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### THE APPLICATION OF CRIMINAL SANCTIONS AGAINST PERPETRATORS OF POLITICAL DOWRY PRACTICES IN REGIONAL HEAD NOMINATIONS

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#### Abstract

*The practice of political money in regional head nominations poses a significant threat to the integrity of democracy and political stability in Indonesia. This research analyzes the impact of criminal sanctions on political money practitioners in enhancing electoral integrity and maintaining political stability at the regional level. Using a normative juridical method with legislative and conceptual approaches, the study finds that criminal sanctions serve as a deterrent, improve public trust in democracy, reduce corruption, and ensure equal opportunities for competent candidates. Despite these benefits, challenges such as proving violations and weak oversight hinder effective implementation. The study recommends strict law enforcement and enhanced regulatory mechanisms to ensure fair and transparent elections, thereby promoting sustainable local political stability.*

*Keywords: Political Money; Democracy; Regional Head Elections*

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#### Abstract

Praktik politik uang dalam pencalonan kepala daerah merupakan ancaman serius terhadap integritas demokrasi dan stabilitas politik di Indonesia. Penelitian ini menganalisis dampak pemberlakuan sanksi pidana terhadap pelaku politik uang dalam meningkatkan integritas pemilu dan menjaga stabilitas politik di tingkat daerah. Dengan menggunakan metode yuridis normatif melalui pendekatan legislatif dan konseptual, penelitian ini menemukan bahwa sanksi pidana berperan sebagai efek jera, meningkatkan kepercayaan publik terhadap demokrasi, mengurangi korupsi, dan menjamin peluang yang setara bagi kandidat yang kompeten. Namun, meskipun memiliki manfaat, tantangan seperti kesulitan pembuktian pelanggaran dan lemahnya pengawasan menjadi hambatan dalam penerapan sanksi secara efektif. Penelitian ini merekomendasikan penegakan hukum yang tegas dan penguatan mekanisme regulasi untuk

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mewujudkan pemilu yang adil dan transparan, sehingga mendukung stabilitas politik lokal yang berkelanjutan.

**Kata Kunci:** Mahar Politik; Demokrasi; Pemilihan Kepala Daerah

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## INTRODUCTION

The practice of political money in regional head nominations represents a specific form of political corruption that persists as a critical issue in Indonesia. (Rhandi Anjasu, Davis Aprizon Putra 2023) While previous studies, such as those by Farida (2019), have identified "grease money" the provision of monetary incentives or rewards to political parties or influential figures during nomination processes this study aims to address the limited exploration of the intersection between money politics and the enforcement of criminal sanctions.

Unlike earlier research that predominantly focused on the broader implications for democracy and governance, this study provides a legal and political analysis, examining how regulatory frameworks and law enforcement mechanisms can counteract this pervasive problem. By doing so, it seeks to offer new insights into strengthening the integrity of the political system and enhancing public trust through robust legal mechanisms.

In the context of Indonesian politics, this practice has long been a part of local political dynamics, especially in the lead-up to regional head elections. (Hafid and Nugroho 2019) Regional head elections (*Pilkada*) are a crucial moment in the

democratic process, allowing citizens to elect their regional leaders directly. Honest and fair elections are expected to produce leaders of high quality and integrity. (Sandi and . 2020) However, the reality shows that the practice of political money often becomes a major barrier to realizing these hopes. (Ibadurrahman 2021)

The phenomenon of political money in regional head nominations is a tangible example of the distortion of democratic values, which should be the fundamental basis of the electoral process. (Bakry, Minu, and Safitri 2022) Democracy emphasizes the principles of transparency, fairness, and active public participation in choosing their leaders. (Ibadurrahman 2021) However, the practice of political money creates manipulative mechanisms that benefit certain parties with substantial financial resources. This undermines the essence of democracy, where leadership should be determined by meritocracy and the genuine choice of the people, not by financial power. When candidates for regional head feel the need to pay a sum of money to gain support, they tend to view public office as an investment that must be recouped. As a result, they focus more on recovering their investment rather than on public service.

This opens the door to various forms of corruption and abuse of power, as these leaders will seek ways to recover the costs incurred, often through unethical and illegal means.

The practice of political money has significant negative impacts. First, political money undermines the integrity of the electoral process by prioritizing money over the competence and integrity of candidates, leading to the emergence of leaders who are incompetent and prioritize personal or group interests over public interests.(Bakry et al. 2022) Second, candidates involved in the practice of political money are likely to engage in corruption and abuse of power after being elected.(Ibadurrahman 2021) They feel the need to recover the costs incurred during the nomination process, often through unethical and illegal means. Third, political money erodes public trust in the political system and political parties,(Amsari and Febrinandez 2019) It makes the public skeptical of the electoral process and doubts the ability of elected leaders to bring about positive change. Lastly, this practice creates inequality of opportunity for competent candidates who lack sufficient financial resources, hindering the participation of qualified individuals who may not have adequate financial means.

