

The Open Proportional Election System in Indonesia: Legal Problems, Oligarchic Practices, and State Financial Losses

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Citation: Pardede, M., Situmorang, M., Djamilus., Yusyanti, D., Djuniarti, E. and Sosiawan, U. M. (2026). The Open Proportional Election System in Indonesia: Legal Problems, Oligarchic Practices, and State Financial Losses, *Journal of Cultural Analysis and Social Change*, 11(2), 488-511. <https://doi.org/10.64753/jcasc.v11i2.4954>

Published: July 21, 2026

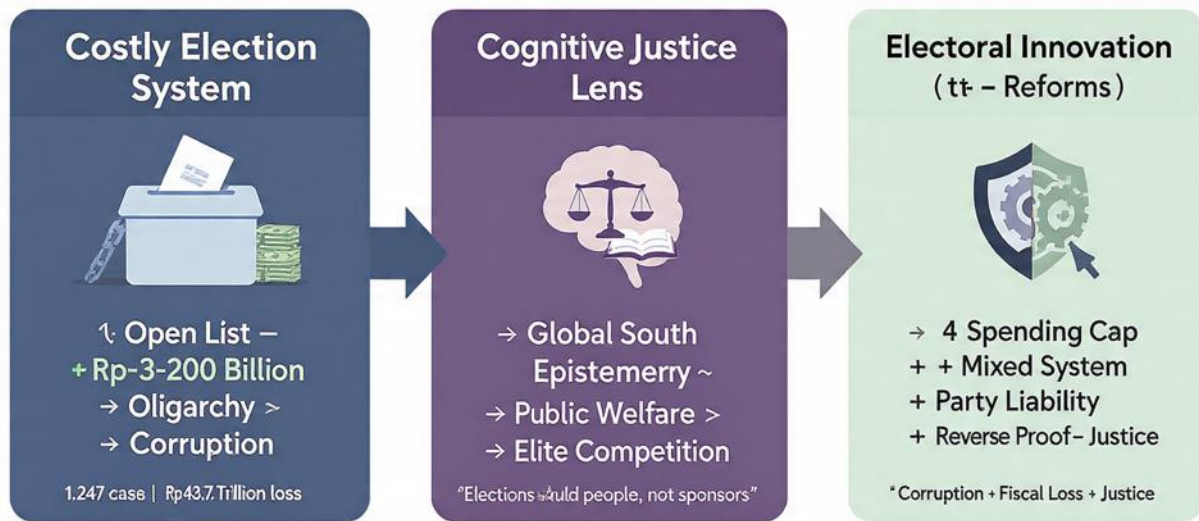
ABSTRACT

This study addresses the negative impacts of Indonesia's open proportional election system, particularly its tendency to foster oligarchy, corruption, and abuse of office that result in significant losses to the state economy and public welfare. The system compels elected officials to recoup substantial campaign costs funded by oligarchs, often through corrupt practices, as evidenced by numerous convictions of regional heads and ministers. This research employs a normative juridical method with a descriptive-analytical specification. Data were collected from secondary and tertiary legal materials, including statutory regulations, court decisions, audit reports from the Supreme Audit Agency (BPK), and previous scholarly studies on electoral corruption. A qualitative legal analysis was used to identify regulatory gaps in the current electoral system. The findings reveal three structural problems: 1) The open proportional system creates high-cost politics, forcing candidates to rely on financiers and triggering a cycle of capital repayment through corruption; 2) Weak legal instruments fail to regulate campaign financing, money politics, and conflicts of interest, enabling state financial leakages; 3) The system prioritizes elite competition over public interest, undermining welfare-oriented governance. The study estimates that electoral corruption linked to this system has contributed to trillions of rupiah in state losses since 2019. The novelty of this research lies in its legal reconstruction proposal: the need for urgent electoral regulation that embeds principles of economic justice and state financial protection. The study concludes that reforming the open proportional system is imperative. It recommends policy changes focused on campaign finance transparency, strict sanctions for money politics, and legal safeguards to ensure elections support national economic growth and public welfare, not oligarchic interests.

Keywords: Open proportional system; electoral corruption; oligarchy; campaign finance; state financial losses; Indonesia.

Graphical Abstract

From From Costly Elections to Cognitive Justice: Innovation Pathway



INTRODUCTION

The implementation of general elections in relation to current governance is a problem, because the capital city of a country is positioned specifically for its management, because its function is not only as a location for the center of government, but also as a center for managing the political process, in which there are political institutions that form, reproduce, and transform various dimensions of the state.¹ Being at the crossroads of internal and external relations of a country in addition to being related and interacting with each other.² The problem is, the design of the country's capital city will face the problem of regional governance (municipal governance). There is a tendency in practice in a number of countries to centralize this management. This centralization can be understood considering that the capital city carries symbolic centrality. A centralized governance structure is often designed to ensure growth in relation to urban development. Centralization is also related to efforts to reduce the risk of conflict and efforts to mitigate improper governance (misgovernance). The concept of planned capital cities emerged along with the formation of the planned capital city in the period 1945-1960 when 30 countries in the Asian and African continents won their independence and tried to build something that gave rise to a sense of independence.³

There is a tendency in practice in a number of countries to centralize the management. This centralization is understandable considering that the capital city carries symbolic centrality,⁴ A centralized governance structure is often designed to ensure growth in relation to urban development.⁵ Centralization is also related to efforts to reduce the risk of conflict and efforts to mitigate misgovernance.⁶ The concept of planned capital cities emerged along with the formation of the planned capital city in the period 1945-1960 when 30 countries in Asia and Africa won their independence and tried to build something that gave rise to a sense of independence.⁷

The state is an integration of political power and the main organization of political power. In addition, the state is an agency (tool) of society that has the power to regulate human relations and regulate the

¹ I. Y. Okunev, "Functions of the capital city in the political and territorial structure of the state," dalam *IOP Conference Series: Earth and Environmental Science*, vol. 740 (IOP Publishing Ltd, 2021), p.1, <https://doi.org/10.1088/1755-1315/740/1/012016>.

² Jean Gottmann, "The role of capital cities," *URBAN SYSTEMS* 44, no. 264 (1977): 240–43.

³ Rossman dan Vadim, *Capital Cities: Varieties and Patterns of Development and Relocation* (Oxon: Routledge, 2017).

⁴ Lawrence J. Vale, "The Urban Design of Twentieth Century Capitals," dalam *Planning Twentieth Century Capital Cities*, ed. oleh David L.A. Gordon (London & New York: Routledge, 2006), 36.

⁵ Sukko Kim dan Marc T. Law, "Political centralization, federalism, and Urban development: Evidence from US and Canadian capital cities," *Social Science History* 40, no. 1 (25 Januari 2016): 121–46, <https://doi.org/10.1017/ssh.2015.83>.

⁶ Filipe R Campante, Quoc-Anh Do, dan Bernardo Guimaraes, "Capital Cities, Conflict, and Misgovernance," *American Economic Journal: Applied Economics* 11, no. 3 (Juli 2019): 298–337, <https://doi.org/10.1257/app.20170111>.

⁷ Hisham Abusaada dan Abeer Elshater, "Examining similarity indicators in six planned capital cities from Africa and Asia: a qualitative research technique," *City, Territory and Architecture* 9, no. 1 (1 Desember 2022): 1, <https://doi.org/10.1186/s40410-022-00181-2>.

phenomena of power in society. In this way, it can integrate and guide the social activities of its population towards common goals. The state is a society that is integrated because it has authority that is coercive and legally greater than the individuals or groups that are part of that society.⁸ Society is a group of people who live and work together to achieve their desires. A society is a state in which the way of life that must be adhered to by both individuals and associations is determined by an authority that is coercive and binding.⁹ The state is also a society with a monopoly on the legal use of physical violence in a territory.¹⁰

According to Stahl, in Ash Shiddiqie's book, the concept of the rule of law is what Stahl calls *rechstaat*, which includes four important elements: Protection of Human Rights; Division of power; government based on law; and the State Administrative Court. Meanwhile, according to the AV, there are three important characteristics of the rule of law: the Supremacy of Law, Equality before law; and Due Process of Law.¹¹ A government system is a government order or structure that starts with the relationship between some state organs at the central level, especially between the executive and the legislature.¹² In a presidential government system, there is a system chart in, which the president is in a relatively strong position and cannot be overthrown.¹³ The government system is an understanding of accountability procedures for implementing an executive government in a democratic state.¹⁴ Scott Mainwaring,¹⁵ pointed out weaknesses of a coalition if it is formed in a presidential system. In this system, the president has strong powers, because apart from being the head of state, he is also the head of the government who chairs the cabinet (council of ministers).¹⁶ Therefore, to avoid dictatorship, checks and balances are needed between high state institutions, which is called checking power with power.¹⁷

A form of government where there is a strict separation between the legislative body (parliament) and the executive and judicial bodies. The president is both the head of the state and the executive. The president is not elected by parliament, but presidents and parliaments are jointly elected by the people through a general election.¹⁸ According to Rod Hogue, as quoted by the quarterly presidential administration, the president has a relatively strong position and cannot be overthrown because of subjective laws such as low political support. The president is responsible for his voters (Kies College). Thus, the president is dismissed based on accusations from the House of Representatives after being decided by the Senate. For example, the presidential system of government in the USA.¹⁹

Ahead of the Indonesian general election in February 2024, oligarchic problems and various cases of corruption have sparked quite heated debate among the government, legislature and society. This causes the level of legal awareness, oligarchic problems and various cases of corruption sparked heated debate among the government, legislature, and society. This causes the level of legal awareness. The legal culture of society, both regarding apparatus, substance/material and law enforcement agencies, tends to decline further, because the law has often become a tool of power whose implementation is distorted in such a way that it is contrary to the principles of democracy and justice, equal rights of citizens before the law and human rights. Even in the making of a law, sometimes it is strongly influenced by political content, and the law is used as a tool to validate the actions of the authorities. Doubts arise regarding the existence of the law, because social justice, which is the main principles of the law, is not fulfilled.²⁰ Of course, this is contrary to the legal philosophy of "Fiat Justitia et Pereat Mundus," (United States Legal Historian, Lawrence Meir Friedmann).²¹ The Preamble to the 1945 Constitution emphasizes that development is carried out in stages and planned in long-term, medium-term, and annual stages, to create an independent, advanced, just, and prosperous Indonesia.²² The vision of Advanced Indonesia 2045, as well as the development of a grand design for a sustainable National Legal System, requires in-depth research.²³ Legal policy as a means of societal renewal, "law as a tool of social engineering,"²⁴ is adapted to developing social and political conditions entering the era of national

⁸ Wahyu Prianto, "Implementasi Multi Partai Dan Koalisi Partai Terhadap Sistem Presidensial Di Indonesia," Kamis, 13 Januari, 2013.

⁹ J. Von Schmid Jhr. J., (*Harold J. Laski*) *Abli-Abli Pikir Besar Tentang Negara Dan Hukum* (Jakarta: Pustaka Sarjana, 1980).

¹⁰ Sardjana Hukum E.Utrecht, (*Max Weber*) *Pengantar Dalam Hukum Indonesia* (PT Penerbit Dan Balai Buku Ichtiar, 1959).

¹¹ Jimly Ash-shiddiqiey, *Menuju Negara Hukum Yang Demokratis* (Jakarta: Setjen dan Kepaniteraan Mahkamah Konstitusi, 2008).

¹² Phaul Heger, E.Utrecht, *Sardjana Hukum. Pengantar Dalam Hukum Indonesia* (Jakarta: PT Penerbit Dan Balai Buku, Ichtiar, 1959).

¹³ Phaul Heger, "Bagan Sistem Pemerintah," 2010.

¹⁴ Prof. Moh.Mahfud MD, *Politik Hukum Di Indonesia* (Yogyakarta: Gama Media, 1999).

¹⁵ Sardjana Hukum E.Utrecht, *Pengantar Dalam Hukum Indonesia* (Jakarta: PT Penerbit Dan Balai Buku, Ichtiar, 1959).

¹⁶ M. Ilham Habibie, "Pengaruh Konstelasi Politik Bagi Sistem Pemerintahan Presidensial" (Universitas Diponegoro Semarang, 2009).

¹⁷ Azhari Inu Kencana Syafie, *Sistem Pemerintahan Indonesia (Edisi Revisi)* (Jakarta: Rineka Cipta, n.d.).

¹⁸ Prof. Abu Daud Busroh, *Ilmu Negara* (Bumi Aksarah, 2010).

