

# **LAW AND POLITICAL CORRUPTION BY PARTY CORPORATIONS IN INDONESIA**

**Bambang Yugo Pamungkas<sup>1</sup>, Eko Wahyudi<sup>2</sup>**

<sup>1,2</sup>SESPIMTI LEMDIK POLRI

Corresponding Email: [bambangpamungkas@gmail.com](mailto:bambangpamungkas@gmail.com)

Received : 17 March 2025

Revised : 25 March 2025

Accepted : 12 April 2025

Published : 16 May 2025

DOI : <https://doi.org/10.54443/morfai.v5i2.2936>

Link Publish : <https://radjapublika.com/index.php/MORFAI/article/view/2936>

## **Abstract**

This research aims to examine corruption crimes committed by political parties. This article discusses (1) corruption crimes committed by political parties as corporations; (2) law enforcement against corporate political parties that commit acts of corruption; and (3) the ideal concept of law enforcement on corporate corruption crimes of political parties from the perspective of prophetic law in Indonesia. The research method used is empirical legal research based on case studies. Data collection techniques were carried out through interviews, observation, field notes, and library research. Data analysis used qualitative descriptive analysis techniques and juridical analysis. The results of the study show that (1) Corruption crimes committed by political parties as corporations can be prosecuted based on four basic justifications. Even though, until now there have been no sanctions against political parties against criminal acts committed by members of political parties even though they actually fulfill the elements of criminal acts of corruption; (2) There are several types of law enforcement against corporate political parties that commit acts of corruption. If you use the provisions in Article 20 of the Corruption Law jo. Amended Corruption Law, the form of sanction against political parties is only a fine with a maximum penalty plus 1/3 (one third). However, if you use the provisions in Article 7 of the TPPU Law, the form of sanctions can be in the form of fines; announcement of the judge's decision; suspension of part or all of political party business activities; revocation of political party operational permits; dissolution and/or banning of political parties; confiscation of political party assets for the state, and/or taking political parties by the state; and (3) The ideal concept of law enforcement for political party corporate corruption crimes from the perspective of prophetic law in Indonesia is based on a comparative study between the United States criminal law system and the Dutch criminal law system regarding the concept of corporate/organizational punishment. In addition, it also promotes prophetic values for the prevention of corruption.

**Keywords:** *law enforcement; political parties; corporations; corruption; prophetic law.*

## **Introduction**

The existence of political parties in a democratic country plays a strategic role, apart from the fact that political parties create a democratic system (political parties created democracy),<sup>1</sup> political parties are also considered as a vehicle for controlling or supervising good governance in accordance with the people's expectations. The importance of the role of political parties in overseeing good governance makes their existence very important in order to build synergy in national development together with the community as a form of effort to achieve government control and create good policies in accordance with common interests.<sup>2</sup>

As a long-term democratic goal, political parties reflect the structure of social and political fractures in society. The party system is expected to be a representative of the people who are able to offer transparent choices in the decision-making process or problem solving for the community. Furthermore, political parties must be present and involved as organs that always break the social needs of the community as a form of participation in national

<sup>1</sup> Arsyi Arsyi, "Modernization of Political Parties in the 4.0 Era," *Al-Ijtima'i: International Journal of Government and Social Science* 8, no. 1 (October 2022): 81–92, <https://doi.org/10.22373/jai.v8i1.2116>.

<sup>2</sup> I Gede Widhiana Suarda and Muhammad Bahrul Ulum, *Politics, Law and Human Rights in Indonesia: 20 Years After the Soeharto Government* (Jember: Media Cipta Perkasa, 2019).

development.<sup>3</sup>

On the other hand, the discussion on the involvement of political parties in national development has even been formulated legally in Article 1 number 1 of Law Number 2 of 2008 concerning Political Parties (Political Party Law) in conjunction with Law Number 2 of 2011 concerning Amendments to Law Number 2 of 2008 concerning Political Parties (hereinafter referred to as the Amendment to the Political Party Law), that political parties are national organizations and are formed by a group of Indonesian citizens voluntarily on the basis of a common will and ideals to fight for and defend the political interests of members, society, nation and state, and maintain the integrity of the Unitary State of the Republic of Indonesia based on Pancasila and the 1945 Constitution of the Republic of Indonesia.<sup>4,5</sup> The legal definition describes the very comprehensive role of political parties in Indonesia, so it is not without reason that the orientation that should be built in political parties must be aimed at the interests of all groups and not just certain groups.

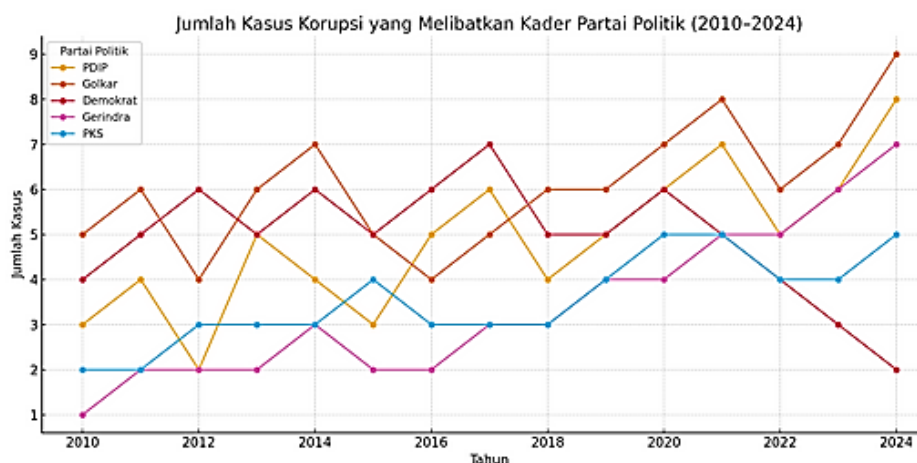


Figure 1. Graph of political parties involved in corruption in 2020-2024

The reform of strengthening political parties in various aspects is taken as a way to achieve the ideal form of political parties in Indonesia. One form of the government's seriousness in developing political parties is by including the agenda of strengthening political parties in the National Medium-Term Development Plan (RPJMN)<sup>6</sup> as an integral part of the national development agenda.

However, efforts to build political parties have not found an optimal point in their implementation. This arises because there are still many pros and cons in society regarding the goal of strengthening political parties as pillars of democracy. On the one hand, strengthening political party organizations is the answer to the weakness of the democratic system carried out through a representative system in order to create a concept of control for the government to be in accordance with the wishes of the people. However, on the other hand, strengthening political parties is considered as part of the collapse of democracy due to the interests of certain groups and is considered a vehicle for abuse of power.

