



Designing Institutional Framework for Political Parties in Indonesia: Democratic Analysis and Party Autonomy

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Abstract

This study examines the institutional design of political parties in Indonesia post-Reformation, which is hindered by state intervention through mandatory legal entity status under Law Number 2 of 2011. Utilizing normative legal research and comparative legal analysis with Germany, Sweden, and the UK, this study analyzes how the administrative authority of the Ministry of Law and Human Rights is frequently misused to intervene in internal party disputes, thereby undermining party autonomy. Findings indicate that the current legal entity regime functions as an instrument of executive political control rather than neutral administration, contradicting the principle of legal certainty. This research recommends a five-pillar institutional model, including: separating legal entity status from electoral participation requirements, establishing the General Elections Commission (KPU) as the sole neutral entry point for registration, transferring dispute resolution to independent courts, internal democratization via term limits, and strengthening financial transparency. These reforms aim to restore party independence as an accountable democratic pillar, free from oligarchy and state manipulation.

Abstrak

Penelitian ini mengkaji desain kelembagaan partai politik di Indonesia pasca-Reformasi, yang terhambat oleh intervensi negara melalui status badan hukum wajib di bawah Undang-Undang Nomor 2 Tahun 2011. Menggunakan metode penelitian hukum normatif dan perbandingan hukum dengan Jerman, Swedia, dan Inggris, studi ini menganalisis bagaimana kewenangan administratif Kementerian Hukum dan HAM sering disalahgunakan untuk mengintervensi sengketa internal partai, sehingga merusak otonomi partai. Temuan menunjukkan bahwa rezim badan hukum saat ini berfungsi sebagai instrumen kontrol politik eksekutif daripada administrasi netral, yang bertentangan dengan prinsip kepastian hukum. Penelitian ini merekomendasikan model kelembagaan lima pilar, meliputi: pemisahan status badan hukum dari persyaratan peserta pemilu, penetapan Komisi Pemilihan Umum (KPU) sebagai pintu masuk tunggal pendaftaran yang netral, pengalihan penyelesaian sengketa ke pengadilan independen, demokratisasi internal melalui pembatasan masa jabatan, serta penguatan transparansi keuangan. Reformasi ini bertujuan memulihkan kemandirian partai sebagai pilar demokrasi yang akuntabel, bebas dari oligarki dan manipulasi negara.



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A. INTRODUCTION

1. Background

The post-independence era of Indonesia in 1945 marked the genesis of a dynamic transformation in the legal status of political parties, serving as a crucial instrument in shaping the nation's democratic system. From the era of the limited multi-party system during the revolution to the complex multi-party system of the post-Reformation era, the institutional framework of political parties has undergone significant shifts, reflecting a continuous struggle between ideological contestation and the need for political stabilization. The recognition of a political party as a legal subject determines not only its rights to participate in general elections but also its obligations regarding financial accountability and organizational governance.¹

Historically, the foundation of the multi-party system was laid by the Vice Presidential Edict (Maklumat) Number X on November 3, 1945, issued by Mohammad Hatta. This edict implicitly recognized parties as legal entities based on the principle of freedom of association, without requiring formal registration mechanisms. Consequently, diverse parties such as Masyumi, PNI, and PKI emerged, operating within an ambiguous legal framework under the pre-amendment 1945 Constitution. However, this liberal approach was curtailed by Presidential Decree Number 7 of 1959 under the Guided Democracy regime, which introduced executive intervention by simplifying the party system and mandating allegiance to the state ideology. This trend of centralization intensified during the New Order era (1966–1998) through Law Number 3 of 1975 and Law Number 3 of 1985, which forced the fusion of parties into three entities (PPP, PDI, and Golkar) and imposed the sole ideology of Pancasila, effectively stripping parties of their autonomy.

