



Political Rights of Ex-Corruptors *vis a vis* Electoral Integrity in Indonesia

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Abstract

This study investigates the normative inconsistency *vis a vis* the political rights of ex-corruption convicts and the principle of electoral integrity within the framework of Sustainable Development Goals (SDGs), particularly SDG 16, in Indonesia. The problem addressed centers on whether allowing individuals convicted of corruption to participate as election candidates aligns with democratic values and sustainable governance. While inclusivity is a key component of both democracy and SDG 16, this research critically examines the extent to which such inclusivity may conflict with the imperative of maintaining public trust and ethical standards in political leadership. Employing a normative legal research method supported by a statutory approach, the study analyzes Indonesian legal instruments. The research identifies a significant legal paradox: integrity is mandated for election officials but not for legislative or presidential candidates. This discrepancy raises critical questions regarding the consistency and credibility of Indonesia's democratic processes. Findings indicate that allowing ex-corruption convicts to run for office undermines public confidence, hampers political regeneration, and dilutes the ethical foundation of electoral integrity. The analysis also reveals that an uncritical application of SDG 16 as a justification for political inclusivity may inadvertently legitimize impunity and erode democratic accountability. The study calls for urgent legal reforms to align candidacy requirements with broader democratic and developmental objectives. By reinforcing integrity as a universal qualification for public office, Indonesia can uphold the principles of justice, restore electoral legitimacy, and promote sustainable political development.

I. Introduction

Globally, elections serve as a cornerstone in the democratic governance architecture, conveying the concept that the government's authority is rooted in the desires of the

people¹. This process ensures the periodic renewal of political mandate, fostering a dynamic and responsive political landscape². Through elections, citizens exercise their fundamental right to choose representatives, thereby imbuing the elected bodies with legitimacy and accountability³. Although it can be argued that election is a fairly blunt instrument of accountability in a democracy, election remains important for checks and balances between powers, while the people can evaluate their performance through votes⁴. This mechanism also acts as a check on power, discouraging autocratic tendencies and promoting political pluralism⁵. The conduct of free, fair, and transparent elections reinforces the rule of law and upholds the values of equality and justice, as fundamentally detailed in democratic charters and constitutions. Moreover, elections stimulate civic engagement and political participation, crucial for nurturing a democratic culture⁶. Thus, elections are not merely a procedural formality but a vital instrument for the expression of the democratic will, the protection of individual rights, and the advancement of societal welfare.⁷

Elections in Indonesia are fundamentally linked to the Sustainable Development Goals (SDGs) because they offer a democratic platform for candidates committed to these global objectives to gain governmental authority. The SDGs, established by the United Nations, encompass a broad range of critical issues such as poverty reduction, environmental sustainability, and social equality⁸. Through the electoral process, individuals with a vision for addressing these challenges can seek public office, allowing them to directly influence policies and actions towards achieving the SDGs. Although SDGs as a concept doesn't necessarily always has a high relevance in times of elections, the framework nevertheless influences how countries can implement SDGs in between elections⁹. This process is essential in a diverse country like Indonesia, where varying needs and perspectives must be considered in policy-making

¹ Georgy Egorov and Konstantin Sonin, "Elections in Non-Democracies," *Economic Journal* 131, no. 636 (2021), <https://doi.org/10.1093/ej/ueaa123>.

² Martin Westlake, "Chronicle of an Election Foretold: The Longer-Term Trends Leading to the Spitzenkandidatenn Procedure and the Election of Jean-Claude Juncker as European Commission President," *SSRN Electronic Journal*, 2016, 1-57, <https://doi.org/10.2139/ssrn.2710554>.

³ Abdullahi Yahuza Zainawa, "Political Parties, Electoral Process, and Democracy in Nigeria," *Zamfara Journal of Politics and Development* 2, no. 1 (2021): 1-10.

⁴ Pippa Norris and Alessandro Nai, *Election Watchdogs: Transparency, Accountability and Integrity*, 1st ed. (New York: Oxford University Press, 2017), <https://doi.org/10.1093/acprof:oso/9780190677800.001.0001>.

⁵ Rollin F Tusalem, "Democracies, Autocracies, and Political Stability," *International Social Science Review* 90, no. 1 (2015): 1-40.

⁶ Joel Westheimer, "Civic Education and the Rise of Populist Nationalism," *Peabody Journal of Education* 94, no. 1 (2019): 4-16, <https://doi.org/10.1080/0161956X.2019.1553581>.

⁷ Ade Borami Ju and Hari Sutra Disemadi, "Effectiveness of Culinary Industry MSME Brand Protection in Batam City," *Amnesti Jurnal Hukum* 5, no. 1 (2023): 15-32, <https://doi.org/10.37729/amnesti.v5i1.2700>.

⁸ Amanda Lange Salvia et al., "Assessing Research Trends Related to Sustainable Development Goals: Local and Global Issues," *Journal of Cleaner Production* 208 (2019): 841-49, <https://doi.org/https://doi.org/10.1016/j.jclepro.2018.09.242>.

⁹ Magdalena Bexell and Kristina Jönsson, *The Politics of the Sustainable Development Goals: Legitimacy, Responsibility, and Accountability*, 1st ed. (Oxon: Routledge, 2021), <https://doi.org/10.4324/9781003043614>.

through decentralization¹⁰. Elections ensure that a wide array of candidates, including those from marginalized communities, can participate in governance, promoting inclusivity and equitable development as emphasized in the SDGs. Additionally, elections create a system of accountability where officials are responsible for implementing effective strategies to meet these global goals. By allowing citizens to elect leaders who prioritize the SDGs, Indonesia aligns its political process with the pursuit of sustainable and equitable societal progress, reinforcing the integral role of democratic governance in achieving these universal objectives.