At least this is based on three points of problems that befall political party institutions in Indonesia, including the problem of the involvement of political party corporations in criminal acts of corruption and money laundering, the criminal responsibility of political party corporations before the law, and the problematic nature of imposing sanctions on political party corporations as subjects of corporate crimes.

<sup>3</sup> Abd. Manab, YATriana Ohoiwutun, and Fanny Tanuwijaya, "Criminal Responsibilities Or Political Partners As Corporations In Corruption Criminal Action And Money Laundering Criminal Acts," *Depositi: Jurnal Publikasi Ilmu Hukum* 1, no. 3 (August 2023): 224–49, <https://doi.org/10.59581/depositi.v1i3.1059>.

<sup>4</sup> Mardiana Mardiana et al., "Recadotation of Political Parties Preparation of General Elections in the Perspective of Caderization Theory," *International Journal of Law, Environment, and Natural Resources* 2, no. 2 (January 16, 2023): 111–18, <https://doi.org/10.51749/injurlens.v2i2.31>.

<sup>5</sup> Illa Miftahul Jannah, Bambang Sugiri, and Aan Eko Widiarto, "Political Parties in Corporate Regulation as Subjects of Criminal Law," *International Journal of Social Science Research and Review* 6, no. 6 (8 June 2023): 263–71, <https://doi.org/10.47814/ijssrr.v6i6.1362>.

<sup>6</sup> Ministry of National Development Planning/National Development Planning Agency, *National Medium-Term Development Plan (RPJMN) 2015-2019: Book I National Development Agenda* (Jakarta: Ministry of National Development Planning/National Development Planning Agency, 2014).

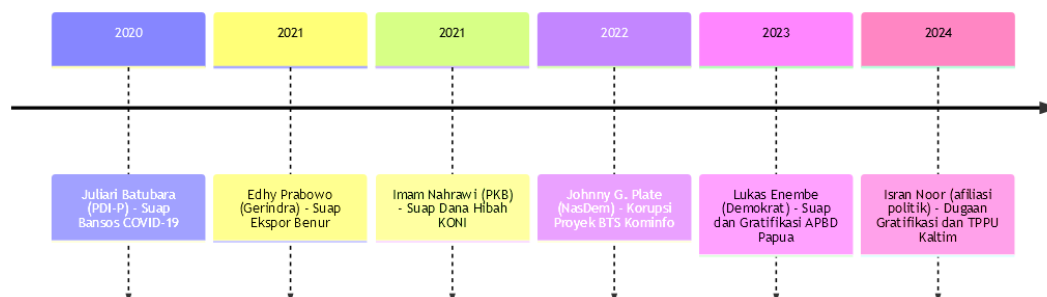


Figure 2. Corruption cases by political parties in Indonesia

Public distrust is present and emerges after it is known that political parties are organizations that are also involved in corruption and money laundering. The statement that the power of political parties is considered often misused is a discussion that often takes up its own portion in the public. As Lord Acton stated that "power tends to corrupt but absolute power corrupts absolutely",<sup>7,8</sup> The statement reflects the current condition of political parties in Indonesia. The rampant corruption and money laundering scandals that have been exposed in the political realm have had an impact on the decline of the public's image and trust in political parties.

The uncovering of the case of Muhammad Nazaruddin who is suspected of being the holder of the inflow and outflow of the Democrat Party's cash through corrupt practices several years ago has attracted public attention. The reason is, the corrupt acts known to originate from the State Budget (APBN) funds are a new fact in the enforcement of the alleged corruption case because his actions channeled funds from the criminal act to the Democrat Party.<sup>9</sup>

A similar case also befell Anas Urbaningrum, corruption and money laundering crimes have dragged him to a sentence of 8 years in prison and demanded to pay a fine of Rp 300 million and must pay compensation for state losses of at least Rp 57.5 billion. The criminal act was also allegedly based on the cost of his victory at the Democrat Party congress in Bandung in 2010.<sup>10</sup>

Like a chain that is interconnected with each other. The case of the Democratic Party's involvement in corruption and money laundering did not stop there, the emergence of a corruption case in the continued development project of the National Education, Training, and Sports School Center (P3SON) in Hambalang carried out by Angelina Sondakh seemed to illustrate the condition of the chain. Angelina's actions which were proven to have committed corruption were also inseparable from the role of the political party behind her, even without hesitation, Angelina admitted that the results of the corruption project involving her were also directly received by the Democratic Party up to 20 percent of each project.<sup>11</sup>

Not only involving the Democratic Party, a number of other parties also actually played the same role behind the disclosure of several corruption and money laundering cases. The release of the list of the most corrupt parties by Indonesia Corruption Watch (ICW) in March 2014 slightly illustrates the close relationship between political parties and corruption and money laundering in Indonesia. Data shows that the Golkar Party (Golkar) has 60 cases, while the other two parties are the Prosperous Justice Party (PKS) with 2 cases and the Indonesian Justice and Unity Party

<sup>7</sup> Syafruddin Muhtamar et al., "Substantial Position of Constitution as Human Nature to the Existence of State in Modern Civilization," *Journal of Law, Policy and Globalization* 82 (February 2019): 92–95, <https://doi.org/10.7176/JLPG/82-12>.

<sup>8</sup> Fajar, "Convergence of Islam and Democracy," *Al-Bayyinah* 5, no. 2 (2021): 113–28, <https://doi.org/10.35673/al-bayyinah.v4i2.1721>.

<sup>9</sup> Manab, Ohoiwutun, and Tanuwijaya, "Criminal Responsibilities Or Political Partners As Corporations In Corruption Criminal Action And Money Laundering Criminal Acts." *Op.Cit.*

<sup>10</sup> Fathiyah Wardah, "Anas Urbaningrum Sentenced to 8 Years in Prison," *VOA Indonesia*, 2014, <https://www.voaindonesia.com/a/anas-urbaningrum-divonis-8-tahun-penjara/2461213.html>.

<sup>11</sup> Priska Sari Pratiwi, "Angelina Sondakh: Democrats Receive 20 Percent from Each Project," *CNN Indonesia*, 2017, <https://www.cnnindonesia.com/nasional/20170830145604-12-238374/angelina-sondakh-demokrat-terima-20-persen-dari-tiap-proyek>.

(PKPI) with 1 case.<sup>12</sup>

Other data is shown by research released by the Center for Anti-Corruption Studies (PUKAT) of Gadjah Mada University (UGM) Yogyakarta which was conducted for 2 months (January 15 - March 15, 2014). The research shows that all political parties that have representatives in the People's Representative Council of the Republic of Indonesia (DPR RI) or who serve as ministers in the United Indonesia Cabinet 2009-2014 are involved in corruption cases,<sup>13</sup> This means that not a single party has cadres holding public office who are not connected to corrupt practices.