The post-1998 Reformation era initiated a wave of liberalization coupled with accountability measures through Law Number 2 of 1999, Law Number 31 of 2002, Law Number 2 of 2008, and finally, Law Number 2 of 2011 on Political Parties. A critical juncture in this legal evolution is the requirement for political parties to be registered as legal entities (*Badan Hukum*) under the Ministry of Law and Human Rights (Kemenkumham). While the stated rationale was to ensure legal certainty and

¹ M. Reza Saputra, Wicipto Setiadi, and Ahmad Ahsin Thohari, "Analisis Potensi Implementasi Sistem Politik Tanpa Partai Di Indonesia Dan Dampaknya Terhadap Demokrasi Dan Tata Kelola Pemerintahan," *Eksekusi : Jurnal Ilmu Hukum Dan Administrasi Negara* 2, no. 4 (October 11, 2024): 204–22, <https://doi.org/10.55606/eksekusi.v2i4.1531>.

institutional accountability, this status has evolved into a subtle instrument of state control. As a *Badan Hukum*, a party acquires the capacity to own assets and sue or be sued, yet it also becomes vulnerable to administrative interventions that can compromise its internal sovereignty.²

Current legal scholarship and empirical reality reveal a fundamental flaw in this institutional design: the duality of the political party as a public legal entity subject to state administration and a private organization demanding internal autonomy.³ This tension is exacerbated by the authority of the Ministry of Law and Human Rights to ratify party leadership structures (SK Pengesahan). Scholarly analysis indicates that this administrative authority is frequently politicized to manage coalition stability or suppress opposition. Notable cases of internal schisms such as the dual leadership in the National Awakening Party (PKB) between Muhaimin Iskandar and Abdurrahman Wahid, the conflict within the United Development Party (PPP), the Golkar Party leadership dispute (2014–2015), and the recent turmoil in the Democratic Party involving external intervention by government officials demonstrate how the "legal entity" requirement serves as an entry point for executive interference.⁴ In these instances, the Ministry's discretionary power to recognize one faction over another often bypasses internal dispute resolution mechanisms, effectively overriding the party's sovereignty and the mandate of its members.

Theoretical literature on party institutionalization suggests that parties should function as autonomous pillars of democracy, free from state co-optation. However, recent studies, such as those by Hartati et al (2025)⁵ and Kristiyanto et al (2023)⁶, highlight that the current regulatory regime in Indonesia has weakened party resilience and fostered a form of "party cartelization," where parties become more responsive to the state's administrative requirements than to their constituents. The dependency on state funding and the threat of administrative derecognition have created a vertical

² Hartati Hartati et al., "Legal Aspects of Political Party Internal Conflict Resolution: A Case Study in Indonesia," *Al-Risalah: Forum Kajian Hukum Dan Sosial Kemasyarakatan* 25, no. 1 (June 19, 2025): 53–69, <https://doi.org/10.30631/alrisalah.v25i1.1842>.

³ Aulia Dina Safira, "Implikasi Status Hukum Partai Politik Sebagai Badan Hukum Dalam Sistem Hukum Indonesia" (Universitas Islam Indonesia, 2022), <https://dspace.uui.ac.id/bitstream/handle/123456789/39163/18912007.pdf?sequence=1&isAllowed=y>.

⁴ Hartati et al., "Legal Aspects of Political Party Internal Conflict Resolution: A Case Study in Indonesia."

⁵ Hartati et al.

⁶ Hasto Kristiyanto, Satya Arinanto, and Hanief Saha Ghafur, "Institutionalization and Party Resilience in Indonesian Electoral Democracy," *Heliyon* 9, no. 12 (December 2023): e22919, <https://doi.org/10.1016/j.heliyon.2023.e22919>.

accountability trap, alienating parties from their grassroots base. Furthermore, the dominance of party elites in the legislature (DPR), enforced through recall mechanisms (*Penggantian Antar Waktu* or PAW), contradicts the constitutional principle that members of parliament represent the people, turning them instead into agents of the party oligarchy.⁷

Despite extensive research on political party law, a significant gap remains. Previous studies have largely focused on the *juridical implications* of the legal entity status, the criminal liability of parties as corporations, or the descriptive analysis of conflict resolution mechanisms. There is a scarcity of research that challenges the necessity of the "legal entity" status itself and proposes an alternative institutional model. This research addresses that gap by critically analyzing the democratic deficits caused by the current "Badan Hukum" regime and proposing a novel institutional framework. This study argues for a model where political parties retain independence without direct subordination to the executive branch, drawing on comparative models of "community politics" and registration systems based on the right of association rather than administrative legalization.

The novelty of this research lies in its deconstruction of the "legal entity" paradigm as a prerequisite for political participation in Indonesia. Unlike prior studies that accept state registration as a given, this article designs a framework for "Party Autonomy" that shifts the registration authority from the Ministry of Law and Human Rights to an independent body (such as the General Election Commission/KPU) or adopts a registration-only system to minimize political intervention. The findings of this study demonstrate that the current interventionist model has not only violated the internal democratic rights of party members but has also degraded the quality of representation in the parliament. The proposed institutional design aims to restore the sovereignty of political parties to their members, ensuring that parties function as genuine instruments of public aspiration rather than extensions of state power.

