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Ius Constituendum Regulates the Cadre-Based Recruitment of Candidates for Members of the House of Representatives Through Political Parties

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Abstract

This study seeks to examine the challenges associated with cadre-based recruitment of the House of Representative candidates by political parties and to propose ideal frameworks for such recruitment. The current processes of political party recruitment are not comprehensive and encounter philosophical, sociological, and juridical issues. Philosophically, recruitment practices and orientations differ widely among parties, with some adopting populist methods and others being controlled by party elites. Sociologically, a feudalistic political culture ties parties to certain figures, promoting a pragmatic approach aimed at winning elections rather than ensuring candidate quality. Juridically, while Law Number 2 of 2011 mandates democratic cadre recruitment, Law Number 7 of 2017 on General Elections lacks clear requirements for nominating cadres, resulting in inconsistencies between the laws. This research employs a normative legal methodology, incorporating conceptual, statutory, and comparative approaches. The study involves analyzing regulatory documents, books, journals, and other relevant scholarly works to explore how legal provisions are implemented in society. The findings indicate that problems in cadre-based recruitment arise from ambiguous principles and orientations in regulations. Future arrangements should prioritize party ideology and orientation, drawing on practices from Malaysia and the United States. It is crucial to establish statutory principles for political party cadre and recruitment, focusing on character, utility, ideology, vote balance, democracy, transparency, justice, and equality.

Keywords: *Cadreization; political parties; recruitment.*

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INTRODUCTION

Political parties, as key components of Indonesia's political infrastructures, play a crucial role in developing cadres to produce credible, professional, and people-orientated representatives.[1] The significance of political parties in generating populist and aspirational candidates is paramount, as

[1] Wändi Bruine De Bruin et al., "Asking about Social Circles Improves Election Predictions Even with Many Political Parties'," *International Journal of Public Opinion Research* 34, no. 1 (2022): 6, https://doi.org/10.1093/ijpor/edac006.

one of the core responsibilities is to cultivate cadres who align ideologically with the party and are committed to advocating for the people's aspirations.[2]

A professional and well-planned cadre development process should be the primary focus to ensure that the representatives proposed by political parties truly reflect the people's will.[3] Members of the House of Representatives (DPR) are expected to professionally address community interests through this cadre formation process.[4] Effective cadre development within political parties is essential to produce qualified, aspirational and professional DPR members who possess ideal and populist capacities.[5]

This emphasis on cadre development aligns with the optimal functioning of the DPR, as outlined in Article 20A, paragraph (1), which specifies the DPR's three main functions: budgetary, legislative and supervisory.[6] The DPR's budgetary function involves participating in the approval of the Draft State Budget proposed by the President. Its legislative function pertains to the formulation of laws that meet the legal needs of society.[7] The supervisory function involves overseeing various government policies to ensure they are effective and accountable to the public.[8] Given these three primary functions, it is essential for DPR candidates to be qualified and professional. Therefore, cadre development within political parties is vital in producing responsible and capable DPR members.[9]

While cadre formation is the most crucial mechanism for political parties to produce professional and responsible DPR member candidates, there are two significant issues that hinder this process: juridical problems and cultural problems related to political cadre formation.[10] The juridical issue stems from Article 12 of Law No. 2 of 2008 concerning Political Parties (Political Party Law), which broadly outlines the rights of political parties and mechanisms for their establishment.[11] However, the law falls short in emphasizing how political parties be empowered to sustain democracy in Indonesia. Specifically, it lacks provisions for facilitating optimal political cadre formation that

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2 Emil Husted, Mona Moufahim, and Martin Fredriksson, "Political Parties and Organization Studies: The Party as a Critical Case of Organizing'," *Organization Studies* 1, no. 1 (2021): 1–4, https://doi.org/10.1177/01708406211010979.

3 Bruno Bolognesi, Ednaldo Ribeiro, and Adriano Codato, "A New Ideological Classification of Brazilian Political Parties'," *Dados* 66, no. 2 (2023): 1–29, https://doi.org/10.1590/dados.2023.66.2.303x.

4 Muhammad Mutawalli et al., "Hak Recall Partai Politik Terhadap Anggota Dewan Perwakilan Rakyat: Tinjauan Constituent Dan Public Recall'," *Jurnal Ilmiah Penegakan Hukum* 10, no. 2 (2023): 219–29.

5 Sergiu Gherghina and Vincent Jacquet, "Why Political Parties Use Deliberation: A Framework for Analysis'," *Acta Politica* 58, no. 3 (2023): 495–511, https://doi.org/10.1057/s41269-022-00232-z.

6 Bolognesi, Ribeiro, and Codato, "A New Ideological Classification of Brazilian Political Parties'."

7 James R Maxeiner, "The Authoritative Text as Imperative to Comprehensibility of Legislation'," *Das EJournal Der Europäischen Rechtslinguistik (ERL) Universität Zu Köln, 2* (University of Baltimore Law, 2021).