¹⁹ Habibie, "Pengaruh Konstelasi Politik Bagi Sistem Pemerintahan Presidensial."

²⁰ et all Parasong, Dr. Muhammad Ali Taher, "Bunga Rampai: "Hukum Dan Perkembangan Masyarakat, Kontribusi Pemikiran Dosen Fakultas Hukum, Universitas Muhammadiyah, Jakarta, Indonesia", et.All., "Aktualisasi Hukum Untuk Mengatasi KrisisNilai Dan Fragmentasi Sosial," ed. FHUMJ, cetakan Pe (Jakarta: P3IH, 2019), 76–94.

²¹ Marulak Pardede, "Tindak Pidana Korupsi Korporasi Dalam Bidang Perpajakan Perpajakan," *Jurnal Penelitian Hukum DE JURE* 20 (2019).

²² Prof. Dr. Romli Atmasasmita, *Hukum Kejahatan Bisnis Teori Dan Praktek Di Era Globalisasi*, ed. Prenandamedia Group, Edisi Kedu (Jakarta: Kencana, 2018).

²³ DKK Firdaus, *Efektifitas Implementasi Peraturan Menteri Hukum Dan HAM Nomor 22 Tahun 2018 Tentang Pengharmonisasian Rancangan Peraturan Menteri, Rancangan Peraturan Lembaga Pemerintah Non Kementerian Atau Rancangan Peraturan Dari Lembaga Non Struktural Oleh Perancang* (Jakarta: Balitbangkumham Press, 2019).

²⁴ Hanjar Makhmucik, "Hukum Menurut Roescoe Pound- Redline Indonesia Satu Jiwa Untuk Kemanusiaan," 2021.

development. It is unfortunate that, in practice, the legal policies of those in power have misunderstood the legal model of development, especially that means are equated with tools.²⁵

In the Republic of Indonesia, the upcoming general election period in 2029, there will be something new in the implementation of general elections in the Republic of Indonesia, namely, the State has recognized and respected regional government units that are special or special in nature which are regulated by law. This article is considered not to be able to stand alone from Article 18 of the 1945 Constitution at least it raises constitutional issues related to the implementation of direct, simultaneous and national general elections in the regions. A special region is considered not in accordance with the provisions of Article 18 Paragraph (1) of the 1945 Constitution, namely the Unitary State of the Republic of Indonesia is divided into provincial regions and the provincial regions are divided into districts and cities, each of which has a regional government, which is regulated by law. This implies that there is no other form of region at the provincial level other than the province. The National Capital Law, positions that the Special Capital Region Government (IKN) is a sui generis entity formed by Article 18B Paragraph (1) of the 1945 Constitution, which is different from regions in general as stipulated in Article 18 Paragraph (1) of the 1956 Constitution. The filling of the position of its head is considered not in accordance with the provisions of Article 18 Paragraph (4), namely that the Governor, Regent, and Mayor, respectively as heads of provincial, district and city regional governments, are elected democratically. Meanwhile, the governance structure is organized by the Regional Government. Article 5 Paragraph (4) of the IKN Law, is appointed, appointed, and dismissed by the President.

The provincial, district and city regional governments have a DPRD whose members are elected through general elections. The absence of a DPRD does not reflect democracy and the sovereignty of the people.²⁶ The form of government in the National Capital Law (IKN) is unconstitutional because it contradicts Article 18 paragraph (1) and paragraph (4) of the 1945 NRI Constitution.²⁷ The form of government in the IKN is not in accordance with the Constitution. According to both, "the autonomous region in the IKN is not in accordance with the concept of regional government in Indonesia which adheres to an integrated prefecture system and the spirit of regional autonomy voiced after the reform."²⁸ At least as a special regional government organizer, there is no election of regional government heads, the absence of the DPRD.²⁹ The formation of the National Capital Authority is unconstitutional, because the 1945 Constitution does not recognize the form of an authoritative government. The form of recognition, related to a region that has been formed and then given special and privileged status.³⁰

In the development of Indonesian politics, the 2004 general election was held directly for the first time in Indonesian constitutional history, allowing, people to directly determine their choices. In the general elections of February 2024, direct and simultaneous elections will be held for the legislature, regents, mayors, and governors, as well as president/vice presidents. Political parties participating in elections are already busy selecting candidates and forming political party coalitions. As an election-organizing institution, the General Election Committee (KPU) in holding elections, obeys and complies with applicable laws and regulations: Article 167 paragraph (1) of Law Number 7 of 2017 and Article 201 paragraph (8) of Law Number 10 of 2017 2016, which in principle stipulates that national elections and simultaneous elections will be held in 2024. The elections are planned for February 21, 2024, and the Regional Head Elections for November 27, 2024.

In the view of Brian Z. Tamanaha, as quoted by Zoelva,³¹ it is said that the main characteristic of the concept of the rule of law is the existence of a set of legal principles that must be respected, including by legislators (as law makers) who are bound by it. Oemar Seno Adji specifically put forward the concept of a unique Indonesian rule of law that originates from legal ideals and beliefs and practices in the Indonesian state administration. The Pancasila State, which views Belief in One Almighty God as the prima causa and has the Jakarta Charter, will not tolerate constitutional guarantees of anti-religious freedom, living in the midst of our legal system. The Indonesian legal state has its own characteristics that show special aspects of human rights, including not separating religion and state, recognizing human rights as known in the West, and recognizing the socio-economic rights of the people, which must be guaranteed. and is the responsibility of the state, the content of which differ from the concept of the rule of law or socialist legality. He agrees with

²⁵ Lilik Mulyadi, "Teori Hukum Pembangunan Prof.Dr. Mochtar Kusumaatmadja, S.H., LL.M, Sebuah Kajian Deskriptif Analitis," n.d.

²⁶ Rasji, Christian Samuel Lodoe Haga, dan Ayi Meidyna Sany, "Tinjauan Yuridis Undang-Undang Nomor 3 Tahun 2022 Tentang Ibu Kota Negara (IKN) Dalam Perspektif Politik Hukum Berdasarkan Konstitusi," *Jurnal Kewarganegaraan* 8, no. 1 (Juni 2024): 314–15, <https://doi.org/https://doi.org/10.31316/jk.v8i1.6151>.

²⁷ Fikri Hadi dkk., "KONSTITUSIONALITAS OTORITA IBU KOTA NUSANTARA SEBAGAI BENTUK PEMERINTAHAN DAERAH," *Majalah Hukum Nasional* 52, no. 1 (Desember 2022): 69, <https://doi.org/10.33331/mhn.v52i1.164>.

²⁸ Muhammad RM Fayasy Failaq dan Faraz Arelia, "Diskrepansi Sistem Pemerintahan Daerah Khusus Ibu Kota Negara (IKN) Nusantara," *Jurnal Studi Kebijakan Publik* 1, no. 1 (November 2022): 57–69, <https://doi.org/10.21787/jskp.1.2022.57-69>.

²⁹ Amrul Natalisa Sitompul dkk., "Bentuk Pemerintahan Jakarta Pasca Undang-Undang Ibukota Negara," *Jurnal Studi Interdisipliner*, no. 2 (Juli 2023): 154–55.

³⁰ M Aidil dkk., "Konstitusionalitas Otorita IKN Ditinjau dengan Metode Penafsiran Berdasarkan Original Intent," *Jurnal Ikamukum* 2, no. 1 (Agustus 2022): 654.

³¹ Hamdan Zoelva, "Ringkasan Disertasi Pemakzulan Presiden Di Indonesia" (Universitas Padjajaran Bandung, 2010).

the concept of the Pancasila rule of law put forward by Oemar Seno Adji, which is different from other rule-of-law concepts that have developed in the West and America. Moreover the Pancasila legal state has other principles, namely, the principles of deliberation and mutual cooperation, which in practice are highly prioritized, especially in the field of state politics.

According to the Minister of Political, Legal, and Security Affairs of the Republic of Indonesia, Professor. Dr. Machfud, an Indonesian democracy, was a democracy of money. The official report of the Corruption Eradication Commission's found that 84% of Regional Heads in Indonesia were elected through investors and financial sponsors. After being elected as regional authorities, they are asked for concessions; their mining business permits must be issued immediately, if they participate in a project tender they must win, and so on. This has consequences, including many illegal mining and multiple mining company business permits, which have been given to one person and another person. Therefore, it is surprising that Indonesia's current corruption perception index plummeted, from 38 to 34 (results of International Transparency Research, December 2022).³²

Based on the description above, the main problem in this research is: why is the implementation of direct, simultaneous, and national general elections in Indonesia detrimental to the state economy and finances? What solutions can be expected to protect the security of the state economy and finances; the interests of the people as holders of the people's sovereignty, in fighting for and realizing the rights and justice for the people of the nation and state? To find answers to the problem of the negative impacts of holding general elections with an open proportional system, which gives rise to political dynasties, oligarchies, criminal acts of corruption, corrupt politicians, and harms the state economy and finances, the interests of welfare and prosperity for the community, this study needs to be conducted in order to provide recommendations for policies regulating the implementation of general elections that prioritize legal protection in order to maintain the growth of the state economy and finances, for the welfare and prosperity of the people, nation, and state of Indonesia in the future.

LITERATURE REVIEW

As the state of the art of this research, there are: several similar legal studies on the influence of the implementation of a national direct and simultaneous election system, which have been carried out previously, including:

- 1.1.1 Legal research with the title: The Influence of Simultaneous General Elections on Political Culture. The research, among other things, examines political cultural issues in responding to the 2019 simultaneous general elections, which aims to determine the effectiveness of implementing the 2019 simultaneous general elections from a woman's perspective. The results of this research, among other things, show that respondents had an interest in the 2019 simultaneous election process. The participants' political culture developed due to several factors, namely: social, educational, and election socialization. This has had a significant influence on changes in the political culture of society. To solve this problem, simultaneous elections must be improved so that women's participation remains high in the upcoming elections (2024).³³
- 1.1.2 Legal research entitled: Political and Legal Regulation of Simultaneous Elections; examines issues regarding the complexity and challenges of implementing the 2019 simultaneous elections and how to design the ideal time for holding elections. This research found that there were technical complications in the implementation of the 2019 simultaneous elections, namely the workload of the organizers, especially the Chair of the Local Election Organizers, and a significant increase in the budget, which had implications for the list of candidates being too large. The Constitutional Court determined six models for simultaneous elections. The solution to this problem requires immediate improvements of election legislation in the future (2024).³⁴
- 1.1.3 Legal research entitled: Constitutionality and Design of National Simultaneous Direct Regional Elections. Examining issues regarding the interpretation and construction of the basis for constitutionality and design of simultaneous national direct post- conflict local elections. The results of this research show that: the basis for the constitutionality of direct national simultaneous local elections is constructed based on the understanding of popular sovereignty and the presidential system of government. The design of the national simultaneous direct post- conflict local election was constructed by considering the correct definition of the national simultaneous post- conflict local election, redesigning the post-conflict local election appropriately, and regularly synchronizing the schedule and time for holding voting and the inauguration of the direct national simultaneous post-

³² (MD 2023)

³³ Yana Suryana, "Pengaruh Pelaksanaan Pemilihan Umum Serentak Terhadap Budaya Politik," *Supremasi Hukum: Jurnal Penelitian Hukum* 29 Nomor 1 (2020): 13–28.

³⁴ Abdul Basid Fuadi, "Politik Hukum Pengaturan Kesenjangan Pemilu," *Konstitusi* 3 Nomor 1 (2021): 1–22, <https://doi.org/https://doi.org/10.31078/jkt16310>.

conflict local election.³⁵ Legal Research on the Constitutional and Legal Framework for the Implementation of 2024 Simultaneous Elections and General Elections. This research examines issues regarding the effectiveness of the implementation and enforcement of the 2019 simultaneous elections and the 2020 Regent, Major and Governor/Vice Governor elections,; the relevant legal framework to be used in the 2024 elections, and regional elections (Pilkada), and; a legal framework that needs to be established to anticipate natural and non- natural disasters, especially pandemics.³⁶

If you pay attention to the results of several research studies mentioned above, it can be stated that: none of these studies have studied or researched legal issues regarding: The Implementation of Direct, Simultaneous, and National General Elections in Indonesia is Detrimental to the State Economy and Finances, this is the distinction and at the same time a novelty in carrying out this research from previous research. This research is very important and useful to carry out, especially in anticipation of the simultaneous national direct elections in Indonesia.

