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Research Article

Examining the Legal Foundations of Political Party Liability for Money Laundering

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ABSTRACT: Political parties serve as platforms for individuals before they are nominated for state office. State officials, in turn, carry a significant risk of engaging in corrupt practices. However, to date, there has been no case in Indonesia in which a corruption offense committed by a state official who is also part of a political party's leadership has resulted in the political party itself being held criminally liable. Given the frequency of such incidents, this study seeks to contribute to law-enforcement efforts to prevent and address this issue, particularly when political parties benefit from the unlawful actions of their members or officials. In addition to a statutory approach, this research adopts conceptual and case-based analyses to reinforce its findings. The results indicate that, as legal entities, political parties can indeed be held criminally liable.
KEYWORDS: Corporation; Criminal liability; Money Laundering; Political Parties.

I. INTRODUCTION

One of the most significant threats posed by transnational crime is money laundering, which can occur across borders and generate impacts in multiple jurisdictions. The commission of money laundering presupposes the existence of a predicate offense, as regulated under Article 2(1) of Law No. 8 of 2010 on the Crime of Money Laundering, which has since been revoked and replaced by Article 607(2) of the 2023 Criminal Code. Among the most common predicate offenses is corruption. Corruption involves the abuse of authority for personal, collective, or corporate gain, thereby causing losses to state finances. Acts of corruption are frequently committed by state officials who are also members or officeholders of political parties. Political parties, being formal organizations with legal-entity status as recognized by the Ministry of Law and Human Rights, may therefore be categorized as corporations.

Under Indonesian law, legal subjects consist of individuals and corporations. Accordingly, political parties, as corporations, qualify as legal subjects. This raises further questions concerning the characteristics of corporations that can be held criminally liable, as well as the types of criminal liability that may be imposed on political parties in cases

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of money laundering. Because criminal acts should not yield profit to their perpetrators, any opportunity—however small—that allows offenders to benefit from crime must be subject to strict oversight. In practice, however, when a political party official who also serves as a state administrator is implicated in a criminal offense, resignation or dismissal from party membership often follows. This practice creates the impression that criminal responsibility lies solely with the individual, thereby distancing the political party from any connection to the offense. Such circumstances pose significant challenges in attributing criminal liability to political parties.

In reality, political party officials are implicated in corruption. In many cases, the political party has been proven to have engaged in money laundering. These circumstances may give rise to criminal liability not only for the individuals involved but also for the political party as a corporation that receives or benefits from the proceeds of crime. Indonesia is not lacking in regulatory frameworks governing corporate criminal liability. However, to date, no political party has been criminally held liable, either independently or jointly with its officials, despite the availability of doctrinal bases for imposing such liability.

This research aims to contribute to legal scholarship by demonstrating that political parties benefiting from criminal acts committed by their officials may, in principle, be held criminally responsible and subjected to appropriate sanctions. The objective of the study is to establish that political parties, as corporations with legal-entity status, constitute legal subjects capable of bearing criminal responsibility in accordance with the doctrinal characteristics used to assign liability, particularly in the context of money laundering offenses.

II. METHODOLOGY

This research employs a normative juridical approach, relying primarily on legislative materials. Through the analysis of existing laws and regulations, the study aims to formulate legal arguments capable of addressing the issues under

examination..[1] Accordingly, the resolution of legal problems remains anchored in the relevant statutory framework as the principal guideline. In addition, the research adopts a conceptual approach. This approach is utilized with the expectation that, when positive legal rules are insufficient to resolve the issues at hand, the doctrines and principles developed within legal scholarship may offer the necessary analytical tools to do so.[2] A third method, the case approach, is also applied to provide concrete answers by examining relevant judicial decisions. For this study, the author draws on primary legal sources, including legislation, as well as secondary legal materials such as books, legal doctrines, academic journals, and expert opinions. Political Parties as Legal Subjects in Money Laundering Crimes.