As previously stated, the practice of political money in regional head nominations poses a serious threat to democracy, political

integrity, and the quality of governance in Indonesia.(Sanur 2018) Therefore, the implementation of criminal sanctions against those involved in political money practices is a crucial step. Criminal sanctions will help protect democratic principles, prevent corruption and abuse of power, restore public trust in the political system, create equal opportunities for all candidates, ensure fair and transparent elections, and uphold the law and justice.

To create a clean and fair democracy, the Indonesian government has implemented various regulations and criminal sanctions, namely Law No. 10 of 2016 concerning the Election of Governors, Regents, and Mayors, and Law No. 7 of 2017 concerning General Elections. These laws regulate the prohibition of political money practices and establish sanctions for those proven to be involved. However, despite the existence of these regulations, the implementation and enforcement of the law often face various challenges and obstacles in applying criminal sanctions against those involved in political money practices.

This research aims to understand and analyze the impact of criminal sanction policies on political money practices in maintaining political stability and the democratic process at the regional level. It also seeks to identify legal and non-legal obstacles that arise in the implementation of criminal sanctions against those involved in

political money practices. Additionally, this study intends to assess the effectiveness of applying criminal sanctions to those involved in political money practices in regional head nominations in Indonesia.

## **LITERATURE REVIEW**

### **Money politics**

Political money, or "money politics," refers to the practice of giving money or rewards to political parties or individuals to gain support in public office nominations. This practice undermines fundamental democratic principles such as transparency, fairness, and meritocracy by placing money above candidate competence. The impacts include the election of less qualified leaders, increased corruption, and diminished public trust in the electoral process. These consequences erode the integrity of elections and create unfairness in political competition.

To address this issue, Indonesia has established criminal sanctions under Law No. 10 of 2016 concerning Regional Head Elections and Law No. 7 of 2017 concerning General Elections. However, the implementation of criminal sanctions faces challenges such as difficulty in proving violations, weak oversight, and an unhealthy political culture. Therefore, strengthening oversight, public education, and consistent law enforcement are crucial to ensuring fair and transparent elections, as well as

maintaining political stability and democratic integrity.

Money Politics, or money politics, is a phenomenon in which money and financial resources are used to influence the outcome of political elections. Teh (2002) states that money politics is a practice in which networks of power and wealth influence the democratic process in non-transparent and often unlawful ways. This phenomenon not only undermines the integrity of elections but also undermines democratic principles that should ensure fair and free participation for all citizens.

The practice of money politics creates a dependency between politicians and voters, where politicians feel the need to spend large amounts of money to win votes, while voters give their support not based on platforms or policies but based on financial incentives. Okeke and Nwali (2020) state that money politics affects the structure of the political economy, where political and economic actors collude to maintain the status quo through secret financial transactions. This dependency gives rise to systemic corruption and hinders genuine political reform as power remains centered on those with the greatest financial resources.

A crucial element in understanding money politics is the power relations established by this mechanism. Weiss (2016) highlights that money politics plays a central role in maintaining authoritarian regimes

through the distribution of materials to voters in return for political support. As such, the power relations that emerge from money politics are not just economic transactions, but also related to broader social control and control. This aspect is important to note how such practices can reinforce authoritarian structures even in the context of seemingly democratic elections.

Moreover, the social implications of money politics are complex, including at the local and community levels. Still and Dusi (2020) explain that in village elections in India, money politics involves not only candidates and voters but also various other social actors such as community leaders and local organizations. This suggests that the practice of money politics is rooted in extensive social networks, where money becomes a tool for social control and legitimization of power. Thus, understanding money politics requires a more holistic analysis that covers economic, social and political aspects simultaneously.

### **Political Criminal Sanctions**

The definition of political criminal sanctions refers to the form of punishment applied to individuals or groups involved in unlawful activities in a political context. According to Nicholson-Crotty and Meier (2003), political criminal sanctions are specifically designed to control crime in the political and government sectors, including

offenses such as corruption, bribery, and other forms of abuse of power in the political process. These sanctions not only function as a means of punishment but also as a tool to maintain integrity and justice in a country's political system.

Furthermore, political criminal sanctions have different characteristics compared to criminal sanctions in general. Ćorović, Turanjanin, and Spasić (2022) explained that criminal sanctions in the political realm often involve more complex interventions and involve various elements in law enforcement, including the legislature, executive, and judiciary. This is because the political context is dynamic and often involves intense power struggles. Therefore, criminal sanctions in the political realm require a holistic approach and are often multidimensional.

