

LEGAL ASPECTS OF POLITICAL PARTY INTERNAL CONFLICT RESOLUTION: A Case Study in Indonesia

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Abstract: This research aims to explain the dispute resolution mechanism of political parties in Indonesia. This research uses normative juridical methods. The findings of this study are based on the provisions in Article 32, paragraph (2), which, on the one hand, position the Party Court as the first-level court in resolving internal political party disputes. Still, the decision of the Party Court as a first-level decision is not final. Then, the position of the party court also does not stand independently, but is still bound internally by the organization. Thus, it is vulnerable to interest intervention in every decision. Furthermore, based on the regulations of the Political Party Law regarding the settlement of party disputes, it has not applied the principles of simple, fast, and low-cost justice. Therefore, regulating political party dispute resolution institutions in Indonesia should be redesigned to have a single-entry point, namely, through a special court. In addition, changing the position of the political party dispute resolution institution as a special judicial body under the general court will make decisions in the field of political party disputes binding for all parties. This research contributes to the development of institutional theory and judicial law in the context of the political system. On the other hand, this research also directly relates to constitutional practice and legal reform in Indonesia, particularly in the context of reforming regulations for resolving disputes within political parties.

Keywords: Legal Aspect, Political Party, Internal Conflict, Conflict Resolution, Indonesia

Abstrak: Penelitian ini bertujuan untuk menjelaskan mekanisme penyelesaian sengketa partai politik di Indonesia. Penelitian ini menggunakan metode yuridis normatif. Temuan penelitian ini didasarkan pada ketentuan Pasal 32 ayat (2) yang di satu sisi memposisikan Mahkamah Partai sebagai pengadilan tingkat pertama dalam menyelesaikan sengketa internal partai politik. Namun, putusan Mahkamah Partai sebagai putusan tingkat pertama belum bersifat final. Kemudian, kedudukan pengadilan partai juga tidak berdiri sendiri tetapi masih terikat secara internal oleh organisasi. Dengan demikian, rentan terhadap intervensi kepentingan dalam setiap putusan. Selanjutnya, berdasarkan pengaturan Undang-Undang Partai Politik tentang penyelesaian sengketa partai, belum menerapkan asas peradilan sederhana, cepat, dan biaya ringan. Oleh karena itu, pengaturan kelembagaan penyelesaian sengketa partai politik di Indonesia sebaiknya didesain ulang agar memiliki single entry point, yaitu melalui pengadilan khusus. Selain itu, perubahan kedudukan lembaga penyelesaian sengketa partai politik sebagai badan peradilan khusus di bawah peradilan umum akan menjadikan putusan di bidang sengketa partai politik mengikat bagi semua pihak. Penelitian ini memberikan kontribusi bagi pengembangan teori kelembagaan dan hukum peradilan dalam konteks sistem politik. Di sisi lain, penelitian ini juga berkaitan langsung dengan praktik ketatanegaraan dan pembaruan hukum di Indonesia, khususnya dalam konteks pembaruan regulasi penyelesaian sengketa partai politik.

Kata Kunci: Aspek Hukum, Partai Politik, Konflik Internal, Resolusi Konflik, Indonesia

Introduction

Indonesia is a democratic country. This is stated in Article 1, paragraph 2, of the 1945 Constitution of the Republic of Indonesia, which states, "Sovereignty is in the hands of the people and implemented according to the Constitution."¹ Indonesia is a democratic country, and its government must be based on the power of the people, whether through representation in the people's representative institutions or directly, where the people's power is involved in regulating or deciding the course of government.² In the conception of a democratic State, elections and political

parties are essential components.³ The 1945 Constitution of the Unitary State of the Republic of Indonesia guarantees a democratic system as part of civil and political rights, which is explicitly stated in Article 28, which states, "Freedom of association and assembly, expression of thoughts orally and in writing, and so forth shall be determined by law." In implementing democracy, the right to associate and assemble is realized when political parties are formed. Political parties are one of the pillars of democracy in the Indonesian political system.

The existence of political parties in Indonesia can be referred to the explanation of Law Number 2 of 2011 concerning Amendments to Law Number 2 of 2008 concerning Political Parties, which writes that as

¹ Ignatius Yordan Nugraha, "Abusive Unconstitutional Constitutional Amendments: Indonesia, the Pancasila and the Spectre of Authoritarianism," *Oxford Journal of Legal Studies* 43, no. 2 (June 2023): 379–404.

² Shevierra Danmadiyah et al., "A Party's Recall Right in the Concept of Democratic Country," *Syariah: Jurnal Hukum Dan Pemikiran* 19, no. 2 (2019), <https://doi.org/10.18592/sjhp.v19i2.3184>; Dan Slater, "What Indonesian Democracy Can Teach the World," *Journal of Democracy* 34, no. 1 (2023): 95–109.

