

Spending Limit Policy to Reducing Cost of Political Campaign and the Influence of Money in Election

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Abstract

Regulation concerning on limiting campaign funds have not proven to limit campaign funds from donors with binding interests. Therefore, the need to identify various weaknesses in the regulation Regulation concerning on limiting campaign funds to optimize clean campaign funds that prevent conflicts of interest, ensure transparency about origin of donations and ensure independence in making policies post election. Normative legal research methods are used in this study by starting from primary legal materials includes all laws and regulations governing campaign funds in regional head election and literature review which related to regional head election, secondary materials and tertiary material. This research concludes that it is necessary to affirm the limitation of campaign funds the candidate, regulating composition of contributors with the reasonableness ratio, reformulation of sanctions which excess of limit campaign funds, and application of investigative audit.

Keywords: political finance, election, corruption

Introduction

Among many important factors for a functioning democratic system, the issue of campaign finance in general elections has an important role. For some opinions, being aware that money has an important role in the political arena, money even functions as an expression of freedom of speech and as an effective instrument for informing voters and building an inclusive democracy. However, for some other opinions, the uncontrolled use of money in politics can erode the function of democracy because it can lead to excessive campaigning, unequal access to power, and politicians who are tied to special interest groups.^{1[1]} In practice, almost every country with political pluralism, has set restrictions on funds in elections ranging from the obligation to inform the source of donations, the authority to disclose the funds, to the formula for limiting campaign contributions and / or spending. Marcin Walecki's research even explained that of the 60 democratic countries there were 25 countries that had regulations regarding restrictions on campaign funds. Some of these countries include Canada, France, Ireland, Israel, Italy, New Zealand, Spain and the United

¹ Stephen Coate, "Pareto-Improving Campaign Finance Policy", *American Economic Review*, Vol 94, No. 3, 2004. pp. 628-655, Andrea Prat, "Campaign Advertising and Voter Welfare", *Review of Economic Studies*, Vol 69, No 4, 2002. pp. 999-1017 and Susan E. Scarrow, "Political Finance in Comparative Perspective", *Annual Review of Political Science*, Vol. 10 No. 1, 2007. pp. 193-210.

Kingdom including the United Kingdom.² Countries such as Canada and the United Kingdom have even restricted campaign spending by parties and individuals over the past few decades.³ Recent facts even state that two-thirds of the *Organization for Economic Co-operation and Development* (OECD) countries already have regulations regarding campaign spending limits for parties or candidates.⁴ One of the few exceptions among developed countries is the United States, which is the United States Supreme Court in the *McCutcheon v. The Federal Election Commission* ruled that restrictions on campaign funds are unconstitutional and potentially violate the right to free speech.⁵

After the fall of the New Order regime, funds spent in the election campaign have in fact increased; Likewise, the wave of funds that revolve in the holding and contestation of local elections. The increase in the amount of funds did not only occur in the implementation costs charged to the state budget and regional budget but also campaign costs that had to be borne by political parties, legislative candidates, presidential candidates, and regional head candidates.⁶ In addition, the rising cost of campaign needs due to annual inflation naturally increases the total price of campaign needs. Likewise, the addition of the number of voters, the number of seats contested, and the number of candidates, caused the total cost of the campaign to double. In addition to these economic and demographic factors, the increase in campaign funds was also caused by political factors. Changes to the electoral system or election system instruments have in fact doubled campaign costs. Finally, campaigns in the electronic mass media, especially television, which are increasingly expensive, also have a direct impact on increasing campaign costs.

One factor that received attention was the high role of private corporations as donors for campaign funds, this was suspected due to the very large need for campaign costs, so that the involvement of private corporations became a way out to raise campaign funds, the involvement of massive private corporations as sponsors, of course will have an impact on

² Marcin Walecki, 2007, *Spending Limits As a Policy Option*, IFES Political Finance White Paper Series, page 3

³ Political parties in Canada can only spend 73.5 cents for each voter in the district where they compete. In the United Kingdom, legislation governing expenditure has existed since the Corruption Prevention Act of 1883. At the 2005 general election, campaign spending at the national level was limited to around US \$ 42,000 per constituent contested. Susan E. Scarrow, *Op. Cit.*, p. 210.

⁴ Bruno Wilhem Speck, 2013, *Money in politics: Sound Political Competition and Trust in Government*, OECD Background paper, pp. 16-17.

⁵ United States Supreme Court in mid-2014 in the case of *McCutcheon v. The Federal Election Commission* has revoked the provision on limiting the overall amount of funds that donors can provide for political campaigns. Under the terms of campaign finance restrictions, donors can contribute as many candidates and political activities as they want as long as the total does not exceed \$ 123,300. The decision was taken with a ratio of 5 to 4 opposing judges. The five justices who agreed came from the conservative party and were appointed by the president of the Republican Party, while the other four judges from the liberal party were appointed by the president of the Democratic Party. Chief justice John Robert in the ruling even rejected the opinion of President Barack Obama's administration that limiting donations was needed to fight corruption in politics. John Robert stated *Spending large sums of money in connection with elections, but not in connection with an effort to control the exercise of an officeholder's official duties, does not give rise to such quid pro quo corruption. Nor does the possibility that an individual who spends large sums may garner "influence over or access to" elected officials or political parties. And because the Government's interest in preventing the appearance of corruption is equally confined to the appearance of quid pro quo corruption, the Government may not seek to limit the appearance of influencing or access.* Paul Waldman, 2014, *How Our Campaign Finance System Compares to Other Countries*, *The American Prospect*. p. 4.

⁶ "Local Election Costs Trigger Corruption", *Kompas*, 27 September 2016.

the perception of political investment / reciprocity services between political parties, candidates for election and sponsors. The existence of reciprocal relations after the election is a consequence that is difficult to avoid impacting on the emergence of the potential birth of criminal acts of corruption in the stages before or after the election. For example, corruption in granting licenses in various fields, such as mining, property and other business fields which then crashed into legislation such as spatial rules. Such consequences and correlations arise, due to efforts to pay back or even commitments built before the election. Finally, it is not the personal qualities and aspirations that are promoted that are put forward, but the plans for the return and commitment of the interests of sponsors during campaign fundraising. The picture as described in fact has happened several times in practice, including:

- a. After the General Election of the Head of the District of Kutai Kartanegara District, East Kalimantan, in 2010, the regional government issued 191 new Mining Business Permits (IUPs), whereas a year earlier there were only 93 IUPs. Likewise, Beli Regency, East Nusa Tenggara. In 2010 there were 54 IUPs issued by local governments, whereas in 2009 there were only 7 IUPs. This also happened in other places such as Musi Banyuasin (South Sumatra), Bengkulu Tengah, Tebo (Jambi), and Tanah Bambu (South Kalimantan).⁷
- b. The case of the arrest of the Regent of Buol Amran Batalipu which had a bribery scandal with a businessman and a member of the Democratic Party, Hartati Murdaya. Hartati has an interest in taking care of the plantation's usufructuary rights and giving bribes to the Amran Regent in the amount of Rp 3 billion, which happened to be a contestant at the 2012 regional head election.⁸ The results of the Indonesian Wahana Lingkungan Hidup (WALHI) Bengkulu study in 2009-2010 also shows that when elections and local elections are held, local governments often sell off licenses in the mining sector.⁹
- c. Governor of Southeast Sulawesi Period 2008-2017 Nur Alam was proven guilty by the judges because received a gratuity of Rp 40 billion for the granting of an IUP by PT Anugerah Harisma Barakah (AHB). Nur Alam is also considered to have been proven to have received gratuities of Rp 40 billion and violated Article 12B of Law Number 31 year on Eradication of Corruption as amended by Law Number 20 of 2001 concerning Amendment to Law number 31 of 1999 concerning Eradication of Corruption in conjunction with Article 64 paragraph (1) of the Criminal Code.¹⁰
- d. The reclamation permit in DKI Jakarta which is reaping political polemics until its licensing is taken over by the central government, in fact many researches and experts are of the opinion that reclamation is not in accordance with the provisions of spatial planning and environmental laws. Then in the period of Governor Anies Baswedan the reclamation was closed.

⁷ <https://tirto.id/bisnis-tambang-merebak-seiring-pilkada-serentak-cG4x>, accessed on 20 December 2019

⁸ Ade Irawan, Abdullah Dahlan, and Apung Widad, 2012, *Corruption of Pemilukada*, Indonesian Corruption Watch, Jakarta. pp. 18-19.