The application of political criminal sanctions is also closely related to public trust in the prevailing political and legal system. Travaglino, Burgmer, and Mirisola (2024) show that the level of political and social trust of the community can affect the effectiveness of political criminal sanctions. If the public has a high level of trust in the existing political system, then the application of political criminal sanctions will be more effective and can be recognized as a form of substantive justice. Conversely, low levels of public trust can reduce the effectiveness of these sanctions and can even exacerbate

political instability.

In the Indonesian context, the application of political criminal sanctions has been in the spotlight, especially in the post-Suharto era. Research conducted by Kenawas (2023) revealed that dynastic political practices and corruption are still the main challenges in strengthening democracy in Indonesia. Political criminal sanctions are expected to be a strong instrument in fighting these practices and helping to build a fairer and more transparent political system. The application of these sanctions must be carried out with full rigor and integrity in order to have a significant deterrent effect on the perpetrators of political practices that violate the law.

## **METHODS**

This research employs a normative juridical research method, as it is the most appropriate approach to analyze the legal framework and enforcement mechanisms concerning criminal sanctions against political money practices in regional head nominations. The normative juridical method is particularly suitable for this study because it focuses on examining applicable legal norms and provides a structured framework to analyze legislation and legal principles relevant to the issue.

The study uses a statute approach to critically evaluate laws and regulations related to political money practices and their

enforcement, and a conceptual approach to deepen the understanding of underlying legal concepts such as democracy, corruption, and electoral integrity. Legal documents, including laws, regulations, and court decisions, were analyzed to assess their effectiveness and applicability in addressing the issue. Secondary data sources, comprising primary legal materials, secondary legal materials, and tertiary legal materials, were carefully selected for their relevance and reliability.

To mitigate potential limitations of the normative juridical method, such as its reliance on secondary data and the potential lack of empirical validation, this research employs a rigorous and systematic review of legal documents and literature. The analysis is further enriched by cross-referencing legal materials with broader contextual discussions to ensure a comprehensive understanding of the issue..

## **RESULT AND DISCUSSION**

### **The Application of Criminal Sanctions to Political Money Practices in Maintaining Political Stability and the Democratic Process at the Regional Level**

The practice of political money in regional head nominations involves the giving or receiving of money, goods, or other benefits as a condition for obtaining support from political parties in the nomination process (Arianto 2021). This covert

phenomenon significantly impacts the integrity of elections and the democratic process in Indonesia (KHasanah 2018). Political money undermines democratic values and creates injustice in candidate selection, prioritizing financial capability over leadership quality and the vision and mission of candidates.

### 1. Legal Framework

In the legal context, the practice of political money contradicts laws regulating regional head elections and political parties in Indonesia. Law No. 10 of 2016 concerning Regional Head Elections explicitly prohibits financial transactions aimed at obtaining political support. Political money is classified as a form of political corruption that undermines democratic order and erodes public trust in the electoral system (Amsari and Febrinandez 2019). Criminal sanctions are prescribed to address these violations, emphasizing the importance of a clear and enforceable legal framework to curb such practices.

### 2. Challenges in Implementation

Despite the legal prohibitions, the application of criminal sanctions faces several challenges. The covert nature of political money practices makes violations difficult to detect and prove. Weak oversight mechanisms and limited resources further hinder law enforcement efforts. For instance, cases in regions such as [insert specific region or case example] highlight gaps in

evidence collection and the reluctance of witnesses to testify due to fear of reprisal. These challenges weaken the deterrent effect of criminal sanctions.

### 3. Impact on Democracy

The enforcement of criminal sanctions plays a vital role in upholding democratic principles by deterring political money practices and promoting fairness in elections. However, the effectiveness of these sanctions depends on their consistent and impartial application. Lessons from countries like [insert comparative example, e.g., South Korea or Brazil] demonstrate how robust enforcement and public participation can significantly reduce corruption and enhance electoral integrity.

### 4. Recommendations

To address these challenges and strengthen the impact of criminal sanctions, it is essential to:

- a. Enhance oversight mechanisms through collaboration between election supervisory bodies and law enforcement agencies.
- b. Implement public awareness campaigns to educate voters about the negative effects of political money.
- c. Adopt best practices from other jurisdictions to improve the effectiveness of legal enforcement.
- d. By addressing these aspects,

Indonesia can promote fair, clean, and transparent elections, fostering greater public trust in the democratic process and maintaining political stability at the regional level.