8 Hafid Hasyim et al., "Side Effect of Inter-Time Replacement: Members of the House of Representatives by Political Parties in a Democratic System'," *Jurnal Studi Ilmu Pemerintahan* 4, no. 1 (2023): 27–38, https://doi.org/10.35326/jsip.v4i1.3066.

9 Rahmat Nur, "Setting The Principles of Democracy in The Appointment of A Single Candidate Spouse of Regional Heads'," *Jurnal Hukum Volkgeist* 5, no. 2 (2021): 228–42.

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

11 Lailatul Khadri, Andri Rusta, and Tengku Rika Valentina, "Permasalahan Pelembagaan Politik Partai Demokrasi Indonesia Perjuangan (PDI-P) Di Provinsi Sumatera Barat Periode 2019-2022'," *Suara Politik* 1, no. 2 (2022): 37–44, https://doi.org/10.31869/jsp.v1i2.3868.

would create DPR members both ideologically aligned with the party and representative of societal interests.[12]

The second issue pertains to the culture of political cadre formation within parties, which tends to be conducted superficially, without prioritizing the creation of professional cadres ready to become DPR candidates.[13] This problem was evident in the 2019 general election, where 96 public figures participated in the legislative election.[14] Out of these, only about 13 artists were elected.[15] This phenomenon reflects a pragmatic approach by political parties that focus on leveraging the popularity of these figure to secure votes, rather than developing them through a rigorous cadre formation process.[16] Most of public figures nominated in the 2019 legislative election did not undergo the standard cadre formation route within political parties,[17] suggesting that cadre development for these individuals was not properly executed. Instead, public figures often became "instant cadres" by easily obtaining party membership cards without going through a qualified cadre process.

Indicators of poor governance can be observed through the corruption perception index, democracy index, election integrity, and political power dynamics. Many legislative members are involved in corruption cases, and the nominated candidates often fail to meet representative criteria, with numerous untested artists being easily nominated. Meanwhile, long-serving party cadres increasingly marginalized, and the performance of council members at both central and regional levels is declining.

The legislative function is compromised by political pragmatism that prioritizes winning elections over proper recruitment and cadre development.[18] This indicates that the current system is ineffective. The issue seems to stem from a practical level where pragmatism is valued over noble duties and idealism.[19] Additionally, existing regulations do not support an ideal cadre-based recruitment system, and there are inconsistencies in internal party regulations regarding recruitment and cadre functions of legislative candidates.[20]

The phenomenon of many public figures participating in the 2019 legislative elections without undergoing an optimal cadre formation process highlights problems in the political party

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12 Govinda Behera, "Declining Of Democracy in India: Its Major Challanges'," *International Research Journal of Management Sociology & Humanities* 13, no. 6 (2022): 235.

13 Sulardi Sulardi, "Building Quality of Democracy and Democratization of Political Party's Leader Election'," *Jurnal Media Hukum* 27, no. 1 (2020): 33–43, https://doi.org/10.18196/jmh.20200140.

14 H.B.Habibi Subandi and Ahmad Hasan Ubaid, "Selebritis Menjadi Politisi: Studi Tentang Bagaimana Selebritis Menang Atau Kalah Dalam Pemilu Legislatif'," *Jurnal Ilmiah Ilmu Pemerintahan* 5, no. 1 (2020): 26.

15 Subandi and Ubaid.

16 Kharisatul Janah, Siti Fatimah, and Hajar Salamah Salsabila Hariz, "The Role of Aceh Local Parties in The 2024 General Election in Realizing Democratization," *Volksgeist: Jurnal Ilmu Hukum Dan Konstitusi* 6, no. 1 (June 2023): 33–47, https://doi.org/10.24090/volksgeist.v6i1.7532.

17 Henrik Bech Seeberg, "First Avoidance, Then Engagement: Political Parties," *Issue Competition in the Electoral Cycle'. Party Politic 28* 28, no. 2 (2022): 284–93, https://doi.org/10.1177/1354068820970353.

18 Muhammad Iqbal Maulana Haedar, "The Requirements for Replacement of Elected Legislative Candidates for Election Based on Democratic Principles'," *Jurnal Hukum Volkgeist* 5, no. 2 (2021): 216–27.

19 Khamami Zada et al., "Constitutionalizing Sharia: Identity and Independence of Islamic Politics Among Students," *JURIS (Jurnal Ilmiah Syariah)* 21, no. 2 (December 30, 2022): 195–206, https://doi.org/10.31958/JURIS.V21I2.6954.

