracy involve tens of billions of rupiah in funds. Just calculate based on the item of expenditure and the excitement of the candidate contestation. For the nomination fee (political boat fare), the team winning, surveys, campaign attributes, donations to voters' pockets, buying votes, campaigning in print and electronic media, to preparing witnesses at the time of voting. A fantastic figure and not comparable to the official income that will be received. The governor, for example, only gets a salary of Rp. 8,6 million / month or a total of Rp. 165 million during his five years in office. Then where will these democratic "actors" return the capital they have spent?

Campaign funds for expensive image politics. Direct elections do pose a challenge to democracy. The liberal democratic system requires candidates to have high popularity numbers to obtain a majority vote. The goal is that the elected regional heads are closer to the voters. However, problems arise when political parties and candidates do not work

optimally to gain votes. Instant methods have become the main choice, imaging through print, electronic media, and other public spaces by only displaying facial images. Voters are positioned solely as political commodities and are served political advertisements without being able to know more about the candidates. Consequently, the power of capital becomes the main supporter (Santoso, 2012).

Expensive consulting fees and winning surveys. The consulting business and winning surveys are indeed promising. It is evident that the emergence of survey institutions is increasingly widespread, which is then used by candidates to measure the electability of candidacy. Of course, not a little budget spent on And money politics is increasingly rampant (Nurlan & Hasan, 2005).

According to Edward Aspinal, money politics only exists in Indonesia, while according to Daniel Bumke the characteristics of money politics include: 1) Vote Buying, an exchange of goods, services, or money with votes in general elections; 2) Vote Broker, a person who represents a candidate/party to buy votes ; 3) Political Corruption, all forms of bribery to politicians in order to obtain favorable policies or other benefits (Fariz, Sjafrina, Sari, & Herawan, 2014).

In line with that, Indonesia Corruption Watch (ICW) stated that there were three causes of election integrity problems, namely: 1). widespread practice of negative transactional politics (money politics); 2). illicit campaign funds as political capital; and 3). the use of state and regional facilities as a winning instrument.

Money Laundering Practices as a Form of Declining Public Trust in Elected Leaders

Developed in the mass media, that the virus of corruption has spread to the regions. In the New Order era, corruption was centralized in Jakarta, centralized in the executive, along with decentralization and autonomy, corruption was also decentralized. Corruption does not only occur at the center, but also in the regions, not only in the executive, but also in the legislature (Tanuredjo, 2012). As a result of the practice of money laundering, the public's confidence in the elected leader and the general election itself is reduced. Because the public will not give their voting rights in the implementation of the general election or better known as the white group (golput). Golput's words are no stranger to hearing when elections arrive. The term golput first emerged from students and youth after the fall of the old order. The choice of students and youth at that time was in the position of abstention, which was a form of resistance to the rulers who were always repressive.

This reform era election is very different from the elections in the era of the 70s. In this reform era, people have the freedom to have the best candidates for leaders. As intelligent people, we should take part in supporting the success of the election by participating. Not abstaining is a form of people's volunteerism who has been given the authority to choose their champion who will occupy the next position. Community volunteerism will be a tremendous momentum because the people's choices behind the voices are the determinants of change.

Idea of Financial Disclosure of Elected Leaders in General Elections and Regional Head Elections

Improving the general election system is intended to achieve the objectives of organizing elections which have always been the main guide. By adhering to the achievement of election objectives and by using the framework of the principles of popular sovereignty, it becomes imperative to choose a particular electoral system that is adequate for that. To complete the achievement of election objectives and implement the

principle of popular sovereignty, various weaknesses that cannot be covered through reforming the electoral system must be found another way (Fahmi, Nuringdyah, Hasani, Syarif, & Khoir, 2013). One of them is the transparency of the financial funding of political parties in conducting elections, so that people believe in the political parties they choose, which are political parties that are free from the culture of corruption, thus giving birth to anti-corruption cadres.

General elections are a means to facilitate the process of seizing the people's mandate to gain power. In elections, the people as holders of state sovereignty choose a leader who will determine their fate for the next five years. According to Jimly Asshiddiqie, the purpose of holding the general election is fourfold, namely:

1). to enable an orderly and peaceful transition of government leadership; 2). to allow the change of officials who will represent the interests of the people in the representative institutions; 3). to implement the principle of popular sovereignty in representative institutions; 4). and to implement the principles of the rights of citizens.

The regulation of financial disclosure of political parties must be an important point that must be implemented and initiated in the future, because the existing regulations do not seem to be too strict about the financial disclosure of political parties, where there are still dynamics in the general election, both in the process of becoming candidates, campaigns in general elections, as well as in the exercise of voting rights and counting the ballots themselves.