The problem of corruption and money laundering carried out by political parties in Indonesia is indeed almost nothing new. Cases of political party involvement in committing these criminal acts are a reflection of the turmoil of party problems that have not been resolved. The result is not only the huge state losses, but also the suboptimality, and even the non-functioning of political parties as a means of government control by actually being involved in collusion in these prohibited acts.

The uncovering of the corruption and money laundering case of electronic identity cards (e-KTP) a few months ago still leaves an unfinished sorrow. The case involving the ranks of the Ministry of Home Affairs, political parties, and 59 members of the House of Representatives of the Republic of Indonesia (DPR RI)<sup>14</sup> is a case that has once again shocked the world of law enforcement. The collaboration of almost all elements of public officials in carrying out the criminal act indicates how sad the condition of the country is in the problem of corruption and money laundering. Furthermore, the fact is that the act was not only carried out for the benefit of individuals alone, but also for the interests of groups that are clearly accommodated in the discourse of the pillar organizations of a democratic state, namely political parties.

The modes of political party corporations in committing corruption crimes are still considered diverse, although not infrequently some of them often use bribery, extortion of strategic sectors, causing losses to the state, trading influence, and abuse of authority.<sup>15</sup> The various modes used are a handful of modes that even though they have been proven to have been carried out, law enforcement has not been able to provide maximum action as a consequence of their actions. As befits the three main concepts in criminal law, namely offense, guilt, and punishment<sup>16,17,18</sup> is a unity that is closely related to the enforcement of criminal law, and in this context it is applied to political parties as a consequence of actions (offenses) which are then proven before the law to be guilty (guilt) and must also receive sanctions (punishment) as a consequence of these actions.

The three main issues in criminal law above are issues of criminal law policy in an effort to realize criminal legislation that is in accordance with the circumstances and situations at a certain time and for the future. Likewise, the policy of political party accountability regulated in current criminal law legislation (*ius constitutum*), although it has not been able to be implemented optimally, it can still be a foothold or basis for the formation of political party accountability policies in the future (*ius constituendum*).

Based on the description above, it can be stated that the Corruption Law in conjunction with the Amended Corruption Law and the Political Party Law have regulated the prevention of criminal acts of corruption committed by state officials who come from political parties (*das sollen*), but in reality, criminal acts of corruption still occur committed by state officials who come from political parties (*das sein*).

### Structured Corruption by Political Parties as Organizational Entities

The presence of political parties as a forum to fight for and defend the political interests of society, nation and state. In the provisions of Article 1 number 1 of the Political Party Law in conjunction with the Amended Political

<sup>12</sup> Adnan Topan Husodo, "Measuring the Most Corrupt Party," Indonesia Corruption Watch, 2014, <https://antikorupsi.org/id/article/mengukur-partai-terkorup>.

<sup>13</sup> Ant, "Pukat: All Political Parties Involved in Corruption Cases," hukumonline.com, 2014, <https://www.hukumonline.com/berita/a/pukat--seluruh-parpol-terlibat-kasus-korupsi-lt5329627e98607/>.

<sup>14</sup> Manab, Ohoiwutun, and Tanuwijaya, "Criminal Responsibilities Or Political Partners As Corporations In Corruption Criminal Action And Money Laundering Criminal Acts."

<sup>15</sup> Dian Esti Pratiwi et al., "Model of Political Party Criminal Liability in Corruption Crimes," Jurnal Komunitas Yustisia 4, no. 3 (2021): 980–89, <https://doi.org/10.23887/jatayu.v4i3.43737>.

<sup>16</sup> I. Dewa Made Suartha, I. Dewa Agung Gede Mahardhika Martha, and Made Dandy Pranajaya, "Innovation in Resolving Customary Sanctions in Criminal Cases in Bali," International Journal of Innovation, Creativity and Change 12, no. 3 (2020): 16–33.

<sup>17</sup> Aditya Wiguna Sanjaya et al., "Passive Money Laundering The Implications of the Passive Money Laundering Regulation Are Formulated With the Form of Guilt Pro Parte Dolus Pro Parte Culpa," Journal of Arts and Humanities 10, no. 2 (2021): 1–10, <https://doi.org/10.18533/jah.v10i2.2051>.

<sup>18</sup> Faisal Faisal and Derita Prapti Rahayu, "Countermeasure Policy on Mining Crime under The Legal Progressive Perceptive," Yustisia 10, no. 2 (August 28, 2021): 226–39, <https://doi.org/10.20961/yustisia.v10i2.47189>.



Party Law explains that:

"A political party is an organization that is national in nature and is formed by a group of Indonesian citizens voluntarily on the basis of a common will and ideals to fight for and defend the political interests of members, society, nation and state, and to maintain the integrity of the Unitary State of the Republic of Indonesia based on Pancasila and the 1945 Constitution of the Republic of Indonesia."<sup>19,20</sup>

The legitimacy of the position of political parties as subjects of corporate crimes is something that must be proven in order to realize the criminalization process against political parties involved in criminal acts of corruption and/or money laundering, so it is important to explain several justifications regarding the position of political parties as corporations as explained in the Corruption Law in conjunction with the Amendment to the Corruption Law and the Money Laundering Law which can be accounted for independently.

The philosophical basis for political parties as subjects of corporate crimes is one of the foundations for political parties to be categorized as subjects of crimes as recognized in the Corruption Law in conjunction with the Amendment to the Corruption Law and the Money Laundering Law. Philosophical justification in this case is a philosophical view (essence) regarding the existence of something so that it can be accepted as a truth (valid), or in this context is regarding the existence of political parties as subjects of corporate crimes.<sup>21</sup> There are at least 3 (three) philosophical bases/views related to political parties as corporations, including the philosophical basis of the nation's outlook on life (legal ideals), the philosophy of criminal law and the philosophical basis for the emergence of corporate crime subjects in criminal law.

Based on the definition, it shows the same characteristics between political parties and the concept of corporations as in the law on the eradication of criminal acts of corruption, namely being likened to an organization or association of people. These characteristics indirectly provide an explanation that political parties are a separate part of the existence of a form of association by several people as legal subjects.

According to Donal Fariz as a researcher at Indonesia Corruption Watch (ICW), political parties proven to be involved in corruption cases can be prosecuted by the KPK (Corruption Eradication Commission) and qualified as corporations. This refers to the definition of a corporation in the Corruption Law in conjunction with the Amendment to the Corruption Law and the definition of Perma No. 13 of 2016.<sup>22</sup>

Corporations and political parties have the same meaning as legal subjects that can be suspected of committing corruption. If we look at the element of "association of people" it has clearly been an element or characteristic of a political party which is part of an association of people/organization or organizer of a political party, a political party has its own finances which are part of an "organized wealth association", and "legal entity" to be able to carry out legal acts for/on its own behalf, providing confirmation that the existence of a political party actually has the same meaning and is in accordance with a corporation as in the criminal act of corruption.