METHODOLOGY

This research employs a doctrinal legal research method, specifically normative legal research, combined with a Reform Oriented Research approach. Normative legal research involves examining legal products, legal principles, legal systematics, legal synchronization, both vertically and horizontal legal synchronization, and comparative law, including historical legal analysis.³⁷ This research also incorporates the Reform Oriented Research method. This method evaluates the adequacy of existing regulations and recommends necessary changes.³⁸ This method empowers researchers to propose new legal principles that can be incorporated into the legal framework, potentially informing future law enforcement practices.³⁹

Research Approach

The method used in this study is the normative legal research method, with a descriptive analytical approach. Descriptive analytical means describing and depicting something that is the object of research critically through qualitative analysis. Therefore, what is to be studied is within the scope of legal science, the normative approach includes: legal principles, synchronization of laws and regulations, including efforts to find *in concreto* law.⁴⁰ In this study, the researcher focuses on several cases concerning the postponement of the execution of death row convicts which is a serious violation of human rights. In a normative legal study, the use of a statute approach is a definite thing.⁴¹ It is said to be definite because, logically speaking, normative legal research is based on research conducted on existing legal materials.⁴² Even though, for example, research is conducted because there is a legal vacuum, the legal vacuum can be identified because there are already legal norms that require further regulation in positive law.

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Research Specification

The research specification to be conducted is descriptive analytical in nature, which will provide an explanation of the postponement of the execution of the death penalty as a violation of human rights. The analysis is conducted legally by studying the principles and relevant legal theories to find the best solution concept for death row convicts who have not/have not been executed even though their rights are violations of human rights, as an effort to provide legal protection for the death row convicts has been completed.⁴⁴

³⁵ Gotfridus Goris Seran, "Konstitusionalitas Dan Desain Pemilukada Langsung Serentak Nasional" 16 Nomor 3 (2019), <https://doi.org/https://doi.org/10.31078/jkr16310>.

³⁶ Dkk Feri Amsari, "Laporan Hasil Riset: Konstitusionalitas Dan Kerangka Hukum Penyelenggaraan Pemilu Dan Pemilihan Serentak Tahun 2024," 2022.

³⁷ Aan Efendi, Dyah Ochtorina Susanti, dan Rahmadi Indra Tektana, *Penelitian Hukum Doktrinal* (Yogyakarta: LaksBang Justitia, 2019), p.34.

³⁸ Ibid.

³⁹ Philip Langbroek et AL., "Methodology of Legal Research: Challenges and Opportunities," *Utrecht Law Review*, 2017.

⁴⁰ Soerjono Soekanto dan Sri Mamudji, *Penelitian Hukum Normatif*, Jakarta: Rajawali, 1985, hlm. 4-15. Lihat juga Roni Hanitijo Soemitro, *Metode Penelitian Hukum dan Jurimetri*, Jakarta: Ghalia Indonesia, 1983, hlm. 11-12.

⁴¹ Soerjono Soekanto dan Sri Mamudji, *Penelitian Hukum Normatif: Suatu Tinjauan Singkat* (Jakarta: Rajawali Pers, 1983).

⁴² Depri Liber Sonata, "Metode Penelitian Hukum Normatif Dan Empiris: Karakteristik Khas Dari Metode Meneliti Hukum," *Fiat Justitia: Jurnal Ilmu Hukum* 8, no. 1 (2015): 21.

⁴³ According to Johnny Ibrahim, in his book *Theory and Methods of Normative Legal Research*, 2010, p. 301. According to Johnny Ibrahim, in relation to normative research, 7 (seven) approaches can be used, namely: Statute Approach; Conceptual Approach; Analytical Approach; Historical Approach; Philosophical Approach, Case Approach. Compare this with the opinion of Peter Mahmud Mamiki who only categorizes 6 (six) methods of approach used in legal research, namely: Statute Approach; Conceptual Approach; Analytical Approach; Historical Approach; and Case Approach. Peter Mahmud Marzuki, *Legal Research*, Second Edition, Jakarta: Kencana Prenada Media Group, May 2006, p. 93.

⁴⁴ Adrianus Arief Ariesto Hadi Sutopo, *Skilled in Processing Qualitative Data* (Jakarta: Kencana, 2019).

Types and Sources of Legal Materials

Because the approach method in this study is a legislative approach, the data collection tool is focused on documents or library materials,⁴⁵ in the form of: legal materials obtained through literature studies, including browsing on several internet sites.⁴⁶ The legal materials reviewed in this study include:

- 2.3.1. Primary legal materials, namely: authoritative legal materials, including: in the form of various laws that are directly or indirectly related to the main problem of the research.
- 2.3.2. Secondary legal materials, namely: materials that can provide explanations about primary legal materials, including: literature, writings and seminar papers, as well as opinions from several legal experts that have been published, especially related to research problems.
- 2.3.3. Tertiary legal materials, namely: materials that can provide further information about primary legal materials and secondary legal materials, in the form of: Kamus Besar Bahasa Indonesia; Black's Law Dictionary Sixth Edition; Dutch-Indonesian Legal Dictionary.⁴⁷

In addition to the three types of legal materials, this study will also use primary data or non-legal materials, namely: the results of interviews with several legal experts. The results of this interview are primary data or non-legal materials, because even though the interviews were conducted based on a list of written questions that the researcher had prepared. The interview process was carried out freely, verbally and not bound by the researcher's list of questions, so that it could take place flexibly with a more open direction, thus, the data and information obtained would be much richer and more varied.⁴⁸

Legal Material Collection Technique

The data obtained in the form of primary, secondary and tertiary legal materials, are analyzed qualitatively normatively in the sense that they are arranged systematically and completely.⁴⁹ Then, the collected data is reviewed and analyzed in the form of a description without using mathematical formulas. Furthermore, the analysis is expressed in a logical, systematic, philosophical and practical discussion construction,⁵⁰

Legal Material Analysis Technique

- The legal materials obtained from the literature research are then analyzed,⁵¹ in the following manner:
- 2.5.1. The primary, secondary and tertiary legal materials obtained are arranged systematically to obtain a clear and comprehensive picture of the discussion on the implementation of direct, simultaneous and national general elections in Indonesia.
 - 2.5.2. Then the three legal materials are analyzed legally and historically. Legally includes a legal study of the implementation of general elections. While the historical approach is carried out to understand the philosophy of legal rules from time to time.
 - 2.5.3. After the analysis of the three legal materials has been completed, the results of the analysis obtained based on library research are matched with primary data or non-legal materials, namely: in the form of interview results from sources, so that from both of them a conclusion can be drawn regarding the problem being researched, especially based on the main problems raised in this study.

Research sites: The Unitary State of the Republic of Indonesia.

RESULTS AND DISCUSSION.

People's Sovereignty of the General Election System.

⁴⁵ Lili Rasjidi, "Legal Research Methods, in Philosophy of Science," *Research Methods, and Legal Scientific Papers, Bandung*, no. Monograph (2005): 7.

⁴⁶ Bagir Manan, "Research in the Field of Law," *Journal of Law Puslitbangkum Number 1-1999*, (Legal Development Research Center, Padjadjaran University Research Institute Bandung 1 (1999): 3–6.

⁴⁷ Soerjono Soekanto, *Pengantar Penelitian Hukum* (Jakarta: UI-Press, 1986).

⁴⁸ Menurut Peter Mahmud Marzuki, hasil dari suatu wawancara pada dasarnya bukanlah suatu bahan hukum, tetapi dapat dijadikan bahan hukum sekunder apabila peneliti menyusun beberapa pertanyaan atau mengemukakan isu hukum secara tertulis, sehingga si yang diwawancara dapat memberikan pendapatnya secara tertulis, *Ibid.*, hlm. 165.

⁴⁹ Johnny Ibrahim, *Normative Law Research Theory and Methodology* (Malang: Bayumedia Publishing, 2006).

⁵⁰ Ronny Hanitijo Soemitro, *Legal Research Methodology and Jurimetry* (Jakarta: Ghalia Indonesia, 1990).

⁵¹ Peter Mahmud Marzuki, *Legal Research* (Jakarta: Kencana, 2006).

Changes to election law are always made before implementation, as a consequence of the evaluation results of election implementation in the previous period. A package of changes was made to election management law and political party law, which is called the political law amendment package. Some people say that this change is only to accommodate the interests of political parties, factions, and the government and is the product of an agreement on the interests of certain parties. This change in election law should be aimed at enabling civil society to provide responses, opinions, recommendations, and encourage those in power to think about the interests of justice for all Indonesian society. However, in practice, the formation of a law is strongly influenced by political content, and the law is used as a tool to validate the actions of authorities. In fact, law can function as a tool of social control, a means of change, a tool for societal renewal, an engineering society, and a theory about the effectiveness and validity of law (Law as a tool of social engineering) by Rouscou Pound.⁵²

In the Legal Theory of Development, a frame of reference is used for the way of life of the Indonesian people and nation, based on the principle of Pancasila, which is familial in nature, so the norms, principles, institutions, and rules contained in the legal theory of development are dimensions that include structure, culture, and substance. "The structure of a system is its skeleton framework; it is the permanent shape, the institutional body of the system, the though rigid ones that keep the process flowing within bounds. the substance is then formulated as. "The substance is composed of substantive rules basic to the function of law as a "means of societal renewal" means of societal renewal' (law as a social engineering tool), and law as a system is necessary for the Indonesian nation as a developing country, as stated by Friedman.⁵³

Related to this, based on the theory of the formation of a law, as stated by Inge C. Vander Vlies,⁵⁴ in his book: *Handboek Wetgeving*; states: must fulfill good principles, including: Het beginsel van deduidelijk doelstelling (clarity of the purpose of the formation); Het nood zakelijk heids beginsel (urgent necessity); Het beginsel van de voerbaarheid (possibility of implementing the regulations formed); Het beginsel van de consensus (consensus or agreement between the government and the people); Het beginsel van de duidelijk terminologie en duidelijk systematiek (clear terminology and systematics); Het beginsel van de kenbaarheid (principles can be known and recognized by everyone); Het rechtgelijk heids beginsel (equal treatment of the law); Het beginsel van de individuele rechts bedeling (special treatment of certain circumstances). Forming legislative regulations requires special artistic talents. Reed Dickerson, a Professor of Legislation from the Universities of Michigan and California, (Dickerson 2008) said that "Legislative drafting is both a science and an art." Bakhsi,⁵⁵ Professor of Law from India, also said that "Knowledge of law is intelligence, memory, and judgment, while drafting is skill and art."⁵⁶

The fourth paragraph of the Preamble to the 1945 Constitution; states that: people's sovereignty is the foundation of the structure of the Republic of Indonesia. Article 1 paragraph (2), which among other things states: sovereignty is in the hands of the people. If sovereignty is defined as the highest power in the state, then popular sovereignty means that the highest power in the state is in the hands of people. The democracy adopted by the Indonesian nation as stated in the 1945 Constitution is Pancasila Democracy. The term democracy comes from Greek, which consists of 2 (two) words, namely Demos, which means people, and Cratein, which means to rule. Thus, judging from the meaning of the word, democracy refers to government by people. According to Mac Iver, democracy is as follows: "which is a form of government that is never completely achieved democracy into growing its being". According to Maurice Desverger, in his book *Les Regimes Politiques*, translated by Suwirjadi with the title *Theory and Practice of State Administration*, he says that: legal power is generally carried out by certain people, but evenly distributed within the group as a whole, where everyone is subject to general standards that are considered and determined by the group as a whole. Indeed, at that time, everyone was ruled, and no one was ruled.⁵⁷

Responding to the rolling issue of postponing the holding of general elections from 2024 to 2027, a report from the Public Relations Bureau, General Election Commission (KPU), stated:⁵⁸ As an election organizing institution, the KPU in holding elections and elections obeys and complies with the applicable laws and regulations, in this case Article 167 paragraph (1) of Law Number 7 of 2017 and Article 201 paragraph (8) of Law Number 10 of 2016 which in principle regulates that national elections and simultaneous elections will be held in 2024. The elections are planned for February 21, 2024, and the Regional Head Elections on November 27, 2024. In this law, a proportional election system was adopted; and the electoral

⁵² Nazaruddin Lathif, "Teori Hukum Sebagai Sarana/Alat Untuk Memperbaharui Atau Merekayasa Masyarakat," *Pakuan Law Review Journal* 3 Nomor 1 (2017): 1-18.

⁵³ Lawrence W. Friedman, *American Law: An Invaluable Guide to the Many Faces of the Law, and How It Affects Our Daily Our Daily Lives*, n.d.

