



Party Supremacy in Indonesian Democracy: A Critical Analysis of Unlimited Tenure and Recall Power

Demas Brian Wicaksono¹  Sultoni Fikri²  I Gde Sandy Satria³ 
Muhammad Mutawalli Mukhlis⁴  Paul Atagamen Aidonojie⁵ 

¹Universitas 17 Agustus 1945 Surabaya, Indonesia
demasbrian03@untag-sby.ac.id

²Universitas 17 Agustus 1945 Surabaya, Indonesia
sultonifikri@untag-sby.ac.id

³Universitas 17 Agustus 1945 Surabaya, Indonesia
Gdesandy@untag-sby.ac.id

⁴Sekolah Tinggi Agama Islam Negeri Majene, Indonesia
muhammadmutawalli@stainmajene.ac.id

⁵School of Law, Kampala International University (KIU), Uganda
paul.aidonojie@kiu.ac.ug

ABSTRACT

This study is grounded in the background of the practice of party-led recall and the dominance of political parties in determining the political direction of the state, both of which give rise to contradictions with the principles of constitutionalism and the rule of law. Within the context of Indonesia's open-list proportional electoral system, the recall mechanism and the absence of term limits for political party leadership constitute anomalies that undermine the principles of popular sovereignty and political accountability. This condition generates a constitutional paradox: political parties are recognized as the principal actors in the formation of public power pursuant to Article 6A paragraph (2) and Article 22E paragraph (3) of the UUD NRI 1945, yet they are not subjected to the same standards of public accountability imposed upon state institutions. The objective of this research is to analyze how the practice of recall and the authoritarian concentration of power within political parties may give rise to constitutional dysfunction and weaken the principles of democratic representation. This study employs a normative-juridical method and a comparative approach by examining Constitutional Court decisions as well as constitutional practices in several democratic states, including Germany and the Netherlands. The findings of this research demonstrate that political parties in Indonesia function not merely as electoral gatekeepers, but also as parliamentary executioners capable of removing duly elected legislators without public involvement. Such a condition produces the subordination of parliament to party elites and distorts the principle of political accountability, which in a democratic system ought to operate vertically between representatives and their constituents. Furthermore, the absence

ARTICLE HISTORY

Received: 2026-04-01
Revised: 2026-06-10
Publihsed: 2026-08-30

KEYWORDS

Political Parties, Recall, Accountability, Rule of Law.

KATA KUNCI

Partai politik, Recall, Akuntabilitas, Rule of Law.

ABSTRAK

Penelitian ini berangkat dari latar belakang praktik recall oleh partai politik dan dominasi partai dalam menentukan arah politik negara yang memunculkan kontradiksi dengan prinsip-prinsip konstitusionalisme dan rule of law. Dalam konteks sistem pemilu proporsional terbuka di Indonesia, hak recall dan tidak adanya pembatasan masa jabatan pimpinan partai menjadi anomali yang melemahkan prinsip kedaulatan rakyat dan akuntabilitas politik. Situasi ini memunculkan paradoks: partai politik diakui sebagai aktor utama dalam pembentukan kekuasaan publik melalui Pasal 6A ayat (2) dan Pasal 22E ayat (3) UUD NRI 1945, tetapi tidak tunduk pada standar akuntabilitas publik yang sama dengan lembaga negara. Tujuan penelitian ini adalah untuk menganalisis bagaimana praktik recall dan kekuasaan otoriter partai politik berpotensi melahirkan disfungsi konstitusi dan melemahkan prinsip representasi demokratis. Penelitian ini menggunakan metode yuridis-normatif dan pendekatan komparatif, dengan mengkaji putusan Mahkamah Konstitusi serta praktik konstitusi di beberapa negara demokrasi seperti Jerman dan Belanda. Hasil dan temuan penelitian menunjukkan bahwa partai politik di Indonesia tidak hanya menjadi electoral gatekeeper, tetapi juga parliamentary executioner yang dapat memberhentikan anggota legislatif terpilih tanpa keterlibatan publik. Hal ini melahirkan subordinasi parlemen terhadap elite partai dan mendistorsi prinsip akuntabilitas politik yang seharusnya vertikal antara wakil rakyat dan konstituennya. Selain itu, ketidakhadiran mekanisme pembatasan kekuasaan pimpinan partai dan tidak adanya kewajiban transparansi internal memperkuat dominasi partai sebagai entitas privat yang memiliki dampak publik. Oleh karena itu, Mahkamah Konstitusi perlu mengembangkan prinsip public function doctrine untuk menafsirkan partai politik sebagai quasi-state actor yang tunduk pada prinsip akuntabilitas konstitusional dan supremasi konstitusi.

A. INTRODUCTION

1. Background

Political parties occupy a central position as pillars of democracy,¹²³ serving not merely as instruments within the electoral process (see Article 22E paragraph (3) of the 1945 Constitution of the Republic of Indonesia (UUD NRI 1945), but also as key actors in the formation and exercise of state power in both the executive and legislative branches. Nevertheless, the extensive powers vested in political parties are not accompanied by an adequate legal framework capable of restraining the exercise of their internal authority,

¹ L. Diamond and R. Gunther, *Political Parties and Democracy* (Johns Hopkins University Press, 2001).

² N. K. Dogra and V. Singh, "Democracy and Political Parties," *The Indian Journal of Political Science* 75, no. 1 (2014): 17–22.

³ R. J. Dalton, D. M. Farrell, and I. McAllister, *Political Parties and Democratic Linkage: How Parties Organize Democracy* (Oxford University Press, 2011).

particularly with respect to the tenure of party leadership,⁴ and the mechanism for the dismissal of elected legislators through the exercise of the party recall right.⁵⁶ Article 23 paragraph (1) of Law Number 2 of 2011 concerning Amendments to Law Number 2 of 2008 on Political Parties (Law No. 2/2011), which fully delegates the mechanism for changes in party leadership to the Articles of Association and Bylaws (Anggaran Dasar/Anggaran Rumah Tangga – AD/ART) of each political party, exemplifies the absence of meaningful legal limitations on the centralization of power within party structures. Likewise, Article 239 paragraph (2) letters d and g of Law Number 17 of 2014 concerning the People’s Consultative Assembly, the House of Representatives, the Regional Representative Council, and the Regional House of Representatives (Law No. 17/2014), which authorizes political parties to dismiss elected legislators without judicial procedures guaranteeing the principle of due process of law, reflects the broader problem of procedural democracy lacking substantive guarantees of justice.⁷

Constitutional Court Decision Number 22/PUU-XXIII/2025, which rejected the petition for judicial review of the aforementioned provisions, marks a new phase in the evolving relationship between law and power in Indonesia. In its legal reasoning, the Constitutional Court appears to continue affirming a positivistic approach by positioning the AD/ART as a sphere of internal party autonomy insulated from the principles of constitutionalism. Such reasoning invites substantial criticism, as it stands in tension with Article 1 paragraph (3) of the UUD NRI 1945, which expressly declares Indonesia to be a state governed by law (*rechtsstaat*). Under the doctrine of the *rechtsstaat*, no exercise of power may be absolute, including within non-state organizations whose

⁴ B. Riqiey and S. Hadi, “Constitutional Imperatives: Examining the Urgency of Term Limits for Members of the House of Representatives,” *Mimbar Keadilan* 17, no. 1 (2024): 1–16.

⁵ M. I. Hilmy and T. Marfiansyah, “Recall Referendum Sebagai Alternatif Proses Penggantian Antarwaktu Lembaga Legislatif Di Indonesia,” *Volksgeist: Jurnal Ilmu Hukum Dan Konstitusi* 4, no. 1 (2021): 101–13, <https://doi.org/https://doi.org/10.24090/volksgeist.v4i1.4515>.

⁶ A. Z. Yahya and H. Hufron, “Urgensi Penerapan Constituent Recall,” *Jurnal Mengkaji Indonesia* 2, no. 1 (2023): 63–80, <https://doi.org/https://doi.org/10.59066/jmi.v2i1.323>.

⁷ Muhamad Aljebra Aliksan Rauf, Marten Bunga, and Hardianto Djanggih, “Hak Recall Partai Politik Terhadap Status Keanggotaan Dewan Perwakilan Rakyat Dalam Sistem Ketatanegaraan Indonesia. Jurnal Magister Hukum Udayana,” *Jurnal Magister Hukum Udayana* 7, no. 4 (2018), <https://doi.org/https://doi.org/10.24843/JMHU.2018.v07.i04.p03>.

actions generate public consequences.⁸⁹ The constitutional principle of limited government also requires institutional arrangements that prevent excessive concentration of authority and maintain accountability within structures exercising public influence.¹⁰ Where political parties are permitted to enforce their own “sovereignty” absent a rigidly regulated system of legal checks and balances within the framework of positive law, the resulting condition is not democracy, but rather an institutionalized form of oligarchy.

Recent scholarship has examined various dimensions of political party domination and internal democracy in Indonesia, although these issues have largely been addressed separately. Billah, Rahma, and Yudha analyze the absence of term limits for political party chairpersons and argue that unlimited leadership tenure may facilitate bossism and the concentration of political power, thereby highlighting the importance of leadership circulation for strengthening intra-party democracy.¹¹ Yusuf et al. approach the problem from the perspective of political party oligarchy, demonstrating how party organizations may become concentrated in the hands of a limited group of elites who exercise substantial influence over political decision-making.¹² Meanwhile, Evendia and Firmansyah specifically examine the recall authority of political parties over members of representative institutions, arguing that such authority may distort popular sovereignty by making elected representatives structurally dependent upon political parties even after obtaining their electoral mandate.¹³ Mukhlis et al. subsequently emphasize the need to transform oligarchic party structures through stronger democratization and state involvement in political party development.¹⁴ Despite their contributions, these studies

⁸ I. Muhlashin, “Implikasi Penggantian Antar Waktu (PAW) Anggota DPR/DPRD Oleh Partai Politik Terhadap Demokrasi,” *Jurnal Sosial Humaniora Sigli* 3, no. 1 (2020): 1–12, <https://doi.org/https://doi.org/10.47647/jsh.v3i1.231>.

⁹ M. A. Ramli and G. T. Ardika, “Studi Kritis Terhadap Konsep Negara Hukum,” *Media Keadilan: Jurnal Ilmu Hukum* 10, no. 2 (2019): 132–47.

¹⁰ Muhammad Hasrul et al., “The Dynamics of The Relationship Between Central and Regional Government Affairs in Digital Transformation: Regulatory Arrangement Towards Smart Governance,” *Malaqbi Law Review* 1, no. 1 (2026): 97–114.

¹¹ M. Billah, A. Rahma, and M. Yudha, “Balancing Democracy and Adz-Dzari’ah Principles: Legal Reasoning on Term Limits for Political Party Chairpersons in Indonesia,” *Supremasi Hukum: Jurnal Kajian Ilmu Hukum*, 2023.

