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Promoting the Principle of Political Equality: Reformulation of Private Funding Source Regulations for Indonesian Political Parties

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Abstract

This study examines the regulation of private funding sources for political parties, focusing on formulating a *ius constituendum* to promote political equality among donors. The urgency of this research stems from gaps in existing regulations, which fail to comprehensively govern all private funding sources for political parties, leading to unequal treatment and potential abuses. Employing a normative legal research method with statutory, conceptual, and comparative approaches, the study analyzes data descriptively and prescriptively to identify

deficiencies in current regulations and propose reforms. The findings reveal two critical issues: first, the current regulatory framework does not encompass all types of private funding sources, leaving some outside legal oversight. Second, existing regulations inadequately address political equality, failing to ensure fairness for both donors and political parties. To address these gaps, the study proposes a detailed classification of private funding sources, distinguishing between internal sources (e.g., membership fees and party taxes for members in political office) and external sources (e.g., individual or corporate donations), with clear restrictions on donation amounts. Additionally, the research emphasizes the need for explicit norms prohibiting certain types of donations that could undermine transparency and accountability. The novelty of this study lies in its holistic approach to addressing regulatory deficiencies and proposing a comprehensive framework for reform. Its contribution is significant, offering practical recommendations to lawmakers to enhance the integrity of private funding for political parties and foster a more equitable and transparent political system.

Keywords *Reformulation, Regulation, Private Funding, Political Parties, Political Equality*

Introduction

It is inevitable for democratic countries to have political parties,¹ this idea is based on the role of political parties which carry out various important functions to realize freedom of association,² political parties are referred to as sine qua non in a democratic state, Kelsen (1929), Goivani Sartori (1968), Ware (1987), Rosenblum (2000), and Pildes

¹ Valbona Laska, "The Role of Political Parties in the Constitutional Order in Albania." *Justice and Justicia* 17, no. 2 (2023): 75-92.

² D. Lopes, "An Analysis on the Legal Standing of Dissolution of Political Parties in the Court of Appeals of Timor-Leste." *Global Journal of Politics and Law Research* 11, no. 6 (2023): 9-31.

(2004).³ Indonesia is part of a country that places political parties as an organ sine qua non, marked by the granting of special rights to political parties in the constitution of the 1945 Constitution of the Republic of Indonesia, Article 6A positions political parties as the only organizations that can nominate presidential and vice presidential candidate pairs, and Article 22E positions political parties as organizations that participate in elections for the People's Representative Council, Provincial People's Representative Council, and Regency/City People's Representative Council.⁴

To carry out various functions, political parties need access to adequate funding sources,⁵ emphasized by the International Foundation for Electoral Systems, in modern politics money plays an important role.⁶ in fact, all government regimes, from authoritarian regimes to democracies, from new democracies to established democracies, all face the same challenge, namely access to funding sources to finance party activities.⁷

The important role of money in modern democracy lies in its power and how it is used; money can be an instrument for gaining influence or a resource for maintaining existence and achieving political power.⁸ Money is not only a means of exchange in the world of

³ Steven Levitsky, and Maxwell A. Cameron. "Democracy without Parties? Political Parties and Regime Change in Fujimori's Peru." *Latin American Politics and Society* 45, no. 3 (2003): 1-33.

⁴ Muhammad Mutawalli Mukhlis, Maskun Maskun, Muhammad Saleh Tajuddin, and Zulhilmi Paidi. "Regional Government According to the 1945 Constitution: Ideas Refinements and Law Reform." *Journal of Law and Legal Reform* 5, no. 2 (2024): 495-530.

⁵ Justin Fisher, and Todd A. Eisenstadt. "Introduction: Comparative Party Finance: What Is to Be Done?" *Party Politics* 10, no. 6 (2004): 619-626.

⁶ Magnus Ohman, ed. *Buku Pedoman Pengawasan Keuangan Politik*. International Foundation for Electoral System, 2013. <http://perludem.org/wp-content/uploads/2017/02/Political-Finance-Oversight-Handbook-Bahasa-Indonesia.pdf>.

⁷ Robert Williams, "Aspects of Party Finance and Political Corruption." In *Party Finance and Political Corruption*. (London: Palgrave Macmillan UK, 2000), pp. 1-13.

⁸ International Foundation for Electoral System. *Enforcing Political Finance Laws: Training Handbook*. (Arlington: International Foundation for Electoral System, 2005). Available online at <https://www.ifes.org/publications/enforcing-political-finance-laws-training-handbook>.

economics, it can also be a means of exchange in the world of politics.⁹ This condition encourages political parties to seek various sources of funding, especially private sources of funding.¹⁰ In Southeast Asia, political parties are heavily dependent on the financial support of individuals with fantastic wealth, and a number of donors have even dared to appear as party leaders, emphasizing the oligarchic face.¹¹ In Nigeria, the phenomenon of political party finances being based on certain individuals is known as Godfatherism.¹² Political parties have turned to private sources of funding, with contributions from political elites, candidates, and donations from the private sector being the main components of party financing.¹³

The dependence of political parties on private donors has encouraged parties to seek ways to deviate from the regulations governing donation restrictions. Mietzner's notes, a number of parties have reported the receipt of fictitious donations to cover up illegal income.¹⁴ Indonesian Corruption Watch (ICW) revealed how parties smuggle illegal private funding sources by creating fake donor lists, a number of donors with billions of rupiah come from village residents with poor social status.¹⁵ Another motive in the Djoko S. Chandra case was the smuggling of donations amounting to Rp. 12.7 billion through

⁹ Rubenstein, Jennifer. "Small Money Donating as Democratic Politics." *Perspectives on Politics* 20, no. 3 (2021): 965-982.

¹⁰ Rofiq Rofiq. "The Decline of Political Party Public Financing and the Emergence of Political Cartel in Indonesia: A Study of Partai Kebangkitan Bangsa." *Proceedings of the First International Conference on Democracy and Social Transformation, ICON-DEMOST 2021, September 15, 2021, Semarang, Indonesia*. 2022.

¹¹ Thomas Reuter, "Political Parties and the Power of Money in Indonesia and Beyond." *TRaNS: Trans-Regional and National Studies of Southeast Asia* 3, no. 2 (2015): 267-288.

¹² Bashir Sule, Mohammed A. Sani, and Bahrom Mat. "Godfatherism and Political Party Financing in Nigeria: Analysing the 2015 General Election." *Geografia: Malaysian Journal of Society and Space* 14, no. 1 (2018): 1-14.

¹³ Rofiq, "The Decline of Political Party Public Financing and the Emergence of Political Cartel in Indonesia: A Study of Partai Kebangkitan Bangsa."

¹⁴ Marcus Mietzner, "Dysfunction by Design: Political Finance and Corruption in Indonesia." *Critical Asian Studies* 47, no. 4 (2015): 587-610.

¹⁵ Ibrahim Z. Fahmy Badoh, and Abdullah Dahlan. *Korupsi Pemilu di Indonesia*. (Jakarta: ICW and TIFA, 2010). Available online at <https://icw.or.id/sites/default/files/dokumen/Korupsi%252BPemilu.pdf>.

seventeen of his companies to incumbent Presidential Candidate Megawati Sukarnoputri.¹⁶ A portrait of private funding sources in Indonesia, confirms the difficulty of denying private donation sources because they have become an alternative to meet party needs.¹⁷

Private funding sources have come under some scrutiny from experts regarding their potential negative implications for democracy, particularly on the aspect of equality for donors. This is the basis for Hamm and Robert's statement that money in modern democracy is like a double-edged sword, having negative implications as well as positive implications.¹⁸

The cynical response is based on various reasons. The majority of parties in Southeast Asian countries rely on private sources of donations, indicating that they are increasingly tied to a handful of wealthy individuals and business interests,¹⁹ has the potential to threaten the independence of political parties, causing conflicts of interest, ultimately causing parties to deviate by ignoring public interests. Large private donations are considered to be a gateway for donors to buy access to lawmakers, making them more responsive to the wishes of donors (groups of wealthy people) in the formation of laws, donors can even act as legislators, donors "*control politicians*".²⁰ In Indonesia, the source of internal private funding comes from the party chairman, which has caused party governance to depend on the chairman's tastes, with a tendency to dictate the direction of party policy for the sake of his

¹⁶ Mietzner, "Dysfunction by Design: Political Finance and Corruption in Indonesia."

¹⁷ Nubia Evertsson, "Political corruption and electoral funding: a cross-national analysis." *International Criminal Justice Review* 23, no. 1 (2013): 75-94.

¹⁸ Keith E. Hamm, and Robert E. Hogan. "Campaign Finance Laws and Candidacy Decisions in State Legislative Elections." *Political Research Quarterly* 61, no. 3 (2008): 458-467.

¹⁹ Jeffrey A. Winters, "Oligarchy and Democracy in Indonesia." *Indonesia* 96, no. 1 (2013): 11-33.

²⁰ Simon Radford, Andrew Mell, and Stéphane A. Thevoz. "'Lordy Me!' Can Donations Buy You a British Peerage? A Study in the Link between Party Political Funding and Peerage Nominations, 2005–2014." *British Politics* 15 (2020): 135-159.

personal and group interests.²¹ This condition confirms that internal and external private donors are able to influence public policy.

The arguments of scholars regarding the negative implications of large private funding sources also emphasize the tendency to ignore donors who contribute small amounts. This condition confirms that the position of donors is unequal, leading to the neglect of the principle of freedom of expression which is manifested in political support in the form of donations. This principle requires all citizens, regardless of their financial ability, to have equal rights in the political process. However, the lack of detailed laws limiting the amount of personal donations to political parties effectively undermines this principle.²² Small donors as the majority of voters will find their votes drowned out by the influence of large donors.²³ The marginalization of the majority has weakened the basic principle of democracy, namely "one person, one vote," because the political participation of each individual is no longer given equal weight.²⁴

When a small number of wealthy donors can donate far more money than the general public, their influence over the political process becomes disproportionate. This allows them to shape the policy agenda in ways that may not be in the interests of the broader public.²⁵ Downstream, it can erode public trust in the political system and weaken the legitimacy of democratic institutions.²⁶ Rhodes describes it

²¹ Fadli Faisal, B. Barid, and D. Mulyanto. "Pendanaan Partai Politik di Indonesia: Mencari Pola Pendanaan Ideal untuk Mencegah Korupsi." *Integritas: Jurnal Antikorupsi* 4, no. 1 (2018): 265-287.

²² OECD. *Financing Democracy: Funding of Political Parties and Election Campaigns and the Risk of Policy Capture*. (Paris: OECD Public Governance Reviews, OECD Publishing, 2016). <https://doi.org/10.1787/9789264249455-en>.

²³ David Broockman, and Neil Malhotra. "What Do Partisan Donors Want?" *Public Opinion Quarterly* 84, no. 1 (2020): 104-118.

²⁴ Spencer Overton, "The Donor Class: Campaign Finance, Democracy, and Participation." *University of Pennsylvania Law School* 153, no. 1 (2004): 73.

²⁵ Sean McElwee, Brian Schaffner, and Jesse Rhodes. *Whose Voice, Whose Choice? The Distorting Influence of the Political Donor Class in Our Big-Money Elections*. (New York: Demos, 2016).

²⁶ Jacob Rowbottom, *Democracy Distorted*. (Cambridge: Cambridge University Press, 2010).

as the control of the political system by big donors,²⁷ allows ideological donors, and wealthy donors to dominate political funding which leads to polarization.²⁸ This problem will become more complex if a country experiences economic disparity in the form of economic concentration in the hands of a handful of people or certain groups.²⁹

The International Institute for Democracy and Electoral Assistance warns that if private funding sources are not regulated, it will also have implications for inequality between election participants in political competition.³⁰ for political parties and candidates (candidates) access to resources (money) will affect political competition,³¹ Candidates with more money and resources will tend to beat opponents with fewer resources.³² In Bertoa's opinion, private funding sources have the potential to hinder equal opportunities for political parties.³³ Donations from wealthy individuals fuel disproportionate political influence,³⁴ distort representation.³⁵ Private funding sources have the

²⁷ Jesse Rhodes, Brian Schaffner, and Ray Raja. "Detecting and Understanding Donor Strategies in Midterm Elections." *Political Research Quarterly* 71, no. 3 (2018): 503-516.

²⁸ Raymond Raja, and David Wiltse. "Don't Blame Donors for Ideological Polarization of Political Parties." *American Politics Research* 40, no. 3 (2011): 501-530.