III. THE CONCEPT OF LEGAL SUBJECT IN MONEY LAUNDERING

A. Legal Subject of Money Laundering

The recognition of corporations as legal subjects has become a global norm. This development is closely linked to a long history of cases in various countries involving corporate criminal acts that have caused substantial harm, not only to society but also to the state. The process of establishing an entity as a legal subject has undergone significant evolution. With the advancement of criminal law, the notion that legal subjects are limited solely to natural persons has increasingly shifted. Roman law, which profoundly influenced European legal thought during the Middle Ages, recognized that non-human entities could possess rights and obligations equivalent to those of individuals under the law.[3]

Ultimately, most countries have reached a similar conclusion: legal subjects

[1] Peter Mahmud Marzuki, *Penelitian Hukum*, (Prenada Media Group 2010) [9].
[2] *Ibid.* [95].
[3] Rudy Indrawan, 'Pertanggungjawaban Pidana Korporasi dalam Tindak Pidana Pencucian Uang' (*Dissertation, Faculty of Law, Universitas Airlangga* 2023) [61].

include not only natural persons but also corporations.[4] This development reflects a shared commitment to ensuring legal certainty by preventing corporations from evading criminal liability.[5] In Indonesia, laws and regulations now explicitly recognize corporations as legal subjects alongside individuals. Corporations were first recognized as legal subjects under the 1951 Emergency Law on Economic Crimes. Government policies aimed at accelerating economic growth across various industrial sectors have further reinforced the role of corporations. Corporations are expected to support societal development; however, in practice, corporate activities may also cause harm to the public, just as individuals may harm others through unlawful or deviant actions. Corporate crime represents a form of criminality that has evolved alongside societal and technological advancement. Its perpetrators often possess higher levels of education and employ sophisticated methods to conceal their wrongdoing.[6] Corporate crime is a form of crime that has evolved with the times as civilization has become increasingly advanced. The perpetrators of this crime are highly educated individuals because they use various methods to avoid detection. In criminal law, a legal subject may be classified as criminal if the following conditions are met: the subject violates criminal law; the conduct constitutes a criminal offense; the offense is defined in criminal legislation; a court issues a verdict; and the verdict has obtained permanent legal force. [7] Corporations in Indonesian criminal law are now recognized as legal subjects. Accordingly, when a corporation fulfils these elements, it may be regarded as a criminal actor. The consequences of criminal acts committed by giant corporations can disrupt and even damage the national economy. This situation often prompts public concern, particularly among those adversely affected by corporate wrongdoing, who question why corporations cannot be held accountable for the harm they cause.[8]

[4] Ahmad Ratomi, 'Korporasi Sebagai Pelaku Tindak Pidana (Suatu Pembaharuan Hukum Pidana Dalam Menghadapi Arus Globalisasi Dan Industri)' 10 *Al-Adl : Legal Journal*.

[5] Komisi Pemberantas Korupsi, "Komitmen Indonesia pada UNCAC dan G20 ACWG tahun 2012-2020" [127].

[6] Shanty, "Aspek Teori Hukum dalam Kejahatan Korporasi. Lilik Shanty, 'Aspek teori hukum dalam Kejahatan Korporasi' (2017) 3 *Palar Pakuan Law Review* [60].

[7] Sarwirini, 'Kejahatan Korporasi' Materi PPT *Fakultas Hukum Universitas Airlangga* (2018) [8].

[8] Sutan Remy Sjahdeini I, *Ajaran Pemidanaan: Tindak Pidana Korporasi dan Seluk-beluknya* (Kencana 2017) [62].

The extension of criminal liability to political parties represents a logical development within the broader framework of corporate criminal responsibility. Imposing liability solely on individuals within political parties may be inadequate, given that party officials or decision-makers often act in the name of and for the benefit of the political party as an organization. Such acts generate institutional benefits, making it appropriate to examine the political party's liability as a corporate entity. This concern is especially salient from the public perspective, as the absence of institutional accountability may be perceived as unjust. Historically, resistance to attributing criminal liability to corporations was strong. However, by 1842, English courts had begun imposing fines on corporations for failing to comply with regulatory obligations, marking an early and significant shift in the recognition of corporate criminal responsibility.[9]

According to Black's Law Dictionary, corporate crime refers to any criminal act committed by a corporation, typically through its officers or managers. Corporate crime is generally classified as a form of white-collar crime.[10] White-collar crime is non-violent offenses committed for financial gain by individuals with expertise in business or government.[11] The status and nature of the offenses committed by perpetrators are what distinguish white-collar crime from blue-collar crime. Corporate crime possesses several distinctive characteristics, including:

1. Secrecy makes detection difficult and often requires specialized professional expertise.;
2. Organized and sustained conduct, typically involving numerous actors over an extended period;
3. Diffuse and complex chains of responsibility, complicating the attribution of liability;
4. Widespread victimization, often manifested through fraud, deception, or misrepresentation;

[9] *Ibid.* [65].