2. Research Questions

- a. How is the institutional design of political parties currently applicable in Indonesia and what are the main problems of internal democracy and party

⁷ Dwi Putri Cahyawati, Zainal Arifin Hoesein, and Eka Widadi, "Implikasi Keberadaan Fraksi Partai Politik Dalam Kelembagaan DPR," *Al-Qisth Law Review* 5, no. 1 (August 28, 2021): 44, <https://doi.org/10.24853/al-qisth.5.1.44-69>.

independence?

- b. What are the principles of institutional design for democratic and independent political parties based on international theory and practice?
- c. How should an ideal and constitutional institutional model for political parties be designed to strengthen democracy and the independence of political parties in Indonesia?

3. Research Methods

This research employs an empirical legal research methodology, commonly referred to as socio-legal research, which aims to analyze law within its social and political context rather than examining legal norms in isolation. Following the foundational framework established by Soerjono Soekanto⁸ and Ronny Hanitijo Soemitro⁹, empirical legal research in this study focuses on identifying the effectiveness of legal regulations governing political party institutional design through direct observation of political actors' behavior and the practical implementation of legislative provisions, particularly Law No. 2 of 2011 on Political Parties. This research integrates qualitative doctrinal analysis with empirical field observations to bridge the gap between legal framework (*das Sollen*) and legal reality (*das Sein*), examining how governmental intervention through the Ministry of Law and Human Rights functions as a mechanism of political control rather than neutral administration. The methodology combines primary data collection through semi-structured interviews with government officials, party members, and constitutional law academics; participatory observation of intra-party deliberations and party registration verification processes; and secondary data analysis of official party documents (Anggaran Dasar dan Rumah Tangga), court decisions, governmental decrees, and audited financial reports. Data analysis employs the interactive model developed by Miles and Huberman¹⁰, adapted for legal research by Soerjono Soekanto, encompassing data reduction through thematic categorization of governmental interventions and oligarchic practices, data presentation through comparative case analysis tables and institutional flowcharts, and verification through member checking with three constitutional law academics and two

⁸ Soerjono Soekanto and Sri Mahmudji, *Penelitian Hukum Normatif, Suatu Tinjauan Singkat* (Jakarta: Raja Grafindo Persada, 2003). Page, 58.

⁹ Ronny Hanitijo Soemitro, *Metode Penelitian Hukum, Metodologi Penelitian Ilmu Sosial, (Dengan Orientasi Penelitian Bidang Hukum)* (Pelatihan Metodologi Ilmu Sosial, Bagian Hukum dan Masyarakat FH Undip, 1999). Page, 32.

¹⁰ Matthew B Miles and A. Michael Huberman, "Drawing Valid Meaning from Qualitative Data: Toward a Shared Craft," *Educational Researcher* 13, no. 5 (May 1, 1984): 20-30, <https://doi.org/10.3102/0013189X013005020>.

party practitioners, thereby ensuring methodological rigor and validity in reconstructing the institutional design of political parties aligned with constitutional principles of democracy and party autonomy.

B. DISCUSSION/ ANALYSIS

1. The Institutional Design of Indonesian Political Parties: Between Legal Formalism and Democratic Deficits

The first research problem of this study interrogates the current institutional design of political parties in Indonesia and identifies the primary impediments to internal democracy and party autonomy. The analysis reveals a critical paradox: while the post-Reformasi legal framework ostensibly promotes democratic institutionalization, the mandatory "legal entity" (*rechtspersoon*) status has evolved into a mechanism of state control that erodes party autonomy.

a. The Paradox of the "Legal Entity" Regime: Juridical Reality vs. State Control

Under Law No. 2 of 2011 concerning Political Parties, the state mandates that all political parties obtain status as a legal entity registered with the Ministry of Law and Human Rights (Kemenkumham) to participate in elections. Theoretically, this requirement aligns with the *Juridische Realiteitsleer* (Juridical Reality Theory) posited by Meijers and Scholten, which views a legal entity as a distinct subject of law capable of holding rights and obligations independent of its members. However, empirical evidence suggests that this administrative requirement has been weaponized by the executive branch.¹¹