The acceptance of corporations as subjects of criminal law that are deemed capable of committing criminal acts and can be held criminally responsible will certainly give rise to other consequences in its application.<sup>23</sup> Against corporations as perpetrators of criminal acts of corruption, law enforcers should use accountability as regulated in Article 20 of the Corruption Law in conjunction with the Amended Corruption Law.<sup>24</sup> In the Corruption Law in conjunction with the Amendment to the Corruption Law, several parts have provided specific legal arrangements for corporate crimes. The first two paragraphs of Article 20 of the Corruption Law in conjunction with the Amendment to the Corruption Law can be said to regulate criminal liability of corporations (in this case including political parties).<sup>25</sup> Article (1) of the Corruption Law in conjunction with the Amendment to the Corruption Law states the

<sup>19</sup> Girisusilohadi Joko Purnomo, Dedi Purwana, and Choirul Anwar, "Conceptual Problems of Political Parties Cadre Management in the Reform Era in Indonesia," *International Journal of Research and Review* 10, no. 5 (23 May 2023): 305–22, <https://doi.org/10.52403/ijrr.20230538>.

<sup>20</sup> Sinto Adi Prasetyorini, "Community Institutions with Nationalist Characteristics," *Legal Brief* 11, no. 6 (28 February 2023): 3628–38, <https://doi.org/10.35335/legal.v11i6.746>.

<sup>21</sup> Paulus Wahana, "Revealing the Truth of Science and Its Application in Lecture Activities," *Journal of Philosophy* 18, no. 3 (2008): 273–94.

<sup>22</sup> Donal Fariz, "Restrictions on Rights for Former Corruption Convicts to Become Regional Head Candidates," *Jurnal Konstitusi* 17, no. 2 (August 19, 2020): 309–29, <https://doi.org/10.31078/jk1724>.

<sup>23</sup> Hari Sutra Disemadi and Nyoman Serikat Putra Jaya, "The Development of Corporate Regulation as a Subject of Criminal Law in Indonesia," *Media Bhakti Law Journal* 3, no. 2 (February 27, 2020): 118–27, <https://doi.org/10.32501/jhmb.v3i2.38>.

<sup>24</sup> I Wayan Hendra and I Wayan Suardana, "Criminal Liability of Political Parties as Corporations in Corruption Crimes in Indonesia," *Kertha Wicara: Journal of Legal Studies* 8, no. 4 (June 28, 2019): 1–15.

<sup>25</sup> Hendra and Suardana. *Ibid.*

responsibilities that can be requested from corporations and/or their managers if they commit an act of corruption for the benefit of their corporation. Furthermore, article (2) of the Corruption Law in conjunction with the Amendment to the Corruption Law provides an understanding of a corporation that commits a criminal act of corruption, namely if the crime is committed by individuals, either on the basis of a certain relationship (work relationship or other relationship) carrying out actions within the scope of their corporation, either jointly or individually.<sup>26</sup>

In Article 20 paragraph (1) of the Corruption Law in conjunction with the Amendment to the Corruption Law, a corporation can be brought to court due to its actions in committing a criminal act of corruption carried out together with its management. The size of the elements of a corporation's guilt can be seen as stated in paragraph (2) of the provisions of the regulation, which confirms that criminal responsibility can be requested from a corporation as the subject of a crime when, based on a certain relationship, its organizers act in a corporate environment, either jointly or individually, to commit an act of corruption. So that it can provide a choice to the public prosecutor in order to prosecute only the management, or only the corporation, or even both.

Article 20 paragraph (2) of the Corruption Law in conjunction with the Amended Corruption Law follows the functional theory and the teaching of identifiability. A corporation is deemed to have committed a criminal act of corruption if the crime is committed by an individual with whom the corporation in question has a very close relationship.<sup>27</sup> Then, regarding the sanctions that can be given to corporations (including political parties), they refer to Article 10 of the Criminal Code, which contains two types, namely principal penalties and additional penalties.<sup>28</sup> When it has been proven that corruption was committed by a political party, then the sanctions that can be imposed are all types of criminal sanctions except the death penalty, imprisonment, and detention, apart from that, these sanctions can only be imposed on the administrators or organs of the political party concerned.

If we look at the provisions of Article 20 paragraph (7) of the Corruption Law in conjunction with the Amended Corruption Law, the sanction that can be imposed is a fine as the main penalty plus one third of the maximum penalty.<sup>29</sup> In addition, Iwan Setiawan also made a statement stating that in addition to fines, other sanctions that can be imposed are dissolution, liquidation and so on.<sup>30</sup>

### **Law Enforcement against Political Party Corporations that Commit Criminal Acts of Corruption**

AsAs previously mentioned, as an organization, a political party is a corporation or legal person that has a different status and regulations from other forms of legal entities (juristic persons).<sup>31</sup> The status of a legal entity, both as a private association and specifically as a political party legal entity (partial legal order) is granted by state law (total legal order).<sup>32</sup> Political parties exist legally when they receive status as a legal entity either because of the way they are created or after going through certain legal procedures. When they have become a legal entity, political parties can act through their organs as legal persons. Political parties here have their own rights and obligations that are different from the rights and obligations of each of their members.

When a political party is declared as a legal entity, then the political party can be said to be a subject of criminal law, therefore it will also raise problems concerning accountability in criminal law, namely whether the political party can have errors, either in the form of intent or negligence or negligence. Whereas it is known that in Indonesia it still adheres to the principle of "no crime without error". In addition, it will also be a problem when a political party has committed a crime which is a question of the criteria for when a political party commits a crime, because the status of a political party as a legal entity is not yet clear, whether it is the same between a legal entity in the civil law realm and the legal entity of the political party itself which is none other than an organization formed based on a common mind and political interests. Then there is also the question of the extent to which political parties are responsible in criminal law, because this is a question to determine the extent to which political parties can be held accountable in

<sup>26</sup> Khairil Andi Syahrir, M Said Karim, and Hijrah Adhyanti Mirzana, "Updating the Method of Proving Corporate Legal Subjects as Perpetrators of Corruption," *Tumou Tou Law Review* 1, no. 1 (September 21, 2022): 32–47.

<sup>27</sup> Dwiki Agus Hariyono, I Gede Widhiana Suarda, and Samuel Saut Martua Samosir, "Corporate Criminal Liability: Analysis of Banking Law and Bank Responsibility for Employee Crimes," *Journal of Anti-Corruption* 3, no. 1 (2021): 80–97, <https://doi.org/10.19184/jak.v3i1.27572>.