²⁹ Ohman, *Buku Pedoman Pengawasan Keuangan Politik*.

³⁰ International Institute for Democracy and Electoral Assistance. *Funding of Political Parties and Election Campaigns: A Handbook on Political Finance*. (Sweden: International IDEA Publication, 2014).

³¹ Patrick Flavin, "Campaign Finance Laws, Policy Outcomes, and Political Equality in the American States." *Political Research Quarterly* 68, no. 1 (2015): 77-88.

³² Brumo Wilhelm Speck, "Money in Politics: Sound Political Competition and Trust in Government." In *Policy Forum on Restoring Trust in Government: Addressing Risks of Influence in Public Decision Making*, hosted by the Public Sector Integrity Network, OECD, Paris, 14-15 November 2013.

³³ Fernando Casal Bértoa, Fieke Molenaar, Daniela Piccio, and Ekaterina Rashkova. "The World Upside Down: Delegitimising Political Finance Regulation." *International Political Science Review* 35, no. 3 (2014): 355-375.

³⁴ Donald Green, Jonathan Krasno, Costas Panagopoulos, Benjamin Farrer, and Michael Schwam-Baird. "Encouraging Small Donor Contributions: A Field Experiment Testing the Effects of Nonpartisan Messages." *Journal of Experimental Political Science* 2, no. 2 (2015): 183-191.

³⁵ Ana Vallejo, "Unequal Resources, Unequal Careers: The Role of Campaign Financing in the Gender Gap in Candidates' Persistence in Brazil." *Political Research Quarterly* 77, no. 2 (2024): 633-646.

potential to influence fair and free elections, democratic politics, effective governance.³⁶ The concern about the destructive power of money on democracy is fundamental through voter manipulation, “whoever wins the election, the people ultimately lose”.³⁷

The most vocal proponent of the equality argument is political philosopher John Rawls, who says “limits on contributions and other rules are essential to safeguard the fair value of political liberty and to prevent those with greater wealth and property from controlling the electoral process to their advantage”.³⁸ Regarding the potential implications of inequality in electoral competition triggered by unequal financial conditions, Robert Dahl has objected, for him unequal politics will affect the freedom of voters because control over information is controlled by individuals or groups.³⁹ Constitutionally, the inequality triggered by private funding sources causes a deviation from the provisions of Article 22E of the Constitution of the Republic of Indonesia which requires the implementation of elections to be based on the principle of fairness.

In response to these conditions, experts agree to answer the challenge through political party financial regulations which are often praised for their ability to introduce equality among political parties to create more transparent political parties and to reduce the influence of wealthy donors on the political decision-making process.⁴⁰ For Ann-Kristin Kolln, the main goal of party finance law is to create fair, free party competition, where popular policy proposals will be the outcome

³⁶ International Foundation for Electoral System. *Buku Pedoman Pengawasan Keuangan Politik*. (United States Agency for International Development, 2013). Available online at <https://www.ifes.org/sites/default/files/migrate/tide-political-finance-oversight-handbook-bahasa-indonesian.pdf>.

³⁷ Richard S. Katz, and Peter Mair. "Changing Models of Party Organization and Party Democracy." *Party Politics* 1, no. 1 (1995): 5-28.

³⁸ John Rawls, *Political Liberalism*. (Columbia: Columbia University Press, 1993).

³⁹ Robert A. Dahl, *A Preface to Democratic Theory*. (Chicago: University of Chicago Press, 1956).

⁴⁰ Fransje Molenaar, Daniela R. Piccio, and Ekaterina R. Rashkova. "The World Upside Down: Delegitimising Political Finance Regulation." *International Political Science Review* 35, no. 3 (2014): 355-375.

of elections.⁴¹ In various European democracies, analysis and reform of private funding arrangements are underway.⁴²

The arrangements cover routine funding sources and campaign funding to ensure a political funding system that ensures all parties have the opportunity to compete in accordance with the principle of equal opportunity, guarantees party independence from undue donor influence, and minimizes the dangers of corruption, especially state influence-peddling and usurpation.⁴³ Regulating the role of money in politics is a vital effort for the health of developing and advanced democracies.⁴⁴

To uphold the principle of equality and ensure a truly representative democracy, it is important to address the disproportionate influence of big donors in the political fundraising process.⁴⁵ Reforms that limit the amount of private donations or promote fairer campaign financing mechanisms may be necessary to restore the balance of power and protect core democratic values.⁴⁶ This article aims to analyze the problem of regulating private funding sources for political parties and attempts to formulate ideal regulations (*ius constituendum*) for regulating private funding sources for political parties to realize the principle of democracy, namely political equality.

The regulation of private funding sources within the framework of political equality is a complex issue that requires a multifaceted approach. In addition to examining the laws currently in force in Indonesia, it is essential to consider the challenges faced by political parties in responding to changes in the party model that have significant

⁴¹ Ann-Kristin Koll, "Does Party Finance Regulation Create a Level Playing Field?" *Election Law Journal: Rules, Politics, and Policy* 15, no. 1 (2016): 71-82.

⁴² Daniela Piccio, "Mapping Private Party Funding Regulation: Deregulation in Sight?" *Italian Political Science Review/Rivista Italiana Di Scienza Politica* (2024): 1-13.

⁴³ Valeria Smirnova, "Why Make Political Finance Transparent? Explaining the Group of States Against Corruption (GRECO)'s in Reforming National Political Finance Regulation." *European Political Science Review* 10, no. 4 (2018): 565-588.

⁴⁴ Kevin Casas-Zamora, *Political Finance and State Funding System: An Overview*. (Arlington: International Foundation for Electoral System, 2008).

⁴⁵ McElwee, et.al. *Whose Voice, Whose Choice? The Distorting Influence of the Political Donor Class in Our Big-Money Elections*.

⁴⁶ Michael Bailey, "The two sides of money in politics: A synthesis and framework." *Election Law Journal* 3, no. 4 (2004): 653-669.

implications for their ability to secure funding.⁴⁷ The deficiencies in the regulations enacted by lawmakers, both in terms of systematic coherence and the substance of the material content, indicate a legal vacuum. The failure to fulfil several principles of good regulatory formation will affect the implementation of political party financial regulations, which, in turn, have implications for inequality for donors and political parties. In this context, there is a failure to uphold or fulfil constitutional rights and Pancasila values. It is imperative that lawmakers undertake a comprehensive reformulation of the legislation, including the formulation of an understanding of donations to political parties that is in accordance with developments in society, particularly in the context of technological advancement. Moreover, it is incumbent upon lawmakers to provide a comprehensive delineation of the various categories of private funding sources for political parties. Additionally, the legislation must encompass provisions for the safeguarding of victims and the provision of assistance services to facilitate their recovery and rehabilitation. In order to gain a deeper understanding of the legal framework surrounding political party finances, it is essential to employ a robust methodology.

This methodology provides a framework for the research, depicting a systematic approach to uncovering the relevant rules, principles, and legal doctrines. The methodology chosen is aligned with the research objectives, moving from a broader exploration of child grooming to the specifics of legal research. The methodological framework of legal research provides a structured process for investigating the legal intricacies surrounding the phenomenon of child grooming. In the context of legal research, the methodologies employed may be broadly categorised into three main approaches: the regulatory approach, the conceptual approach and the comparative approach. The regulatory approach is employed to examine the legal framework governing political party finances. The conceptual approach is utilised to ascertain the direction of funding source regulation in the form of prohibitions and restrictions. Finally, the comparative approach is used to analyse regulations in several OECD countries and several ASEAN countries in several aspects. Against the backdrop of meticulously

⁴⁷ Irwansyah Irwansyah. *Penelitian Hukum: Pilihan Metode & Praktik Penulisan Artikel*. (Yogyakarta: Mirra Buana Media, 2020).

identified, classified, and systematised legal materials, the researcher establishes a robust foundation for subsequent analysis. The reasoning is conducted on the basis of deductive law, which serves as a guiding principle and refers to legal theory and principles. The objective of this research is to obtain reasoned conclusions and insights through a normative analysis, which is informed by a synthesis of legal doctrine and scientific perspectives.

Changing Party Models as a Challenge to the Decline of Private Funding Sources

Changes in the party model have implications for the sources of funding for political parties,⁴⁸ Katz and Mair classify four party models.⁴⁹ First, the elite party is a party model that emerged in the 19th century,⁵⁰ At that time, voting rights were still limited to certain citizens, so elite parties were likened to committees appointed to formulate policies and manage the country. In this party model, party funding came from the personal assets of candidates, donations from aristocrats, business people, and leaders.⁵¹

Second, along with the development, the introduction of voting rights involving many citizens, became the trigger for the presence of a cadre party model with the characteristics of a party formed to represent the interests and aspirations of some citizens (for example, labor unions and other organizations).⁵² In this party model, party funding mostly comes from membership fees and union donations, especially left-wing social-democratic parties, while right-wing parties fill their membership fees with donations from business circles.

⁴⁸ Hrvoje Matakovic, and Ivana C. Mraovic. "Development of Political Parties and Party Funding: Models and Characteristics." *CES Working Papers* 7, no. 1 (2015): 111-125.

⁴⁹ Katz, and Mair. "Changing Models of Party Organization and Party Democracy: The Emergence of the Cartel Party."

⁵⁰ Robert G. Boatright, "Party Funding in the United States." In *Party Funding*. (London: Edward Elgar Publishing, 2018).

⁵¹ F. Dolgikh, et al. "Formation of Models for Funding of Political Parties in Europe." *International Scientific Conference "Far East Con"(ISC FEC 2020)*. Atlantis Press, 2020.

⁵² Giovanni Sartori, "Party Types, Organisation, and Functions." *West European Politics* 28, no. 1 (2005): 5-32.

Third, the introduction of mass media as an instrument in reaching voters, encouraging the birth of catch-all parties, this party model is identified with pragmatic parties because parties are no longer managed based on ideology, for them the most important thing is ideas and programs that receive public support.⁵³ In this party model, party funding comes from membership fees and member donations, and most donations from business people, because they consider that funding sources are not enough to campaign through mass media and pay for professional staff, encouraging them to use public resources.⁵⁴

Fourth, the cartel party was known in the 1980s, the big parties began to work together to manage the political system, they collaborated on certain issues including on the issue of campaign funding and access to state resources, appearing to act like a cartel.⁵⁵ The party model, party funding is entirely through the use of public sources or making state resources the main source of funding, even in some countries it is the only source of funding, besides also receiving donations from private sources.⁵⁶ As parties become more dependent on state funding and resources for their operations, they have a greater motivation to collude and protect their access to these benefits.

This description explains that the mass party funding model appears to be the model closest to the '*democratic*' ideal, while the state-funded ('*cartel*') funding model appears to be a reasonable, pragmatic response to the decline in party membership,⁵⁷ and the party model and sources of financing as shown on Table 1.

⁵³ Chrysa Lamprinakou, "The Party Evolution Model: An Integrated Approach to Party Organisation and Political Communication." *Political Studies Review* 28, no. 2 (2008): 103-111.

⁵⁴ Ingrid Van Biezen, "Party Financing in New Democracies." *Party Politics* 6, no. 3 (2000): 329-342.

⁵⁵ Katz, and Mair. "The Cartel Party Thesis: A Restatement."

⁵⁶ Jon Pierre, Lars Svåsand, and Anders Widfeldt. "State Subsidies to Political Parties: Confronting Rhetoric with Reality." *West European Politics* 23, no. 3 (2000): 1-24.

⁵⁷ Jonathan Hopkin, "The Problem with Party Finance." *Party Politics* 10, no. 6 (2004): 627-651.

TABLE 1. Party Models and Sources of Party Financing⁵⁸

Party Model	Time	Main Sources of Funding
Cadre Party	Early 19th century	Candidate's personal assets
Mass Party	1880	Membership Dues and Donations
Catch-all Party	1945	Membership fees, contributions from various sources, public subsidies
Cartel Party	1970	Public Subsidy

Source: Katz dan Mair

The portrait of the changing party model that shows a decrease in the number of party members has implications for the number of party funding sources. This is further complicated by the sharp increase in election campaign costs (especially due to greater media use).⁵⁹

The phenomenon of declining party membership is an implication of public distrust of politicians, political parties and representative institutions, which has been going on for a long time (1970).⁶⁰ Dalton and Weldon emphasize that, although political parties have been accepted as the foundation of a representative democratic system, fewer and fewer people trust political parties.⁶¹

The decline in support for parties and governments across Western democracies continued into the 1980s and 1990s.⁶² The erosion of party attachment has occurred in almost all developed countries, occurring in 17 of the 19 advanced democracies,⁶³ this was also followed by a decline in campaign participation rates and election participation rates.⁶⁴ Cynicism towards parties also occurs in Indonesia, the trigger being the increasing number of corruption cases involving

⁵⁸ Katz, and Mair. "Changing Models of Party Organization and Party Democracy."