³ Thomas Power and Eve Warburton, *Democracy in Indonesia: From Stagnation to Regression?* (ISEAS-Yusof Ishak Institute, 2020); Khamami Zada, "Sharia and Islamic State in Indonesia Constitutional Democracy: An Aceh Experience," *Ijtihad: Jurnal Wacana Hukum Islam Dan Kemanusiaan* 23, no. 1 (2023).

mandated by the 1945 Constitution of the Republic of Indonesia, freedom of association, assembly, and expression is a human right that must be implemented to strengthen the national spirit in a democratic Unitary State of the Republic of Indonesia. The critical task of political parties is not only to form the structure of the government system supported by the state, but also to form a constellation in parliament. Both are carried out through a universal election mechanism that combines democratic principles.

Furthermore, in managing a political party, there will inevitably be disputes among members, including both party members and administrators, as well as disputes among fellow administrators.⁴ The Law on Political Parties regulates the types of disputes involving political parties. According to the Explanation of Article 32 paragraph (1) of the Law on Political Parties, the types of political party disputes include Disputes relating to management, Violations of the rights of political party members, Dismissals without clear reasons, Abuse of authority, financial accountability, and/or Objections to political party decisions.

Empirical data indicate several disputes within the party over the last decade, including those involving the United Development Party (PPP), the Democratic Party, the Berkarya Party, and the Golkar Party.⁵ The mechanism for resolving internal party member disputes has been regulated in the Law on Political Parties, which states that the Party Court is authorized to resolve such conflicts. If the decision of the Party

Court is deemed insufficient, then party members can proceed to the district court and appeal to the Supreme Court.⁶

In many countries, there is a conceptual debate between “party autonomy” and “state regulation of parties”. Literature such as the work of ⁷ Shows that many countries encourage party regulation because of their public role, but must still guarantee internal party autonomy. Internal party conflict is a critical point in this discourse. The state must avoid intervening too deeply in party dynamics, but at the same time must ensure that there is an effective and fair internal justice mechanism. Thus, models of semi-judicial institutions such as party courts, internal dispute tribunals, or the involvement of the general judiciary in certain matters were born.

Of course, studying this by looking at the current legal facts is interesting. Does resolving internal party disputes genuinely reflect the principle of sovereignty and a sense of justice for party members, or is it limited only to accommodating party leaders or founders who take refuge in the party's Articles of Association/Bylaws (AD/ART) that legitimize their position? Therefore, this research aims to explain the dispute resolution mechanism of political parties in Indonesia from a legal perspective.

Previous research discusses internal party conflict. Research how ideological differences on the party level and the legal regulation of intra-party conflict on the system level shape the availability and nature of such mechanisms in party statutes. Patterns are examined about state-wide

⁴ Muhammad Mutawalli Mukhlis et al., “Ius Constituendum Regulates the Cadre-Based Recruitment of Candidates for Members of the House of Representatives Through Political Parties,” *Volksgeist: Jurnal Ilmu Hukum Dan Konstitusi* 7, no. 1 (2024): 139–155.

⁵ Akbar Bhayu Tamtomo, “INFOGRAFIK: Sejumlah Kasus Perpecahan Partai Politik Di Indonesia,” *Kompas.com*, 2022.

⁶ Muhammad Irfan Hilmy and Trian Marfiansyah, “Recall Referendum Sebagai Alternatif Proses Penggantian Antarwaktu Lembaga Legislatif Di Indonesia,” *Volksgeist: Jurnal Ilmu Hukum Dan Konstitusi* 4, no. 1 (2021).

⁷ Ingrid van Biezen and Thomas Poguntke, “The Decline of Membership-Based Politics,” *Party Politics* 20, no. 2 (2014): 205–16.

parties in Germany and Spain, two countries that regulate intra-party conflict legally, and the UK and Ireland, two countries that do not.

Then, research from⁸ Explains intra-party conflict at the grassroots level between Party Councillors and ideological congruence in Croatia. The results find that councillors with progressive ambition and those exposed to intra-branch competition report higher levels of ideological congruence with their parties. In contrast, no effect was found for holders of upper-level party positions. Branch power has the opposite effect from what is expected. Party grassroots shape ideologically congruent professional politicians, but this function is challenged by the shrinking supply of candidates.

Furthermore, research from⁹ Explains the dynamics of the Democrat Party in Indonesia, ranging from Power, Politics, and Internal conflicts. The Democrat Party has received little scrutiny from observers of Indonesian politics, mainly because of a commonly shared view that the party is nothing but a political vehicle for Susilo Bambang Yudhoyono, the country's President since 2004. However, a closer look at the internal dynamics of PD challenges this conventional view, reveals the diversity of political orientations and interests among party elites, and elucidates the emerging new patterns of party politics in the age of democracy.

Then, research by ¹⁰ Explain about Intra-party conflicts over gubernatorial campaigns

in Japan. Select cases and data demonstrate how differing incentives from the national leadership drive local units, the consequent intra-party disputes, and the limited success of party headquarters in steering its regional units.