[10] Deamonika Deamonika dan Nur Annisa, "Keterkaitan While Collar Crime dengan Coorporate Crime." (2005) 4 *Pustaka: Jurnal Bahasa dan Pendidikan.*

[11] Sutan Remy Sjahdeini I. *Op.Cit*. [62].

5. Challenges in detection and prosecution arise from disparities between the professional sophistication of offenders and the capacity of law enforcement agencies;
6. Regulatory ambiguities may hinder effective enforcement and judicial action.[12]

In most cases, corporate crimes are committed by corporate administrators who act in pursuit of organizational or personal interests. The complexity of corporate crime stems from the involvement of multiple actors and its inherently organized nature, which collectively make detection, investigation, and prosecution significantly more difficult.[13] The inclusion of corporations as legal subjects represents a governmental effort to strengthen oversight and ensure that corporations conduct their activities with due care, thereby preventing criminal acts that may harm the public and the state. Under the old Criminal Code, legal subjectivity was limited to natural persons, as reflected in the phrase "*barang siapa" ("whoever"). Human beings were regarded as the sole subjects of criminal law. Article 59 of the old Criminal Code stipulated that "in cases where an offense carries criminal liability for administrators, members of the governing body, or commissioners, those who are not proven to have participated in the offense shall not be punished." From this provision, it can be inferred that corporations themselves cannot be held criminally liable; only corporate administrators acting on behalf of the corporation can be held responsible.*[14] As a result of this article, administrators who commit criminal acts with and on behalf of the corporation may be given the burden of liability, and the corporation shall not be given such burden.

Evolving economic and legal realities necessitated reforms. The 2023 Criminal Code introduces corporations as subjects of criminal law, replacing the phrase "*barang siapa" with "setiap orang" ("every person"). Article 45(1) of the 2023 Criminal Code explicitly states that corporations constitute subjects of criminal law. Furthermore, the*

[12] Toetik Rahayuningsih dan Iqbal Felisiano, "Hukum Pidana Korporasi", Team Teaching, Materi PPT *Fakultas Hukum Universitas Airlangga* (2018) [7].
[13] Lilik Syanti. *Op.Cit*. [63].
[14] Sutan Remy Sjahdeini I. *Op.Cit.* [19].

elucidation of Article 5 affirms that both natural persons and corporations, whether incorporated or unincorporated, are recognized as legal subjects capable of committing criminal offenses.[15] Consequently, a corporation may be held criminally liable if it is proven to have committed a criminal act, either independently or jointly with its management. Within this framework, criminal law acknowledges that corporations, including political parties, are legal subjects capable of committing criminal offenses. This recognition means that political parties can be held independently accountable for unlawful acts that benefit the organization. Articles 46 and 47 of the 2023 Criminal Code reinforce this view, providing that corporate criminal acts may be committed not only by individuals formally listed in a corporation's organizational structure but also by persons outside the corporation who exercise control over its activities, whether individually or collectively.

Article 4 Paragraph (2) of PERMA Number 13 of 2016 concerning Procedures for Handling Criminal Cases by Corporations states the criteria for imposing a crime against a corporation, which the judge can assess corporate wrongdoing, including:

a. The corporation obtains, or may obtain, profits or benefits from the criminal act, or the act is committed for the benefit of the corporation;

b. The corporation allows the criminal act to occur; or

c. The corporation fails to take necessary measures to prevent the act, mitigate its impact, or ensure compliance with applicable legal provisions.