⁵⁹ Maria Chiara Pacini, "Public Funding of Political Parties in Italy." *Modern Italy* 14, no. 2 (2009): 183-202.

⁶⁰ Eri Bertsou, "Political Distrust and Its Discontents: Exploring the Meaning, Expression and Significance of Political Distrust." *Societies* 9, no. 4 (2019): 72.

⁶¹ Russell J. Dalton, and Steven A. Weldon. "Public Images of Political Parties: A Necessary Evil?" *West European Politics* 28, no. 5 (2005): 931-951.

⁶² Andrew J. Drummond, "Electoral volatility and party decline in Western democracies: 1970–1995." *Political Studies* 54, no. 3 (2006): 628-647.

⁶³ Roberto Foa, and Yascha Mounk. "The Democratic Disconnect." *Journal of Democracy* 27, no. 3 (2016): 5-17.

⁶⁴ Foa, and Mounk.

party elites, which has implications for voters' attitudes that distance them from parties and leads to transactional general elections.⁶⁵

Another trigger, in many democratic countries, citizens express their political distrust related to the failure of representation that contains ethical dimensions,⁶⁶ the way politics has deviated (undemocratic), the inconsistency between the representation facilitated by modern democratic countries and the representation desired by the majority of citizens.⁶⁷ Political parties have failed or regressed, far from their original purpose. Expressions of disappointment towards political parties have reached a crucial point, namely an anti-party attitude, this is triggered by the failure of governance and failure to carry out functions (specifically the function of representation) which are important aspects for a healthy democracy to work.⁶⁸

Expression is also marked by a breakaway from partisan politics for almost the same reasons, the weakening of the role of representation or being seen as unaccountable.⁶⁹ Expressions of growing disappointment towards political parties, considered to have failed to meet the public's needs to appear as agents of representative democracy,⁷⁰ Schmitter said political parties are no longer what they used to be, parties have lost their identity as a means of representation, an instrument of mobilization, and a channel for articulation and aggregation of interests.⁷¹

⁶⁵ Burhanuddin Muhtadi, "Politik Uang dan Dinamika Elektoral di Indonesia: Sebuah Kajian Awal Interaksi antara Party-ID dan Patron-Klien." *Jurnal Penelitian Politik* 10, no. 1 (2013): 41-58.

⁶⁶ Eri Bertsou, "Political Distrust and Its Discontents: Exploring the Meaning, Expression and Significance of Political Distrust."

⁶⁷ Troels Bøggild, "Politicians as Party Hacks: Party Loyalty and Public Distrust in Politicians." *The Journal of Politics* 82, no. 4 (2020): 1516-1529.

⁶⁸ Richard S. Katz, and Peter Mair. "The Evolution of Party Organizations in Europe: The Three Faces of Party Organization." *American Review of Politics* 14 (1993): 593-617.

⁶⁹ Ingrid Van Biezen, and Richard S. Katz. "Democracy and Political Parties." *Paper Presented for the workshop 'Democracy and Political Parties', ECPR Joint Sessions, 2005, Granada, 14-19 April.*

⁷⁰ Dalton, and Weldon. "Public Images of Political Parties: A Necessary Evil?"

⁷¹ Ingrid Van Biezen, "How Political Parties Shape Democracy." *Paper presented at the International Conference of Europeanists, Chicago, Center for the Study of Democracy at University of California, 2004, 1-15.*

Prohibitions and Restrictions on Private Funding Sources for Political Parties in Indonesia

The decline in the number of party members which has implications for the loss of funding sources, encourages parties to seek private funding sources, the types of which vary, originating from political elites, candidates, and the private sector.⁷² Its existence is like two sides of a coin, one side is needed to encourage community participation and maintain relations with grassroots supporters,⁷³ improving relations between the government and the community.⁷⁴ However, on the other side, private funding is considered worrying and threatening, because of its potential negative implications for political parties.⁷⁵ The importance of private sources (donations) for political parties to make elections a success by providing resources for advertising, organizing, fundraising, and offering expertise to party leaders.⁷⁶

Concerns about the negative implications of private funding sources are correlated with the motivation of donors to act as investors who become access to unwanted exchanges between corporations as investors and interested parties.⁷⁷ In the UK, a number of large companies from the alcohol and tobacco industries actively lobby,

⁷² Rofiq, "The Decline of Political Party Public Financing and the Emergence of Political Cartel in Indonesia: A Study of Partai Kebangkitan Bangsa."

⁷³ Jon Pierre, Lars Svåsand, and Anders Widfeldt. "State Subsidies to Political Parties: Confronting Rhetoric with Reality." *West European Politics* 23, no. 3 (2000): 1-24.

⁷⁴ David Primo, and Jeffrey Milyo. "Campaign Finance Laws and Political Efficacy: Evidence from the States." *Election Law Journal Rules, Politics, and Policy* 5, no. 1 (2006): 23-39.

⁷⁵ Chiara Fiorelli, "Running out of oxygen: The financial condition of Italian political parties." *Italian Journal of Electoral Studies (IJES)* 85, no. 2 (2022): 29-39.

⁷⁶ Erin Tolley, Randy Besco, and Simone Sevi. "Who Controls the Purse Strings? A Longitudinal Study of Gender and Donations in Canadian Politics." *Politics & Gender* 18, no. 1 (2020): 244-272; Wahyudi Arif, Andi Pangerang Moenta, and Muh Hasrul. "Legal Responsibilities of Members of the Makassar City Regional People's Representative Council (DPRD) to their Constituents in the Electoral District." *AL-MANHAJ: Jurnal Hukum dan Pranata Sosial Islam* 5, no. 2 (2023): 1845-1858.

⁷⁷ Anke Fink, "Donations to Political Parties: Investing Corporations and Consuming Individuals?" *Kyklos* 70, no. 2 (2017): 220-255.

meeting intensively with Ministers to influence health policy⁷⁸ In Australia, the alcohol and tobacco industries donate to buy direct influence, build long-term relationships, support exchanges, and take advantage of a flawed political system.⁷⁹ The motivations behind private donations can vary, from personal interests to the expectation of receiving services or benefits in return.⁸⁰

In response, European countries have chosen the path of regulating private funding sources.⁸¹ Conceptually, one way to regulate private funding sources is by limiting the legitimate donor sources and the amount of donations that can be received by candidates and parties.⁸² Limiting the amount of donations from individuals and companies is a way to reduce the excessive influence of large donors.⁸³

Furthermore, in Indonesia, lawmakers have agreed to create a law containing legal norms limiting private funding sources for political parties, as shown on Table 2.

TABLE 2 Limitations on Private Funding Sources for Political Parties

Private Funding Sources	Law 2 of 1999	Law 31 of 2002	Law 2 of 2008	Law 2 of 2011
Member of Political Party	There are no Limitations	There are no Limitations	There are no Limitations	There are no Limitations
Individuals Not Members of a Party	Rp. 15 million per year	Rp. 200 million per year	Rp. 1 billion per year	Rp. 1 billion per year

⁷⁸ Crispin Acton, and Benjamin Hawkins. "Are UK alcohol industry political donations intended to influence public health policies?—Analysis of publicly available data on donations and lobbying." *Journal of Public Affairs* 22 (2022): e2740.

⁷⁹ Kypros Kypri, et al. "‘If someone donates \$1000, they support you. If they donate \$100 000, they have bought you’. Mixed methods study of tobacco, alcohol and gambling industry donations to Australian political parties". *Drug and Alcohol Review* 38, no. 3 (2019): 226-233.

⁸⁰ Jan Stuckatz, "How the Workplace Affects Employee Political Contributions." *American Political Science Review* 116, no. 1 (2021): 54-69.

⁸¹ Simona Maria Stănescu, *Raport de recomandări al economiei sociale: România 2013*. (București: ADD Media Communication, 2013).

⁸² Ingrid Van Biezen, *Financing Political Parties and Election Campaigns Guidelines*. (Germany: Council of Europe Publishing, 2003).

⁸³ Michael Pinto-Duschinsky, "Financing politics: A global view." *Journal of Democracy* 13, no. 4 (2002): 69-86.

Private Funding Sources	Law 2 of 1999	Law 31 of 2002	Law 2 of 2008	Law 2 of 2011
Business entity	Rp.150 million per year	Rp.800 million per year	Rp. 7.5 billion per year	Rp. 7.5 billion per year

Source: Authors, 2024 (edited)

TABLE 3 Ban on Donations to Political Parties

Law 2/1999	Law 31/2002	Law 2/2008	Law 2/2011
Political Parties may not accept donations and assistance from foreign parties.	It is prohibited for political parties to accept donations from or make donations to foreign parties in any form, in contravention of the relevant statutory regulations.	It is prohibited for political parties to accept or make donations to foreign parties in any form that contravenes the relevant statutory regulations.	The same prohibitory provisions that were established in Law Number 2 of 2008 concerning Political Parties remain in effect.
	It is prohibited for political parties to accept donations, whether in the form of goods or money, from any source that does not provide a clear identity; donations from anonymous sources are not permitted.	Political parties accept donations in the form of money, goods or services from any source without disclosing the identity of the donor.	
	It is prohibited for political parties to accept donations from individuals and/or companies/business entities exceeding the established limits.	In accordance with the stipulations set forth in the pertinent legislation, political parties are precluded from accepting donations from individuals and/or corporate entities in excess of the prescribed limits.	
	It is prohibited for political parties to request or receive funds from state-owned enterprises, regionally owned enterprises, village-owned enterprises, or other similar entities. This	It is prohibited for political parties to request or receive funds from state-owned enterprises, regionally owned enterprises, village-owned enterprises,	

Law 2/1999	Law 31/2002	Law 2/2008	Law 2/2011
	prohibition extends to cooperatives, foundations, non-governmental organisations, community organisations, and humanitarian organisations.	or other similar entities.	
		It is prohibited for political parties to utilise factions within the People's Consultative Assembly, People's Representative Council, Provincial People's Representative Council, and Regency/City People's Representative Council as a source of funding for their political activities.	
The term "donations and assistance from foreign parties" encompasses contributions from governmental, institutional, and business entities, as well as from foreign citizens residing both abroad and within the country.	The term " <i>foreign parties</i> " encompasses foreign citizens, foreign community organisations, and foreign governments.	In accordance with the stipulations set forth in this provision, the term "foreign party" is defined as a foreign citizen, foreign government, or foreign community organisation.	

Source: Authors, 2024 (edited)

The description above illustrates that the regulation of private funding sources in Indonesia includes many restrictions and prohibitions aimed at a number of donors. Conceptually, the material

content is formed as a preventive measure so that political parties do not rely on donations from individual donors or business entities as their main source of funding.⁸⁴ This is because the potential for such funding can have an undue influence on the political process,⁸⁵ efforts to maintain the independence of political parties,⁸⁶ prevent disproportionate influence on policy decisions and political processes,⁸⁷ prevent corruption and deviations from democratic values.⁸⁸

However, from the perspective of the formation of laws and regulations, the current regulations show shortcomings both in terms of their systematic structure and the substance of the regulations themselves. These shortcomings have the potential to have implications for avoiding or creating space for certain parties to provide unlimited donations. This situation will result in unfair treatment of donors and unhealthy competition for political parties.⁸⁹

In order to obtain comprehensive data in answering regulatory issues in Indonesia, reformulation efforts were carried out using a comparative study approach in several countries. These countries were selected based on their membership in two distinct regional organizations: the Organisation for Economic Co-operation and Development (OECD) and the Association of Southeast Asian Nations

⁸⁴ Galih Kurniawan, "Pengaruh Penerimaan dan Pengelolaan Dana Partai Politik Terhadap Masa Depan Politik di Indonesia." *Jurnal Pendidikan Agama dan Keagamaan* 4, no. 2 (2021): 110-116.

⁸⁵ Kypri, et.al. "If someone donates \$1000, they support you. If they donate \$100 000, they have bought you'. Mixed methods study of tobacco, alcohol and gambling industry donations to Australian political parties".

