

POLITICAL DYNASTIES IN GENERAL ELECTIONS ACCORDING TO HUMAN RIGHTS AND A COMPARISON IN FOUR ASEAN COUNTRIES

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Abstract

The advantages of this article are discussing the Prohibition of Dynastic Politics from a Human Rights Perspective and Legal Formulas to Minimize Dynastic Politics as well as comparisons in three ASEAN countries. The research results concluded that the practice of dynastic politics cannot be separated from a human rights perspective, especially political rights for citizens. However, on the other hand, if it continues, the practice of dynastic politics can damage democratic principles. This is also based on comparisons in Singapore, Thailand and the Philippines. For this reason, in this article, the author provides a legal formula to minimize the negative excesses of dynastic politics, namely by strengthening the conditions for presidential/vice presidential candidates, gubernatorial candidates, mayoral candidates, and regent candidates in internal political parties. So that political parties will also strengthen the party system so as to avoid collusion and nepotism. To minimize dynastic politics, it is necessary to improve the culture within political parties. The reconstruction of the design of a democratic presidential candidacy is to prioritize the process of deliberation and consensus. Through the formation of the Party Consultative Assembly, it is hoped that it will be able to overcome and interpret the ideological ideals of political parties and the ideals of political leadership. This needs to be regulated in the Memorandum of Association/Articles of Association of Political Parties and the revision of the Political Party Law and Election Law. Furthermore, the analysis used normative legal research, including statutory, comparative, and conceptual methods.

Keywords: Political Dynasty, Elections, Human Rights, ASEAN.

Introduction

Dynasty politics is often discussed in the public sphere because the phenomenon of political dynasties is so widespread in the reform era, especially after the general election.¹ The 2024 General Election is the 13th General Election ever held in Indonesia, and for the first time in the history of Indonesian Elections, a simultaneous system is adopted, namely the General Election to elect Members of the People's Representative Council, Regional Representative Council, and Regional People's Representative Council simultaneously with the implementation of the Election.² It is common to elect the president and vice president in the same year. Legislative and presidential elections will be held on February 14, 2024, and elections for Governor-Deputy Governor, Regent/Mayor, and Deputy Regent/Deputy Mayor³ held in November 27, 2024.

The 2024 general election that has received quite widespread public attention is the presidential election.⁴ This is due to the advancement of the Mayor of Surakarta 2021-2025, Gibran Rakabuming Raka (Gibran), who is President Jokowi's biological son, to become Vice Presidential Candidate Prabowo Subianto (Prabowo). Meanwhile, Gibran could become a Vice President Candidate because on October 16, 2023, the Constitutional Court, through Constitutional Court Decision No. 90/PUU/XXI/2023, cleared his steps in electoral politics.⁵ The Constitutional Court decision invalidated the minimum age requirement for presidential candidates and vice president candidates of 40 years as regulated in Article 169 letter q of Law No.

¹ Hagi Hutomo Mukti and Rodiyah Rodiyah, "Dynasty Politics in Indonesia: Tradition or Democracy?," *Journal of Law and Legal Reform* 1, no. 3 (April 2020): 531-38, <https://doi.org/10.15294/jllr.v1i3.38090>.

² Ansori Ansori, Agung Ali Fahmi, and Mukhlis Mukhlis, "A NORMATIVE REVIEW OF THE SIMULTANEOUS GENERAL ELECTION AND REGIONAL HEAD ELECTION DELAY," *Trunojoyo Law Review* 4, no. 1 (August 8, 2022): 36-44, <https://doi.org/10.21107/tlr.v4i1.16340>.

³ Mushaddiq Amir, "Keserentakan Pemilu 2024 Yang Paling Ideal Berdasarkan Putusan Mahkamah Konstitusi Republik Indonesia," *Al-Ishlah: Jurnal Ilmiah Hukum* 23, no. 2 (October 2020): 129, <https://doi.org/10.56087/aijih.v23i2.41>.

⁴ Teisar Arkida and Sumarlam Sumarlam, "Recontextualization of the Constitutional Court's Decision on the Presidential Age Limit in @Kompascom and @TVOneNews," *International Journal of Humanities, Education, and Social Sciences* 2, no. 1 (January 2024): 26-47, <https://doi.org/10.58578/ijhess.v2i1.2493>.

⁵ Nurus Zaman et al., "Questioning the Constitutional Court Decision Regarding Age Limit of Presidential and Vice-Presidential Candidates," *PETITA: JURNAL KAJIAN ILMU HUKUM DAN SYARIAH* 9, no. 2 (2024): 611-29, <https://doi.org/10.22373/petita.v9i2.299>.

7 of 2017 concerning Elections.⁶ The decision of the Constitutional Court stated that Article 169 letter q of the General Election Law states that the article "at least 40 years old" is contrary to the 1945 Constitution, so it does not have binding legal force, as long as it is not interpreted as "at least 40 years old or ever/currently occupying positions elected through elections, including regional elections."⁷ Gibran's age, who is not yet 40 years old, can be covered by other conditions, namely: "has been/is currently a Regional Head."⁸

It was also suspected that there was great attention and criticism coming from the public when one of the judges who examined, decided and tried the a quo statement was the Chief Justice of the Constitutional Court, Anwar Usman, who is President Jokowi's brother-in-law and Gibran's uncle.⁹ This is what many people think that President Jokowi wants to foster a political dynasty,¹⁰ because in the same year (2024), President Jokowi's son-in-law, Bobby Afif Nasution, who is the Mayor of Medan, is also running as a candidate for Governor of North Sumatra.¹¹

Dynasty politics is a phenomenon that increasingly overshadows political contestation in elections.¹² The trend is increasing both in elections and especially in regional elections. It is feared that dynastic politics will damage democracy

⁶ Ngudi Astuti and Dewi Setyarini, "Advancement of Gibran in Political Contestation As Vice President of The 2024 Election in The Perspective of Political Ethics of The Indonesian Nation," *Journal of Social Science (JoSS)* 3, no. 1 (February 2024): 1174–95, <https://doi.org/10.57185/joss.v3i1.273>.

⁷ M. Miftahul Hidayat, "The 2024 General Elections in Indonesia: Issues of Political Dynasties, Electoral Fraud, and The Emergence of A National Protest Movements," *IAS Journal of Localities* 2, no. 1 (June 2024): 33–51, <https://doi.org/10.62033/iasjol.v2i1.51>.

⁸ Ahmad Mudatsir and Samsuri, "Melacak Kerancuan Legal Reasoning Dalam Putusan MK 90/PUU-XXI/2023: Analisis Dengan Metode IRAC," *Peradaban Journal of Law and Society* 2, no. 2 (December 2023): 178–79, <https://doi.org/10.59001/pjls.v2i2.132>.

⁹ Rebecca Meckelburg and Agung Wardana, "The Political Economy of Land Acquisition for Development in the Public Interest: The Case of Indonesia," *Land Use Policy* 137, no. 1 (2024): 107017, <https://doi.org/10.1016/j.landusepol.2023.107017>.

¹⁰ Greg Fealy, "Jokowi in the Covid-19 Era: Repressive Pluralism, Dynasticism and the Overbearing State," *Bulletin of Indonesian Economic Studies* 56, no. 3 (September 2020): 301–23, <https://doi.org/10.1080/00074918.2020.1846482>.

¹¹ Kiki Novilia et al., "Jokowi's Political Dynasties: Impact and Its Comparison to Nehru-Gandhi Dynasties," *Journal of Islamic World and Politics* 7, no. 2 (January 2024): 235–44, <https://doi.org/10.18196/jiwp.v7i2.76>.

