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Funding *pilkada*

Illegal campaign financing in Indonesia's local elections

One of the most intriguing features of illegal activity in Indonesia's post-Suharto state has been the unashamed 'transparency' with which political actors have violated existing laws and regulations. Far from developing sophisticated schemes that outsmart investigators and the public, many politicians, entrepreneurs and rent-seekers simply ignore the law and expect that nobody will notice or care. Mostly, the perpetrators can be confident that their actions will be met with apathy, indifference or – as Aspinall and Van Klinken note in their introduction to this book – even 'social approval'. Indeed, there are entire policy fields in which no effective regulation takes place, with relevant laws deliberately overlooked by both violators and state prosecutors. One such policy field is that of political financing in general and campaign funding in particular. Since 1999, Indonesia's electoral laws have set detailed limits for the amount of donations that political parties and individual candidates are allowed to receive, and have obliged them to submit audited reports on income and expenditure to the authorities. However, parties and nominees have developed a habit of reporting only a fraction of their donations and costs, with prosecutors showing little interest in investigating these transgressions. In interviews with the media, politicians have regularly mentioned much higher numbers for the costs of their campaigns than stated in their financial reports, and except for a small number of civil society groups, neither the public nor the state have aggressively questioned these discrepancies (IFES 2004). Apparently, most Indonesians have come to view illicit campaign financing as an inevitable side effect of political activity, and thus are not overly concerned about the legal violations involved. In fact, many political commentators seem to prefer illegal party self-financing to a more effective system of control, which would reduce the overall income of parties and encourage them to request more money from the state.

This chapter discusses illegal campaign financing in Indonesia's direct local elections (or *pilkada*),¹ which have seen a particularly high level of unreported donations from lobbyists and wealthy entrepreneurs. At the national level, financial underreporting and illicit fundraising has been rampant as well (Mietzner 2007), but the need for a centralized campaign organization and the scrutiny from Jakarta-based media has had a moderating effect on parties and candidates. In the regions, however, the lack of financial contributions from Jakarta, the absence of strong control mechanisms through the media, and the personality-focused nature of direct elections have aggravated the problem significantly. This chapter approaches the issue of illicit financing of campaigns in local ballots in three steps. First, it explains the regulatory framework for political fundraising and spending in Indonesia, outlining the legal parameters which sponsors and politicians alike find so easy to violate. In the second section, this set of legal norms is contrasted with the reality of campaign financing in local elections. Faced with exploding campaign costs and provided with almost no public subsidies, parties and candidates have decided to ignore the official caps on donations that, if adhered to, would dramatically cut into their funding base. Having established the illegality of these actions, the third part of this chapter evaluates the impact of prohibited campaign funds on the quality of democratic institutions and the outcome of elections. While there is sufficient evidence that the current campaign financing system fuels corruption, it does not seem to seriously distort the result of local ballots, as claimed by some authors (Choi 2005; Hadiz 2007). Finally, I explain how the inherent pragmatism of the Indonesian elite vis-à-vis illegal activity has contributed to the post-Suharto polity's perception of itself as a transitional and 'preliminary' state. Conveniently, this concept has allowed the elite to use the state as a forum to unabatedly compete for power while still upholding Weber's ideal of a positivist, unbiased regulator.

Campaign financing in Indonesia: laws and regulations

When Suharto's authoritarian regime fell in 1998, the reform of Indonesia's campaign financing laws was viewed as one of the most crucial preconditions for the development of a competitive and transparent democracy. Under the New Order, the government had not only used the military to control political activity, but it had also shifted so many financial resources to its electoral machine Golkar that no meaningful competition at the ballot box could take

¹ *Pilkada* is the Indonesian acronym for *pemilihan kepala daerah* (election of chiefs of regions). In order to distinguish them from the previous elections through local legislatures, the *pilkada* were initially called *pilkadasung* or *pilkada langsung* (direct election of chiefs of regions). But *pilkada* is now the more commonly used acronym.

place (Suryadinata 1989). The authorities provided Golkar with impressive office buildings, and all government officials and civil servants were expected to support the party with funds and development projects. In addition, Suharto personally managed a foundation that helped to finance Golkar's operations and electoral campaigns – at the time of his resignation, that foundation still controlled funds of over Rp 900 billion (about US\$90 million).² By contrast, Golkar's competitors were only given small offices and equally meagre allowances, and they were not allowed to be politically active below the district level.³ Against this background, the post-autocratic party system emerging after 1998 urgently needed fair and strict campaign financing laws, which would guarantee a level playing field for all contestants and neutralize the privileges accumulated by Golkar over the course of three decades. Accordingly, the political elite agreed to limit the amount of money parties could routinely collect, and to require them to report their expenditures to relevant state bodies. For electoral campaigns, separate regulations were issued, which set different levels of allowed income and obliged the contestants to submit audited reports on their campaign funds to the electoral commission shortly before and after the ballot.