Further guidance is provided in the Attachment to the Regulation of the Attorney General of the Republic of Indonesia No. PER-028/A/JA/10/2014 on Guidelines for Handling Criminal Cases Involving Corporate Legal Subjects. Chapter II, Section A, Point 2 outlines the types of acts for which corporations may be held criminally liable, including:

a. Any act based on a decision of the corporate management, whether carried out directly or participated in;

[15] Rudy Indrawan. *Op.Cit* .[26]. Dikutip dari Sutan Remy Sjahdeini, *Pertanggungjawaban Pidana Korporasi* (Grafiti Pers 2006) [55].

b. Any act committed or omitted by a person for the benefit of the corporation, arising from employment or other relevant relationships;

c. Any act involving the use of the corporation's human resources, funds, or any form of support or facilities;

d. Any act carried out by third parties at the request or direction of the corporation or its management;

e. Any act undertaken in the course of the corporation's daily business activities;

f. Any act that yields benefits for the corporation;

g. Any act for which the corporation receives, or typically receives, gains or advantages;

h. Any instance in which the corporation clearly accommodates the proceeds of criminal activity involving corporate legal subjects; and/or

i. Any other act that may be attributed to the corporation in accordance with applicable law.

A. Political Parties as Legal Subjects of Money Laundering Crimes

Political parties serve as intermediaries between society's interests and the state's, making them essential institutions in Indonesia's political and constitutional life. Their constitutional status is affirmed in Articles 6A(2) and 22E(3) of the 1945 Constitution of the Republic of Indonesia, which regulate the nomination of executive and legislative candidates by political parties. According to Article 1(1) of Law No. 2 of 2011 concerning Amendments to Law No. 2 of 2008 on Political Parties (hereinafter the Political Parties Law), a political party is a national organization formed voluntarily by Indonesian citizens who share common aspirations to advocate for and protect the political interests of their members, society, the nation, and the state, while safeguarding the integrity of the Unitary State of the Republic of Indonesia based on the 1945 Constitution. As an organization established under the constitutional right of freedom of association, a political party must obtain legal-entity status to be formally recognized.[16]

[16] Erlanda Juliansyah Putra, *Gagasan Pembubaran Partai Politik Korup di Indonesia* (Rajawali 2017) [17].

This requirement is further emphasized in Article 3(1) of the Political Parties Law, which requires political parties to register with the Ministry of Law and Human Rights to obtain legal-entity status. Molengraff's concept of a legal entity describes it as a bearer of rights and obligations that are jointly held by its members, who possess collective property that cannot be divided individually.[17] The definition of a corporation under Article 1(10) of the Anti–Money Laundering Law (PPTPPU Law) is an organized group of persons and/or assets, whether incorporated or unincorporated. Likewise, Article 1 of the Anti-Corruption Law (PTPK Law) defines a corporation as an organized collection of persons and/or assets, regardless of legal-entity status. Based on these definitions, corporations may include:

1. Organized groups of persons that are legal entities;
2. Organized groups of persons that are not legal entities;
3. Organized collections of assets that are legal entities;
4. Organized collections of assets that are not legal entities;
5. Organized groups consisting of both persons and assets that are legal entities; and;
6. Organized groups consisting of both persons and assets that are not legal entities.

The elucidation of Book I of the 2023 Criminal Code (KUHP) on corporate criminal liability expands the scope of corporate liability, which was previously limited to specific statutes outside the Criminal Code. With the enactment of the 2023 Criminal Code, corporate criminal liability now applies more broadly to offenses regulated under both the Code and other laws. Donal Fariz, a researcher at Indonesia Corruption Watch (ICW), has argued that political parties proven to be involved in corruption may be prosecuted by the Corruption Eradication Commission (KPK) and treated as corporations.[18] Based on these definitions, it can be seen that there are similarities in the characteristics of Political Parties and corporations which indirectly explain

[17] Rudy Indrawan. *Op.Cit.* [83].

18 Heriani, Fitri N./ Muhammad Ya Fitri N. Heriani/ Muhammad Yasin, "Mungkinkah Partai Politik Diperlakukan sebagai Korporasi dalam Kasus Tipikor?", 2018, https://www.hukumonline.com/berita/a/mungkinkah-partai-politik-diperlakukan- sebagai-korporasi-dalam-kasus-tipikor-lt5ba0c9cc5e3cf/.

that Political Parties consisting of an organized group of people are categorized as legal subjects and there are no restrictions in the form of legal entities or non-legal entities, thus it can be concluded that Political Parties are legal subjects in the form of corporations in the form of legal entities.