¹² Rachmat Agung, "Effect of Dynamic Politics on The Sustainability of Local Democracy Legal Politics," *APLIKATIF: Journal of Research Trends in Social Sciences and Humanities* 1, no. 2 (December 2022): 148–54, <https://doi.org/10.59110/aplikatif.v1i2.114>.

because, unlike other social structures, the family dynasty is a biological group as well as a social group that has relatively permanent membership. It is connected by aspects of descent (blood), marriage, or adoptive family (culture).¹³

In the 2024 election, there will already be a vice presidential candidate who comes from the incumbent president's family.¹⁴ Meanwhile, in the regional elections, although it has not yet reached the stage of nominating regional head candidate pairs, the recent trend of dynastic politics continues to increase.¹⁵ Based on research data conducted by the Nagara Institute, from 2005 to 2015, a total of 59 regional heads held dynastic political status. Furthermore, in the period 2015 to 2018, there were 86 regional heads who were exposed to dynastic politics. In the last regional elections in 2020, the number of regional head candidates exposed to dynastic politics reached 124.¹⁶

Competition in regional elections if you come from a defense family is at the nomination stage where conditions are not equal.¹⁷ If viewed legally, the practice of dynastic politics is a constitutional political practice in Indonesia. Previously, there were efforts to inhibit the growth of dynastic politics through Article 7 letter of Law No. 8 of 2015 concerning the Election of Governors, Regents, and Mayors, which regulates the requirements for regional head candidates, one of which is that they do not have a conflict of interest with the incumbent. However, after the Constitutional Court Decision No.33/PUU-XIII/2015, the Constitutional Court canceled the provisions in Article 7 letter r of the Regional Election Law because it violated the provisions in Article 28 I paragraph (2) of the 1945 Constitution of the

¹³ Lucy Mair, *An Introduction to Social Anthropology* (Oxford: Oxford University Press, 1991), 89, https://books.google.co.id/books/about/An_Introduction_to_Social_Anthropology.html?id=qjtmAQAAQAAJ&redir_esc=y.

¹⁴ Ella Prihatini and Iim Halimatusa'diyah, "Gender, Political Dynasties, and Committee Assignments: Evidence From Indonesia," *Parliamentary Affairs* 77, no. 1 (January 2024): 196–214, <https://doi.org/10.1093/pa/gsac019>.

¹⁵ Titin Purwaningsih and Bambang Eka Cahya Widodo, "The Interplay of Incumbency, Political Dynasty and Corruption in Indonesia: Are Political Dynasties the Cause of Corruption in Indonesia?," *UNISCI Journal* 18, no. 53 (May 2020): 157–76, <https://doi.org/10.31439/UNISCI-89>.

¹⁶ Bonaventura Pradana Suhendarto, "Masa Depan Pengaturan Politik Dinasti Dalam Pemilihan Kepala Daerah Di Indonesia," *Jurnal Gagasan Hukum* 6, no. 01 (June 2024): 64, <https://doi.org/10.31849/jgh.v6i01.19883>.

¹⁷ Chad Vickery (Ed), *Guidelines for Understanding, Adjudicating, and Resolving Disputes in Elections* (Washington DC: IFES, 2011).

Republic of Indonesia (the 1945 Constitution), related to equal rights in law and government as well as the freedom of every person from discriminatory behavior, so that in this case the Constitutional Court legalized the practice of dynastic politics as a form of guarantee and recognition of human rights.¹⁸ For this reason, this paper is a paper that discusses the Prohibition of Dynastic Politics from a Human Rights Perspective and Legal Formulas to Minimize Dynastic Politics as well as a comparison of three Southeast Asian (ASEAN) countries that are considered to have a lot of dynastic politics, namely: Singapore, the Philippines, and Malaysia.

Regarding previous research on political dynasties, there are several academics who have discussed this theme. Several scholars, among others, Robert Springborg,¹⁹ James A Bill,²⁰ and Stella Lowder,²¹ has studied in an interesting way how family interests are present in the political and economic realm, both at the national and local levels. Kreuzer,²² and Cesar²³ explains political dynasties as a form of family politics explains political dynasties emerged as an excess of the legacy of feudalism, which is still firmly embedded in society. Migdal,²⁴ Sidel,²⁵ Asako,²⁶ and McCoy,²⁷ analyzing the growth of political dynasties precisely because of business-

¹⁸ Farida Azzahra and Indah Fitriani Sukri, "Politik Dinasti Dalam Pemilihan Kepala Daerah: Persimpangan Antara Hak Asasi Dan Demokrasi," *JAPHTN-HAN* 1, no. 1 (January 31, 2022): 107–8, <https://doi.org/10.55292/japhtnhan.v1i1.27>.

¹⁹ Robert Springborg, *Political Elites in the Middle East* (Washington DC: American Enterprise Institute for Public Policy Research, 1975).

²⁰ James A Bill, *The Pattern of Elites Politics in Lran* (Washington DC: American Enterprise Institute for Public Policy Research, 1975).

²¹ Stella Lowder, *The Consequences of Nepotism, and Patron-Clientelism: The Case of Cuenca, Ecuador* (London: Routledge, 1999).

²² Peter Kreuzer, *Political Clans and Violence in The Southern Philippines* (Frankfurt: PRIF, 2005).

²³ Julius Cesar, "Political Dynasties in Indonesia and The Philippines," *RSIS Commentary*, 2013, 1–4.

²⁴ Joel S Migdal, *Strong Societies and Weak States: State-Society Relations and State Capabilities in the Third World Princeton* (New Jersey: Princeton University Press, 1988).

²⁵ John T Sidel, "Bossism and Democracy in the Philippines, Thailand and Indonesia: Towards An Alternative Framework For The Study Of 'Local Strongmen', Politicising Democracy: The New Local Politics Of Democratisation," *Palgrave Macmillan UK*, 2005.

²⁶ Y Asako, *Dynastic Legislators: Theory and Evidence from Japan* (Madison: University of Wisconsin Press, 2010).

²⁷ A McCoy, *An Anarchy of Families: State and Family in The Philippines* (Quezon City: Ateneo de Manila University Press, 1994).

political collusion at the local level. In this case, the family network has controlled various regional development projects, which are then distributed to their cronies.

Among the works above, there is nothing that specifically discusses the Prohibition of Dynastic Politics from a Human Rights Perspective and Legal Formulas to Minimize Dynastic Politics as well as a comparison of three ASEAN countries that are considered to have a lot of dynastic politics, namely Singapore, the Philippines, and Malaysia. For this reason, this article will be an addition to previous work and contribute to scientific research related to Dynastic politics. Therefore, the author believes that the research that the author has conducted can be scientifically accountable because he always pays attention to the provisions or ethics that must be upheld by researchers or scientists.²⁸

Seeing the problem above, the author feels the need to write a paper entitled: "Dynasty Politics in Human Rights Perspective and Comparison in Three ASEAN Countries". With the problem formulation: 1). What is Dynastic Politics in General Elections from a Human Rights Perspective? 2). Legal Formula to Minimize Dynastic Politics in General Elections. 3). How do dynastic politics compare in three ASEAN countries.

Methods

This research used normative legal analysis²⁹ using doctrinal methods in analyzing the principles and norms relating to "*Dynasty Politics in Human Rights Perspective and Comparison in Three ASEAN Countries*". There were three methods used, namely statutory regulatory, comparative, cases, and conceptual methods.³⁰ The data in this research was obtained qualitatively and presented using a

²⁸ Amancik et.al, "Choices of Law for Democratic Regional Head Election Dispute Resolution Institutions in Indonesia," *Jambura Law Review* 6, no. 2 (2024): 309–10.

²⁹ Purnima Khanna, "Constitutionalism and Human Rights: A Critical Analysis of the Rights of Transgender People in India," *Lentera Hukum* 9, no. 3 (December 2022): 373, <https://doi.org/10.19184/ejhl.v9i3.28631>.

³⁰ Yati Nurhayati et al., "Investment in Indonesia After Constitutional Court's Decision in the Review of Job Creation Law," *Lentera Hukum* 9, no. 3 (December 2022): 439–340, <https://doi.org/10.19184/ejhl.v9i3.32368>.

descriptive-analytical method focusing on the legal basis.³¹ Existing data and facts were also described and then analyzed based on the theory used. Analysis was carried out by examining and classifying the data collected based on the problem being analyzed.³²

Discussion

Political Dynasties in General Elections According to Human Rights

Dynastic politics in the Indonesian context can be divided into two types, namely: (a) biologically based dynastic politics and (b) geographically based dynastic politics. First, biologically based dynastic politics. A more specific distinction can be made between active and passive in this category. Biologically based dynastic politics is active and relies on direct influence provided by influencers. Recognizable indications are the influence and beneficiary of influence in one tempus and/or in successive tempus, whether in vertical, horizontal, or diagonal kinship lines. This is an example of dynastic politics,³³ which occurs in the relationship between father and son, such as between Susilo Bambang Yudhoyono and Edhie Baskoro Yudhoyono in the management of the Democratic Party. Another example is the husband-and-wife pair between Idham Samawi and Sri Suryawidati, who successively served as Regent of Bantul.³⁴

This is a distinguishing characteristic of passive, biologically based dynastic politics, which emphasizes indirect influence exerted by influencers. In this type, the influencer and the beneficiary of the influence are not in the same place and are not sequential. This is exemplified by Megawati Soekarnoputri's practice of utilizing the

³¹ Mukhlis Mukhlis et al., "Regional Regulation Problems in the Field of Salt Industry Development Perspective of Farmers in Sampang Regency," *Trunojoyo Law Review* 6, no. 1 (February 2024): 78–95, <https://doi.org/10.21107/tlr.v6i1.23321>.