Despite frequent revisions to the laws on political parties and general elections, there are three principles of post-Suharto campaign financing that have remained largely constant.⁴ To begin with, Indonesia is primarily concerned with imposing income limitations, not expenditure caps. The current regulations explicitly refrain from regulating the maximum amounts politicians can expend during campaigns, making it impossible for the authorities to detect possible discrepancies between reported income and spent funds. Given that expenditures are generally of a public nature and thus easier to scrutinize than donations, Indonesia's decision to focus its relevant laws exclusively on income figures has rendered its campaign financing controls largely ineffective. Second, Indonesia's lawmakers have refrained from defining enforceable sanctions for possible violators of campaign financing regulations. While the state threatens those who exceed the allowed amount of donations with stiff prison terms and fines, its laws are deliberately vague on how such transgressions can be verified. Most importantly, the regulations only discuss the possibility of parties or candidates obtaining too many donations on their officially registered bank accounts – but remain silent on the obviously much

² Interview with former Golkar chairman Akbar Tandjung, Jakarta 17-12-2007. Suharto discontinued funding for Golkar after his fall.

³ Golkar was able to establish offices everywhere, including in villages. Through a bizarre but effective legal construction, Golkar was not classified as a political party, which meant that restrictions that applied to parties did not affect Golkar.

⁴ The first post-authoritarian laws on political parties and on general elections were passed in 1999. The party law was subsequently revised in 2002 and 2008, while the electoral laws were rewritten in 2003 and 2008.

higher chance of such payments going into private accounts or being handed over in cash. Third, Indonesia's system of campaign financing supervision operates in an environment in which parties and candidates receive only small amounts of subsidies from the state. While the level of public party financing has fluctuated significantly over the years, it has consistently covered only a small percentage of the real expenditures of electoral contestants.⁵ As a result, Indonesia's party financing laws have not only encouraged, but in fact forced participants in elections to raise the bulk of their campaign funds from external sponsors.

These three main pillars of campaign financing in post-Suharto Indonesia were also used to develop the regulatory framework for the direct elections of governors, regents and mayors, which began in June 2005. In the 2004 law on local government, it is regulated that nominees can raise funds for the elections from three sources only: first, from their own pockets; second, from the political parties that nominated them; and third, from donations by individuals or corporations (paragraph 81-1). The law grants no state subsidies for the candidates, who presumably are expected to utilize the small amounts of public funding made available to political parties under other laws and presidential decrees. Based on the funding formula laid out there, each year central party leaderships receive Rp 21 million (US\$2,100) per seat obtained in the last elections at the national level. Similar arrangements are in place for the party boards in provinces and districts. Given the low sums paid out under this mechanism, it has been very difficult for parties to make ends meet. For example, between 2004 and 2009 the medium-sized National Awakening Party (Partai Kebangkitan Bangsa, PKB) received an annual subsidy of only Rp 1.092 billion (US\$110,000) for its central board. At an average of 100 local elections per year during that period,⁶ the party thus had a mere US\$1,100 to hand out to each of its district or province-level candidates – assuming, of course, it had no other operational costs to cover. The regulations on external donations in local ballots are equally 'idealistic'. Individuals are allowed to donate Rp 50 million (US\$5,000) each, while enterprises can sponsor candidates with up to Rp 350 million, or US\$35,000 (paragraph 83-3). While these limits are high compared to developed democracies (the US allows for individual donations of US\$2,300 for each candidate per election),⁷ they are prohibitively low for the socioeconomic context of contemporary Indonesia. Given the small number of affluent citizens who are able and willing to make

⁵ For example, the subsidies received by PDI-P in 2005 were only enough to pay for 1% of its officially reported campaign costs in the 2004 elections.

⁶ Indonesia has currently more than 470 districts and municipalities, and 33 provinces. This number is likely to rise over the next few years.

⁷ Overall, political donors in the US can spend a total of US\$108,200 to parties and candidates over a 2-year period.

campaign contributions, parties and candidates in Indonesia must raise large donations from an exclusive circle of sponsors. The limitations set by the law effectively obstruct this effort.