⁵⁴ Inge C. Vander Vlies, *Handboek Wetgeving* (Zwolle: W.E.J. Tjeenk Willink, 1987).

⁵⁵ P.M. Bakhsi, "Journal Article: The Discipline of Legislative Drafting," *Journal of the Indian Law Institute* 34 No. 1 (1992): 1-8.

⁵⁶ Sri Hariningsih, *Proses Dan Teknik Penyusunan Peraturan Perundang-Undangan Khususnya Peraturan Daerah*, BPHN (Jakarta: BPHN, 2003).

⁵⁷ Sri Soemantri, "Bunga Rampai Hukum Tata Negara," in *Bunga Rampai* (Bandung: Bandung: Alumni, 1992), 11.

⁵⁸ Cnnindonesia.com, "Siaran Pers KPU: Tegas, Berdasarkan UU Pemilu Dan Pemilihan Serentak Tahun 2024, Yang Menyebutkan Bahwa Pemilu Dan Pemilihan Akan Diundur Dari Tahun 2024 Ke Tahun 2027," 2020.

system resulted in the implementation of a multi-party system. Thus, the freedom (independence) to establish political parties followed by general elections with a proportional electoral system has resulted in the division of Indonesian society into various political groups, each with different principles.

According to several expert opinions regarding general elections, including: H.Matori Abdul Djalil,⁵⁹ the meaning of General Elections is: Providing certainty regarding the constitutional transfer of leadership and power (transfer of Leader and Power) to produce legitimate leaders; general elections are a form of fundamental implementation of popular sovereignty in a democratic country; general elections are intended as a formal vehicle for shaping state and social formation towards a better order; and can be a filter for people's beliefs in political parties that are in people's minds.

According to Syamsudin Haris,⁶⁰ general elections are: an institution as well as a political practice that allows the formation of a representative government (representative government), which, according to Dahi, is the maximum ideal image for a democratic government in the modern era. A.S. Hikam,⁶¹ said that the General Election is an institution and, at the same time, a political practice that has 2 (two) dimensions, which from the outside appear to be opposite to each other. In the first dimension, General Elections are generally understood as a means for the realization of popular sovereignty; they are a means of articulating the interests of citizens to realize their representatives. Meanwhile, in the second dimension, the General Election is a means of providing and strengthening the government's political legitimacy, so that its existence, policies, and programs can be realized more easily and have strong sanctions. For a democratic country, the purpose of General Election has a strategic meaning. The importance of holding.

General Elections is basically to: to implement people's sovereignty; by holding a General Election, the government can actually convince or at least renew the agreement of citizens; with the general election process, the government can actually influence the behavior of citizens; by general elections, it seems that entrepreneurs are increasingly required to rely on consent from the people rather than coercion to maintain their legitimacy; and elect representatives who will sit in the People's Representative Council. This system is widely applied in countries that practice democracy, such as Latin America, the USA, and several Western European countries, including Austria, Bulgaria, Denmark, Finland, Sweden, and Switzerland.⁶² The argument for implementing a proportional system is that in this system, the number of votes in a party is directly proportional to the number of seats obtained in the legislative body. This system has several variations, namely a: Single Transferable Vote System (STV); List Proportional Representation System (List PR); and Mixed Member Proportional System (MMP).⁶³

Independence of Political Parties & Government Interference.

Political parties have several functions, namely, as a means of political communication, formulation or articulation of interests, merging or aggregating interests, recruitment politic, and as a means of conflict management. Through these functions, political parties become a bridge between those who govern and those who govern. However, there are often symptoms that the implementation of the party's function as a bridge, intentionally or unintentionally, is not optimal, thus causing anxiety in society. This situation can certainly hinder the development of healthy political life.

Parties also function as a means of political socialization, namely, a process in which someone obtains views, orientations, and values from the society in which they live. This includes the process of passing norms and values from one generation to the next. Through its function as a means of political recruitment, parties seek new members and invite talented people to participate in the political process. With the establishment of mass organizations involving groups of workers, farmers, youth, students, women, opportunities for participation have expanded. Political recruitment ensures the community and sustainability of the party, and is also a way to select prospective leaders.

According to Prof. Dr. R. William Liddle, a democratic, effective, and stable government requires political parties that: through a free General Election process; are free from other powers, especially personal rulers, bureaucrats, or the military; have broad support from the community; rely on leadership that is trusted by its members. However, political parties resulting from the fusion under the New Order are parties that have lost their momentum as parties, due to the introduction of policies of depoliticization, deparolization, and deideology that have been very intense since the beginning of the New Order. Parties are no longer an extension of the interests and aspirations of the community, because the state has become the only source of reference and legitimacy for parties, both in determining principles, making programs, choosing general chairs, determining candidates, and in articulating and aggregating community interests.

⁵⁹ Matori Abdul Djalil, *Tuntutan Reformasi Dan Penyelenggaraan Pemilu 1999 Dalam Masa Transisi* (Jakarta: KIPP, 1999).

⁶⁰ Syamsudin Haris, "Menggugat Pemilihan Umum Orde Baru" (Jakarta: Yayasan Obor Indonesia, 1998), 7.

⁶¹ Muhammad A.S. Hikam, "Pemilu Dan Legitimasi Politik" (Jakarta: Yayasan Obor Indonesia, 1998), 49–50.

⁶² J. Kristiadi, "Sistem Pemilu: Proporsional, Distrik Atau Campuran" (Depok, 1998).

⁶³ Valina Singka Subekti, "Electoral Law Reform as a Prerequisite to Create Demokratization in Indonesia," 1998.

Some times ago, political parties failed to carry out their missions because of government intervention in determining the General Chair. Political organizations became non-independent, and produced a pseudo order, namely, a situation where political parties were either there or not. Political parties failed to carry out their functions, only busy approaching the General Election., Political education, which should be the task of political parties, was taken over and monopolized by the government. Leadership recruitment no longer takes place, the elite of political organizations become more opportunistic, and a healthy feedback mechanism from the community never takes place.

Political education for the community is dominated by the state, while political parties lose their momentum, among other things, due to the lack of budget or management constraints that only reach the branch level. Political parties, as one of the channels of political aspirations in their development, seem increasingly difficult. Since the acceptance of the single principle by all political parties and community organizations, the government has a great initiative in controlling political life, after which the party seems to have difficulty formulating its identity. Political parties assume that, by forming an organizational forum, they can express people who have similar thoughts so that their thoughts and orientations can be consolidated. Thus their influence can be greater when making and implementing decisions.

Sigmund Neumann, in his work, *Modern Political Parties*, states that: in a democratic country, political parties carry out several functions; one of which is as a means of political communication. The flow of information in a country is two-way, meaning that it runs from top to bottom and from bottom to top. The position of the party in this current is as a bridge between "those who rule" (the rulers) and "those who are ruled" (the ruled). In general, a political party is a group of members of society who are organized regularly based on ideology/programs where there is a desire for their leaders to seize state power, especially the executive through regular and periodic means: they meet these criteria, they can be categorized as political parties. The presidential system of government gives rise to the consequences of the direct election process. Coupled with democratization demands, public participation is required to implement the government. This includes the number of political parties (multi-parties), which are no longer limited. The multi-party political process is not a guarantee of certainty in public participation and opinion.

The Affair of the Oligarchy of Democracy Political Power.

The term oligarchy comes from the Greek language, namely: 'oligon' which means tinya sedikit and 'arkho' which means to rule. After the two words are married into 'oligarkhia,' it can be interpreted as a form of government in which political power is effectively held by an elite group of society, whether distinguished by wealth, family or military. The International Encyclopedia of Social Science defines oligarchy as "a form of government in which political power is in the hands of a small minority. Robert Mitchel in his book "Political Parties, a Sociological Study of the Oligarchical Tendencies of Modern Democracy" said that the emergence of oligarchy is a consequence of the process that occurs in an organization, including political parties. The larger the organization or political party, the greater the tendency towards oligarchy. It has become the "iron law of oligarchy". Michel called this tendency "democratic oligarchy. Commenting on Michel's book, Martin Lipset, said that it is the organization that gives rise to the domination of the elected over their voters, between the mandator and the mandate giver, and between the recipient of power and the giver.

According to Winters, in Indonesia, after the fall of the New Order regime, the oligarchy did not never return, but never left and had not been successfully tamed. When the regime finally collapsed and democracy was established, all oligarchs and elites were still entrenched. Almost none of them fell with Soeharto, except for one or two, who were close to him until the end of his reign. The oligarchy survived through the transition and adaptation processes. They (the oligarchs) not only did it relatively easily, but also occupied a better position than anyone else in seizing and dominating Indonesia's electoral politics, which were controlled by money. Instead of falling apart, the oligarchy was able to consolidate itself. If, in the past during the New Order, control over public resources was carried out through violent means and was marked by many violations of Human Rights, now control over public resources is carried out in democratic ways, without violence, and in a way that does not violate the law.

According to Rahman Tolleng, oligarchs in Indonesia are directly involved in the world of politics. They establish and lead political parties, and if they win the election, they can become presidents, vice-presidents, ministers, and other important positions. As Todung Mulya Lubis said, elections have become a source of corruption. This is because of the dependency between politicians, rulers, and businessmen. The political oligarchy that has developed rapidly and is almost uncontrollable in Indonesian politics is supported by the growth of political dynasties originating from patronage and clientelism factors. Patronage refers to material or other benefits distributed by politicians to voters or supporters. Conversely, clientelism refers to the relationship between politicians and voters and supporters.

In contrast, the Constitutional Court decision number. 33/PUU-XIII/2015 on July 8, 2015, and confirmed by Law Number 10 of 2016 concerning the Election of Regional Heads and Deputy Regional Heads, which allows the incumbent's family to run as candidates in the Pilkada without waiting for a gap of one period or

former convicts, will also thicken the political dynasty. This type of candidate has a relatively large amount of capital, charisma, and networks, and has the ability to raise funding sources from oligarchic groups. The perception of a candidate's track record between one community group and another can vary. For law enforcers or a community group, a candidate from an incumbent family or a former convict will be labeled bad or rotten. However, other communities, will be considered a candidates with a positive image, a hero, or worthy of being elected. Moreover, candidates are known to be generous and generous. It is not surprising that even though they come from an incumbent family or have been involved in corruption cases, the chance of winning the pilkada is very large.

The Banten KPU will coordinate with the Indonesian KPU and Serang Regency KPU regarding the PSU procedures. The lawsuit alleging fraud in the 2024 Simultaneous Regional Elections was filed by Andika Hazrumi's camp, against Ratu Zakiyah Andika Hazrumi himself is the son of Ratu Atut Chosiyah, former Governor of Banten. Ratu Zakiyah is the wife of the Minister of Villages and the PAN politician, Yandi Susanto. "We will also coordinate with our friends at the Serang Regency KPU and ask for instructions from the Indonesian KPU for follow-up." Regarding the schedule for the implementation of Repeat Regional Elections in Serang Regency, the Banten KPU wait for the results of the coordination and instructions from the Indonesian KPU.

However, the revote must have been carried out within 60 days since the verdict was read by the Constitutional Court. "We will wait for instructions from the Indonesian KPU, regarding the schedule of implementation and what needs to be prepared," The following is the Constitutional Court's decision regarding the lawsuit regarding the results of the 2024 Serang Regency Regional Elections: Rejecting the Respondent's exception and the Related Party's exception in their entirety. In the Main Petition: a). Granting the Petitioner's request in part; b). Declare null and void the Decree of the Serang Regency General Election Commission Number 2028 of 2024 concerning the Determination of the Results of the Serang Regent and Deputy Regent Election in 2024, dated December 4, 2024; c). Order the Serang Regency General Election Commission to carry out a revote for the 2024 Serang Regent and Deputy Regent Election in all polling stations in Serang Regency, based on the Permanent Voter List, the Transferred Voter.⁶⁴

The results of research by the Nagara Institute under the leadership of the former members of the House of Representatives (DPR), Akbar Faisal, needs serious attention. If left unchecked, in the long term, it has the potential to undermine the quality and substance of democracy and Indonesian general elections/regional elections. Previously, the Nagara Institute released research results that stated that as many as 99 or 17.22 percent of the 575 legislative members elected in the 2019 election had relationships with public officials. They were considered to have been exposed to political oligarchy. The results of the Nagara Institute research, by MPR Chairman Bambang Soesatyo, stated that Indonesian politics are controlled by oligarchs, or capital owners. With just IDR 1 (one) trillion, you can control political parties, parliament, natural resources, and ultimately you can nominate any leader you want, from presidents, regents, governors, and mayors. This is systemic, because it is supported by the Indonesian political system. This imbalance between capital owners and political oligarchs has contributed to the skewed distribution of social and economic justice.