¹² Mukhlis and others, “Development of Political Parties by the State: From Oligarchy to Democratization in Indonesia,” *PETITA: Jurnal Kajian Ilmu Hukum Dan Syariah*, 2025.

¹³ Malicia Evendia and Ade Arif Firmansyah, “Degenerative System of Popular Sovereignty by Political Parties Through the Instrument of the Recall Rights,” *Pranata Hukum*, 2025.

¹⁴ Mukhlis and others, “Development of Political Parties by the State: From Oligarchy to Democratization in Indonesia.”

tend to examine leadership tenure, oligarchy, party democratization, and recall authority as relatively independent problems and have not sufficiently explored their cumulative constitutional consequences.

This study addresses that gap by introducing party supremacy as an analytical framework for understanding the interconnected operation of unlimited leadership tenure and recall power within Indonesia's constitutional democracy. Its novelty lies in demonstrating that these two mechanisms are not merely separate manifestations of weak intra-party democracy but may function as mutually reinforcing instruments of political control. Unlimited tenure enables the prolonged concentration of authority within party leadership, while recall power provides party elites with an institutional mechanism to discipline or remove elected legislators whose positions conflict with party preferences. Accordingly, this study moves beyond the conventional framework of political oligarchy by conceptualizing party supremacy as a distinct constitutional pathology arising from the cumulative interaction between internal leadership concentration and external legislative control. This configuration potentially produces a structural transformation in representative accountability: legislators who constitutionally derive their democratic legitimacy from voters may become increasingly dependent upon party elites for both their political nomination and the continuation of their parliamentary tenure.

The urgency of this research becomes particularly apparent in light of contemporary constitutional disputes concerning the boundaries of political party autonomy in Indonesia. The Constitutional Court's consideration of political party recall authority, including Decision No. 41/PUU-XXIII/2025, demonstrates that the relationship between party authority, legislative representation, and popular sovereignty remains a significant constitutional issue.⁵ The persistence of unlimited leadership tenure combined with legally recognized recall authority creates a fundamental democratic paradox: political parties are indispensable instruments for organizing political representation, yet excessive concentration of authority within them may enable party elites to exercise structural control over both internal leadership and elected representatives. Without adequate constitutional safeguards ensuring leadership circulation and protecting the representative mandate, popular sovereignty may gradually be displaced by a party-centered configuration of political power.

Therefore, this research is urgent not merely for strengthening intra-party democracy but also for reconstructing the constitutional boundaries between party autonomy, parliamentary independence, and popular sovereignty, thereby preventing political parties from evolving from vehicles of democratic representation into institutions of party supremacy.

2. Research Questions

Based on the foregoing constitutional problems, this study addresses the following research questions:

- a. To what extent is the legal reasoning and constitutional interpretation adopted by the Constitutional Court in Decision Number 22/PUU-XXIII/2025 consistent with the principles of the rule of law, constitutional democracy, and popular sovereignty under the UUD NRI 1945?
- b. How do the absence of term limits for political party leadership and the authority of political parties to recall elected legislators affect constitutional accountability, democratic representation, and the protection of citizens' constitutional rights in Indonesia?
- c. How should the constitutional status and accountability of political parties be reconstructed in light of their strategic public functions in Indonesia's democratic and constitutional system?

3. Research Methods

The objective of this study is to critically examine the legal reasoning adopted by the Constitutional Court in Decision Number 22/PUU-XXIII/2025 and to assess its coherence with constitutional principles and the doctrine of the *rechtsstaat*. This paper further analyzes whether the Court, in its capacity as the guardian of the constitution, has discharged its constitutional responsibility progressively by addressing inconsistencies between positive legal norms and the legal ideals (*rechtsidee*) embodied within the Constitution. This study raises the following question: whether the reasoning and constitutional interpretation advanced by the Constitutional Court in Decision Number 22/PUU-XXIII/2025 are consistent with the principles of the rule of law, constitutional democracy, and the protection of citizens' constitutional rights as

guaranteed under the UUD NRI 1945. The resolution of this question is significant not merely as a matter of theoretical critique, but also as a foundational basis for formulating the future direction of political party law reform aimed at safeguarding substantive democracy and the supremacy of the Constitution.

B. DISCUSSION/ ANALYSIS

1. Analysis of Constitutional Court Decision No. 22/Puu-Xxiii/2025

a. Identifying the Norms in Question

The norms forming the subject matter of the constitutional review in Constitutional Court Decision Number 22/PUU-XXIII/2025 consist of two interrelated categories of statutory provisions that collectively shape the internal power structure of political parties and their relationship with Indonesia's representative system. The provisions under review are: (1) Article 23 paragraph (1) of Law No. 2/2011, and (2) Article 239 paragraph (2) letters d and g of Law No. 17/2014.

Article 23, paragraph (1) of Law No. 2/2011 provides as follows:

“Changes in the management of Political Parties at every level shall be conducted in accordance with the Articles of Association and Bylaws.”

Meanwhile, Article 239 paragraph (2) letters d and g of Law No. 17/2014 stipulates that:

“Members of the House of Representatives (DPR) shall be subject to interim dismissal as referred to in paragraph (1) letter c if they: ...

d. are proposed for dismissal by their political party in accordance with the prevailing laws and regulations; ...

g. are dismissed from membership in their political party in accordance with the prevailing laws and regulations.”

The elucidation of letter d merely provides the formulaic statement, “Sufficiently clear,” thereby creating room for *rechtsvagheid* in the implementation and interpretation of the provision.

Article 23, paragraph (1) of Law No. 2/2011 grants full authority to the Articles of Association and Bylaws of political parties to regulate the mechanisms and limitations concerning the tenure of party leadership without imposing any substantive restrictions within the statute itself. Such absolute delegation of authority is, in essence, inconsistent

with the principles of constitutionalism embodied in Article 1 paragraphs (2) and (3) of the UUD NRI 1945, under which the exercise of power cannot be grounded solely upon autonomous internal organizational norms, but must remain subject to the principles of the rule of law, including checks and balances and the limitation of power. Where statutory law, as a product of state authority, passively legitimizes internal mechanisms absent vertical oversight by public law, it effectively permits the consolidation and centralization of power within political parties.

Political parties, as participants in general elections (see Article 22E paragraph (3) of the UUD NRI 1945), constitute constitutional actors rather than mere private associations. The absence of internal democratic mechanisms within political parties, particularly regarding leadership succession and tenure limitations, may facilitate oligarchic consolidation and weaken democratic accountability within party institutions.¹⁵ Within the framework of constitutional democracy, political parties perform public functions in the representative system,¹⁶ limitations on the tenure of political party leaders ought to constitute a constitutional imperative, comparable to the term limits imposed upon executive and legislative offices. Article 7 of the UUD NRI 1945, which limits the tenure of the President to two terms, represents a manifestation of the fundamental constitutional principle of limiting power to prevent authoritarianism.¹⁷¹⁸ It is therefore anomalous that political parties, as strategic institutions within the structure of state power, are not subjected to the same constitutional logic of limitation on power.

Article 239 paragraph (2) letters d and g of Law No. 17/2014 concerns the mechanism for interim replacement (pergantian antar waktu-PAW) of legislative members carried out upon the proposal of a political party. This provision creates the potential for violations of the principles of due process of law and popular sovereignty as guaranteed under Article 1, paragraph (2) of the UUD NRI 1945. Members of the

¹⁵ Muhammad Mutawalli Mukhlis et al., "Democratization or Extra-Constitutionalism: Ideas for Limiting the Term of Office for Chairmen of Political Parties in Indonesia," *Jambura Law Review* 6, no. 2 (2024): 367–402, <https://doi.org/https://doi.org/10.33756/jlr.v6i2.24116>.

¹⁶ T. Khaitan, "Political Parties in Constitutional Theory," *Current Legal Problems* 73, no. 1 (2020): 89–125, <https://doi.org/https://doi.org/10.1093/clp/cuaa004>.

¹⁷ A. Hatim, S. D. Harijanti, and G. A. Taufik, "The Idea of Presidential Term Limit as an Implicit Unamendable Provision," *Jurnal Konstitusi* 21, no. 4 (2024): 542–64, <https://doi.org/https://doi.org/10.31078/jk2142>.

¹⁸ Q. D. Latansa, "Konstitusionalitas Batasan Masa Jabatan Presiden Dan Wakil Presiden Di Indonesia," *Jurist-Diction* 2, no. 2 (2019): 595–615, <https://doi.org/https://doi.org/10.20473/jd.v2i2.14254>.

House of Representatives (DPR) are elected directly by the people through elections. The premature termination of a DPR member's tenure ought to be subject to the principle of constituent oversight or, at a minimum, to judicial mechanisms that guarantee the right to be heard and to defend oneself (*audi alteram partem*), rather than being based solely upon unilateral decisions of internal political institutions lacking public accountability.

The principle of equality before the law, as guaranteed under Article 27 paragraph (1) of the UUD NRI 1945, together with the principle of protection of fair legal certainty under Article 28D paragraph (1) of the UUD NRI 1945, requires the existence of objective and transparent mechanisms in the imposition of political sanctions against legislative members, including PAW. However, the recall provisions embodied in Article 239 paragraph (2) letters d and g of Law No. 17/2014 do not require specific grounds for dismissal, do not afford the affected member a right of defense, and do not provide for any institutional oversight mechanism by an independent body such as the House Ethics Council (Mahkamah Kehormatan Dewan-MKD) or the judiciary. Under such circumstances, the recall mechanism transforms from an instrument of accountability into a political tool for enforcing party cadre loyalty, while simultaneously negating the principle of direct representation between the people and their elected representatives.¹⁹

The two provisions, namely Article 23 paragraph (1) of Law No. 2/2011 and Article 239 paragraph (2) of Law No. 17/2014, when viewed within their close causal relationship, establish an oligarchic pattern of power within political parties while simultaneously eroding the constitutional principles that ought to serve as the supreme foundation of state governance. These norms are not merely formally defective for delegating authority absolutely to political parties, but are also materially defective because they are incompatible with the constitutional value structure of Indonesia as a democratic state governed by law and founded upon the principle of popular sovereignty. The argumentative construction advanced by the Petitioners in the *a quo* case reflects two significant dimensions within the constitutional landscape: (1) the academic dimension represented by Petitioner I in his capacity as a constitutional law scholar, and (2) the existential-participatory dimension represented by Petitioner II as a

¹⁹ M. H. Shubhan, "Recall: Antara Hak Partai Politik Dan Hak Berpolitik Anggota Parpol," *Jurnal Konstitusi* 3, no. 4 (2006).

student and an active constituent within the democratic process. These two positions collectively illustrate the diversity of locus standi and legal interests possessed by citizens in safeguarding the supremacy of law and the principles of the rule of law.