⁸⁶ Julia Cage, and Malka Guillot, "Is Charitable Giving Political? Evidence from Wealth and Income Tax Returns" *SSRN*, June 30 (2021). Available at SSRN <http://dx.doi.org/10.2139/ssrn.3881112>

⁸⁷ Steven Ratcliff, and Darren Halpin. "Dark Money and Opaque Politics: Making Sense of Contributions to Australian Political Parties." *Australian Journal of Political Science* 56, no. 4 (2021): 335-357.

⁸⁸ Nelson Ruiz, "The Power of Money. The Consequences of Electing a Donor Funded Politician". *SSRN*, March 8, (2017). Available at SSRN <http://dx.doi.org/10.2139/ssrn.3123592>

⁸⁹ International IDEA. *Database Political Finance*, available online at <https://www.idea.int/data-tools/data/political-finance-database>. The donation of substantial sums of money by a limited number of individuals or organisations to political parties or candidates may give rise to the perception of quid pro quo corruption, whereby the special interests of a select few are favoured over the broader public interest.

(ASEAN). The comparative study focused on examining several aspects of regulations on private funding sources for political parties.

Comparison of Private Funding Regulations for Political Parties in OECD Countries

A. *Donations from Foreign Parties*

In the context of regulating foreign donations to political parties, a variety of policies are in place in OECD countries. In the United Kingdom, the choice of footing for the type of foreign donation is determined by legislative action, resulting in the imposition of a ban. This is evidenced by the regulations that enumerate the parties who are permitted to make donations, wherein foreign donors are not classified as parties who are allowed to make donations. However, the regulations governing foreign donations in the UK are distinctive in that they permit exceptions, allowing donations to be made if the intended purpose is to support international travel for party staff. In such instances, donations may be in the form of accommodation or expenses, provided that the amount is deemed reasonable.⁹⁰

The United States of America is a country that has adopted a policy of enforcing a ban on foreign-sourced donations, with a particular emphasis on the fact that accepting donations from foreign sources constitutes a form of violation of the law. The authors of the regulations concur that foreign nationals are prohibited from making donations, whether directly or indirectly. The donations in question are to be made in the form of money or other valuables. Furthermore, it is explicitly prohibited for foreign parties to make any express or implied promises regarding gifts or donations in connection with federal, state, or local elections. Moreover, the prohibition on foreign donations is also applicable to donations or contributions to political party committees, expenditures, independent expenditures, or disbursements for election communications.⁹¹

Germany, in accordance with the political party law, it would appear that lawmakers have elected to pursue a policy trajectory that does not prohibit foreign donations. Nevertheless, the policy establishes

⁹⁰ United Kingdom, Article 54, *Political Parties and Referendums Act*, 2000, https://www.legislation.gov.uk/ukpga/2000/41/pdfs/ukpga_20000041_en.pdf

⁹¹ United States, Article 441e, *United States Code*, Title 2, The Congress.

limitations on the amount that donors can contribute and the amount that political parties can receive, with the maximum set at a sum of no more than EUR 1,000.⁹²

New Zealand has adopted a similar approach to Germany with regard to the regulation of foreign donations, namely that external parties are permitted to make donations to political parties, provided that the total amount of the donation does not exceed a specified limit of \$50 over the course of a single year (31 December). In the event of a foreign donation exceeding the prescribed limit of \$50 in a single year, whether on its own or when aggregated with all other donations made by or on behalf of foreign entities, the party secretary is obliged to return the donation to the donor or the excess amount within 20 working days of receipt. In the event that a foreign donation exceeds the total sum of \$50 and is therefore irrecoverable, the Electoral Commission is to be furnished with the remaining amount, which is to be deducted from the original donation.⁹³

From the aforementioned explanation, it can be discerned that within the context of UK policy, despite the imposition of restrictions on foreign donations, these restrictions do not extend to international travel of political party staff. Nevertheless, the UK has established a ceiling on the reasonable amount that can be allocated for international travel. This stipulation illustrates a legal lacuna that may give rise to difficulties, given the ambiguity of the norm and the diverse interpretations that this ambiguity can engender. The policy decision of the US legislators is to explicitly prohibit all forms of donations from foreign sources. In other words, the exclusion policy that is typically applied to other countries is not applied in this case. In contrast, the policy direction of Germany and New Zealand differs from that of the United States. In contrast to the prohibition of donations from foreign sources, these countries permit such donations, provided that the amount given does not exceed the limits set by each country.

B. Donations from Legal Entities

Another area meriting regulation to ensure equality through the regulation of private funding sources is that of donations from legal

⁹² Germany, § 25(2), *Political Parties Act 1967* (amended 2018).

⁹³ New Zealand, Section 207K(2A)-(3), *Electoral Act 1993*, (amended 2023).

entities. The United States has adopted a policy of prohibiting donations or expenditures from national banks or corporations in connection with expenditures on general elections or political conventions for any political office that are submitted directly to political parties and candidates. Nevertheless, donations from legal entities are permitted, provided that they are submitted through PACs and subject to certain restrictions.⁹⁴

The United Kingdom, in regard to its policy on private donations from legal entities, the United Kingdom has adopted a stance that permits the acceptance of such donations. This is evidenced by the regulations which delineate the categories of donors who are permitted to make donations. These include companies registered under the Companies Act 2006, incorporated in the United Kingdom or another Member State, and engaged in business activities within the United Kingdom. Furthermore, these provisions apply to limited partnerships registered under the Limited Liability Companies Act 2000 or other relevant legislation in force in Northern Ireland, as well as companies that are engaged in business activities within the United Kingdom.⁹⁵

In regulating private funding sources originating from legal entities, Germany has adopted a policy of prohibiting the acceptance of such donations. Nevertheless, an exception is made to this policy if the donation originates from a business entity whose shareholdings are more than 50 percent owned by German citizens as defined by the Basic Law or by EU citizens, or whose head office is located in a Member State of the European Union.⁹⁶ In contrast to the policies of other countries, New Zealand does not have a specific regulatory framework governing donations from legal entities. Neither prohibitions nor restrictions are in place.

The aforementioned description indicates that the policy of private funding sources for political parties originates from companies and legal entities. It appears that each country has adopted a distinct approach. In the United Kingdom, it is established that political parties may accept donations from legal entities, provided that specific criteria are satisfied. In the United States, donations from such entities are

⁹⁴ United States, Section 441b(a), *United States Code*, Title 2, The Congress.

⁹⁵ United Kingdom, Article 54, *Law on Political Parties and Referendums of 2000*.

⁹⁶ Germany, *Political Parties Act, 1967* (amended 2018).

permitted, provided that they are not made directly to political parties or candidates. In Germany, donations of this nature are permitted, provided that they meet the criteria set out in the relevant legislation. With regard to New Zealand, it appears that there is no discernible policy direction, whether it be a prohibition or a limitation.

C. Donations from Anonymous

The United States, in regard to the regulation of anonymous donations, the United States has adopted a policy that restricts candidates or political committees from accepting donations exceeding \$50. Consequently, the treasurer of the political committee is obliged to record the name and address of each individual making a contribution exceeding \$50, as well as the date and amount of each contribution.⁹⁷

The United Kingdom has adopted a policy of prohibiting political parties from accepting donations from anonymous sources. The policy stipulates that political parties are prohibited from accepting donations if the donor provides the donation anonymously or through fraud or concealment, whereby the identity of the donor cannot be ascertained.⁹⁸

Germany has adopted a policy that prohibits political parties from accepting donations from individual donors who cannot be identified, or who can be identified as forwarding donations from unnamed third parties. However, this policy is exempted if the amount of anonymous donations does not exceed EUR 500.⁹⁹

In response to private donations from unidentified donors, the government of New Zealand has adopted a policy of allowing donations from unidentified sources, without imposing any prohibitions. Nevertheless, limitations are imposed on the sum that can be contributed to anonymous donations. The regulation stipulates that in the event that a party secretary receives a party donation from an anonymous source or has reasonable grounds to believe that the donation was made by an overseas individual whose donation amount or value exceeds \$50, the party secretary is obliged to submit the excess

⁹⁷ United States, Section 432(c) (2) of the United States Code, Title 2, Congress.

⁹⁸ United Kingdom, Section 432(c) (2) of the United States Code, Title 2, Congress.

⁹⁹ Germany, § 25(2), Political Parties Act, 1967 (amended 2018)

donation amount to the Electoral Commission within 20 working days. Furthermore, if the party secretary has insufficient grounds to believe that the donation originated from an overseas source and does not exceed \$1,500, In the event that a donation exceeds the sum of \$1,500, the party secretary is obliged to submit the excess amount to the Electoral Commission within a period of 20 working days.¹⁰⁰

With regard to the policy of donations from anonymous sources, it should be noted that in the United Kingdom there are no regulations that either permit or prohibit anonymous donations. This is distinct from the regulatory frameworks in the United States, Germany, and New Zealand, which impose limitations on the amount of donations that can be received by political parties. The regulatory approaches in these countries vary considerably.

D. Donations from Private Individuals

One type of classic party donation is donations from individuals. While this type of donation is a classic form of political finance, it is generally agreed to be limited in scope. The United States has a policy of imposing restrictions on the amount of donations permitted from individuals.

Concurrently, the United Kingdom has elected to implement a policy of imposing limitations on individual donations. This is evident in the stipulation that all parties classified as permitted donors, including individuals, are obliged to comply with the imposed restrictions.¹⁰¹ The policy stipulates that personal donations are an acceptable form of contribution, provided that the specified monetary limit is not exceeded.

The policy formulation for such donations is also subject to detailed regulation. This is evidenced by the stipulation that donations include money or property, sponsorship, subscriptions or other fees paid for affiliation or membership, money spent (other than on behalf of a party) to pay for costs incurred directly or indirectly by the party, money lent to the party other than on commercial terms, and the provision other than on commercial terms of any property, services or facilities for the use or benefit of the party.

¹⁰⁰ New Zealand, Article 207(2), Election Law 1993, (amended 2023)

¹⁰¹ United Kingdom, Article 50, Political Parties and Referendum Act, 2000

It is the responsibility of the Party Treasurer to prepare a contribution report on an annual basis. Each permitted donor from whom a contribution was received by the party during that year must comply with the following provisions of this section to the extent that such provisions require such contribution to be recorded in the contribution report. In such provisions, each such contribution is referred to, in relation to the donor and the year, as a "relevant contribution". Germany and New Zealand have both opted for a policy of not imposing a limit on the amount of donations that can be made.¹⁰²

E. Donations from Companies Partially Owned by the Government

Another initiative has been undertaken with the objective of ensuring equality for donors. This initiative pertains to the regulation of private donations originating from companies that are partly owned by the government. The United States has a policy that prohibits donations from companies with government ownership. This policy applies to any individual or entity that has a contract with the United States or any of its departments or agencies. These individuals and entities are prohibited from making contributions to any political party, committee, or candidate in connection with a federal election.¹⁰³

Concurrently, Germany has adopted a policy of imposing restrictions on donations from companies that are owned by the government. It is prohibited for political parties to accept donations from companies that are wholly or partly owned by the public sector or that are managed or operated by such companies, provided that the direct participation of the public sector exceeds 25 percent.¹⁰⁴

It would appear that in OECD countries, policies related to the prohibition and restriction of private funding sources originating from companies that are partly owned by the government adopt a variety of approaches. Some countries prohibit such funding sources altogether, while others permit them, albeit with the stipulation that a minimum donation amount be met. Additionally, there are countries that do not

¹⁰² Electoral Act 1993, (Amended 2023).

¹⁰³ United States, 441c (a) United States Code, Title 2, The Congress

¹⁰⁴ Germany, § 25(2), Political Parties Act, 1967 (amended 2018)

explicitly regulate the status of this type of donation, such as the United States and New Zealand.

F. Donations from Loans related to Election Campaigns by Political Parties and Candidates

In regard to the policy on the sources of funding for candidate campaign loans. The legislators in the United States reached a consensus that such sources of funding are permissible, stipulating that candidates must maintain supplementary records pertaining to loans obtained from lending institutions and loans received for the purpose of financing their campaign. In addition to the aforementioned specific requirements for individual transactions, the implementing regulations stipulate that each individual obliged to file a disclosure report must maintain records to enable the reports to be verified, explained, clarified and checked for accuracy and completeness. Examples of such records include bank statements, vouchers, worksheets, receipts, bills and accounts.¹⁰⁵ However, there is no policy that specifically addresses loans by political parties.