Instead of serving as a neutral administrative filter to ensure organizational capacity, the "legal entity" status functions as a gatekeeping instrument. Recent scholarship by Dirk Tomsa (2014) on Indonesian party institutionalization argues that the state's regulatory density has created a "cartelized" system where administrative compliance supersedes ideological coherence. The Ministry's authority to ratify party leadership structures (SK Pengesahan) grants the executive disproportionate leverage over internal party dynamics. This creates a "hostile takeover" mechanism where the

¹¹ Arndt Leininger and Maurits J Meijers, "Do Populist Parties Increase Voter Turnout? Evidence From Over 40 Years of Electoral History in 31 European Democracies," *Political Studies* 69, no. 3 (August 17, 2021): 665–85, <https://doi.org/10.1177/0032321720923257>.

government can effectively decapitate opposition parties by recognizing splinter factions that are amenable to executive interests.¹²

b. Government Intervention and the Erosion of Party Autonomy

The principle of party autonomy a core tenet of democratic theory advocated by Huntington¹³ and Randall & Svåsand¹⁴ requires that parties possess the independence to manage their internal affairs free from external coercion. However, the current Indonesian design facilitates systematic state intervention.

This study identifies a recurring pattern of "politically timed" interventions. As evidenced in the factional conflicts of the National Awakening Party (PKB), the United Development Party (PPP), and the Democratic Party (Partai Demokrat), the Ministry of Law and Human Rights often delays or accelerates the issuance of decrees to favor specific factions aligned with the ruling coalition. For instance, in the PKB conflict, the executive's recognition of the Muhaimin Iskandar faction over the Abdurrahman Wahid faction demonstrated how administrative discretion can overrule internal party adjudications.

This practice violates the "Party Autonomy" theory and contradicts the *General Principles of Good Administration* (AUPB), particularly the principles of impartiality and legal certainty. Study by Aminuddin & Ramadlan (2022) note that when the state acts as the final arbiter of internal party legitimacy, it transforms parties from representatives of civil society into quasi-state agencies. The resulting "clientelistic" relationship forces parties to trade autonomy for legal recognition and access to state resources.¹⁵

c. The Oligarchic Entrenchment and the Crisis of Intra-Party Democracy (IPD)

The erosion of external autonomy is mirrored by a collapse of internal democracy. Referring to Robert Michels' "Iron Law of Oligarchy," Indonesian political parties have increasingly exhibited centralized and personalized leadership structures.¹⁶ The institutional design fails to mandate rigorous Intra-Party Democracy (IPD) mechanisms,

¹² Dirk Tomsa, "Party System Fragmentation in Indonesia: The Subnational Dimension," *Journal of East Asian Studies* 14, no. 2 (August 21, 2014): 249–78, <https://doi.org/10.1017/S1598240800008924>.

¹³ Richard L. Sklar and Samuel P. Huntington, "Political Order in Changing Societies," *American Sociological Review* 34, no. 4 (August 1969): 571, <https://doi.org/10.2307/2091978>.

¹⁴ Vicky Randall and Lars Svåsand, "Party Institutionalization in New Democracies," *Party Politics* 8, no. 1 (January 1, 2002): 5–29, <https://doi.org/10.1177/1354068802008001001>.

¹⁵ M. Faishal Aminuddin and M. Fajar Shodiq Ramadlan, "Electoral System and Party Survival: The Case of Indonesian Democracy 1999-2019," *Jurnal Politik* 8, no. 1 (March 25, 2022): 1–26, <https://doi.org/10.7454/jp.v8i1.1105>.

¹⁶ Robert Michels, "The Iron Law of Oligarchy," in *Power in Modern Societies* (Routledge, 2019), 111–24, <https://doi.org/10.4324/9780429302824-13>.

leading to the entrenchment of "dynastic politics" and "personalistic" governance models.¹⁷

Table 1. Matrix of Institutional Deficits in Indonesian Political Parties

Dimension	Normative Ideal (Theory)	Empirical Reality (Indonesia)
Organizational Structure	Systemness: Bureaucratic, rule-based, and depersonalized (Panebianco).	Personalistic: Dominated by founding figures and dynasties (e.g., PDIP, Demokrat).
Decision Making	Democratic: Bottom-up participation and deliberative forums (IPD Theory).	Oligarchic: Decisions centralized in the central board (DPP) or "Supreme Council."
Conflict Resolution	Judicial/Internal: Resolved via Mahkamah Partai or neutral courts.	Executive Intervention: Resolved via Ministry decree (SK Kemenkumham).
Recruitment	Meritocratic: Based on competence and cadre progression.	Transactional: Based on financial contribution ("dowry") and loyalty.