Similar to the income caps, the reporting obligations are tight and detailed – on paper, that is. Candidates in local elections have to set up official campaign accounts, and are personally responsible for their use. Nominees are not permitted to accept money from foreign groups or governments, or from domestic state enterprises, local administrations and unidentified sources. Every donation above Rp 2.5 million (US\$250) needs to be reported to the local election commission, stating the amount and the name of the sponsor (paragraph 83-5). These reports have to be submitted one day before the campaign period begins, and the electoral commission is expected to publish them in the media. Three days after voting day, candidates are obliged to inform the commission of their expenditures during the campaign. However, no limits for campaign spending have been fixed, raising the question of what exactly it is that the commission is supposed to check or verify. According to the law, the commission has to forward the reports to public accountants, who are required to audit the submissions within 15 days. Subsequently, the reports are returned to the commission and made available to the public (paragraph 84-5). While these reporting regulations appear strict, the catalogue of sanctions attached to them is all but unenforceable and thus of a largely normative nature. Whoever receives campaign donations above the stated limit is threatened with jail terms between 4 and 24 months, and a fine between Rp 200 million (US\$20,000) and Rp 1 billion, or US\$100,000 (paragraph 116-6). The law also defines sanctions for accepting money from unlawful sources, and for making false statements in the reports. However, the regulations only scrutinize the formal accuracy of the submitted reports, suggesting that donations not listed in the official campaign account are legally irrelevant. In other words, as long as candidates are smart enough to keep their reports within the framework of the law, they don't have to fear legal consequences.

Local campaign financing: the reality on the ground

Since 2004, Indonesia has witnessed a huge increase in the cost of political activity. Previously, party leaders had to focus on only one parliamentary election every five years, with most top public officials subsequently selected through indirect votes in national and local legislatures. This electoral mechanism had kept costs relatively low; in fact, parties could raise additional income by demanding hefty fees from individuals interested in executive positions. After 2004, however, the expenditure of political parties and their

nominees for electoral campaigns grew exponentially. The introduction of direct presidential elections in that year added two new national ballots to Indonesia's electoral cycle, stretching already tight party budgets.⁸ More importantly, however, Indonesia launched direct local elections for governors, regents and mayors in June 2005, resulting in more than 500 polls over a five-year period.⁹ Besides their overwhelming frequency, the direct nature of these elections has also created new costs: parties now have to conduct expensive opinion surveys in order to identify their nominees for the elections, flushing hundreds of billions of rupiah into the pockets of pollsters, political consultants and strategic advisors (Mietzner 2009a). Since the mobilization of party networks has often been insufficient to win personality-based elections, the nominees and their parties also have had to invest much more money into media campaigns than was previously the case. While parties typically have tried to shift these costs onto their candidates (even asking them for extra money in exchange for the nominations), many local party branches have found it difficult to stay financially afloat. Accordingly, parties and candidates have become dependent on external donations. Some of these contributions have been made to the official campaign accounts; most of them, however, have circumvented all legal channels.

Estimates of the campaign costs for local elections in Indonesia vary greatly, and concrete figures are hard to come by. However, it has been widely accepted that candidates need to spend around Rp 10 billion (US\$1 million) to run professional campaigns in medium-sized districts, and around Rp 100 billion (US\$10 million) to have a realistic chance of winning a governorship in an average province (Rinakit 2005). For key provinces with large populations such as West, East and Central Java, these figures are significantly higher. When the cost structure of such campaigns is analysed in detail, the steep price tag attached to political candidature immediately becomes apparent. In the run-up to the gubernatorial elections of Jakarta in 2007, for example, a campaign consultant estimated that each candidate would have to spend Rp 60 billion (US\$6 million) on advertising campaigns just to increase their name recognition and 'electability'.¹⁰ In addition, candidates in crucial provinces often pay Rp 20 to 40 billion (US\$2 to 4 million) to large parties that nominate them, while smaller parties can ask for 5 to 10 billion (US\$500,000 to 1 million).¹¹ For polling and consultancy services, nominees have to fork out another Rp 5 to 10 billion (US\$500,000 to 1 million) for high-quality organizations with foreign-educated staffers, or a little less for more low-profile

⁸ Based on the electoral laws, the presidential elections require a second round if no candidate reaches more than 50% of the votes in the first round.

⁹ The change was introduced through Law 32 on Local Government, which was passed in September 2004.

¹⁰ 'Opening for Jakarta governor: only the wealthy need apply', *The Jakarta Post* 12-6-2007.

¹¹ Interview with a candidate in the 2007 gubernatorial elections in Jakarta, 23-9-2007.

groups.¹² Accordingly, it is perfectly possible for gubernatorial nominees to reach the 100-billion mark before they can even begin building up an electoral machine, handing out goodies to the electorate or paying for entertainment events at mass rallies. This, and the hiring of witnesses for each of the polling stations, can add another Rp 10 to 20 billion (US\$1 to 2 million) to the bill. In the governor's election of South Sulawesi in November 2007, for instance, the number of polling booths was more than 12,000, and witnesses were generally paid Rp 100,000 to 150,000 (US\$10 to 15) per person. Golkar's candidate prepared three witnesses for each station, and thus allocated Rp 5.2 billion (US\$520,000) for their 'pocket money' alone.¹³