20 Wiwit Pratiwi et al., "Evaluation of the Fulfillment of Political Rights for Persons with Disabilities to Welcome the 2024 General Election," *Volksgeist: Jurnal Ilmu Hukum Dan Konstitusi* 6, no. 1 (June 27, 2023): 19–32, https://doi.org/10.24090/VOLKSGEIST.V6I1.7886.

recruitment system. This research aims to analyze the issues surrounding cadre-based recruitment of DPR member candidates by political parties and seeks to formulate ideal arrangements (ius constituendum) for such recruitment processes.[21]

Research on political party recruitment and cadre formation has been conducted by three previous scholars: (i) Al Qarni and Syamsudin (2023) focused on recruitment and cadre formation efforts for local Acehnese parties to enhance public trust.[22] Their research highlights that public trust in Aceh's local parties can be increased through responsive, transparent recruitment and cadre formation that addresses societal issues; (ii) Danuwidjaja (2023) examined the relationship between cadre formation and party ideology.[23] This study emphasizes that an ideal cadre formation process should instill party ideology as the foundation for the actions and movements of its members; and (iii) Putri and Wati (2023) analyzed efforts to form women's cadres in preparation for the 2024 general election.[24] Their research underlines the importance of women's cadre formation, asserting that women have equal political rights and roles as men.

Despite these studies, there has been no comprehensive research specifically addressing the problems of cadre-based recruitment of DPR member candidates by political parties. Moreover, there has been a lack of focus on proposing future arrangements (ius constituendum) for such recruitment processes. This gap in the literature underscores the originality and necessity of this research.

RESEARCH METHODS

This study, which focuses on future arrangements or ius constituendum related to the recruitment of DPR candidates based on cadre formation by political parties, is normative legal research. Normative legal research primarily involves the analysis of principles, theories, concepts, and authoritative legal materials, such as statutory regulations and court decisions.[25] The primary legal materials in this research include the 1945 Constitution of the Republic of Indonesia, Law No. 2 of 2008 concerning Political Parties (Political Party Law), and Law No. 7 of 2017 concerning General Elections (Pemilu). Secondary legal materials comprise books, journal articles, and research studies discussing political parties and aspects of cadre formation and recruitment. Non-legal materials, such as language dictionaries, are also utilized.

The research employs various approaches, including the statutory approach, the conceptual approach, and the comparative approach. The analysis of legal materials is conducted qualitatively and prescriptively, focusing on legal issues to provide solutions to existing problems.

This qualitative research uses empirical normative legal research methods. Empirical normative legal research is oriented towards the application of positive factual legal provisions to

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21 Muhammad Mutawalli et al., "Legislative Elections: An Overview of Closed Proportional System'," *Petita: Jurnal Kajian Ilmu Hukum Dan Syariah 8* 8, no. 2 (2023): 93–109, https://doi.org/10.22373/petita.v8i2.200.

22 Wais Alqarni, M.Hasan Syamsudin, and Rahmat Saleh, "Upaya Membangun Public Trust Terhadap Partai Politik Di Provinsi Berbasis Syariat Islam Aceh'," *Politeia* 1, no. 1 (2023): 220, https://doi.org/10.21043/politea.v6i2.22937.

23 Arfan Fadhillah Danuwidjaja and Manan Firman, "Hubungan Antara Kaderisasi Dan Ideologi Dalam Partai Politik: Studi Kasus Aktivitas Internal Pdip'," *Epistemik: Indonesian Journal of Social and Political Science* 4, no. 1 (2023): 41–51, https://doi.org/10.57266/epistemik.v4i1.119.

24 Conie Pania Putri and Evi Purnama Wati, "Caderization of Women in Political Parties As an Effort Towards the 2024 Elections'," *Marwah Hukum* 1, no. 2 (2023): 27–31.

25 Tunggul Ansari and Setia Negara, "Normative Legal Research in Indonesia: Its Originis and Approaches," *Audito Comparative Law Journal (ACLJ)* 4, no. 1 (February 2023): 1–9, https://doi.org/10.22219/ACLJ.V4I1.24855.

each specific legal events occurring in society. It connects these events to legal principles, theories, concepts, doctrines, and statutory regulations to achieve predetermined goals. The research involves exploring regulatory documents, books, journals, and other scientific works relevant to the topic of discussion.

This article aims to offer new insights into strengthening the internal structures of democratic political parties. The collected data were thoroughly analyzed and then presented in a descriptive-analytical manner. This research utilizes primary legal materials, including the 1945 Constitution of the Republic of Indonesia, Law No. 2 of 2008 concerning Political Parties (Political Party Law), and Law No. 7 of 2017 concerning General Elections (Pemilu).[26] Additionally, it employs various approaches: legal, conceptual, philosophical, and comparative.

The legal materials encompass a wide range of research that discusses political party theory, cadre theory, recruitment arrangements, and the concept of recruiting legislative members based on cadre formation principles. These principles impact Indonesia's constitutional and socio-political systems. The analysis of legal materials involves collecting existing legal documents (inventory), conducting legal analysis with a focus on legal concepts and doctrines tailored to the research questions, and identifying legal solutions to address the discussed issues. The findings from the discussion and analysis are then compiled and presented descriptively and analytically, providing a clear and comprehensive overview of the research findings.