³² Putra Perdana Ahmad Saifulloh, "The Obligation of the Constitutional Court of Indonesia to Give Consideration in the Process of Dissolution of Societal Organizations," *Constitutional Review* 4, no. 1 (May 2018): 131, <https://doi.org/10.31078/consrev416>.

³³ Sergio J. Ascencio and Rabia Malik, "Do Voters (Dis)like Dynastic Politicians? Experimental Evidence from Pakistan," *Electoral Studies* 89, no. April (2024): 102786, <https://doi.org/10.1016/j.electstud.2024.102786>.

³⁴ Dian Agung Wicaksono, "Eksistensi Politik Dinasti Dalam Demokratisasi Partai Politik," *Prosiding Konferensi Hukum Tata Negara Ke-3*, 2016, 224–35.

influence of Proclaimer and President Soekarno in her political career to date. However, Megawati is considered to have inherited the breed and understanding of Soekarno's leadership, and it is difficult to imagine that Megawati appeared in the world of politics without the big name of President Soekarno.³⁵ This is what is interpreted as indirect influence, as the characteristic of biologically based dynastic politics is that it is passive.

Second, geographically based dynastic politics. This category is very easy to identify because it is attached to the regional scope. In the Indonesian context, this occurs and is easily identified in the practices of Ratu Atut Chosiyah, who controls Banten Province.³⁶ The Atut dynasty controlled the Banten region, both at the provincial and district/city levels. The phenomenon of political dynasties in the local realm emerged along with the implementation of the first direct regional head elections in Indonesia in 2005 and the implementation of regional autonomy in 2001.³⁷

Table 1. Political Dynasties in Indonesia

No	Political Figures	Family
1	Megawati Soekarnoputri, General Chair of the PDIP Party, President 2001-2004 dan Vice-President 1999-2001.	<ul style="list-style-type: none"> • Taufiek Kiemas (Husband) as Chairman of the People's Consultative Assembly 2009-2014. • Puan Maharani (Daughter) as Chairman of the People's Consultative Council 2019-2029 and Coordinating Minister for Human Development 2014-2019. • Guruh Soekarnoputra Brother as Member of The People's Consultative Council (2009-2014) from PDIP Party • Nazarudin Kiemas (Daughter-in-law's Brother) Member of The People's Consultative Council (2009-2014) from PDIP Party
2	Susilo Bambang Yudhoyono President 2004-	<ul style="list-style-type: none"> • Agus Harimuti Yudhoyono (Son) General Chair of the Democratic, Party and Minister of Agrarian and Spatial Planning 2024, and Coordinating Minister

³⁵ Hadi Mustafa, "Kepemimpinan Karismatik: Studi Tentang Kepemimpinan Politik Megawati Soekarnoputri Dalam PDIP (Partai Demokrasi Indonesia Perjuangan)" (UIN Syarif Hidayatullah, 2011).

³⁶ Lili Romli, Firman Noor, and Rohman, "Democracy, Decentralization and Political Dynasty: A Case Study of Banten," August 2023, <https://doi.org/10.31219/osf.io/c4gkj>.

³⁷ Wasisto Raharjo Djati, "Revivalisme Kekuatan Familisme Dalam Demokrasi: Dinasti Politik Di Aras Lokal," *Masyarakat Jurnal Sosiologi* 18, no. 2 (July 2013): 204-29, <https://doi.org/10.7454/MJS.v18i2.1234>.

	2009 and 2009-2014)	for Infrastructure and Regional Development of Indonesia 2024-At the moment. <ul style="list-style-type: none"> • Edhie Baskoro Yudhoyono (Son) Secretary General of the Democratic Party (2010-2015), Member of The People's Consultative Council (2009-2029) and Deputy Chairman of the People's Consultative Assembly 2024-At the moment. • Hartanto Edhie Wibowo (Brother in Law's) Member of The People's Consultative Council (2009-2014). • Nurcahyo Anggoro Jati (Niece) Member of The People's Consultative Council (2009-2014)
3	Prabowo Subianto Djojohadikusumo, President 2024-2029, General Chair of the Gerindra Party and Minister of Defense 2019-2024	<ul style="list-style-type: none"> • Rahayu Saraswati (Niece) Member of The People's Consultative Council 2014-2019 dan 2024-2029. • Budisatrio Djiwandono (Niece) Member of The People's Consultative Council 2017-2029) • Thomas Aquinas Muliatna Djiwandono (General Treasurer of the Gerindra Party and Deputy Minister of Finance 2024-At the moment)
4	Joko Widodo	<ul style="list-style-type: none"> • Gibran Rakabuming Raka (Anak) Mayor of Surakarta 2021-2024 dan Vice-President 2024-2029. • Bobby Afif Nasution (Son in Law's) Mayor of Medan 2021-2024
5	Surya Paloh	Prananda Surya Paloh (Son) Member of The People's Consultative Council (2019-2024)

Source: Dian Agung Wicaksono, 2016

The author has several opinions regarding this provision and considers that dynastic politics does have several problems, namely: First, the discourse of prohibiting dynastic politics results in the violation of the right to be a candidate. Second, the discourse on the prohibition of dynastic politics emerged based on assumptions whose truth could easily be refuted. Family relationships based on blood relations, marriage ties, and/or lineage 1 (one) level straight up, down, and to the side with the incumbent, namely father, mother, in-laws, uncle, aunt, brother, sister, brother-in-law, son, son-in-law, and It is absolutely impossible to be sure that they have the same political interests or affiliations as the incumbent in a regional

head election.³⁸ There is no way to ensure that all of them are on the same side in an election. In fact, there are many cases where within a family there are differences in political affiliation or interests. Another assumption is that if someone has the position of regional head, then his family is based on blood relations, marriage ties, and/or lineage one level straight up, down, and to the side, with the incumbent also enjoying the power as head of state or regional head so that they all have to lose political rights in the context of creating quality regional head elections.³⁹ In fact, the opposite can happen: the family is harmed by the position of a head of state or regional head in his power, whether in an election or other situations.

Third, the discourse on the prohibition of dynastic politics is a limitation of the rights of the incumbent's family to nominate in elections,⁴⁰ which can be interpreted as giving punishment to someone who has not made a mistake, was negligent, or has the ability to commit a violation.⁴¹ Their position as the incumbent family is something they do not want and do not have the power to reject this condition. Fourth, restrictions should be placed on the incumbent's use of power in an election, such as restrictions on the incumbent's use of bureaucracy, regional budgets, and changes in officials that have the potential to benefit one of the candidates in a regional head election. Some of these restrictions have been implemented in the Election Law, but they need to be implemented with stricter sanctions, both criminal sanctions and administrative sanctions.

The state must provide protection for citizens' rights rather than restricting them using the pretext that it will endanger the democratization process and the

³⁸ Mirza Satria Buana et al., "The Nusantara Capital City Project: Why Development and Human Rights Do Not Always Mix," *Law and Development Review* 16, no. 1 (February 2023): 185–223, <https://doi.org/10.1515/ldr-2022-0063>.

³⁹ Nurul Azizah, Joseph Okwesili Nkwede, and Mohammad Armoyu, "The Octopus-like Power of Pesantren Dynasty in the Dynamics of Local Politics," ed. Richard Meissner, *Cogent Social Sciences* 7, no. 1 (January 2021), <https://doi.org/10.1080/23311886.2021.1962056>.

⁴⁰ Julien Labonne, Sahar Parsa, and Pablo Querubin, "Political Dynasties, Term Limits and Female Political Representation: Evidence from the Philippines," *Journal of Economic Behavior and Organization* 182 (2021): 212–28, <https://doi.org/10.1016/j.jebo.2020.12.001>.