⁹ Tri Hayati, 2011, "Mining Licensing in the Reformation Era of Local Government: Study of the Licensing of Tin Mining in Bangka Island", *Dissertation*, Faculty of Law, University of Indonesia. pp. 12-13.

¹⁰ Jakarta High Court Decision Number 16 / Pid.Sus-TPK / 2018 / PT.DKI

When referring to several doctrines, there are at least 3 (three) modes related to campaign funding that have the power of corruptive investment, namely: first, the pattern *quid pro quo donations* when the party or candidate receives campaign funds to do something as the donor wishes.¹¹ This mode is often also known as "binding campaign funds". *Second, the pattern of candidate's or partie's misuse of state and public administrative resources for electoral purposes*, namely the use of government funds and resources for election purposes. This is known as *abuses of power*.¹² *Third, bribery of voters and election officials*, this is better known as *money politics*.¹³ Based on the above matters, the research defines corrupt political investment as referred to in the first mode, namely donation funds that have the potential to carry the consequences of commitments carried out by potential election participants. Based on this, this research is intended to identify what are the weaknesses in the current campaign regulations so that there are still loopholes in campaign funding contributions that are "binding", and what changes must be regulated in campaign finance rules in order to prevent corrupt investments. The purpose of this study is to strengthen the regulation of campaign funds that are able to prevent binding campaign funds in order to prevent post-election corruption crimes, especially regional head elections.

Research Methods

This research uses a normative juridical research method. This research was conducted by examining library materials, starting from primary legal materials namely, among others, all laws and regulations governing campaign funds in elections and in particular regional head elections, secondary legal materials (legal materials that provide an explanation of primary legal materials) and tertiary legal materials (legal materials that provide instructions and explanations for primary and secondary legal materials).

Historical Regulation on Campaign Funds

Throughout the history of the implementation of elections in Indonesia, restrictions on campaign funds do not always get clear regulatory directions and close the gaps in corrupt acts. During the Old and New Order periods, regulations regarding election campaign funds were not regulated in statutory regulations.¹⁴ However, after the fall of the New Order the

¹¹ Fowler, Anthony, Haritz Garro, and Jorg L. Spenkuch, 2017, "Quid Pro Quo? Corporate Returns To Campaign Contributions." *Paper*, p. 8

¹² Rebecca L. Brown and Andrew D. Martin. "Rhetoric and Reality: Testing the Harm of the Spending Campaign." *New York University Law Review*, Vol, 90, 2015. p. 1066.

¹³ Open Society Institute, 2005, *Monitoring Election Campaign Finance: a Handbook For NGOs*. Open Society Institute, p. 12

¹⁴ Election campaign fund arrangements are not included in (a) Law No. 7 of 1953 concerning the Election of Constituent Members and Members of the House of Representatives, and PP No. 9 of 1954, which became the basis for the implementation of the 1955 Elections (b) Law No. 15/1969 concerning General Elections of Members of the Consultative Body / Parliament, which became the basis of the 1971 Election. (c) Law No. 4 of 1971 concerning Amendments to Law No. 5 of 1969 which became the basis for the implementation of the 1977 Elections. (d) Law No. 2 of 1980 concerning Amendment to Law No. 15 of 1969 concerning Election of Members of the Consultative Body / People's Representative Office as amended by Law No. 4 of 1971 which became the basis for the implementation of the 1982. Election Law (1) of Law No. 1 of the Year 1985 concerning Amendment to Law No. 15 of 1969 concerning General Elections of Members of the Consultative Body / Parliament as amended by Law No. 4 of 1971 and Law No. 2 of 1980 which became the basis for

regulation on campaign funds was introduced with a broader scope, namely the regulation of campaign funds for legislative elections, regional heads and the President. UU no. 3 of 1999 which became the basis of the holding of the 1999 General Elections included two articles regulating the source of funds, prohibition of foreign funds, and campaign finance reports.¹⁵ This setting is still very limited than necessary. But compared to Law No. 15 of 1969 which became the basis for organizing New Order elections, Law no. 3 of 1999 is the basis for the subsequent regulation of campaign funds. After the amendment to the 1945 Constitution, the regulation on limiting campaign funds was broken down into several forms, namely through Law No. 12 of 2003¹⁶, Law No. 10 of 2008, and Law No. 8 of 2012 for legislative elections; Law No. 23 of 2003¹⁷ and Law No. 42 of 2008 for presidential elections, and Law No. 32 of 2004 for local elections.¹⁸ These provisions basically regulate: (1) sources of campaign funds originating from political parties, candidates and non-binding donations; (2) limits on individual and company contributions; (3) types of donations that are prohibited; (4) contributor list; (5) audit of campaign funds; (6) mechanism for reporting campaign funds, and (7) sanctions for violations of campaign finance provisions.

However, although some regulations have been set regarding restrictions on campaign funds, but it is suspected that there are still some weaknesses, among others, arrangements regarding the source of funds are still far from transparent, reporting mechanisms that tend to be confusing, not regulated regarding campaign spending, and the absence of strict sanctions for violators. In addition, one of the salient weaknesses in regulating legislative election campaign funds is that there are no restrictions on funds from political parties and legislative candidates, as well as in presidential and regional elections, there are no restrictions on funds from presidential and vice presidential candidates and regional head and deputy candidates regional heads, as well as political parties that carry the candidate pair. As a result, any funds coming from political parties and candidates are considered *legal*, even though the funds can be obtained by political parties and candidates from other parties through *illegal means*. On the other hand, the regulation of campaign funds in legislative, presidential and regional

Election in 1987. (f) PP No. 37 of 1990 which became the basis of the 1992 elections and (g) PP No. 74 of 1996 which became the basis of the 1997 elections.

¹⁵ Article 48 of Law 3 of 1999 concerning Laws Number 3 of 1999 concerning General Elections (State Gazette of the Republic of Indonesia of 1999 Number 23, Supplement to the State Gazette of the Republic of Indonesia Number 3810)

¹⁶ Law No. 12 of 2003 which became the basis for the holding of legislative elections containing campaign funds for political parties participating in the DPR, provincial DPRD and regency / city DPRD elections, as well as the regulation of campaign funds for candidates with DPD status who are also participants in the DPD election. UU no. 12 of 2003 which became the basis for the holding of legislative elections containing campaign funds for political parties participating in the DPR, provincial DPRD and regency / city DPRD elections, as well as the regulation of campaign funds for candidates with DPD status who are also participants in the DPD election. At a glance the material for regulating campaign funds is sufficient, but if you look closely, regulation of campaign funds in Law No. 12 of 2003 has not consistently applied the principles of transparency and accountability: sources of funding have many holes, reporting mechanisms are confusing, campaign spending is not regulated, and there are no strict sanctions for violators.

¹⁷ Law No. 23 of 2003 is the first law governing presidential elections. Adopting legislative election campaign fund arrangements, this law contains almost all necessary regulatory material. is the first law regulating presidential elections. Adopting legislative election campaign fund arrangements, this law contains almost all necessary regulatory material.

¹⁸ Election campaign fundraising as stipulated in Law No. 32 of 2004, actually only *copy paste* from Law No. 23 of 2003, so that the problems, weaknesses and weaknesses are also the same.

election elections also does not limit campaign spending, so election participants are encouraged to hold a campaign as passive and intensive as possible in order to win votes. The absence of restrictions on funds from political parties and candidates on the one hand, and the absence of restrictions on campaign expenditures on the other hand, makes campaigning fund expenditures out of control. Political parties and candidates must bear the burden of high campaign funds so that this opens up a post-election corruption space.¹⁹

Despite the various controversies that have arisen, the regulation of campaign funds for the elections is regulated by the government and the Parliament by establishing Perppu No. 1 of 2014 to become Law No. 1 of 2015 on January 20, 2015. However, because it still contains many weaknesses and shortcomings in organizing the elections, the government and the Parliament amended Law No. 1 of 2015 through Law No. 8 of 2015, this law seeks to reduce or reduce election campaign funds as small as possible. This can be seen from the following two conditions. *First*, like the previous law, Law No. 1 of 2015 jo Law No. 8 of 2015 mentions seven campaign methods: (a) limited meetings; (b) face-to-face meetings and dialogues; (c) public debate / open debate between candidate pairs; (d) disseminating campaign materials to the public; (e) installation of teaching aids; f) print mass media advertisements and electronic mass media; and or (g) other activities that do not violate campaign prohibitions and statutory provisions. However Article 65 paragraph (2) of Law No. 1 of 2015 in conjunction with Law No. 8 of 2015, confirms that the campaign methods letter c), d), e), and f) are facilitated by KPU funded by the State Budget. So, campaigns in the form of public debates, dissemination of campaign materials to the public, installation of props, and mass media advertising, are now funded by the state; whereas political parties and candidate pairs only finance limited meeting campaigns and face-to-face meetings and dialogues. *Second*, unlike the previous election law, the election law includes restrictions on campaign funds. This limitation is broken down in Article 74 paragraph (9) of Law No. 1 of 2015 in conjunction with Law No. 8 of 2015 which was later lowered down to KPU Regulation No. 8 of 2015.