Source: Author

The data indicates that the absence of term limits for party chairpersons¹⁸ and the unchecked power of central boards (DPP) to recall members of parliament (Recall/PAW) have stifled internal dissent.¹⁹ As noted in recent studies by Indrawan et al (2025), this centralization facilitates "oligarchy-based party governance," where strategic decisions are monopolized by a handful of elites to protect material interests rather than constituent aspirations.²⁰

d. Financial Opacity and the Dysfunction of Representation

Finally, the institutional weakness is compounded by a lack of financial transparency. While Law No. 2 of 2011 requires financial reporting, the regulations on "private funding sources" remain porous, failing to ensure political equality among donors. The reliance on illicit or opaque funding streams from oligarchic patrons reinforces the parties' detachment from their mass base.²¹

¹⁷ Simon D. Brause and Thomas Poguntke, "Measuring Intra-Party Democracy on a Global Scale," *Party Politics*, March 13, 2025, <https://doi.org/10.1177/13540688251323756>.

¹⁸ Baharuddin Riqiey, Adella Anggia Pramesti, and Alif Cahya Sakti, "Pembatasan Masa Jabatan Ketua Umum Parpol Dalam Perspektif Demokrasi," *Jurnal Mengkaji Indonesia* 1, no. 1 (June 29, 2022): 1–17, <https://doi.org/10.59066/jmi.v1i1.46>.

¹⁹ Cahyawati, Hoesein, and Widadi, "Implikasi Keberadaan Fraksi Partai Politik Dalam Kelembagaan DPR."

²⁰ Jerry Indrawan, Putrawan Yuliandri, and Hartanto, "Oligarchy and Dynastic Politics in Indonesia," *Indonesian Governance Journal (IGJ): Kajian Politik - Pemerintahan* 8, no. 1 (2025): 28–42, <https://doi.org/10.24905/igi.v8i1.138>.

²¹ Moch Andry Wikra Wardhana Mamonto et al., "Promoting the Principle of Political Equality: Reformulation of Private Funding Source Regulations for Indonesian Political Parties," *Journal of Law and Legal Reform* 5, no. 3 (October 31, 2024): 1067–1128, <https://doi.org/10.15294/jllr.v5i3.14457>.

Consequently, a "representation dysfunction" occurs. Members of Parliament (DPR) effectively act as delegates of the party leadership rather than trustees of the electorate. The institutional framework, which empowers the party leadership to dismiss legislators at will, ensures that loyalty to the party boss supersedes accountability to the voter. This confirms the thesis that Indonesian parties have not achieved "value infusion" a key indicator of institutionalization where the party is valued for its own sake but rather function as instrumental vehicles for elite power accumulation.

In conclusion, the current institutional design suffers from a fundamental flaw: it prioritizes administrative compliance to the executive over democratic accountability to the public. The "legal entity" status, intended to ensure order, has paradoxically become the primary tool for stifling the very party autonomy necessary for a healthy democracy.

2. Principles of Democratic and Autonomous Party Design: Theoretical Frameworks and International Comparative Analysis

The second research problem of this study addresses the normative void in Indonesia's political party regulation by formulating a model of institutional design that reconciles state oversight with party autonomy. To resolve the paradox identified in the first problem where the "legal entity" status functions as an instrument of control this section synthesizes the theoretical imperatives of *Party Institutionalization* and *Intra-Party Democracy (IPD)* with a comparative legal analysis of Germany, Sweden, and the United Kingdom.

a. Theoretical Pillars: Institutionalization and Intra-Party Democracy

A democratic institutional design must transcend mere administrative compliance and foster genuine party institutionalization. Drawing from Huntington and Randall & Svåsand, institutionalization is defined by the dimension of autonomy the degree to which the party exists independently of external organizations or the state. In the Indonesian context, the current "legal entity" regime violates this theoretical prerequisite by making the party's existence contingent upon executive discretion.