<sup>28</sup> Hendra and Suardana, "Criminal Liability of Political Parties as Corporations in Corruption Crimes in Indonesia." *Op.Cit.*,

<sup>29</sup> Marthin Simangunsong and Sihol Marito Siregar, "Criminal Liability of Corporations Committing Corruption in Procurement of Goods and Services," *Nommensen Journal of Legal Opinion (NJLO)* 2, no. 2 (2021): 215–31.

<sup>30</sup> Iwan Setiawan, *The Criminal Trap of Corruption for Corporations* (Jakarta: Raja Grafindo Persada, 2017).

<sup>31</sup> I Komang Giri Maharta, I Gusti Bagu Suryawan, and Ni Made Sukaryati Karma, "Criminal Accountability for Perpetrators of Insults to Political Parties," *Journal of Legal Preferences* 2, no. 2 (2021): 228–32, <https://doi.org/10.22225/jph.2.2.3313.228-232>.

<sup>32</sup> Wahyu Wahyu, "Criminal Liability of Political Parties Committing Criminal Acts," *Arena Hukum* 7, no. 2 (August 1, 2014): 247–69, <https://doi.org/10.21776/ub.arenahukum.2014.00702.6>.

criminal law, and the question of who should be responsible in criminal law when a political party commits a crime because it is a criminal responsibility system in this case a political party, namely who is responsible is the political party, or its administrators or both, namely the political party and its administrators.

Moving on From the discussion of political parties as corporations as the basic foundation for enforcement, there are 3 types of corruption crimes that can be used as parameters in the design to be formulated, namely:<sup>33</sup>

1. Type One Corruption Crime, is contained in Article 2 of the Corruption Law in conjunction with the Amendment to the Corruption Law which states that: "Any person who unlawfully commits an act of enriching himself or another person or a corporation that can harm state finances or the state economy, shall be punished with life imprisonment or imprisonment for a minimum of 4 (four) years and a maximum of 20 (twenty) years, and a fine of at least two hundred million rupiah and a maximum of one billion rupiah." In the event that the crime of corruption as referred to in paragraph (1) is committed under certain circumstances, the death penalty may be imposed.
2. Type Two Corruption Crimes, regulated in the provisions of Article 3 of the Corruption Law in conjunction with the Amendment to the Corruption Law which states that: "Any person who, with the aim of benefiting himself or another person or a corporation, abuses the authority, opportunity or means available to him because of a position or position that can harm state finances or the state economy, shall be punished with life imprisonment, or imprisonment for a minimum of 1 (one) year and a maximum of 20 (twenty) years and or a fine of at least fifty million rupiah and a maximum of one billion rupiah.
3. Type Three Corruption Crimes, contained in the provisions of Articles 5, 6, 8, 9, 10, 11, 12, 12A, 12B, 12C and 13 of the Corruption Law in conjunction with the Amendment to the Corruption Law, originate from articles of the Criminal Code which were then slightly modified in their formulation when they were drawn into corruption crimes according to the Corruption Law in conjunction with the Amendment to the Corruption Law by eliminating the wording "as referred to in the articles of the Criminal Code" such as the formulation in the provisions of the Corruption Law in conjunction with the Amendment to the Corruption Law. When grouped, type three corruption can be divided into 4, namely:
  - a. Withdrawal of acts of bribery, namely Articles 209, 210, 418, 419, and Article 420 of the Criminal Code.
  - b. Withdrawal of acts of embezzlement, namely Articles 415, 416, and Article 417 of the Criminal Code.
  - c. Withdrawal of acts of greed (knevelarij, extortion), namely Articles 423 and 425 of the Criminal Code.
  - d. Withdrawal of acts that are correlated with contracting, subcontracting and partners, namely Articles 387, 388, and 435 of the Criminal Code.

The ideal concept of law enforcement for criminal acts of political party corruption can be described in the diagram below:

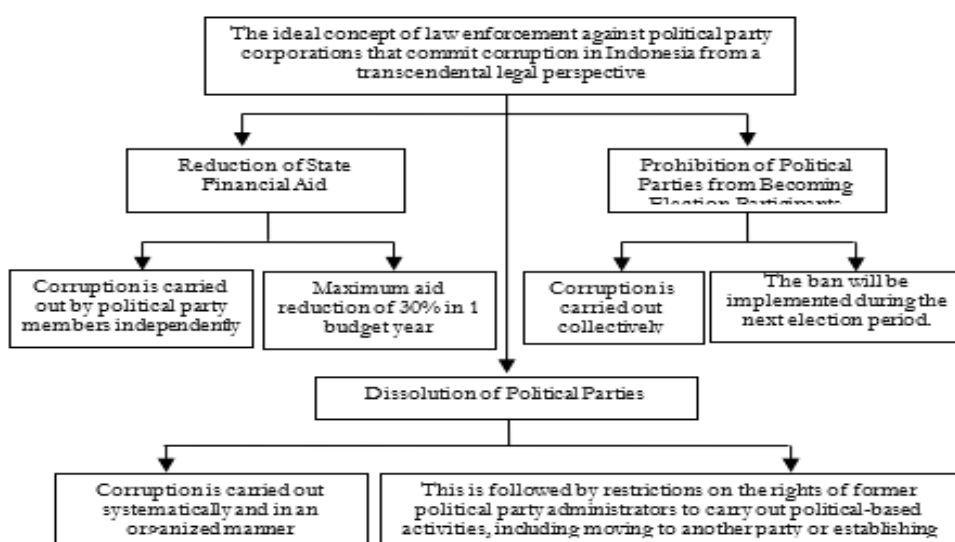


Figure 1

## The Ideal Concept of Law Enforcement of Criminal Acts of Corruption in Political Parties

<sup>33</sup> Agil Oktaryal and Proborini Hastuti, "Design of Law Enforcement of Political Party Corruption in Indonesia," *Integritas* 7, no. 1 (June 25, 2021): 1–22, <https://doi.org/10.32697/integritas.v7i1.729>.

The entire framework is based on the first, second, and/or third types of corruption. In addition, it should also be underlined that the ideal concept desired is that political parties can be prosecuted in the same way as corporate corruption, so that criminal sanctions can be imposed on both administrators and political parties as institutions. In relation to the concept of corporate crime, there are several parties who can be held criminally responsible for corporate crimes, namely the corporation itself, corporate administrators and corporate employees/workers. Based on this, sanctions against political parties will later be directed as additional criminal penalties that must be given as long as it can be proven through a court decision that has permanent legal force that the proceeds of corruption actually flowed to the political party concerned and that there was direct or indirect involvement of the political party in the corruption that occurred.