Indonesia's decision to allow ex-corruption convicts to participate in elections presents a complex scenario, especially when viewed through the lens of the Sustainable Development Goals (SDGs) and the fundamental principles of democratic elections. On one hand, this policy upholds the ideals of democracy and redemption. Allowing ex-convicts to run for office aligns with democratic values of inclusivity and equal opportunity, acknowledging that individuals can reform and contribute positively to society¹¹. This approach can be seen as an extension of the SDGs' focus on reducing inequality and promoting social justice¹². It allows for a broader representation in governance, potentially integrating diverse experiences and perspectives, crucial for addressing the multifaceted challenges outlined in the SDGs. On the other hand, the main argument against permitting ex-corruption convicts to run for office again is that it could undermine public trust and the integrity of the political system¹³. Corruption, a significant hurdle in achieving many of the SDGs, particularly those related to justice and strong institutions, may not be effectively combated if individuals with a history of such offenses are allowed to govern. This could hinder progress in vital areas such as equitable resource distribution, transparency, and accountability. More importantly, it can also limit the chances of other people who are interested in bringing about the much-needed change in society, with a better track record and no corruption history. In this light, Indonesia's stance on ex-corruption convicts in elections represents a delicate balance between the ideals of democratic inclusivity, the need for ethical governance, and the overarching goal of achieving sustainable development.

The participation of ex-corruption convicts in Indonesian elections raises significant legal implications, necessitating a reevaluation of existing laws and regulations to ensure alignment with democratic principles and anti-corruption efforts. Current Indonesian legislation, such as the Election Law and the Anti-Corruption Law, must be scrutinized to address this issue effectively. These laws, while ensuring democratic

¹⁰ Ronald L. Holzhaecker, Rafael Wittek, and Johan Woltjer, "Decentralization and Governance for Sustainable Society in Indonesia," in *Decentralization and Governance in Indonesia*, ed. Ronald L. Holzhaecker, Rafael Wittek, and Johan Woltjer (Cham: Springer International Publishing, 2016), 3–29, https://doi.org/10.1007/978-3-319-22434-3_1.

¹¹ Hadityo Anugrah Allahi and Fathur Rahman, "Kandidasi Calon Anggota Legislatif Koruptor: Refleksi Atas Pemilu 2019 Di Malang," *JiIP: Jurnal Ilmiah Ilmu Pemerintahan* 5, no. 1 (2020): 46–57, <https://doi.org/10.14710/jiip.v5i1.7085>.

¹² Winsherly Tan, "Perkawinan Di Bawah Umur Dan Tantangan Dalam Mencapai Sustainable Development Goals," *JUSTISI* 7, no. 2 (July 15, 2021): 76–88, <https://doi.org/10.33506/js.v7i2.1342>.

¹³ Aghoffar Aghoffar, Novita Sari, and Effendi Hasan, "Integritas Partai Politik Dalam Pencalonan Mantan Narapidana Korupsi Pada Pemilu Tahun 2019 Di Aceh," *Jurnal Ilmiah Mahasiswa Fakultas Ilmu ...* 6, no. 2 (2021): 1–19.

participation, also emphasize the importance of integrity and public trust in government officials. Allowing ex-corruption convicts to run for office could potentially conflict with the objectives of these laws, particularly in maintaining a corruption-free government. This situation underscores the need for legal reforms that strike a balance between the right to participate in democratic processes and the imperative to uphold ethical standards in public office. Amendments to the existing legal framework may be required to establish clear criteria and restrictions for the political participation of individuals with a history of corruption, ensuring that the electoral process remains transparent, fair, and conducive to achieving sustainable development goals. This legal mediation is crucial for maintaining public confidence in the political system and ensuring that elected officials are capable of effectively advancing national interests and public welfare.

The relationship between democracy and the Sustainable Development Goals (SDGs) is a key focus in academic research. A study point out that effective democratic systems, known for their accountability and openness, are essential for achieving the SDGs ¹⁴. This is supported by other study which found that democracies are better at creating policies and allocating resources for goals like reducing poverty, improving education, and tackling climate change ¹⁵. On the other hand, other study outlines the difficulties democracies face in meeting these goals, such as short-term political thinking and conflicting interests ¹⁶. It argues for stronger institutions and more public involvement to keep up the momentum towards the SDGs. Additionally, other work takes a different angle, suggesting that striving for the SDGs can also strengthen democratic principles by promoting human rights and fairness globally ¹⁷. This body of research makes it clear that not only do democracies play a vital role in reaching the SDGs, but the goals themselves can help improve democratic practices.

Studies across various nations, have consistently indicated a strong public disapproval of corruption and distrust towards individuals convicted of such offenses ¹⁸. In Indonesia, this sentiment is notably strong, as identified by a study. However, it also reveals that, despite significant public disdain for political corruption and skepticism towards corruption, the association of corruption with the concept of integrity is not

¹⁴ Diana Soeiro, "Transparent Governments, Social Innovation, and Their Role in Achieving the SDGs," in *Peace, Justice and Strong Institutions*, ed. Walter Leal Filho et al. (Cham: Springer International Publishing, 2020), 1-12, https://doi.org/10.1007/978-3-319-71066-2_100-1.

¹⁵ Stefan Wurster, "Comparing Ecological Sustainability in Autocracies and Democracies," *Contemporary Politics* 19, no. 1 (2016): 76-93, <https://doi.org/10.1080/13569775.2013.773204>.

¹⁶ Atif Jahanger, Muhammad Usman, and Daniel Balsalobre-Lorente, "Autocracy, Democracy, Globalization, and Environmental Pollution in Developing World: Fresh Evidence from STIRPAT Model," *Journal of Public Affairs* 22, no. 4 (2022): 1-17, <https://doi.org/10.1002/pa.2753>.

¹⁷ Joshua C. Gellers, "Crowdsourcing Global Governance: Sustainable Development Goals, Civil Society, and the Pursuit of Democratic Legitimacy," *International Environmental Agreements: Politics, Law and Economics* 16, no. 3 (2016): 415-32, <https://doi.org/10.1007/s10784-016-9322-0>.