ANALYSIS AND DISCUSSION

Challenges in the Recruitment of DPR Candidates Based on Cadre Formation by Political Parties

Political parties hold a significant position in the Indonesian constitutional framework, as explicitly mentioned in the 1945 Constitution of the Republic of Indonesia. The Constitution outlines the roles of political parties in two key aspects: proposing candidates for President and Vice President, as stated in Article 6A paragraph (2), and participating in general elections to elect members of the DPR and DPRD.[27] These constitutional provisions highlight the crucial role of political parties in Indonesia, particularly in nominating credible and qualified candidates for the DPR who are dedicated to serving the people's interests.[28]

The role of political parties in a democratic country, especially in cultivating capable cadres who can become credible and high-quality DPR candidates, aligns with Article 12 of the Political Party Law. This article stipulates that one of the functions of political parties is to serve as a vehicle for recruiting cadres to be nominated as DPR candidates. The essence of Article 12, which underscores the responsibility of political parties to produce professional and integrity-driven political cadres as potential DPR members, resonates with the perspective of Gabriel A. Almond.

[26] Saiful Risky, Sholahuddin Al-Fatih, and Mabarroh Azizah, "Political Configuration of Electoral System Law in Indonesia from State Administration Perspective," *Volksgeist: Jurnal Ilmu Hukum Dan Konstitusi* 6, no. 1 (2023), https://doi.org/https://doi.org/10.24090/volksgeist.v6i1.7940.

[27] Hananto Widodo, Dicky Eko Prasetio, and Fradhana Putra Disantara, "Relasi Kekuasaan Antar Presiden Dan Wakil Presiden Dalam Sistem Ketatanegaraan Republik Indonesia'," *Pandecta Research Law Journal* 15, no. 1 (2020): 13–25, https://doi.org/10.15294/pandecta.v15i1.24554.

[28] Muhadam Labolo, "The Role and Contribution of Political Parties in Determining Policies for Handling COVID-19 in Indonesia'," *Dialogos* 25, no. 2 (2021): 264–73.

Almond asserts that among the various functions of political parties, the recruitment of professional and integrity-driven political members worthy of becoming legislative candidates is paramount.[29]

The role of cadre recruitment as a primary function of political parties is also supported by Afan Gaffar, who believes that this function is closely related to the leadership role of political parties. According to Gaffar, political parties are responsible for creating future leaders aligned with their ideology, who will eventually occupy strategic positions in government.[30] This perspective is consistent with Ivancevich's view, which argues that, similar to a company, a political party requires dedicated cadres. These cadres should not only understand and adhere to the party's ideology but also possess strong electoral appeal, making them suitable for legislative positions.[31]

The commitment and seriousness of political parties in executing cadre formation must be measurable through clear and concrete indicators that are understandable to the public. Therefore, this commitment and level of seriousness can be assessed by examining several indicators, including:

1. Cadre System:
    a. Cadre orientation
    b. Alignment of cadre formation materials with the party's platforms and programs
    c. Mechanism for cadre formation
2. Institutional:
    a. Existence of cadre formation institutions at each level of party management
    b. Post-cadre formation (output distribution)
    c. Availability of trainers to conduct cadre training
3. Quantity:
    a. Number of participants in cadre training
    b. Number of trainers
4. Quality:
    a. Skill level of cadre formation participants
    b. Achievements or work of participants after cadre formation
5. Time and Funds:
    a. Time allocated for cadre formation programs
    b. Budgeted allocated for cadre formation programs

For political parties to effectively fulfill their functions, it is essential to have cadres who align with the party's ideological stance and internal regulations. This alignment is often demonstrated by their acceptance of the party's statutes and bylaws and its strategic objectives.[32] Consequently, political parties cannot tolerate cadres who fundamentally disagree with the leadership and the

[29] Konstantin Gavras and Jan Karem Höhne, "Evaluating Political Parties: Criterion Validity of Open Questions with Requests for Text and Voice Answers'," *International Journal of Social Research Methodology* 1, no. 1 (2002): 1–8, https://doi.org/10.1080/13645579.2020.1860279.1.

[30] Jayus Sudjatmiko, *Hak Kebebasan Berserikat Dalam Pendirian Partai Politik Di Indonesia* (Surabaya: Jakad Media Publishing, 2020).

[31] Martin Okolikj et al., "Trust in Political Parties and Ideological Proximity Voting in Europe: The Role of Trust in Political Parties as a Heuristic Mechanism'," *Journal of Elections, Public Opinion and Parties* 34, no. 1 (2022): 116–35, https://doi.org/10.1080/17457289.2022.2113088.

[32] M Mutawalli, Z A Ayub, and H P Faga, "Revitalizing Political Parties in Indonesia: Dissecting Patronage-Clientelism Dynamics Vis-à-Vis Political Representation'," *Jurnal Mengkaji Indonesia* 2, no. 2 (2023): 301–26, https://doi.org/10.59066/jmi.v2i2.467.

party's mission, show loyalty to other parties, or refuse to engage in party activities.[33] However, political parties must also remain open to diverse individual views and initiatives within the party to avoid stagnation.

While ideology and organizational structure is necessary, it is equally important to encourage new ideas and innovations that meet current needs. To recruit cadres that meet the party's requirements, each party establishes its own criteria. Differences in these criteria reflect the diversity of party types and the potential shifts in party tendencies.