The term oligarchy comes from Greek, namely: 'oligon' which means few and 'arkho' which means to rule. After these two words are combined into 'oligarchy,' it can be interpreted as a form of government in which political power is effectively held by an elite group of society, whether differentiated according to wealth, family, or the military. The International Encyclopedia of Social Science defines oligarchy as "a form of government in which political power is in the hands of a small minority". This phenomenon also confirms the statement of Syamsuddin Harris who said, "instead of being sovereign, after the Election/Pilkada, the political and economic processes are completely controlled by various oligarchic forces disguised as Political Parties, ethnicities, regions, and groups. These oligarchic forces ultimately hijack and enjoy the local democratic party. Ironically, State Administrators from the center and regions prefer to ally themselves with oligarchs funded by capitalists rather than guarding the nation, honoring the constitution, and guarding the conscience of our people. This oligarchic tendency, disguised as local democracy, is not unique to Indonesia. This is because a number of countries and cities have experienced the same situation, such as India, with indications of increasingly consolidated caste and class politics. The same phenomenon was observed in Camacari, Brazil.

This encouraged the emergence of clientelism between the economic and political elites, thus igniting acute ungovernability (the ineffective and inefficient functioning of governance). It also happened in Thailand, with the emergence of a number of local strongmen with the nickname chao po (read: jao poh) which means "protector father." However, these chao po or jao poh monopolize all economic activities, including mining, transportation, bank shares, and so on. The results of Nagara Institute's research are nothing more than strengthening the existing political phenomenon. This kind of tendency has long been inherent in political

⁶⁴ VIVA.co.id, Monday, February 24, 2025 - 18:30 WIB, MK Cancels the Victory of the Minister of Villages' Wife, Banten KPU Conducts PSU in the Serang Pilbup: <https://www.viva.co.id/berita/politik/1801508-mk-batalkan-kemenangan-istri-mendes-kpu-banten-lakukan-psu-di-pilbup-serang?page=all>

culture in Indonesia, which is marked by the large number of political parties led or controlled by a family; political parties seem to have become family businesses.

In another form, political oligarchy and political dynasties can be seen, with many officials occupying important positions in ministries, institutions, BUMN, and so on. Before the 2024 Simultaneous Regional Elections, there is an increasingly interesting tendency regarding oligarchy and political dynasties. Namely, when the child is elected as vice president, the son-in-law of President Joko Widodo becomes the mayor of Medan and will compete to win the governorship of North Sumatra in November 2024. The son of vice president KH. Ma'ruf Amien is reported to be participating in the contestation in the Pilkada. So far, there has been no empirical research on the number of relatives of ministers or incumbent and deputy regional heads who participate in the nomination in the November 2024 Pilkada. However, it is estimated that the larger the number, the more it swells, and especially if it wins the Pilkada, it will certainly strengthen the hegemony of the oligarchy and political dynasty.

This phenomenon justifies Mitchell's test of democratic oligarchy. In other words, direct democracy through elections or regional elections is a double-edged sword. On the one hand, it provides free opportunities for all levels of society that have the requirements to vote and be elected to contest in general elections or regional elections. According to the former Director General of the Regional Autonomy Ministry of Home Affairs, Soni Sumarsono, makes politics more stable, but with minimal or even no checks and balances. However, at the same time, this freedom seems corrupted and distorted by capital owners who collaborate and conspire with political elites. So those who could win the General Election and regional election are 'those who have the money. Soni Sumarsono illustrates, "how we can imagine the checks and balances that occur if a parent becomes the chairman of the DPRD, and his child is the regional head? Oligarchy that has an impact on political recruitment is ultimately closely related to corruption." These are political anomalies and traps in the current electoral democracy system in Indonesia.⁶⁵

According to Prof. Dr. R. William Liddle:⁶⁶ "a democratic, effective, and stable government requires political parties that: go through an overflow General Election process; free from other powers, especially personal, bureaucratic, or military rulers; has broad support from the community; and relies on leadership trusted by its members." However, the political parties resulting from the fusion under the New Order era were parties that had already lost their momentum as parties, due to the introduction of very intense policies of depoliticization, depoliticization, and ideology since the beginning of the New Order era. Parties are no longer an extension of the interests and aspirations of society, because the state has become the only source of reference and legitimacy for parties, both in determining principles, making programs, electing a general chairman, determining candidates, and articulating and aggregating society's interests.⁶⁷ Some time ago, political parties failed to carry out their missions due to government interference in determining the General Chairperson of political organizations that became independent, and resulted in a false order, namely a situation where political parties either existed or did not exist.

Political parties failed to carry out their functions; they were only busy before the General Election, and political education, which should be the task of political parties, was taken over and monopolized by the government. Leadership recruitment no longer takes place, elite political organizations become more opportunistic, and healthy feedback mechanisms from society never take place. Political education for society is dominated by the state, while political parties are losing momentum, among other things, because of a lack of budget or management constraints that only reach the branch level. Political parties, as channels for political aspirations in their development, appear to be increasingly difficult. Since the acceptance of a single principle by all political parties and social organizations, the government has had a big initiative in controlling political life, after which parties appeared to have difficulty formulating their identities.

Political parties assume that, by forming an organizational forum, they can express people who have similar thoughts so that their thoughts and orientations can be consolidated. Thus they can have a greater influence on making and implementing decisions.⁶⁸ Sigmund Neumann,⁶⁹ in his book, modern political parties, comes to the fore right: in a democratic country, political parties carry out several functions; One of its functions is as a means of political communication. The flow of information in a country is two-way, meaning that it runs from top to bottom and from bottom to top. The party's position in this current is as a bridge between "those who rule" (the rulers) and "those who are ruled" (the ruled). In general, it can be formulated that a political party is a group of members of society who are regularly organized based on an ideology/program where the leaders have the desire to seize state power, especially the executive, through regular and regular means, so if they meet these criteria, they can be categorized as political parties.⁷⁰ The presidential system of the government gave birth to a consequence of the direct election process. In addition, democratization requires public

⁶⁵ Dharma Wijayanto, "Politik Dinasti, Oligarki Dan Anomali Demokrasi," AKURAT.CO, 2020.

⁶⁶ R. William Liddle, *Pemilu-Pemilu Orde Baru; Pasang Surut Kekuasaan Politik* (Jakarta: LP3ES, 1992).

⁶⁷ Samsudin Haris, *Perbandingan Pemilu-Pemilu Orde Baru 1971-1992: Beberapa Catatan Kritis Dan Proyeksi*, Dalam J Kristiadi, Ed, *Menyelenggarakan Pemilu Yang Luber Dan Jurdil*, CSIS, 1977.

⁶⁸ Moh. Kusnardi and Harmaily Ibrahim, *Pengantar Hukum Tata Negara Indonesia* (Jakarta: Sinar Bhakti, n.d.).

⁶⁹ Miriam Budiardjo, "No Title Partisipasi Dan Partai Politik Sebuah Bunga Rampai," in *Bunga Rampai* (Jakarta: Yayasan Obor Indonesia, 1982), 14.

⁷⁰ Busroh, *Ilmu Negara*.

participation in government implementation. This includes the number of political parties (multi-parties), which are no longer limited. The multi-party political process does not guarantee people's participation and opinions.⁷¹

The aim of Political Parties is to gain and maintain power to carry out or realize their ideology, in the form of programs that will be prepared. From the definition, objectives, and functions of political parties, it can be generally formulated that the task of political parties is to act as mediators between people and the government, and vice versa. A phenomenon that appears in the realm of political parties, namely for those who do not want to go to trouble, acquiring or taking over another political party that is already a legal entity, becomes a shortcut.⁷² In fact, political parties have to go a long way to obtain legal entity status from the Ministry of Law and Human Rights. Acquisitions, consolidations, and mergers are common practices in the business realm, as regulated in Law Number 40 of 2007 concerning Limited Liability Companies. A merger is the process of combining two or more companies, and only one company is retained.⁷³ Company consolidation is the merging of two or more companies into one. (Bowman and Hartle, n.d.) Acquisition is the process of taking over a company which is carried out by buying a majority of its shares.⁷⁴

In legal science, various theories arise about legal entities that differ from each other, namely: Fictive Theory from Von Savigny. According to this theory, legal entities are solely created by the state. A legal entity is just a fiction, namely something that does not actually exist, but people bring it to life as a legal subject who can carry out legal actions like humans. Houwing followed this theory. Purposeful Wealth Theory (Doel Vermogens Theory). According to this theory, only humans are considered legal subjects. However, there is wealth (vermogens) that is not a person's wealth, but wealth is tied to certain goals. Property that no one owns and that is tied to a certain purpose is called a legal entity. Brinz taught this theory followed by Van der Heyden. Otto Van Gierke's Organ Theory. According to this theory, legal entities are not abstract (fiction) and not property (rights) that has no subject, but a legal entity is a real organism, which is truly incarnated in a legal relationship, which can form its own will by means of existing tools. To him (management, members) are like ordinary humans, who have five senses, and so on. The followers of this theory include Mr. L. C. Polano. Proprietary Collective Theory.

Planoil and Molengraff taught this theory. According to this theory, the rights and obligations of a legal entity are essentially those of its members. All members jointly own the assets of a legal entity. People who gather form a unit and a person called a legal entity. Therefore, a legal entity is a juridical construct. Reality and Juridical Theory (Juridische Realiteitsler). It is said that a legal entity is a reality, concrete, real, even though it cannot be touched, not imaginary, but a juridical reality. This theory put forward by Meijers emphasized that equating legal entities with humans should be limited to the legal field only. The law is indeed powerless when it comes to dealing with power, especially the authoritarian power controlled by puppet rulers.⁷⁵

The chairman of the Idaman Party, Rhoma Irama, said that the choice of acquisition was a suggestion from the Minister of Law and Human Rights, Yasonna Laoly. From the start, the Idaman Party wanted to participate in legal entity verification, but on the other hand, it was also considering joining other parties that already had legal entities. The head of the Political Parties Directorate of the Ministry of Law and Human Rights, explained that there were no special rules regarding acquisitions. The Ministry of Law and Human Rights recognizes only new legal entity parties and changes, such as AD/ART, name changes, and management changes. The issue of acquiring political parties was beyond the reach of the Ministry of Law and Human Rights. Moreover, there is the issue of the price a political party must pay to acquire an old party.⁷⁶ Various political parties have acquired legal entities.⁷⁷

According to Professor. Kacug Marijan, political parties buying Legal Entities, at first it was just a trick for a new political party to use the legal entity of an old political party, was considered to have no political ethics, as democracy was going too far. This step also violates political ethics. This strengthens the transactional politics in Indonesian politics. Politicians treat parties, such as companies, and when they are hampered, transactions are used as a solution.⁷⁸ Legal actions regarding mergers, consolidations, and acquisitions are among the strategies in the corporate world. In general, the goal is to achieve growth, strengthen structure and, synergy between entities, diversify products, and increase market share. The meanings and usages of these three terms are sometimes confused because they are often used and are almost the same. According to Christopher, a merger or amalgamation is a combination of two or more companies into one business on a basis approved by all parties by company management and shareholders. Mergers are a form of external growth

⁷¹ Habibie, "Pengaruh Konstelasi Politik Bagi Sistem Pemerintahan Presidensial."

⁷² Desi Aditia Ningrum, "Akuisisi, Jalan Pintas Parpol Diakui Negara," Merdeka.com, n.d.

⁷³ Roger Undy, "Trade Union Merger Strategies: Purpose, Process, and Performance," 2008.

⁷⁴ Melanie F. Bowman and Thom Hartle, "Consolidation Patterns," *Stocks & Commodities* V 8:11 (n.d.): 405-9.

⁷⁵ José Manuel Gómez-Pérez, "Acquisition and Understanding of Process Knowledge Using Problem Solving Methods," *Heidelberg: Akademische Verlagsgesellschaft AKA GmbH*, 2010.

⁷⁶ Ali Mustofa, "No Title," law-justice.co, 2020.

⁷⁷ Baroto, "No Title," Merdeka.com, 2016.