¹⁸ Monica Violeta Achim, "Cultural Dimension of Corruption: A Cross-Country Survey," *International Advances in Economic Research* 22, no. 3 (2016): 333-45, <https://doi.org/10.1007/s11294-016-9592-x>.

always common ¹⁹. On the other hand, another study analyzes the propriety of disallowing ex-corruption convicts to run for office, indicating that the political rights of ex-convicts shouldn't be stripped for their past crime ²⁰. While it recognizes the potential risks to the integrity of democratic institutions and public trust, it also stresses the importance of redemption and transparency, arguing that ex-corruption convicts can run for another office term in an election as long as they admit to their previous crimes. This body of work collectively underscores the gravity of public opinion against ex-corruption convicts in politics and raises critical ethical concerns regarding their participation in democratic processes, particularly in countries like Indonesia, where the fight against corruption is a central political issue.

The novelty of this research lies in its critical legal analysis of Indonesia's electoral law, particularly its permissiveness toward ex-corruption convicts as legislative candidates, through the lens of the SDGs, specifically SDG 16. Unlike previous studies that broadly discuss democracy and corruption or argue normatively about ex-convicts' political rights, this study identifies a structural and normative inconsistency in Indonesian law: while electoral officials must meet stringent integrity criteria, candidates for high public office are not held to the same standards. By highlighting this paradox, the research calls for reforms aligning legal norms with ethical governance to restore electoral integrity and support sustainable political regeneration.

There's a significant research gap, in analyzing the dilemma in allowing ex-corruption convicts to participate as candidates in an election, within SDGs context. This research aims to fill this gap, by mapping the conceptual connections regarding this issue with SDGs in the legal sphere. Ultimately, this research is conducted to analyze how SDGs are applied within the political sphere and how it's affected by the existing regulations. The findings of this research can contribute to the growing literature of SDGs. While extensive, the literature has not yet adequately addressed the political sphere and its legal implications. For the purpose of this research, normative analysis will only focus on Law No. 7 of 2017 on Election (Election Law). There have been efforts to deny ex-corruption convicts from running in an election, mainly through Article 4 of General Election Commission Regulation Number 20 of 2018 concerning Nomination of Members of the People's Representative Council, Provincial Regional People's Representative Council, and Regency/City Regional People's Representative Council, which was denied legal power by The Constitutional Court decision No. 87/PUU-XX/2022 and 12/PUU-XXI/2023, which allow former convicts, including those convicted of corruption cases, who committed criminal acts with a threat of less than five years in prison to become legislative candidates for the DPR/DPRD and DPD. However, this research is built upon the understanding that the problems regarding this issue is rooted deep within the Election Law. The main novelty of this research lies in its focus on this aspect, and SDGs implications of it.

¹⁹ Sabrina O Sihombing, "Youth Perceptions toward Corruption and Integrity: Indonesian Context," *Kasetsart Journal of Social Sciences* 39, no. 2 (2018): 299-304, <https://doi.org/https://doi.org/10.1016/j.kjss.2018.03.004>.

²⁰ Jumriani Nawawi, Irfan Amir, and Muljan Muljan, "Problematisasi Gagasan Larangan Mantan Napi Korupsi Menjadi Calon Anggota Legislatif," *Al-Adalah: Jurnal Hukum Dan Politik Islam* 3, no. 2 (2019): 141-55, <https://doi.org/10.35673/ajmpi.v3i2.196>.

2. Research Method

This research employed the normative legal research method, by extensively analyzing the norms within the existing positive laws²¹, while putting a legal problem as the main focus of the research²². Normative method was employed to identify problems regarding the Indonesian election system, along with its SDGs implications. The analysis was supported by statutory approach, mainly using secondary data in the form of primary law sources within the Indonesian legal system. Secondary data was gathered using the literature review data gathering technique and then analyzed using the qualitative descriptive data analysis technique²³. Secondary data used in this research was Law No. 7 of 2017 on Election. Analysis comprised of identification of legal facts through the process of research diagnosis to find out its implications within the existing norms, all of which were eventually used to provide suggestions for future legal developments through the perspective generated.

3. Results and Discussion

3.1. Corruption as a Democratic Betrayal: Undermining Power, Trust, and Governance

If there is one thing that citizens of many countries around the world can agree on regarding the process of running the government, it is the disdain and deep hatred against corruption, which has damaged the public trust and slows down developments in many sectors. Corruption is the result of failure in checks and balances within the government²⁴. Although this is often caused of unstable concentration of power which is essentially against the principle of good governance, it can also happen to the failure in human resource management, where the integrity of a certain government body is compromised. It can also be the result of a bad legal culture, particularly in the realm of state administrations²⁵. From this perspective, corruption is closely linked with the political sphere, where it can happen under thorough plan, making it a structured and an organized crime. It's also closely linked with inequality, as it promotes illicit political contributions, which in the end only benefits the elites and eventually widening the wealth gap²⁶.

²¹ Hari Sutra Disemadi, "Lenses of Legal Research: A Descriptive Essay on Legal Research Methodologies," *Journal of Judicial Review* 24, no. 2 (November 30, 2022): 289-304, <https://doi.org/10.37253/jjr.v24i2.7280>.

²² Asmak Ul Hosnah, Dwi Seno Wijarnako, and Hotma P. Sibuea, *Karakteristik Ilmu Hukum Dan Metode Penelitian Hukum Normatif*, 1st ed. (Depok: Rajawali Pers, 2021).

²³ Muhaimin, *Metode Penelitian Hukum*, 1st ed. (Mataram: Mataram University Press, 2020).

²⁴ Peter Neyroud, "Policing 'Landscapes' for the Rule of Law and Public Protection: The State of Evidence on Organisational Policies, Structures, and Human Resources," *Cambridge Journal of Evidence-Based Policing* 6, no. 3 (2022): 140-61, <https://doi.org/10.1007/s41887-022-00081-y>.

²⁵ Yuliana Yuliana and Mujiono Hafidh Prasetyo, "Criminal Accountability Of State Officials Committing Political Corruption In Indonesia," *Arena Hukum* 15, no. 1 (April 2022): 160-75, <https://doi.org/10.21776/ub.arenahukum.2022.01501.8>.

²⁶ Jong-sung You, *Democracy, Inequality and Corruption: Korea, Taiwan and the Philippines Compared*, 1st ed. (Cambridge: Cambridge University Press, 2015).