Key criteria for cadres typically include:

1. Sharing the same ideology as the party, even if the boundaries are somewhat fluid.
2. Being developed through the party's internal cadre formation process, although external recruitment is also possible.
3. Possessing the capability to design party policies and the competence to hold public office.
4. Not necessarily being mass mobilizers or having mass appeal.

Drawing on the perspectives of Gabriel A. Almond, Afan Gaffar, and Ivancevich, the recruitment of political party cadres is a crucial process. It not only aims to select current and future political party leaders, but also serves as a means to elect future national leaders. One of the primary objectives of recruiting political party cadres is to have these individuals occupy strategic positions within Indonesia's state administration system.

In the context of political party recruitment, the term "recruitment" in the Indonesian Dictionary signifies mobilization. Therefore, political party recruitment involves mobilizing efforts to select members or cadres through processes and mechanisms established internally by each political party.[34] According to Cholisin, recruitment activities within political parties are oriented towards the regeneration of political party cadres.[35] This regeneration process involves creating future cadres who thoroughly understand the party's ideology and are well-versed in public issues.

Syamsuddin Haris outlines that the recruitment process for political party cadres generally comprises three stages:[36] the selection of potential cadres, the screening of these potential cadres through mechanisms aligned with the party's statutes and bylaws, and the process of fortifying these cadres to become candidates in legislative elections.[37] The initial stage of selecting candidates begins with the socialization of political parties and the introduction of the party's ideology, vision, mission, and orientation to the public.[38] This process aims to attract public interest, generating a pool of individuals interested in becoming political party cadres.

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[33] Bambang Ariyanto and Rachman Maulana Kafrawi, "Orderly Principles of State Administration in Selecting Ministers," *Legality: Jurnal Ilmiah Hukum* 30, no. 1 (2022): 12–28, https://doi.org/10.22219/ljih.v30i1.15868.

[34] Pusat Bahasa Departemen Pendidikan Nasional, *Kamus Bahasa Indonesia* (Jakarta: Departemen Pendidikan Nasional, 2008).

[35] Prilani Prilani and Setio Budi H Hutomo, "Konfigurasi Komunikasi Politik Atas Fenomena Calon Tunggal Pada Pilkada Kabupaten Kediri Tahun 2020'," *Jurnal Komunikasi* 12, no. 2 (2020): 282, https://doi.org/10.24912/jk.v12i2.9624.

[36] Syamsuddin Haris, *Menuju Reformasi Partai Politik* (Jakarta: Gramedia Pustaka Utama, 2020).

[37] Sulistyani Eka Lestari and Ahmad Siboy, "The Alternative Designs Effort to Simplify the Number of Political Parties in Indonesia'," *Jurnal Pembaharuan Hukum* 8, no. 2 (2021): 259.

[38] Iqbal Katrino and Yus Afrida, "People's Sovereignty In The System Presidential Threshold In The Perspective Siyāsah Al-Syar'iyyah," *El-Mashlahah* 11, no. 2 (2021): 187–204, https://doi.org/10.23971/Elma.V11i2.3259.

One of the key focuses during the selection process is to persuasively encourage women and the millennial generation, or young people, to become candidates for political party cadres.[39] The inclusion of these groups not only enhances the professionalism of the party but also ensures broader representation within the political landscape.

The subsequent process involves screening political party cadre candidates through mechanisms defined by the party's statutes and bylaws. At this stage, parties begin selecting candidates who align with the party's ideology and orientation. This screening process is conducted rigorously and substantively, adhering to the party's statutes and bylaws, and involves assessment from political party leaders.

Following the screening, the next phase is to strengthen these cadres for participation in legislative elections. This advanced stage involves transforming party cadres into potential legislative candidates. During this phase, political parties consolidate efforts to ensure cadres possess a thorough understanding of the party's ideology and orientation, as well as current populist issues.[40]

As is well-known, elections are crucial for maintaining political activity.[41] They play a vital role in shaping the political logic of administrative management, the functioning of bureaucracy, and the growth and development of civil society within a country.

Political party recruitment aims to produce loyal cadres who understand the party's ideology and orientation. However, this is not the sole method of cadre formation employed by political parties.[42] Generally, parties implement two types of recruitment: formal and informal.[43] Formal recruitment is systematic, planned, and strictly regulated according to the statutes and bylaws. An example of formal recruitment includes the three stages outlined by Syamsuddin: selecting potential cadres, screening candidates cadres through specific mechanisms in accordance with the statutes and bylaws, and strengthening cadres to become contenders in legislative elections.

The political party recruitment process can also be informal. Unlike the formal process defined by the party's statutes and bylaws, informal recruitment is not planned or specialized. Instead, it focuses on encouraging public figures or community leaders with strong electoral appeal to join the party.[44] These individuals then undergo a unique cadre formation process provided by the party. For example, parties may recruit artists and community leaders to contest legislative elections. Despite bypassing general recruitment channels, informal recruitment still emphasizes the importance of a deep understanding of the party's ideology and orientation.