These exorbitant costs often stand in sharp contrast to the officially reported incomes and expenditures of nominees. In the gubernatorial elections in West Java of April 2008, for example, the three pairs of candidates submitted grossly understated financial reports – as did almost all of their colleagues across Indonesia. The incumbent governor Danny Setiawan (who eventually lost the elections) reported official campaign donations of Rp 16.39 billion (US\$1.6 million), of which he claimed to have spent only 12.65 billion (US\$1.3 million). The biggest chunk of the donated funds allegedly came from the private sector (7.95 billion), while the largest item on his expenditure list was the overhead cost for Golkar offices in the province (4.83 billion). The winners of the elections, Achmad Heryawan and his running mate Dede Yusuf, reported only Rp 3.23 billion (US\$323,000) in donations, and Rp 2.9 billion (US\$290,000) in costs.¹⁴ The third team of candidates, led by former army general Agum Gumelar, was apparently so bitter over its defeat that it initially did not submit a financial report – following the example of many other electoral losers in Indonesia's local elections who see no point in disclosing their finances after being defeated at the ballot box. Only after the electoral commission sent Agum a friendly reminder did the retired officer comply. However, the figures suggest that he did not take the reporting task very seriously: he reported almost exactly the same amount of donations as Danny Setiawan, Rp 16.38 billion. Danny's and Agum's numbers are not only curious because of their 'coincidental' similarity, however. They also raise suspicions because both camps had earlier announced much higher investments into their campaigns. Danny's nominating party, Golkar, had stated in March that it had made Rp 30 billion (US\$3 million) available for its candidate, while the Indonesia Democratic Party of Struggle (Partai Demokrasi Indonesia – Perjuangan, PDI-P) and the United Development Party (Partai

¹² The most frequently used professional pollster has been Denny J.A.'s Lingkaran Survei Indonesia (LSI, Indonesian Survey Cycle), which has even posted advertisements in newspapers to offer their services to local politicians across Indonesia. For the background of this group, see Mietzner 2009a.

¹³ 'Sebar 36 Ribu Saksi, Uang Saku 5.2 Milyar', *Harian Berita Makassar* 3-7-2007.

¹⁴ 'Laporan Aman Tak Lengkap', *Pikiran Rakyat* 15-4-2008.

Persatuan Pembangunan, PPP), which stood behind Agum, said they were close to raising 90 billion (US\$9 million).¹⁵ Even the Prosperous Justice Party (Partai Keadilan Sejahtera, PKS), which nominated Heryawan and Yusuf, acknowledged to have allocated Rp 25 billion (US\$2.5 million) for the campaign – a far cry from the 3.23 billion later reported.¹⁶

None of these discrepancies have been clarified by the West Java electoral commission, the police, the state auditing board or prosecutors. However, such indifference towards obvious violations has been the rule rather than the exception in national and local elections in Indonesia. In the 2004 and 2009 national elections, critical NGOs identified a large number of fictitious donors, often tracing them back to non-existing addresses, or to poor villagers who allegedly had made donations worth hundreds of millions of rupiah (Badoh 2005; Indonesia Corruption Watch 2009). These ‘phantom donors’ appeared in the lists of all presidential candidates, including Megawati Soekarnoputri and Susilo Bambang Yudhoyono, and one party chairman admitted that ‘all our financial reports were lies, nothing but lies’.¹⁷ Despite indisputable evidence of blatant transgressions, no measures were taken.¹⁸ Similarly, there were no legal implications for parties and candidates who failed to submit financial reports at all – in 2004, that were around half of all electoral contestants. Against this background, it comes as no surprise that ‘investigations’ into possible campaign financing violations in the local elections were equally lax. To be sure, that was not for a lack of cases. In the capital, the former head of Jakarta’s PDI-P branch reported the winner of the election, Fauzi Bowo, to the electoral commission for claiming that the party had donated Rp 7 billion (US\$700,000) to him, whereas PDI-P felt that it had never made such a payment.¹⁹ In the West Java district of Sumedang, an official of the state auditing board suspected in April 2008 that ‘tens of billions of rupiah’ had been diverted from the district budget to finance campaign activities.²⁰ Needless to say, these complaints have not led to meaningful legal examinations of the incriminated funds. Since the direct local elections began in 2005, not a single case of campaign financing violations has ever been brought to court, and it is difficult to imagine that this will change in the near future.

The reasons for this ‘mismatch between legal logic and everyday practice’ – a phrase coined by John McCarthy in this volume to describe a similar phe-

¹⁵ ‘Parties prepare for W. Java governor race’, *The Jakarta Post* 6-3-2008.

¹⁶ ‘Parties prepare for W. Java governor race’, *The Jakarta Post* 6-3-2008.