To define corruption, it's important to first analyze what constitutes power within the government. Within the context of government administration, power is the authority to make decisions regarding the public affair, and is constantly affected by the efforts to acquire, maintain, increase, or even dissipate through budgeting²⁷. Power extends beyond court decision, administrative titles, budget allocations, and legal authorities, as these elements alone are insufficient for an administration. Meaning, while power can be consisted of all of these elements, it eventually depends on the role of career bureaucracy as the central focus of regulatory information, design, and implementation. The definition of corruption commonly agreed upon within the academic world is as the act of abusing the power of a public office for private benefits²⁸. Therefore, in the context of power, the epicentrum of problem within the phenomenon of corruption is the will of the bureaucracy, where power is centered.

Democracy, a system mostly cherished for the distribution of power within the government, is considered to be the staple of good governance²⁹. Democracy is often regarded as the best, most fair, and most legitimate form of government by many theorists within the academic world³⁰. However, like other systems around the world, democracy can also fall victim to corruption. This conceptually undermines not just government integrity and public trust, but also democracy as a concept itself, which has been found to have significant impacts in reducing corruption³¹. Corruption essentially defeats the purposes of democracy, which is the distribution of power to reduce abuse of power. Study even shows that democracy allows government to perform better in the fight against corruption, particularly in developing countries where corruption is the most prevalent³². Therefore, it's safe to assume that corruption is more hated in countries that employ the system of democracy.

Corruption, undeniably, is overwhelmingly disdained by the public, especially when social and economic inequalities, along with other public issues continue to rise³³. In a republic, corruption takes root when the commitment to communal values is overshadowed by an overemphasis on personal interests, or conversely, when

²⁷ Robert F. Durant, "Whither Power in Public Administration? Attainment, Dissipation, and Loss," *Public Administration Review* 75, no. 2 (2015): 206-18, <https://doi.org/10.1111/puar.12332>.

²⁸ Xizi Liu, "A Literature Review on the Definition of Corruption and Factors Affecting the Risk of Corruption," *Open Journal of Social Sciences* 04, no. 06 (2016): 171-77, <https://doi.org/10.4236/jss.2016.46019>.

²⁹ Helga Malmin Binningsbø, "Power Sharing, Peace and Democracy: Any Obvious Relationships?," *International Area Studies Review*, 2013, <https://doi.org/10.1177/2233865912473847>.

³⁰ Alvin I. Goldman, "What Is Democracy (and What Is Its Raison D'Etre)?," *Journal of the American Philosophical Association* 1, no. 2 (2015): 233-56, <https://doi.org/10.1017/apa.2014.30>.

³¹ Ivar Kolstad and Arne Wiig, "Does Democracy Reduce Corruption?," *Democratization* 23, no. 7 (2016): 1198-1215, <https://doi.org/10.1080/13510347.2015.1071797>.

³² Azwar and Achmat Subekan, "Does Democracy Reduce Corruption in Indonesia?," *Jurnal Ilmu Sosial Dan Ilmu Politik* 25, no. 3 (2022): 195-208, <https://doi.org/10.22146/jsp.56886>.

³³ Qiyang Liu et al., "Egalitarianism and Public Perception of Social Inequities: A Case Study of Beijing Congestion Charge," *Transport Policy* 74 (2019): 47-62, <https://doi.org/https://doi.org/10.1016/j.tranpol.2018.11.012>.

individuals become excessively devoted to public affairs³⁴. Corruption is the true embodiment of betrayal of public trust, and perversion of integrity in the discharge of public duties and justice³⁵. Its presence undermines faith in institutions, fuels inequality, and stagnates development. The public witnesses firsthand the consequences of corruption; hindered essential services, resources misallocation, and opportunities denied. The justified deep-rooted disdain stems from a collective understanding that corruption distorts fair competition, perpetuates an uneven playing field, and allows only the privileged few to thrive. Citizens see their hard-earned taxes diverted into the pockets of the corrupt, while the vulnerable citizens, including the law-abiding ones, suffer and have their dreams restricted. Consequently, public sentiment becomes a boiling pot of resentment. The public has no tolerance for corruption's pervasive grip on society, fueling calls for accountability, transparency, and systemic reforms to eradicate this insidious problem.

Corruption is universally despised and condemned in any society, but it holds an even more significant place of abhorrence among citizens of a democratic country. In a democratic system, where power is centered around the people and elected representatives are meant to serve the best interests of the public, corruption is seen as a direct betrayal of the trust bestowed upon these leaders. Democratic nations are founded on the principles of equality, justice, and transparency; when corruption seeps into the core of these values, it undermines the very essence of democracy. Corruptions can even be tried in defense of the state, as what usually happens in autocracies, which unfortunately is also not uncommon in democracies³⁶. Citizens in a democratic country often have high expectations and demand accountability from their leaders, as they have the right to elect and remove those who hold public office. Therefore, any act of corruption, be it bribery, embezzlement, or nepotism, is seen as a foul breach of the democratic contract between citizens and the representatives they voted for³⁷.

In a country where citizens have avenues and are encouraged to voice their concerns, through freedom of speech and the press, corruption stands out as an even more egregious offense. This is because democratic societies usually have a vibrant civil society, free media, and an independent judiciary, all of which play a crucial role in uncovering corrupt practices, exposing wrongdoings, and holding those responsible accountable. The presence of these checks and balances outside the government outside of the government administrative bodies, intensifies the public's scrutiny of corruption, making it more difficult to conceal and increasing the odds of corrupt individuals being exposed and brought to justice. Ultimately, in a democratic country, corruption not only violates the trust and expectations of the citizens but also weakens the very foundation upon which the society is built, perverting the core principles that are essential for a functioning democracy.

³⁴ Sofia Näsström, *The Spirit of Democracy: Corruption, Disintegration, Renewal*, 1st ed. (Oxford: Oxford University Press, 2021), <https://doi.org/10.1093/oso/9780192898869.001.0001>.

³⁵ Jorge Alberto Alatorre Flores, "It Takes More than Transparency: An Assessment of Selected Variables That Ought to Make a Dent on Corruption. A Review on the Cases of Mexico and the United States" (Purdue University, 2022).