The New Zealand electoral commission has adopted a policy that permits political parties to accept private donations in the form of loans. However, this policy prohibits loans from being provided directly to candidates. In order to elucidate the status of private donations, it is stipulated that the loan in question is a loan received by the candidate, with the obligation of an agreement containing data on the lender and the borrower which attests to the fact that the purpose of the loan is for the general election campaign. Nevertheless, this stipulation does not extend to loans from accredited lenders with commercial interest rates (there is no prohibition).¹⁰⁶ It is incumbent upon each candidate to maintain accurate records of all loans made. In the event that a candidate is unable to account for the loan records without a reasonable excuse, this action is classified as an offence and may result in a fine of up to \$40,000 if found guilty.¹⁰⁷

In regard to loans that can be made in the name of the party, it is stipulated that only the party secretary is authorized to do so. It is

¹⁰⁵ New Zealand, 11 Code of Federal Regulations 104.14(b)(4)

¹⁰⁶ New Zealand, Subsection 1, Elections Act 1993, (Amended 2023)

¹⁰⁷ 214BA Subpart 1, Electoral Act 1993, (Amended 2023)

further emphasized that every loan must be recorded. This stipulation does not pertain to loans from registered lenders with commercial interest rates. In the event of a loan being made in contravention of the established regulations, the loan is deemed to be an illegal agreement, insofar as it violates the provisions set out in subsection 5 of Section 2 of the Contract and Commercial Law Act 2017.¹⁰⁸ In the case of loans made by a political party, the party secretary is held accountable for maintaining accurate records of all loans made in the name of the party. In the event that the party secretary is unable to provide an explanation for the absence of loan records, this action is classified as a violation and may result in a fine of up to \$40,000 if found to be in breach of the regulations.¹⁰⁹

In regard to loans, the pertinent regulations prohibit the acceptance of funds from any source that has been found guilty of corrupt practices or other illegal activities.¹¹⁰ In order to circumvent the aforementioned provisions, it is stipulated that any individual who enters into an agreement or transaction with another party with the intention of evading the prohibition or obligation to disclose the source of the loan is deemed to have committed an illicit act.¹¹¹

The United Kingdom does not have a clearly defined regulatory framework in the Political Parties, Elections and Referendums Act 2000 concerning the acceptance of donations obtained through loans, including both loans made by political parties and candidates. Similarly, Germany has no clear provisions regarding policies prohibiting or permitting donations obtained through loans in either the Political Parties Act of 1967 (amended 2018) or the Federal Elections Act of 1993 (amended 2019).¹¹²

With regard to donations derived from loans provided by political parties and candidates, it would appear that the policies of these countries vary considerably. In the United States, only loans made by candidates are subject to regulation. Loans made by parties are not subject to any regulatory framework, whether in the form of

¹⁰⁸ 213 Subpart 1, Electoral Act 1993, (Amended 2023)

¹⁰⁹ 214BA Subpart 1, Electoral Act 1993, (Amended 2023)

¹¹⁰ 214A, 214C, 214F Subpart 1, Electoral Act 1993, (Amended 2023)

¹¹¹ 214B Subpart 1, Electoral Act 1993, (Amended 2023)

¹¹² Germany, Political Parties Act, 1967 (amended 2018), Federal Elections Act, 1993 (amended 2019)

prohibitions or restrictions on the amount. With regard to New Zealand, a policy of regulating donations originating from loans has been adopted, encompassing both loans made in the name of candidates and those made in the name of parties. The policy sets out a number of requirements designed to encourage transparency and openness. Conversely, the United States and Germany have opted for a policy of non-regulation with regard to this category of donation.

Comparison of Private Funding Regulations for Political Parties in ASEAN Countries

A. Foreign Donations

In ASEAN countries, there is a disparate approach to the regulation of private funding sources for political parties. With regard to the matter of funding sources from foreign donations, the Indonesian government has adopted a policy of prohibition, whereby political parties are forbidden from receiving such donations. This prohibition extends to all forms of donations, including financial contributions, goods, and services (facilities). Such donations are deemed to contravene the relevant legislation and regulations.¹¹³

The Philippines has adopted a policy of prohibiting foreign funding sources. This prohibition is regulated by two articles. It is stipulated that every foreigner is prohibited from providing assistance to a candidate or political party, whether directly or indirectly, or from participating in or influencing an election in any way. Furthermore, they are prohibited from making any contributions or expenditures related to an election campaign or partisan political activity.¹¹⁴ Furthermore, the prohibition is reiterated that no contribution for the purpose of partisan political activities may be made directly or indirectly by foreigners and foreign companies.¹¹⁵

Thailand has adopted a similar approach to that of Indonesia and the Philippines with regard to the regulation of funding sources from abroad, namely the prohibition of foreign donations. Furthermore, Thailand has implemented more comprehensive regulations in this regard. It is stipulated that political parties are prohibited from

¹¹³ Article 40 paragraph (3) letter a, Political Parties Law, 2008

¹¹⁴ Philippines, Section 81, Philippine Election Code (revised 2013)

¹¹⁵ Philippines, Section 95 letter h, Philippine Elections Code (revised 2013)

accepting donations from non-Thai citizens or legal entities with ties to foreign parties for the purpose of carrying out political activities.¹¹⁶

With regard to Malaysia, the policy of the government in relation to foreign donations is to refrain from regulating the sources of political funding, including donations from abroad. This can be verified through an examination of the 1954 Election Violations Act or its 2012 constitution, as well as the 1966 Association Act. No legislative provision exists which sets out the types of foreign donations that are subject to regulation.

With regard to donations from overseas sources, it would appear that Indonesia, Thailand and the Philippines have adopted a similar approach, namely the implementation of a policy prohibiting the acceptance of donations from foreign entities. The three countries have different, detailed regulations. Thailand, for instance, regulates in great detail the parties that are categorised as foreign parties. Meanwhile, it would appear that Indonesia does not regulate in any great detail the parties that are categorised as foreign donors. This lack of regulation may give rise to difficulties in interpretation, due to the vague formulation of the norms in question.

Similarly, the Philippines' policy choice comprehensively regulates the prohibition of this type of donation, which includes donations made during the campaign period and those made outside

¹¹⁶ Thailand, Article 74, *Organic Law on Political Parties*, 2017. At this provision, stated that (i) a legal entity under the laws of a foreign country carrying on its business or activities or having a registered branch in or outside the Kingdom; (ii) a legal entity registered in the Kingdom consisting of persons who are not Thai citizens who have share capital or own more than forty-nine percent of the shares. In the case of a public limited company listed on the Stock Exchange of Thailand, the considerations under this subsection shall apply to the shareholders' registration book of the public company. Shares held by an unnamed person or a representative of an unnamed person shall be deemed to be shares held by a person who is not a Thai citizen; (iii) a group of persons or a legal entity that receives capital or supporting money from a foreign country, and has the purpose of carrying out any activities for the benefit of a person who is not a Thai citizen or has a manager or member of its executive committee who is not a Thai citizen; (iv) a person, group of persons or a legal entity that receives donations with the intention of carrying out political party activities or any political activities from the persons, group of persons or legal entities as referred to above; and (v) persons, groups of persons, or legal entities in the same manner as referred to above as determined by the General Election Commission.

the campaign period. It also details the form of donations that include activities that indirectly influence the general election. This enables the regulations to prevent negative implications from foreign donations. Meanwhile, Malaysia has yet to implement a policy regulating foreign donations, whether in the form of a prohibition or restrictions.

B. Donations from Companies/Legal Entities

It is perceived that donations originating from legal entities may have an adverse impact on equality. It is therefore essential to examine the policies related to this type of donation. In Indonesia, legislation has been enacted to categorise donations originating from legal entities as types of donations that are permitted to be received. This policy is accompanied by requirements, namely that the amount (limit) set must not be exceeded.¹¹⁷

Thailand does not have a policy that prohibits or restricts the source of donations from legal entities.¹¹⁸ It would appear that Malaysia and the Philippines have adopted a similar approach to that of Thailand, with no policy in place that either prohibits or limits donations from legal entities, as is typically the case.

It would appear that Indonesia is the only country that has implemented a policy in the form of a ban on private funding sources. In contrast, the other three countries do not have a policy basis for either a ban or restrictions.

C. Donation from Anonymous

With regard to the policy of anonymous donations, Indonesia has adopted a stance of prohibition with respect to the acceptance of such donations. The policy option stipulates that campaign funds for members of the DPR, provincial DPRD, and district/city DPRD can only be accepted if the donor provides a clear and verifiable identity.

¹¹⁷ Republic of Indonesia, Article 40 (3) c d, *Political Party Law*, 2008. Companies and/or commercial business entities, a maximum of IDR 7,500,000,000.00 (seven billion five hundred million rupiah) per company/commercial business entity within a period of one budget year.”

¹¹⁸ Thailand, Section 76 paragraph one, Organic Act on Political Parties, 2017. No State agency, State enterprises, any other State agency or enterprise of which the State is a major shareholder, shall donate money, property or any other benefit to any political party or participate in activities under Section 64.”

The wording of the article serves to confirm that donors who do not provide a clear identity are prohibited from making donations, and that legislative candidates are similarly prohibited from accepting such donations.¹¹⁹ Similarly, political parties are prohibited from accepting donations in the form of money, goods, or services from any source, provided that the donor does not include a clear identity.¹²⁰

The Philippines has adopted a similar approach to Indonesia with regard to the regulation of anonymous donations. This entails the prohibition of all forms of anonymous donations, the stipulation that no individual may make a donation under any other name than their own, and the prohibition on candidates or political party treasurers from accepting donations or entering or recording them under any other name than that of the actual donor.¹²¹

With regard to Thailand, a policy of allowing or permitting anonymous donations has been adopted. In relation to this policy, the lawmakers have set out requirements in the form of limits on the amount of donations that can be made (not exceeding the specified amount). In order to guarantee that the total value of anonymous donations does not exceed the specified limit, all fundraising activities must be conducted in an open and transparent manner, with a clearly defined objective. Consequently, political party leaders are obliged to disclose the amount and source of funds, assets, or other benefits obtained from these activities to the general public.¹²²

The aforementioned announcement must include the names of all donors who provide donations in the form of money, property, or other benefits with a value of at least 100,000 Thai baht (THB 100,000). On a monthly basis, political parties are obliged to disclose the names of each donor who provides donations in the form of money, property, or other benefits with a value of at least five thousand baht (THB 5,000) to the general public for the purpose of donations. Furthermore, political parties are obliged to inform the Registrar of the relevant details in accordance with the prescribed format, procedure, and timeframe as determined by the KPU. In contrast to the regulatory

¹¹⁹ Republic of Indonesia, Article 330 paragraph (1), paragraph (2), and paragraph (3) of the General Election Law, 2017

¹²⁰ Article 40 (3) b General Election Law, 2017

¹²¹ Philippines, Omnibus Election Code, Section 98 (revised 2013)

¹²² Thailand, Article 64-65 of the Basic Law on Political Parties, 2017

frameworks in Indonesia, the Philippines, and Thailand. It is notable that Malaysia does not regulate policies regarding donations from anonymous sources.

A review of the available information suggests that the policies in question exhibit considerable diversity. In contrast to the aforementioned countries, Indonesia and the Philippines have elected to implement a prohibition on anonymous donations, whereas Thailand has adopted a policy of limiting the quantity of donations permitted. In contrast, Malaysia does not have a policy that regulates the category of donation types, whether through a ban or a restriction.

D. Donations from Companies that are Partly Owned by the Government

The Indonesian government has adopted a policy that prohibits donations from companies in which the government has a partial ownership interest. This policy is operationalised through the regulation that participants in elections and campaign teams/organisers are prohibited from receiving campaign funds from sources that are state-owned, regionally owned or village-owned enterprises. In the event that parties, candidates, and campaign teams receive such donations, they are prohibited from utilising them. Furthermore, it is stipulated that such instances must be reported to the General Election Commission and that the donation must be transferred to the state treasury within 14 days of the conclusion of the campaign period.¹²³

In order to guarantee adherence to these stipulations, penalties are established in the form of criminal sanctions. Moreover, the policy underscores the prohibition against the utilisation of the budgets of state-owned enterprises, regionally owned enterprises, village governments, or village-owned enterprises for the purpose of donation or provision for campaign activities.