Research from ¹¹ Explain about Intra-party conflict in social democratic parties in Germany, the Netherlands, and Spain. The study shows that office-seeking parties introduce neoliberal measures if the risk of losing votes due to an underperforming economy becomes larger than the risk of losing votes due to the mobilization of unions and opposition parties. Policy-seeking social democrats retain a social democratic ideology, unless prolonged failure to win office empowers pragmatic leaders to push through office-seeking strategies.

Based on the findings of previous studies published in reputable journals, there is a need to focus more on discussing the dynamics and impact of internal political party conflicts. However, no research comprehensively examines the resolution of internal political party disputes from a legal perspective. Therefore, this research offers novelty in this regard, with a focus on Indonesia. This research will provide a concept from a regulatory perspective for resolving internal political party conflicts in Indonesia.

Method

This study employs a normative legal method, specifically legal research, which aims to identify rules, principles, and legal doctrines to address specific legal issues.

⁸ M Kukec, "Intra-Party Conflict at Grassroots: Party-Councillor Ideological Congruence in Croatia," *Party Politics* 25, no. 5 (2019): 679-89, <https://doi.org/10.1177/1354068819836047>.

⁹ J Honna, "Inside the Democrat Party: Power, Politics and Conflict in Indonesia's Presidential Party," *South East Asia Research* 20, no. 4 (2012): 473-89, <https://doi.org/10.5367/sear.2012.0125>.

¹⁰ K V L Hijino, "Intra-Party Conflicts over Gubernatorial Campaigns in Japan: Delegation or

Franchise?," *Party Politics* 20, no. 1 (2014): 78-88, <https://doi.org/10.1177/1354068811436035>.

¹¹ P Marx and G Schumacher, "Will to Power? Intra-Party Conflict in Social Democratic Parties and the Choice for Neoliberal Policies in Germany, the Netherlands and Spain (1980-2010)," *European Political Science Review* 5, no. 1 (2013): 151-73, <https://doi.org/10.1017/S1755773912000070>.

¹²This study was designed systematically with a statutory, conceptual, and case approach. This approach is used to identify the legal basis underlying the research principles, particularly about internal disputes within political parties, within the framework of people's sovereignty in Indonesia. The primary legal materials used include binding laws and regulations, particularly Law Number 2 of 2008 concerning Political Parties and its subsequent amendment, Law Number 2 of 2011. Secondary legal materials include books, scientific journals, news articles, and other relevant written sources.

Data analysis was carried out in three stages: (1) inventory of related laws and regulations, (2) systematization of legal materials to show the structure and hierarchical relationships between legal norms, and (3) interpretation of these legal rules. Systematization also involves analyzing the correlation between legal norms, as well as rationalizing and simplifying the legal system to form general concepts and principles that are more organized, rational, and easy to understand.

Results and Discussion

Settlement of Internal Political Party Disputes

The position of political parties in Indonesia is strategic because it is the only institution capable of organizing political acceptance. Political parties serve as a forum for citizens who wish to fill various legislative and executive vacancies.¹³ In its current

development, the position of political parties is increasingly in the spotlight. The position of Political Parties as a supporting institution in the positions of regional heads, both provincial and regency/city, and Political Parties through the legislature (DPR) as the final determinant of selection in various vacant public positions¹⁴. For example, the filling of candidates for members of the General Election Commissions (KPU) and the Election Supervisory Body (Bawaslu) has, of course, passed the feasibility and compliance tests determined by the DPR.¹⁵

Along with its development, the Political Party will encounter various problems and conflicts, either from outside or within the Party itself. Conflicts originating from outside, for example, regarding the dependence of political parties on legislative and legal regulations, are closely related to the mechanism that will be employed in the event of a dispute, utilizing political tools or state power tools (such as the judiciary). Meanwhile, internal conflicts are usually related to political party leadership coups, such as the formation of dual leadership / the emergence of dual leaders from the body of the political party itself.¹⁶

It can be said that almost all the Political Parties that dominate Senayan have experienced conflicts, especially internal conflicts from within the Party itself. For example, the first instance occurred within

¹² Khudzaifah Dimiyati et al., "Indonesia as a Legal Welfare State: A Prophetic-Transcendental Basis," *Heliyon* 7, no. 8 (2021): e07865, <https://doi.org/https://doi.org/10.1016/j.heliyo.n.2021.e07865>; Wahyudin Darmalaksana, *Metode Penelitian Kualitatif Studi Pustaka Dan Studi Lapangan Wahyudin* (UIN Sunan Gunung Djati Bandung, 2020).

¹³ David M Bouchier, "Two Decades of Ideological Contestation in Indonesia: From Democratic Cosmopolitanism to Religious Nationalism,"

Journal of Contemporary Asia 49, no. 5 (October 2019): 713–33.

¹⁴ Thomas Poguntke et al., "Party Rules, Party Resources and the Politics of Parliamentary Democracies: How Parties Organize in the 21st Century," *Party Politics* 22, no. 6 (September 2016): 661–78.