³⁶ Staffan Andersson and Frank Anechiarico, *Corruption and Corruption Control: Democracy in the Balance*, 1st ed. (New York: Routledge, 2019), <https://doi.org/10.4324/9781351206990>.

³⁷ Italo Pardo, "Corrupt, Abusive, and Legal: Italian Breaches of the Democratic Contract," *Current Anthropology* 59, no. S18 (2018): S60–71, <https://doi.org/10.1086/695804>.

The phenomenon of corruption, particularly in democratic states, can be critically examined through the lens of legal system theory, especially as proposed by Lawrence Friedman. Friedman (1975) divides a legal system into three interdependent elements, the structure, the substance, and the legal culture.³⁸ The *structure* refers to the institutions of the legal system—such as courts, legislatures, and enforcement agencies—that uphold governance. The *substance* includes the actual laws and regulations in place, while the *legal culture* encompasses the values, beliefs, and attitudes that influence how laws are interpreted and applied. In the context of corruption, failures can be traced to all three elements. Structurally, weak or compromised institutions allow for the concentration of unchecked power; substantively, ambiguous or insufficient anti-corruption laws leave loopholes; and culturally, normalization or tolerance of corrupt practices undermines the moral authority of the law. The result is a legal system unable to respond effectively to democratic betrayal, rendering the rule of law symbolic rather than functional.³⁹

Building on this, Teubner's theory of autopoiesis in law further deepens the analysis by positioning the legal system as a self-referential, norm-producing entity that interacts with other subsystems such as politics, economy, and media.⁴⁰ In this context, corruption becomes a distortion of these inter-subsystem interactions. When political decisions override legal norms or when legal mechanisms are used for private gains under the guise of public interest, the system's self-regulating capacity becomes compromised. Particularly in democracies, where the legitimacy of governance depends on transparency and accountability, corruption not only undermines the legal system's autonomy but also erodes citizens' trust in the entire democratic process. Therefore, for democracy to function meaningfully, the legal system must not only punish corrupt practices but must also be resilient enough—structurally, substantively, and culturally—to prevent the systemic reproduction of corruption.

3.2. SDG 16 and the Paradox of Political Inclusivity

Sustainable Development Goals (SDGs) is a compilation of goals deemed to be necessary in promoting developments that can take into account other aspects that are otherwise unaccounted for, such as environment and equality⁴¹. Often connected to the effort to tackle climate actions and to apply sustainability, SDGs can be misunderstood as a concept that doesn't belong within the political sphere. SDGs were designed to address all the relevant issues within society, including social, economics, and cultural, which are often referred to "non-environmental SDGs"⁴². This goes back

³⁸ Lawrence M. Friedman, *"The legal system: A social science perspective"*. Russell Sage Foundation, 1975.

³⁹ Lawrence M. Friedman.

⁴⁰ Gunther Teubner, *"Law as an autopoietic system"*. Oxford/Cambridge, Blackwell Publishers, 1993.

⁴¹ Binaya Raj Shivakoti, "Using the Sustainable Development Goals to Address Unsustainable Land Transformations in the Asia-Pacific Region," in *Asia-Pacific Landscape Transformations – Solutions for Sustainability* (IGES: Institute for Global Environmental Strategies, 2019), 205–22.

⁴² Mark Elder and Simon Høiberg Olsen, "The Design of Environmental Priorities in the SDGs," *Global Policy* 10 (2019): 70–82, <https://doi.org/10.1111/1758-5899.12596>.

to the protection of human rights, which was highlighted by the Human Rights Watch in the concept of “righting development” as an approach that seeks to improve the outcomes of development initiatives and the SDGs by strongly advocating for and implementing human rights principles⁴³. Therefore, SDGs are not just a part of the government’s initiatives, but also a framework of actions that need to be taken by the support of the government, and most importantly, the active role of the people, creating coordinated actions through multiple agencies⁴⁴. Making sure that all of these aspects are properly applied in the sphere of law is important, as it make sure that the actions taken do not go against other public interests that are protected by the law, and by making sure that there are checks and balances between the government and the public in their efforts to apply SDGs.

SDGs can also be applied not just as a way of promotion within the political sphere, but also a concept affecting the political sphere itself. Perhaps the most important element of the SDGs regarding this is inclusivity, which is promoted through SDG 16, focusing on promoting peaceful and inclusive societies, providing access to justice for all, and building effective, accountable, and inclusive institutions at all levels, while also following the principle of good governance⁴⁵. In the context of political rights, this ensures that everyone has the right to vote and the right to participate in an election. The application of SDG 16 in this matter is important as it prevents the rise of autocracy and promotes democracy⁴⁶. It particularly synergizes well with SDG 10, as SDG 16 can help prevent the unequal concentration of power and access to human rights such as education. This combination can ensure future regeneration of actors that can help build the country and continue the previous developments.

At a glance, it’s almost obvious that SDG 16 can be the main reason behind allowing ex-corruption convicts to run in an election. However, considering the fact that these people have been elected before and betrayed the public trust for the benefit of themselves, one must start to wonder on the limitations of SDG 16, and realize the urgency to analyze it from a critical thinking perspective. This is why a lot of countries around the world, not just the democratic ones, do not allow ex-corruption convicts to run in an election, as it directly insults public trust and creates higher chances of damaging public interests when recidivism is taken into account⁴⁷. Indonesia, however, allows ex-corruption convicts to run in an election. By allowing ex-corruption

⁴³ Paul Nelson, *Global Development and Human Rights: The Sustainable Development Goals and Beyond*, 1st ed. (Toronto: University of Toronto Press, 2021).

⁴⁴ Joydeep Guha and Bhaskar Chakrabarti, “Achieving the Sustainable Development Goals (SDGs) through Decentralisation and the Role of Local Governments: A Systematic Review,” *Commonwealth Journal of Local Governance*, no. 22 (2019): 1–21, <https://doi.org/10.5130/cjlg.v0i22.6855>.

⁴⁵ A. K.M.Mahmudul Haque et al., “Standing Committees’ Responses in Promoting Peace, Justice and Strong Institution (SDG 16) at Local Level in Bangladesh,” *International Journal of Sustainable Development and Planning* 16, no. 5 (2021): 811–17, <https://doi.org/10.18280/ijstdp.160502>.