It would appear that Thailand has adopted a similar policy to that of Indonesia, namely the prohibition of political parties from accepting donations from companies that are partly owned by the state. It is emphasised that no state institution, state-owned company, other state institution or company in which the state is the major shareholder may

¹²³ Republic of Indonesia, Article 339 paragraph (4) General Election Law. 2017

make a donation of money, property or other benefits to a political party or participate in activities falling under the remit of Section 64.¹²⁴

In accordance with the stipulations set forth in paragraph one, the term "state-owned enterprise that is the major shareholder" is defined as an enterprise in which the state holds the position of a partner or possesses the largest number of shares when compared with each and every other partner or shareholder. Alternatively, it may also refer to an enterprise in which the state's proportion of shares or partnership shares represents one-third or more of the total shares or partnership shares controlled by the enterprise.

Conversely, Malaysia and the Philippines have adopted a policy of non-regulation with regard to any prohibitions or limitations on the ability of parties to obtain loans from companies in which the state has a partial ownership interest. In regard to the policy of donations originating from business entities that are partly owned by the government, both Indonesia and Thailand have adopted a similar stance, namely the prohibition of such donations.

E. Contributions Received are from Private Individuals

One of the most traditional sources of funding is donations from private individuals, including those from members of the political party in question. In this context, the Indonesian government has implemented a policy of restrictions regarding donations. This policy allows political parties to accept donations, provided that the total amount does not exceed a specified threshold.¹²⁵ Similarly, Thailand has implemented a policy that prohibits individuals from making donations exceeding a specified amount. This policy encompasses donations of money, property, and other benefits.¹²⁶ In contrast, neither the Philippines nor Malaysia has implemented any policies that regulate such donations, whether through prohibitions or restrictions.

¹²⁴ Thailand, Article 76 paragraphs one and two, Organic Law on Political Parties of 2017

¹²⁵ Republic of Indonesia, Article 35 (1) b c, Political Parties Law, 2011. Maximum IDR 1,000,000,000.00 (one billion rupiah) per person within one budget year.

¹²⁶ Thailand, Section 66, Organic Law on Political Parties, 2017 does not exceed ten million baht (THB 10,000,000) per year to one political party.

F. Contributions used for political donation purposes come from loans related to election campaigns

In Asia, the countries designated as samples, namely Indonesia, Malaysia, the Philippines, and Thailand, there are no countries that have adopted regulatory policies in the form of prohibitions or restrictions on private donations originating from loans in the name of candidates or in the name of parties related to general election campaign funds.

Reformulation of Private Funding Sources for Political Parties in Order to Achieve Political Equality

The Enlightenment era saw the advent of the notion of equality,¹²⁷ which was subsequently enshrined as a fundamental tenet of democratic ideology. This concept represents a pivotal response to the injustices of the time.¹²⁸ The realisation of popular sovereignty is contingent upon the establishment of equality, which entails the guarantee of equal respect and attention for all citizens.¹²⁹

Egalitarian democracy can be defined as a regime that provides de facto protection of rights and freedoms equally to all citizens, thereby ensuring that political participation is meaningful for all. It creates conditions for all individuals and social groups to influence the political and governmental processes. Political equality has been accepted as one of the fundamental goals of ideal democracy,¹³⁰ underpinning equal treatment of all individuals and preventing differential treatment without adequate reasons.¹³¹

Heath posited that political equality should not be reduced to formal equality alone. It is thus imperative to guarantee that all individuals have equal opportunities in the political process and

¹²⁷ Deborah K. Heikes, "Race and the Copernican turn." *The Journal of Mind and Behavior* (2015): 139-163.

¹²⁸ Robert Asen, "Introduction: Neoliberalism and the Public Sphere." *Communication and the Public* 3, no. 3 (2018): 171-175.

¹²⁹ Ronald Dworkin, *Sovereign Virtue: The Theory and Practice of Equality*. (Cambridge, MA: Harvard University Press, 2002).

¹³⁰ Leonardo Morlino, "What Is a 'Good' Democracy?" *Democratization* 11, no. 5 (2004): 10-32.

¹³¹ Colm O'Cinneide, *Equality: A Core Common Law Principle, or 'Mere' Rationality?* (Oxford: Hart Publishing, 2020).

influence decision-making,¹³² the fulfilment of equal rights or opportunities to influence political outcomes is widely accepted as the objective of addressing inequality..¹³³ Schemmel underscored the necessity of political equality as a prerequisite for the realisation of diverse dimensions of justice, given its role as a foundation or instrument for the attainment of numerous other aspects of justice.¹³⁴

The issue of economic inequality has been identified as a potential catalyst for a range of social issues. Consequently, it is crucial to consider how to promote a just society, which could include the introduction of regulations governing the sources and amounts of private donations to political parties.¹³⁵ This concept is consistent with Rawls' assertion that no individual or group should be permitted to exercise disproportionate influence solely on the basis of their wealth. The rationale for limiting private funding sources is to regulate economic inequality, which has a significant impact on factors such as position, power, dominance, and self-esteem. Rawls asserts that:¹³⁶

Control of economic and social disparities is one way to prevent inequalities in society, so as not to dominate others. This power allows some people, based on their control over the state machine, to implement a legal system that guarantees a dominant position in the economy as a whole.

Responding to warnings about the importance of stopping the disparity of economic resources between individuals and social groups that are diverted to the political realm, which is realized through the

¹³² Joseph Heath, "Political Egalitarianism." *Social Theory and Practice* 34, no. 4 (2008): 485-516.

¹³³ Kenneth Baynes, "Democratic Equality and Respect." *Theoria* 55, no. 117 (2008): 1-25.

¹³⁴ Christian Schemmel, "How (Not) to Criticise the Welfare State." *Journal of Applied Philosophy* 32, no. 4 (2015): 393-409.

¹³⁵ Andrew Franks, and Kerry Scherr. "Economic Issues Are Moral Issues: The Moral Underpinnings of the Desire to Reduce Wealth Inequality." *Social Psychological and Personality Science* 10, no. 4 (2018): 553-562.

¹³⁶ Martin O'Neill, "Liberty, Equality, and Property-Ownng Democracy." *Journal of Social Philosophy* 40, no. 3 (2009): 379-396.

regulation of funding sources used to finance political party activities¹³⁷ This instrument serves to prevent the domination of wealthy individuals or groups and ensure that the political process remains inclusive and fair.¹³⁸

Historically, funding has been limited in an attempt to limit the ability of certain individuals or groups to gain political influence and affect the decision-making process through financial gain. A key characteristic of a democratic system of government is that parties and candidates are accountable to the citizenry in general, not just to wealthy special interest groups. Therefore, a number of reasonable restrictions on funding have developed, including limitations on donations from individuals, private businesses and organizations, state-owned or controlled corporations, and anonymous donors.

Efforts to promote equality through the regulation of funding sources for political parties in Indonesia are philosophically in line with Pancasila's principle of "social justice for all Indonesian people." This principle requires all representatives to act fairly and represent the wishes of the people. This is also in line with the constitution; specifically, Article 28D of the 1945 Constitution of the Republic of Indonesia states that everyone is equal before the law. Additionally, Article 22E specifies that the implementation of general elections must be based on principles, one of which is fairness. In this context, fairness should be interpreted as equitable in terms of providing donations, ensuring that no donors, due to their economic power, can dominate or dictate politics.

In order to realize the values of equality contained in Pancasila and the 1945 Constitution of the Republic of Indonesia, the steps that must be taken by the legislators include the reformulation of Law Number 2 of 2011 concerning Political Parties, both in terms of systematic aspects and the substance of the material content.

First, in CHAPTER I, General Provisions, the current regulations show a legal vacuum regarding the definition of donations to political parties. Therefore, lawmakers must fill this legal vacuum; the

¹³⁷ Franks, and Scherr. "Economic Issues Are Moral Issues: The Moral Underpinnings of the Desire to Reduce Wealth Inequality."

¹³⁸ Pippa Norris, *Strengthening Electoral Integrity*. (Cambridge: Cambridge University Press, 2019).

formulation of the definition of party donations must meet the principle of clarity in formulation. "Donations to Political Parties," hereinafter referred to as donations, are all receipts of political parties that can be valued in money, as well as everything in the form of money, goods, and services used to carry out daily political activities and general elections .

The formulation of this definition specifically responds to the avoidance of types of donations that are not in the form of money, goods, and services. For example, donations in the form of anonymous cryptocurrency, crowdfunding platforms,¹³⁹ as well as electronic-based campaign services that can be carried out without being limited by region and time by parties who are not directly affiliated with political parties. Thus, the policy formulation ensures that all parties are subject to supervision for donors as givers and political parties as recipients.

In the perspective of the principle of regulatory formation, the formulation must meet the principle of clear and unambiguous language, requiring that regulations be drafted in a manner that is easily understood by the target parties, whether they are legal professionals, businesses, or the general public. This helps minimize confusion and ensures that the intended purpose of the regulation is clearly communicated. In addition, it is also intended to fulfill the principle of flexibility and adaptability, namely the ability to incorporate new information and emerging trends.

Ultimately, the formulation attempts to categorize all types of revenues deemed to benefit political parties as private revenues in order to prevent the blurring of funding sources, especially large amounts of funds that have the potential to cause unequal treatment among donors, as well as political party revenues that result in political parties being financially unequal in political competition. Another objective is to prevent the evasion of supervision that should be carried out on political donations (the entry of dark money).

Secondly, the aspect that requires reformulation is that of systematics. This endeavour is undertaken by the formation of a grouping of chapters that specifically regulate the sources of funding for political parties, entitled 'CHAPTER Sources of Funding for Political

¹³⁹ Bruce Bimber, "Digital Media and Political Participation." *Journal of Political Communication* 31, no. 3 (2014): 346-358.

Parties'. Furthermore, the chapter is divided into three sections: Part One General, Part Two Public Funding Sources, Part Three Private Funding Sources, and Part Four Prohibited Funding Sources.

In Part One General, we have some helpful guidelines on how to classify different types of funding sources for political parties. It's important to remember that political parties have the right to receive funding from a variety of sources, including: (a) public funding sources; and (b) private funding sources. The reformulation that emphasises the reformulation of norm grouping is all about making sure that the principles of norm grouping are followed. This principle is there to help us regulate and compile regulations in a way that makes them more coherent, consistent, and effective.

This approach is great because it helps make sure that the rules are laid out in a way that's easy to understand. That way, everyone can see what they need to do to comply with the relevant regulations. The principle of norm grouping is the basis for the classification grouping of Part Two, which has material on Public Funding Sources, Part Three has material on Private Funding Sources, and Part Four has material on Prohibited Funding Sources

Thirdly, the following reformulation focuses on Part Two of Private Funding Sources, which is concerned with the systematic aspects. This is achieved by grouping norms, with Paragraph 1 regulating general matters consisting of two articles. The first article addresses the classification of private funding sources, which can be divided into two main categories: (a) donations from private sources within the party and (b) donations from private sources outside the party.

The second article introduces a reformulation to ensure the proper management of all sources of private income for political parties. Thus, the initial paragraph establishes a regulatory framework that requires all income to be deposited into the party's bank account. Concurrently, the reformulation indicates that all income is subject to the stipulated provisions.¹⁴⁰ Furthermore, the second article was revised with the objective of facilitating donations for all stakeholders,

¹⁴⁰ Yukihiro Hamada, and Khushbu Agrawal. *Political Finance Reforms: How to respond to today's policy challenges?*. (Stockholm: International Institute for Democracy and Electoral Assistance, 2021).

particularly small donors. This is evidenced by the requirement for political parties to provide electronic donation services.¹⁴¹

It is widely acknowledged that facilitating donations to political parties is of significant importance. It represents a response to the manner in which society is evolving. It is our sincere hope that making it simple to donate without having to meet a minimum amount will encourage people from all walks of life to demonstrate their support for the political parties they favour, particularly those who do not have any direct affiliation with political parties. This will assist us in addressing the challenges currently faced by political parties. It is our sincere hope that this reformulation will result in a shift away from a system dominated by large donors in terms of party acceptance. This will enable political parties to act independently in forming policies, considering all public interests or treating donors equally.

Fourthly, the intention is to reformulate the existing text in order to create a new paragraph, designated as Paragraph 2 of Internal Funding Sources. This will assist in determining the individuals who are permitted to make donations to political parties. The intention is to provide clarification and greater transparency in order to ensure that all parties are fully aware of the regulations in place. The initial article addresses the question of who is permitted to make donations to political parties. The text states that political parties that are directly affiliated with other political parties (i.e., internal private parties) are permitted to make donations to other political parties. Such entities include: (a) Membership fees; (b) Management fees; (c) Membership fees or management who hold public office; (d) Party wing member fees; (e) Party wing management fees; (f) Associations connected to or supporting political parties; and (g) Foundations connected to or supporting political parties.¹⁴²

¹⁴¹ Zahid Ahmed, Sabina Yasmin, and Al Imtiaz. "Helping Hand: An efficient donation procedure based on mobile banking." *2014 International Conference on Electrical Engineering and Information & Communication Technology*. IEEE, 2014.