IV. Criminal Responsibility of Political Parties in Money Laundering Crimes

A. Political Party as a Corporation and Beneficial Owners

Criminal liability is intrinsically linked to the concept of the subject of criminal law. Its purpose is to determine which actors may be held accountable for criminal conduct as subjects of criminal responsibility. Several doctrines or theories have been developed to explain corporate criminal liability, including absolute liability, vicarious liability, delegated liability, and identification liability. The theory of absolute liability, or strict liability, imposes liability without requiring proof of fault; thus, the perpetrator's mental state is immaterial. Under this theory, there is no need to demonstrate the offender's culpability.19 Furthermore, vicarious liability is the transfer of criminal liability to another party, typically the corporation, for acts committed by its management or agents. Under this doctrine, the corporation bears responsibility for conduct carried out by individuals acting within the scope of their authority.20 The identification theory requires the public prosecutor to identify the fault of corporate administrators whose actions can be attributed directly to the corporation. Corporate managers are considered organs of the corporation; therefore, their intentions and actions are deemed to be those of the corporation. This doctrine justifies imposing criminal liability on the corporation itself.[21] The delegation theory holds that corporations may incur criminal liability when authority is delegated to administrators who subsequently commit offenses within the scope of that authority.[22] Mardjono Reksodipuro identifies three models of corporate criminal liability:

a. The corporate manager is the perpetrator and bears responsibility;

19 Sutan Remy Sjahdeini I, *Op.Cit.* [151].
20 *Ibid.* [156].
[21] *Ibid*. [173].
[22] *Ibid.* [170].

b. The corporation is the perpetrator and bears responsibility;

c. The corporation is both the perpetrator and the responsible party.[23]

In alignment with these concepts, Article 49 of the 2023 Criminal Code specifies that the entities that may bear criminal liability for corporate crimes include corporations, administrators holding functional positions, order-givers, persons exercising control, and/or beneficiaries of the corporation. Moeljatno posits that establishing guilt requires demonstrating: (1) the capacity for responsibility; (2) intent or negligence as the mental element connecting the perpetrator to the act; and (3) the absence of exculpatory grounds. When a political party is not considered a corporation, it cannot be held accountable, thereby weakening deterrence, particularly since no political party has yet been criminally charged in Indonesia. The prevailing argument that political parties cannot design or direct their activities independently underscores the significant role of party leadership. Political party administrators act pursuant to the authority vested in them, enabling them to undertake actions that benefit both the administrators and the party in the name of the organization.

A relevant example illustrating potential criminal liability for political parties is the case of Zumi Zola, the former Governor of Jambi, who was convicted of receiving gratuities and bribes from the Jambi Provincial Parliament in relation to the Regional Budget Draft. Evidence showed that he received Rp 274 million, part of which was used by his brother, Zumi Laza, to support his candidacy for Mayor of Jambi in 2018. The funds were used to purchase two ambulances, which were subsequently donated to the Jambi City DPD of the National Mandate Party (PAN). Additionally, Rp 60 million was used to pay the arrears for the PAN office rent for two years. These expenditures represent only a portion of the total illicit funds received by Zumi Zola. Analysis of this case demonstrates that the PAN political party benefited from the criminal acts committed by its official, particularly through the payment of office rent and acquisition of campaign-related assets. This aligns with the criteria under Article 4(2) of Supreme Court Regulation (*Peraturan*

[23] *Ibid.* [256].

Mahkamah Agung, PERMA) No. 13 of 2016, which provides that corporations—including political parties—may be held criminally liable when they benefit from or are connected to criminal acts committed by their members or administrators. This case strengthens the doctrinal basis for imposing criminal responsibility on political parties, which, as corporations, qualify as legal subjects under Indonesian law.

Article 1(2) of Presidential Regulation No. 13 of 2018 on the Application of the Principle of Recognizing Beneficial Owners of Corporations in the Prevention and Eradication of Money Laundering and Terrorism Financing provides the following definition:

"A beneficial owner is an individual who has the authority to appoint or dismiss directors, commissioners, management, trustees, or supervisors of a corporation; who can control the corporation; who is entitled to and/or receives benefits from the corporation, either directly or indirectly; who is the actual owner of the corporation's funds or shares; and/or who meets the criteria stipulated in this Presidential Regulation."