Petitioner I, as an academic who consistently performs the obligations embodied in the Tri Dharma Perguruan Tinggi, namely, teaching, research, and community service, bears both a moral and intellectual responsibility to cultivate the values of constitutionalism within the academic sphere. In light of such capacity, Petitioner I has directly experienced a disruption when confronted with the problematic internal power structures of political parties that fail to reflect the principles of the rule of law. Where the Constitution expressly provides that Indonesia is a state governed by law (Article 1 paragraph (3) of the UUD NRI 1945), there arises an inherent legal consequence that all forms of power, whether exercised within the sphere of the state or by non-state entities producing public consequences, must remain subject to the principles of limitation of power, accountability, and fair legal certainty. Article 23, paragraph (1) of Law No. 2/2011, which entirely delegates matters concerning tenure and changes in party leadership to the AD/ART without statutory limitation, constitutes a denial of the principle of the supremacy of law. Such a condition not only generates conceptual confusion within academic discourse, but also creates a profound gap between *das sollen* and *das sein*, between the theory of the rule of law as taught in legal education and the actual practice of constitutional governance. Petitioner's argument is grounded in Article 28D paragraph (1) of the UUD NRI 1945, which guarantees every person the right to recognition, guarantees, protection, and fair legal certainty. When constitutional law lecturers are no longer able to consistently explain the existence of limitations on power within political party structures, the issue transcends a mere methodological problem in legal education and instead reflects a deterioration of the nation's constitutional epistemology.

Article 239 paragraph (2) letters d and g of Law No. 17/2014, which confers upon political parties the authority to unilaterally propose the replacement of elected legislators, is inconsistent with the fundamental principles of due process of law and popular sovereignty. Petitioner I, as a member of the academic community actively engaged in the formulation and dissemination of legal knowledge, bears the responsibility of cultivating a new generation that is both critical and constitutionally

conscious. Such a responsibility, however, becomes unattainable where the legal framework itself legitimizes an excessive concentration of party power characterized by anti-democratic tendencies. The constitutional injury suffered by Petitioner I is both actual and systemic in nature: the erosion of legal certainty in the teaching of law, the deterioration of academic authority, and the corruption of legal education's function as an instrument of social and constitutional transformation. Meanwhile, Petitioner II advances an existential and participatory argument that is highly relevant within the context of democracy. As a citizen and university student actively involved in student organizations, Petitioner II represents a younger generation seeking to develop its capacity as political subjects, conscious of its constitutional rights and responsibilities. Pursuant to Article 28C paragraph (1) of the UUD NRI 1945, every citizen possesses the right to develop oneself for the advancement of one's quality of life and the welfare of humanity. Such a right necessarily includes access to a healthy and meritocratic political sphere that is not controlled by party elites occupying leadership positions indefinitely.

Petitioner II contends that Article 23, paragraph (1) of Law No. 2/2011 carries the potential to foster oligarchic power structures that obstruct political regeneration and hinder the emergence of younger party cadres. The absence of term limitations for political party leadership constitutes an anomaly *vis-à-vis* the principle of equality of political opportunity, which lies at the very core of democratic participation. In practice, the provision not only creates political stagnation but also restricts opportunities for political development for young citizens such as Petitioner II, who fundamentally possess aspirations to participate in political life through democratic means.

Moreover, as a registered voter included in the Permanent Voters List (Daftar Pemilih Tetap-DPT), Petitioner II suffers direct constitutional injury as a consequence of Article 239 paragraph (2) letters d and g of Law No. 17/2014. Electoral choices that have been validly expressed through democratic elections may effectively be nullified unilaterally by political parties through the exercise of recall powers, without any involvement or consent from the electorate. Such a mechanism stands in direct contradiction to the principle of popular sovereignty as affirmed in Article 1, paragraph (2) of the UUD NRI 1945, which provides that "sovereignty resides in the hands of the people." Where representatives of the people may be removed not by the electorate, but

by political parties, sovereignty is effectively usurped and unlawfully transferred to internal party structures lacking a direct electoral mandate.²⁰²¹

Petitioner II's standing is further reinforced by Constitutional Court precedents in Decision Number 90/PUU-XXI/2023 and Decision Number 62/PUU-XXII/2024, in which the Court recognized the importance of preserving the direct relationship between voters and their elected representatives within the open proportional electoral system. The implementation of recall rights without substantive limitations is inconsistent with the principle of representation and gives rise to legal uncertainty.

The positions advanced by the Petitioners in the present case, therefore reflect not only personal and actual constitutional injuries, but also a broader concern for the integrity of Indonesia's legal and democratic order. The combination of academic argumentation and existential-participatory narratives renders this petition a concrete manifestation of constitutional patriotism, aimed at correcting legal deviations while restoring constitutionalism as the supreme norm governing state life.

b. Legal Considerations of the Constitutional Court

In Decision Number 22/PUU-XXIII/2025, the Constitutional Court appears to adopt a rigidly formalistic approach to law by treating statutory norms as autonomous and final normative entities, so long as they are not explicitly inconsistent with constitutional provisions in a textual sense. The Court tends to privilege a normative-positivistic mode of interpretation grounded in a strict separation between public law norms and the internal organizational norms of private entities, namely the AD/ART of political parties, without adequately considering the quasi-public character of political parties within Indonesia's constitutional system.

The Court's reasoning in justifying Article 23 paragraph (1) of Law No. 2/2011, on the basis that the internal mechanisms of political parties fall within the sphere of organizational autonomy and that the AD/ART constitute an expression of the organization's internal sovereignty, ultimately reflects the Constitutional Court's failure to comprehend the transformation of the legal status of political parties as institutions

²⁰ A. S. Dameanti, R. Mahendra, and Y. V. Oktivan, "Tinjauan Kritis Pergantian Antar Waktu Dalam Dinamika Politik Indonesia: Perspektif Demokrasi," *Civil Officium: Journal of Empirical Studies on Social Science* 3, no. 1 (2024): 16–21, <https://doi.org/https://doi.org/10.53754/civilofficium.v3i1.389>.

²¹ A. Marriansah, A. Zarkasi, and M. Amin, "Analisis Terhadap Putusan Mahkamah Agung Nomor 57 P/Hum/2019 Tentang Pergantian Antar Waktu Anggota Legislatif," *Limbago: Journal of Constitutional Law* 2, no. 2 (2022): 216–31, <https://doi.org/https://doi.org/10.22437/limbago.v2i2.19130>.

entrusted with the exercise of popular sovereignty. Political parties are constitutional institutions that directly perform state functions through the electoral process, as expressly recognized in Article 6A paragraph (2) and Article 22E paragraph (3) of the UUD NRI 1945. All internal legal instruments of political parties must remain subordinate to constitutional principles, including the principles of limitation of power, accountability, and elite circulation. By choosing to leave the regulation of leadership tenure entirely to the AD/ART of political parties, the Constitutional Court has implicitly permitted oligarchic practices to obtain legitimacy through statutory law, thereby deviating from the principle of the rule of law as enshrined in Article 1 paragraph (3) of the UUD NRI 1945. The position of political parties as institutions that significantly influence democratic governance requires the application of accountability standards beyond their internal organizational arrangements, particularly when their decisions produce broader constitutional consequences.²²

The Court's refusal to undertake a substantive review of the provision further demonstrates that the Constitutional Court did not assume its role as the guardian of constitutional values, but instead functioned merely as a legal technician concerned primarily with procedural and formalistic considerations.

Similarly, with respect to the recall mechanism as regulated under Article 239 paragraph (2) letters d and g of Law No. 17/2014, the Constitutional Court, rather than developing a progressive interpretation of the principles of popular sovereignty (Article 1 paragraph (2) of the UUD NRI 1945) and due process of law, instead conferred unilateral authority upon political parties to propose the dismissal of legislative members without any mechanism ensuring fair evidentiary proceedings or a proportionate opportunity for defense. The Constitutional Court appears to have disregarded the normative dimension of the protection of the right to legal certainty and equal treatment before the law as guaranteed under Article 28D paragraph (1) of the UUD NRI 1945, as well as the right of citizens to obtain protection against arbitrary actions undertaken by non-judicial political institutions.

²² Muhammad Mutawalli Mukhlis, Zulhilmi Bin Paidi, and Wiranti, "The Interests of Democracy or the Eradication of Corruption: The Dissolution of Political Parties in a Review of Law and Practice in Other Countries," *Constitutional Law Review* 4, no. 1 (2025): 70–97, <https://doi.org/https://doi.org/10.30863/clr.v4i1.5632>.

The Constitutional Court's lack of willingness to engage in judicial activism in the present case is deeply regrettable, particularly given that prior precedents have demonstrated a legitimate basis for progressive judicial intervention in the institutional structure of political parties. In Decision Number 90/PUU-XXI/2023 concerning the open proportional electoral system, the Constitutional Court expressly affirmed that the relationship between voters and their representatives cannot be curtailed by internal decisions of political parties. Regrettably, such reasoning was not further developed in the quo case. Instead, the Constitutional Court withdrew from its constitutional responsibility to dismantle unaccountable forms of political domination.

This tendency reflects the Constitutional Court's adherence to a positivistic-statist paradigm of law that neglects the dimension of the living constitution. In fact, the Constitutional Court ought to recognize that constitutional norms are inherently dynamic and must be interpreted in accordance with the evolving socio-political realities of society (see Constitutional Court Decision No. 62/PUU-XXII/2024). The Constitutional Court should not merely function as an institution tasked with reviewing legislation, but must also carry a moral and juridical mandate to provide constitutional guidance, namely the direction of legal reform that embodies the constitutional ideals (*staatsidee*) of the state.²³

The Constitutional Court's failure to develop a binding constitutional interpretation concerning the limitation of political party leadership tenure and the repressive nature of recall mechanisms constitutes evidence that the Court has not yet evolved into the ultimate guardian of citizens' constitutional rights against the domination of unchecked political power. The Court's reluctance to move beyond the confines of legal positivism and engage with the domain of constitutional morality demonstrates that it has permitted constitutional loopholes to be exploited by political elites in order to perpetuate unlimited power.

The Constitutional Court's legal reasoning in the present case warrants criticism not only from a juridical perspective but also from a paradigmatic one, insofar as it fails to advance legal reform toward a more democratic and constitutional order. In this respect, the Constitutional Court has lost a critical opportunity to establish juridical

²³ H. Siswoko, "Ewenangan Hak Menguji Undang-Undang Terhadap Konstitusi Oleh Mahkamah Konstitusi Dalam Menciptakan Negara Hukum Yang Demokratis," *Mizan: Jurnal Ilmu Hukum* 11, no. 1 (2022): 94–99, <https://doi.org/https://doi.org/10.32503/mizan.v11i1.2663>.

limits against the tendency toward internal party authoritarianism, which constitutes a latent threat to democracy and the rule of law in Indonesia.