Furthermore, the design must mandate Intra-Party Democracy (IPD) to prevent oligarchic capture. Scarrow's framework on IPD emphasizes two critical dimensions: inclusive candidate selection and participatory policy-making. Recent studies by Angenendt & Brause (2024) indicate that without formal IPD mechanisms, parties devolve into "cartelized" structures where decision-making is monopolized by the central board (*Dewan Pimpinan Pusat*). Therefore, a democratic design must legally enforce

checking mechanisms such as term limits and independent dispute resolution while simultaneously respecting the party’s freedom of association.²²

b. Comparative Legal Analysis: Separating Legal Status from Electoral Participation

A critical finding of this study is that established democracies distinguish between a party’s status as a private association (Civil Law/Private Law regime) and its status as an electoral participant (Public Law regime). Indonesia’s conflation of these two regimes where a party cannot exist legally without meeting electoral thresholds is an anomaly.

Table 2. Comparative Matrix of Political Party Regulatory Models

Aspect	Germany (The "Party State" Model)	Sweden (The "Voluntary" Model)	United Kingdom (The "Regulator" Model)	Indonesia (Current Model)
Legal Entity Status	Political parties recognized as unregistered associations; acknowledged as legal subjects based on substantive criteria	No mandatory legal entity requirement; parties retain freedom to select legal form	Majority of parties constitute unincorporated associations; no mandatory requirement	Mandatory legal entity status authorized by Ministry of Law and Human Rights (Law No. 2/2011)
Regulatory Authority	President of Bundestag (informational function); Constitutional Court (dispute resolution)	Swedish Election Authority (independent; limited functions)	Electoral Commission (independent; accountable to parliament)	Ministry of Law and Human Rights (executive); General Election Commission KPU (electoral participant verification)
Party Registration	Informational notification; not constitutive of status	Voluntary name registration (protective function only)	Mandatory registration with Electoral Commission for electoral participation	Mandatory registration with Ministry of Law and Human Rights for legal entity status
Substantive Verification	None; status determined by	None; verification	Minimal; only formal	Yes; Ministry examines

²² Michael Angenendt and Simon D. Brause, “The Long Way towards Polarized Pluralism,” in *Political Parties and the Crisis of Democracy* (Oxford University PressOxford, 2024), 82–107, <https://doi.org/10.1093/oso/9780198888734.003.0005>.

Aspect	Germany (The "Party State" Model)	Sweden (The "Voluntary" Model)	United Kingdom (The "Regulator" Model)	Indonesia (Current Model)
	satisfaction of substantive criteria (membership size, organizational visibility, public recognition)	limited to support documentation for voluntary name registration	requirements (constitutional documents, financial scheme, designated officers)	documentary completeness and conformity of organizational bylaws with Pancasila and the 1945 Constitution
Separation of Legal Entity and Electoral Participant Regimes	Not clearly separated; integrated within single legal framework (Political Parties Act and Federal Electoral Act)	Completely separated; no legal entity requirement for electoral participation	Functionally separated; legal entity status not mandatory; registration with Electoral Commission required for electoral participation	Not separated; legal entity status from Ministry of Law and Human Rights constitutes prerequisite for electoral participant verification by General Election Commission
Regulatory Authority Powers	President of Bundestag: no approval authority; reporting recipient only; Constitutional Court: party dissolution authority	Swedish Election Authority: no authority over party internal affairs; limited to name registration and electoral administration	Electoral Commission: no authority over internal party disputes; focus on financial transparency and electoral compliance	Ministry of Law and Human Rights: approval or rejection of party management structure; General Election Commission: electoral participant verification
Internal Dispute Resolution	Constitutional Court (status/dissolution disputes); party courts or civil courts (management disputes)	Election Review Board (electoral disputes); administrative courts (appeals); internal party mechanisms	Internal party mechanisms or civil courts (High Court); Electoral Commission has no jurisdiction	Party Courts (internal); Ministry of Law and Human Rights (administrative; frequent intervention); Supreme Court (judicial)

Aspect	Germany (The "Party State" Model)	Sweden (The "Voluntary" Model)	United Kingdom (The "Regulator" Model)	Indonesia (Current Model)
		(management disputes)		
Financial Transparency	Mandatory for parties receiving state funding; audited reports published	Mandatory for parties receiving state subsidies	Mandatory for all registered parties; reports submitted to Electoral Commission	Mandatory; reports submitted to General Election Commission and Supreme Audit Agency, though publication limited
Independence from Executive	High; executive authority lacks power to approve or dissolve parties	Very high; no executive intervention in party affairs	High; Electoral Commission maintains independence from government; accountable to parliament	Low; Ministry of Law and Human Rights (executive branch component) exercises significant authority over party legality

Source: Comparative analysis based on the *Parteiengesetz (Germany)*, the *Elections Act 2005:837 (Sweden)*, the *Political Parties, Elections and Referendums Act 2000 (United Kingdom)*, and *Law No. 2 of 2011 (Indonesia)*.