Based on this definition, political parties may be categorized as corporations with beneficial owners, namely, political party administrators who exercise control over the organization. As such, political parties are required to report to the relevant authorities in accordance with their corporate type and sector, given that they possess independent assets—whether in the form of money or goods of economic value—for which the political party bears responsibility. This aligns with Article 1(5) of the Political Parties Law, which recognizes political parties as legal entities that possess their own assets.[24] Especially during elections, to avoid the practice of Money Laundering. The Presidential Regulation aims to ensure legal certainty regarding the criminal liability of beneficial owners involved in criminal acts, to protect beneficial owners acting in good faith, and to facilitate the effective recovery of assets. These

[24] Prasetyo, *Parpol, Ormas Hingga Law Firm Pun Wajib Laporkan Pemilik Manfaat* Aji Prasetyo, "Parpol, Ormas Hingga Law Firm Pun Wajib Laporkan Pemilik Manfaat", https://www.hukumonline.com/berita/baca/lt5aa-2c032a3a34/parpol--ormas-hingga-law-firm-pun-wajib- laporkan-pemilik-manfaat, 10 Maret 2018.

safeguards are essential during election periods to prevent money-laundering practices within political parties.

B. Organized Crime by Political Parties in Money Laundering Crimes

Money laundering has a broad scope and exhibits characteristics commonly associated with corporate crime, white-collar crime, organized crime, and transnational crime. Frank Hagan identifies organized crime as possessing several defining features, including a structured hierarchy, profit-oriented criminal activity, the use of violence or threats, bribery to secure impunity, demand for illicit services, market monopolization, restricted membership, non-ideological motivations, specialization, internal codes of secrecy, and extensive planning.[25]

The United Nations Convention Against Transnational Organized Crime (UNTOC), ratified by Indonesia through Law No. 5 of 2009, defines an organized criminal group in Article 2(a) as:

> "A structured group of three or more persons, existing for a period of time and acting in concert with the intent to commit one or more serious crimes or offenses established in accordance with this Convention, in order to obtain, directly or indirectly, a financial or other material benefit."

According to Article 1, the Convention aims to facilitate international cooperation in the prevention and eradication of transnational organized crime. Article 3(2) further explains that a crime is transnational when:

a. It is committed in more than one country;
b. It is committed in one country, but a substantial part of its preparation, planning, direction, or control takes place in another country;
c. It is committed in one country but involves an organized criminal group engaging in activities in multiple countries; or
d. It is committed in one country but has substantial effects in another.

Given their profit orientation and political influence, political party officials,

[25] Khairullaah, "Perbandingan Pertanggungjawaban Pelaku Kejahatan Terorganisasi dengan Pertanggungjawaban Pelaku Kejahatan Korporasi dalam Narkotika."

particularly those in public office, may find it easier to engage in organized, concealed money laundering. Their authority and access facilitate structured criminal activity, making detection more difficult. Technological advancements offer significant societal benefits, yet they also create new vulnerabilities. Crimes increasingly arise from digital fund transfers and other technologically mediated financial activities. White-collar crimes are frequently perpetrated by individuals of higher social and educational status who employ sophisticated methods to maintain an affluent lifestyle.[26] Their education and access enable them to commit offenses in a calculated, organized, and covert manner, posing substantial challenges for law enforcement in an era of digital globalization.[27]

Money laundering represents one such development, often committed by elite actors. It cannot stand alone; it requires a predicate offense, as stipulated in Article 607(2) of the 2023 Criminal Code, such as corruption. According to Black's Law Dictionary, money laundering involves investing or transferring funds derived from extortion, narcotics trafficking, or other illegal sources into ostensibly legitimate financial channels to conceal their origin. The term first appeared in U.S. newspapers in 1973 during the Watergate scandal and entered legal discourse in 1982.[28] John C. Keeney explains the purpose of money laundering as follows: If illicit funds can be placed into a financial institution, they can be transferred anywhere in the world within seconds, converted to any currency, and used to finance expenses or recapitalize illicit operations. The challenge for criminals, drug traffickers, arms dealers, or tax evaders is how to introduce the funds into a form that allows movement and use without creating a traceable "paper trail." The process of achieving this objective is what we call money laundering.[29]

For offenders, the primary difficulty is depositing illicit funds into financial channels

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[26] Johannes Ibrahim dan Yohanes Hermanto Sirait, *Kejahatan Transfer Dana Evolusi dan Modus Kejahatan melalui Sarana Lembaga Kuangan Bank* (Sinar Grafika 2018) [132].