⁴¹ Andina Elok Puri Maharani, Arga Baskara, and Pujiyono Suwadi, "Comparison of Political Dynasty in Indonesia and the United States," *Revista de Gestão Social e Ambiental* 18, no. 4 (January 2024): e04573, <https://doi.org/10.24857/rgsa.v18n4-016>.

existence of unequal relations in the democratic election process.⁴² In fact, to move towards a democratic election process, a number of arrangements have been made and established to enable the process to run in accordance with the general principles of democratic elections. For the author, the interest is how to carry out this process by putting in place a stricter Election/Regional head election supervision framework without having to limit citizens' rights to participate in the democratic election process.⁴³

The legal material that the author uses in this analysis is first the Constitution, namely the 1945 Constitution, in which in its Preamble there is a sentence that reads: "So the independence of the Indonesian nation was formulated in one Constitution of the State of Indonesia, which is formed in one structure of the Republic of Indonesia, which is the sovereignty of the people." So, the preamble actually provides guidelines that if the 1945 Constitution is to be drafted, it must be based on the sovereignty of the people (Article 1, paragraph (2)) of the 1945 Constitution.

Article 27 paragraph (1) of the 1945 Constitution reads: "That all citizens have the same position in the field of law and government, are obliged to uphold, and are obliged to uphold the law and government without exception." Article 28D paragraph (3) of the 1945 Constitution reads: "Every citizen has the right to equal opportunities in government." Article 28I of the 1945 Constitution reads⁴⁴: "Every person is free from discriminatory treatment on any basis." The articles in the

⁴² Dian Fitri Sabrina and Rosa Ristawati, "The Implementation of Good Governance In The Presidential Election In Indonesia," *Yuridika* 36, no. 2 (May 2021): 281, <https://doi.org/10.20473/ydk.v36i2.21096>.

⁴³ Ken M. P. Setiawan, "Struggling for Justice in Post-Authoritarian States: Human Rights Protest in Indonesia," *The International Journal of Human Rights* 26, no. 3 (March 2022): 541-65, <https://doi.org/10.1080/13642987.2021.1947805>.

⁴⁴ Fathul Hamdani and Ana Fauzia, "Legal Discourse: The Spirit of Democracy and Human Rights Post Simultaneous Regional Elections 2020 in the Covid-19 Pandemic Era," *Lex Scientia Law Review* 5, no. 1 (May 2021), <https://doi.org/10.15294/lesrev.v5i1.45887>.

Constitution expressly state that citizens have the right to receive protection against discriminatory treatment.⁴⁵

Second, Indonesia has ratified the International Convention on Civil and Political Rights (ICCPR), which was ratified by the UN in 1966 and then ratified with Law No. 12 of 2005. Article 26 of the ICCPR reads: "All persons are equal before the law and are entitled without any discrimination and to equal protection of the law in this respect." According to human rights experts, this article provides autonomous rights to equality to citizens and prohibits discrimination.⁴⁶

Article 25, "The equal protection in public life of every citizen without any distinctions in Article 1 and without unreasonable restriction." It is a provision that regulates civil rights, including the right to vote and be elected, which is part of the ICCPR. In Article 2 paragraph (2), it reads: "The States Parties to the present Covenant undertake to guarantee that the rights enunciated in the present Covenant will be exercised without discrimination of any kind as to race, color, sex, language, religion, politics or other opinion, national or social origin, property, birth, or other status." It is mentioned again, and then there are the words birth and other status.⁴⁷ So the ICCPR prohibits discrimination based on descent.

Third, Law No. 39 of 1999 concerning human rights also strengthens how rights regarding political rights must not be violated. What we must also pay attention to is that Article 7 of paragraph (2) of the Human Rights Law states, "The provisions of international law accepted by the Republic of Indonesia concerning human rights become national law." What is often not paid attention to is that the recognition that the ICCPR has become national law, the ICCPR has also been ratified

⁴⁵ Fikri Ahsan et al., "The Postponed Regional Head Elections in Emergency Situations: A Constitutional Democracy Perspective in Indonesia," *Yustisia Jurnal Hukum* 12, no. 2 (September 2023): 202, <https://doi.org/10.20961/yustisia.v12i2.64638>.

⁴⁶ Rika Kurniaty, "Democracy and Human Security: Analysis on the Trajectory of Indonesia's Democratization," in *Proceedings of the Brawijaya International Conference on Multidisciplinary Sciences and Technology (BICMST 2020)* (Paris, France: Atlantis Press, 2020), <https://doi.org/10.2991/assehr.k.201021.067>.

⁴⁷ Dewi Iriani et al., "Citizen Guarantees in Determining National Leaders Through Elections and Democratic Integrity," *Jurnal Dinamika Hukum* 23, no. 1 (February 2023): 53, <https://doi.org/10.20884/1.jdh.2023.23.1.3231>.

and legalized, and then by the provisions of Article 7 paragraph (2), it cannot be distinguished anymore that it has become national law.

Discourse that prohibits citizens from becoming presidential candidates, vice presidents, members of the People's Representative Council, Regional Representative Council, Regional People's Representative Council, regional heads, and deputies because they have a conflict of interest and because they are relatives of incumbent officials is contrary to Article 28I of the 1945 Law because it can cause citizens to be discriminated against.

In relation to the guarantee for a citizen to participate in government as mentioned in Article 27 and Article 28D of the 1945 Constitution, of course it is not included as a conflict with these two articles. If someone only has a high school diploma, for example, testing the Constitutional Court Law to the Constitutional Court on the basis of 28I of the 1945 Constitution because he refused to become a Constitutional Court Judge, of course it does not include discrimination "on any basis." What the author conveys is an example that even though the basic word "any" is used, it does not mean that differences in treatment always conflict with Article 28I of the 1945 Law.

The 1945 Constitution does not provide details of any discrimination. Human rights have three universal aspects; therefore, internationally, they can be formulated into human rights, which are then accepted by many countries in the world without any element of coercion, meaning they can be accepted because of their universality.⁴⁸ The more and more countries ratify the Human Rights Convention, this is proof that human rights are universally accepted. Article 39 of the Human Rights Law states that international law provisions become national law if they are accepted. ICCPR has been accepted by many countries, and Indonesia ratified the agreement. As legal material that is used as a basis for interpreting human rights in the 1945 Constitution, the Convention has a sociological basis

⁴⁸ Fadhilah Fitri Primandari, "Democracy and Human Rights during the COVID-19: The Case of Indonesia," *Australian Journal of Human Rights* 26, no. 3 (September 2020): 529-39, <https://doi.org/10.1080/1323238X.2020.1813366>.

because many countries have accepted it, is accepted universally, and has a legal basis because we have ratified it.

Discourse prohibits candidates who are directly related by blood or marriage. This relationship is essentially related to birth, namely being born by the mother and fathered by whom? A person does not have the choice of whose mother he was born with, nor does he have to choose his father, nor can a person decide for himself who he wants to be the President's brother-in-law, for example, because this depends on who is his brother's wife or husband.⁴⁹ The sibling-in-law bond is due to birth, namely being related to the husband or wife, their in-laws. Ethnicity, skin color, and gender will also depend on a person's birth.

Article 2 paragraph (1) of the ICCPR states that "birth or other status" is prohibited from being used as a basis for discrimination. If the 1945 Constitution prohibits discrimination on any basis, then discrimination based on birth is also prohibited.⁵⁰ Remembering that general elections are the people's right in a democratic country,⁵¹ and in a democracy everyone is guaranteed freedom to determine themselves. The legal ratio of the prohibition is vague and unclear.

The practice of incumbent officials helping close relatives who win elections by cheating must be addressed with firm enforcement of the law against election violators and the threat of heavier sanctions, and in the election offense process, even though the election is over, the legal process must be able to continue. The problem between political rights as voters and then giving rules.⁵²

The author found a metaphor like this: "There are shoes that are not big enough, so don't cut off the feet so they fit in the shoes, but look for shoes that are

⁴⁹ Mohd Nasir Mohd Saukani, Iing Nurdin, and Rizqon Halal Syah Aji, "The Influence of Human Capital and Welfare on the Quality of Democracy in Indonesia," *Jurnal Cita Hukum* 8, no. 3 (December 2020), <https://doi.org/10.15408/jch.v8i3.18297>.

⁵⁰ Hasan Aulia Hudhaibi, "General Election (Election) As an Implementation of The Constitution in A Country with A Democracy System," *AL-MANHAJ: Jurnal Hukum Dan Pranata Sosial Islam* 5, no. 1 (June 2023): 859–66, <https://doi.org/10.37680/almanhaj.v5i1.2682>.