Regulation on campaign funds will subsequently be renewed after the advent of Law No. 10 of 2016 concerning Amendment The second is Law No. 1 of 2015 concerning Perppu No. 1 of 2014. The law stipulates that donations from campaign funds can be obtained from political parties, candidate pairs, individuals and private legal entities. In this regulation not only regulates the origin of donations, but also limits on the amount of donations, such as donations from individuals Rp. 75 million and from private legal entities Rp. 750 million.²⁰ Donors must also have clear personal identification data and private institutions. That is, not just any individual or institution that can contribute. Furthermore, the regulation of election campaign funds not only limits the amount of donations, but the amount of campaign funds is also limited by using a formula that takes into account regional cost standards after an

¹⁹ Didik Supriyanto and Lia Wulandari, 2013, *Small Talk on Campaign Funds for Ignoring the Principles of Transparency and Accountability of Election Contestants*, Perludem Foundation, Jakarta. pp. 8-9.

²⁰ Article 74 paragraph (5) of Law No. 8 of 2015 concerning Law Number 8 of 2015 concerning Amendment to Law Number 1 of 2015 concerning the Establishment of Government Regulations in lieu of Law Number 1 of 2014 concerning Election of Governors, Regents, And The Mayor Becomes The Law (State Gazette Of The Republic Of Indonesia Year 2015 Number 57, Supplement To The State Gazette Of The Republic Of Indonesia Number 5678)

agreement meeting is held with the candidate pair's team. Determination of restrictions on the expenditure of campaign funds by taking into account campaign methods, number of campaign activities, estimated number of campaign participants, regional cost standards, required campaign materials, geographical and geographical conditions, logistics, and campaign/ consultant management.²¹This restriction is a form of efficiency and effectiveness in the use of campaign funds.

The combination of the three forms of campaign financed by the state with restrictions on campaign funds can significantly reduce the amount of campaign funds that have to be borne by political parties and candidate pairs. Nevertheless the two provisions are still very open so that it can cause problems in the implementation. For example, campaigns in limited meetings and face-to-face and dialogue meetings can indeed be carried out freely by candidate pairs and the campaign team, anytime anywhere during the campaign period. But does that mean the KPU has not been given the authority to regulate the implementation of limited meetings and face-to-face meetings and dialogues. So if it is related to the KPU's authority to limit campaign funds, doesn't that also apply to restrictions on campaign funds for campaigns in the form of limited meetings and face-to-face and dialogue meetings? Apart from all that, the provisions regarding restrictions on campaign funds actually lead to multiple interpretations, among others *first*., whether the restrictions only apply to expenditure / expenditure, or also include a sudden limitation of income / donations ?; *second*., is the authority to limit campaign funds may only be exercised by Provincial KPU and Regency / City KPU, or KPU can make technical regulations, so that the Provincial KPU and Regency / City KPU only need to implement it? These multiple interpretations must be faced by the KPU in making technical regulations on campaign funds as mandated by Article 75 paragraph (5) of Law No. 1 of 2015 in conjunction with Law No. 8 of 2015, which states, "Further provisions regarding donations and disbursement of funds Campaigns of candidate pairs are regulated by KPU regulations. " Not only interpreting the provisions of the law, in making regulations on contributions and expenditure of campaign funds, the KPU is also required to make new provisions that are not listed textually in Law No. 1 of 2015 in conjunction with Law No. 8 of 2015, but are needed to enforce the principles the principles of regulating campaign funds such as justice, equality, and transparency and accountability.

Based on this, the KPU finally established KPU Regulation No. 5 of 2017 concerning Campaign Funds which replaced the KPU Regulation No. 8 of 2015 and KPU Regulation No. 13 of 2016 concerning its amendments. In this new regulation, restrictions on campaign funds are determined based on each *item* of campaign activity. The KPU determines the item details of campaign activities funded by the state and those funded by each candidate pair. In this context, the Provincial / Regency / City KPU only needs to determine how much the cost of each campaign activity is in accordance with the respective regional cost standards. These standards are determined through a series of formulas which are multiplied by the regional

²¹ Article 74 Paragraph (7) Law No 8 Year 2015 Regarding Law Number 8 Year 2015 concerning Amendment To The Law Law Number 1 of 2015 concerning Determination of Government Regulation in Lieu of Law Number 1 of 2014 concerning the Election of Governors, Regents and Mayors to Act (State Gazette of the Republic of Indonesia Year 2015 Number 57, Supplement to the State Gazette of the Republic of Indonesia Number 5678)

cost standard for certain qualifications.²² In addition, Article 39 paragraph (1) of KPU Regulation No. 5 of 2017 determines the form and mechanism of engagement of audit of campaign funds in the election is compliance audit. Public accountants appointed for auditing purposes are also very clearly regulated in Article 43 of KPU Regulation No. 5 of 2017. For example, it is not directly affiliated with candidate pairs and political parties, and not from the proposed political parties. In conducting campaign finance audits it is an attestation engagement which refers to the Public Accountant Professional Standards (SPAP) especially the Attestation Standards (SAT) 500 regarding compliance. In carrying out its audit, the public accountant will design and carry out audit procedures to obtain adequate confidence in the compliance of the candidate pair's assertions with the help of the paslon in providing all necessary records and documents.²³ In the case of campaign finance audits, they not only present facts but can also make opinions about the election participants' compliance. Compliance as referred to is compliance with the law, such as compliance with the submission of campaign finance reports whether on time or not, whether campaign contributions have complied with the maximum limits of individuals and business entities, as well as related to contributors to campaign funds compliance with receiving donations from parties parties that are prohibited by statutory provisions, for example receiving funds from foreign parties, or funds from state budget sources such as BUMN / BUMD.

In addition, the KPU Regulation also regulates the sanctions for participants in violating local elections. Political Parties or Combined Political Parties and Individual Candidate Pairs are prohibited from receiving donations in excess of the provisions including using them. Sanctions are not half-hearted, namely cancellation as a candidate for regional head candidates. Obviously the sanctions provided in the form of cancellation as a candidate when committing an offense by using campaign funds exceed the limits of the provisions. This certainty is regulated in Article 51,²⁴ Article 52,²⁵ Article 53,²⁶ and Article 54,²⁷ KPU

²² Article 12 paragraph (2) of the Election Commission Regulation No. 5 of 2017 Concerning Campaign Funds for Participants in the Election of Governors and Deputy Governors, Regents and Deputy Regents, and / or, Mayors and Wa kil Mayor. (State Gazette of the Republic of Indonesia Year 2017 Number 828)

²³ Emmy Hafid, 2008, *Report on the Study of Financial Accounting Standards for Political Parties*, Transparency International (TI) Indonesia Transparency International (TI), Jakarta. pp. 32-33.

²⁴ Article 51 of the Election Commission Regulation No. 5 of 2017 Concerning Campaign Funds for Election Participants for the Governor and Deputy Governor, the Regent and Deputy Regent, and / or, the Mayor and Deputy Mayor. (Official Gazette of the Republic of Indonesia Year 2017 Number 828): "Anyone who deliberately gives false information in the Campaign Funds report as referred to in Article 8 paragraph (2), is subject to sanctions as regulated in the Law on Elections."

²⁵ Article 52 of Election Commission Regulation No. 5 of 2017 Concerning Campaign Funds for Election Participants for the Governor and Deputy Governor, the Regent and Deputy Regent, and / or, the Mayor and Deputy Mayor. (Official Gazette of the Republic of Indonesia Year 2017 Number 828): "Political Parties or Combined Political Parties and Individual Candidate Pairs that violate the provisions referred to in Article 7 paragraph (1), paragraph (2) and paragraph (3), and Article 9 paragraph (1), will be subject to sanctions in the form of cancellation as a Candidate Pair as regulated in the Election Law. "

²⁶ Article 53 of the Election Commission Regulation No. 5 of 2017 Concerning Campaign Funds for Election Participants for the Governor and Deputy Governor, the Regent and Deputy Regent, and / or, the Mayor and Deputy Mayor. (State Gazette of the Republic of Indonesia Year 2017 Number 828): "Candidate Pairs who violate the provisions on the expenditure restrictions on Campaign Funds as referred to in Article 12 paragraph (4), are subject to sanctions in the form of cancellation as a Candidate Pair."