¹⁴² A review of the extant regulations reveals that there is not a single article that explicitly regulates or categorises the following types of contributions: (b) those made by management; (c) contributions from members or managers who hold public office; (d) contributions from party wing members; (e) contributions from party wing administrators; (f) contributions from associations connected to or supporting political parties; and (g) contributions from foundations connected to

The rationale behind these newly proposed regulations is to ensure that all individuals and entities involved in a political party are transparent about the sources of their financial contributions. This will assist in preventing any ambiguity regarding the provenance of donations and ensure that all donors are subject to identical regulations. Furthermore, the legislation will ensure that all donations received by political parties are from permitted sources.¹⁴³

It is of the utmost importance to ensure that the manner in which our internal sources of funding are financed is equitable and impartial. In order to ensure that donors and political parties are treated equally, a number of restrictions have been put in place. The reformulation based on the concept of limiting the amount of donations is operationalised through paragraph two, which requests that all parties categorised as internal donors provide donations not exceeding the amount stipulated in force for each budget year (31 December). In paragraph three, the legislature has established the General Election Commission as the authority responsible for determining the amount of funding that may be received by each political party in the form of donations. Furthermore, the legislation delineates the methodology for establishing these limitations, considering factors such as inflation, the cost of living, the minimum wage prescribed by the government, and the expenses associated with political campaigns.

The objective of the revised plan is to ensure that donations are distributed in a fair and equitable manner. The new system is based on the capacity of each party to make donations, and it will prevent individuals from making multiple donations. To illustrate, if an individual is a member of a political party and also a member of a wing organisation, only one of these donations will be considered valid.¹⁴⁴ In

or supporting political parties. The aforementioned conditions suggest that these types of donations are not subject to any form of supervision.

¹⁴³ Shaun Ratcliff, and Darren Halpin. "Dark money and opaque politics: making sense of contributions to Australian political parties." *Australian Journal of Political Science* 56, no. 4 (2021): 335-357.

¹⁴⁴ From the description provided, it can be adequately described. In the event that the maximum permitted contribution from members is set at Rp. 1,000,000,000, (One billion rupiah) per annum, with the maximum limit of management contributions set at Rp. One billion rupiah. Based on the formulation of the new applicable norms, each internal donor party is permitted to provide donations in a single capacity. Similarly, other parties who are directly affiliated with political

the event that a donor makes a donation in excess of the maximum permitted amount, it is the responsibility of the party secretary to inform the General Election Commission. Such additional sums must be reported as state revenue. The aforementioned rule is contained within a single paragraph.¹⁴⁵

We would like to draw attention to one aspect of membership fees.¹⁴⁶ At present, the legislation defines these payments as a legitimate form of donation. However, there is a discrepancy in the norm due to the absence of a limit on the amount. This could result in disparate interpretations by various parties, which is undoubtedly a problematic scenario. It is our intention to establish a set of regulations that will ensure that members are able to contribute as much as they wish. This will prevent individuals from attempting to circumvent limitations on donations by establishing regulations within their articles of association or bylaws. Furthermore, it will prevent individuals from concealing their identity by making substantial financial contributions to political parties under the guise of membership, thereby circumventing the intended limits on donations.¹⁴⁷ Such limitations serve to guarantee a level playing field for all participants in the political arena. It is challenging for political parties to amass substantial financial resources from a limited number of members. These regulations aim to prevent

parties are only permitted to provide donations in one capacity. (One billion rupiah) / year

¹⁴⁵ As stated in the description, if the maximum limit for member contributions is set at IDR 1,000,000,000 (one billion rupiah) per year, it is evident that some members exceed this amount by donating IDR 1,000,800,000 (one billion, eight hundred thousand rupiah). Consequently, only the excess amount, IDR 800,000 (eight hundred thousand rupiah), is reported to the General Election Commission.

¹⁴⁶ Susan E. Sarrow, "Party subsidies and the freezing of party competition: Do cartel mechanisms work?," *West European Politics* 29, no. 4 (2006): 619-639. Furthermore, it is emphasized that membership dues constitute a pivotal source of funding for political parties. This funding reflects the extent of grassroots support and the degree of commitment of party members, thereby reinforcing the bond between members and the party. Furthermore, it provides the party with moral legitimacy.

¹⁴⁷ John J. Martin, "Self-Funded Campaigns and the Current (Lack of?) Limits on Candidate Contributions to Political Parties," *Columbia Law Review* 120, no. 6 (2020): 178-197.

any single party from being financially dominated.¹⁴⁸ The objective of establishing limitations on member contributions is, in fact, analogous to the objective of establishing constraints on contributions from members and administrators of party wings, party-affiliated associations, and party-affiliated foundations.

One of the private funding sources that has the potential to have adverse implications for equality between donors and equality for political parties is donations from party administrators, especially those occupying core administrative roles. This is due to the fact that such donations may result in unequal bargaining power between donors and political parties, which could ultimately lead to a breach of equality. In the Indonesian context, there is currently no legislation in place that places any restrictions on donations from party administrators. This provides the rationale for one of the recommendations in the reformulation of political party funding sources, namely that donations from party administrators should be subject to supervision. The objective of this limitation is to preclude party administrators with affluent backgrounds from leveraging their financial resources to make substantial contributions with the intention of influencing public policy in a manner that benefits their business interests. The objective is to prevent the concentration of economic power or control of national resources in a few individuals or groups (oligarchy), which has been identified as a challenge to democratic governance in Indonesia. Therefore, despite the existence of party administrators with considerable economic capabilities, they are unable to utilise these beyond the prescribed limits to exert undue influence on the party's policy-making processes.

Moreover, the reformulation is intended to address the issue of donations from party members or administrators who hold public office (e.g., members of the People's Representative Council and ministers). In the context of global studies, this phenomenon is commonly referred to as "party taxes" or funding originating from the personal salaries of political party officials. The objective of classifying and strictly limiting

¹⁴⁸ Karina Kosiara-Pedersen, et al. "Party membership costs, new forms of party affiliation, and partisan participation." In Susan E. Scarrow, Paul D. Webb, and Thomas Poguntke (eds). *Organizing Political Parties: Representation, Participation, and Power* (Oxford: Oxford University Press, 2017), pp. 234-258.

donations from party officials is to circumvent any potential negative implications for the internal party and external to the public.

The objective of the formulation is to prevent the potential domination of political elites and to reinforce the representation of the general public.¹⁴⁹ The formulation is intended to prevent the potential domination of political elites and to reinforce the representation of the general public, according to Mils.¹⁵⁰

In accordance with Ohman's perspective, the norm will serve to preclude an excessive reliance on such donations, which have the potential to impair the autonomy of the party and render it more susceptible to the sway of prominent figures within the party. When political parties rely excessively on financial contributions from elected officials, they may be subjected to pressure to modify their policies or decisions in accordance with the interests of these major donors.¹⁵¹ The imposition of restrictions on these types of donations precludes the possibility of MPs being compelled to adhere rigidly to the party line. Consequently, they are able to exercise greater autonomy in the formulation of decisions,¹⁵² thereby reducing the potential for undue influence through enhanced access to party leaders and the capacity to shape the strategic direction of the party (policy agenda).¹⁵³

With respect to the formation of public policy, the reformulation requires elected officials to allocate public resources in a fair and impartial manner, or to refrain from utilising public resources for the purpose of securing political support. As a result, the policy-making process will be oriented towards the advancement of the broader public interest.¹⁵⁴ Furthermore, the instrument serves to circumvent

¹⁴⁹ C. Wright. Mills, *The Power Elite*. (Oxford: Oxford University Press, 1956).

¹⁵⁰ Lawrence Lessig, *Republic, lost: How money corrupts Congress—and a plan to stop it*. (New York: Hachette Book Group, 2011).

¹⁵¹ Ohman, *Buku Pedoman Pengawasan Keuangan Politik*.

¹⁵² Thomas L. Brunell, "The relationship between political parties and interest groups: Explaining patterns of PAC contributions to candidates for congress." *Political Research Quarterly* 58, no. 4 (2005): 681-688.

¹⁵³ Richard L. Hall, and Frank W. Wayman. "Buying time: Moneyed interests and the mobilization of bias in congressional committees." *American Political Science Review* 84, no. 3 (1990): 797-820.

¹⁵⁴ Petr Kopecký, et al. "Party patronage in contemporary democracies: Results from an expert survey in 22 countries from five regions." *European Journal of Political Research* 55, no. 2 (2016): 416-431.

clientelism and patronage practices,¹⁵⁵ which are typically observed in developing countries.¹⁵⁶

In some cases, individuals with significant influence or financial resources may leverage their position to establish and maintain clientelistic relationships.¹⁵⁷ The persistence of clientelism within party politics is largely attributable to the absence of strong and credible political parties, a condition often perpetuated by the enduring presence of clientelistic networks.¹⁵⁸

Furthermore, clientelism is linked to challenges in combating corruption, particularly "grand corruption,"¹⁵⁹ which involves government officials engaging in illicit activities with non-political individuals.¹⁶⁰ Patron-client relationships are observed between political parties and their cadres, particularly among party elites and legislative candidates. This patron-client dynamic has the effect of impeding democratisation within political parties, thereby reducing their capacity to serve as a conduit for the representation of the people.¹⁶¹

It is necessary to implement restrictions in order to achieve a balance between the loyalty of party members and the individual freedom of parliamentarians.¹⁶² In the final analysis, the implementation

¹⁵⁵ Christos Lyrantzis, "Political parties in post-junta Greece: A case of 'bureaucratic clientelism'?" *West European Politics* 7, no. 2 (1984): 99-118.

¹⁵⁶ Sergiu Gherghina, and Clara Volintiru. "A new model of clientelism: Political parties, public resources, and private contributors." *European Political Science Review* 9, no. 1 (2017): 115-137; James Scambary, "Robbing Peter to pay Paul: changing clientelist patterns in East Timor's 2017 parliamentary elections." *Democratization* 26, no. 7 (2019): 1114-1131.

¹⁵⁷ Sabri Sayarı, "Clientelism and patronage in Turkish politics and society." Istanbul Bilgi Universitesi Yayınları, 2011.

¹⁵⁸ Julio C. Teehankee, "Clientelism and party politics in the Philippines." *Party Politics in Southeast Asia*. (London: Routledge, 2012), pp. 186-214.

¹⁵⁹ Matthew Singer, "Buying voters with dirty money: The relationship between clientelism and corruption." *APSA 2009 Toronto Meeting Paper*, 2009.

¹⁶⁰ Singer.

¹⁶¹ Muhammad Mutawalli, Zainal Amin Ayub, and Hemen Philip Faga. "Revitalizing Political Parties in Indonesia: Dissecting Patronage-Clientelism Dynamics vis-à-vis Political Representation." *Jurnal Mengkaji Indonesia* 2, no. 2 (2023): 301-326.

¹⁶² Thomas L. Brunell, "The relationship between political parties and interest groups: Explaining patterns of PAC contributions to candidates for congress." *Political Research Quarterly* 58, no. 4 (2005): 681-688. Furthermore, regulation of political donations serves as a critical mechanism to prevent corruption and limit undue

of transparent reforms will preclude elected officials from leveraging their personal wealth to unduly influence party decisions or procure advantageous positions within the party structure.¹⁶³

The reformulation of the classification and limitation of donations originating from internal parties is aimed at donors and political parties alike. From the perspective of donors, the formulation of the norm is intended to provide equality by ensuring that no party can provide more benefits or dominate the party on the basis of economic power, including dictating political parties in making public policies with the aim of certain benefits people or groups. Additionally, the reformulation is anticipated to engender a shift in the attitude of political parties, whereby they are no longer oriented towards fulfilling the hopes and desires of specific donors. This is expected to prevent the potential for serious conflicts of interest and damage to the integrity of the political process. These restrictions are consistent with democratic values and will ensure that all citizens have an equal voice in the political process. From the perspective of political parties, the reformulation of the classification and limitation of donations is intended to guarantee

donor influence across various jurisdictions. In Germany, the Political Party Act (*Parteiengesetz*) imposes a cap on donations from members of parliament and elected officials, restricting them to no more than 50% of their annual salary. Article 25 of the Act explicitly requires parliamentarians to ensure their donations to political parties remain within this threshold, reinforcing accountability and curbing excessive financial influence in politics. In the United Kingdom, the Political Parties, Elections and Referendums Act 2000 (PPERA) adopts a transparency-focused approach. Donations exceeding £7,500 within a single year, including those from elected officials, must be reported to the Electoral Commission. Section 54 of PPERA mandates the publication of such donations to enhance transparency and public accountability in political party funding. In France, the Law on Transparency in Public Life (*Loi sur la transparence de la vie publique*) establishes a donation limit of €7,500 per individual per year. Article 11 of this law specifies that any donations surpassing this limit must either be returned to the donor or prohibited, further safeguarding the integrity of political financing. Spain enforces a more generous cap under its Political Parties Financing Law (*Ley Orgánica de Financiación de los Partidos Políticos*), allowing individual donations of up to €50,000 per year. According to Article 5, contributions exceeding this threshold must be returned to the donor or forfeited to the state, ensuring compliance with legal limits.