⁵¹ Ridho Al Izzati et al., "Direct Elections and Trust in State and Political Institutions: Evidence from Indonesia's Election Reform," *European Journal of Political Economy* 85, no. October 2023 (2024): 102572, <https://doi.org/10.1016/j.ejpoleco.2024.102572>.

⁵² Ach. Khoiri et al., "The Role of Kiai and Blater in the Regional Election in Madura: Discourse on Legal Culture," *Trunojoyo Law Review* 6, no. 2 (2024): 211–33, <https://doi.org/https://doi.org/10.21107/tlr.v6i2.23894>.

bigger." This leg is what the author likens to his political rights: if his political rights are protected, then there are problems in their implementation, so his political rights should not be reduced. The issue of implementation/regulations must be adjusted. Which one should be maintained and which one should be sacrificed is not clear here. These are the things that experts say: the provisions of this law, according to the author, are not clear, and then there is no legal basis once again, and the other thing is that it is a political right that cannot be reduced.

In this election, there are actually three democratic rights involved. The right to vote, the right to be a candidate, and the right to be a candidate. The right to vote is open; everyone can vote, but if there is only one candidate, what does democracy mean? This is a question about the relationship between the right to vote and the right to be a candidate.⁵³ It is open, but the rights of those who propose to become candidates are unlimited. Apart from being essentially contradictory, the issue of birth is a form of discrimination regulated by the ICCPR.

Legal Formula to Minimize Political Dynasties in General Elections

In this sub-chapter, the author will provide a legal formula to minimize dynastic politics in elections, namely: The author will provide a legal formula to minimize the negative excesses of dynastic politics, namely by strengthening the conditions for president/vice president candidates, governor candidates, mayor candidates, and regent candidates in internal political parties.⁵⁴ So that political parties will also strengthen their political system so that it avoids collusion and nepotism. Democratization of political parties is fundamental in efforts to create and strengthen democratic national and state life because there is no democracy without

⁵³ Amalinda Savirani, "Post-Election Politics in Indonesia: Between Economic Growth and Increased Islamic Conservatism," in *Southeast Asian Affairs 2020* (ISEAS Publishing, 2020), 137–54, <https://doi.org/10.1355/9789814881319-009>.

⁵⁴ Amitav Acharya, "The Myth of the 'Civilization State': Rising Powers and the Cultural Challenge to World Order," *Ethics & International Affairs* 34, no. 2 (July 2020): 139–56, <https://doi.org/10.1017/S0892679420000192>.

political parties.⁵⁵ This is something worth paying attention to because political parties play a central role because political parties are the players who determine how and why democracy is created. Thus, before political parties play a further role in efforts to create democracy and democratization in national and state life, it is fundamental to ensure that the democratization process within political parties runs optimally. Some of the key challenges in democratizing political parties are reforming political parties and party law, as well as strengthening democracy within internal political parties, which are demonstrated in the levels of intraparty democracy, members' participation, and openness of internal decision-making mechanisms. Democratization within political parties is something that is also emphasized by Yigal Mersel, "that political parties must be democratic not only externally, in their goals, but also democratic internally, in their organizational practices."⁵⁶

In practice, political parties in Indonesia can be said to have not been able to create democratization within political parties. The list of dynastic political practices presented in the previous discussion, which in fact dynasty politics adorns political positions that can only be achieved through political parties, shows that the mechanism for selecting candidates within political parties is not yet objectively free from patrimonial manipulation.⁵⁷ Indonesia's decentralized democratic system is vulnerable to patrimonial manipulation in an increasingly competitive and oligarchic struggle for devolution of power and governance. Patrimonial or "patrimonial politics" refers to the dominance of patron-client relationships and the inclusion of private interests rather than public interests in the activities of

⁵⁵ Wilhelm Hofmeister and Karsten Grabow, *Political Parties: Functions and Organisation in Democratic Societies* (Singapore: Konrad Adenauer Stiftung, 2011), 90, <https://1library.net/document/z1580wvy-political-parties-functions-organisation-democratic-societies-wilhelm-hofmeister.html>.

⁵⁶ Yigal Mersel, "The Dissolution of Political Parties: The Problem of Internal Democracy," *International Journal of Constitutional Law* 4, no. 1 (January 2006): 84, <https://doi.org/10.1093/icon/moi053>.

⁵⁷ Brenda Van Coppenolle, "Political Dynasties and Direct Elections in Bicameralism: Democratisation in the Netherlands," *Electoral Studies* 76, no. June 2021 (2022): 102454, <https://doi.org/10.1016/j.electstud.2022.102454>.

government institutions.⁵⁸ The patron-client relationship is a reciprocal relationship between the two, known as clientelism.⁵⁹ The patron will fight for the client's interests through political support, while the client will provide a number of materials (money or goods) and/or kindness (service assistance) to make the patron's election a success.⁶⁰

Patrimonial politics is primarily concerned with the capacity of power holders to maintain power and is influenced by various mechanisms. The political culture of patrimonialism is the root of the formation of dynasties. One of the studies conducted by Meitzner regarding the 2009 elections suggested that the post-authoritarian generation of Indonesian political leaders had a tendency to prepare their relatives to become future Indonesian leaders.⁶¹ The period of Soekarno's Guided Democracy and Suharto's Pancasila Democracy is an example of patrimonialism in Indonesia.⁶² The direct regional head election mechanism is a policy that reflects democracy and decentralization. However, direct regional head elections have the impact of increasingly intensive local power struggles and the fragility of democracy in the face of patrimonial manipulation by local elites. For example, the mayoral elections in Depok and Banyuwangi in 2005 had very strong patrimonial political influence. Regional governments have also become centers for the production of patrimonial networks that link diverse regional interests.⁶³ This was proven during the New Order era, namely under Soeharto's patrimonial governance system. Even though regional governments do not have much

⁵⁸ Nankyung Choi, "Democracy and Patrimonial Politics in Local Indonesia," *Indonesia* 88 (2009): 132.

⁵⁹ Allen Hicken, "Clientelism," *Annual Review of Political Science* 14, no. 1 (June 2011): 290, <https://doi.org/10.1146/annurev.polisci.031908.220508>.

⁶⁰ Nathan W. Allen, "Clientelism and the Personal Vote in Indonesia," *Electoral Studies* 37 (March 2015): 75, <https://doi.org/10.1016/j.electstud.2014.10.005>.

⁶¹ Marcus Mietzner, "Indonesia's 2009 Elections: Populism, Dynasties and the Consolidation of The Party System," *Analysis*, 2009, 20.

⁶² Harold Crouch, "Patrimonialism and Military Rule in Indonesia," *World Politics* 31, no. 4 (July 1979): 571–87, <https://doi.org/10.2307/2009910>.

⁶³ Henk Schulte Nordholt, "Renegotiating Boundaries; Access, Agency and Identity in Post-Soeharto Indonesia," *Bijdragen Tot de Taal-, Land- En Volkenkunde / Journal of the Humanities and Social Sciences of Southeast Asia* 159, no. 4 (2003): 563, <https://doi.org/10.1163/22134379-90003742>.

involvement in making policies, civil servants and regional politicians still live comfortably and gain power and wealth through special access.⁶⁴

There is not a single article in the 1945 Constitution that prohibits the practice of dynastic politics in Indonesia, so it is perfectly legal for dynastic politics to grow and develop well. However, the 1945 Constitution implicitly placed restrictions on dynastic political practices. This limitation is in Article 7 of the 1945 Constitution, which limits the term of office of the President and Vice President to five years, and after that they can be re-elected in the same position, only for one term of office. The amendment to the article was motivated by the length of time Soeharto was president for 32 years, because the constitution does not provide a limit on the number of terms he can serve.⁶⁵ This is in accordance with the meaning of active, biologically based dynastic politics, where the influencer and beneficiary of influence are located in one individual at successive places. These term limits are also then applied at the local political level, which apply to regional heads, namely governors and regents/mayors, who hold office for five years and afterward can be re-elected in the same position for only one term of office.⁶⁶ These restrictions are not rules that prohibit the practice of dynastic politics, but rather to prevent absolute power.⁶⁷

On the one hand, dynastic political practices cannot be separated from a human rights perspective, especially political rights for citizens. However, on the other hand, if it continues, the practice of dynastic politics can damage democratic principles. For this reason, in this sub-chapter, the author will provide a legal formula to minimize the negative excesses of dynastic politics, namely by strengthening the conditions for presidential/vice presidential candidates, gubernatorial candidates, mayoral candidates, and regent candidates in internal

⁶⁴ Hans Antlov, *The Making of Democratic Local Governance in Indonesia* (Jakarta: Ford Foundation, Mimeo, 2002).