The application of criminal sanctions against those involved in political money practices is based on Article 47 of Law No. 1 of 2015 on the Stipulation of Government Regulation in Lieu of Law No. 1 of 2014 on the Election of Governors, Regents, and Mayors into Law, which has been amended by Law No. 10 of 2016 on the Second Amendment to Law No. 1 of 2015 on the Stipulation of Government Regulation in Lieu of Law No. 1 of 2014 on the Election of Governors, Regents, and Mayors into Law. Article 47 explicitly prohibits political parties or political party alliances from receiving any form of reward in the nomination process for Governors, Regents, and Mayors. If it is proven that a party has received rewards, that party is prohibited from nominating candidates in the same region in the following period. The receipt of rewards by political parties must be proven by a court decision with permanent legal force. Conversely, any individual or institution is also prohibited from giving rewards to political parties or political party alliances in any form in the nomination process for Governors, Regents, and Mayors. If there is evidence based on a court decision

that has permanent legal force, the party that provided the reward will be disqualified as a candidate or elected candidate.

The imposition of criminal sanctions against political money practices in regional head nominations is a crucial effort to maintain electoral integrity and fairness in Indonesia. Criminal sanctions for political parties or political party alliances proven to have received rewards from regional head candidates are strictly regulated under Article 187B of Law No. 10 of 2016 on the Election of Governors, Regents, and Mayors. This article stipulates that political parties or political party alliances that receive any form of reward will face imprisonment for a minimum of 36 (thirty-six) months and a maximum of 72 (seventy-two) months. In addition to imprisonment, perpetrators are also subject to significant fines, ranging from a minimum of IDR 300,000,000 (three hundred million rupiah) to a maximum of IDR 1,000,000,000 (one billion rupiah).

Meanwhile, individuals or entities that provide rewards to political parties or political party alliances in the context of regional head nominations are subject to criminal sanctions as regulated in Article 187C. The reward givers may be individuals or institutions aiming to influence political parties' decisions in supporting certain nominations. This article stipulates imprisonment for a minimum of 24 (twenty-four) months and a maximum of 60 (sixty)



months. In addition to imprisonment, reward givers face fines similar to those imposed on political parties, ranging from a minimum of IDR 300,000,000 (three hundred million rupiah) to a maximum of IDR 1,000,000,000 (one billion rupiah).

The enforcement of strict criminal sanctions highlights the government's seriousness in combating money politics that undermines democracy. Political money not only harms candidates with integrity but also infringes on democratic principles that should uphold fairness, transparency, and public participation. Therefore, law enforcement against political money practices needs to be carried out consistently and firmly to ensure that every regional head nomination process is fair and free from harmful financial interventions.

In addition to the sanctions outlined in Law No. 10 of 2016, efforts to eradicate money politics, including political money, are also emphasized in Law No. 7 of 2017 on General Elections. This law serves as the primary legal basis regulating various aspects of elections in Indonesia, including provisions aimed at preventing and punishing actions that undermine election integrity, such as political money practices regulated in Article 228 paragraph (1), which states that political parties are prohibited from receiving any form of reward in the presidential and vice-presidential nomination process. If a political party receives money in

the presidential and vice-presidential nomination process, it is classified as political money, which is a form of election corruption. However, the sanctions imposed on political parties proven to have received rewards in presidential nominations are only in the form of a ban on nominating candidates in the following period. In this regard, the prohibition on money politics covers various forms of gifts or promises aimed at influencing voter behavior or political parties in the election process.

Articles 149 (1) and (2) of the Indonesian Penal Code (KUHP) further reinforce the prohibition of money politics. These articles regulate penalties for anyone who gives or promises something to others to influence them to refrain from exercising their voting rights or to vote in a specific manner. Such practices not only undermine democratic values but also threaten each individual's freedom to express their choices honestly and without coercion.

The sanctions regulated in the Penal Code aim to protect citizens' constitutional rights and ensure that every voter can make their choices freely without material pressure or inducement. These provisions are crucial in the context of general elections, where transparency, fairness, and freedom to vote are fundamental pillars that must be upheld. Political money, as a form of money politics, not only damages the democratic system but also degrades the integrity of the electoral

process and causes distortions in regional head elections and other general elections.

The application of criminal sanctions against political money practices faces several challenges, including difficulties in gathering sufficient evidence to prove the occurrence of political money practices, as these practices are often conducted covertly and involve powerful parties. Additionally, potential collusion between perpetrators and law enforcement officers may hinder the enforcement process, and a political culture that still views political money as acceptable among certain groups makes it challenging to eradicate.

To strengthen the application of criminal sanctions against political money practices, several policy recommendations include: reinforcing regulations, revising and improving regulations concerning the prohibition of political money and more stringent criminal sanctions, establishing independent oversight bodies with the authority to monitor and address political money violations objectively and transparently, enhancing the capacity of law enforcement officers to identify and handle political money cases, and conducting public campaigns and education about the dangers and legal consequences of political money practices to increase public awareness and participation in overseeing the election process.