2. Criticism of the Constitutional Court's Decision

a. Absence of Term Limits

The absence of term limitations for political party leaders, as reflected in Article 23 paragraph (1) of Law No. 2/2011, which entirely delegates such regulation to the AD/ART of each political party, constitutes a constitutional deviation from the principle of checks and balances within Indonesia's constitutional system. In principle, power must never be absolute and must instead be subject to limitation, both vertically and horizontally, to prevent the concentration of authority by particular political actors over public decision-making processes.²⁴²⁵ The principle of checks and balances is embodied within the norms of the Constitution as part of the doctrine of internal self-limitation of power.²⁶ This principle is reflected, *inter alia*, in Article 7 of the UUD NRI 1945, which expressly limits the President's tenure to two five-year terms. Such limitations were not established out of concern for any specific individual, but rather from a historical and theoretical recognition that power, when left unrestricted, inevitably tends toward abuse and even the co-optation of state institutions.²⁷²⁸

This implies that political party leaders, who occupy a central role in the nomination process for public officeholders at both the executive and legislative levels, must likewise be subject to equivalent principles of limitation on power. The political authority exercised by party actors, in substance, carries an influence no less significant than that exercised by constitutional public officials. Indeed, in practice, the influence of party leaders over the direction of state policy frequently exceeds the formal authority of state officials, particularly within a multiparty system that is heavily dependent upon

²⁴ E. Erham, A. Ma'arij, and G. Gufran, "Diskursus Pembatasan Kekuasaan Di Indonesia Dalam Perspektif Konstitusi Dan Konstitusionalisme," *Legalitas: Jurnal Hukum* 16, no. 1 (2024): 72-78, <https://doi.org/https://doi.org/10.33087/legalitas.v16i1.595>.

²⁵ T. Persson, G. Roland, and G. Tabellini, "Separation of Powers and Political Accountability," *The Quarterly Journal of Economics* 112, no. 4 (1997): 1163-202, <https://doi.org/https://doi.org/10.1162/003355300555457>.

²⁶ H. Fudin, "Aktualisasi Checks and Balances Lembaga Negara: Antara Majelis Permusyawaratan Rakyat Dan Mahkamah Konstitusi," *Jurnal Konstitusi* 19, no. 1 (2022): 202-24, <https://doi.org/https://doi.org/10.31078/jk1919>.

²⁷ J. I. Pratiwi, N. Salama, and S. Ulfah, "Pembatasan Masa Jabatan Presiden Di Indonesia," *Jurnal Rechten: Riset Hukum Dan Hak Asasi Manusia* 3, no. 1 (2021): 18-26.

²⁸ Latansa, "Konstitusionalitas Batasan Masa Jabatan Presiden Dan Wakil Presiden Di Indonesia."

internal negotiations and political loyalty. Where no clear and definitive limitation exists with respect to party leadership tenure, conditions are created for the reproduction of oligarchic power structures, whereby strategic positions remain continuously controlled by the same political elites in the absence of open competition or meaningful cadre circulation.²⁹ Such circumstances are incompatible with the spirit of constitutional democracy, which emphasizes participation, regeneration, and transparency in the exercise of public power. The absence of tenure limitations gives rise to an entrenchment of power, which, in turn, obstructs internal political dynamism and fosters the perpetuation of patronage-based political practices.

The absence of normative limitations on the tenure of political party leaders gives rise to a serious inconsistency within Indonesia's legal system.³⁰ While the terms of office of the President, governors, regents/mayors, and heads of state institutions are constitutionally and statutorily limited, the lack of comparable restrictions upon political party leaders creates a legal lacuna with direct implications for the principle of equality in the limitation of public power. This condition results in an imbalance between state actors, who are subject to the principle of circulation of power, and non-state actors, political party leaders, who exercise public functions yet remain exempt from equivalent constraints. Such disparity ultimately undermines the principle of equality before the law as guaranteed under Article 27 paragraph (1) of the UUD NRI 1945, as well as the principle of public accountability inherent in a democratic system. Political party leaders who remain in office without temporal limitation tend to reinforce patterns of internal oligarchy, diminish party member participation, and weaken checks and balances in the formulation of public policy. At the same time, this condition effectively places party leaders above the principles of justice, thereby demonstrating that the absence of such limitations constitutes an anomaly detrimental to the democratic order.

By reference to the theory of constitutionalism developed by Mark Tushnet, the phenomenon of shadow constitutionalism emerges as a form of de facto power that distorts democratic principles.³¹ Shadow constitutionalism that, although formal

²⁹ B. Riqiey, A. A. Pramesti, and A. C. Sakti, "Pembatasan Masa Jabatan Ketua Umum Parpol Dalam Perspektif Demokrasi," *Jurnal Mengkaji Indonesia* 1, no. 1 (2022): 1-17., <https://doi.org/https://doi.org/10.59066/jmi.v1i1.46>.

³⁰ Riqiey, Pramesti, and Sakti.

³¹ M. Tushnet, "Critical Legal Studies and Constitutional Law: An Essay in Deconstruction," *Stanford Law Review* 36, no. 2 (1984): 623-47, <https://doi.org/https://doi.org/10.2307/1228693>.

constitutional procedures continue to operate, there exists an informal structure of power that directs public policy beyond the reach of legal accountability and public oversight. A clear manifestation of this phenomenon can be observed in political party leaders who remain in office without temporal limitation, thereby negating the principles of elite circulation and political accountability. Such conditions produce forms of leadership detached from mechanisms of checks and balances, consequently weakening the principle of limited government that is essential within a democratic system. This phenomenon is reflected in the strategic decision-making processes of political parties, which are frequently opaque and characterized by the concentration of authority in the hands of a small group of elites without meaningful participation from party members. As a result, although the formalities of democracy (such as elections and procedural mechanisms), continue to function, the substantive essence of democracy, namely governance based upon the will of the people and respect for individual rights, becomes progressively eroded. Shadow constitutionalism further reinforces a culture of political patronage in which loyalty to party leaders supplants accountability to the public.³² This phenomenon demonstrates how the domination of party elites without temporal limitation creates conditions for oligarchic control over political processes *de facto*, while simultaneously weakening the Constitution's authority as the supreme norm within the legal order.

Article 23, paragraph (1) of Law No. 2/2011, by disregarding limitations on the tenure of political party leaders, constitutes a neglect of the principles of separation and supervision of power inherent in Article 1, paragraph (3) of the UUD NRI 1945. The Constitutional Court's failure to recognize this issue reflects its inability to develop its institutional function as the guardian of constitutional principles that are substantive and transformative in nature. Where the Constitutional Court leaves this matter entirely to the internal logic of political parties, what is perpetuated is not democracy, but rather a form of constitutional passivity that legitimizes concealed oligarchic practices.

Where the legal system entirely delegates the limitation of leadership tenure to the internal discretion of political parties, absent rigid restrictions, the space for political regeneration becomes obstructed by the monopolistic accumulation of elite power. Such

³² D. Hine, "Political Parties and the Public Accountability of Leaders," in *Elitism, Populism, and European Politics* (Oxford University Press, 1996), 121–42, <https://doi.org/https://doi.org/10.1093/0198280351.003.0007>.

a condition constitutes the antithesis of the mandate embodied in Article 28C paragraph (1) of the UUD NRI 1945, which guarantees every person the right to develop oneself for the improvement of one's quality of life. Self-development and meaningful participation within the political sphere cannot be realized where political party structures fail to provide mechanisms for the periodic and meritocratic transfer of power. When strategic positions within political parties become accessible only to particular groups possessing familial ties or personal affiliations with ruling elites, there arises a violation of the principle of equality of opportunity within the political domain.

The exclusive reproduction of power, as reflected in the practice of political dynasties, directly produces a political environment that is closed and hierarchical in nature.³³³⁴ Political dynasties are not merely a sociological problem concerning the hereditary transmission of power within familial or kinship networks,³⁵ but also reflect the failure of the legal system to establish a framework capable of promoting democratic elite circulation. The absence of legal mechanisms encouraging leadership renewal facilitates manipulation in the nomination processes for regional heads, legislative members, and other strategic positions within public institutions. Such practices may ultimately shape public policies according to the narrow interests of political families, thereby sacrificing the aspirations of the people while reinforcing patronage networks vulnerable to structural corruption.

Political dynasties constitute a direct manifestation of a violation of the principle of open access order, which requires equal opportunities for all citizens to participate in political life and to access political power. Consequently, the consolidation of authority within a limited number of political families weakens the principle of meritocracy, obstructs policy innovation, and substantively threatens the spirit of constitutional democracy founded upon equality of rights and accountability.³⁶

The stagnation of cadre regeneration within political parties, resulting from the absence of limitations on the tenure of party leaders, has a direct impact on the

³³ A. I. Ananda, "The Influence of Political Dynasty on the Democracy Climate," *Constitutional Law Society* 2, no. 1 (2023): 9–17, <https://doi.org/https://doi.org/10.36448/cls.v2i2.37>.

³⁴ E. Dal Bó, P. Dal Bó, and J. Snyder, *Political Dynasties*, no. 13122 (2007), <https://doi.org/https://doi.org/10.3386/w13122>.

³⁵ Ananda, "The Influence of Political Dynasty on the Democracy Climate."

³⁶ R. Naufal, M. Ramadhan, and Muhibban, "Political Dynasties: Threats or Contributions to Democracy," *HISTORICAL: Journal of History and Social Sciences* 3, no. 3 (2025): 244–50, <https://doi.org/https://doi.org/10.58355/historical.v3i3.118>.

obstruction of political regeneration and the deterioration of the quality of representation.³⁷ Young cadres who, in fact, possess substantial potential and dedication to advancing political renewal become marginalized because political parties are controlled by elites who maintain power through patronage-based systems. Consequently, political parties evolve into mechanisms for reproducing loyalty rather than competence and integrity.

The selection process for legislative and executive candidates thus tends to prioritize personal proximity to party leaders over the candidates' capacity to formulate responsive and people-oriented public policies. This condition ultimately weakens national political capacity-building, as no meaningful process of political learning and leadership development is available for emerging generations. The poor quality of cadres advanced by political parties adversely affects the quality of legislative products and undermines the effectiveness of oversight over the executive branch. Public policy formulation thereby ceases to be grounded in the needs of the people and instead becomes an instrument serving the political interests of party elites. Such practices threaten the quality of democracy itself, insofar as political parties fail to perform their constitutional role as intermediaries between the people and the state. More fundamentally, stagnation in party cadre regeneration poses a serious threat to the sustainability of electoral politics, as it prevents the emergence of alternative leaders who are relevant and responsive to contemporary challenges.³⁸ The inability of political parties to regenerate leadership deprives citizens of diverse electoral choices, thereby reducing the democratic process to a mere procedural formality devoid of substantive change. This condition further contributes to the delegitimization of electoral processes, as the public no longer perceives the existence of a healthy and competitive circulation of power. When the same party elites continue to dominate political life, political accountability declines sharply because mechanisms of public oversight and evaluation become increasingly ineffective. In turn, such circumstances cultivate a condition of democratic fatigue, in which citizens lose confidence in the democratic process itself. Rather than functioning as a means of realizing popular sovereignty, elections are

³⁷ M. Mardiana et al., "Recadotation of Political Parties Preparation of General Elections in the Perspective of Caderization Theory," *International Journal of Law, Environment, and Natural Resources* 2, no. 2 (2023): 111–18, <https://doi.org/https://doi.org/10.51749/injurlens.v2i2.31>.