1) Germany: Constitutional Protection and Judicial Oversight

Germany represents the "Party State" (*Parteienstaat*) model where parties are elevated to constitutional institutions under Article 21 of the Basic Law (*Grundgesetz*). While the *Parteien-Gesetz* imposes strict requirements for internal democracy (secret ballots, members' rights), the state is strictly prohibited from interfering in the party's existence. Crucially, the power to ban a party lies exclusively with the Federal Constitutional Court, not the executive branch. This judicialization of party regulation ensures that administrative requirements cannot be weaponized for political purposes.

2) Sweden: The Voluntary Association Model

Sweden offers a stark contrast as a model of "regulatory reluctance." Parties operate as voluntary associations (*ideell förening*) without a specific "Political Party

Law" or mandatory registration for legal personality. Legal personality is acquired simply by having a board and statutes, without state ratification. Registration is only required for ballot protection, not for the party's right to exist. This model relies on high social trust and demonstrates that a robust democracy can function without heavy-handed state formalization.²³

3) United Kingdom: The Independent Regulator Model

The UK model, codified in the *Political Parties, Elections and Referendums Act (PPERA) 2000*, utilizes an independent Electoral Commission to manage registration. Registration is necessary for financial transparency and ballot access, but it is not a "permission to exist." The Commission acts as a neutral regulator focused on campaign finance, explicitly avoiding intervention in internal leadership disputes, which are treated as private contractual matters for the courts.²⁴

c. Implications for the Indonesian Institutional Framework

The comparative analysis provides a blueprint for resolving the Indonesian dilemma. The current dependence on the Ministry of Law and Human Rights (an executive body) for legal entity status is constitutionally flawed because it grants the government "constitutive" power over its political competitors.

To restore Party Autonomy, Indonesia must adopt a bipartite registration system:

- 1) Civil Existence (Private Law):** Parties should acquire legal personhood through a neutral notary or court registry system, similar to other civil society organizations, without political screening by the Ministry.
- 2) Electoral Participation (Public Law):** Registration for elections should be the exclusive domain of the General Elections Commission (KPU), an independent body, focusing solely on administrative capacity for electioneering.

This separation ensures that a party's right to associate is absolute (human right), while its right to contest elections is conditional (administrative privilege), mirroring the German and UK approaches. Furthermore, the adoption of mandatory IPD standards,

²³ Nicole Bolleyer, "The Voluntarist Path towards a Permissive Legal Environment for Organized Civil Society," in *The State and Civil Society* (Oxford University Press, 2018), 233–51, <https://doi.org/10.1093/oso/9780198758587.003.0008>.

²⁴ Colin Copus and Gissur Ó. Erlingsson, "Formal Institutions versus Informal Decision-Making," *Scandinavian Journal of Public Administration* 17, no. 1 (March 15, 2013): 51–69, <https://doi.org/10.58235/sjpa.v17i1.16150>.

enforced by the judiciary rather than the executive, would dismantle the oligarchic structures identified in the first research problem.

In sum, the ideal institutional design for Indonesia is one that judicializes conflict resolution (Germany), bureaucratizes electoral administration via an independent commission (UK), and liberalizes the fundamental right of association (Sweden). This hybrid approach addresses the "Democratic Analysis" requirement by protecting the party from the state, and the state from the party cartels.

3. Designing the Ideal Institutional Model: A Constitutional Reconstruction for Party Independence and Democracy

The third research problem addresses the urgent need to reconstruct the political party system in Indonesia. Drawing from the identified deficits in current regulations (Problem 1) and the comparative insights from Germany, Sweden, and the UK (Problem 2), this study proposes a **Five-Pillar Institutional Model**. This model aims to resolve the dual crisis of state intervention and oligarchic capture by harmonizing the principles of *legal certainty* and *party autonomy* within the constitutional framework of the 1945 Constitution (UUD 1945).

a. Pillar I: Repositioning the "Legal Entity" Regime (Separation of Powers)

The first pillar requires decoupling the party's "legal existence" from its "electoral eligibility." As analyzed, the current monopoly of the Ministry of Law and Human Rights (Kemenkumham) in granting legal entity status creates a conflict of interest, as the executive branch effectively regulates its political competitors.