## **Impact of Criminal Sanctions on Perpetrators of Political Money Practices**

The imposition of criminal penalties on those involved in political money practices aims to uphold the law and maintain the integrity of the electoral process, which is a fundamental aspect of democratic implementation in Indonesia. Political money practices, where candidates for regional head or legislative positions are required to provide a certain amount of money or other rewards to political parties as a condition for nomination, undermine the principles of justice and transparency that should underpin the electoral process. These criminal penalties serve not only as a form of punishment but also as a deterrent to other candidates from engaging in actions that compromise democratic values. In this context, the enforcement of criminal penalties becomes a crucial step to ensure that each election process is conducted cleanly and fairly, and to encourage political parties to be more selective and principled in nominating candidates. However, there are several impacts resulting from the enforcement of criminal penalties on those involved in political money practices.

### **1. Positive Impacts**

The imposition of criminal penalties on political money practices is a crucial step in strengthening the rule of law within the political realm. Political money, which often involves the provision of money or other

rewards to political parties or individuals as a condition for receiving support in nominations, undermines democratic principles and threatens the integrity of the electoral process. Therefore, having clear and stringent criminal penalties aims to curb these practices by imposing serious legal consequences on the perpetrators. In this regard, the threat of criminal punishment, whether in the form of imprisonment or significant fines, serves as a deterrent that can compel regional head candidates and political parties to reconsider engaging in political money practices.

The application of strict legal measures reflects the state's commitment to upholding the rule of law and maintaining political integrity. It is not merely about administering punishment but also about creating a cleaner and more transparent political environment. The firmness in law enforcement sends a strong message that any form of political corruption, including political money, will not be allowed to proliferate without consequences. This acts as a signal to all political actors that any illegal actions will be taken seriously, without exception.

The enforcement of criminal penalties provides a deterrent effect for those involved in political money practices. This deterrent effect is not only about punishment but also functions as a tool to prevent similar actions in the future. For example, the threat

of long prison sentences can influence an individual's decision to avoid engaging in illegal practices. Similarly, substantial fines not only financially harm the perpetrators but also damage their political reputation, diminish public trust, and ultimately weaken their position in their political career.

Moreover, the importance of these criminal penalties also lies in their ability to foster a fairer and more equitable political climate. In a system free from political money, each candidate has an equal opportunity to compete based on their vision, mission, and competence, rather than their financial power or ability to bribe. This helps to maintain the integrity of the electoral process and ensures that elected leaders truly possess the capacity and commitment to serve the public, rather than those who obtain positions through dishonest means.

In a broader context, the application of criminal penalties against political money also plays a role in building public trust in the political system. When the public sees that the government and law enforcement agencies are serious about combating political corruption, their trust in the democratic process increases. This, in turn, encourages more active political participation and supports long-term political stability. Trust is crucial in building a healthy and well-functioning democracy where power genuinely resides with the people, and elections are conducted honestly and fairly.

When the law is enforced consistently, public trust in the electoral system and law enforcement agencies will rise. The public will see that the law applies to everyone without bias, thereby strengthening the legitimacy of the electoral process. The imposition of criminal penalties can transform the political culture in Indonesia. Political parties will focus more on the capability and integrity of candidates rather than their financial resources. This encourages parties to be more selective in choosing candidates to endorse. Regional head candidates intending to engage in political money practices will think twice if faced with the threat of criminal penalties. This psychological impact is important for preventing corruption and motivating candidates to seek support in a more transparent and fair manner.

The imposition of criminal penalties on political money perpetrators also serves as a reaffirmation that the law must be enforced impartially. In this context, fair and consistent law enforcement is crucial to demonstrate that the state does not tolerate any violations of democratic principles. Thus, criminal penalties function not only as punishment but also as a symbol of the state's commitment to upholding the rule of law and the integrity of the electoral process. The decisive action against political money practices is also part of a broader effort to strengthen democratic institutions and

encourage healthier and fairer political participation. When the public sees that political money perpetrators are firmly punished, it can enhance public trust in the electoral system and increase overall political participation. Greater trust in the electoral process will result in higher public engagement in shaping government direction and public policy, thereby enabling democracy to function more effectively in realizing the will of the people.

## 2. Negative Impacts

The imposition of criminal penalties on political money practices can lead to the criminalization of the political process, potentially causing serious impacts on democratic dynamics at the local level. Regional head candidates and political parties might feel threatened by the potential criminal sanctions, which could make them reluctant to actively participate in political contests. This fear of criminal penalties might cause potential candidates, who could otherwise bring positive change, to opt out of running, thus reducing the diversity and quality of candidates willing to step forward. This could result in a less competitive electoral process and reduce the choices available to voters.

Criminal penalties for political money practices have the potential to worsen relations between political parties. When political parties feel threatened by the possibility of criminal sanctions, they may

become increasingly wary and suspicious of one another, ultimately exacerbating rivalries and conflicts between parties. This situation could weaken existing coalitions, disrupt political stability, and hinder cooperation that is necessary for building an effective and responsive government.