¹⁵ Anna Grzywacz, "Democracy in Indonesian Strategic Narratives. A New Framework of Coherence Analysis," *Journal of Current Southeast Asian Affairs* 39, no. 2 (2020): 250–69.

¹⁶ Syariful Alam, Sholahuddin Al-Fatih, and Merve Ozkan Borsa, "Islamism and The Challenge of Democratization in Indonesia," *De Jure: Jurnal Hukum Dan Syar'iah* 15, no. 2 (2023).

the internal body of a political party that features a kabah symbol (PPP Party), where it is known that the Chairman and Deputy Chairman of the PPP Party attended a campaign event held by Gerindra at the Gelora Bung Karno Stadium on March 23, 2014. At that time, the PPP Party was still focusing on the election and had not yet legally decided on its presidential candidate. The internal conflict continued until the settlement involved the Ministry of Law and Human Rights (third party). Second, an internal conflict befell the Prosperous Justice Party (PKS) in 2016. Differences within the PKS party faction itself led to the conflict. In addition, a conflict arose between the Central Leadership Council (DPP) and PKS, as well as between Fahri Hamzah. In its resolution, the matter was pursued through the judicial route, which had previously been attempted through the party court but had been unsuccessful¹⁷. Third, it occurred within the Nasdem Party. The primary focus of the conflict arose from a conflict of interest in the election of the general chairman between Surya Paloh and Hary Tanoe Sudibjo¹⁸. These three examples of internal conflicts are just a few of the numerous internal conflicts within political parties in Indonesia. Indeed, political party conflicts have occurred not only after the Reformation but also before.

In essence, not all internal party disputes must end up in court. Article 32, paragraph (1) of Law Number 2/2011 on Political Parties stipulates that political parties must first resolve disputes internally, as regulated in their bylaws. The spirit of Article 32, paragraph 1, is that political parties can fix their problems; the rules and procedures for

making decisions are outlined in the party's bylaws, which limit the need to bring all issues to court. In line with the current needs of Indonesian society, the normative settlement of political party disputes has evolved, primarily with the enactment of Law Number 2 of 2011, which aims to make the life and dynamics of political parties more harmonious, dynamic, and fair, based on the values of Pancasila. Based on this law, a special court is established to handle the settlement of disputes between political parties. Specifically, the court is formed by the political party itself and is authorized to examine and adjudicate disputes within the party.

From the norms contained in Articles 32 and 33 of the Political Party Law and their explanations, it can be interpreted that what is meant by internal settlement of political party disputes is the settlement of political party disputes carried out by the Political Party Court. In contrast, external settlement of political party disputes refers to the resolution of political party disputes conducted by institutions or mechanisms outside of the parties themselves. The types of disputes in the Law and those that develop in practice must go through the Party Court. The spirit is that the Party Court is considered to know the innermost atmosphere of the political party concerned. Therefore, external settlement can only be done when efforts at the MPP have been made. Consequently, the external resolution institution must declare that it is not authorized to examine, decide, and resolve disputes if the internal resolution mechanism has not been followed. Although all types of political party disputes must first be submitted through the internal resolution mechanism, not all disputes can be submitted to legal remedies or sought to be resolved by external institutions. The Political Party Law stipulates that legal remedies can be filed, except in cases involving management disputes. In contrast,

¹⁷ Zaiyatul Akmar, "Konflik Internal Partai Keadilan Sejahtera Tahun 2016: Studi Kasus Konflik Fahri Hamzah Dengan Pimpinan DPP PKS," *Politika: Jurnal Ilmu Politik*, April 2019

¹⁸ Yunicha Diana and Robi Cahyadi Kurniawan, "Konflik Internal Partai Nasdem Dan Pemilihan Legislatif 2014," *Jurnal Wacana Politik* 1, no. 1 (2016): 22-28.

management disputes are final and binding within the Political Party.¹⁹

The regulation in Article 32, paragraph (2), is a refinement of the previous Political Party Law, namely Law No. 2 of 2008, which had not yet regulated the existence of a party court. The regulation of the party court is a response to the numerous disputes that occur within Indonesian political parties, which are often protracted and unresolved. Previously, Law No.2 of 2008 stipulated that the settlement of political party disputes was carried out through consensus. If the political parties do not agree, the settlement is reached through a judicial or non-judicial mechanism. The judicial mechanism is pursued through the District Court. Several types of political party cases can be resolved in court, including internal conflicts within political parties, disputes between political parties, and conflicts between political parties and the government.²⁰

Meanwhile, non-judicially is pursued through alternative dispute resolution mechanisms outside the court, such as arbitration, mediation, and conciliation. The settlement of political party disputes through deliberation mechanisms and filing lawsuits directly with the District Court is considered ineffective, resulting in a backlog of cases involving political parties. Therefore, the government proposed a revision to the Political Party Law, granting political parties the authority to resolve their internal conflicts independently, without government intervention. The purpose of establishing a political party court can be seen as an effort to create a mechanism for resolving internal party disputes, thereby

respecting and protecting the sovereignty of political parties in resolving all internal problems fairly and with certainty.²¹ When viewed functionally, the party court's position can be said to have carried out state functions in the justice field. In this case, as an institution for resolving internal disputes within political parties, the party court has the authority to examine, hear, and decide disputes as mandated by the Political Party Law.