⁷⁸ Desi Aditia Ningrum, "Verifikasi Parpol: Akuisisi, Jalan Pintas Parpol Diakui Negara," Merdeka.com, 2016.

that includes companies undertaking horizontal, vertical, or conglomerate expansion.⁷⁹ According to Brigham, two or more companies into one company.⁸⁰

In the development of legal science and technology, various theories about legal entities have emerged that are different from each other, such: The Fictie Theory from Von Savigny, which is also followed by Houwing; legal entities are purely made by the state, fiction, actually do not exist, but people bring them to life as legal subjects who can carry out legal acts like humans. Then, the Theory of Purposeful Wealth (Doel Vermogens Theori), that is: only humans are legal subjects, wealth (Vermogants) is not someone's wealth, but is bound by a certain purpose, which is called a legal entity. Brinz taught this theory followed by Van der Heyden. Furthermore, the Organ Theory from Otto van Gierke, namely: that legal entities are not fiction, wealth (rights) that are not subject, real organisms, incarnated in legal relations, can form their own will through administrators.

The figure is that of Mr. L.C. Polano. Then, the theory of proprietary collective, by Planoil and Molengraff, the rights and obligations, as well as the wealth of a legal entity, together, a legal entity as a legal construction. The theory of Reality and Juridical (Juridische Realiteisler) by Meijers, namely: a legal entity, is realiteit, concrete, real even though it cannot be touched, not fiction, a legal reality. Equating a legal entity with a human being, is limited to the legal field. The law is useless when it has to deal with power, especially the authoritarian power controlled by puppet rulers. In the development of the political world in Indonesia, various political parties have acquired legal entities from political parties. According to them, the choice of acquisition is a suggestion of the government. Since the beginning, political parties have wanted to follow the verification of legal entities, but on the other hand they have also considered joining other parties that already have legal entities. Politicians treat parties such as companies, and when problems occur, the transaction law used as a solution is the legal act of merger, consolidation, and acquisition, as one of the strategies in the corporate world. The main goals are to achieve growth, strengthen the structure, synergy between entities, product diversification, and increase market share.

According to Christopher, a merger or amalgamation is a combination of two or more companies into one business based on a basis agreed upon by all parties by the company's management and shareholders. It is a form of external growth that includes companies that carry out horizontal, vertical, or conglomerate expansion. According to Brigham, two or more companies merge into a single company.⁸¹ To date, there have been no specific rules regarding acquisitions. The Ministry of Law and Human Rights recognizes only new legal entities and changes, such as articles of association and bylaws (AD/ART), name changes, and changes in management. Acquiring political parties is beyond the scope of the Ministry of Law and Human Rights. Moreover, the issue how much a political party must pay to acquire an old party. According to Prof. Kacug Marijan, political parties buy various parties that have acquired the legal entities of political parties. Legal entities of political parties, initially only a trick of new political parties, used the legal entities of old political parties. This act is considered to have no political ethics such, as excessive democracy. This step also violates political ethics. This strengthens the transactional politics in the Indonesian political world.

Corrupt Politicians Who Harm The Economy And State Finances.

The 1945 Constitution and its Amendments stipulated that the Unitary State of the Republic of Indonesia is a State of Law, not a State of Power. One characteristics of a sovereign state is that it has the power (jurisdiction) to enforce laws within the limits of its territory (exclusive state rights). The exclusive rights of a state are based on the principle of state sovereignty, which includes the: equality of states, territorial integrity, and non-intervention. The political development of the Unitary State of the Republic of Indonesia has experienced ups and downs since independence, which have not been due to the influence of global political developments and their impact on the government system, in addition to conflicts. internal conflicts since the 1950s. According to Mochtar Kusumaatmadja,⁸² the originator of the idea of development law, warned that there were significant differences between the two meanings of the term. Mistakes as feared above have occurred when the state imposed its will through legislation on its people without a system of "checks and balances" resulting in negative social, economic, culturally, and politically effects.

Every legislative regulation product must display a philosophy and mission aimed at creating order, legal certainty, and justice, as well as its benefits, including the social, economic, and political consequences of the formation of these legislative regulations. For example, to eradicate criminal acts of corruption, four amendments have been made to the law that contains the mission of punishment (retributive philosophy) and saving state finances (utilitarian philosophy) simultaneously. The mission of this law is to deter perpetrators and ensure that the state is not harmed. However, in practice, this philosophy and mission is often ignored,

⁷⁹ Kacung Marijan, "Guru Besar Ilmu Politik Universitas Airlangga" (2019).

⁸⁰ Christopher Lovelock, *Manajemen Pemasaran Jasa* (Jakarta: Kelompok Gramedia, 2006).

⁸¹ Eugene F Brigham and Houston, *Fundamental of Financial Management: Dasar Dasar Manajemen Keuangan* (Jakarta: Salemba Empat, 2006).

⁸² Mochtar Kusumaatmadja, *Fungsi Dan Peranan Hukum Dalam Pembangunan Dalam Hukum, Masyarakat, Dan Pembangunan* (Bina Cipta, n.d.).

including only aiming at the harshest punishments without considering the increase in state financial income, or even the deterrent effect is no longer greater than before the enactment of the four changes to the law. The practice of forming laws as a tool, not a means of reform, seems to continue to occur on the legal political map in Indonesia, and this is worrying from a perspective, not only from the aspect of protecting the human rights of suspects and defendants in accordance with Chapter X. A of the 1945 Constitution, but also from the perspective of legal education for future generations of the nation. The phenomenon of strengthening the law as a tool must be balanced with the power of a free and responsible press. External supervision originating from the power of nongovernmental organizations is still necessary, as long as it does not become the trumpet of power/capital owners.⁸³ Political powers based on the 1945 Constitution, presidential powers are not only in the executive field, but also in the legislative and judicial fields. As an example of the large role of the president in producing laws; the president has the power to grant pardons, amnesty, abolition, and rehabilitation. This power is clearly constitutional, because it is based on the 1945 Constitution.⁸⁴

The increasing number of corruption crimes involving politicians, both in the legislative, executive, and judiciary, is closely related to the negative effects of the Indonesian people's choice in determining the direct election system, as regulated in Article 167 paragraph (1) of Law Number 72017 and Article 201 paragraph (8) of Law Number 10 of 2016 concerning elections, which requires regional heads to incur very large costs; thus, once elected and in power, they are trapped in carrying out actions that are contrary to the law, corruption, manipulation, Collusion Corruption, Nepotism (KKN), and various other disgraceful acts. The political costs are so enormous that they only consider how to quickly make money to return capital, pay debts to sponsors, and make deposits to their political parties.

The court's imposition of criminal sentences on defendants in corruption cases, a number of government cabinet ministers, some time ago, has further added to the blacklist of state officials of the Republic of Indonesia who have committed corruption crimes. In the beginning, the perpetrators of corruption crimes were committed by the power-holding elite, who, in their daily appearance, were known to be very polite in their behavior and speech, but the subsequent reality said otherwise. Behaviors ranging from reviewing the State Expenditure budget, mark-ups, licensing, procurement of goods and services, fictitious accountability, manipulation of tax money, and projects to procure the holy book Al-Quran, have not escaped their attention. Apart from the private sector, bureaucracy, civil servants, and politicians are parties who most often hold the status of suspects in corruption cases, especially those handled by the Corruption Eradication Commission. The data shows that all of these cases involved politicians. Politicians with suspected corruption have always been punished by the courts. What about political party organizations where corrupt politicians take refuge? Will these political parties be free from punishment? If this is the case, then this country is just a matter of time before its destruction, because corruption has become rampant, reaching all dimensions of national and state life, from Sabang to Merauke, and almost all officials in the Executive, Legislative and Judiciary are indicated to be corrupt. What is most worrying is that corruption does not come from below where people may need it to just survive, who are not well off, but from the top leadership, elites, and rulers, in order to become super-rich again.⁸⁵

In the history of Corruption Eradication in Indonesia, a number of corruption cases will attract public attention by 2022. The Corruption Eradication Commission (KPK) is state institutions mandated to eradicate corruption in Indonesia. This commission was established based on Law Number 30 of 2002, concerning the Corruption Eradication Commission. In carrying out its duties and authority, the Corruption Eradication Commission is independent and free from the influence of any power, including the government and other state institutions. Throughout its journey, the KPK uncovered and resolved several corruption cases. In 2022, the Corruption Eradication Commission (KPK) made a number of efforts to handle criminal acts of corruption. Reporting from the official KPK website, in the first semester of 2022, the KPK has carried out 66 investigations, 60 inquiries, 71 prosecutions, 59 final and binding (*inkracht*) cases, and executed decisions on 51 cases. Of the total investigation cases, the Corruption Eradication Commission (KPK) named 68 people as suspects out of 61 investigation warrants (*sprindiks*) issued.

There were 99 on going cases in the first semester, consisting of 63 carriers and 36 new cases with 61 published warrants (*sprindiks*). Carry over is a case that has been on going for a long time but was later developed by the KPK, and other allegations of corruption were discovered. In addition, the Corruption Eradication Commission carried out 52 searches and 941 seizures in the case investigation process. In 1st Semester of 2022, the KPK recovered state financial losses arising from corruption or asset recovery, amounting to IDR 313.7 billion. The total asset recovery consists of IDR 248.01 billion, which represents income from confiscated money resulting from corruption, money launderings (TPPU), and replacement money that has been decided or determined by the court. Then, IDR 41.5 billion came from revenue from

⁸³ Dwi Putri Cahyawati, "Aspek Hukum Hubungan Antara Rakyat Partai Politik, Dan Dewan Perwakilan Rakyat," in *Bunga Rampai: "Hukum Dan Perkembangan Masyarakat, Kontribusi Pemikiran Dosen Fakultas Hukum, Universitas Muhammadiyah, Jakarta, Indonesia*, Cetakan Pe (Jakarta: P3IH, 2019), 95–115.

⁸⁴ Jurnal Tata Negara, "Pemikiran Untuk Demokrasi Dan Negara Hukum, Prinsip Keadilan Dan Feminisme," *Pusat Studi Hukum Tata Negara Fakultas Hukum Universitas Indonesia*, 2001, 4–5.

⁸⁵ Sayiful Bakhri, "Pembaharuan Hukum Pidana Formil (Semangat Dekolonisasi Hukum Acara Pidana Berkebhinekaan)," in *Hukum Dan Perkembangan Masyarakat, Kontribusi Pemikiran Dosen Fakultas Hukum, Universitas Muhammadiyah, Jakarta, Indonesia*, Cetakan Pe (Jakarta: P3IH, 2019), 1–27.

finances and sales of corruption and money laundering auctions, and IDR 24.2 billion came from determining the status of use and grants. This asset recovery achievement increased by 83.2% compared with the same period in the previous year. In Semester I 2021, KPK's asset recovery figure was IDR 171.23 billion.⁸⁶

The scary, and worrying impact of the treatment of those convicted of Corruption Cases is that it cannot be denied that the crime of corruption is one of the biggest and most serious problems in the world, and various big officials have been arrested because of this serious corruption problem. The names of officials in Indonesia are endlessly heard in corruption cases, year after year there are always officials in Indonesia who are also caught up in cases of eradicating corruption. Corruption cases in Indonesia are endless, as Indonesian citizens should be able to cherish memories of the various corruption cases that always occur every year. There are many names of officials involved in corruption cases, not just one or two names who are involved in corruption. In addition, the existing corruption cases have not been solved, and other cases have emerged.

Below, we provide a list of officials who were caught in corruption. Although we have experienced many cases of corruption in Indonesia, this has never deterred some Indonesian officials from repenting. Every year, Indonesian officials are always caught in corruption. Corruption is a serious problem for all countries, including Indonesia. The criminalization of various high-ranking officials in this country has further added to the long black list of corruption crimes in Indonesia, and has broken down the last walls of law enforcement in the nation and state in Indonesia. As a result of these corrupt actions, the country suffered trillions of rupiah losses. This year, several corruption cases had fantastic value and dragged the names of a number of government officials.

A series of Indonesian officials who have been caught in corruption cases, are the: Legislative (House of Representatives/DPR), the People's Consultative Assembly/MPR, and the House of Representatives (DPR), who are involved in corruption.⁸⁷ Aziz Syamsuddin from the Golkar Party faction.⁸⁸ Executive,⁸⁹ All of these names were submitted at the start of the election by political party organizations in accordance with article 12 of Law Number 2 of 2008 concerning Political Parties.⁹⁰ Central Memberamo Regent Ricky Ham Pagawak, alleged corruption case involving regional heads.⁹¹ Universities & State-Owned Enterprises (BUMN);⁹² Chancellor of the University of Lampung (Unila) Karomani, Deputy Chancellor I for Academic Affairs,⁹³ Heryandi, Chairman of the Senate;⁹⁴ Judiciary (Judicial/Law Enforcement Officials, Judges, Lawyers):⁹⁵ Constitutional Judge;⁹⁶ In the arrest attempt, the Corruption Eradication Commission (KPK) secured 205,000 Singapore dollars and IDR.50 million.