³⁸ Mardiana et al.

transformed into routine political rituals incapable of producing new leadership or innovative solutions to national challenges.

The legal system ought to function as a driving force for socially just transformation. Where Article 23 paragraph (1) of Law No. 2/2011, which regulates the tenure of political party leaders, remains uncorrected or unreviewed by the Constitutional Court, significant constitutional problems arise because the provision can no longer be regarded as neutral. Instead, the norm operates as an instrument that reinforces the exclusive concentration of political power within party elites, thereby narrowing the space for leadership regeneration and public participation. Such circumstances amount to the perpetuation of conditions that are inconsistent with democratic principles and that carry the potential to generate oligarchic political practices. Rather than facilitating equitable social transformation, the provision actively contributes to the preservation of a political status quo that is contrary to the principles of social justice and egalitarianism within a rule-of-law state oriented toward public welfare and equal participation.

Therefore, Constitutional Court Decision Number 22/PUU-XXIII/2025, which declined to correct the aforementioned provision, has, in effect, reinforced a stagnant and closed political power status quo. In doing so, the Constitutional Court failed to discharge its constitutional mandate as the protector of citizens' constitutional rights to develop and participate equally in political life. The Court's judicial inaction cannot properly be characterized as an exercise of judicial restraint, but rather as a disregard for the progressive function of the Constitution as a living document, which must continually be interpreted substantively to maintain a balance between the people and political elites in the exercise of power.

b. The Right of Recall by Political Parties: Denial of the People's Sovereignty

The practice of interim dismissal PAW of DPR by political parties, as regulated under Article 239 paragraph (2) of Law No. 17/2014, which authorizes political parties to propose the dismissal of legislative members on the grounds of expulsion from party membership or pursuant to internal party proposals, constitutes a deprivation of popular sovereignty within a representative democratic system. Such a provision transfers the locus of control over representatives of the people from the constituents to

party elites, who, in practice, frequently act not based on public accountability, but rather in pursuit of internal party power interests. Substantively, the recall mechanism exercised by political parties is incompatible with the principle of popular sovereignty as enshrined in Article 1 paragraph (2) of the UUD NRI 1945, which affirms that “sovereignty resides in the hands of the people and shall be exercised under the Constitution”.³⁹ Within an open proportional electoral system, the relationship between voters and legislative candidates is direct in nature.⁴⁰ Voters explicitly determine the individual who will represent them in the legislature by casting votes for a candidate’s name, rather than merely selecting a political party. Where a representative who has obtained an electoral mandate from the people is dismissed by the internal structure of a political party, without any involvement of constituents in the evaluation or revocation of such mandate, a constitutional deviation occurs. Party recall does not function as a corrective mechanism exercised by the people against their representatives, but rather as a form of coercive and oligarchic intra-party discipline.

The exercise of recall by political parties directly contravenes the constitutional principles embodied in Article 28D paragraph (1) of the UUD NRI 1945, namely the right to equal treatment before the law and the right to fair legal certainty. Recall mechanisms are implemented without transparent evidentiary procedures, thereby providing no guarantee of procedural fairness for legislative members subjected to such measures. This condition creates vulnerability for legislators who adopt critical positions or express views differing from those of party elites, as recall may be employed as a political instrument to remove them without affording any meaningful opportunity for self-defense or the right to be heard.⁴¹ Ultimately, such recall practices create conditions conducive to political repression, weaken the integrity of the legislature as an institution representing the people, and generate fear among legislators in exercising their independence to articulate and defend the public interest.

³⁹ S. Fikri, “Kewenangan Partai Politik Dalam Pergantian Antar Waktu Anggota Lembaga Perwakilan” (Universitas Airlangga, 2001).

⁴⁰ B. Sulaiman and Y. Rohaniah, “Analisis Pemilu Dengan Sistem Proporsional Terbuka,” *PETANDA: Jurnal Ilmu Komunikasi Dan Humaniora* 4, no. 2 (2023): 88–105, <https://doi.org/https://doi.org/10.32509/petanda.v4i2.3319>.

⁴¹ Marriansah, Zarkasi, and Amin, “Analisis Terhadap Putusan Mahkamah Agung Nomor 57 P/Hum/2019 Tentang Pergantian Antar Waktu Anggota Legislatif.”

Such disregard for due process of law is incompatible with the principle of the *rechtsstaat*, under which every action restricting an individual's right to hold public office must be carried out through lawful procedures and remain subject to judicial review. In several of its prior decisions, including Decision Number 16/PUU-VI/2008 and Decision Number 90/PUU-XXI/2023, the Constitutional Court emphasized the importance of safeguarding individual constitutional rights within a democratic system. However, in Decision Number 22/PUU-XXIII/2025, the Constitutional Court failed to carry forward those principles and instead adopted a passive stance toward the authority of political parties to execute recall mechanisms without adequate legal oversight.

The exercise of recall by political parties also creates a contradiction with the principle of political accountability. In principle, political accountability should operate vertically, namely between representatives of the people and the constituents who confer mandates through elections.⁴² However, under the recall mechanism legalized by Article 239 of Law No. 17/2014, this relationship of accountability is transformed into a horizontal relationship between legislative members and political parties. Such a condition produces a distortion of political loyalty, whereby Members of the DPR become more concerned with compliance with the will of party elites than with advancing the interests of the people as the true holders of sovereignty. This dynamic effectively transforms the status of DPR members from public representatives, whose constitutional role is to articulate and defend the aspirations of the people, into party delegates whose primary function is merely to execute party directives.

As a consequence, the political independence and moral autonomy of legislative members are substantially eroded. This has direct implications for the formulation of public policy, which increasingly becomes shaped by internal party agendas rather than the actual needs of society. Recall, in its present form, not only weakens the representative function of the legislature, but also diminishes the quality of democracy itself, which ought to guarantee the realization of popular sovereignty.

The exercise of recall by political parties creates a condition of subordination of the legislative institution to the will of political parties, which ultimately undermines the

⁴² J. Dunn, "Situating Democratic Political Accountability," in *Democracy, Accountability, and Representation* (Cambridge University Press, 1999), 329–44.

balance of power between the legislative and executive branches. Legislative members who seek to perform their oversight functions or adopt positions differing from the official party line face the threat of unilateral dismissal through recall, even where such actions are undertaken in accordance with the aspirations of their constituents. This situation fosters the emergence of a politics of fear, in which legislators become reluctant to articulate and defend the interests of the people whenever such interests conflict with those of party elites. As a consequence, the functions of oversight and legislation become ineffective, being shaped more by formal obedience to political parties than by accountability to the electorate. Such circumstances give rise to a depoliticization of the representative function, whereby political parties are transformed into institutions that impose the will of party elites upon legislative members. In this sense, recall evolves into a mechanism of political silencing that distances democracy from its participatory essence. Democracy, which ought to function as a sphere of public deliberation, is thereby reduced to a formal procedural framework concealing the realities of authoritarianism embedded within the relationship between political parties and legislative institutions.

A further consequence of granting unlimited recall authority to political parties is the degradation of the fundamental principles underlying the open proportional electoral system, as previously affirmed by the Constitutional Court itself in Decision Number 90/PUU-XXI/2023. As previously noted, voters possess a constitutional right to elect legislative candidates directly based on individual names, rather than merely through party affiliation, thereby creating a representative relationship between the people and individual legislative candidates. Such a relationship reinforces the principle of direct accountability, under which representatives of the people are accountable directly to their constituents, rather than solely to the organization of political parties

However, where political parties continue to be vested with full authority to exercise recall without the involvement of the electorate that originally conferred the mandate, the open proportional system loses its substantive meaning. Political parties become the sole actors dominating the entire political process: from the selection of legislative candidates, the nomination of candidates to the General Elections Commission (*Komisi Pemilihan Umum*–KPU), to determining the fate of legislators after elections have concluded. Consequently, the people, who ought to hold ultimate sovereignty within a

representative system, are marginalized by the dominance of party oligarchies. Such circumstances create an acute normative dissonance between an electoral system formally grounded in the personal mandate of candidates and a political party structure concentrated in the hands of elites. Political parties thereby function simultaneously as electoral gatekeepers and parliamentary executioners, determining not only who may contest elections through candidate lists, but also who may continue to occupy legislative seats, although such representatives have already obtained a direct mandate from the electorate.

Recall practices implemented without mechanisms for substantive review and without adequate protection of the rights of legislative members reduce the open proportional electoral system to a mere procedural formality devoid of genuine democracy. As a result, the recall mechanism becomes a political instrument for suppressing freedom of representation and undermining the principle of electoral accountability. In this respect, the open proportional system is transformed into a normative illusion, far removed from the democratic ideal of meaningful popular participation.

A weakness of the Constitutional Court in Decision Number 22/PUU-XXIII/2025 lies in its inconsistency in maintaining coherence between its prior decisions concerning the open electoral system and the reality of recall provisions that revoke electoral mandates without public oversight. In fact, consistency in constitutional reasoning constitutes an inseparable element of the principles of legal integrity and judicial coherence.⁴³ Where the Constitutional Court fails to establish coherence between the principles of the open electoral system and the protection of the mandates produced by that system, the Court ultimately undermines the legitimacy of electoral democracy itself.

The implication of this condition is the creation of a legislative institution that is dependent rather than genuinely representative. Legislative members, who ought to perform oversight functions over the government and advocate for the aspirations of their constituents, lose political independence and courage because they remain under the constant threat of recall. Such circumstances endanger the principle of *trias politica*,

⁴³ B. S. Prabowo and W. Wiryanto, "Konsistensi Pembuatan Norma Hukum Dengan Doktrin Judicial Activism Dalam Putusan Judicial Review," *Jurnal Konstitusi* 19, no. 2 (2022): 359–80, <https://doi.org/https://doi.org/10.31078/jk1925>.

as the legislative function becomes subordinated to the will of political parties, which is not always synonymous with the public interest. Moreover, this condition further deteriorates the quality of deliberative democracy by degrading the autonomy of thought and action of representatives who should properly function as guardians of the public interest. The recall provisions left uncorrected by the Constitutional Court in the a quo case constitute a normative contradiction to the principles of the open proportional electoral system.

The Constitutional Court, which in its prior jurisprudence had emphasized the importance of maintaining a direct relationship between the people and their representatives, has in the present decision instead created legal space for party intervention that severs that electoral relationship. Such judicial abstention cannot be justified within a constitutional rule-of-law state, as it erodes the substantive meaning of elections and transforms the legislature into an instrument of political elites rather than an institution of popular representation.

c. Legal State and Political Parties

The condition in which political parties are formally treated as private institutions, while in reality exercising dominant authority over the appointment of public officeholders and the control of state institutions, gives rise to a profound irony within Indonesia's democratic framework. The distinction between private and public institutions ought to be determined by the functions and roles they perform within the constitutional system. Where a non-state entity directly exercises public functions, particularly in matters concerning popular representation and the filling of state offices, such an entity must normatively be subject to the principles of public law, especially the principles of constitutional accountability and the rule of law as guaranteed under Article 1 paragraph (3) of the UUD NRI 1945.