⁶⁵ David Bourchier, *Illiberal Democracy in Indonesia: The Ideology of the Family State* (New York and London: Routledge, 2014), <https://doi.org/10.4324/9780203379721>.

⁶⁶ Ahmad Siboy et al., "The Islamic Law-Based Design of Regional Head Post-Filling," *Legality: Jurnal Ilmiah Hukum* 32, no. 1 (January 2024): 1–12, <https://doi.org/10.22219/ljih.v32i1.31261>.

⁶⁷ Ronald U. Mendoza et al., "Political Dynasties, Business, and Poverty in the Philippines," *Journal of Government and Economics* 7 (September 1, 2022), <https://doi.org/10.1016/j.jge.2022.100051>.

political parties. So that political parties will also strengthen their political system so that it avoids collusion and nepotism.

Referring to the process of nominating Presidential/Vice Presidential Candidates and Regional Head Candidates in elections, which is commonly practiced in democratic countries, for example in the United States, there are three transparent stages, namely: (1). nomination process (campaign/public debate); (2). state selection process (primary or caucus); (3). process of determining presidential/vice presidential candidates (national convention).⁶⁸ In the United States itself, to be able to become a candidate in the general election, you must comply with the regulations in the state or local government jurisdiction where the prospective candidate wants to participate as a candidate in the general election.⁶⁹

The process of selecting presidential/vice presidential candidates is preceded by an internal political party mechanism by designing a series of methods that involve all elements in the political party, including central, regional, branch, and branch administrators. This selection process is carried out openly by announcing to internal cadres of political parties to register as presidential candidates.

The presidential/vice presidential candidates who have been selected then take part in a selection that is arranged openly with mutually agreed stages, usually through a series of structured tests, personal qualities, integrity, and track record.⁷⁰ After being declared selected by passing a number of candidates, proceed to the nomination stage, namely carrying out socialization or campaigns and public debates by promoting programs, ideas, visions, and missions as candidates representing political parties to all political party members at all central and regional levels.

⁶⁸ Kenneth Janda et.al, *The Challenge of Democracy Government in America* (Boston: Houghton Mifflin Company, 1992), 305-310, https://archive.org/details/isbn_2900618810177.

⁶⁹ Nico Steytler, *The Place and Role of Local Government in Federal Systems* (Johannesburg: Konrad-Adenauer-Stiftung, 2005), 1, https://www.kas.de/c/document_library/get_file?uuid=1a81547e-2091-aba4-56cf-9857279c7e75&groupId=252038.

⁷⁰ Prasetio et al., "Problems of Democratic and Dignified Election in Indonesian Simultaneously Electoral Era," *International Journal of Criminology and Sociology* 9 (April 2022): 1701-8, <https://doi.org/10.6000/1929-4409.2020.09.193>.

Next, there are preliminary elections (primary/caucus) for a number of candidates nominated directly by all members of the political party.⁷¹ Once elected, the political party determines the selected candidate with the most votes to be the candidate to be proposed in the election. If the election system uses a coalition system between political parties in nomination, then the process of selection, nomination, and determination of candidates is still carried out in a mechanism agreed upon by the coalition member political parties. All coalition political parties are asked to nominate candidates representing the political parties to be selected and nominated by the political party coalition before being determined as candidates representing the political party coalition.

In this process, there is not a single political party that is not directly involved in the selection, nomination, and determination of candidates. In all stages of selection, nomination, and determination of candidates within a political party or within a coalition of political parties, the public is openly involved in assessing the candidate's personal qualities, integrity, and track record, as well as the candidate's vision, mission, and program that will be offered to the people in the election. In this way, the nomination process is not carried out by only involving a small and closed political elite.

1) Democratic Presidential Candidate / Vice Presidential Candidate Design for Indonesia

The idea of operationalizing the design of presidential/vice presidential candidacy in Indonesia in future elections is based on the democratic design of Pancasila as a form of reconstruction of Indonesia's original democratic traditions.⁷² This is by democratically carrying out internal national agreements within political parties, or "National Conventions." Political parties first need to form a body in the form of a Political Party Consultative Council at three levels: (1) National Political Party Consultative Council, (2) Provincial National Political Party Consultative Council; and (3) Regency/City Political Party Consultative Assembly which is a

⁷¹ Rika Kurniaty, "Human Security in The Age of Electoral Democracy: Politico-Business Alliances in The Malang Regency, Indonesia," *International Journal of Sustainable Future for Human Security* 7, no. 1 (February 2021): 2-10, <https://doi.org/10.24910/jsustain/7.1/210>.

⁷² Hazairin, *Demokrasi Pancasila* (Jakarta: Bina Aksara, 1983).

representation of all political party administrators at all levels (Village, Subdistrict, Regency, Provincial and National) with a balanced composition to be able to realize their representation in addition to the composition experts from various fields of politics, law and state, Non-Governmental Organizations/Religious Leaders /Community Leaders, and Community Organizations affiliated with the political parties in question. In short, the composition of this Political Party Consultative Council consists of: (1) political party administrators at all levels; (2) independent experts; (3) Non-Governmental Organizations/Religious Leaders /Community Leaders, and Community Organizations; and (3) political party organizations.⁷³

The idea of needing to form a Political Party Consultative Council is necessary to avoid that political party decision-making in determining candidates is not only determined by a handful of political party elites or oligarchs. So far, political elites are no longer trusted by the public because they often act crookedly to justify any power and often even use the power of the people to legitimize their political ambitions.⁷⁴ The idea of the Political Party Consultative Council is necessary so that the determination of candidates involves all components of the political party management and political party organizations to be able to translate the ideology of the political party, independent experts to be able to objectively assess the capacity and integrity of the candidate based on theoretical objectivity, and Non-Governmental Organizations/Religious Leaders /Community Leaders, and Community Organizations to be able to feel the pulse of the matter. the ideals of the people over the needs of political leaders.⁷⁵

Furthermore, the Political Party Consultative Council acts as the core committee for determining candidates by first determining the qualifications and

⁷³ Agus Riwanto, "Rekonstruksi Disain Pencalonan Presiden Dan Wakil Presiden Dalam Pemilu Serentak Yang Demokratis (Evaluasi Pencalonan Capres/Cawapres Pemilu Tahun 2019)," *Paper of Call For Paper Evaluasi Pemilu Serentak 2019*, 2019, 10–17.

⁷⁴ Abubakar E. Hara, "The Difficult Journey of Democratization in Indonesia," *Contemporary Southeast Asia* 23, no. 2 (August 2001): 321, https://doi.org/10.1355/CS23_2G.

⁷⁵ Agus Riwanto, "Rekonstruksi Disain Pencalonan Presiden Dan Wakil Presiden Dalam Pemilu Serentak Yang Demokratis (Evaluasi Pencalonan Capres/Cawapres Pemilu Tahun 2019)."

requirements of candidates needed for the future of political parties and the future of national political leadership, which is expected to be able to realize people's welfare in accordance with the noble ideals of the constitution. Having coordination, managerial competence, organizational maturity, providing inspiration and motivation, intellectual ability, a simple personality and lifestyle, openness, and the willingness to listen and, if necessary, accept the criticism and opinions of others.⁷⁶ The criteria used in this selection process must prioritize the principles of acceptability and credibility. Acceptability concerns the extent to which a presidential/vice presidential candidate is able to control the political resources that are the basis for his activities, both legally and actually. In Indonesia, the important political resources are the central and regional governments, national and local parliaments, Islamic groups, the military, business actors, NGOs, and the international community.⁷⁷

As for the credibility that must be met by most candidates, as stated by M. Bornstein and Anthony F. Sands, there are at least five criteria (5C), namely conviction (confidence and commitment); character (integrity, honesty, consistent respect, and trust); courage (courage, willingness to take responsibility for one's will); composure (inner calm); and competence (expertise, skill, and professionalism).⁷⁸ It is very important for these acceptability and credibility criteria to be determined by the Political Party Consultative Council with a more technical and operational translation adapted to the needs of national political leadership.⁷⁹

Political parties, through the selection carried out by the Political Party Consultative Council, must at least prepare candidates, as stated by Robert A. Dahl, to fulfill moral requirements, knowledge of virtue and the public interest, as well as

⁷⁶ Riza Sihbudi dan Moch Nurhasim (Ed), *Amandemen Konstitusi Dan Strategi Penyelesaian Krisis Politik Indonesia* (Jakarta: PP AIPI dan Partnership for Governnace Reform in Indonesia, 2002), 228, <https://onesearch.id/Record/IOS6527.slims-8717>.