The political instability arising from the application of criminal penalties not only harms the political parties themselves but can also impact the local government led by the elected regional head. For instance, instability may cause local government policies to be hindered as competing parties focus more on political disputes rather than on policy-making cooperation. Therefore, while the imposition of criminal penalties on political money aims to uphold integrity in the electoral process, its unintended consequences need to be seriously considered. Legislators and policymakers must ensure that the enforcement of these laws does not inadvertently damage the political climate and a healthy democracy, by maintaining a balance between law enforcement and protecting healthy political dynamics.

In some cases, innocent regional head candidates may become victims of defamation or false accusations related to political money practices. Lengthy legal processes and intensive investigations can damage their reputations and political careers, even if they are ultimately found not

guilty. The imposition of criminal penalties for political money carries the risk of being abused by those in power. Authorities or influential figures may use the threat of criminal penalties as a tool to pressure political opponents or manipulate election outcomes. This can undermine principles of justice and democracy.

The application of criminal penalties against political money practices risks being misused by those with political power or influence. In a competitive political environment, the threat of criminal penalties can become an effective tool for pressuring or weakening political opponents. Authorities, who have access to law enforcement agencies, may exploit legal loopholes to levy criminal charges against their adversaries, even if such charges are unfounded. Thus, the law, which is intended to be an instrument of justice and integrity, could be twisted into a political weapon used to manipulate election results. This situation can erode public trust in the justice system and political process, potentially leading to political apathy among the public, who may feel that outcomes are predetermined by behind-the-scenes forces.

Ironically, the imposition of criminal penalties may make political money practices more clandestine. Perpetrators might seek more sophisticated and harder-to-detect methods for engaging in political money practices, complicating law

enforcement and oversight efforts. The long-term impact of excessive criminal penalties can weaken democracy. If the public perceives the political process as overly criminalized, they may lose trust in the political system and become reluctant to participate in elections, thereby diminishing the quality of democracy.

The imposition of criminal penalties on political money practitioners also has the potential to add strain to the criminal justice system. With an increasing number of cases to handle, the justice system may become overwhelmed, leading to delays in legal processes and potential injustices for those involved.

### **Preventive Measures Against Political Money Practices in Regional Head Nominations**

In general, criminal law policies in enforcing sanctions against political money practices are a crucial element in maintaining democratic integrity and ensuring fair elections in Indonesia. These policies encompass several interconnected aspects, namely prevention, enforcement, and remediation, which must be implemented comprehensively and consistently by all involved parties.

#### **1. Preventive Measures**

Prevention is a fundamental and initial step in stopping political money practices before they occur. Addressing

political money practices requires a comprehensive and systematic approach, including strengthening regulations and ensuring strict and consistent law enforcement. Strengthening regulations should start with revising the laws governing regional head elections to more specifically prohibit all forms of political money practices. This regulation should include a clear definition of what constitutes political money, including often covert or indirect transaction mechanisms. Additionally, stringent oversight of the nomination process is necessary, involving independent agencies with the authority to monitor and act against violations.

Law Number 10 of 2016 concerning the Second Amendment to Law Number 1 of 2015 on the Establishment of Government Regulation in Lieu of Law Number 1 of 2014 on the Election of Governors, Regents, and Mayors into Law, regulates several important aspects related to the organization of regional head elections, including provisions on the prohibition of political money and political money practices. For example, Article 47 of this law stipulates that candidates are prohibited from accepting donations that violate provisions, including those categorized as political money.

However, despite Law Number 10 of 2016 covering provisions on the prohibition of political money practices, there are some weaknesses that make this regulation still

seem insufficiently stringent and in need of revision. Firstly, this law does not explicitly define what is meant by "political money." The lack of a clear definition makes interpretation and application of the law often ambiguous, leaving loopholes for perpetrators to evade legal consequences. Secondly, the criminal sanctions outlined in this law are often considered insufficiently deterrent. For instance, administrative sanctions such as disqualification or reduction of votes for offenders may not always be effective in preventing these practices without strong law enforcement support.

Law enforcement against political money violations often faces various technical challenges on the ground, making efforts to eradicate these practices very challenging. One major obstacle is the covert and conspiratorial nature of political money transactions. Perpetrators typically use strong networks and possess skills to conceal transaction traces, making it difficult for law enforcement to detect and gather sufficient evidence.

Political money transactions are often not conducted directly or in traceable cash forms. Instead, these transactions can take the form of political commitments, financial assistance channeled through third parties, or even goods and services that are difficult to link directly to the nomination process. As a result, even with strong indications that

political money has occurred, law enforcement often struggles to find concrete and legally binding evidence. For example, informal agreements or undocumented conversations pose significant challenges in the investigation process.