¹⁷ Interview with a party chairman, Jakarta, 19-1-2008.

¹⁸ The authorities even refrained from investigating Amien Rais – one of the presidential candidates in 2004 – after he publicly admitted to having received hundreds of millions of rupiah from the corrupt former Minister of Maritime Affairs, Rokhmin Dahuri. In July 2007, Dahuri – who had established large off-budget accounts in his department – was convicted of embezzlement and sentenced to seven years imprisonment.

¹⁹ ‘Dana Kampanye Fiktif Fauzi-Prijanto Dilaporkan ke KPUD’, *Detik.com* 4-10-2007.

²⁰ ‘Kampanye Diduga Didanai APBD’, *Pikiran Rakyat* 4-4-2008.

nomenon in Indonesia's natural resource management – are manifold. To begin with, an all-out persecution of violators would simply be impractical. It is no exaggeration to say that if all offences were to be consistently investigated and brought to trial, each and every governor, regent or mayor would lose his or her position. Political fundraising outside of the official campaign accounts has become so institutionalized in Indonesia that its legal prosecution would unseat much of the political elite. Confronted with the choice of paralyzing government on the one hand and turning a blind eye to a collectively tolerated practice on the other, state authorities have clearly opted for the latter. Secondly, there is a well-founded fear that losers of elections could exploit accusations of campaign financing transgressions to challenge the results of many local ballots, and that a precedence case could trigger an uncontrollable wave of lawsuits. In fact, one of the reasons for the stabilization of local governance after 2004 has been the tendency of the courts to throw out complaints by defeated candidates against the legitimacy of electoral outcomes, allowing incumbents to rule relatively undisturbed for five years.²¹ This move has marginalized political operators who – before the introduction of direct local elections in 2004 – had regularly extorted local government heads with threats of impeachment by their respective legislatures (Malley 2003). Against this background, law enforcers apparently are concerned that investigating political financing cases could throw Indonesia back into the instability so prevalent before 2004. Third, many citizens seem happy to stomach campaign financing infringements as long as the moneys are raised from private sources, and not from government budgets. Even NGOs have shown much greater tolerance towards illicit party donations from tycoons than towards attempts by electoral contestants to access state funds for their purposes.

To be sure, the reluctance of investigators to focus on campaign financing cases is also related to the tight patronage networks cultivated by both the providers and recipients of political donations. In most local elections, the main donors of the contestants are powerful contractors who hope that their client will reward them with government projects should he or she win the ballot. In many cases, such contractors have personally joined the campaign teams of their candidates (*tim sukses*), handing out money to voters or signing checks to cover electoral expenses. In their paper on Aceh's local elections, Samuel Clark and Blair Palmer (2008:14) have even described the contractors as a new 'economic class [which is] dependent on securing contracts and

²¹ In most cases, the legal complaints filed by electoral losers have been based on personal frustration and disappointment rather than on strong factual evidence of manipulations. In the vast majority of the lawsuits, the judges found it easy to dismiss them because no concrete examples of systematic distortions were presented in court. There have been some instances, however, in which judges did annul election results, often leading to a legal quagmire and political paralysis in the area concerned – Depok, Lampung and North Maluku being the most prominent examples.

exploitation licenses through political connections with both the local and national governments.' In some Acehese regencies, contractors 'ran as vice-Bupati candidates, presumably providing the financial backing for the more well-known figure who ran as Bupati' (Clark and Palmer 2008:33). In other small Indonesian towns or rural districts, the picture is similar: contractors have forged highly effective relationships not only with their protégées in the political elite, but also with police officers, prosecutors, judges, journalists and NGO figures (Hidayat 2007). Consequently, authorities are hesitant to initiate legal proceedings against influential contractors and other political donors – who are often personal friends, golf partners or relatives. The only motivation for prosecutors to take on campaign funding violations would be significant public pressure, but this is almost non-existent in Jakarta and even less compelling in Indonesia's regions. The remarkable 'licitness of illegal activities' in Indonesia, identified by Aspinall and Van Klinken in their introduction, thus seems to be an important element in the area of political financing as well.