⁷⁷ Riant Nugroho, *Reinventing Indonesia* (Jakarta: Elex Media Komputindo, 2001), 282, https://openlibrary.org/books/OL9192206M/Reinventing_Indonesia.

⁷⁸ Riza Sihbudi dan Moch Nurhasim (Ed), *Amandemen Konstitusi Dan Strategi Penyelesaian Krisis Politik Indonesia*, 281.

⁷⁹ Agus Riwanto, "Rekonstruksi Disain Pencalonan Presiden Dan Wakil Presiden Dalam Pemilu Serentak Yang Demokrastis (Evaluasi Pencalonan Capres/Cawapres Pemilu Tahun 2019)."

technical or instrumental skills needed for the duties of political officials. After agreeing on the candidate criteria, the Political Party Consultative Council held a national convention in four stages. The first stage is the candidate selection process. At this stage, socialization is carried out to the public that political parties open registration for anyone who wants to become a president/vice president candidate through the party in question, without exception, even if they are not political party cadres as long as they meet the criteria set by the Political Party Consultative Council. After that, the names of the collected candidates will be socialized to the regions. Namely to party constituents at the provincial level, district/city level, then at the sub-district and village levels.⁸⁰

In the second stage, the selection of candidates was carried out through an expanded plenary meeting. The plenary meeting will be held at the provincial level of the Provincial Political Party Consultative Council, which consists of provincial political party administrators, district/city administrators, political party community organizations, Non-Governmental Organizations/Religious Leaders /Community Leaders, and Community Organizations, and independent experts. The selection process is carried out in an open, transparent manner that can be covered by the media and witnessed by party constituents and the general public.

The third stage, the national party convention, is carried out by members of political party administrators at the central, provincial, district/city levels, and party organizations by voting or marking the names of candidates. This convention will select 10 candidates who will be submitted to the National Political Party Consultative Council as the highest panel for determining candidates.⁸¹

Fourth stage, the National Political Party Consultative Council will select 1 candidate for President/Vice President from 10 candidates who have been selected by the central, provincial, and district/city administrators at the national convention. The Political Party Consultative Council's choice of a candidate is

⁸⁰ Agus Riwanto.

⁸¹ Agus Riwanto.

carried out by deliberation and consensus, taking into account the interests of the party and the interests of the national political leadership. At this stage, the National Political Party Consultative Council acts as the final determiner of the presidential/vice presidential candidates that will be proposed by the political parties in the election. Because the National Political Party Consultative Council is the highest panel, its decisions cannot be contested. In this case, of course, membership in the National Political Party Consultative Council is necessary, which is credible, accountable, and professional. This model will be able to combine aspects of candidate popularity and candidate quality based on the choice of consensus from the National Political Party Consultative Council. Therefore, in this model, it is not always the case that the most popular candidate based on the convention stages I, II, and III is not necessarily elected; on the contrary, an unpopular candidate may be elected to represent a political party based on professional considerations carried out by the National Political Party Consultative Council.⁸²

2) Reconstruction of the Presidential/Vice-Presidential Candidate Nomination Design in the Political Party Law and Election Law

There is a need to reconstruct the design of the presidential/vice presidential candidacy in Indonesia so that it is democratic and should be carried out through several stages, namely: (1) the selection stage; (2) the selection stage; (3) the nomination stage; and (4) the stage of determining the presidential/vice presidential candidates who will represent the political party in the election. These four stages of the nomination process should be regulated in Law No. 7 of 2017 concerning Elections, but in reality this Law does not regulate them rigidly and systematically. Therefore, apart from being regulated in the internal articles of association / household budget of each political party, it is also necessary to revise Law No. 2 of 2011 concerning Political Parties to include the process of nominating presidential/vice presidential candidates through these four stages. Because the nomination process is the core of the implementation of popular sovereignty.

⁸² Agus Riwanto.

Because it is in the nomination process that the public can provide responses and aspirations in various forms before a candidate is determined to be directly elected in the election.

If the process of nominating a candidate for vice president is not transparent and seems to be bending the will of the public's aspirations, then the same thing means that the political party elite has dictated and forced the people to choose the candidate provided by the political elite. This coercion can certainly be considered a violation of the people's political rights because, based on Article 1 Paragraph (2) of the 1945 Constitution, it is emphasized that sovereignty is in the hands of the people. The meaning of the nomination stage is that it is a crucial stage in which the political elite should be accountable to the people so that the people do not choose candidates in the sack.

The nomination of presidential/vice presidential candidates must be carried out in an accountable manner by treating the nomination process as a political event, not a legal event. Because if traced from the theoretical aspect of constitutional law, the nomination process is a legal event, because in this process there is space for public policy in the form of planning in preparing candidates for government and state leaders, namely the president and vice president. This is where it is relevant to place the nomination process as a state process that must be maintained accountable in order to maintain the dignity of a democratic state.

Comparison of Political Dynasties in Four ASEAN Countries

This study compares four ASEAN countries regarding dynastic politics in general elections,

1) Singapore

Lee Kuan Yew was Prime Minister (PM) of Singapore from 1971-1990.⁸³ Some people praise his government for transforming Singapore from a slum to a

⁸³ Giuseppe Bolotta, "Siblings, Comrades, Friends: Kin(g)Ship, Hierarchy, and Equality in Thailand's Youth Struggle for Democracy," *Modern Asian Studies* 58, no. 1 (January 2024): 295-321, <https://doi.org/10.1017/S0026749X2300046X>.

metropolis, as the title of his biography suggests: *From Third World to First*. Lee Kuan Yew is a PM who is famous for the concept of Asian Values, a political ideology in the 1990s that defines elements of society, culture, and history in common with Southeast Asian and East Asian countries. It aims to use commonalities, for example, the principle of collectivism, to unite people for their economic and social interests and to create a pan-Asian identity.⁸⁴

Fourteen years after the fall, Lee Kun Yew, his son, namely Lee Hsien Loong, became PM of Singapore, who served from 12 August 2004-May 2024. He was the most popular politician from the People Action Party, the party that was in power for five decades, with the most votes—70 percent of the vote in the last election. Loong's victory was thought to be the result of public sympathy for his father's death.⁸⁵ After two decades serving as Singapore's leader, Lee managed to achieve success. Under his leadership, Singapore's economy grew. The island is also an international financial center and one of the world's major tourist destinations. Its Gross domestic product per-capita has more than doubled in the last 20 years. Lee's government is also considered competent in steering his country through several recessions, the global financial crisis and the Covid pandemic.⁸⁶

2) Philippines

The Philippines is one of the countries that borders the sea with Indonesia and is still part of Southeast Asia.⁸⁷ It turns out that the Sea Pearl of Orient also has a strong dynastic political system.⁸⁸ Ferdinand Marcos Sr. served as president of the

⁸⁴ Jemma Purdey, "Political Families in Southeast Asia," *South East Asia Research* 24, no. 3 (September 2016): 319–27, <https://doi.org/10.1177/0967828X16659027>.

⁸⁵ Lily Zubaidah Rahim, "Policy and Political Reform in Singapore," in *Regime Resilience in Malaysia and Singapore* (WORLD SCIENTIFIC, 2022), 99–112, https://doi.org/10.1142/9789811268663_0007.

⁸⁶ Julio C Teehankee, Paul Chambers, and Christian Echle, "Introduction: Political Dynasties in Asia," *Asian Journal of Comparative Politics* 8, no. 3 (September 2023): 661–70, <https://doi.org/10.1177/20578911231185786>.

⁸⁷ Wen-Hong Liu, Johanson A. Fabilane, and Wen-Kai K. Hsu, "Mitigating Marine Debris: Addressing Abandoned, Lost, and Discarded Fishing Gears (ALDFGs) in the Sulu-Sulawesi Seas through Trilateral Cooperation between the Philippines, Indonesia, and Malaysia," *Marine Pollution Bulletin* 208 (November 2024): 116913, <https://doi.org/10.1016/j.marpolbul.2024.116913>.