²⁷ Article 54 of the Election Commission Regulation No. 5 of 2017 Concerning Campaign Funds for Election Participants for the Governor and Deputy Governor, the Regent and Deputy Regent, and / or, the Mayor and

Regulation No. 5 of 2017. The formulation on the one hand has a number of positive impacts, namely *First*, the implementation of the elections will walk healthier. Therefore, competition no longer emphasizes the amount of capital money, but how much influence does it have in seducing voters. Even though the candidate has a large amount of money, but the candidate cannot use it beyond what is determined in accordance with the laws and regulations.²⁸ *Second*, whoever is going to become a regional head candidate so that he is known, he is forced to invest in social and political investment long before the elections are held.²⁹ *Third*, the development of regulations shows that limiting campaign funds will encourage each candidate to be more creative in approaching voters. At the same time, the voting community will also be educated to no longer think pragmatically in making choices.

Regulation Weaknesses and Corrupt Policy

Referring to Burhanuddin Muhtadi's findings, campaign funds will have a large portion of informally donated to finance money politics.³⁰ These conditions then encourage candidates to open as wide as possible sources of funding, including sources that are not reported (informal). This situation confirms that the practice in the field both sources and expenditures are not in line with the legal provisions. Yusfitriadi in his research at least gave a description of the problems of funding candidates in the elections which in terms of audit could not be reached. This implies that there are receipts and expenditures that escaped from the monitoring of the audit and concludes that not all receipts and disbursements of campaign funds are reported.³¹ On the other hand, Meitzner once stated mentioning the existence of campaign finance receipts from entrepreneurs who are not recorded. Furthermore, in terms of expenditure there are also some that are not reported, money politics is expenditure which is certainly not recorded because of prohibited expenditure categories.³² This condition explains that many dishonest candidates include revenues and expenditures from third-party sources.

The fundamental condition that seems difficult to avoid is the need for large funds, especially for conducting money politics. Informal sources of financing generally come from entrepreneurs as described in Fitriyah.³³ The series of studies found that the *shadow state* and *informal economy in the* implementation of regional government are inseparable from the financial support received by prospective investors from entrepreneurs during the election

¹Deputy Mayor. (State Gazette of the Republic of Indonesia Year 2017 Number 828): "Candidate Pairs who are late in submitting LPPDK to the Provincial KPU / Aceh KIP or Regency / City KPU / KIP until the time limit specified as referred to in Article 34 paragraph (1) and paragraph (2) , will be subject to sanctions in the form of cancellation as a Candidate Pair. "

²⁸ Didik Supriyanto, Lia Wulandari, Armanda Pransiska, and Catherine Natalia (Editor), 2015, *Pilkada Campaign Funds: Technical Arrangements on Donations, Expenditures, and Reporting Under Law No. 1/2015 Juncto Law No. 8/2015*, Perledem Foundation, Jakarta. pp. 21-22

²⁹ Khairul Fahmi, *Limitation on Pilkada Campaign Funds*, Media Indonesia, March 10, 2015.

³⁰ Burhanuddin Muhtadi, 2018, "Buying Votes in Indonesia: Partisans, Personal Networks, and Winning Margins", *Dissertation*, Australia National The university.

³¹ Yusfitriadi, 2018, "Audit of 2015 Simultaneous Local Election Campaign Funds in Indonesia: Case Studies in 11 Regencies / Cities", in Mada Sukmajati and Aditya Perdana (eds), *Election Financing in Indonesia*, Bawaslu, Jakarta. p. 206

³² Marcus Mietzner, 2011, "Funding Pilkada: Illegal Campaign Financing in Indonesia's Local Elections", in Edward Aspinall and Gerry van Klinken (eds), *The State and Illegality in Indonesia*, KITLV Press, Leiden.

³³ Fitriyah, 2018, "Botoh in Pilkada: Case Study of Two Regions in Central Java", *Dissertation*, Doctoral Program in Social Sciences-FISIP Diponegoro University. p. 322

process.³⁴ The weak point of regulation as stated above becomes even more vulnerable when coupled with various factors that do not support it, such as the minimal role of political parties in electoral work. A candidate who has been determined by the Election Commission as a participant in the election, then three days later it is allowed to carry out campaign activities to mobilize voters. However, in general, such work is carried out by successful teams that are formed informally by candidates and not campaign teams that are officially registered at the Election Commission. The campaign team is a formal team, its membership is filled by elite political party supporters, namely the functionaries of the supporting political parties and members of the DPR at the central and regional levels, the focus of the campaign team on the consolidation of political parties and as campaigners during general meetings and limited meetings. The nature of the campaign team's work is official or reported, such as when the campaign schedule and where the venue is, who are the campaigners, how many voters are invited to attend, including how much it costs. Meanwhile, electoral work in the field that meets directly with voters is informal teamwork and not all of the costs associated with activities are reported. Members of this success team are filled with people who are considered to be community leaders who represent their communities at all levels of the administrative area, including scholars, women leaders, youth leaders, heads of street hawkers associations and other informal professions, including leaders of thugs as well. Therefore, this kind of financing sometimes exceeds or is not reported from the campaign funds needed. This situation makes the position and role of political parties weak and not as strong as the pairs of candidates, this has led to a correlation in terms of funding. The electoral activity of the candidate pair is attached as a result of the personal burden of the candidate concerned, the candidate thus forms, controls and finances the work of his success team as a political machine. In the end, the need for large and unreported funds is high. If the entrepreneur is aware of these needs and conditions, the presence of donations with the pattern will *quid pro quo* donations become a *conditio sine qua non*.

When reviewing the various amount of pilkada financing expenses that become a dependent of a candidate and when compared, the figure far exceeds the value of the candidate's wealth as stated in the wealth report (LHKPN), the candidates bring up fantastic total numbers. The amount of economic capital owned by the candidate pair as reported is far smaller than the total local election funding. For example, the KPK Study shows the average number of assets of prospective candidates who advanced in the Pilkada on 9 December 2015 was Rp 13,410,575,802.³⁵ While the Ministry of Home Affairs' R&D Research results show that to become a mayor / regent requires a cost of Rp 20 billion to Rp 30 billion, and to become a governor ranges from Rp 20 billion to Rp 100 billion.³⁶ In the end, it is not easy in the field to obtain valid information about the amount of real costs incurred by candidates, but information from many sources estimates the cost of winning candidates as the results of the

³⁴ *Ibid*, hm 323-324

³⁵ KPK. 2016. *Study Report of Potential Conflicts of Interest in Regional Election Funding*. KPK Research and Development Directorate. Accessed from <http://acch.kpk.go.id/documents/10180/15049/Reports+Studies+Potentials+Conflicts+Interests+in+Funding+Pilkada.pdf/5992b55a-91ef-4976-bab6-44f54d28baa9>.

³⁶ www.ti.or.id. "Local Election Costs Trigger Corruption". <http://www.ti.or.id/index.php/news/2016/09/28/cost-pilkada-trigger-corruption>.

Ministry of Home Affairs' R&D Research. The difference in the gap between the cost gap results in the candidate pair then actively seeking informal sources of funding, because not all financing can be covered by private money or other official money. At the same time, there are economic actors who are interested in becoming prospective investors, which is commonly done by entrepreneurs.³⁷ Generally, these investors have names *botoh* for Javanese investors in the elections,³⁸ or *getho* for the Banyumas region. *Botoh* or *getho* in Java is the same name as *cukong* in Jabodetabek, which is an investor who has an important role in managing the winners for gambling purposes only.