In some cases, perpetrators of political money practices may have significant access and influence over certain institutions, which can impede the investigation process due to non-technical factors such as political pressure, intimidation, or even corruption within the legal enforcement system itself. When evidence is not strong enough to meet the stringent standards of criminal law, perpetrators often manage to avoid criminal sanctions, despite their actions undermining democratic integrity.

Additionally, the presence of a "culture of silence" among the public and political actors exacerbates the situation. Many parties involved or aware of political money practices choose not to report due to fear of potential consequences, such as physical or social threats. In such conditions, existing reporting mechanisms become ineffective due to the lack of support from witnesses or reporters who can strengthen the case in court. Thus, more innovative and proactive measures in law enforcement against political money practices are needed. These may include the use of digital technology to monitor suspicious financial

transactions, specialized training for law enforcement to detect and handle political money cases, and strengthened legal protections for witnesses and reporters. By addressing these technical challenges, it is hoped that law enforcement against political money can be more effective and provide a real deterrent to perpetrators.

Therefore, revising Law Number 10 of 2016 is necessary to strengthen and clarify criminal provisions related to political money. This revision could include several aspects, such as: clarifying the definition of political money, increasing criminal sanctions to provide a stronger deterrent effect, and improving oversight and law enforcement mechanisms to be more effective in preventing and addressing political money practices. Through stringent law enforcement, applicable not only to perpetrators but also to involved political parties, with sanctions ranging from disqualification to severe administrative penalties. Additionally, a reporting mechanism accessible to the public for reporting political money practices, accompanied by protections for reporters, is essential. With a comprehensive revision, it is expected that regulations on political money will be more effective in preserving the integrity of regional head elections in Indonesia.

Strengthening regulations and law enforcement is a fundamental step in

combating political money practices that undermine democratic integrity. However, political parties also have a responsibility to conduct transparent and accountable candidate selection processes. This process must involve strict oversight by independent bodies such as the General Election Commission (KPU) and the Election Supervisory Body (Bawaslu) to ensure integrity and accountability at every stage of selection. Transparency in candidate selection not only prevents political money practices but also ensures that elected candidates truly represent public interests, rather than personal or specific group interests.

Inter-agency cooperation is a key element in preventing and addressing political money practices. Synergy between the Corruption Eradication Commission (KPK), Bawaslu, and other law enforcement agencies needs to be strengthened to create a more effective oversight system. KPK, with its authority in combating corruption, can play a role in monitoring suspicious fund flows during the nomination process, while Bawaslu can focus on administrative oversight and election violations. This collaboration should be accompanied by open information sharing and close coordination so that every suspected violation can be promptly and appropriately addressed.

In addition to formal agencies,



enhancing the role of media and non-governmental organizations (NGOs) is also crucial. The mass media, with its role as a social watchdog, should be more active in conducting journalistic investigations into suspected political money practices. In-depth investigative reports can be an effective tool for uncovering hidden cases and exerting pressure on authorities to act. Meanwhile, NGOs can advocate and educate the public about the dangers of political money, as well as organize campaigns to promote transparency and accountability in the election process.

Reporting and whistleblowing should be fundamental pillars in combating increasingly complex and hidden political money practices. Whistleblowing involves revealing information related to illegal, unethical, or inappropriate behavior within an organization by individuals within or close to the organization. The information disclosed typically involves legal violations, fraud, corruption, or abuse of power that could harm the public, organizational interests, or individual rights.

Whistleblowing plays a crucial role in exposing and preventing political money practices, which are often hidden and difficult to detect by conventional oversight mechanisms. Political money, referring to the provision of money or other forms of benefit to political parties or certain parties to gain support in the nomination process,

undermines democratic integrity and breaches fairness in elections. Through whistleblowing, individuals with access or knowledge of political money practices—such as party cadres, internal staff, or candidates feeling pressured to provide money—can report such actions to authorities or the public. This reporting helps uncover entrenched corruption in the political process, enabling legal and administrative actions to be taken to stop or prevent similar occurrences in the future. However, to reveal these practices, secure, anonymous, and reliable reporting channels must be established and guaranteed by the government and relevant agencies. Whistleblowers must be protected from threats or retaliation, both from internal party members and involved political actors. This protection includes clear legal rights and effective enforcement mechanisms, ensuring that whistleblowers feel safe reporting without fear of job loss, physical attacks, or baseless legal action. Encouraging whistleblowing as part of the preventive measures against political money practices not only raises public awareness about the dangers of these practices but also creates a deterrent effect for those intending to engage in similar actions. The presence of courageous whistleblowers reporting violations can also prompt political parties to be more cautious in conducting candidate selection processes and ensure compliance

with established rules and ethical principles. Whistleblowing can function as a social control tool that strengthens integrity and transparency in the political process, especially when supported by the mass media and oversight bodies like KPK and Bawaslu. The media can publicize whistleblower findings to garner wider public attention, while oversight agencies can take necessary legal actions based on the disclosed information. Collaboration among whistleblowers, media, and oversight agencies can form a robust alliance against political money practices, maintaining the integrity of the political process and supporting the creation of a fairer and more transparent democracy.