However, under the Indonesian legal framework, political parties continue to be positioned as private legal entities governed through internal autonomy under their AD/ART. Such status is formally recognized in Article 1, point 3, and Article 2 paragraph (1) of Law No. 2/2011. Nevertheless, the private-law autonomy granted by statute cannot be interpreted as a *carte blanche* authorizing political parties to regulate themselves absolutely and without limitation by constitutional principles. This is because political parties are institutions expressly mandated by the UUD NRI 1945 to

function as constitutional vehicles in the processes of political recruitment and the representation of state power.⁴⁴

As stipulated in Article 6A paragraph (2) and Article 22E paragraph (3) of the UUD NRI 1945, political parties occupy a central role as the only institutions vested with the authority to nominate candidates for President and Vice President and to participate in legislative elections.⁴⁵ This position effectively renders political parties constitutional organs in effect, possessing strategic functions in the recruitment of political officeholders and the formation of governmental structures. A serious irony arises where political parties, despite being entrusted with the authority to nominate public officials and participate in elections, operate internally through systems that tend to be authoritarian, closed, and undemocratic. The absence of term limitations for political party leaders, combined with the absolute authority to exercise recall against legislative members, demonstrates that political parties function as private institutions wielding powers that transcend the mechanisms of public-law control. Such circumstances generate a condition of legal asymmetry, whereby state structures that ought to function as mechanisms for controlling political parties instead become subordinated to the internal logic of party organizations. In effect, political parties are transformed into institutions that not only determine who may attain power, but also decide who may remain within the circle of power, irrespective of the aspirations of the people. This condition erodes the principle of checks and balances that constitutes a foundational element of both the rule of law and constitutional democracy.

This situation creates a fundamental inconsistency with the principles of constitutionalism. The state formally recognizes the Constitution, yet simultaneously permits political parties, which function as the principal actors in determining the direction of government and the representation of the people, to operate beyond the reach of constitutional principles. The Constitutional Court ought therefore to have exercised the courage to reinterpret the normative status of political parties. By recognizing that political parties perform essential public functions, the Constitutional Court could have positioned them as quasi-state actors bearing an obligation to comply with the principles of the rule of law. This would mean that political parties could no

⁴⁴ F. Jurdi, *Pengantar Hukum Partai Politik* (Kencana, 2020).

⁴⁵ R. Ristawati, "Pemilihan Umum Presiden Dan Wakil Presiden Indonesia Dalam Kerangka Sistem Pemerintahan Presidensiil," *Jurnal Konstitusi* 2, no. 1 (2009): 10–38.

longer operate merely as private institutions, but instead as integral components of the constitutional structure of the state, required to uphold the principles of transparency, accountability, and openness to public oversight. Absent such reinterpretation, the democratic system will remain perpetually vulnerable to domination by political party oligarchies.

Precedents that have developed within modern democratic states demonstrate that private entities exercising strategic public functions are no longer treated as purely private institutions. This development is reflected in the concept of *staatsrechtelijke functie*, which requires non-state actors to remain subject to the principle of *publiekrechtelijke verantwoordelijkheid*, namely the principle of public accountability inherent in every institution exercising functions of the state.⁴⁶ This concept is highly relevant for adoption within the Indonesian constitutional framework, particularly by the Constitutional Court, to address the growing tendency toward the privatization of public power that distorts the mechanisms of checks and balances. Where political parties continue to operate as private institutions despite performing inherently public functions (such as nominating public officials and participating in the administration of elections), the supremacy of the Constitution loses its practical meaning. When the Constitutional Court fails to adopt a corrective position toward the dominant authority of political parties in matters such as recall mechanisms and the control of strategic offices without tenure limitations, the Court indirectly legitimizes the existence of hidden constitutional actors operating beyond the constraints of the rule of law. Under such conditions, the UUD NRI 1945 loses its supremacy as the fundamental law of the state, insofar as the principal actors within the democratic system are able simultaneously to claim institutional autonomy while exercising power capable of influencing state institutions without accountability.

When political parties emerge as “cloaked public actors,” the reality of the power they exercise must be analyzed not merely through the lens of private legal as formally regulated under statutory law, but rather through the functions they perform in organizing and distributing public power. Political parties are decisive actors in the appointment of state officeholders, the formulation of legislation, and the determination

⁴⁶ J. Barnes, “An Expanding Frontier of Administrative Law: The Public Life of Private Actors (A Functional Approach),” *European Public Law* 24, no. 3 (2018): 595–612, <https://doi.org/https://doi.org/10.54648/EURO2018033>.

of the direction of state policy.⁴⁷ By virtue of such a strategic position, political parties in substance perform a public governance function and, accordingly, are subject to the principle of constitutional accountability. The principle of constitutional accountability is not directed solely toward state institutions in the formal sense, but also toward every legal subject that plays a role in implementing the foundational principles of the state as enshrined in the Constitution.⁴⁸ Article 1 paragraph (3) of the UUD NRI 1945, which affirms that “The State of Indonesia is a state based on law,” embodies the principle that all forms of power (whether direct or indirect, normative or factual) must be exercised within the limits of law and remain subject to accountability. Where political parties claim the autonomy of private-law entities while in practice exercising public power that affects the structure and direction of the state, their status as concealed constitutional actors necessitates stricter constitutional oversight.

The principle of constitutional accountability entails the requirement that every institution exercising public power must be subject to three principles: transparency, judicial control, and limitation of power. However, these three principles are notably absent from the relationship between political parties and the state within Indonesian political practice. Political parties are under no legal obligation to disclose openly to the public the processes by which legislative or executive candidates are selected, thereby depriving the public of the right to scrutinize the political representation exercised in their name. No mechanism exists for judicial review of internal party decisions that directly affect public functions, such as the exercise of recall rights. Likewise, there are no enforceable legal norms concerning term limitations for party leaders or democratic mechanisms of internal evaluation. Under such circumstances, political parties exercise public power that directly affects the structure and functioning of state institutions, yet they do not bear the constitutional responsibilities ordinarily attached to other state institutions. Consequently, political parties exercise state-like powers without assuming corresponding state-like responsibilities.

The failure of the Constitutional Court, in Decision Number 22/PUU-XXIII/2025, to establish constitutional limitations upon political parties demonstrates the fragility of

⁴⁷ Jurdi, *Pengantar Hukum Partai Politik*.

⁴⁸ O. M. Kudriavtseva, “The State as a Special Subject of Constitutional and Legal Responsibility,” *Analytical and Comparative Jurisprudence* 5 (2023): 147–51, <https://doi.org/https://doi.org/10.24144/2788-6018.2023.05.24>.

the Court's role in safeguarding constitutional supremacy against the infiltration of authoritarian non-state power. The Constitutional Court ought not merely to function as a guardian of the text, but also as a guardian of constitutional ethos.⁴⁹ Where the Constitutional Court fails to recognize the constitutional role of political parties as concealed public institutions, it indirectly permits the democratic order to be controlled by actors who are not subject to the same standards of accountability imposed upon state institutions. The position of political parties as privileged private actors insulated from public oversight ultimately erodes the principle of popular sovereignty (vide Article 1 paragraph (2) of the UUD NRI 1945), because sovereignty is no longer exercised through formal state institutions accountable to the people, but instead through closed organizations that cannot be publicly challenged and bear no obligation to explain their internal policies. The consequence of such a condition is the emergence of a privatization of constitutional functions, whereby essential state functions are effectively assumed by non-state entities without mechanisms of accountability or judicial correction.

The demand that political parties be subjected to the principle of constitutional accountability is not a radical proposition contrary to the freedom of association, but rather an effort to restore the balance between power and responsibility within a democratic system. It is precisely in this context that the Constitutional Court ought to function as a progressive and visionary interpreter of the Constitution, capable of developing the doctrine that every exercise of power affecting the public sphere must remain subject to constitutional control. Where such a role is not performed, the rule of law loses its substantive meaning, leaving only formal procedures that serve merely to legitimize the dominance of unaccountable power

3. Implicationsof the Decision on the Legal System and Democracy

Decision Number 22/PUU-XXIII/2025 of the Constitutional Court reflects an institutional failure of the Court in carrying out its essential function as the guardian of the Constitution, not merely as the protector of the textual wording of the Constitution, but as the defender of the fundamental values constituting the spirit of the *demokratische*

⁴⁹ R. Patra, "Peran Mahkamah Konstitusi Sebagai Pengawal Demokrasi Di Indonesia," *Jurnal Komunikasi Hukum (JKH)* 8, no. 2 (2022): 381–93, <https://doi.org/https://doi.org/10.23887/jkh.v8i2.51180>.

rechtsstaat.⁵⁰⁵¹ In the a quo case, the Constitutional Court did not position itself as a progressive constitutional interpreter, but rather merely as a preserver of positive legal norms that, on their face, are incompatible with the foundational spirit of the UUD NRI 1945.

The role of the Constitutional Court as the guardian of constitutional democracy does not merely derive from Article 24C of the UUD NRI 1945, which grants the authority to review statutes against the Constitution, but also from the moral mandate within the constitutional system itself: namely, to ensure the protection of citizens' constitutional rights, prevent the domination of power, and uphold the principle of constitutional supremacy.⁵²⁵³ When the Constitutional Court openly affirms the conferral of absolute authority upon political parties to regulate the tenure of party leaders and to exercise recall against legislative members without strict normative limitations and fair control mechanisms, the Court effectively abandons its responsibility to uphold substantive democracy. The Constitutional Court failed to appreciate that constitutional democracy constitutes a value system demanding openness, meaningful participation, elite circulation, and strict limitations upon the exercise of power.

Democracy is not merely a mechanism for selecting leaders, but also a system ensuring that power cannot be arbitrarily consolidated by a particular group through legal loopholes. Where the Constitutional Court avoids its responsibility to restrain the concentration of political party power that controls legislative institutions and suppresses dissenting opinions through recall mechanisms, the Court contributes to the institutionalization of a procedural democracy devoid of substantive meaning.

This condition further demonstrates the Constitutional Court's disorientation in distinguishing between constitutional interpretation and legal formalism. Genuine constitutional interpretation ought to give life to constitutional norms within their actual socio-political context. In circumstances where political parties exercise unchecked

⁵⁰ M. Ilham, "Mahkamah Konstitusi Dalam Menegakkan Keadilan Konstitusional Di Era Modern," *Legal Standing: Jurnal Ilmu Hukum* 8, no. 2 (2024): 467-79, <https://doi.org/https://doi.org/10.24269/lis.v8i2.9643>.

⁵¹ I. S. Rahman, U. Rosidin, and M. A. K. Ramdani, "Kewenangan Mahkamah Konstitusi Sebagai Lembaga Superbody Dalam Sistem Ketatanegaraan Indonesia," *Qanuniya: Jurnal Ilmu Hukum* 1, no. 1 (2024): 35-46, <https://doi.org/https://doi.org/10.15575/qanuniya.v1i1.820>.