[27] *Ibid*. [137].

[28] Sutan Remy Sjahdeini II, *Seluk Beluk Tindak Pidana Pencucian Uang dan Pembiayaan Terorisme*, (Grafiti 2004) [6].

[29] *Ibid.* [13].

without exposing their origins. To prevent detection, four objectives must be met: (1) conceal the source of funds; (2) alter the form of the illicit assets; (3) leave no documentary trail; and (4) maintain continuous control over the funds. Prior to laundering, the illicit owner cannot assert legal protection over the stolen proceeds, as doing so would expose the unlawful origin. Therefore, offenders engage in complex laundering processes to disguise the source and assert full ownership free from suspicion.[30]

Money laundering typically involves three stages. The first stage is the placement stage. In the placement, illicit funds are introduced into the financial system, often by depositing cash into multiple accounts or purchasing high-value items such as art, which is subject to subjective pricing. Once mixed with legitimate assets, distinguishing legal from illegal wealth becomes difficult.[31] However, it will be challenging to determine whether the property was obtained legally or illegally if the property has been mixed. The second stage is layering. This stage is committing multiple complex transactions to obscure the audit trail. This may include breaking funds into smaller amounts, transferring them to foreign accounts, or using shell companies in jurisdictions with strict bank secrecy laws. The third stage is integration. This stage reintroduces laundered funds into the economy as seemingly legitimate assets, enabling unrestricted use. Jeffrey Robinson analogizes this process to dropping a stone into water: the splash is visible at first, but as the stone sinks, all traces disappear.[32]

Money laundering is generally categorized into two types: active and passive. A perpetrator is considered to have engaged in active money laundering when they perform actions such as placing, transferring, spending, paying, granting, depositing, moving funds abroad, altering the form of assets, converting them into currency or securities, or engaging in other activities as listed in Article 607(1)(a) of the 2023 Criminal Code. These verbs denote active conduct and therefore constitute active money laundering.

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[30] *Ibid.* [31].
[31] Hamzah, Andi. *Kejahatan di Bidang Ekonomi = Economic Crimes*. (Sinar Grafika 2017).
[32] *Ibid*. [26].

Article 607(1)(b) further includes actions such as concealing or disguising the origin, source, location, allocation, transfer of rights, or actual ownership of property known or reasonably suspected to be the proceeds of a criminal act. Individuals performing any of these acts are considered active perpetrators of money laundering. By contrast, passive money laundering is indicated by verbs such as "receiving" and "controlling," as stated in Article 607(1)(c) of the 2023 Criminal Code. Offenders in this category do not actively manipulate the proceeds of crime; instead, they engage in unlawful conduct by accepting or possessing illicit assets. Political parties may engage in passive money laundering when they receive or control the proceeds of criminal acts—particularly when those proceeds derive from offenses committed by party administrators. In practice, the predicate offense most frequently associated with political party actors is corruption, as set out in Article 607(2) of the 2023 Criminal Code.

C . The Concept of Criminal Sanctions for Political Parties

Political parties possess financial resources derived from membership dues, lawful contributions, and state assistance sourced from the State Budget or Regional Budget, as stipulated in Article 34 of the Political Parties Law. However, political parties may also acquire funds illicitly, notably to support the high operational and campaign expenses associated with political activities. During election periods, the costs of running for office are substantial. Pramono Anung estimates that expenditures for legislative candidates range from IDR 300,000,000 (three hundred million rupiah) to IDR 6,000,000,000 (six billion rupiah), depending on constituency size and political competitiveness. Candidates with higher name recognition typically incur lower expenses because they require less promotion and public exposure.[33] A notable illustration of the significant financial pressure faced by candidates and the potential corruption risks is the case of Anas Urbaningrum, involving Nazaruddin, a key figure in his campaign team within the Democratic Party. Beyond the proven corruption offenses, evidence presented at trial indicated that illicit

[33] Dian Rosalina, "Ini Biaya yang Harus Dibayar kalau Mau Jadi Caleg di Indonesia", 24 Januari 2025, https://www.cxomedia.id/general-knowledge/20250124181659-55-181159/ini-biaya-yang-harus-dibayar- kalau-mau-jadi-caleg-di-indonesia.