However, Indonesia is also the most generous, easy, and not difficult to grant remissions and, reduced sentences to corruptors, including: 214 corruption victims who received Remission for the Independence Day of the Republic of Indonesia, 2021. The Ministry of Law and Human Rights granted remissions to 214 corruption convicts. Based on Article 14, paragraph 1 (i) Law Number 12 of 1995 concerning corrections. "Article 14 Paragraph 1 Letter (i) of Law Number 12 of 1995 concerning corrections states that prisoners have the right to receive remission. In general, until September 2022, the Directorate General of Correction Ministry of Law and Human Rights issued 58,054 probations, conditional leave, and leave before release for prisoners for all criminal cases in the country. Of these, 23 are corruption prisoners who have been released, based on granting prisoners conditional rights in the form of conditional release, referring to Articles 9-10 paragraphs 1 and 2. Law Number 22 of 2022 concerning corrections. However, this decision was annulled by the Supreme Court.⁹⁷ The Coordinator of the Legal Division of Indonesia Corruption Watch, Kurnia Ramadhana, doubts that the granting of remission to hundreds of convicts in corruption cases has met these requirements.⁹⁸

Based on the description of the data above, it can be said that among-intellectuals, the most learned and respected, universities have always been proud of as the last bastion of idealism. However, in reality, these circles have also been permeated by corruption for a long time, and at all levels, there is a lot of corruption in the rule of law that impoverishes and makes people miserable and makes it very slow for this country to become a developed country. Political costs are so enormous that regional heads lose their logical logic of thinking. No longer able to think about economic development and growth, the welfare of the people at large,

⁸⁶ Kompas.com, "Data Kasus Korupsi Di Indonesia Tahun 2022," Kompas.com, 2022.

⁸⁷ Nasional.Kompas.com, "Data Kasus Korupsi Di Indonesia Tahun 2022," Nasional Kompas, n.d.

⁸⁸ JawaPos, "Deretan Pimpinan DPR," JawaPos, n.d.

⁸⁹ Ahmad Naufal Dzulfaroh, "Daftar 12 Menteri Indonesia Yang Terjerat Kasus Korupsi," Kompas.com, n.d.

⁹⁰ SINDO, "Ratusan Kepala Daerah Terjerat Korupsi," *Koran Seputar Indonesia (SINDO)*, 2013.

⁹¹ Ahmad Naufal Dzulfaroh, "Mereka Yang Terjerat Korupsi Tahun Ini, Dari Rektor Hingga Hakim Agung," Kompas.com, n.d.

⁹² (Data Kasus Korupsi di Indonesia Tahun 2022)

⁹³ Mahkamah Agung, "Patialis Akhbar Divonis 8 Tahun Penjara," Mahkamah Agung, 2017.

⁹⁴ Nasional.Tempo.co, "Beberapa Faktor," n.d.

⁹⁵ Tempo.com, "Sejumlah Kasus Dugaan Korupsi Rektor Universitas Di Indonesia," Tempo.com, 2023.

⁹⁶ Kompas.com, "Kasus Suap Penanganan Sengketa Pilkada Akil Mochtar Yang Menggurita," Kompas.com, 2014.

⁹⁷ Nasional.Tempo.co, "Nama 23 Narapidana Korupsi Yang Dapat Program Pembebasan Bersyarat, Dari Ratu Atut Hingga Zumi Zola," Nasional.Tempo.co, 2022.

⁹⁸ Kompas.com, "Daftar 214 Nama Napi Korupsi Yang Mendapat Remisi HUT RI," KOMPAS.com, 2021.

all that is in his brain— is thinking about how to quickly make money to return capital, pay debts to sponsors, and make deposits to the political parties that support them.⁹⁹

There are various modes and forms of practice for implementing corruption through political party organizations. Starting from tampering with the State/Regional Expenditure Development Budget, playing with inflated project/activity prices (mark-up), playing with the goods and services procurement sector, playing with the process of granting business permits and mining resource management, fictitious financial accountability, holding tenders, and various other manipulative activities. This mode of political corruption is generally planned, and there is an element of coordination in a political- corrupt case. This coordination involves politicians in executive, legislative, and executive positions. "These corruption cases appear to be planned, coordinated, well designed, as can be seen from the planning that was carried out from the start, there was communication between legislative politicians, the executive bureaucracy and there were also discussions with tender organizers. This trend of political- corruption crimes will become increasingly widespread, with political parties optimizing their money-collecting machines by legalizing corrupt methods. Carrying out illegal interventions in the public process, namely carrying out interventions that violate the law in the political process, especially in the context of public policy- making by the government. The practice often takes the form of donating political funds to political parties' campaigns in the general election process, the aim of which is that certain desires or tendencies of corporations can be achieved, through the emergence of government policies resulting from elections.

Political party organizations should prioritize the interests of the party rather than the interests of individuals. With a number of high-ranking party officials involved in alleged corruption at the Corruption Eradication Commission (KPK), political party organizations must be able to take a stand immediately. They want to save for their parties or individual people. If they still maintain it, they could end up falling into corporate corruption and be threatened by being disbanded. Corporate crime committed by various political parties is very dangerous because it is an organized crime, so if it is not handled seriously and quickly, it will have repercussions in development, especially law enforcement.¹⁰⁰

In accordance with the provisions of Article 3 of Law Number 2 of 2008 concerning Political Parties, among other things, it is stated that political party organizations must be registered with the Ministry of Law and Human Rights, to become legal bodies, with all the requirements. Political Party organizations as legal bodies can act as legal subjects, which, of course, in the implementation of their main duties are represented by their administrators. The development of modern science and technology is the result of progress in human thinking, and has had a significant influence on the form of corporate crime, or corporate crime, both in terms of quantity and quality. From the thought patterns of crime that existed at that time, it was almost never carried out by individuals, but was often carried out in groups and neatly organized in companies or corporations. In the context of achieving corporate goals, corporations are also responsible for achieving the goals of social protection and social welfare; thus, there is a balance between the rights and obligations of corporations in carrying out their roles in the development process. With the increasing role of corporations in the development process, greater attention has been paid to social protection, including criminal law.

Law No.2 of 2008 concerning political parties and its amendment Law Number 2 of 2011 do not contain specific provisions regulating the threat of sanctions against Political Parties regarding corruption cases of their cadres. However, of the four articles in the Sanctions Chapter, several articles and verses can actually be used to ensnare political parties in corruption cases. Administrative sanctions up to the dissolution of the party. Articles 41, 47 (5), and 48 paragraphs (2), (3), (4), and (5); Article 50. Article 47 paragraph (5) reads, "Violations of the provisions as intended in Article 40 paragraph (3) letter e are subject to administrative sanctions determined by the body/institution tasked with maintaining the honor and dignity of Political Parties and their members." Article 40, paragraph (3) prohibits political parties from using factions in the People's Consultative Assembly (MPR), People's Representative Council (DPR), Regional Representative Council (DPD), and Regional People's Representative Council (DPRD) as a source of funding for political parties.

According to Article 47 (5), a political party may be subject to administrative sanctions if law enforcers can prove that party cadres in parliament have committed corruption with the aim of funding their political party. Article 47 paragraph (5) requires that the determination of sanctions be carried out by "a body/institution tasked with maintaining the honor and dignity of Political Parties and their members. Related to this legal basis, is the authority of the Constitutional Court (MK), based on Article 24C paragraph (1) of the 1945 Constitution in conjunction with Article 10 paragraph (1) letters a to d of Law Number 24 of 2003 in conjunction with Article 41, 48, and 50 of Law Number 2 of 2008 concerning Political Parties in conjunction with Law Number 10 of 2008 concerning elections in conjunction with Law Number 8 of 2011 concerning the Constitutional Court., It is determined that the Constitutional Court has four constitutional authorities, namely: reviewing

⁹⁹ A.Kahar Maranjaya, "Penyalahgunaan Wewenang Kepala Daerah: Sebuah Implikasi Pelaksanaan Demokrasi Langsung," in *Dalam Prof. Sayiful Bakbri, S.H., M.H., Dkk, Bunga Rampai: "Hukum Dan Perkembangan Masyarakat, Kontribusi Pemikiran Dosen Fakultas Hukum, Universitas Muhammadiyah, Cetakan Pe* (Jakarta: P3IH, 2019), 183–205.

¹⁰⁰ H. Rantawan Djamin, "Reformasi Peradilan Dan Pemberantasan Korupsi Di Indonesia," in *Dalam Prof. Sayiful Bakbri, S.H., M.H., Dkk, Bunga Rampai: "Hukum Dan Perkembangan Masyarakat, Kontribusi Pemikiran Dosen Fakultas Hukum, Universitas Muhammadiyah, Jakarta, Indonesia, cetakan pe* (Jakarta: P3IH, 2019), 41–75.

laws— regarding the 1945 Constitution; deciding authority disputes between state institutions whose authority is granted by the 1945 Constitution; decide on the dissolution of political parties; and resolve disputes about election results. In addition, the Constitutional Court also functions as a derivation of its authority: the guardian of the constitution, interpreter of the constitution, guardian of democracy, protector of citizens' constitutional rights, and protector of human rights.¹⁰¹

Various groups of society deeply regret and are concerned about the rise of political corruption. If you look at the behavior of political parties as they are now, it is feared that they are just waiting for a time bomb; it looks like the end of the Republic of Indonesia. Political parties should also be given legal sanctions if their cadres are involved in corruption. Investigating officers, public prosecutors, and judges must punish corrupt political parties because of their corrupt behavior. Political parties should be given legal sanctions if their cadres have committed corruption. In the provisions of Political Parties Law and other related regulations, there is a clause that allows parties to be dissolved, their membership frozen if the party is involved in corruption. Almost all efforts have been made to eradicate acts of corruption.

Starting from reverse evidence for corruption defendants in the era of President Gus Dur's administration, the idea of a corruption zoo was put forward by the former Chairman of the Constitutional Court Mahfud M.D., to the most recent being the implementation of judicial collaborators by the former Chairman Abraham Samad Corruption Eradication Commission. If we look back, the practice of corruption in this country dates back to the pre-independence era, namely, the provision of tribute from regional leaders or village heads to powerful kings. These tributes were handed over to show obedience between subordinates and their leaders. In addition, to provide protection from the king to regional leaders, both physically in the form of legal protection and non-physically in the form of recognition of sovereignty. This was used as a tool for legitimacy and habit. Gradually, the practice of paying tribute was considered reasonable thing to implement if bureaucratic problems were to be eased, both at the central and regional levels. If this is not done, it will be considered strange. Ultimately, all corrupt practices in this country have become a culture that is very difficult to reduce, or even eliminate completely because it has become a culture.¹⁰²

Necessary To Improve The Legislation Regarding General Elections.

Legal development is a conscious, systematic and sustainable effort to build social, national and state life that is increasingly advanced, prosperous, safe and peaceful within a just and certain legal framework and foundation. Legal development is directed toward building a sustainable and integrated legal order within the framework of a country's goals. To realize this effort, reform is an important moment to make it happen. The first is realized through constitutional reforms.¹⁰³ The legal fields that require formation and renewal can be grouped according to the fields needed, namely: political and governmental fields; economics and the business sector; social and cultural welfare; and the structuring of legal systems and apparatus.¹⁰⁴ Legal reform implies developing a legal system to adapt to changes in society. Therefore, legal development is not only focused on legal rules or substances, but also on legal structures or institutions and the legal culture of society.¹⁰⁵

To realize targeted legal development, a national legal system is structured such that legal development is intended to achieve a state goal. The formation of a legal system cannot be postponed to fit legal politics; even according to Mahfud MD, the legal system can be used as a forum or foundation and framework for national legal politics.¹⁰⁶ Prof. Dr. Sunaryati Hartono, in her book *Politics of Law Towards One National Legal System*, did not explicitly formulate the meaning of politics of law. However, we can grasp the substance of his understanding when he refers to law as a tool; that legal politics is a tool or suggestion and step that can be used by the government to create a national legal system that can be used to achieve the nation's ideals and state goals.