⁵² Ilham, "Mahkamah Konstitusi Dalam Menegakkan Keadilan Konstitusional Di Era Modern."

⁵³ Rahman, Rosidin, and Ramdani, "Kewenangan Mahkamah Konstitusi Sebagai Lembaga Superbody Dalam Sistem Ketatanegaraan Indonesia."

power, the Constitutional Court should possess the institutional courage to construct constitutional limitations through progressive interpretation, rather than foreclosing the possibility of reform by sheltering behind a misguided conception of judicial restraint. The Constitutional Court's unwillingness to engage in judicial activism in the present case does not constitute neutrality; rather, it amounts to judicial abdication, a withdrawal by the Court from its constitutional responsibilities.⁵⁴

The consequences of this failure cannot be reduced merely to academic concerns or theoretical debate. The legitimacy of the Constitutional Court as the guardian of the Constitution is thereby eroded, as the public will perceive that the Court is incapable of upholding constitutional principles when confronted with dominant political forces. Where the Constitutional Court remains passive in the face of democratic distortions perpetrated by political parties, the people are deprived of a legal instrument through which to resist abuses of power. The Constitutional Court risks being perceived merely as a procedural complement within a system already co-opted by dominant political interests. Moreover, the tolerance of unchecked political party power inevitably produces a deformation of democracy: a condition in which democracy continues to function procedurally, while substantively remaining controlled by oligarchic elites. Representative institutions lose their representative character, political regeneration becomes closed and exclusionary, and elections cease to function as arenas of free and fair competition, instead becoming mechanisms for reproducing entrenched political power. All of these conditions stand in direct contradiction to Article 1 paragraphs (2) and (3) of the UUD NRI 1945, which affirm the principles of popular sovereignty and the rule of law as the foundational pillars of the constitutional order.

The most serious implication of the Constitutional Court's decision in the present case lies not merely in the legalization of the political party power status quo, but in the delegitimization of the Constitutional Court itself as a constitutional institution that ought to stand on the side of the Constitution rather than on the side of those in power. Public trust in legal institutions constitutes an essential element of the legitimacy of the rule of law.⁵⁵ Without such trust, law loses its moral authority and is reduced to a mere

⁵⁴ Prabowo and Wiryanto, "Konsistensi Pembuatan Norma Hukum Dengan Doktrin Judicial Activism Dalam Putusan Judicial Review."

⁵⁵ J. Jackson and J. M. Gau, "Carving up Concepts? Differentiating between Trust and Legitimacy in Public Attitudes towards Legal Authority," in *Interdisciplinary Perspectives on Trust: Towards Theoretical and*

administrative instrument devoid of effective normative force. As explained by Lon L. Fuller,⁵⁶ law can function effectively only where it satisfies the principles constituting the internal morality of law, including consistency, fairness, and openness to criticism. Where the Constitutional Court fails to preserve coherence between constitutional principles and the practice of constitutional review, the result is the emergence of legal cynicism.⁵⁷

This phenomenon becomes increasingly acute when the Constitutional Court formally justifies party domination on the grounds of “internal authority” and “organizational autonomy.” Members of the public who witness the harmful consequences of authoritarian political parties (such as the death of elite circulation, the weakening of legislative functions, and the suppression of critical voices within parliament) will inevitably feel betrayed when the Constitutional Court, which ought to serve as the guardian of constitutional morality, instead legitimizes such deviations based on narrow positivism. Consequently, the integrity of the Constitutional Court as an institution of constitutional checks will gradually erode, and public confidence in the broader legal order of the state will experience a corresponding decline.

This decline in public trust has direct consequences for both the effectiveness of law and the stability of democracy. In the short term, it is likely to generate political apathy among members of society who perceive that their participation in elections will not produce meaningful change, given that political parties continue to retain absolute control over political office. Such conditions may give rise to constitutional alienation, whereby the people no longer perceive themselves as subjects protected by the Constitution, but rather as victims of a legal system captured by political elites. This condition stands in direct contradiction to Article 28C paragraph (2) of the UUD NRI 1945, which guarantees every citizen the right to participate in government, a right that can only be effectively realized where law remains trustworthy as a mechanism for the fair distribution of political power.

Methodological Integration (Springer International Publishing, 2016), 49–69, https://doi.org/https://doi.org/10.1007/978-3-319-22261-5_3.

⁵⁶ L. L. Fuller, *The Morality of Law* (Yale University Press, 1969).

⁵⁷ D. S. Kirk and M. Matsuda, “Legal Cynicism, Collective Efficacy, and the Ecology of Arrest,” *Criminology* 49, no. 2 (2011): 443–72, <https://doi.org/https://doi.org/10.1111/j.1745-9125.2011.00226.x>.

Through a decision that fails to uphold the values of justice and the control of political power, the Constitutional Court has contributed to the public perception that law is exclusive, technocratic, and elitist in character. The absence of institutional courage to realize justice in the present decision further distances the law from the ideals of social justice enshrined in the Preamble to the UUD NRI 1945. The judicial minimalism demonstrated by the Constitutional Court reinforces the narrative that the judiciary has become part of the structure of domination, rather than functioning as an autonomous corrective force. The decline in public trust toward legal institutions resulting from Decision Number 22/PUU-XXIII/2025 is not merely a psychological side effect, but rather a logical consequence of the failure of legal institutions to uphold the foundational principles of constitutionalism.

Where public trust in legal institutions undergoes progressive erosion as a consequence of the Constitutional Court's failure to demonstrate the courage necessary to uphold constitutional values, the inevitable long-term consequence is the emergence of a configuration of procedural democracy devoid of constitutional ethics. This represents a form of democracy that, while formally continuing to conduct elections, maintain representative institutions, and comply with written legal structures, loses its normative commitment to the principles of constitutionalism, including justice, limitation of power, accountability, and respect for the rights of citizens.

Such procedural democracy, in essence, constitutes a form of empty constitutionalism.⁵⁸ Where elections are reduced merely to five-yearly rituals regulated by statute, without guaranteeing the continuity of popular sovereignty and authentic representation, the political legitimacy produced by such processes becomes illusory and inherently vulnerable to contestation.

Indeed, Article 1 paragraph (2) of the UUD NRI 1945 explicitly affirms that sovereignty resides in the hands of the people and is exercised in accordance with the Constitution, meaning that democracy cannot be reduced solely to electoral procedures, but must instead be grounded in the recognition and protection of popular sovereignty itself. Decision Number 22/PUU-XXIII/2025 of the Constitutional Court opens the path toward the consolidation of a procedural democracy detached from constitutional ethics. In the long term, such conditions threaten to extinguish the spirit of the 1999–2002

⁵⁸ L. B. Solum, "The Aretaic Turn in Constitutional Theory," *Brooklyn Law Review* 70 (2004): 475–532.

constitutional reforms, which sought to position the Constitution as a living instrument for the protection of the people's rights and the limitation of power. Absent immediate and structural correction of the configuration of political party power, Indonesian democracy risks descending into a form of legally sanctioned illiberalism, in which freedoms remain formally guaranteed on paper but are never meaningfully realized in the actual exercise of power.

C. CONCLUSIONS

Decision Number 22/PUU-XXIII/2025 of the Constitutional Court constitutes a deeply problematic precedent in the constitutional history of Indonesia, because rather than strengthening the principles of constitutionalism, it instead widens the space for oligarchic power within political parties. The Court failed to perform its function as the guardian of the Constitution by declining to correct normative provisions that permit the absence of term limitations for political party leaders and by affirming the authority of political parties to exercise recall without substantive or procedural limitations. Such judicial passivity entrenches a form of procedural democracy lacking constitutional ethics and carries the potential to perpetuate the domination of political elites beyond the reach of public law. The absence of term limitations contradicts the principle of checks and balances, encourages the emergence of political dynasties, and undermines political cadre regeneration. Meanwhile, recall powers that are not strictly regulated create opportunities for political repression, damage the representative relationship between the people and their elected representatives, and negate the principle of popular sovereignty as guaranteed under Article 1, paragraph (2) of the UUD NRI 1945. Where political parties function as concealed public actors that are not subject to principles of accountability, the rule of law is transformed into a merely formal structure devoid of substantive justice.

In order to safeguard the continuity of constitutional democracy, it is necessary to reconstruct the legal framework governing political parties through a new legislative design that imposes term limitations and establishes stricter regulations over recall mechanisms. Beyond that, a paradigmatic shift in legal thought is required: political parties must be positioned as semi-public entities subject to the principles of democratic governance. Even where a petition is ultimately rejected, the Constitutional Court ought

to provide constitutional guidance in order to ensure that constitutional supremacy is not subordinated to calculations of political power, but instead remains aligned with the principles of justice, accountability, and popular sovereignty.

REFERENCES

- Ananda, A. I. "The Influence of Political Dynasty on the Democracy Climate." *Constitutional Law Society* 2, no. 1 (2023): 9–17. <https://doi.org/https://doi.org/10.36448/cls.v2i2.37>.
- Barnes, J. "An Expanding Frontier of Administrative Law: The Public Life of Private Actors (A Functional Approach)." *European Public Law* 24, no. 3 (2018): 595–612. <https://doi.org/https://doi.org/10.54648/EURO2018033>.
- Billah, M., A. Rahma, and M. Yudha. "Balancing Democracy and Adz-Dzari'ah Principles: Legal Reasoning on Term Limits for Political Party Chairpersons in Indonesia." *Supremasi Hukum: Jurnal Kajian Ilmu Hukum*, 2023.
- Dal Bó, E., P. Dal Bó, and J. Snyder. *Political Dynasties*. No. 13122. 2007. <https://doi.org/https://doi.org/10.3386/w13122>.
- Dalton, R. J., D. M. Farrell, and I. McAllister. *Political Parties and Democratic Linkage: How Parties Organize Democracy*. Oxford University Press, 2011.
- Dameanti, A. S., R. Mahendra, and Y. V. Oktivan. "Tinjauan Kritis Pergantian Antar Waktu Dalam Dinamika Politik Indonesia: Perspektif Demokrasi." *Civil Officium: Journal of Empirical Studies on Social Science* 3, no. 1 (2024): 16–21. <https://doi.org/https://doi.org/10.53754/civilofficium.v3i1.389>.
- Diamond, L., and R. Gunther. *Political Parties and Democracy*. Johns Hopkins University Press, 2001.
- Dogra, N. K., and V. Singh. "Democracy and Political Parties." *The Indian Journal of Political Science* 75, no. 1 (2014): 17–22.
- Dunn, J. "Situating Democratic Political Accountability." In *Democracy, Accountability, and Representation*, 329–44. Cambridge University Press, 1999.
- Erham, E., A. Ma'arij, and G. Gufran. "Diskursus Pembatasan Kekuasaan Di Indonesia Dalam Perspektif Konstitusi Dan Konstitusionalisme." *Legalitas: Jurnal Hukum* 16, no. 1 (2024): 72–78. <https://doi.org/https://doi.org/10.33087/legalitas.v16i1.595>.