funds were distributed to Democratic Party officials at the provincial and district/city levels to secure Anas's victory in internal party elections. This case demonstrates how illegal funds may flow into political party structures, creating institutional benefits.[34]

Corruption itself may take several forms. First is discretionary corruption, involving abuses of discretionary authority that appear lawful but are unacceptable to party members; Second is Illegal corruption, involving acts directly contrary to statutory provisions; Third is mercenary corruption, committed for personal gain; fourth is ideological corruption, committed for the benefit of certain groups or ideologies.35 The explanatory section of Book I of the 2023 Criminal Code provides that sanctions for corporations may take the form of criminal penalties or disciplinary measures. A corporation may be held liable when wrongdoing by its administrators acting within the scope of their authority confers a benefit upon the corporation, including where controlling personnel, order-givers, or beneficial owners are involved. By contrast, Article 47(1) of the Political Parties Law currently provides only administrative and criminal sanctions for political parties, but these remain weak and insufficiently enforced.

In addition to principal penalties, corporations including political parties may face further sanctions under Article 18 of the Corruption Law and Article 25(3) of PERMA No. 13 of 2016. Article 7(2) of the Anti–Money Laundering Law specifies potential additional sanctions for corporate offenders, including: public announcement of the judgment; partial or complete freezing of corporate activities; revocation of business licenses; dissolution or prohibition of operations; confiscation of corporate assets for the state; and/or state takeover of the corporation. Thus, if a political party, as a corporate entity, commits corruption particularly in connection with money laundering it may, in principle, be subject to dissolution under Article 7(2)(d) of the Anti–Money Laundering Law.

At present, a political party may be dissolved only if it is proven to promote,

[34] Erlanda Juliasyah Putra. *Op.Cit.* [161].
[35] *Ibid.* [157].

adopt, or disseminate communist/Marxist-Leninist ideology, pursuant to Article 48(7) jo. Article 40(5) of the Political Parties Law. Article 24C(1) of the 1945 Constitution and Article 10 of the Constitutional Court Law grant the Constitutional Court authority to dissolve political parties. Freezing of political party activities may occur when the party uses prohibited names, symbols, or attributes, or engages in conduct deemed contrary to the law or harmful to the state, pursuant to Article 40(1), (2), and (4) jo. Article 48(1), (2), and (6) of the Political Parties Law. Constitutional Court Regulation No. 12 of 2008 governs procedural rules for party dissolution. To date, however, no political party has been prosecuted or sanctioned as a perpetrator in a criminal case.

Due to weaknesses in the current legal framework, political party officials who commit corruption or money laundering often resign or are dismissed, thereby severing the formal connection between the individual and the party. As a result, sanctions are imposed only on those individuals who are no longer associated with the party. In contrast, the political party itself retains the institutional benefits derived from its misconduct. Because political parties effectively act as beneficial owners of illicit gains, this loophole undermines deterrence. Therefore, new legal reforms are needed to impose stronger sanctions—such as dissolution or disqualification from participating in one or more election cycles—on political parties proven to have benefited from or facilitated corruption, money laundering, or other serious crimes. Such measures would strengthen deterrence and reinforce institutional accountability.[36]

V. CONCLUSION

Corporations are recognized as legal subjects in the same manner as natural persons, as expressly established under Indonesian laws and regulations. Under the applicable statutory framework, political parties fall within the category of corporations, which are organized groups of persons or assets possessing legal-entity status. Consequently, when a political party commits a criminal act, it may be held criminally liable, provided its involvement in the offense can be proven. In practice, political parties implicated in

[36] *Ibid*. [16].

criminal conduct are frequently associated with the offense of passive money laundering. This is due to the inherent complexity of money-laundering schemes, which involve multiple stages designed to transform illicit proceeds into ostensibly lawful assets. Given the number of actors and layers involved, money laundering often constitutes organized crime. A political party that benefits from criminal acts, permits such acts to occur, or fails to take adequate preventive measures may therefore be held criminally liable for corporate wrongdoing.

This principle is fundamental in light of the common practice of party officials involved in criminal acts resigning or being dismissed from the party to eliminate institutional links and shield the political party from liability. However, such actions should not preclude criminal responsibility for the political party when the acts in question were committed by its officials acting with or on behalf of the organization.

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