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39 Husted, Moufahim, and Fredriksson, "Political Parties and Organization Studies: The Party as a Critical Case of Organizing'."

40 Ida Wahyuni Iskandar, "Women's Political Participations In East Kalimantan'," *Psychology And Education* 58, no. 1 (2021): 3179, https://doi.org/10.1186/s12889-022-12649-4.

41 Alqarni, Syamsudin, and Saleh, "Upaya Membangun Public Trust Terhadap Partai Politik Di Provinsi Berbasis Syariat Islam Aceh'."

42 Retno Susilowati, Nengyanti Nengyanti, and Joko Siswanto, "Women Legislators Capacity Building in South Sumatera: Case Study on People's Representative Council Provincial and District/City Level)'," in *Proceedings of the 1st Annual Conference on Education and Social Sciences*, vol. 465, 2019, 400–409, https://doi.org/10.2991/assehr.k.200827.103.

43 Aksel Sundström and Daniel Stockemer, "Political Party Characteristics and Women's Representation: The Case of the European Parliament'," *Representation* 58, no. 1 (2022): 119–37, https://doi.org/10.1080/00344893.2021.1898458.

44 Muhammad Bahrul Ulum, "Indonesian Democracy and Political Parties After Twenty Years of Reformation: A Contextual Analysis'," *Indonesia Law Review* 10, no. 1 (2020): 29–44, https://doi.org/10.15742/ilrev.v10n1.577.

Though informal recruitment does not follow the same structured approach as formal recruitment, it remains substantively similar.[45] However, in practice, informal recruitment often lacks the aim of developing professional and integrity-driven cadres with a thorough understanding of the party's ideology and orientation. Instead, it tends to be more pragmatic, focusing primarily on the electoral appeal of candidates.[46] While this pragmatic approach can quickly generate votes, it undermines the essence of cadre formation. The emphasis on immediate electoral success often comes at the cost of instilling a deep understanding of the party's ideology and orientation in the recruited cadres.[47]

The practice of informal, pragmatic recruitment of political party cadres, which produces "instant cadres," generally has three negative impacts on political parties. First, the presence of these "instant cadres" can undermine the integrity and unity of the party. Cadres who have gone through formal recruitment and training may feel jealous or unfairly treated, leading to conflicts and divisions within the party.[48] Second, this informal, pragmatic recruitment process affects the loyalty of the cadres.[49] Those recruited informally may feel superior to the party itself, raising questions about their loyalty. These cadres might switch to other parties if they believe their electoral strengths could be better utilized elsewhere.

Third, informal recruitment leads to a decline in the quality of candidates for the DPR (House of Representatives). Cadres recruited through informal, pragmatic means often do not undergo thorough training and therefore lack a deep understanding of the party's ideology, orientation, and perspectives on public issues.[50]

The three negative impacts of the informal, pragmatic recruitment process for political party cadres, resulting in "instant cadres," can be attributed to the three aspects identified by Lawrence M. Friedman as part of the legal system: legal substance, legal structure, and legal culture.[51]

First, regarding legal substance, the problem arises from the fact that the regulation of the recruitment and cadre formation process is left entirely to the political parties, as outlined in their statutes and bylaws. Ideally, the principles and orientation of political party recruitment and cadre formation should be regulated by statutory laws to ensure community participation. Establishing

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45 Tomu A Pasaribu, John Pieris, and Manotar Tampubolon, "Political Party and People's Suffrage in Electoral Process'," *Polit Journal: Scientific Journal of Politics* 2, no. 1 (2022): 19–28, https://doi.org/10.33258/polit.v2i1.604.

46 Mustafa Lutfi and Asrul Ibrahim Nur, "Reconstruction of Norm in Selection System of Constitutional Court Judge Candidates from the Perspective of the Paradigm of Prophetic Law," *Legality : Jurnal Ilmiah Hukum* 30, no. 1 (April 15, 2022): 116–30, https://doi.org/10.22219/LJIH.V30I1.20744.

47 Zeynep Aydin et al., "The Web of Hate : Fragmentation of Media Authority and Its Link to Right-Wing Populism and Cyber Islamophobia'," *Jurnal Komunikasi: Malaysian Journal of Communication* 37, no. 3 (2021): 231–43, https://doi.org/10.17576/JKMJC-2021-3703-13.

48 Nurdin Nurdin and Fatkhuri Fatkhuri, "Pelatihan Pendidikan Politik Untuk Meningkatkan Kapasitas Kepemimpinan Kader Partai Politik Perempuan Di Provinsi DKI Jakarta'," *Empowerment: Jurnal Pengabdian Masyarakat* 1, no. 4 (2022): 539–49, https://doi.org/10.55983/empjcs.v1i4.209.

49 Bayu Nurrohman et al., "Aktivisme Politik Kaum Perempuan Dalam Partai Politik: Studi Fenomenologi Pada Politisi Perempuan Di Banten'," *Journal of Political Issues* 4, no. 2 (2023): 137–51, https://doi.org/10.33019/jpi.v4i2.81.