⁴⁶ Julia Leininger, Anna Lührmann, and Rachel Sigman, “The Relevance of Social Policies for Democracy: Preventing Autocratisation through Synergies between SDG 10 and SDG 16” (Bonn, 2019), <https://doi.org/10.23661/dp7.2019>.

⁴⁷ Febri Handayani, “The Pernicious Consequences Of Political Corruption In Indonesia,” *Prophetic Law Review* 1, no. 1 (2019): 1–20, <https://doi.org/10.20885/plr.vol1.iss1.art1>.

convicts to run again, Indonesia sends a message that integrity is not a necessary quality for public leaders, which could further erode public trust in the government ⁴⁸.

Conceptually, SDG 16 can also be used as an argument against allowing ex-corruption convicts to run in an election, by also using equality as the main conceptual framework of analysis. This disregard for their past actions undermines the value of equality in the electoral process. By allowing ex-corruption convicts to run in an election, Indonesia can end up limiting the chances of other people who are interested and perhaps have more integrity to run in the election. This is because there are still political parties who support ex-corruption convicts and even encourage them to run for in an election again, without considering the fact that they have been proven to betray the public trust before ⁴⁹. This implication is another important consideration to not allow ex-corruption convicts to run in another election, other than the fact that they've compromised their public duties and damaged public trust for the benefit of themselves before.

Therefore, it's conceptually clear that the act of corruption itself undermines the principles of justice and can end up limiting inclusivity in political participation. Corruption diverts resources away from those who need them the most, perpetuates inequalities, and fosters a culture of impunity. Allowing ex-corruption convicts to run in elections would add insult to injury, as it would suggest that there are no consequences for betraying the public trust and engaging in corruption practices. Furthermore, by not giving room to other people who are perhaps more qualified and have more integrity to run for office, Indonesia can end up being trapped without political regeneration, and not being able to solve old problems. To fulfill their purposes in a democratic society, such as representing interests, perspectives, and values of different groups of citizens, providing a platform for political participation, and offering policy alternatives, political parties need to have a good cycle of regeneration in its recruitment processes ⁵⁰. SDG 16 is therefore important for combating corruption, promoting justice, enhancing inclusivity, and ensuring political regeneration for sustainable development.

The paradox surrounding SDG 16 and the political inclusion of ex-corruption convicts can be critically examined through the lens of legal system theory, which views the legal system as an interconnected framework involving institutions, legal norms, and societal values. In this case, the legal framework fails to align with the broader normative goals of SDG 16, particularly regarding integrity, justice, and inclusivity. While SDG 16 promotes inclusive institutions and access to justice, its implementation must be harmonized with the legal norms that govern political candidacy. When the legal system permits individuals who have demonstrably violated public trust to return to positions of power without clear rehabilitative benchmarks or public

⁴⁸ Aghoffar, Sari, and Hasan, "Integritas Partai Politik Dalam Pencalonan Mantan Narapidana Korupsi Pada Pemilu Tahun 2019 Di Aceh."

⁴⁹ Vincentius Gitiyarko, "Former Corruption Convict Still Supported by Political Party," Kompas, November 2023.

⁵⁰ Ridho Pakina, "Recruitment and Regeneration Political Party: The Influence on Election of Regional Heads," in *Proceedings of the International Conference on Law, Economics and Health (ICLEH 2020)* (Atlantis Press, 2020), 544–50, <https://doi.org/10.2991/aebmr.k.200513.105>.

accountability, it undermines both the structural and normative foundations of electoral integrity. This dissonance highlights a systemic flaw where legal norms are not fully synchronized with the values they are meant to promote, weakening public confidence and reducing the legitimacy of democratic processes. The law, in this context, must not only regulate access but also reflect ethical boundaries aligned with sustainable development goals, ensuring that inclusion does not compromise justice or future political regeneration.

3.3. Electoral Integrity and Legal Paradoxes: Reevaluating Candidacy Rights of Ex-Corruption Convicts in Indonesia

In exploring the complex dynamics surrounding the participation of ex-corruption convicts in elections, it's important to dive into the critical legal issues associated with such regulation. Evidently, the intersection of corruption, democratic processes, and the rule of law has become a subject of heightened concern and debate within political and legal spheres. While societies strive to maintain the integrity and fairness of electoral systems, the question of whether ex-convicts of corruption should be granted the opportunity to run for public office brings forth important legal viewpoints to be thoroughly analyzed. By examining relevant norms within the existing positive laws, this issue can be properly addressed.

Indonesia governs the issues regarding the election through Law No. 7 of 2017 on Election (Election Law). This law was passed as the manifestation of a democratic constitutional system with integrity to ensure consistency and legal certainty as well as effective and efficient general elections⁵¹. It was also passed to legally facilitate the management and execution of proceedings regarding the election, which is a mandate of the 1945 Constitution (Undang-Undang Dasar 1945)⁵². Article 1 number 1 of the Election Law defines the election as "a means of popular sovereignty to elect members of the People's Representative Council, members of the Regional Representative Council, the President and Vice President, and to elect members of the Regional People's Representative Council, which are carried out directly, publicly, freely, secretly, honestly and fairly in the Unitary Republic of Indonesia. Indonesia is based on Pancasila and the 1945 Constitution of the Republic of Indonesia."

Elections at general must be facilitated in a way that upholds electoral integrity, which is conceptualized from the development within the literatures, as the effort to conduct free and fair elections, without the existence of electoral fraud, misconduct, and manipulation⁵³. Integrity is also an important concept within the Election Law, as

⁵¹ A. H. Rahadian, Resista Vikaliana, and Munir Saputra, "Substansi Perubahan Sistem Pemilu Dan Implikasinya Berdasarkan Undang-Undang Nomor 7 Tahun 2017 Tentang Pemilihan Umum Serta RKPD Tahun 2018 Sesuai Permendagri Nomor 32 Tahun 2017 (Pendampingan Bimbingan Teknis Nasional Anggota DPRD Kota Sungai Penuh)," *Jurnal Komunitas: Jurnal Pengabdian Kepada Masyarakat* 1, no. 2 (2019): 32-37, <https://doi.org/10.31334/jks.v2i1.290>.