The condition as it decomposes is the seed of the birth of a corrupt ecosystem that has the potential to give birth to regional governments that are difficult to implement regional progress programs without accommodating the various interests that have been binding and attract the commitment of the regional election winners. The lack of transparency and accountability in electoral financing as a venue for political contestation is closely coupled with the rise of corrupt practices due to various things, such as, *first*, the increasingly expensive political costs due to the growing phenomenon of political and campaign professionalization; *second*, the lower level of financial support from grassroots groups for politicians which has implications for the dependence of election participants on private and state donors; *third*, the widespread practice of illicit financing, where sources of revenue are unclear; *fourth*, the desire of business groups in providing financial support for the campaign to the candidates with compensation and the expectation of profits to the business groups when the candidates succeed in obtaining public positions; *fifth*, inequality of access to sources of financing; and *sixth*, the weak enforcement of regulations or the rules of the game, especially by the EMB and related stakeholders, including in the internal financial management of political parties.³⁹ Various examples of political corruption and the associated funding of campaign funds are not difficult, for example, as is well-known to the public recently, there are allegations of some of the proceeds of corruption from the Riau-1 PLTU which were allegedly used at the Golkar Party Extraordinary National Conference December 2017. Other examples are cases of Hambalang project corruption, corruption of Electronic KTP, corruption in congregation in the North Sumatra Provincial Parliament (DPRD), corruption in congregation in Malang City DPRD, and a number of corruption committed by regional heads, are forms of political corruption that have occurred.⁴⁰ If it is related to licensing, then as explained in advance that inflation granting business licenses in the mining sector often increases both ahead of the elections and post-elections.⁴¹

Referring to the regulation of campaign funds in the 2018 Pilkada regulated in KPU Regulation No. 5 of 2017 concerning Campaign Funds for Participants in the Election of Governors, Regents and Deputy Regents, and / or Mayor and Deputy Mayor. KPU

³⁷ Yuki Fukuoka, "Politics, Business and the State in Post-Suharto Indonesia." *Contemporary Southeast Asia* Vol 34, No 1, 2012., p. 83.

³⁸ Fitriyah, *Op. Cit.* page 322

³⁹ Mada Sukmajati and Aditya Perdana, 2018, "Introduction: Election Financing in Indonesia", in Mada Sukmajati and Aditya Perdana (ed), *Election Financing in Indonesia*, Bawaslu, Jakarta, p. 6

⁴⁰ *Ibid*, p. 7

⁴¹ Tri Hayati, *Op. Cit.* p. 34

Regulation No. 5 of 2017 stipulates that each candidate for regional head is required to make a Special Account for the Campaign Fund (RKDK) and financial statements. In accordance with Article 13 of KPU Regulation No. 5 of 2017, political parties or a combination of political parties that carry candidates must open RKDK at commercial banks. The RKDK must be in the name of the Candidate pair and the signature specimen must be carried out jointly by a Political Party or a Combined Political Party and one of the candidates from the Candidate Pair. There are three financial reports that must be made by candidates during the campaign period, namely the Initial Campaign Funds Report (LADK), the Campaign Funds Donation Receipt Report (LPSDK), and the Campaign Funds Revenue and Expenditure Report (LPPDK). LADK is a bookkeeping containing information on the Special Account for the Campaign Fund, source of obtaining the initial balance or opening balance, details of the calculation of revenues and expenditures obtained before opening the Special Account for the Campaign Fund, and receipt of donations sourced from candidates and / or political parties or a combination of political parties and other party. LPSDK is a bookkeeping containing all receipts received by the Candidate Pair after the LADK is submitted to the KPU at the regional level. Whereas LPPDK is a bookkeeping which contains all the revenue and expenditure of Campaign Funds. After all stages of the campaign are completed, the LPPDK will be audited by the Public Accounting Firm (KAP) appointed by the KPU in the regions. The LPPK audit period by the KAP is 15 days after KAP receives the LPPDK. The form of a campaign finance audit engagement is limited to a compliance audit. The purpose of the compliance audit is only to assess the suitability of campaign finance reporting with the laws and regulations governing campaign funds. These three instruments; RKDK, campaign finance reports, and campaign finance audits, which are tools for election administrators in the effort to disclose campaign funds.

Despite some of the positives described above, but unfortunately there are still shortcomings, especially relating to efforts to avoid the consequences of commitments that need to be carried out by prospective election participants who later gave birth to corrupt political investment. These include, *first*, that there is no limit on campaign funds from the contributions of the candidates themselves. On the one hand, many donations that exceed the limits of individual and corporate donations will be passed through the door of donations from these candidates. Candidates who have a large source of outside funding will benefit. On the other hand, the composition of the contributor has the potential to not reflect adequate support. Sources of donations from candidates to the region can be greater than donations from other parties. *secondly*, the regulation regarding the affirmation of restrictions on campaign funds sourced from private corporations is due to reduce the form of political investment that has the potential to create further post-election corruption. The regulation referred to is a form of regulation concerning proportionality between the composition of private corporate donations and the total amount of funds collected. Similar practices have also been an issue in the electoral system in the United States. The case of a million-dollar donation from Indonesian businessman James Riady to Bill Clinton's success team in the 1996 US presidential election or alleged fraud committed by Republican secretaries in the state of Florida and *Fox News Channel* to win George W. Bush in the 2004 presidential

election.⁴² Such an arrangement is clearly vulnerable to giving birth to politics of reciprocity especially in post-election government.^{43[43]} Post-election corruption was born into the practice of campaign finance, both revenue and expenditure, which created a corrupt relationship between donors and political parties or candidates they supported and corrupt behavior patterns that occurred between election participants and *voters*.

Comparative Policy on Campaign Spending Limit

The expenditure limits or campaign expenditures used in various countries are basically to avoid the role of excessive money in political competition, control inequality between parties or candidates and limit the scope of inappropriate influence and avoid political corruption. Allan Ware stated that, "*one means of trying to stop a 'feeding frenzy' among parties in their search for funds is to limit how much they spend on a very costly activity — namely election campaigning.*"⁴⁴ Unlimited campaign spending can provide an unfair advantage for those who have access to money and can ultimately make politicians depend on the large contributors behind it. To ensure equality of opportunity for different political forces, limiting campaign funds through restrictions on spending becomes important.

When referring to Eastern European countries (post-communist countries), in general, restrictions are set against the regulation of sources of funds and campaign expenditure. In the case of sources of funds one of the most common regulations, for example, is the prohibition of part or all of the use of foreign donations (funds originating from foreign nationals, foreign governments, companies and international organizations). Foreign donations are permitted in some special cases. The role of the international community in Bosnia-Herzegovina's post-war restructuring provides an example that explains why certain foreign donations are permitted.⁴⁵ In Lithuania the tendency for campaign funding sources to originate from involving the diaspora in party funding activities, thus providing certain benefits, especially to the right wing, the nationalist party that rules the country.⁴⁶ Other than that, Most post-communist countries have chosen to ban anonymous donations. However, Poland, Bulgaria, and Lithuania have taken the view that anonymous contributions in reasonable amounts do not undermine the democratic process. The Polish Election Law even stipulates that anonymous donations must be kept in a bank account separate from the remaining campaign funds. Whereas in Bulgaria stipulates that anonymous donations may

⁴² John Fund, 2004, *Stealing Elections, How Voter Fraud Threatens Our Democracy*, Encounter Books, San Francisco. p 33.

⁴³Historically, ethical politics was born as a critique of the politics of forced cultivation. The colonial government was responsible for indigenous welfare. The ideas of Pieter Brooshooft and C van Deventer opened the Dutch eyes to pay attention to the fate of the natives. Debt (*een eerschuld*) and moral calls are outlined in ethical politics, summarized in Trias Politica including irrigation, emigration, and education. Imam Cahyono, *The Ethical Policy of Capitalism*, Kompas, 26 October 2006.

⁴⁴ Alan Ware, 1995, *Political Party and Party Systems*, Oxford University Press, London. p. 227.

⁴⁵ Jānis Ikstens, Michael Pinto-Duschinsky, Daniel Smilov, Marcin Walecki, *Political Finance in Central Eastern Europe: An Interim Report*, *Österreichische Zeitschrift für Politikwissenschaft*, Vol 31 No. 1, 2002. p. 21.