As shown in the diagram above, the ideal concept proposed is the reduction of state financial assistance to political parties. What needs to be identified is that the corruption was carried out independently by members or administrators of political parties who are currently holding public office and the money was proven to have been channeled to political parties. At this level, in addition to the perpetrators being subject to criminal penalties in accordance with statutory regulations, additional penalties are also imposed on political parties as the political party's moral responsibility to the public for the failure of political education for its cadres, one of which is through the cutting of political party funding assistance subsidies from the state.

As is known, empirically political parties carry out public tasks. These public tasks at least prepare and nominate candidates for members of the DPR and DPRD; presidential and vice presidential candidates; and regional head candidates. As an effort to ensure fair competition between political parties participating in the election or between candidates, it is also very reasonable for the state through the APBN to provide public funding, both allocated directly and indirectly, both given as incentives for parties to carry out their functions and as an effort to guarantee the same minimum basic capital between parties.<sup>34</sup> Currently, the political party financial assistance budget has increased 10-fold based on Government Regulation Number 1 of 2018 concerning the Second Amendment to Government Regulation Number 5 of 2009 concerning Financial Assistance to Political Parties (hereinafter referred to as PP No. 1 of 2018) where previously the financial assistance fund for political parties at the central level that obtained seats in the DPR was IDR 108, now it is IDR 1,000 for each valid vote. Then for the provincial DPRD level it is IDR 1,200 per valid vote and the city/district DPRD level it is IDR 1,500 per valid vote. The political party financial assistance provided by the state is prioritized to carry out political education for political party members and the community as well as operational costs for the political party secretariat. With this increase, it is directly proportional to the increase in political party assistance funds from the previous 13.5 billion in a year to 111 billion for each year.

The discourse on state subsidies for political parties that need to be increased as an effort to reduce corruption in political party funding is indeed considered relevant. This is intended to further close the gap for corruption that has been rampant among elite party figures, both in legislative and executive institutions. As in existing corruption cases where there are allegations of funds flowing to parties to finance. Referring to developments in the world, many countries have also developed a model of state subsidies for political parties. For example, England, Italy and Australia whose state subsidies are smaller than donations. Meanwhile, France, Denmark and Japan's state subsidies are the same as donations. Austria, Sweden and Mexico's state aid is greater than donations. Meanwhile, Uzbekistan's 100% funding for political parties comes from state subsidies.<sup>35</sup> Although there is also a reality that large state subsidies are not necessarily directly proportional to political parties being free from corruption. A country that can be used as an example is Mexico, as one of the countries that is relatively large in providing donation funds to political parties (70% of political party needs). However, in reality, corruption is still rampant in the country. *Transparency international* in its report on the 2016 global corruption perception index, Mexico was ranked 123rd out of 176 countries. Likewise in Spain, the consequences of political party subsidies have had an impact on party cartelization.<sup>36</sup> Political parties become opportunistic and permissive. As a result, parties are more closed and have no sense of responsibility towards the public. Political parties are more submissive to power than to the people because they are considered to be the fulfillment of party finances.

<sup>34</sup> Ramlan Surbakti and Didik Supriyanto, *Financial Control of Political Parties* (Jakarta: Partnership for Governance Reform, 2011), 19.

<sup>35</sup> Mei Susanto, "Alternative Models of Political Party Funding," *Study: Bridging Theory and Community Issues in Policy Formulation* 22, no. 3 (2017): 221–40.

<sup>36</sup> *Transparency international*, "Corruption Perceptions Index 2016," *Transparency international*, 2017, <https://www.transparency.org/en/news/corruption-perceptions-index-2016#table>.



**Closing**

Based on the discussion that has been described previously, it can be concluded that the criminal act of corruption committed by political parties as corporations can be prosecuted based on four justifications, namely; first, the philosophical justification for political parties as corporations is based on the Indonesian nation's outlook on life (legal ideals) through the second principle of Pancasila and the fourth paragraph of the Preamble to the 1945 Constitution of the Republic of Indonesia which requires protection and welfare of the community, as well as participating in creating world order with the development of international crime, including in the eradication of corruption and money laundering by political parties, so that criminalizing political parties as corporations is basically in line with these goals. Second, the legal justification for political parties as corporations refers to the view that political parties have complied with the meaning and intent of the subject of corporate crimes as regulated by Article 1 number 1 and Article 1 number 10 of the Corruption Law in conjunction with the Amendment to the Corruption Law. Third, the sociological justification is based on the understanding that political parties as corporations are the result of the similarity of the public's perspective on the position of political parties today which resembles corporations as business organizations with commercial nature, this is based on the reason for the public's perception that sees political parties sociologically in the nature of politicians who tend to only care about the interests of their own groups/selves which has implications for the shifting orientation of political parties as non-profit organizations; and fourth, the political justification of criminal law against political parties as corporations is based on the context of criminalizing political parties as corporations which is basically in line with the political objective of criminalizing the regulation of corporate crime subjects in a broad meaning or definition through the Corruption Law in conjunction with the Amendment to the Corruption Law as a demand and effort to reach the complexity of dynamic corruption issues, including political parties which can basically be viewed as part of corporate development as intended by the renewal of criminal law on corruption through the provisions of the legislation. In addition, political parties as legal entities or corporations can be held accountable for criminal acts of corruption, based on the formulation of norms regulated in national legislation and based on the teachings of sociological tendencies, which consider the actions/impacts of criminal acts of corruption. Although there are four basic justification factors for ensnaring political parties as corporations, but for criminal acts committed by members of political parties, until now there have been no sanctions against political parties even though they actually fulfill the elements of criminal acts of corruption.

There are several types of law enforcement against political party corporations that commit corruption. If using the provisions in Article 20 of the Corruption Law in conjunction with the Amendment to the Corruption Law, then the form of sanction against political parties is only a fine with a maximum criminal provision plus 1/3 (one third). This accountability is based on the opportunities provided by Article 20 of the Corruption Law in conjunction with the Amendment to the Corruption Law. Article 20 paragraph (1) of the Corruption Law in conjunction with the Amendment to the Corruption Law states the responsibility that can be requested from corporations and/or their administrators, if in the interests of their corporation they commit a criminal act of corruption. Furthermore, Article 20 paragraph (2) of the Corruption Law in conjunction with the Amendment to the Corruption Law provides an understanding of a criminal act of corruption committed by a corporation, namely if the crime is committed by people, either based on a certain relationship (work relationship or other relationship) acting within the scope of the corporation, either jointly or individually. A corporation is considered to have committed a criminal act of corruption if the crime is committed by people who have a close relationship with the corporation concerned. However, if using the provisions in Article 7 of the TPPU Law, the form of sanctions can be in the form of fines; announcement of the judge's decision; freezing of part or all of the political party's business activities; revocation of the political party's operational permit; dissolution and/or prohibition of the political party; confiscation of the political party's assets for the state, and/or the takeover of the political party by the state.