¹⁶³ Ingrid Van Biezen, and Petr Kopecký. "The state and the parties: public funding, public regulation and rent-seeking in contemporary democracies." *Party Politics* 13, no. 2 (2007): 235-254.

equality of opportunity for all parties by ensuring that no party is able to receive donations in unlimited amounts. This will enable all parties to compete on a more level playing field in terms of financial resources.

The concept of reformulation is focused on two key areas: firstly, the classification of all potential internal donors, and secondly, the imposition of reasonable restrictions on the amount of donations given by such donors.¹⁶⁴ It is thus anticipated that the establishment of these norms will ensure that donors who are part of the internal party are not entitled to make donations without being subject to restrictions. The underlying rationale of this concept is to prevent the exploitation of economic privilege in political competition through the restriction of unregulated donations,¹⁶⁵ prevent injustice in political competition caused by uncontrolled donations.¹⁶⁶

Fifth, in the third paragraph, the author cites external sources. The initial article is rewritten in order to classify the sources of external donations that political parties are entitled to receive. These sources can be divided into two categories: (a) individual donations and (b) donations from companies or legal entities. Moreover, the article elucidates the criteria for individual donations, namely whether they originate from (a) Indonesian citizens who are registered as voters and (b) Indonesian citizens who are abroad. The remaining articles delineate the criteria for donations from companies or legal entities, namely: (a) whether the company/legal entity is registered under the Limited Liability Company Law; and (b) whether the company/legal entity is owned by at least 51% of Indonesian citizens.

The reformulation necessitates further regulation in one article pertaining to the limitation of the amount of donations. Specifically, the amount of individual donations may not exceed the limit set by the

¹⁶⁴ Martin Gilens, and Benjamin I. Page. "Testing theories of American politics: Elites, interest groups, and average citizens." *Perspectives on Politics* 12, no. 3 (2014): 564-581.

¹⁶⁵ See Emily Schnurr, "Role of Money in Campaigns and Elections." *Routledge Handbook of Election Law*. (London: Routledge, 2022), pp. 147-159. The regulation of all aspects of private funding sources is intended to influence the stance of political parties in formulating policies, ensuring that they are no longer oriented towards fulfilling the expectations and desires of specific donors. Furthermore, it aims to prevent the potential for significant conflicts of interest that could compromise the integrity of the political process.

¹⁶⁶ Brianna Carmichael, and Paul Howe. "Political Donations and Democratic Equality in Canada." *Canadian Parliamentary Review* 37, no. 1 (2014): 16-20.

General Election Commission in one year.¹⁶⁷ This determination must be made rationally, taking into account several aspects, including, at a minimum:: (a) consumer price index (inflation); (b) cost of living; (c) minimum salary; and (d) political spending index.¹⁶⁸ The restriction on donations is intended to prevent political parties from becoming indebted to donors and to restore public trust in the integrity of the political process. It is hoped that this will lead to a perception that policies are driven in the public interest.¹⁶⁹

Moreover, in the event that a political party receives a donation in excess of the prescribed amount, the party secretary is bound by law to report and deposit the surplus donation with the General Election Commission within 20 days of receipt. The funds in question are then to be allocated as state revenue.

The reformulation appears to confirm the criteria for individual donations by emphasising that the individuals in question are Indonesian citizens who are registered as voters. This formulation is intended to prevent donations from parties who may attempt to circumvent the restrictions in place. For instance, certain parties have

¹⁶⁷ Denny Indrayana, "Money Politics in a More Democratic Indonesia: An Overview." *Australian Journal of Asian Law* 18, no. 2 (2017): 1-15. *See also* Mietzner, "Dysfunction by design: Political finance and corruption in Indonesia."

¹⁶⁸ International institutions recommend adjusting political donation limits periodically to reflect economic conditions. The International IDEA suggests considering factors like inflation and economic indicators to ensure donation limits remain relevant and effective. Similarly, the OECD emphasizes that donation limits should be flexible, proposing adjustments based on the consumer price index (CPI) or minimum wage to maintain their purchasing power. One method of adjustment is linking donation limits to the CPI, allowing them to stay in line with inflation and the cost of living, with adjustments made annually or biennially. Another approach is adjusting limits based on the minimum wage, ensuring that donation limits remain affordable and fair for workers. For instance, Portugal sets donation limits at 60 times the donor's salary, while Paraguay uses a system based on 10,000 days of the minimum wage. In Brazil, the limit is 10% of the donor's annual income. A third method is using a political spending index, which adjusts donation limits according to the actual costs of political campaigns, ensuring they remain relevant to the financial realities candidates and parties face. These flexible approaches aim to maintain fairness, transparency, and relevance in political funding regulations, adapting to evolving economic and political landscapes.

¹⁶⁹ Thomas Stratmann, "Some talk: Money in politics. A (partial) review of the literature." *Public Choice* 124, no. 1 (2005): 135-156.

been known to utilise the identity of individuals who have not yet been categorised as voters (children) in order to make contributions, thereby circumventing the limitations on the amount that can be donated. This ultimately allows the party in question to exert greater influence than other donors or to receive preferential treatment from political parties. The regulation of funding sources may serve as a means of deterring the involvement of donors who frequently manifest as political investors.¹⁷⁰

The formulation of norms categorizing Indonesian citizens residing abroad as individual donors is grounded in two primary objectives. First, it aims to distinguish between Indonesian citizens abroad and foreign entities. Second, it seeks to ensure equality for these individuals in exercising their political rights, particularly through financial contributions to political parties that align with their political preferences. This framework is intended to guarantee that all citizens with political rights, regardless of their residence, are treated equitably in the political process.

According to Article 41(1) of the International Convention on the Protection of All Migrant Workers and Their Families, migrant workers and their families are entitled to participate in public affairs in their country of origin, including voting and standing for election, in accordance with the relevant legislation. Therefore, donations from nationals, irrespective of their place of residence, should not be restricted if they are allowed to participate in elections in their country of origin, though some countries may limit or condition the voting rights of nationals residing abroad.

Moreover, the reformulation of regulations incorporates provisions to promote political equality by prohibiting certain types of donations. Paragraph 3 outlines specific prohibited sources of funding, including loans, entities lacking clear identity, foreign parties, and state-owned or government-affiliated enterprises. The accompanying articles provide criteria for each prohibited source, ensuring clarity and transparency in the formulation, particularly regarding loans from individuals or entities associated with political parties or campaigns.

¹⁷⁰ Vedi R. Hadiz, "Democracy and money politics: The Case of Indonesia." *Routledge Handbook of Southeast Asian Politics*. (London: Routledge, 2012), pp. 71-82.

It is explained that donations lacking clear identification are donations lacking the following information: for individuals, a full name, place and date of birth, occupation, and domicile; and for legal entities/companies, a name and deed of establishment number. In order for the regulation to be implemented, it is necessary to confirm the criteria that foreign parties must meet in order to qualify as donors. These include: (a) if the donation originates from individuals who are not Indonesian citizens; (b) if the donation originates from a business entity/company that is not registered in accordance with the relevant laws and regulations; (c) if the donation originates from a business entity/company whose share ownership is less than 50% owned by Indonesian citizens; and (d) if the donation originates from an organisation with international organisational status. Nevertheless, should the donation in question be from a foreign party and be intended for the purposes of party development and education, then the donation may be accepted by the political party in question.

The reformulation introduces a new classification of foreign party criteria as a type of donation that is prohibited from being accepted by political parties. This reflects the necessity to maintain the integrity of the democratic process from foreign influence, particularly during the general election period.¹⁷¹ The selection of the democratic process is not subject to influence from foreign parties through the power of money (donations).¹⁷² It is anticipated that this will serve to safeguard national interests, including those pertaining to sovereignty.

From a more quantifiable standpoint, the prohibition of foreign donations guarantees that the formulation and determination of political decision-making are not influenced by or based on the interests of foreign parties.¹⁷³ This reformulation is aligned with the strengthening of the basic principles of a democratic state, in which the

¹⁷¹ Joo-Cheong Tham, "Of Aliens, Money and Politics: Should Foreign Political Donations Be Banned?," *King's Law Journal* 28, no. 2 (2017): 262-278.

¹⁷² Andon Kume, "Legislative Solution to Prevent the Interference of Foreign Financing in the Electoral Campaign and their Destabilizing Effects," *Interdisciplinary Journal of Research and Development* 10, no. 1 S1 (2023): 126-126.

¹⁷³ James Hutton, and Mahmoud Watad. "Political action committees, 'soft' money, foreign contributions and US politics: Lessons from the American experience." *Journal of Communication Management* 3, no. 3 (1999): 293-302.

will of the people serves as the basis for determining the direction of the country. Consequently, the prevention of foreign parties from influencing the domestic political process serves to reinforce the principle of political justice among citizens and to prevent the distortion of the balance of power.¹⁷⁴

Furthermore, the prohibition of foreign contributions to political parties can be viewed as an attempt to motivate political parties to prioritize domestic contributions, particularly from grassroots supporters, thereby fostering a connection between the party and the citizens.¹⁷⁵ As a result, the party is more likely to be responsive to the desires of the citizens. It is anticipated that this initiative will serve to balance political competition and create a more inclusive and representative political landscape, wherein the voices of ordinary citizens will carry greater weight.¹⁷⁶ It is anticipated that this will foster a greater sense of civic ownership of the political process and involvement, encouraging citizens to become more actively engaged in shaping the agenda and priorities of the party they support.

In the reformulation, the proposal was made that foreign donations should be permitted, provided that they are allocated to activities that facilitate the development and education of the party in question. This is intended to facilitate dialogue with the international community and the exchange of ideas. While the policy permits international parties to offer benefits to political parties, it does so in a manner that is consistent with the principles of rationality. This ensures that the form of activity in question does not exert undue influence on the party in question and preserves the party's independence.

¹⁷⁴ Michael Pinto-Duschinsky, "Foreign political aid: the German political foundations and their US counterparts." *International Affairs* 67, no. 1 (1991): 33-63.

¹⁷⁵ José De Jesús Orozco Henríquez, "Financing and Monitoring Political Parties in Mexico: Strengths and Weaknesses." *Election Law Journal* 3, no. 3 (2004): 463-473.

¹⁷⁶ Carlo Invernizzi-Accetti, and Fabio Wolkenstein. "The crisis of party democracy, cognitive mobilization, and the case for making parties more deliberative." *American Political Science Review* 111, no. 1 (2017): 97-109.

Conclusion

In conclusion, achieving political equality for both donors and political parties is paramount for the future through the reformulation of private funding source regulations. The current regulatory framework reveals significant shortcomings, particularly in its structure, which could hinder effective implementation. The absence of clear norms regarding recognized donor parties creates an opportunity for illegal donations, while the vague restrictions on prohibited donors further exacerbate this issue. Therefore, it is essential to reformulate these regulations to ensure political equality and transparency.

The findings indicate that a comprehensive reform should begin with the development of a clear definition of donations that reflects societal developments, such as the provision of technology-based benefits. This should be followed by a systematic categorization of funding sources, with a dedicated chapter on "*Political Party Financial Sources*." The chapter should include sections on "*Internal Private Funding Sources*," encompassing membership fees, management fees, party taxes, and related foundations, as well as "*External Private Funding Sources*," which should be divided into individual donations, business entity donations, and loans from individuals or legal entities. Additionally, the reformulation must introduce donation limits based on indexation and establish a clear definition of prohibited donations. This includes donations in the form of unidentifiable loans, foreign party contributions, and donations from state-owned or government-affiliated entities. Such reforms are critical to ensuring a transparent, fair, and accountable political funding system.

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