⁴⁶ *Ibid*, p. 22.

not exceed 25% of the party's total income. In Lithuania, one anonymous donation cannot exceed USD 25, but the total donation is unlimited.⁴⁷

Regarding restrictions on campaign contributions, around half of the countries in the eastern Europe region have introduced limits on contributions to parties and / or candidates in elections. The regulations are primarily aimed at limiting the political influence of big business, findings that often occur, showing that money tends to find its way into the accounts of political parties through donations by third parties, or through direct payments to third parties.⁴⁸ In addition, regarding campaign spending restrictions, nearly two-thirds of eastern European countries have campaign spending restrictions. However, a number of experts are of the opinion that certain countries in eastern Europe explained again that the campaign spending restrictions were not regulated.⁴⁹ Some countries such as Bosnia-Herzegovina, Czech Republic, and Slovakia have even chosen to ban political advertising spending in an attempt to undermine the influence of large financial resources.⁵⁰

Unlike what developed in eastern Europe, in Mexico, the Mexican KPU has a mandate to manage campaigns in the media so that every political party participating in the election has advertisements in the media with the same duration and slot. Restrictions can also be made by limiting campaign expenditures that are allowed only for certain activities.⁵¹ In the UK for example through *The Corrupt and Illegal Practices Act 1883* (CIPA) as the foundation for the development of Westminster democracy, introducing restrictions on campaign expenditures allowed in each constituency of CIPA were expanded and revised in *Political Parties, Elections, and Referendum Act 2000*. Generally in Great Britain, the purchase of media showtime for political advertising is prohibited. However, the News Agency *British Broadcasting Corporation* (BBC)(by convention) and certain independent television and radio broadcasters (according to the law) provide *air time* free to qualified parties at the time of the election and at other important dates in the political calendar.⁵² This is not a direct aid from the state only because it is provided free of charge, but is intended to maintain political competition. In the current arrangement, each party that nominates candidates in one-sixth of the seats contested in the election is deemed to be eligible for broadcast time, and TV channels are also allocated a series of broadcast slots for party campaigns.⁵³

⁴⁷ Vít Šimral, 2011, *The Funding and Oversight of Political Parties and Election Campaigns in East Central Europe*, Open Society Foundations, Prague. pp. 44-45.

⁴⁸ Elin Falguera, Samuel Jones, and Magnus Ohman, 2014, *Funding of Political Parties and Election Campaigns: a Handbook on Political Finance*, International Institute for Democracy and Electoral Assistance, Stromsborg. pp. 287-288.

⁴⁹ Julio Bacio Terracino and Yukihiko Hamada, 2014, *Financing Democracy: Supporting Better Public Policies and Preventing Policy Capture*, OECD, Washington. p. 18.

⁵⁰ Vít Šimral, *Op. Cit*, p. 55.

⁵¹ Kevin Casas and Zamora Daniel Zovatto, 2016, *The Cost of Democracy: Essays on Political Finance in Latin America*, Inter-American Dialogue, Washington. p. 56.

⁵² Michael Pinto-Duschinsky and Alexander Postnikov, 1999, *Campaign Finance in Foreign Countries: Legal Regulations and Political Practices*, International Foundation for Election Systems. pp. 6-7.

⁵³ Elin Falguera, Samuel Jones, and Magnus Ohman, *Op. Cit*, pp 312.

Unlike Poland, restrictions on paid media advertising during parliamentary elections were first introduced in the 1993 elections. Regulation in Poland stipulates that the time allocated for paid advertising must not exceed 15 percent of the total free broadcast time allocated to certain parties. . However, a 2001 law removes these specific limitations. According to the new regulations, spending by parties / candidates on advertising activities for local races (or those who resemble them in ways and modes, including press publications) cannot exceed 80 percent of national borders. However, the 1993 regulations still apply to presidential elections. Each party can broadcast a paid election program between the 15th day before the vote and the last day of the election campaign. However, the total time set for paid broadcasting cannot exceed 15 percent of the time given by the committee given to broadcast the free election program.⁵⁴

The situation of regulating campaign finance restrictions in Latin American countries is generally consistent with global trends. Almost all Latin American countries have introduced a ban on the use of certain sources of financing and most impose limits in relation to the amount of donations. Only El Salvador does not set limits in this regard. Among the bans, the most common has to do with donations from foreign governments, institutions, and individuals (most countries, except El Salvador),⁵⁵ government contractors (for example, Argentina and Bolivia), and anonymous sources (more than half of the countries , including Costa Rica, Honduras and Mexico). Equally important is that several countries in the region (including Argentina, Honduras, Mexico, Paraguay, and Costa Rica) have banned donations by legal entities. Various limitations and limits on contributions from individuals have been introduced in the case of Argentina, Bolivia, Brazil, Colombia, Chile, Ecuador, Guatemala, Mexico, Paraguay, Peru, and Uruguay.⁵⁶

Such restrictions on private sources of financing are aimed at overcoming the first two risks described above by minimizing opportunities for buying influence by strong or controversial donors. As is the case with other stringent regulatory measures, limits on contributions require strict regulation and enforcement in their implementation, the need for an extensive system of reporting and the authority to audit all campaign funding sources used by candidates is a proven challenge even in democracies. the most advanced.⁵⁷

Restrictions on campaign funds in different countries have different formulations but experience the same problem, if the restrictions are too high, it can lead to detrimental results. Cruel actions to completely prohibit private contributions, such as those prevailing in France

⁵⁴ Eric Avis Claudio Ferraz Frederico Finan Carlos Varjão, 2017, *Money and Politics: The Effects of Campaign Spending Limits on Political Competition and Incumbency Advantage*, National Bureau of Economic Research, Cambridge. pp. 16-18.

⁵⁵ Political Party Law on 14 February 2013 in <http://www.asamblea.gob.sv/eparlamento/indice-legislativo/buscador-de-documentoslegislativos/leye-partidos-politicos>, accessed December 20, 2020.

⁵⁶ Kevin Casas and Zamora Daniel Zovatto, *Op.Cit*, p. 77.

⁵⁷ This obstacle is generally faced by the United States Federal Election Commission (FEC) when enforcing restrictions on campaign contributions introduced by the *Federal Election Commission Act of 1974*. [Kenneth A. Gross, "The Enforcement of Campaign Finance Rules: A System in Search of Reform", in Anthony Corrado, Thomas E. Mann, Daniel R. Ortiz, and Trevor Potter (eds), *1997 Campaign Finance Reform: A Sourcebook* , (Washington DC: Brookings Institution Press). pp. 310–314]

before 1988 and in India from 1969 to 1985, eventually encouraged corrupt practices that were very opaque.⁵⁸ So it is not surprising that many democracies, especially in Western Europe, are reluctant to establish comprehensive controls on campaign fund contributions, instead choosing to limit the financial burden on private donors by other means, such as public financing systems, short election campaigns, and severe restrictions on election ads.

Optimizing Campaign Fund Restrictions in Indonesia

There are at least three objectives for regulating campaign funds in elections. *First*, if it is formulated using language negatively, that the regulation of campaign funds is intended to prevent the dominance of one or two political parties or candidates who have large funds in delivering their vision, mission and program. Meanwhile, if described in positive language, campaign finance arrangements are intended to guarantee diverse sources of information about parties and candidates to voters.⁵⁹ *Second* the objective requires the regulation of campaign funds related to efforts to prevent campaign funders from dictating policies to be taken by regional head candidates. Or in other words, the regulation of campaign funds is intended to ensure that regional head candidates pay more attention to the aspirations and interests of constituents in making and implementing decisions in executive bodies. And the goal *third* is to prevent not only those who are rich but not qualified who can be chosen or intended to ensure that someone who is not rich but has integrity and capacity as a candidate for regional head.⁶⁰ Based on the aforementioned set of objectives, it shows that the financial element will provide enough opportunities in the framework of winning candidates. Because these elements can be converted into various tools to fulfill campaign needs. With the fulfillment of campaign needs, election participants can conduct campaigns more intensely and massively. Thus the opportunity for participants who can portion more to campaign themselves more intensely and massively will get more opportunities because the participants of this election can promote themselves more than other election participants.

When referring to KPU Regulation No. 5 of 2017, the regulated aspect concerns the source of campaign funds, the form of campaign funds, the maximum limit of contributions from various parties permitted to contribute, the maximum amount of campaign expenditure, the requirements regarding the identity of donors and the origin of donations, procedures the method of accounting for campaign funds which must be separate from the bookkeeping of receipts and expenditures of parties for non-campaign activities, recording of receipts in the form of money in a special account of campaign funds, reporting mechanism for campaign

⁵⁸ Richard Levush, 1995, *Report for Congress: Campaign Financing of National Elections in Selected Foreign Countries*, Library of Congress, Law Library, Washington DC pp. 119 and Piere Avril, 'Regulation of Political Finance in France', in Alexander Herman and R. Shiratori, 1994, *Comparative Political Finance among the Democracies*, Westview Press, Boulder. pp. 85–95.