The ideal concept of law enforcement of corruption crimes of political party corporations from the perspective of prophetic law in Indonesia is based on a comparative study between the United States criminal law system and the Dutch criminal law system regarding the concept of corporate/organizational punishment. The results of the study confirm that there are differences in the criminalization system of corporations in the form of private legal entities and corporations in the form of public legal entities in various criminal regulations. In addition, it also prioritizes prophetic values for preventing corruption. In prophetic science, preventive law enforcement (prevention) is more important to eradicate corruption compared to criminalization or repressive law enforcement. Criminalization of corporate crime subjects not only accommodates the regulation of criminalization of ordinary corporations (private bodies), but also criminalization of special corporations (public bodies) with the provisions of special criminalization rules being the answer to the problem of criminalizing public bodies involved in criminal cases, including political parties as public legal entities. The reconstruction of this idea can be formulated with an affirmation of the existence of two types of corporate crime subjects through related criminal legislation, of course also differentiating the form of criminalization of the two types of corporations. The affirmation of the distinction between the two types of

corporations is manifested in the form of a proposed revision of the provisions of the article that regulates the definition of the subject of corporate crimes, especially in Article 1 number 1 of the Corruption Law in conjunction with the Amendment to the Corruption Law with a formulation of the article "A corporation is a group of people and/or wealth organized in the private or public/special field, whether a legal entity or not a legal entity". There is an understanding that political parties are included in the category of corporations so that the ideal concept of enforcement that is built can be applied as expected.

The ideal concept of enforcing the law on political party corruption in the future needs to be implemented at three levels, namely reducing state financial assistance to political parties (maximum 30% in 1 budget year); prohibition on becoming election participants (carried out in the next election period at all election levels); and dissolution of political parties followed by restrictions on the rights of former political party administrators to carry out political-based activities including moving to another party or establishing a new political party. Linked to the perspective of prophetic law, the ideal concept of imposing sanctions/punishments on political parties is expected to have a deterrent effect. Every leader (in this case, political party cadres are leaders) will always believe in Allah SWT (tawhid) so that they are not only deterred but also afraid to commit corruption. By upholding prophetic ethics, leaders who are included in the category of prophetic leadership can be able to control themselves and influence others sincerely to achieve common goals as done by the prophets, with leadership achievements based on four types, namely, sidiq, amanah, tabligh, and fathonah so that they will not commit corruption.

It is suggested to the President and the DPR as the legislators to emphasize the rigid meaning of the forms of corporations that can be qualified as subjects of crimes as intended by the regulation is very much needed to be able to ensnare political parties as corporations, so it is important to be able to renew or revise and add new articles related to the concept of criminalization that distinguishes between corporations (private bodies) and special corporations (public bodies) in the Corruption Law in conjunction with the Amendment to the Corruption Law.

Law enforcers, especially prosecutors and judges, are advised to dare to make a broad and progressive interpretation of political parties as corporations in order to be able to ensnare political parties as subjects of corruption if their involvement is proven. This needs to be done as a primary step in implementing the idea of enforcing corruption laws against political parties.

It is recommended that the Audit Board of Indonesia (BPK) conduct periodic audits and announce them openly as a form of preventing criminal acts of corruption by political parties so that the public can know the amount of donations and the origin of political party finances sourced from party members.

## REFERENCES

- Ant. "Pukat: Seluruh Parpol Terlibat Kasus Korupsi." [hukumonline.com](https://www.hukumonline.com/berita/a/pukat--seluruh-parpol-terlibat-kasus-korupsi-lt5329627e98607/), 2014. <https://www.hukumonline.com/berita/a/pukat--seluruh-parpol-terlibat-kasus-korupsi-lt5329627e98607/>.
- Arsyi, Arsyi. "Modernisasi Partai Politik di Era 4.0." *Al-Ijtima'i: International Journal of Government and Social Science* 8, no. 1 (Oktober 2022): 81–92. <https://doi.org/10.22373/jai.v8i1.2116>.
- Disemadi, Hari Sutra, dan Nyoman Serikat Putra Jaya. "Perkembangan Pengaturan Korporasi Sebagai Subjek Hukum Pidana di Indonesia." *Jurnal Hukum Media Bhakti* 3, no. 2 (27 Februari 2020): 118–27. <https://doi.org/10.32501/jhmb.v3i2.38>.
- Faisal, Faisal, dan Derita Prapti Rahayu. "Countermeasure Policy on Mining Crime under The Legal Progressive Perceptive." *Yustisia* 10, no. 2 (28 Agustus 2021): 226–39. <https://doi.org/10.20961/yustisia.v10i2.47189>.
- Fajar. "Convergence of Islam and Democracy." *Al-Bayyinah* 5, no. 2 (2021): 113–28. <https://doi.org/10.35673/al-bayyinah.v4i2.1721>.
- Fariz, Donal. "Pembatasan Hak Bagi Mantan Terpidana Korupsi Menjadi Calon Kepala Daerah." *Jurnal Konstitusi* 17, no. 2 (19 Agustus 2020): 309–29. <https://doi.org/10.31078/jk1724>.
- Hariyono, Dwiki Agus, I Gede Widhiyana Suarda, dan Samuel Saut Martua Samosir. "Pertanggungjawaban Pidana Korporasi: Analisis UU Perbankan dan Tanggungjawab Bank atas Kejahatan Karyawan." *Jurnal Anti Korupsi* 3, no. 1 (2021): 80–97. <https://doi.org/10.19184/jak.v3i1.27572>.
- Hendra, I Wayan, dan I Wayan Suardana. "Pertanggungjawaban Pidana Partai Politik Sebagai Korporasi dalam Tindak Pidana Korupsi di Indonesia." *Kertha Wicara: Journal Ilmu Hukum* 8, no. 4 (28 Juni 2019): 1–15.
- Husodo, Adnan Topan. "Mengukur Partai Terkorup." *Indonesia Corruption Watch*, 2014. <https://antikorupsi.org/id/article/mengukur-partai-terkorup>.
- Jannah, Illa Miftahul, Bambang Sugiri, dan Aan Eko Widiarto. "Political Parties in Corporate Regulation as Subjects