50 Muhammad Mutawalli, Andi Pangerang Moenta, and Muhammad Hasrul, "Kewenangan Partai Politik Dalam Penarikan Dukungan Bakal Pasangan Calon Kepala Daerah'," *Jurnal Al-Qadau: Peradilan Dan Hukum Keluarga Islam* 8, no. 1 (2012): 48–61.

51 Ariel Zuckerbrot, "Impact: How Law Affects Behavior, by Lawrence M," *Friedman'. Osgoode Hall Law Journal* 3, no. 55 (2019): 846–52.

these principles in statutory regulations would not only ensure legal certainty but also serve as a guide for the internal regulations (statutes and bylaws) of political parties.

Another issue pertains to the legal structure. Political parties in Indonesia have not yet involved into populist entities that can facilitate a cadre process involving community participation. Currently, Indonesia's party system remains largely elitist, which means that a small, select group controls the parties, and their decisions effectively become the official decisions of the political parties.[52]

Further complicating matters is the legal culture, where the Indonesian society still tends to uphold a feudal political culture.[53] Jimly Asshidiqie notes that this feudal political culture is an anomaly, given that Indonesia was founded as a republic.[54] The persistence of feudal practices in politics is evident in the way leadership positions within many political parties are often inherited from parent to child.

These three issues --- legal substance, legal structure, and legal culture --- are significant barriers to achieving an ideal process for political party cadre formation and recruitment.

In conclusion, the problems associated with cadre-based recruitment of DPR member candidates by political parties are primarily influenced by the absence of statutory regulations that clearly define the principles and orientation of cadre and recruitment. Establishing these principles in statutory regulations would not only ensure legal certainty but also guide the internal regulations (statutes and bylaws) of political parties. Additionally, the feudal culture within Indonesia's party system, where a select few control the parties and their decisions, further hinders the development of a more inclusive and participatory political party system.

Ius Constituendum concerns the recruitment of DPR candidates based on cadre formation by political parties

The core issue is the absence of specific regulations regarding the principles of cadre formation and recruitment of political parties that ensure public participation, especially within the Election Law and the Political Party Law. Future regulations are needed to explicitly address these principles, ensuring public participation are guaranteed.

Specifically regulating these principles within statutory laws aims to achieve two main objectives. First, incorporating these principles into the Political Party Law can serve as a guiding framework for the formation of political party statutes and bylaws.[55] This means that the creation of these statutes and/or bylaws, particularly those related to cadre formation and recruitment, must adhere to the principles established in statutory regulations, rather than being dictated solely by the preferences of individual parties.

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[52] M.F. Zaky Mubarok. Idzam Fautanu M Taufiq Rahman, *Partai Politik Di Indonesia* (Bandung: UIN Sunan Gunung Djati, 2020).

[53] Alqarni, Syamsudin, and Saleh, "Upaya Membangun Public Trust Terhadap Partai Politik Di Provinsi Berbasis Syariat Islam Aceh'."

[54] Jimly Asshiddiqie, "Memperkenalkan Peradilan Etika'," *Jurnal Konstitusi Dan Demokrasi* 1, no. 1 (2021): 1–7, https://doi.org/10.7454/jkd.v1i1.1101.

[55] Alice Cavalieri and Caterina Froio, "The Behaviour of Populist Parties in Parliament. The Policy Agendas of Populist and Other Political Parties in the Italian Question Time'," *Rivista Italiana Di Scienza Politica* 52, no. 3 (2022): 283–96, https://doi.org/10.1017/ipo.2021.25.

Second, these specific regulations can act as a guiding star for each political party when drafting internal rules regarding cadre formation and recruitment.[56] Strict regulations within the Political Party Law can minimize the emergence of "instant cadres" through informal, pragmatic recruitment methods. By embedding these principles into the law, it becomes more challenging for "instant cadres" to proliferate within political parties. Even if informal cadre formation continues, the statutory regulation of these principles ensures that informal cadres are substantively equivalent to formal cadres within the party.

Referring to the importance of regulations regarding the principles of cadre and recruitment for political parties in the Political Party Law, it is essential to compare the practices of other countries. This comparative analysis can serve as an evaluation tool and provide valuable insights for future legal frameworks concerning political party cadre formation and recruitment.

Future regulation, or ius constituendum, aims to establish ideal legal arrangements for the future.[57] In the context of political party cadre and recruitment, ius constituendum seeks to enhance the provisions of the Political Party Law to ensure these principles are effectively regulated. One critical aspect of ius constituendum is conducting legal comparisons with other countries to create more comprehensive and evaluative regulations.

According to Peter D. Cruz, a comparative legal approach involves studying legal practices in other countries and relating their relevance to the country being examined.[58] In this research, laws related to the recruitment and cadre formation of political parties in Malaysia and the United States were compared. Malaysia was chosen due to its similar political culture with Indonesia, where feudal practices remain prevalent. The United States was selected because it is considered the "mother of modern democracies," making it a valuable reference for studying democratic practices.