Protection for reporters must be guaranteed through strict legislation and consistent implementation. Reporters should be protected from all forms of threats, whether physical, psychological, or career-related. This includes legal protections ensuring that reporters cannot be fired from their jobs, threatened physically or mentally, or subjected to legal actions as a result of their reports. Additionally, support mechanisms such as legal assistance and counseling are needed to help reporters handle pressures that may arise from whistleblowing actions. Equally important, the government must develop a rapid and transparent follow-up system for incoming reports. Reports should be promptly

addressed by the relevant agencies, and investigation results should be communicated back to the reporters, if possible, to maintain public trust in the system. Transparency in the follow-up process will also enhance accountability of the responsible agencies and reassure the public that their reports are not ignored.

Ultimately, strengthening the whistleblowing culture requires cooperation from various parties, including the government, law enforcement agencies, NGOs, and the general public. With strong support and adequate protection, whistleblowing can become a powerful tool in exposing political money practices and fostering a cleaner, more transparent, and accountable political process.

## 2. Repressive Measures

Repressive efforts to address political money practices are a critical step that must be executed with utmost firmness and consistency. Political money practices, often involving non-transparent financial transactions between regional head candidates, political parties, and third parties, pose a serious threat to the integrity of the democratic process. Therefore, enforcement against those involved in such practices must be carried out with a comprehensive and non-discriminatory approach, encompassing all parties involved, including the candidates who provide the bribes, the political parties that accept them, and the brokers or

intermediaries who facilitate the transactions.

The enforcement process begins with an investigation by the police, with the primary focus being the identification and collection of strong and valid evidence related to political money practices. Such evidence may include suspicious financial transactions, communication records between the involved parties, testimonies from key witnesses who have direct knowledge of the bribery negotiations, as well as official or unofficial documents showing financial agreements that violate the law. This investigation must be conducted thoroughly, employing forensic technology and financial audits to ensure that every relevant detail is uncovered.

Once the investigation and inquiry are complete, the next stage is prosecution by the public prosecutor's office. The prosecution process, carried out by prosecutors, must be based on applicable laws and supported by close coordination with the police to ensure that no legal loophole is exploited by the perpetrators. In this regard, it is crucial for prosecutors to prepare robust indictments and present the collected evidence clearly before the judge. The subsequent judicial process must proceed transparently and accountably, with judges free from political interference or pressure. This is essential to ensure that the verdicts rendered are purely based on the

available legal facts, thereby ensuring that justice is truly served.

Additionally, coordination between law enforcement agencies, including the police, the prosecutor's office, and the courts, is key to the success of this enforcement effort. Without effective coordination, there is a risk of overlapping authority or gaps in law enforcement, which could ultimately undermine efforts to eradicate political money practices. Therefore, an integrated system and synergy among these agencies are required, potentially through the establishment of special teams or task forces focused on handling political money cases. This is expected to expedite the enforcement process and ensure that perpetrators of political money practices are promptly prosecuted and sentenced according to the severity of their violations.

## **CONCLUSION**

The imposition of criminal sanctions against political money practices in regional head candidacies is a crucial step in maintaining the integrity of democracy and political stability in Indonesia. Political money practices distort the essence of democracy by prioritizing financial power over candidate competence, undermining the fairness of the electoral process. The application of criminal sanctions has demonstrated several positive impacts,

including deterring perpetrators, improving election quality, strengthening public trust in democracy, and reducing corruption within the government. Additionally, these sanctions help create equal opportunities for competent candidates who may lack significant financial resources, thereby enhancing the quality of political competition at the regional level.

Despite these benefits, the implementation of criminal sanctions continues to face challenges, such as difficulties in proving violations that often occur covertly, weak oversight mechanisms, and political pressures that obstruct law enforcement. To address these challenges and maximize the effectiveness of criminal sanctions, policymakers must prioritize strengthening electoral oversight mechanisms by providing sufficient resources and fostering collaboration between supervisory bodies and law enforcement agencies. Revisions to existing legislation are also essential to clarify definitions, impose stricter penalties, and streamline legal procedures for handling violations. Furthermore, public education campaigns should be conducted to raise awareness about the detrimental effects of political money on democracy, encouraging voters to prioritize competence and integrity over financial power. The use of digital technology to enhance transparency in campaign financing and enable real-time

monitoring of financial transactions is also recommended.

By implementing these measures, Indonesia can reinforce the rule of law, promote fair and transparent elections, and maintain political stability at the regional level. These efforts will not only uphold democratic values but also ensure that the electoral process fosters leadership based on vision, integrity, and competence, rather than financial dominance.

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