⁵⁹ Voters in a democratic political system must be given complete information on various public policy alternatives for the welfare of the people from various election participants or candidates. If the alternative policy comes only from one or two parties or candidates, then the voters actually do not vote but a choice has been made for them. In general elections, voters must be able to choose one party / candidate from a number of alternatives based on the results of an assessment of various policy alternatives offered by many political parties. [Didik Supriyanto (Editor), Lia Wulandari, Armanda Pransiska, and Catherine Natalia, *Pilkad Campaign Fund Op. Cit*, p. 27]

⁶⁰ *Ibid*, p. 28

revenues and expenditures, requirements of the Public Accountant Office (KAP) that can be appointed by the KPU to audit reports on revenue and expenditure of campaign funds, KAP work mechanism, audit procedures, prohibitions and sanctions. Two principles that usually underlie general election campaign fund arrangements, namely transparency and justice. The question is whether the three goals as above can be achieved with the regulation of campaign funds in the current election law ?. When examined in depth, the current provisions of the Local Election Law already have the subject matter of regulating campaign funds which is commonly practiced in several countries to ensure the application of the principles of transparency and accountability in the use of campaign funds. The principle of transparency requires political parties participating in the election and candidates to be open to all the processes of managing campaign funds, specifically, in revenue or income as well as expenditure or expenditure.⁶¹ Here a number of obligations must be carried out by political parties and candidates, such as making a list of contributors, a list of income, a shopping list, a balance sheet and others. The purpose of making a list of contributors, income lists and shopping lists, balance sheets, etc. is to test the principle of accountability, namely ensuring the responsibility of political parties and candidates in the process of receiving and spending campaign funds according to ethics and not violating regulations.⁶²

In addition, another main principle as a limitation of campaign funds from the expenditure side is the application of the principle of justice and equality between parties participating in the election and candidates. This principle becomes the basis for creating equal opportunities among political parties participating in the election in competing for votes. This means that the election results are not determined by who has the most funds, but rather by the performance and creativity of the political parties participating in the election and candidates in conducting the campaign. This principle is the basis for creating healthy competition because each political party and candidate has the same opportunity to campaign in order to convince voters.⁶³ Thus, the legal framework that should be able to contain these principles, should meet the following criteria: *First*, there is a system that allows or provides space to support competitive campaigns. *Second*, a system that can maintain the opportunity for all residents to participate equally. *Third*, there is an open system to bring up participation. *Fourthly*, there are systems that can prevent corruption by freeing candidates, parties and elected candidates from the undesired influence of their contributors. *Fifth*, there is a system that can free voters from the pressure of candidates or parties from the lure of financial support (*vote buying*). So far, Law No. 1 Year 2015 jo Law No. 8 Year 2015 jo Law

⁶¹ Elin Falguera, Samuel Jones, and Magnus Ohman, *Op.Cit*, p. 316

⁶² Australia, for example, prioritizes transparency in managing campaign funds. Therefore political parties or candidates can receive campaign funds from anyone, regardless of size, and any amount of expenditure as long as all revenues and expenditures are announced to the public through the Australian KPU (by filling out the form provided). The United States, on the other hand, promotes transparency and fairness in managing campaign funds. Therefore, candidates are not only given the choice of campaign funding sources (received from the state in accordance with the amount of campaign funds collected, or entirely derived from their own efforts) but are also required to comply with the maximum limit of donations and the maximum amount of expenditure. The American Election Commission at the Federal level does not handle elections at all but rather oversees and enforces campaign finance arrangements. [Eric Avis Claudio Ferraz Frederico Finan Carlos Varjão, *Op. Cit*, p. 23]

⁶³ Burhanuddin Muhtadi, *Op. Cit*, p. 63

No. 10 Year 2016 states that seven campaign methods: a) limited meetings; b) face to face meeting / dialogue; c) public debate / open debate between candidate pairs; d) disseminating campaign materials to the public; e) installation of teaching aids; f) print mass media advertisements and electronic mass media; and / or g) other activities that do not violate the laws and regulations. What is new from this law is the provision that, campaigns letters (c), (d), (e), and (f) are facilitated by KPU funded by the state budget. So, the regional head candidate pair only finances a limited meeting campaign and face-to-face meetings and dialogue. However, the provisions governing campaign funds in Law No. 1/2015 in conjunction with Law No. 8/2015 are still very limited, both in the number of articles and paragraphs and in the content of regulatory material. In terms of the regulation of campaign funds, there are some differences between the new Election Law (Law No 10 of 2016) and the previous Election Law (Law No 8 of 2015) such as in particular Article 74 paragraph (5) where there is an increase in the contribution limit and no funding limit campaign from donations of candidate pairs. The absence of provisions that emphasize the limitation of campaign contributions of candidate pairs that may not exceed the campaign financing limits as specified by this regulation shows that the current regulations are still not optimal. Sanctions that are currently regulated in Article 53 of KPU Regulation No. 5 of 2017 are not yet fully relevant, because the actual violation of campaign finance restrictions means that there is excess funds from the restrictions that should be adhered to, so that the threat of sanctions must submit the excess campaign funds to the state treasury. more relevant.

In the 2018 elections, it was realized that the campaign funds were vulnerable to being violated by the candidate pairs. Violations of campaign funds have been largely based on the high political costs at this time. This factor is of concern to the election organizer, both the General Election Commission (KPU) and the Election Oversight Body (Bawaslu). Because the amount of campaign funds is still believed by many parties to still be the determining factor (determinant) of victory in the elections, or in elections. The birth of Law No. 10 of 2016 concerning the Election of Regional Heads has in fact set strict restrictions on campaign funds. In Article 74 paragraph (9) the limitation of paslon campaign funds is determined by the Provincial KPU and Regency / City KPU, taking into account the number of voters, the coverage or area, and regional cost standards. Campaign finance restrictions also apply to individual and corporate donations. The problem is, even though the rules have been so firmly made, indications of violations of campaign funds are still found by a number of parties. For reasons of high political costs, not a few candidates who advance in elections or elections in the end determined to violate the provisions in the report on the receipt and expenditure of campaign funds (LPPDK) and reports on the receipt of campaign fund contributions (LPSDK). As was the case in the election of the regent in Lembata District in 2017. At that time the case of individual campaign donations was estimated at hundreds of millions of rupiah. Based on the statement of the local Election Supervisory Committee (Paswaslih) which refers to the LPSDK, shows that the Sunday package (Eliazer Yentji Sunur - Thomas Ola) received an individual contribution of Rp170 Million. While the Titen package (Herman Wutun-Vian Burin) received a donation of Rp250 million.⁶⁴ That sort of

⁶⁴ "Silent on the Campaign Funds, Candidates for Regional Heads Can Be Aborted" Kompas, 17 March 2018

thing has actually been decomposed seen in 2015, as reported by the election monitoring agency, the People's Voter Education Network (JPPR). In the simultaneous local elections that year JPPR claimed to find allegations of manipulation of campaign fund contributions in the three electoral districts that held simultaneous local elections that year. JPPR claimed to have found donation funds exceeding the limit in Seluma District, the pattern of solving the amount of donations in the City of Balikpapan, and the existence of the fictitious donor identity of the City of South Tangerang. The findings in these three regions, JPPR recognized, have similarities with risky patterns occurring in all regions in Indonesia.⁶⁵ Regarding the frequent emergence of violations of campaign contributions, this is also always accompanied by the unclear problem of the source of campaign contributions of candidate pairs, both individuals and companies, which in fact are always found from the election to the election. Unfortunately, the problem is, only some election observers are able to publish the data. The ambiguity that often arises includes the identity of the donor, the address of the donor, the contact number of the donor, the principal number of the taxpayer, and the unclear source of income of the donor. In fact, Article 76 of Law No. 1 Year 2015 explains that political parties and / or a combination of political parties that propose candidates and individual candidates are prohibited from accepting donations or other assistance for campaigns originating from donors or aid providers whose identity is unclear. Furthermore, in paragraphs (3) and (4) it is said, if it is proven to violate the provisions, there will be sanctions in the form of canceling the proposed candidate. So the case of the disqualification of the Sinjai regent candidate, Sabirin Yahya-Andi Mahyoto, by the Sinjai Regency Election Commission for being late in submitting reports on the receipt and expenditure of campaign funds (LPPDK) was a concrete step in the courage of the election organizer.