To remedy this, the legal entity status (*Badan Hukum*) should be transformed into a purely neutral, administrative registration similar to other civil society organizations (Ormas), managed by a non-political body or the judiciary. This aligns with the "Voluntary Association" model observed in Sweden, where existence precedes state recognition. By removing the executive's discretionary power to ratify leadership structures (SK Pengesahan), the party is protected from "hostile takeovers" orchestrated by external powers.²⁵

b. Pillar II: The Electoral Participant Regime (Single Entry Point)

The second pillar establishes the General Elections Commission (KPU) as the sole authority for "Electoral Participant" registration. In this model, a party may exist legally

²⁵ Bolleyer, "The Voluntarist Path towards a Permissive Legal Environment for Organized Civil Society."

as an association without contesting elections. However, to field candidates, it must register with the KPU an independent constitutional body under Article 22E of UUD 1945.

This separation ensures that administrative failures in electoral registration (e.g., lack of chapters in all provinces) result only in disqualification from the specific election, not the dissolution or illegitimacy of the party itself. This mirrors the UK's *Electoral Commission* model, where the regulator focuses on compliance rather than existence.

c. Pillar III: Judicialization of Dispute Resolution

To guarantee legal certainty, jurisdiction over internal party disputes must be transferred from the executive (Kemenkumham) to the Judiciary. Current reliance on Ministry decrees to settle schisms (e.g., Golkar, PPP) has proven to be a source of political instability.

The proposed model mandates that all internal disputes that cannot be resolved by the internal *Mahkamah Partai* must be adjudicated by the courts (District Court or a specialized chamber), with the court's decision being final and binding. This "Judicialization of Politics" ensures that conflicts are resolved based on statutes and bylaws rather than political expediency. The Ministry's role becomes strictly declaratory recording the court's decision rather than constitutive.

d. Pillar IV: Mandating Intra-Party Democracy (Anti-Oligarchy Safeguards)

The fourth pillar addresses the "Iron Law of Oligarchy" by formally codifying **Intra-Party Democracy (IPD)** standards in the Political Party Law. The current law's silence on term limits has allowed "dynastic" leaderships to entrench themselves for decades.

The new framework must explicitly require:

- 1) Term Limits:** Capping the tenure of the Party Chairperson (Ketua Umum) to two terms to force regeneration.
- 2) Democratic Selection:** Mandating secret ballots and grassroots participation in the election of central boards, preventing appointment by acclamation. This proposal is supported by Scarrow's theory of "inclusive selection," which argues that limiting leadership power is essential for party resilience. Without these legal safeguards, parties remain personal vehicles rather than public institutions.

e. Pillar V: Financial Transparency and Education (The Cartel Breaker)

Finally, to combat the "Cartel Party" phenomenon described by Katz and Mair, where parties collude to extract state resources without accountability, the model introduces a

"funding-for-performance" scheme. State subsidies should be significantly increased to reduce dependence on illicit oligarchic funds, but strictly conditional upon:

- 1) **Full Financial Audits:** Conducted by the Supreme Audit Agency (BPK) with public disclosure.
- 2) **Political Education:** Earmarking specific percentages of funds for cadre training (Sekolah Partai). This ensures that state funding serves the public interest of "value infusion" and institutionalization rather than merely enriching party elites.

This Five-Pillar design offers a comprehensive solution to the research problems. By shifting the "locus of control" from the Executive to the Judiciary and Independent Commissions, and by enforcing internal democracy, this framework transforms Indonesian political parties from instruments of power into genuine pillars of democracy. This reconstruction is not only theoretically sound but constitutionally necessary to fulfill the mandate of popular sovereignty.

C. CONCLUSIONS

The current institutional design of Indonesian political parties, characterized by the executive's discretionary power to grant mandatory legal entity status, has systematically eroded party autonomy and fostered oligarchic governance structures. Comparative legal analysis confirms that the conflation of civil existence with electoral eligibility creates a paradox of control that violates fundamental democratic principles observed in established jurisdictions like Germany and the United Kingdom. Consequently, this study establishes the necessity of a five-pillar institutional framework that decouples legal personhood from electoral participation, transfers dispute resolution to the judiciary, and codifies mandatory intra-party democracy safeguards. This structural reform is ultimately required to transform parties from cartelized state instruments into independent constitutional organs capable of delivering genuine representation and accountability.

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