- Evendia, Malicia, and Ade Arif Firmansyah. "Degenerative System of Popular Sovereignty by Political Parties Through the Instrument of the Recall Rights." *Pranata Hukum*, 2025.
- Fikri, S. "Kewenangan Partai Politik Dalam Pergantian Antar Waktu Anggota Lembaga Perwakilan." Universitas Airlangga, 2001.
- Fudin, H. "Aktualisasi Checks and Balances Lembaga Negara: Antara Majelis Permusyawaratan Rakyat Dan Mahkamah Konstitusi." *Jurnal Konstitusi* 19, no. 1 (2022): 202–24. <https://doi.org/https://doi.org/10.31078/jk1919>.
- Fuller, L. L. *The Morality of Law*. Yale University Press, 1969.
- Hasrul, Muhammad, Hartono Tasir Irwanto, Imran Eka Saputra, Muhammad Mutawalli Mukhlis, and Mohamed Cheikh Banane. "The Dynamics of The Relationship Between Central and Regional Government Affairs in Digital Transformation: Regulatory Arrangement Towards Smart Governance." *Malaqbi Law Review* 1, no. 1 (2026): 97–114.
- Hatim, A., S. D. Harijanti, and G. A. Taufik. "The Idea of Presidential Term Limit as an Implicit Unamendable Provision." *Jurnal Konstitusi* 21, no. 4 (2024): 542–64. <https://doi.org/https://doi.org/10.31078/jk2142>.
- Hilmy, M. I., and T. Marfiansyah. "Recall Referendum Sebagai Alternatif Proses Penggantian Antarwaktu Lembaga Legislatif Di Indonesia." *Volksgeist: Jurnal Ilmu Hukum Dan Konstitusi* 4, no. 1 (2021): 101–13. <https://doi.org/https://doi.org/10.24090/volksgeist.v4i1.4515>.
- Hine, D. "Political Parties and the Public Accountability of Leaders." In *Elitism, Populism, and European Politics*, 121–42. Oxford University Press, 1996. <https://doi.org/https://doi.org/10.1093/0198280351.003.0007>.
- Ilham, M. "Mahkamah Konstitusi Dalam Menegakkan Keadilan Konstitusional Di Era Modern." *Legal Standing: Jurnal Ilmu Hukum* 8, no. 2 (2024): 467–79. <https://doi.org/https://doi.org/10.24269/lv8i2.9643>.
- Jackson, J., and J. M. Gau. "Carving up Concepts? Differentiating between Trust and Legitimacy in Public Attitudes towards Legal Authority." In *Interdisciplinary Perspectives on Trust: Towards Theoretical and Methodological Integration*, 49–69. Springer International Publishing, 2016. https://doi.org/https://doi.org/10.1007/978-3-319-22261-5_3.

Jurdi, F. *Pengantar Hukum Partai Politik*. Kencana, 2020.

Khaitan, T. "Political Parties in Constitutional Theory." *Current Legal Problems* 73, no. 1 (2020): 89–125. <https://doi.org/https://doi.org/10.1093/clp/cuaa004>.

Kirk, D. S., and M. Matsuda. "Legal Cynicism, Collective Efficacy, and the Ecology of Arrest." *Criminology* 49, no. 2 (2011): 443–72. <https://doi.org/https://doi.org/10.1111/j.1745-9125.2011.00226.x>.

Kudriavtseva, O. M. "The State as a Special Subject of Constitutional and Legal Responsibility." *Analytical and Comparative Jurisprudence* 5 (2023): 147–51. <https://doi.org/https://doi.org/10.24144/2788-6018.2023.05.24>.

Latansa, Q. D. "Konstitusionalitas Batasan Masa Jabatan Presiden Dan Wakil Presiden Di Indonesia." *Jurist-Diction* 2, no. 2 (2019): 595–615. <https://doi.org/https://doi.org/10.20473/jd.v2i2.14254>.

Mardiana, M., M. M. Hasyim, A. R. Ridha, M. R. Fahlevi, and M. A. Hayat. "Recadotation of Political Parties Preparation of General Elections in the Perspective of Caderization Theory." *International Journal of Law, Environment, and Natural Resources* 2, no. 2 (2023): 111–18. <https://doi.org/https://doi.org/10.51749/injurlens.v2i2.31>.

Marriansah, A., A. Zarkasi, and M. Amin. "Analisis Terhadap Putusan Mahkamah Agung Nomor 57 P/Hum/2019 Tentang Pergantian Antar Waktu Anggota Legislatif." *Limbago: Journal of Constitutional Law* 2, no. 2 (2022): 216–31. <https://doi.org/https://doi.org/10.22437/limbago.v2i2.19130>.

Muhlashin, I. "Implikasi Penggantian Antar Waktu (PAW) Anggota DPR/DPRD Oleh Partai Politik Terhadap Demokrasi." *Jurnal Sosial Humaniora Sigli* 3, no. 1 (2020): 1–12. <https://doi.org/https://doi.org/10.47647/jsh.v3i1.231>.

Mukhlis, Muhammad Mutawalli, Zulhilmi Bin Paidi, and Wiranti. "The Interests of Democracy or the Eradication of Corruption: The Dissolution of Political Parties in a Review of Law and Practice in Other Countries." *Constitutional Law Review* 4, no. 1 (2025): 70–97. <https://doi.org/https://doi.org/10.30863/clr.v4i1.5632>.

Mukhlis, Muhammad Mutawalli, Muhammad Saleh Tajuddin, Ilham, Koharudin, and Abdul Rahman. "Democratization or Extra-Constitutionalism: Ideas for Limiting the Term of Office for Chairmen of Political Parties in Indonesia." *Jambura Law*

- Review* 6, no. 2 (2024): 367–402.
<https://doi.org/https://doi.org/10.33756/jlr.v6i2.24116>.
- Mukhlis and others. “Development of Political Parties by the State: From Oligarchy to Democratization in Indonesia.” *PETITA: Jurnal Kajian Ilmu Hukum Dan Syariah*, 2025.
- Naufal, R., M. Ramadhan, and Muhibban. “Political Dynasties: Threats or Contributions to Democracy.” *HISTORICAL: Journal of History and Social Sciences* 3, no. 3 (2025): 244–50. <https://doi.org/https://doi.org/10.58355/historical.v3i3.118>.
- Patra, R. “Peran Mahkamah Konstitusi Sebagai Pengawal Demokrasi Di Indonesia.” *Jurnal Komunikasi Hukum (JKH)* 8, no. 2 (2022): 381–93. <https://doi.org/https://doi.org/10.23887/jkh.v8i2.51180>.
- Persson, T., G. Roland, and G. Tabellini. “Separation of Powers and Political Accountability.” *The Quarterly Journal of Economics* 112, no. 4 (1997): 1163–202. <https://doi.org/https://doi.org/10.1162/003355300555457>.
- Prabowo, B. S., and W. Wiryanto. “Konsistensi Pembuatan Norma Hukum Dengan Doktrin Judicial Activism Dalam Putusan Judicial Review.” *Jurnal Konstitusi* 19, no. 2 (2022): 359–80. <https://doi.org/https://doi.org/10.31078/jk1925>.
- Pratiwi, J. I., N. Salama, and S. Ulfah. “Pembatasan Masa Jabatan Presiden Di Indonesia.” *Jurnal Rechten: Riset Hukum Dan Hak Asasi Manusia* 3, no. 1 (2021): 18–26.
- Rahman, I. S., U. Rosidin, and M. A. K. Ramdani. “Kewenangan Mahkamah Konstitusi Sebagai Lembaga Superbody Dalam Sistem Ketatanegaraan Indonesia.” *Qanuniya: Jurnal Ilmu Hukum* 1, no. 1 (2024): 35–46. <https://doi.org/https://doi.org/10.15575/qanuniya.v1i1.820>.
- Ramli, M. A., and G. T. Ardika. “Studi Kritis Terhadap Konsep Negara Hukum.” *Media Keadilan: Jurnal Ilmu Hukum* 10, no. 2 (2019): 132–47.
- Rauf, Muhamad Aljebra Aliksan, Marten Bunga, and Hardianto Djanggih. “Hak Recall Partai Politik Terhadap Status Keanggotaan Dewan Perwakilan Rakyat Dalam Sistem Ketatanegaraan Indonesia. Jurnal Magister Hukum Udayana.” *Jurnal Magister Hukum Udayana* 7, no. 4 (2018). <https://doi.org/https://doi.org/10.24843/JMHU.2018.v07.i04.p03>.

- Riqiey, B., and S. Hadi. "Constitutional Imperatives: Examining the Urgency of Term Limits for Members of the House of Representatives." *Mimbar Keadilan* 17, no. 1 (2024): 1–16.
- Riqiey, B., A. A. Pramesti, and A. C. Sakti. "Pembatasan Masa Jabatan Ketua Umum Parpol Dalam Perspektif Demokrasi." *Jurnal Mengkaji Indonesia* 1, no. 1 (2022): 1-17.
<https://doi.org/https://doi.org/10.59066/jmi.v1i1.46>.
- Ristawati, R. "Pemilihan Umum Presiden Dan Wakil Presiden Indonesia Dalam Kerangka Sistem Pemerintahan Presidensiil." *Jurnal Konstitusi* 2, no. 1 (2009): 10–38.
- Shubhan, M. H. "Recall: Antara Hak Partai Politik Dan Hak Berpolitik Anggota Parpol." *Jurnal Konstitusi* 3, no. 4 (2006).
- Siswoko, H. "Ewenangan Hak Menguji Undang-Undang Terhadap Konstitusi Oleh Mahkamah Konstitusi Dalam Menciptakan Negara Hukum Yang Demokratis." *Mizan: Jurnal Ilmu Hukum* 11, no. 1 (2022): 94–99.
<https://doi.org/https://doi.org/10.32503/mizan.v11i1.2663>.
- Solum, L. B. "The Aretaic Turn in Constitutional Theory." *Brooklyn Law Review* 70 (2004): 475–532.
- Sulaiman, B., and Y. Rohaniah. "Analisis Pemilu Dengan Sistem Proporsional Terbuka." *PETANDA: Jurnal Ilmu Komunikasi Dan Humaniora* 4, no. 2 (2023): 88–105.
<https://doi.org/https://doi.org/10.32509/petanda.v4i2.3319>.
- Tushnet, M. "Critical Legal Studies and Constitutional Law: An Essay in Deconstruction." *Stanford Law Review* 36, no. 2 (1984): 623–47.
<https://doi.org/https://doi.org/10.2307/1228693>.
- Yahya, A. Z., and H. Hufron. "Urgensi Penerapan Constituent Recall." *Jurnal Mengkaji Indonesia* 2, no. 1 (2023): 63–80.
<https://doi.org/https://doi.org/10.59066/jmi.v2i1.323>.