⁸⁸ Julien Labonne, Sahar Parsa, and Pablo Querubin, "Political Dynasties, Term Limits and Female Political Representation: Evidence from the Philippines," *Journal of Economic Behavior & Organization* 182 (February 2021): 212–28, <https://doi.org/10.1016/j.jebo.2020.12.001>.

Philippines from 1965 to 1986. During his leadership, Marcos was often nicknamed a dictator because of his various policies.⁸⁹

In 2022, Ferdinand Marcos Jr. or 'Bongbong' is the son of the dictator. Bongbong has restored the family name when he won a landslide victory in the Philippine presidential election.⁹⁰ The popularity of the Marcos clan rose from the ashes thanks to a clever campaign that has carefully rewritten history, blurring fiction and fact through social media. Bongbong is the son of his father Ferdinand Marcos, who served as president from 1965 to 1986. A number of observers say that the Philippines has long been led by various elite families. As a result, poverty and crime rates are still said to be high today.

CB Lande found that family political dynasties are also the logic of politics in the Philippines. There are at least 24 interrelated political dynasties that control the government in the Philippines. Although there were many political dynasties, they were still ruled by an "extended family political dynasty," known as godparenthood. In 1995-2007, an average of 31.3% of members of Congress and 23.1% of governors were replaced by family relatives. In the 1995 elections, there were 83 members of Congress elected in the third term, of which 36 were replaced by family relatives in the next election. In the same study, it is estimated that 40% of all provinces in the Philippines have governors and Congressional Representatives who are related either by blood or marriage.⁹¹

3) Cambodia

One country in Southeast Asia that also applies dynastic politics is Cambodia. Cambodia has a Prime Minister, Hun Manet, who is the son of former PM President

⁸⁹ Ronald U. Mendoza et al., "Political Dynasties and Terrorism: An Empirical Analysis Using Data on the Philippines," *Asian Journal of Peacebuilding* 10, no. 2 (November 2022): 435–59, <https://doi.org/10.18588/202210.00a266>.

⁹⁰ Ronald U Mendoza et al., "Interrogating the Links between Dynasties and Development in the Philippines," *Asian Journal of Comparative Politics* 8, no. 3 (September 2023): 765–86, <https://doi.org/10.1177/20578911231182490>.

⁹¹ Ludigil Garces, Karl Jandoc, and Mary Grace Lu, "Political Dynasties and Economic Development: Evidence Using Nighttime Light in the Philippines," *Philippine Political Science Journal* 41, no. 3 (April 2021): 215–61, <https://doi.org/10.1163/2165025X-BJA10010>.

Hun Sen.⁹² Former PM Hun Sen is said to be an iron-fisted figure who was in power for 38 years. He decided to step down and set up his own son Hun Manet as Cambodia's leader, according to the Asia Times. Then, the Cambodian People's Party (CPP) had the most votes in the August 2023 elections. After winning, Hun Sen announced to hand over power to his son. Many consider the CPP's victory to be the result of fraud. This is because Cambodian opposition parties are prohibited from participating in the election agenda.⁹³

4) Thailand

As a constitutional monarchy, Thailand also implements the practice of dynastic politics in its government.⁹⁴ This country has a long history of political dynasties for several generations. These dynasties have been a hallmark of Thai politics since implementing a constitutional monarchy in the early 20th century.⁹⁵ One of the closest examples is the matter of the Shinawatra family, which holds power at several points in government. Starting from Thaksin Shinawatra, who served as Prime Minister in 2001, to his younger sister, Yingluck Shinawatra, who held a similar position in 2011.⁹⁶

The family is said to have held the throne of the Thai government for the past several decades, reported by the Asia Media Center. In May 2024, Paetongtarn Shinawatra, who is 37 years old, will now serve as Prime Minister of Thailand, continuing the political legacy of his family led by his father, Thaksin Shinawatra, who was overthrown in a military coup in 2006. In August 2024, the Thai Parliament

⁹² Try Thuon, "How Formalization of Urban Spatial Plan Affects Marginalized Groups and Resilience Practices in Cambodia Secondary Town: A Case Study from Battambang," *Regional Science Policy & Practice* 13, no. 6 (December 2021): 1866–88, <https://doi.org/10.1111/rsp3.12403>.

⁹³ Astrid Norén-Nilsson, "A Regal Authoritarian Turn in Cambodia," *Journal of Contemporary Asia* 52, no. 5 (October 2022): 715–36, <https://doi.org/10.1080/00472336.2021.1974078>.

⁹⁴ Tyrell Haberkorn, "Under and beyond the Law: Monarchy, Violence, and History in Thailand," *Politics & Society* 49, no. 3 (September 2021): 311–36, <https://doi.org/10.1177/00323292211033073>.

⁹⁵ Stithorn Thananithichot and Wichuda Satidporn, "Political Dynasties in Thailand: The Recent Picture after the 2011 General Election," *Asian Studies Review* 40, no. 3 (July 2016): 340–59, <https://doi.org/10.1080/10357823.2016.1193473>.

⁹⁶ Mark R. Thompson, "Asia's Hybrid Dynasties," *Asian Affairs* 43, no. 2 (July 2012): 204–20, <https://doi.org/10.1080/03068374.2012.682366>.

has chosen Paetongtarn Shinawatra to become the newest prime minister.⁹⁷ This marks the return of the Shinawatra dynasty, which previously also produced Yingluck Shinawatra, Thailand's first female prime minister from 2011 to 2014.⁹⁸

Lessons from the Political Dynasties of Four ASEAN Countries

The practice of dynastic politics will actually become an obstacle in the implementation of democracy in the three ASEAN countries, including Indonesia. Because, in this case, the government tends to be oligarchic and has the potential to give rise to arbitrary actions or abuse of power. The easier it is for someone to gain power and have absolute power, the higher the potential for abuse of power. This is as stated by Lord Acton: "Power tends to corrupt, and absolute power corrupts absolutely."⁹⁹

The practice of dynastic politics cannot be separated from a human rights perspective, especially political rights for citizens. However, on the other hand, if it continues, the practice of dynastic politics can damage democratic principles. For this reason, in this article, the author provides a legal formula to minimize the negative excesses of dynastic politics, namely by strengthening the conditions for presidential/vice presidential candidates, gubernatorial candidates, mayoral candidates, and regent candidates in internal political parties. So that political parties will also strengthen the party system so as to avoid collusion and nepotism.

Conclusion

The practice of dynastic politics cannot be separated from a human rights perspective, especially political rights for citizens. However, on the other hand, if it continues, the practice of dynastic politics can damage democratic principles. This

⁹⁷ Bolotta, "Siblings, Comrades, Friends: Kin(g)Ship, Hierarchy, and Equality in Thailand's Youth Struggle for Democracy."

⁹⁸ Pavin Chachavalpongpun, "Long Live Patriarchy! The Thai Monarchy's Position on Gender Equality and Justice," *Asian Studies Review*, December 2024, 1-19, <https://doi.org/10.1080/10357823.2024.2432641>.

⁹⁹ Safa Agrita Hilsania, "Corruption, Corruptors, Indonesia, and Pancasila: Various Current Views," *Jurnal Scientia Indonesia* 4, no. 2 (October 2018): 125, <https://doi.org/10.15294/jsi.v4i2.36040>.

is also based on comparisons in Singapore, Thailand, and the Philippines. For this reason, in this article, the author provides a legal formula to minimize the negative excesses of dynastic politics, namely by strengthening the conditions for presidential/vice presidential candidates, governor candidates, mayor candidates, and regent candidates in internal political parties. So that political parties will also strengthen the party system so as to avoid collusion and nepotism.

The construction of the democratic president/vice president candidacy design can be realized in four stages: (1) selection; (2) selection; (3) nomination; (4) determination of president/vice president candidates who will represent political parties in the elections. This was carried out through the reconstruction of the formation of the Political Party Consultative Council to take the final say in determining the President/Vice President Candidates after going through the three previous stages. 5. Reconstruction of the democratic president/vice-president candidacy design must be regulated rigidly in the Memorandum of Association/Articles of Association of political parties through the revision of Law No.2/2011 concerning Political Parties and Law No.7/2017 concerning Elections.

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