⁵² Resista Vikaliana and I Nyoman Purnaya, "Optimalisasi Distribusi Surat Suara Pemilu Pada Pemilihan Umum Serentak 2019," *Transparansi: Jurnal Ilmiah Ilmu Administrasi* 2, no. 2 (2019): 140-43, <https://doi.org/10.31334/transparansi.v2i2.554>.

⁵³ Carolien van Ham, "Getting Elections Right? Measuring Electoral Integrity," *Democratization* 22, no. 4 (2015): 714-37, <https://doi.org/10.1080/13510347.2013.877447>.

stipulated by Article 4 letter b which states that provisions regarding election implementation aim to “realize elections that are fair and have integrity.” Integrity is important in a political system of a democratic society, particularly as an important element of regime legitimacy, which lies in the hands of the majority of its citizens ⁵⁴. One of the biggest negative definitions in the realm of political science regarding the conceptualization of electoral integrity is corruption. This is based on the common understanding that the support for the elections are based on trust in government ⁵⁵. As corruption erodes public trust in government, elections can be deemed unimportant, which can lead to the rising number of abstentions ⁵⁶.

Indonesia, despite being a democratic country, allows ex-corruption convicts to run in elections on the basis of making sure that everyone has equal rights within the political sphere ⁵⁷. While this isn’t exactly a contradiction of democratic values, it is a contradiction of the perception that democratic countries are better in fighting corruption and have a stronger public disdain against corruption. Indonesia’s Election Law doesn’t have any norms that prohibit ex-corruption convicts to run in an election. To analyze the norms regarding the relevant provisions, comparing it with other provision that are normatively against allowing ex-corruption convicts to run can be helpful.

Table 1. Provisions regarding criminal history of election prospects

Requirements for DPR, provincial DPRD and district/city DPRD prospects	Requirements for President and Vice President prospects
Article 240 paragraph (1) letter g: has never been sentenced to prison based on a court decision that has obtained permanent legal force for committing a criminal offense that is punishable by imprisonment for 5 (five) years or more, unless openly and honestly stating to the public that the person concerned is a former convict. - (Administrative requirement) Article 240 paragraph (2) letter c: stamped statement letter for candidates for members of the DPR, provincial DPRD and	Article 169 letter p: has never been sentenced to prison based on a court decision that has permanent legal force for committing a criminal offense that is punishable by imprisonment for 5 (five) years or more. - (Administrative requirement) Article 227 letter k: a certificate from the district court stating that each prospective candidate has never been sentenced to prison based on a court decision that has permanent legal force for committing a criminal offense

⁵⁴ Jonathan Rose and Paul M. Heywood, “Political Science Approaches to Integrity and Corruption,” *Human Affairs* 23, no. 2 (2013): 148–59, <https://doi.org/10.2478/s13374-013-0116-6>.

⁵⁵ Rose and Heywood.

⁵⁶ Benjamin J. Roberts et al., “The Unconvinced Vote: The Nature and Determinants of Voting Intentions and the Changing Character of South African Electoral Politics,” *Politikon* 46, no. 4 (2019): 481–98, <https://doi.org/10.1080/02589346.2019.1687120>.

⁵⁷ Maria Virginia Usfunan, “Restrictions on the Voting Rights of Former Corruptor Constitutions,” *Khairun Law Journal* 7, no. 1 (2023): 50–65.

district/city DPRD who have never been sentenced to a prison sentence of 5 (five) years or more or a statement letter from a correctional institution for candidates who have previously been sentenced to a crime.	punishable by imprisonment of 5 (five) years or more.
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Source: Indonesian Primary Laws

The disparity illustrated in Table 1 reveals a concerning inconsistency in the legal requirements for election prospects in Indonesia, particularly between legislative candidates and presidential or vice-presidential candidates. While both categories of public office are equally significant in a constitutional democracy grounded in the separation of powers (*trias politica*), the legislative framework appears to treat them unequally. Legislative candidates are permitted to run even if they are former convicts—provided they declare their status openly—whereas presidential candidates are strictly disqualified under the same criminal circumstances, without exception. This differential treatment not only undermines the principle of equality before the law (equality before the law), a core tenet enshrined in many democratic constitutions, but also contradicts the adagium “*Ubi eadem ratio, ibi idem jus*” – where there is the same reason, there is the same law. If both sets of roles carry profound responsibilities in shaping national policy and representing the people, they should be subject to the same legal standards of integrity. Allowing exceptions in one category while strictly prohibiting them in another sends a conflicting message about the value of public trust, justice, and the legitimacy of democratic institutions.

To date, there is no justification regarding the difference in provisions regarding criminal history of election prospects between legislatures and presidential. This difference signifies that one is more important than the other, even though both are equal parts within Indonesia’s system of governmental bureaucracy. Based on Indonesia’s *trias politica*, governmental power consists of the executive, legislative, and judiciary powers⁵⁸. Not only that, none of the provisions regarding the requirements for prospects in the election mentions integrity, despite the fact that integrity is consistently mentioned throughout the Election Law, particularly in provisions regarding election officials.

Table 2. Mentions of Integrity as Requirements for Election Officials

Article	Requirements
Article 21 paragraph (1) letter d	Requirements to become a candidate for member of the KPU, Provincial KPU, or Regency/City KPU: d: integrity , strong personality, traits of honesty and fairness.
Article 72 paragraph (1)	Requirements to become a member of PPK, PPS,

⁵⁸ Anita Indah Widiastuti, “Multi-Party in Presidential System in Indonesia: What Does Democracy Mean?,” *The Indonesian Journal of International Clinical Legal Education* 2, no. 4 (2020): 517–26.

letter d	KPPS, PPLN and KPPSLN: d. integrity , strong personality, traits of honesty and fairness.
Article 117 paragraph (1) letter d	Requirements to become a candidate for member of Bawaslu, Provincial Bawaslu, Regency/City Bawaslu, Subdistrict Panwaslu and Subdistrict/Village Panwaslu, as well as TPS Supervisor: d. integrity , strong personality, traits of honesty and fairness.