The general election regulations of the reform era from 2000 to 2015 based on legislative elections, presidential elections, and regional elections there are 14 (fourteen) laws, namely; [19] 1). Law Number 12 of 2004; 2). Law Number 22 of 2004; 3). Law Number 10 of 2006; 4). Law Number 10 of 2008; 5). Law Number 08 of 2012; 6). Law Number 23 of 2004; 7). Law Number 43 of 2004; 8). Law Number 32 of 2004; 9). Law Number 08 of 2005; 10). Law Number 12 of 2008; 11). Law Number 01 of 2015; 12). Law Number 08 of 2015; 13). Law Number 22 of 2007; and 14). Law Number 15 of 2011.

Although there are regulations that are always changing in accordance with political developments and existing laws and regulations, the regulation on financial disclosure of political parties is always included in a regulation, but in reality the rules for financial disclosure of political parties are not effective and the culture of corruption persists. just happens, this can be seen from the news that is broadcast by the mass media.

The idea of codifying the election law is a very good breakthrough, in order to ensure the continuity of an election that is overflowing and fair (this is the principle in general elections, namely: direct, general, free, secret, honest, fair and makes the public believe in the elected leaders in the future.

Transparency of incoming funds and their use in the context of elections is an important issue for almost all democratic countries, including Indonesia. After all, the funds included in the finances of political parties should be clear in terms of their sources, use and audits, as well as being accessible to the public. This has been determined by Law Number 2 of 2008 concerning Political Parties and Article 34 paragraph (1) letter b of the Political Party Law which states that the finances of political parties must be sourced from legal donations.

So, if the origin of the money is unclear or comes from the proceeds of crime, it means that during the election there have been indications of money laundering practices or it can be said that the election process has been used as a means of money laundering. In yesterday's legislative election, there was a possibility that this would happen: it was

proven that a large amount of funds had been spent, without any reports/audits. In fact, to anticipate the occurrence of money laundering practices related to election funds, a cooperation agreement between Bawaslu and the Center for Financial Transaction Reports and Analysis (November 6, 2008) was signed. or by and for the benefit of political parties. And PPATK has access to know the profiles of candidates for legislators and political parties along with the composition of their management so that they can monitor the flow of their funds related to election activities. It turned out that this was not taken advantage of, in fact the General Elections Commission refused firmly on the grounds that there was no regulation.

In the presidential election, we should be more careful because the funding to pass the presidential candidate will be much higher and the "order" of the person behind the election of the candidate is also very high. How ironic it would be if the fate of this nation was pawned and only relied on the interests of those who contributed to the funds, especially if it was proven from the proceeds of crime. Do not let the president-elect feel indebted to donors of funds, not indebted to the people who have given up their trust through the votes given to lead the nation.

We must remember that the proceeds of crime in this country which are "still circulating" are very high, for example from illegal logging which annually amounts to Rp 55 trillion. Only around Rp 400 billion can be recovered from corruption, or from gambling and drugs which are also very large. These funds can be very tempting for political parties and presidential candidates. Meanwhile, for criminals, this democratic process is a way out to secure themselves in order to avoid the legal entanglements that have been shadowing their safety and their "business".

If an elected president turns out to be a party or himself receiving donations from criminals, it means that he gets votes for the support of illicit funds from unscrupulous people. It is feared that the policies of the elected president will be greatly influenced by the wishes of these unscrupulous donors. For example, law enforcement against crime is weak. Moreover, if the elected president is supported by a significant vote in the House of Representatives, the situation will be even worse, for example, delays in the ratification of the anti-corruption bill. If this is the case, it is certain that the government will no longer be able to exercise control over these criminals. Even policies in any field tend to side with the interests of these illegal funders and the interests of the people will be next in line.

Departing with disappointment with the results of the legislative elections that have just passed, it is hoped that the awareness of all parties, especially the KPU, Panwaslu, the government, and political parties, to heed the signs that have been determined related to the transparency of the source of funds and their use for the presidential election. In addition, it must be ensured that there is a mechanism for reporting receipts of political party funds to PPATK. For example, each donor is not allowed to use a fake or anonymous name and wherever possible donations are made by bank transfer.

All the efforts that have been regulated, both the provisions of the Political Party Law and the cooperation that has been signed between Bawaslu and PPATK, should not be viewed as mere words without meaning. Then the KPU must be willing to understand everything related to the provisions on election funding, including the dangers that will lurk if it is ignored. In the end, no matter how difficult it is to monitor the sources of funds that go to parties, it is still important to ensure that the political system does not falter and the pillars of democracy collapse just because political parties become vehicles for people who donate the proceeds of their crimes, and society becomes the victim.

## CONCLUSION

If an elected leader turns out to be a party or himself receiving donations from criminals, it means that he gets votes for the support of illicit funds from unscrupulous people. It is feared that the policies of the elected president will be greatly influenced by the wishes of these unscrupulous donors. For example, law enforcement against crime is weak. Moreover, if the elected president is supported by a significant vote in the House of Representatives, the situation will be even worse, for example, delays in the ratification of the anti-corruption bill. If this is the case, it is certain that the government will no longer be able to exercise control over these criminals. Even policies in any field tend to side with the interests of these illegal funders and the interests of the people will be next in line.

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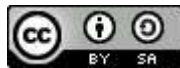
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