If the elite can so openly ignore existing laws and regulations, however, it appears curious that it has not tried to abolish them. Initially, it was in the interest of the post-Suharto elite to have a strict campaign financing regime in place in order to reduce Golkar's financial advantage, but this rationale is no longer relevant today. Given their almost unlimited power over legislation and executive orders, the leaders of political parties could have easily opted to lift the limits on the amount of donations, do away with reporting requirements and retract the threat of sanctions. There is very little pressure from society to maintain the existing regulatory framework, so there must be other explanations. Certainly, the ambition to meet international standards in campaign financing does play a role, as does the desire of the elite to create the impression of a sophisticated legal system operating within a modern, Weberian state. But the formulation of unenforceable stipulations is motivated by more than just the party leaders' wish to decorate their illicit fundraising with a façade of legality. Instead, many politicians view the existing legal directives as a blueprint for an ideal political system that Indonesia should aspire to achieve in the future. In the meantime, however, they argue that Indonesia's current economic and social conditions require pragmatism, improvisation and flexibility to deal with the challenges of transition. Defence Minister Juwono Sudarsono, a professor of political science, has been one of the main proponents of this view: 'It is simply unrealistic to expect that Indonesia with its current levels of economic development can adhere strictly to the same standards of transparency and good governance as consolidated democracies do. It will take time. But we will get there.'²² Many party leaders agree. For them, it seems, the present laws reflect the rigorous

²² Interview with Juwono Sudarsono, Jakarta, 1-5-2007.

party financing system Indonesia should practise in the times ahead – when it can afford to do so.

Illicit campaign financing: political consequences and implications

Whatever its reasons, there is no doubt that the inability of the Indonesian state to uphold campaign financing regulations has negative consequences for the transparency of the democratic process. With most of the campaign donations made outside of official channels, voters are denied the opportunity to inform themselves about the origins of the candidates' financial resources. Even more importantly, they are unable to judge if electoral winners subsequently issue policies or reward contracts that benefit their financial sponsors. Given the high costs of campaigns, and the failure of most parties to pay for them, it is evident that new incumbents frequently take office with significant amounts of debt. While in office, they hence need to recoup their own investments and repay their sponsors, either through favours or cash.²³ Ironically, while prosecutors have largely refrained from investigating cases related to campaign financing transgressions, they have launched hundreds of investigations into corrupt practices by incumbent governors, regents, mayors and legislators. Roughly 10% of all top local government officials and parliamentarians are under legal investigation at any given time, with many convicted and sent to prison. However, surprisingly few investigators have examined the link between campaign debts and corruption while in office, despite the obvious circumstance that candidates who took up large credits to finance their election urgently require quick, regular and uncontrolled access to cash after their inauguration.

While Indonesia generally has made significant progress in its ongoing process of democratic consolidation (Mietzner 2009b), its current campaign financing practices stand in sharp contrast to more developed democracies. In most Western states, strict reporting stipulations serve as control mechanisms against corrupt deals between office holders and entrepreneurs, and senior politicians often have to resign when their violations of financing laws are exposed to the public (Hopkin 2004). This is not to say that these countries find it easy to sustain credible campaign financing regimes. In fact, cartelistic

²³ As electoral winners have the opportunity to regain and – in the long term – multiply their investment, losing candidates often face commercial, personal and political decline. While not making national headlines, the fate of some defeated nominees has occasionally become the focus of local newspaper stories. Often these articles tell of divorces, bankruptcies, arrests and even suicide attempts. The very divergent paths for electoral winners and losers highlight the fact that most nominees risk their personal wealth to gain office, which arguably explains why some incumbents irrationally plunder the state coffers without any caution or anticipation of legal consequences. See 'Gagal jadi bupati, coba bunuh diri', *Kompas* 5-8-2008.

political elites in Europe and the United States have spent much of their time and energy on creating legal loopholes through which they can continue raising funds in a non-transparent manner (West 2000). In the US, for example, many candidates bypass the US\$2,300-limit for donations by entrusting much of their campaigning to formally non-partisan 'civil society groups', which are not subject to funding ceilings. With this, a huge portion of *de facto* campaign funds is never scrutinized, and corporations can contribute significantly more than the legal limits allow. Nevertheless, the campaign funding system in most Western countries is constantly debated and changed, while Indonesia seems still far away from developing a mechanism that would offer the electorate at least partial insights into the financial affairs of their parties and electoral nominees.

Some authors have suggested that public campaign financing may be the best way to interrupt the vicious cycle of exploding campaign costs, lobbyist interests and political corruption. Indeed, in 75% of all liberal democracies, the state is providing subsidies to political parties and nominees (Van Biezen and Kopecky 2007). This provision makes political actors less dependent on external sponsors, gives not-so-affluent nominees a chance to compete, and allows the state to impose stricter oversight over the monetary affairs of politicians. But while public financing can increase the electoral chances of monetarily disadvantaged candidates and parties, the system certainly has its drawbacks as well. To begin with, public subsidies tend to increase the dependence of political actors on the state, isolating party leaders from society and encouraging them to suspend organizationally important fundraising activities. Secondly, state funding can sometimes inflate the costs of political campaigning and thus lead to more, not less corruption after the election. Critics of public subsidies to candidates have argued that monies provided by the state simply add to the budgets of all contestants, forcing them to raise even more money externally if they want to beat their rivals.²⁴ Finally, Indonesian sceptics have maintained that when the country had a fairly generous system of public party financing in place between 2001 and 2005, the level of corruption in legislative and executive institutions was not lower than before or after that period.²⁵ Consequently, when state funding for parties was cut by 90% in 2005, the Indonesian public overwhelmingly approved.