Referring to Article 39 of KPU Regulation No. 5 of 2017 that the type of audit used is merely a compliance audit, whereas if it is then regulated using the method of inspection or investigative audit, it will clarify who the investor behind the candidate is. Without an investigative audit, there will be an attempt by the candidate to be able to manipulate the report on the source of his campaign. This means that reported campaign funds do not reflect actual conditions. In fact, the main purpose of regulating the audit of this campaign is not to use illegal money. In addition, giving authority to Bawaslu to carry out inherent supervision and to trace the validity of campaign funding sources is a necessity. So that if there are irregularities, then Bawaslu can provide recommendations to the Commission to impose sanctions. Another benefit is that Bawaslu's analysis can be used as comparative data with KAP audit results. The direction of regulation regarding supervision of contributions from individuals and business entities is very important, given the potential for violations of the law with the emergence of the relationship between money and political decisions. Therefore, campaign finance regulations must apply a number of basic provisions to prevent conflicts of interest, prevent prejudice against the activities of political parties and candidates, ensure transparency of the origin of donations and prevent undisclosed donations. So that regulations must guarantee the independence of political parties and candidates for legislative members

⁶⁵ M. Afifuddin, Sunanto, Masykurudin Hafidz, Zaid Muhammad., *Op. Cit*, page 21

(elected) and candidates for executive officers (elected) in making policies and decisions when occupying post-election positions.

In addition to the need for audits that are not merely compliance, the existence of campaign finance audit controls becomes an important angle in itself. Up to now there has not been any control over the implementation of campaign finance audits conducted by KAP. During this time, control of KAPs throughout Indonesia has been carried out by the Ministry of Finance through Government Employees with Work Agreements (PPPK) and the Indonesian Institute of Certified Public Accountants (IAPI) as the only professional association that houses Indonesian public accountants. However, in reality, there is no control mechanism for conducting campaign finance audits, particularly in the implementation of the elections. So if supervision of such audit performance is still weak, then the potential will lead to adverse impacts. The impact, both on the profession of public accountant and KAP as well as on the accountability of the results of audits of campaign funds. In addition to potentially fertilizing KAPs and public accountants who are not yet competent in auditing campaign funds, the audit results are also feared not meeting standards and not being done professionally. The results of the campaign finance audit were then only as a "condition" that campaign funds were called transparent and accountable but ignored substantial matters in them.

KPU Regulation No. 5 of 2017 which regulates the campaign funds limitation of regional heads is in fact not entirely in accordance with the purpose of limiting campaign funds themselves, namely to keep the elected candidate pairs expressing the interests of voters rather than the interests of contributors in making policies. In addition, to avoid the amount of collection and expenditure of campaign funds, as often happened in the previous local elections. for example, such anomaly is reflected in the General Election of the Governor and Deputy Governor of DKI Jakarta, for example, the Jakarta KPU stipulates that the Campaign Fund limit is 203 billion, but in reality the pair of DKI Jakarta Governor and Deputy Governor, namely Anies Baswedan and Sandiaga Uno claimed to only spend campaign funds totaling 64.4 billion. In addition, campaign funds in West Java in 2013 set a campaign cost limit of Rp 172 billion, while the regional election winner Ahmad Heryawan-Dedy Mizwar only spent a total of Rp 25 billion.⁶⁶ Therefore, restrictions must also be imposed on the expenditure or expenditure side. Because, in this way the political parties participating in the election or the candidates no longer try to raise as much campaign funds as possible because they know that the funds cannot be used if they are collected beyond the allowed limits. However, when referring to the regulation regarding the limitation of campaign funds the regional head is not yet fully able to limit the campaign funds themselves. The current regulation has not been able to reach the cross practice circle of corruption carried out by candidates for head / deputy regional head and donors. The amount of funds needed for the election campaign, makes the pair of candidates potentially receive a flow of funds from various donors. Some potential funds that are often used by candidates include personal funds from candidates which sometimes come from cross corruption between candidates and entrepreneurs. In addition, assistance and from entrepreneurs /

⁶⁶ "Sandiaga Spent Rp 108 Billion During DKI Election", Kompas, 18 March 2017

business entities that often work on government projects and utilization of grant funds, social assistance and financial assistance from the APBD are still objects of regulation that need to be tightened again. The current election regulation implicitly does not regulate APBD management boundaries ahead of the post-conflict local election so that they are not used by incumbent candidates. In article 71 paragraph 3 of Law 10 of 2016 and Article 89 paragraph 2 of KPU Regulation 5 of 2017 regulates, for the six months prior to the determination of regional head candidates it is prohibited to use authority, programs, and activities that derail or harm one of the candidate pairs. However, the article is difficult to enforce because there are no benchmarks or limits for regional heads that in exercising authority, programs and activities have benefited or harmed one of the candidate pairs.

The issue of campaign funds, as explained above, is certainly a part that must be the focus of Bawaslu supervision, with various levels of complexity and complexity that must be faced. This is more because the issue surrounding campaign funds is a classic problem because it always arises in every political momentum, both in the elections of the governor and deputy governor, regent and deputy regent as well as the election of mayor and deputy mayor.

Conclusion

Referring to the formulation of the first problem, the important issues regarding campaign funding arrangements are not only enough to see election accountability and / or financial accountability of election participants, far more important that the result of non-strict campaign finance arrangements regarding the prohibition of private parties as contributors to campaign funds will result in the establishment of political capital investment reciprocation / investment Corrupt politics between political parties, candidates for election and other parties, because the practice of campaign finance is closely related to the accountability of post-election political institutions, campaign and campaign funding contain messages and promises of integrity political actors with funds prior to occupying positions in political institutions will form patterns for deviant acts, the tendency is to abuse authority and corruption. The integrity and accountability of these actors in carrying out their positions in the political sphere and managing power can often be attributed to campaign funding

That is, the issue of campaign funding is one of the important joints in shaping democratic governance that is free of KKN (*democratic governance*). Political actors who when the election has a record of poor political funding will certainly be threatened by their political position or become a record of public scandal in the future. Therefore, weaknesses in the regulation of campaign funds that are still a gap and have the potential to give birth to post-election policy corruption include: *First*, namely the absence of a limit on campaign funds from the contributions of the candidates themselves. On the one hand, many donations that exceed the limits of individual and corporate donations will be passed through the door of donations from potential partners themselves. The issue of campaign finance gaps reported under the campaign team with the electoral work carried out by the success team informally makes the high level of binding contributions to the interests of money politics. *theSecond*, lack of regulation concerning restrictions on the composition of contributors come from private corporations or entrepreneurs, allowing for policies that tend to corrupt due to the pattern of *quid pro quo donations*. *Third*, the type of audit used is merely a compliance

audit, whereas if it is then arranged to use the method of inspection or investigative audit, it will clarify who is the investor behind the candidate. Without an investigative audit, there will be an attempt by the candidate to be able to manipulate the report on the source of his campaign. This means that reported campaign funds do not reflect actual conditions.

Referring to the formulation of the second problem, then the regulation of election campaign funds that are sounded out for a pattern of policies to strengthen morals and democratic systems that are clean from corruption, collusion and Nepotism will be a strategic starting point in efforts to eradicate post-election corruption in Indonesia, but it also can become one a measurement tool to assess whether the accountability aspects of funding in the election campaign have been running transparently and accountability in future election contestation. Therefore, changes that need to be made to optimize the regulation of restrictions on campaign funds are, *first*, a strict limitation on campaign funds originating from individuals who then have a reasonable ratio of statements of assets of a candidate pair. *Second*, confirmation of the composition or contribution ratio of donors from campaign funds reported. At the same time there must be substantive improvements and synchronization between the campaign finance reports and the special account of campaign funds. So far, campaign finance reports and special accounts for campaign funds do not reflect the reality of the flow of revenue and expenditure of campaign funds. So that the systematization of the use of campaign funds can be applied, namely campaign funds used are campaign funds in a special account. *Third*, reformulation of sanctions for violating the reporting of campaign funds by granting the obligation to hand over to the state treasury, so that if there is an excess of funds from restrictions that should be adhered to, there is a threat of sanctions required to hand over the campaign funds to the state treasury. *Fourth*, the use of investigative audit or audit methods. This will clarify who the investors behind the candidates. Without an investigative audit, there will be an attempt by the candidate to be able to manipulate the report on the source of his campaign. This means that reported campaign funds do not reflect actual conditions.

Based on the conclusions, as described above, the achievement of goal setting campaign funds to show that the election was to create a healthy competition (*fairness*) and freed from the practice of suspicious transactions can be avoided and is an essential prerequisite in building the quality and integrity of the electoral process.

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