- of Criminal Law.” *International Journal of Social Science Research and Review* 6, no. 6 (8 Juni 2023): 263–71. <https://doi.org/10.47814/ijssrr.v6i6.1362>.
- Kementerian Perencanaan Pembangunan Nasional/ Badan Perencanaan Pembangunan Nasional. *Rencana Pembangunan Jangka Menengah Nasional (RPJMN) 2015-2019: Buku I Agenda Pembangunan Nasional*. Jakarta: Kementerian Perencanaan Pembangunan Nasional/ Badan Perencanaan Pembangunan Nasional, 2014.
- Maharta, I Komang Giri, I Gusti Bagu Suryawan, dan Ni Made Sukaryati Karma. “Pertanggungjawaban Pidana Terhadap Pelaku Penghinaan Partai Politik.” *Jurnal Preferensi Hukum* 2, no. 2 (2021): 228–32. <https://doi.org/10.22225/jph.2.2.3313.228-232>.
- Manab, Abd., Y.A.Triana Ohoiwutun, dan Fanny Tanuwijaya. “Criminal Responsibilities Or Political Partners As Corporations In Corruption Criminal Action And Money Laundering Criminal Acts.” *Deposisi: Jurnal Publikasi Ilmu Hukum* 1, no. 3 (Agustus 2023): 224–49. <https://doi.org/10.59581/deposisi.v1i3.1059>.
- Mardiana, Mardiana, Mugeni Murdian Hasyim, Abdul Rasyid Ridha, M Reza Fahlevi, dan Muzahid Akbar Hayat. “Recadotation of Political Parties Preparation of General Elections in the Perspective of Caderization Theory.” *International Journal of Law, Environment, and Natural Resources* 2, no. 2 (16 Januari 2023): 111–18. <https://doi.org/10.51749/injurlens.v2i2.31>.
- Muhtamar, Syafruddin, Muhammad Ashri, M. Arfin Hamid, dan Zulkifli Aspan. “Substantial Position of Constitution as Human Nature to the Existence of State in Modern Civilization.” *Journal of Law, Policy and Globalization* 82 (Februari 2019): 92–95. <https://doi.org/10.7176/JLPG/82-12>.
- Oktaryal, Agil, dan Proborini Hastuti. “Desain Penegakan Hukum Korupsi Partai Politik di Indonesia.” *Integritas* 7, no. 1 (25 Juni 2021): 1–22. <https://doi.org/10.32697/integritas.v7i1.729>.
- Prasetyorini, Sinto Adi. “Community Institutions with Nationalist Characteristics.” *Legal Brief* 11, no. 6 (28 Februari 2023): 3628–38. <https://doi.org/10.35335/legal.v11i6.746>.
- Pratiwi, Dian Esti, Hartiwiningsih Hartiwiningsih, R. Ginting, Subekti Subekti, dan Diana Diana Lukitasari. “Model Pertanggungjawaban Pidana Partai Politik dalam Tindak Pidana Korupsi.” *Jurnal Komunitas Yustisia* 4, no. 3 (2021): 980–89. <https://doi.org/10.23887/jatayu.v4i3.43737>.
- Pratiwi, Priska Sari. “Angelina Sondakh: Demokrat Terima 20 Persen dari Tiap Proyek.” CNN Indonesia, 2017. <https://www.cnnindonesia.com/nasional/20170830145604-12-238374/angelina-sondakh-demokrat-terima-20-persen-dari-tiap-proyek>.
- Purnomo, Girisusilohadi Joko, Dedi Purwana, dan Choirul Anwar. “Conceptual Problems of Political Parties Cadre Management in the Reform Era in Indonesia.” *International Journal of Research and Review* 10, no. 5 (23 Mei 2023): 305–22. <https://doi.org/10.52403/ijrr.20230538>.
- Sanjaya, Aditya Wiguna, I Nyoman Nurjaya, Prija Djatmika, dan Masruchin Ruba’i. “Passive Money Laundering The Implications of the Passive Money Laundering Regulation Are Formulated With the Form of Guilt Pro Parte Dolus Pro Parte Culpa.” *Journal of Art and Humanities* 10, no. 2 (2021): 1–10. <https://doi.org/10.18533/jah.v10i2.2051>.
- Setiawan, Iwan. *Jerat Pidana Korupsi Bagi Korporasi*. Jakarta: Raja Grafindo Persada, 2017.
- Simangunsong, Marthin, dan Sihol Marito Siregar. “Pertanggungjawaban Pidana Korporasi yang Melakukan Korupsi Pengadaan Barang dan Jasa.” *Nommensen Journal of Legal Opinion (NJLO)* 2, no. 2 (2021): 215–31.
- Suarda, I Gede Widhiana, dan Muhammad Bahrul Ulum. *Politik, Hukum dan HAM di Indonesia: 20 Tahun Setelah Pemerintahan Soeharto*. Jember: Media Cipta Perkasa, 2019.
- Suartha, I. Dewa Made, I. Dewa Agung Gede Mahardhika Martha, dan Made Dandy Pranajaya. “Innovation in Resolving Customary Sanctions in Criminal Cases in Bali.” *International Journal of Innovation, Creativity and Change* 12, no. 3 (2020): 16–33.
- Surbakti, Ramlan, dan Didik Supriyanto. *Pengendalian Keuangan Partai Politik*. Jakarta: Kemitraan bagi Pembaruan Tata Pemerintahan, 2011.
- Susanto, Mei. “Model Alternatif Pendanaan Partai Politik.” *Kajian: Menjembatani Teori dan Pesolan Masyarakat dalam Perumusan Kebijakan* 22, no. 3 (2017): 221–40.
- Syahrir, Khairil Andi, M Said Karim, dan Hijrah Adhyanti Mirzana. “Pembaharuan Metode Pembuktian Subjek Hukum Korporasi sebagai Pelaku Tindak Pidana Korupsi.” *Tumou Tou Law Review* 1, no. 1 (21 September 2022): 32–47.
- Transparency international. “Corruption Perceptions Index 2016.” Transparency international, 2017. <https://www.transparency.org/en/news/corruption-perceptions-index-2016#table>.
- Wahana, Paulus. “Menguak Kebenaran Ilmu Pengetahuan dan Aplikasinya dalam Kegiatan Perkuliahan.” *Jurnal Filsafat* 18, no. 3 (2008): 273–94.
- Wahyu, Wahyu. “Pertanggungjawaban Pidana Partai Politik yang Melakukan Tindak Pidana.” *Arena Hukum* 7, no.

2 (1 Agustus 2014): 247–69. <https://doi.org/10.21776/ub.arenahukum.2014.00702.6>.

Wardah, Fathiyah. “Anas Urbaningrum Divonis 8 Tahun Penjara.” VOA Indonesia, 2014. <https://www.voaindonesia.com/a/anas-urbaningrum-divonis-8-tahun-penjara/2461213.html>.