The opponents of public subsidies to political actors have also plausibly argued that although the current campaign financing system is deeply flawed, it has not substantially distorted the outcome of electoral contests, particularly at the local level. In other words, candidates with large deposits

²⁴ I am grateful to Ross McLeod for pointing this out to me.

²⁵ Between 2001 and 2005, national, provincial and district-level boards of parties received Rp 1,000 (US\$0.10) per vote obtained in the 1999 elections. This was substantially more than under the current system, which allocates Rp 21 million (US\$2,100) per seat.

of (illegal) donations haven't really had a much better chance of winning elections than those who have run their campaigns on smaller budgets. To be sure, no electoral contestant can organize a competitive campaign without deep pockets. The costs of securing a nomination, posting advertisements in the media, and building up an effective campaign machine are substantial, and often prohibitively so. Nevertheless, there have been many candidates whose political track records were considerably better than those of their opponents, and thus had to spend less money. Their popularity was typically based on long attachment with the electoral area they ran in, their favourable coverage by the press, or their intense interaction with key society groups (Vel 2005). By contrast, candidates with weak roots in local communities or negative reputations had to expend significantly more cash to overcome their disadvantages. While it is difficult to extrapolate general patterns from the more than 500 local elections held since June 2005, there is evidence to suggest that nominees with positive images and less money are more likely to win than unpopular candidates with big budgets. One indication for this is the high number of incumbency defeats in local ballots, which currently stands at around 40%.²⁶ Incumbents usually control the largest campaign funds, but they also tend to struggle with disastrous reputations as a result of the corrupt or incompetent nature of their administrations. The gubernatorial election in West Java in April 2008 was one such example: there, a cashed-up incumbent finished only third, losing to a modestly funded PKS politician with a reputation for having high ethical standards.

It seems, therefore, that the impact of illegal campaign financing on the competitiveness and fairness of local elections has not been as severe as some observers have suggested. Without doubt, there are numerous examples of nominees who have used their oligarchic connections to illicitly raise huge war chests and bulldozer the competition (like in the gubernatorial elections in Jakarta and Banten). But there are an equally significant number of cases in which such mafiaesque patrons were trounced by capable technocrats or society leaders who enjoyed the genuine support of the electorate (Mietzner 2009c). While even truly popular nominees need money to fund their campaigns (and presumably raise much of it outside of official channels too), the results of local elections are not dependent on the financial superiority of the candidates alone. For instance, Michael Buehler (2007) has shown that local leaders who introduce themselves to grassroots voters over a longer period of time and show concern for their daily problems tend to command greater electoral support than those who quickly distribute large amounts of money without cultivating long-term relationships to voters. Attending weddings, circumcisions, funerals, religious holiday celebrations and other social events

²⁶ 'Golkar evaluasi calon incumbent', *Detik.com* 19-4-2008.

can have a much larger effect on the electability of nominees than rushed campaigns by wealthy but aloof elite figures.²⁷ In addition, bureaucrats who have established a reputation for delivering good public services and leading non-excessive private lives appear to be better positioned in elections than those who mismanaged their portfolios while filling their own pockets. Thus despite the damaging effect of illegal campaign financing on Indonesia's attempts to fight corruption and establish a more transparent political system, it has not led to significant distortions of electoral outcomes at the local level.²⁸

Conclusion: campaign financing, local elections and the 'preliminary' state in Indonesia

This chapter has shown that Indonesian politicians habitually violate existing campaign financing regulations, with law enforcers and society openly tolerating the transgressions. Using the direct local elections for governors, regents and mayors as a case study, the analysis has outlined the legal framework, practice and political repercussions of Indonesia's campaign financing regime as well as its regular avoidance. On paper, the law defines clear limits for campaign contributions, requires candidates to establish official accounts, and sets deadlines for the submission of reports to state authorities. Contrary to claims of some observers, the legal regulations even include a catalogue of sanctions, ranging from fines to jail terms. However, the stipulations of the law are not enforced, and the 'transparency' with which they are circumvented suggests that neither politicians nor the state and society have a particular interest in their implementation. The chapter has offered several interpretations for this phenomenon. First of all, there is a widespread perception that a consistent enforcement of campaign financing laws would lead to the collapse of local governance in Indonesia as there is hardly any elected official who has not violated the law in one form or another. Against this background, prosecutors have apparently tried hard to avoid a precedence case that could open the floodgates for a wave of lawsuits by losers of elections. Equally important in this regard is the indifference or even 'social approval' offered by the public, which seems to care little about the violation

²⁷ Obviously, intensive and sustained social networking requires funds as well, with political leaders expected to bring gifts and donations to every event they attend. But such costs are much lower than those of blitz media campaigns aimed to boost name recognition in a short period of time.