However, the party court is institutionally part of the party's internal organization and is placed in the party structure. This means that, in this case, the party court is not part of the independent judicial branch. Based on the institutional position of the party court, it can be said that the party court's position in Indonesia is quasi-judicial. This is because the party court is structurally an inseparable part of the party organization. However, functionally, the party court has functions related to judicial power, namely, a broad authority to guide the Association or Bylaws (AD/ART). This is intended to provide independence for the party, but in practice, not all political parties have a party court and their own procedures. No special regulation stipulated in the Political Party Law requires every political party to have a Party Court or establish specific guidelines for its Party Court. This indicates that a legal vacuum persists regarding the methods for resolving internal disputes within political parties in Indonesia. The framers of the Law on Political Parties assume that management disputes must be resolved quickly because the party cannot run without protracted legal efforts. As for disputes other than management issues, they will not cause stagnation of political party management; therefore, the tap is opened for legal

¹⁹ Hanne Fjelde, "Political Party Strength and Electoral Violence," *Journal of Peace Research* 57, no. 1 (2020): 140–55,

²⁰ Jan Berz and Michael Jankowski, "Local Preferences in Candidate Selection. Evidence from a Conjoint Experiment among Party Leaders in Germany," *Party Politics* 0, no. 0 (2022): 1–14, <https://doi.org/10.1177/13540688211041770>.

²¹ Andrew Bertoli, Allan Dafoe, and Robert F Trager, "Is There a War Party? Party Change, the Left-Right Divide, and International Conflict," *Journal of Conflict Resolution* 63, no. 4 (May 2018): 950–75.

remedies to the District Court, which must decide and resolve within a maximum of 60 (sixty) days, and the Supreme Court, which must decide and resolve within a maximum of 30 (thirty) days.

The provisions in Article 32 paragraph (2), on the one hand, position the Party Court as the court of first instance in resolving internal political party disputes. Still, externally, the decision of the Party Court, as a first-instance decision, is not final and can be set aside for disputes outside of management disputes. This creates ambiguity towards the position of the party court as the first level of justice in resolving internal political party disputes. In this case, the position of the party court is merely that of an administrative executor of internal dispute resolution, as constructed by the judicial mechanism, in resolving internal party disputes. The ambiguity of the party court's position then has implications for the binding force of its decisions, which ultimately do not function optimally, as seen in disputes related to the dismissal of DPR members who also serve as legislative members.²²

Table 1. Types of Disputes and Authorized Institutions in Political Party Dispute Resolution

Types of Political Party Disputes	Institutions Authorized to Settle Political Party Disputes		Nature of Decision
	Internal Court	Eksternal District Court and Supreme Court	
	Political Party or Other designations	Court and Supreme Court	
Management	V	-	Final and Binding
Violation of the rights of political	V	V	Legal Remedies

²² Afifah Kusumadara, "Jurisdiction of Courts Chosen in the Parties' Choice of Court Agreements: An Unsettled Issue in Indonesian Private International Law and the Way-Out," *Journal of Private International Law* 18, no. 3 (September 2022): 424-49, <https://doi.org/10.1080/17441048.2022.2148905>.

party members			
Dismissal without cause reason	V	V	Legal Remedies
Abuse of authority	V	V	Legal Remedies

Source: proceed by author (2024)

Based on the regulations of the Political Party Law regarding the settlement of party disputes, it has not applied the principles of simple, fast, and low-cost justice. This can be proven by the court decision concerned, which must be final and binding and can be appealed to the Supreme Court. Therefore, establishing partisan courts intended to accelerate dispute resolution remains a reality. An ideal formulation is needed to resolve internal political party disputes that are democratic, fair, and based on the principle of popular sovereignty, especially the sovereignty of party members. This is done to ensure that political parties are well institutionalized, thereby enabling the parties to uphold the pillars of Pancasila democracy in Indonesia.

The Party Court, as a forum for resolving internal disputes within political parties, is regulated by Law Number 2/2011 on Political Parties. This court is designed as a quasi-judicial institution to resolve internal conflicts such as management disputes, violations of the AD / ART, and the political recruitment process. However, in practice, the decision of the Party Court does not have absolute final and binding legal force. The decision of the Party Court can still be challenged in the State Administrative Court (PTUN) or the Supreme Court through the cassation mechanism. This indicates that the Party Court is not the final adjudicator, and its dispute resolution function becomes merely procedural, rather than substantive.

From the perspective of institutional theory, this reflects the asymmetry between internal and external judicial power, where internal party institutions are not granted full authority to manage their affairs. In fact, in

many healthy democratic systems, the autonomy of political parties as private entities that carry out public functions requires the existence of a strong and final internal dispute resolution system.