In line with this, in the concept of legal development, Mochtar Kusumaatmadja provides an understanding that in assisting the process of change in society, an old-fashioned view of law that emphasizes the function of maintaining order in a static sense and the conservative nature of law is not enough for law to fulfill its role in a developing society.¹⁰⁷ This thinking was inspired by experience in the United States, especially after the implementation of the New Deal in the thirties, when we witnessed the use of law as a tool to bring about changes in the social sector. In this country, the term law emerged as a tool of social engineering (Rousso Pound). Legal politics plays role in legal development through this legal function. What is the role of legal

¹⁰¹ Arief Hidayat, "Efektifitas Peran Mahkamah Konstitusi Sebagai Penjaga Konstitusi (Perspektif Pembinaan Hukum Dan Demokrasi)," *Continuing Legal Education (CLE) Di Puslitbang BPHN, Kementerian Hukum Dan HAM-RI* (Jakarta, 2013).

¹⁰² Maranjaya, "Penyalahgunaan Wewenang Kepala Daerah: Sebuah Implikasi Pelaksanaan Demokrasi Langsung."

¹⁰³ Wicipto Setiadi, "Pembangunan Hukum Dalam Rangka Peningkatan Supremasi Hukum," *Jurnal Reclaiming* 1 Nomor 1 (2012): 5.

¹⁰⁴ Dedi Susanto, "Penegak Hukum Dan Pembangunan Hukum Di Indonesia," *Jurnal Al-Mizan* 10 Nomor 1 (2014): 125.

¹⁰⁵ Dhaniswara, "Konsep Pembangunan Hukum Dan Perannya Terhadap Sistem Ekonomi Pasar," *Jurnal Hukum Ins Quia Iustum* 18 Nomor 4 (2011): 578.

¹⁰⁶ Mahfud MD, "Politik Hukum Menuju Pembangunan Sistem Hukum Nasional" (BPHN, 2006).

¹⁰⁷ Mochtar Kusumaatmadja, *Konsep-Konsep Hukum Dalam Pembangunan* (Bandung: Alumni Publisher, 2002).

politics as a policy direction for legal development in the political sector, especially in relation to several laws and regulations made after reform in the context of development in the political sector?¹⁰⁸

Legal politics and development in the political field will be seen through statutory regulations.¹⁰⁹ Legislation is a part of the law that is deliberately created by state institutions. In this context, legislative regulations cannot appear suddenly. Legislative regulations have been implemented for specific purposes. However, the aims and reasons for establishing statutory regulations vary. Legal politics refers to the various objectives and reasons for the formation of legislation are referred to as legal.¹¹⁰ In line with Donald Horowitz,¹¹¹ important changes in the political sector are contained in government regulations regarding parties, elections, government structure and delegation of power/authority. The demand to respond to increasingly advanced global political developments has also influenced post-reform political legal development. This was done solely to meet the needs of a better democratic life than in the previous government. Therefore, it is necessary to replace the election law.

Elections, as a manifestation of the implementation of popular sovereignty, play an important role in realizing democracy. Through this election, it is possible to determine the degree to which a country implements a democratic political system. Excessive government intervention during election events is often a misuse. Therefore, realizing quality elections based on the principles of honesty, fairness, direct, public, free, and secret is the ideal for democracy and legal development in Indonesia. Through the above law, the legal politics of legal development in the political field that the post-reform Indonesian government wants to achieve are responding to developments and replacing outdated regulations, realizing quality elections, efforts to form a simple multi-party system, and realizing decentralization with the principle of regional autonomy. All these things are intended to achieve nothing other than a democratic government.¹¹² The regional head election took place by the Regional People's Representative Assembly (DPRD), however, currently this is still a contradiction because in relation to Article 22E paragraph (1) of the 1945 Constitution of the Republic of Indonesia which states "General elections are held directly, publicly, freely, secretly, honestly and fairly once every five years." Another factor in the birth of this discourse was the financial problems. The funds used for each regional head election were quite large. If these funds were diverted to improve people's lives, it would certainly have been better. However, there is also a counter camp to this discourse, which believes that it will be easy to buy and sell votes between every individual who has an interest in gaining power at the regional level.¹¹³

The development of democracy has undergone repeated modifications so that theory and practice, especially between certain regions, have differences according to their respective perceptions and interests. There are still different nuances between the center and the regions. For example, the roles played, human resources, facilities and so on which are more technical in nature.¹¹⁴ In this way, the democracy that is hoped for is democracy carried out not only by the leaders, but also carried out by the people or members of the organization consciously, means that it is time for the democratization process to be socialized in everyday life.¹¹⁵ Based on the understanding above, it can be said that democracy that takes place in a country nationally will not function if democracy is not practiced at more limited levels, namely in regional government, both provincial and district/city, even closer to the possibility of the democratic process takes place in the village.¹¹⁶ With the ratification of the revision of Regional Government Law Number 22 of 1999 into Law Number 32 of 2004 concerning Regional Government by the Peoples Representative Assembly (DPR-RI) at the same time recommending that direct regional head elections (pilkada) begin in June 2005.

Democracy seems inseparable from the discussion of matters related to governance and political activities. All political processes and government institutions operate hand-in-hand with democracy. The phrase "democratically elected" is broad, so it includes the meaning of direct regional head election by the Regional People's Representative Assembly as is generally practiced in the regions based on the provisions of the applicable laws.¹¹⁷ Apart from that, new competition has emerged between independent candidates and candidates supported by political parties (party cadres or non-party cadres).¹¹⁸ By holding direct regional elections, the possibility of money politics can be prevented or reduced. If there are still parties who want to do so, they will face a large number of voters.¹¹⁹ Regional elections are a celebration of democracy at the local

¹⁰⁸ M. Yasin Al-arif, "Arah Kebijakan Pembangunan Hukum Di Indonesia: Studi Pembangunan Hukum Bidang Politik Dalam Negeri Pasca Reformasi," 2016.

¹⁰⁹ Al-arif.

¹¹⁰ Himahanto Juwana, "Politik Hukum Dan Penegakan Hukum: Studi Kasus Pembangunan Hukum Di Bidang Perekonomian," Bahan Kuliah Law and Development, n.d.

¹¹¹ Donald Horowitz, *Perubahan Konstitusi Dan Demokrasi Di Indonesia, Terjemahan Dari Constitutional Change and Democracy in Indonesia* (Pustaka Pelajar, 2014).

¹¹² Dhaniswara, "Konsep Pembangunan Hukum Dan Perannya Terhadap Sistem Ekonomi Pasar."

¹¹³ Enong Samsul Fariyah et al., "Perkembangan Demokrasi Di Daerah Dan Fenomena Pemilihan Kepala Daerah" (Bandung, 2014).

¹¹⁴ Utang Rosidin, "Pengembangan Demokrasi Di Daerah Sebagai Upaya Mewujudkan Negara Kesejahteraan (Welfare State)," n.d., 235.

¹¹⁵ Acry Deodatus, *DPRD Dan Demokratisasi Pemerintahan Daerah, Dalam Syamsuddin Haris, Desentralisasi Dan Otonomi Daerah* (LIPI Press, 2007).

¹¹⁶ Rosidin, "Pengembangan Demokrasi Di Daerah Sebagai Upaya Mewujudkan Negara Kesejahteraan (Welfare State)."

¹¹⁷ Jimly Asshiddiqie, *Konsolidasi Naskah UUD 1945 Setelah Perubahan Keempat* (pusat studi hukum tatanegara UI, 2022).

¹¹⁸ Leo Agustino, *Pilkada Dan Dinamika Politik Lokal* (Yogyakarta: Pustaka Pelajar, 2009).

¹¹⁹ Razali Abdullah, *Pelaksanaan Otonomi Luas Dengan Pemilihan Kepala Daerah Secara Langsung* (Jakarta: Rajawali Pers, 2007).

level and a new thing in this republic. This has a number of consequences for a number of regional organizers, especially regarding how to hold regional elections safely and smoothly.¹²⁰

Democracy is a form of popular sovereignty, in which people play a very important role. The democracy adopted in Indonesia, namely, democracy based on Pancasila, is still in the stage of development, and knowing its nature and characteristics, there are various interpretations and views. However, it cannot be denied that several basic values of constitutional democracy are quite clearly implied in the 1945 Constitution of the Republic of Indonesia, which has not been amended.¹²¹ Political power achieved through a good democratic process can create harmony in achieving people's welfare as the goal of the State.¹²² One of the manifestations of democracy in Indonesia is marked by the rise of political parties which emerge based on being a forum for people's aspirations. Article 18 paragraph (4) of the 1945 Constitution states that governors, regents, and mayors, as heads of provincial, district, and city governments, respectively, are elected democratically. The phrase chosen by democratization implies that the regional head election process using a representative system through the Regional People's Representative Assembly that took place before the amendment to the 1945 Constitution was still far from democratic.¹²³ According to Jimly Asshiddiqie,¹²⁴ the term 'democratically elected' is flexible, so that it includes the meaning of direct regional head election by the people or by the Regional People's Representative Assembly (DPRD), as is generally now practiced in the regions based on the provisions of the applicable legislation. As long as it does not conflict constitutionally, the government will issue the necessary legislation in the midst of a situation, so that there is no delay in handling it. To act quickly, the bureaucracy needs a legal basis. In emergencies, there have been various changes in legal regulations.¹²⁵

CONCLUSION

Various laws and regulations regarding the implementation of the General Election in Indonesia, various laws and regulations were found that be unable to accommodate the aspirations of the people optimally. For example, the legal guarantee of people's sovereignty; does not meet the minimum standards for the implementation of democratic, honest, and fair elections that are recognized based on international standards and, minimal and not ideal standards, it still causes multiple interpretations so that it must be resolved by ending in a lawsuit at the Constitutional Court and the State Administrative Court. In a multi-party system, election supervisory committee (Panwaslu), the General Election Commission, should be independent of the government, and each party should also participate in organizing the Election. Bureaucracy must be neutralized so that no party has its own political machine. The rampant corruption that is detrimental to the economy and state finances, involving politicians in legislative, executive, and judicial institutions in Indonesia, cannot be separated from the negative impact of the general election system; high political costs make them think about how to quickly return capital, pay debts to sponsors, and deposit to the political party that supports them. Thus, they are trapped in committing criminal acts such as: corruption, manipulation, collusion, and nepotism, as well as various other criminal acts. The Various election laws and regulations do not contain specific provisions regarding criminal sanctions against political parties. Therefore, improving the laws and regulations regarding elections is something that needs to be done. Therefore, as a solution to the various problems mentioned above, the implementation of Direct, Simultaneous, and National General Elections in Indonesia, based on research results, has been detrimental to the State Economy and Finances through acts of corruption committed by politicians as a product of the results of the general election. Therefore, this general election system should be reviewed in the future. Therefore, to produce good general election results that are needed by all Indonesian people, changes and improvements are needed for various laws and regulations related to general elections in Indonesia.

Availability of data and material

All data used for this study are included within the manuscript. the data that support the findings of this study are available from the corresponding author.

Additional information

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¹²⁰ Hery Susanto, *Menggapai Demokrasi* (Republika, 2005).

¹²¹ M Budiardjo, *DASAR-DASAR ILMU POLITIK* (Jakarta: Gramedia Pustaka Utama, 2009).

¹²² Adi Sanjaya, "Demokrasi," n.d.

¹²³ Bagir Manan, "DPR, DPD, MPR Dalam UUD 1945 Yang Baru," *FH UII Press*, 2003.

¹²⁴ Asshiddiqie, *Konsolidasi Naskah UUD 1945 Setelah Perubahan Keempat*.

¹²⁵ Achsanul Qosasi, "Demokratisasi Di Tengah Badai Pandemi, Politics Is a Hard and Slow Boring of Hard Boards Max Weber (1863-1920)," AKURAT.COM, 2020.

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Funding

The study was fully funded by the purely jointly and jointly funded by the authors, was not fully funded by any party. The authors declare that there are no financial interests/personal relationships which may be considered as potential competing interests.

Competing Interests

No potential conflict of interest was reported by the author(s).

Acknowledgements

The authors would like to thank to Head of Center for Legal Research, Social Sciences and Humanities Research Organization; Center for Legal Research, Social Sciences and Humanities Research Organization, National Research and Innovation Agency, State of the Republic of Indonesia; Head of the Agency for Research and Development of Law and Human Rights, Ministry of Law and Human Rights, The General Election Commission of the Republic of Indonesia; Ministry of Home Affairs of the Republic of Indonesia; as well as to all parties that we cannot mention one by one, who has assists in the writing and publishing of this scientific paper. We realize that this scientific work is still far from perfect, so for its perfection, we need constructive criticism and suggestions from various parties.

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