²⁸ As indicated earlier, Indonesia's courts have generally issued very sensible verdicts whenever they felt that an election was manipulated through the financial superiority of the winning candidate. For example, the Constitutional Court in December 2008 overturned the result of the East Java gubernatorial election, in which the initially victorious former provincial secretary had offered village heads financial rewards if they achieved certain electoral benchmarks for him. The judges were satisfied that these efforts had distorted the elections in three districts, and consequently ordered a re-vote in two and a re-count in one district.

of campaign financing laws as long as politicians take the money from the private sector, and don't demand more funds from the state. By contrast, civil society groups and the press routinely express outrage whenever politicians propose to increase the level of public funding for parties, which would allow them to reduce their dependence on external donors.

The main problems created by Indonesia's deficient campaign financing system are post-election rent-seeking, corruption and collusion. In order to address these issues, Indonesia has two major options. First, Indonesia could follow the 'liberal' tradition of the United States and impose strict limits and transparency regulations on external donations. In the 2008 US elections, Barack Obama demonstrated that the transparent collection of small contributions from a large number of voters can make campaigns not only financially superior, but can also lead to the electoral mobilization of previously indifferent constituencies. Unfortunately, it appears unrealistic to expect that Indonesia will be able to successfully implement such a system in the next two decades – its middle class would have to grow at a much faster pace than it does today and voters would have to get used to the idea of giving donations to politicians rather than receiving money from them. Accordingly, Indonesia will probably have to be content with taking small steps towards increasing transparency. One such step was the decision by the national electoral commission to require political donors in the 2009 elections to submit their tax file number if their contribution exceeded Rp 20 million (US\$2,000). This reform was designed to replace the old and unworkable system that asked donors only to attach photocopies of their identity cards, which in Indonesia are notoriously easy to fake or manipulate. Unsurprisingly, however, the reform was not fully implemented. While some contributors complied with the new rules, most donors still feared identification and therefore refused to reveal their tax file number. Although civil society groups published the names of many violators, no significant action was taken against them (Indonesia Corruption Watch 2009).

Beyond this 'liberal' solution of better transparency and accountability, the second option for Indonesia would be to revive its system of public funding, which has been virtually suspended since 2005. But despite the obvious advantages of this 'European' model (Donnelly, Fine and Miller 1999), it has few supporters in Indonesia. Ultimately, public pressure to reform campaign financing regulations is weak, and one important reason for this has been outlined above: while the failure to enforce campaign regulations has obstructed both Indonesia's democratic consolidation and its anti-corruption drive, it has not reduced the competitiveness of local ballots. Financially less privileged candidates have regularly toppled affluent incumbents, reducing – in the eyes of the public – the urgency to rebuild the campaign financing system from scratch.

In theoretical terms, the analysis of Indonesia's campaign financing practices has highlighted both the systemic and the pragmatic dimension of the

relationship between state and illegality in Indonesia. Funding of political activity is one of the many areas in which the Indonesian state is aware but tolerant of illegal actions – not only because they are part of the state's inherent logic, but because they underpin a system that, in Aspinall and Van Klinken's words, 'gets lots of things done'. While flawed, many Indonesians see the current system of political financing as preferable to one funded by the state and subject to higher standards of transparency. Moreover, the strict prosecution of violators of campaign financing laws would have very impractical consequences, with much of Indonesia's government possibly collapsing. Despite the collective agreement that the campaign financing laws are unenforceable, however, there have been few demands to simply replace them with more 'realistic' laws. In fact, the catalogue of fines and sanctions has been expanded significantly over the years. But this discrepancy between utilitarian pragmatism and formal adherence to unachievable ideals of Weberian state control go well beyond the ordinary gap between rhetoric and action. More importantly, it reflects the essential self-perception of the post-Suharto state and its political elite. The nucleus of this self-perception is the acknowledgment that Indonesia is a work in progress, a still deficient version of the Indonesia it wants to be. In this sense, many of the legal regulations Indonesia has adopted since 1998 are reflections of its normative goals rather than of its belief that they can be successfully enforced. Hence the campaign financing laws mirror the political funding system Indonesia wishes to have, or expects to have in the future. However, even though many Indonesian politicians genuinely believe in this 'utopian' version of the state, it also provides the political class with a welcome pretext for its transgressions. The conceptualization of the state as a transitional entity allows the elite to use it as an arena to compete for power with all available (including illegal) means, while at the same time upholding the state's idealized image of a positivist, neutral regulator that could materialize in a fully consolidated Indonesian democracy.