Furthermore, the main problem that adds to the Party Court's weak power is its non-independent position. In many political parties in Indonesia, Party Court members are selected and dismissed by the party elite without any objective or transparent due diligence mechanism. The composition of the Court's personnel often consists of elite loyalists or party officials, which can lead to serious conflicts of interest in handling disputes, especially when they involve internal factions or dominant elites.²³

Regarding the theory of judicial independence, independence must include aspects of structure, procedure, and psychology. The Party Court fails to fulfill all three aspects: Structurally, it is subordinated to the party executive. Procedurally, there are no established ethical standards or accountability mechanisms to ensure impartiality. Psychologically, there is no guarantee of freedom from pressure from the party elite. As a result, the decisions of the Party Court are often perceived as a means of legitimizing the dominant faction, rather than a neutral and reliable means of internal justice.²⁴

The two main problems above - the lack of finality of decisions and the lack of independence of the Party Court - have a systemic impact on resolving internal party conflicts. Unresolved conflicts within the party tend to be brought to the realm of state courts (PTUN), which causes overlapping

jurisdiction between internal and external institutions. Legal uncertainty as to who legitimately represents the party in elections or government. Politicization of state judicial institutions in domestic party affairs.

In terms of institutional effectiveness theory, this indicates a failure of the system to provide credible, legitimate, and final solutions. Therefore, an integrated and tiered dispute resolution mechanism is needed, with the principles of institutional independence: A Party Court or similar forum must have structural and procedural guarantees of autonomy. Finality and legal certainty: The decisions of the Party Court should be final in resolving internal disputes, with court intervention limited to addressing aspects of formal legal violations. Accountability and transparency: Dispute resolution processes should be accessible, regularly monitored, and evaluated by both party members and the public.

Reconstruction of the Political Party Dispute Settlement Body

Strengthening the status and position of political party dispute resolution bodies is crucial for accelerating the settlement of internal political party disputes and creating legal certainty in resolving party disputes, thereby supporting political stability. As explained earlier, the position of the party court in Indonesia is authorized to decide internal disputes of political parties, whose resolution mechanisms are determined by each party through their respective bylaws. This means that each political party has various mechanisms and procedures for resolving internal disputes.²⁵

However, the current Political Party Law has limited the five types of disputes that can be resolved in the party court and the binding force of the party court's decision. In this

²³ Abdul Rahim, "Governance and Good Governance- A Conceptual Perspective," *Journal of Public Administration and Governance*, 2019, <https://doi.org/10.5296/jpag.v9i3.15417>.

²⁴ Elinor Ostrom, "Institutional Rational Choice: An Assessment of the Institutional Analysis and Development Framework," in *Theories of the Policy Process, Second Edition* (Routledge, 2019), 21-64.

²⁵ Jacob Bercovitch, *Social Conflicts and Third Parties: Strategies of Conflict Resolution* (Routledge, 2019), <https://doi.org/https://doi.org/10.4324/9780429306259>.

case, the decision of the party court is final and binding only on disputes related to management, while other disputes can be refiled with the District Court and appealed to the Supreme Court. This highlights the weak position of the judicial body in resolving disputes between political parties in Indonesia, where its role is often viewed as merely an administrative matter. In contrast, there is a need for the reconstruction or rearrangement of the position of the political party dispute resolution body in Indonesia.

Moreover, with the slow settlement and accumulation of cases in the litigation channel, there are gaps or shortcomings in the political party law, especially the time to resolve internal party disputes through the Party Court, which is quite long, no longer than 60 (sixty) days. Therefore, progressive action that extends beyond the article's text is necessary. One of the progressive actions is through non-litigation channels involving the people, or more precisely, community leaders who are considered neutral. Regardless of whether it is an internal party dispute, the people have a stake in every aspect of a political party's life in a democratic system. Today, there are many alternatives to resolving disputes through non-litigation, also known as alternative dispute resolution (ADR), which is regulated in positive law by Law Number 30 of 1999 concerning Arbitration and Alternative Dispute Resolution. Alternative Dispute Resolution (ADR) is an out-of-court dispute resolution institution based on the parties' agreement, which overrides litigation dispute resolution in court. One alternative to dispute resolution is mediation.

Generally, out-of-court dispute resolution, or in this case, mediation, typically only applies to civil disputes. The dispute resolution process through mediation involves two or more parties negotiating or reaching a consensus with the help of a neutral party who does not have the authority to make a

decision. Mediation can also be said to be an intervention into a dispute by a third party who the parties, impartial and neutral, receive well, and who does not have the authority to make decisions in assisting the disputing parties to reach a consensus agreement and accommodate the needs of the parties in resolving the disputed issues.²⁶

The consensus approach in the mediation process means that all outcomes produced must be the result of an agreement between the parties. Two or more parties can pursue mediation, allowing political parties to use this alternative effort. Mediation refers to the role of culture as the dominant factor in this context. Based on this view, the community can accept consensus resolution methods, such as negotiation and mediation, because these approaches are grounded in the perspective of community life and even political parties. People or communities, including members of political parties, who inherit an inherent cultural tradition that emphasizes the importance of harmony in life or association, will undoubtedly be more likely to accept and utilize consensus methods in dispute resolution.²⁷