Source: Indonesian Primary Laws

Table 2 highlights a consistent legal emphasis on integrity as a fundamental requirement for all election officials in Indonesia. Whether at the national, provincial, or local level, every regulation governing the recruitment of members of the KPU, Bawaslu, and other election bodies requires candidates to demonstrate integrity, a strong personality, honesty, and fairness. This clearly reflects the state's commitment to ensuring that those responsible for managing and supervising elections are individuals of high moral character, capable of upholding the credibility of the democratic process. However, this consistent standard raises a significant concern: why is such a critical value not equally applied to legislative or presidential candidates, who arguably hold more powerful and influential positions? The inconsistency suggests a gap in the legal framework that could compromise public trust in elected officials. If integrity is considered essential for those who facilitate elections, it should be even more so for those who aspire to lead and represent the people.

While this can look insignificant, there's really no reason not to mention it, especially when it's consistently mentioned in the provisions regarding election officials, all of which have smaller roles and smaller impacts than what the legislative and presidential prospects will have in public interests, if they ended up being elected. The unequal standards of requirements between legislative and presidential prospects do not only convey normative issues, but also problematic SDG 16 application. This problem can also impact other provision, particularly that of which was made to provide equal opportunities, such as Article 5, which states that "persons with disabilities who meet the requirements have the same opportunities as voters, as candidates for members of the DPR, as candidates for members of the DPD, as candidates for President/Vice President, as candidates for members of the DPRD, and as Election Organizers." As explained before, by allowing ex-corruption convicts, Indonesia doesn't only end up damaging public trust and electoral integrity, but also negatively affects the application of SDG 16 by closing the doors of political regeneration for fresh ideas from other people who aspire to make significant impact within the government, including persons with disabilities. This is especially true when the ex-corruption convicts are not persons with disabilities.

From the perspective of Progressive Law as formulated by Satjipto Rahardjo, law must serve as an instrument for achieving justice and the public good, not merely as a set of rigid norms or procedural legality. In the context of Indonesia's electoral regulations, particularly the permissiveness shown toward ex-corruption convicts running for office, the law appears to have lost its spirit. While existing statutes may technically permit such candidacies, the deeper moral and societal implications are neglected. Progressive legal thinking demands that laws evolve alongside societal needs and

moral expectations. When the community holds integrity and public trust as essential democratic values, the law must reflect and reinforce those values. Allowing ex-corruption convicts to reclaim public office without addressing the ethical damage they have caused is a clear example of *legal formalism overshadowing legal substance*, and contradicts the transformative role law should play in shaping a just society.

Moreover, Progressive Law emphasizes that law should not be detached from human experience and social reality. In practice, corruption in Indonesia has caused widespread damage—not just economically, but in the erosion of trust in institutions, stagnation of development, and disenchantment among voters. A legal system that fails to respond to these social harms perpetuates injustice under the guise of equality or legal certainty. The Election Law's silence on integrity as a requirement for legislative and presidential candidates, despite emphasizing it for electoral officials, exemplifies a disconnect between law and justice. This inconsistency creates a paradox where those with the most potential to influence state direction are held to a lower ethical standard than those simply administering the process. Progressive Law urges that this be corrected by placing human dignity and moral accountability at the core of lawmaking—ensuring that integrity is a legal imperative, not a discretionary value. Progressive legal thought also calls for an *activist role of law*—to intervene where formal norms fall short in protecting the common good. In this case, the law must act not just to permit political participation but to regulate it in a way that upholds democratic principles, including integrity, justice, and equal opportunity. The current framework undermines the potential for political regeneration, especially among marginalized groups such as persons with disabilities who may be deterred or outcompeted by entrenched political figures with a corrupt past. This creates a systemic barrier to inclusive governance, violating not only the spirit of SDG 16 but also the moral foundation of the democratic process itself. Progressive Law urges lawmakers, judges, and civil society to reinterpret and reform these legal norms dynamically—placing the people's welfare, the nation's moral trajectory, and the integrity of democratic institutions above outdated formalities.

4. Conclusion

Conceptual analysis found that corruption constitutes a profound violation of democratic principles, eroding public trust and weakening institutional legitimacy. In democratic systems where power is meant to be accountable and equitably distributed, corruption distorts this balance and undermines the rule of law. Legal theory reveals that corruption thrives through structural deficiencies, ambiguous regulations, and a permissive legal culture, highlighting the urgent need for a legal framework that is both robust and ethically grounded to uphold democratic integrity. Furthermore, while Sustainable Development Goal 16 advocates for inclusive, just, and accountable institutions, its application in supporting the political candidacy of ex-corruption convicts introduces a critical paradox. Inclusivity must be balanced with ethical governance; allowing individuals with a history of betraying public trust to reenter political office risks not only diminishing electoral legitimacy but also obstructing political regeneration and weakening the public's faith in democratic institutions. This dissonance becomes even more apparent upon examining Indonesia's electoral laws, which demand integrity from electoral officials yet fail to impose the same standard on legislative and presidential candidates. Such normative inconsistencies compromise

the principle of legal equality and reveal a systemic flaw that must be addressed through urgent legislative reform. Ensuring that integrity is a universal requirement for all public office holders is essential – not only to restore coherence within the legal system but to affirm Indonesia's commitment to democratic values and sustainable political development.

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Laws and Regulations

- Undang-Undang Nomor 7 Tahun 2017 tentang Pemilihan Umum (*Law No. 7 of 2017 on Election*)
- Peraturan Komisi Pemilihan Umum Nomor 20 Tahun 2018 tentang Pencalonan Anggota Dewan Perwakilan Rakyat, Dewan Perwakilan Rakyat Daerah Provinsi, dan Dewan Perwakilan Rakyat Daerah Kabupaten/Kota (*General Election Commission Regulation Number 20 of 2018 concerning Nomination of Members of the People's Representative Council, Provincial Regional People's Representative Council, and Regency/City Regional People's Representative Council*)