Apart from cultural factors, mediation sees the power of the disputing parties as relatively more balanced. Parties are willing to negotiate not because they feel sorry for the other party or because specific cultural or spiritual values bind them, but because they need the other party's cooperation to achieve their goals or realize their interests. Political parties should also provide opportunities for outsiders or community leaders to take part in resolving internal party disputes. In addition, parties can simultaneously carry

²⁶ S J Hong, "Developing a Mediation Model for Narrative Evidence Processing Based on Social-Cognitive Variables and Agency-Based Cultural Exemplars," *International Journal of Communication* 14, no. 1 (2020): 3819–42.

²⁷ Berz and Jankowski, "Local Preferences in Candidate Selection. Evidence from a Conjoint Experiment among Party Leaders in Germany."

out their function as a control tool to criticize the judiciary. From some existing literature on dispute resolution through the courts in several countries, the most common criticism is that dispute resolution through litigation is very long, namely a total of 90 days from the first level decision in the District Court to the cassation decision in the Supreme Court, this does not include 60 days of settlement in the Party Court that must be passed first, then court decisions that do not necessarily solve the problem and various expressions that reduce the image of the court.²⁸

Mediation, the main factor in resolving internal political party disputes, should also be supported by several factors to prevent or overcome the latent potential caused by internal party turmoil. First, internal mechanisms ensure democratization through the participation of political party members in decision-making. Arrangements regarding this matter must be formulated in writing in the internal regulations of political parties. Second, a party transparency mechanism can be established through people outside the party who can participate in determining policies to be fought for by political parties. Political parties must be utilized as a means of struggle for the people to assess the operation of the state system through their aspirations and demands. Therefore, administrators should function as servants and connectors of aspirations and interests for their constituents. This can be achieved by including several public figures or statesmen in the Party Court. In this case, what must be considered is that the formation of the Party Court should be outside the political party structure, so that the figures representing the community are not members of political parties. Third, it guarantees freedom of thought, opinion, and expression, as well as freedom of peaceful

assembly and organization. In essence, freedom in the internal life of political parties, or the lives of people in general, initially stems from freedom of thought. Therefore, a climate of freedom of thought is indispensable for the growth and development of political parties in a country. This means that good political parties need social land to grow, namely the freedom of thought among fellow party members or people who will channel their political aspirations through one of the main channels, namely political parties.

Indonesia, in this case, can adopt the position of the party court in Kenya, a multiparty democracy guided by the principles of democracy, participation, and non-discrimination, much like Indonesia. In this case, Kenya is one of the countries with a Political Party Disputes Tribunal established under Article 39(1) of Act No. 11 of 2011, as amended by Act No. 14 of 2016, known as the Political Party Disputes Tribunal. The Political Party Disputes Tribunal in Kenya operates as an independent judicial body under the District Court. The Political Party Disputes Tribunal in Kenya has the following powers: a) Disputes between political parties; b) Resolution of disputes between members of political parties; c) Resolution of disputes between members of political parties and political parties; d) Disputes between independent candidates and political parties; e) Disputes between coalition partners; and f) Appeals based on the decision of the clerk under this law. Regarding the composition of judges, the Political Party Dispute Tribunal in Kenya is appointed and elected directly by the AG. The judges consist of five people: one presiding judge from the High Court and four other judges. In this case, it can be said that the judges of the Court of Political Party Disputes in Kenya are personally independent because they are not bound by binding institutions, such as party courts, unlike in Indonesia. This

²⁸ Susan Berk-Seligson, *The Bilingual Courtroom: Court Interpreters in the Judicial Process* (University of Chicago Press, 2017).

independence will then have an impact on the autonomy of decision-making. If there is an objection to the decision of the Kenya Political Party Dispute Court, the plaintiff can file a legal remedy to the High Court. Similarly, if there is an objection to the Court of Appeal's decision, an appeal can be made to the Supreme Court.

However, it is known that the resolution of cases through the Political Party Dispute Tribunal, which is the court of first instance in Kenya, can be effective. This is evidenced by the low number of appeals filed to the High Court. For example, in 2017, 375 disputes involving political parties were filed with the Kenya Political Party Disputes Tribunal. However, only 55 decisions were appealed to the High Court. Referring to the practice in Kenya, the reconstruction of the party court as an independent judicial body directly under the District Court is highly necessary.

This is also intended to prevent the dualism of political party dispute resolution in Indonesia, which is often submitted to the State Administrative Court (PTUN). This, in practice, makes handling political party disputes in Indonesia protracted. This is because, although the Political Party Law has explicitly explained that the settlement of political party disputes is resolved through the District Court, in practice there are still several political parties that file party dispute lawsuits to the State Administrative Court, which can be used as a loophole or misused by the parties to the dispute to delay the existence of an inkrah (legally binding or final) court decision as one of the conditions for Interim replacement of DPR members, as in the case of Jhoni Allen's dismissal from the Democratic Party. Through the reconstruction of the Party Court into a judicial institution directly under the District Court, it is also expected to realize the principle of simple, fast, and low-cost justice. In this case, political party disputes are still categorized as special civil

disputes that must be resolved quickly, and there is no appeal; only cassation is available. This is intended to accelerate the decision-making process and provide legal certainty to political parties.²⁹

Therefore, regulating political party dispute resolution institutions in Indonesia should be redesigned to have a single door through a special court, similar to Kenya. This is also intended to maintain the independence of decision-making. In addition, changing the position of the political party dispute resolution institution as a special judicial body under the general court will make decisions in the field of political party disputes binding for all parties, namely not only political parties as litigants but also the government through the Ministry of Law and Human Rights which will later authorize the management of political parties. The reconstruction of the party court as an institution for resolving internal political party disputes under the General Court is expected to streamline the resolution of political party disputes transparently and fairly. The institutionalization of the party court as an independent judicial body within the scope of the General Court also requires adequate human resources. Therefore, recruiting member judges who understand litigation issues and are familiar with political party conflicts is also necessary. If this has been fulfilled, then exploring the facts of a political party problem will run more effectively, independently, and with legal certainty. This research extends the application of institutional design theory, as developed by ³⁰ Into the realm of internal

²⁹ Andrea Lucia Tapia-Hoffmann, "Legal Certainty and Legal Commitment Mechanisms BT -," in *Legal Certainty and Central Bank Autonomy in Latin American Emerging Markets*, ed. Andrea Lucia Tapia-Hoffmann (Cham: Springer International Publishing, 2021), 45–88.

³⁰ Ostrom, "Institutional Rational Choice: An Assessment of the Institutional Analysis and Development Framework."

governance of political parties. This study examines internal party conflicts resulting from weak or non-adaptive institutional design within internal political dynamics. The findings show that overly centralized decision-making structures, the absence of checks and balances mechanisms, and the weakness of collectively agreed-upon game rules encourage recurring conflicts that are difficult to resolve internally.

By integrating institutional design principles such as rule clarity, participatory governance, and accountability, this study demonstrates that political parties require a more deliberative and open internal institutional design to foster institutional resilience against conflict. This contribution adds complexity to our understanding of how institutions are formed not only for external purposes (i.e., electoral participation) but also as an arena for internal conflict resolution.

The second contribution relates to testing the principle of judicial independence in the context of handling internal party conflicts. This research examines the extent to which the judiciary, particularly the Supreme Court and the State Administrative Court (PTUN), can perform its adjudicative function independently in leadership dualism or party management disputes.

From the perspective of judicial independence theory, as formulated and elaborated, substantive and institutional independence are essential so that court decisions are not influenced by political pressure. The findings of this study reveal challenges to such independence, both in the form of covert political intervention and in the tendency of judges to rely on formalistic legal considerations without considering aspects of procedural justice or the substance of internal democracy. This contribution emphasizes the need for improvements in the structure and institutional culture of the judiciary to be more adaptive and sensitive to internal party political matters that have

significant consequences for the quality of democracy. This research enriches studies on the effectiveness of internal party dispute resolution mechanisms, examining both litigation and non-litigation channels. Within the framework of institutional effectiveness theory, institutional effectiveness is determined by the coherence between formal rules and informal practices.

The case study in this research shows that although the party has formal rules regarding conflict resolution (through the party court or honor council), in practice, the mechanism often does not run effectively due to elite domination, members' lack of trust in internal forums, and the absence of sanctions against procedural violations. As a result, conflict escalation often leads to the courts, which weakens the party's image and reduces institutional legitimacy. The theoretical contribution of these findings lies in the importance of strengthening political parties' internal dispute resolution mechanisms (IDRM) by integrating sound governance principles, including transparency, accountability, and participation. This is important not only to prevent recurring conflicts but also to strengthen the party's function as a pillar of democracy.

Conclusion

This study examines the internal dispute resolution mechanism of political parties in Indonesia, with a focus on the position and effectiveness of the Party Court. The main findings show that Article 32 paragraph (2) of the Political Party Law contains normative ambiguity, because on the one hand it places the Party Court as a first-level court, but does not give permanent legal force to its decisions (except for management disputes). This creates legal confusion and weakens its function as an instrument for fair dispute resolution. The Party Court is also considered not institutionally independent because it is under the internal party

structure, making it vulnerable to intervention by party elites. This condition does not reflect the principles of simple, fast, and low-cost justice. Theoretically, this study contributes to the development of institutional theory and judicial independence in a non-state context. The author proposes the establishment of a specialized court within the broader judicial framework to resolve disputes between parties in a final and binding manner. This reform will strengthen the national legal system and improve the quality of democracy. Further research can use comparative, empirical, and socio-legal approaches to expand the study.

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