To understand the practice of cadre formation and recruitment within Malaysian political parties, one must first consider the Malaysian constitution, which designates Islam as the state religion. This constitutional provision has significant implications for Malaysian political parties that prominently use religious identities, particularly Islam. One such party is the Pan-Malaysian Islamic Party (PAS), which is based on Islamic values.

In Malaysia, the regulations governing political party recruitment and cadre formation are somewhat similar to those in Indonesia, as they are dictated by the internal regulations of each political party. However, a notable advantage in Malaysia is the stronger culture of ideological discipline within political parties.[59] Malaysian political parties place a high emphasis on strict ideological adherence among their cadres.

For instance, the PAS party mandates that every cadre comprehends and embodies the spirit of Islam, which is fundamental to the party's mission.[60] The strong ideological foundation of Malaysian political parties distinguishes them from many Indonesian parties, where clear ideological positions are less common. In Indonesia, only a few parties, such as the Prosperous Justice Party (PKS), the

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56 Syahrul Mustofa, *Demokrasi, Korupsi Dan Pembubaran Partai Politik* (Bogor: Guepedia Publisher, 2019).

57 Diding Rahmat et al., "The Urgency of Administrative Law in Light of Ius Constituendum Regarding the Role of Village Heads'," *Volksgeist: Jurnal Ilmu Hukum Dan Konstitusi* 7, no. 1 (2024): 53–67, https://doi.org/10.24090/volksgeist.v7i1.10204.

58 Peter De Cruz, *Comparative Law in a Changing World* (London: Taylor & Francis Group, 2015).

59 Khoiro Ummatin, "Demokratisasi Dalam Politik Kepartaian Islam'. Poros Onim: Jurnal Sosial Keagamaan 1," 2020, https://doi.org/10.53491/porosonim.v1i1.23.

60 Ummatin.

Indonesian Democratic Party of Struggle (PDIP), the National Awakening Party (PKB), and the United Development Party (PPP), firmly and clearly articulate their ideologies.[61] Other parties in Indonesia often lack a clearly defined ideological stance, which can lead to them becoming "party of a certain group" rather than ideologically driven entities. This lack of clear ideological positioning can create challenges in maintaining party cohesion and direction.

The next practice to consider is the recruitment and cadre formation of political parties in the United States. In the U.S., regulations regarding these processes are briefly outlined in statutory laws, with further details governed by each political party's statutes and bylaws. The two major political parties in the United States are the Democratic party and the Republican party, each with distinct and contrasting ideological bases.[62]

The recruitment and cadre formation process in the United States is very comprehensive, extending from the local (city) level to the national level.[63] This structured approach is underpinned by the clear ideological foundations of each party. Political party cadres in the U.S. are required to understand and apply their party's ideology if they are elected as members of the legislature.

From the comparison with practices in Malaysia and the United States, it is evident that the key factor in the successful cadre formation and recruitment of political parties is the strong ideological foundations and the political will to carry out these processes optimally. In Indonesia, however, the practice of cadre formation and recruitment has not yet reached its full potential, as a deep understanding of party ideology is not yet considered essential for prospective cadres.

To improve future regulations regarding the cadre formation and recruitment of political parties in Indonesia, it is necessary to enshrine the principles of these processes in statutory laws. In this context, we can refer to the views of Pippa Norris, who identifies eight principles for the ideal cadre formation of a political party. These principles include character, expediency, ideology, balance of votes, democracy, openness, justice and equality.[64]

The principle of character dictates that the process of recruiting and forming political party cadres must transform individuals into highly electable figures in society. Furthermore, this principle requires political parties to be open to including specific individuals, provided they adhere to the standard cadre formation procedures.

The principle of expediency mandates that every political party cadre must be capable of discussing policies that benefit society. The principle of ideology requires cadres to thoroughly understand and adhere to the party's ideology and discipline. The principle of voting balance involves cadres being able to identify and analyze regions where the party has significant voter support.

The principle of democracy means that every cadre must comprehend the essence of a democratic state and its practical manifestations. The principle of openness requires political parties to conduct cadre formation and recruitment transparently. The principle of justice ensures

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61 Isharyanto, *Partai Politik, Ideologi Dan Kekuasaan* (Bantul: Absolute Media, 2017).

62 Daniel M Thompson, "How Partisan Is Local Law Enforcement? Evidence from Sheriff Cooperation with Immigration Authorities'," *American Political Science Review* 1, no. 2017 (2019): 1–15, https://doi.org/10.1017/S0003055419000613.

63 Jessica Bulman-Pozen and Miriam Seifter, "Countering the New Election Subversion: The Democracy Principle and the Role of State Courts'," *Wisconsin Law Review*, no. 5 (2022): 1337–65.

64 Sukma Aristya, Andina Elok, and Puri Maharani, "Reconstruction of the Protection of Constitutional Rights of Political Parties in the Presidential Threshold System'," *International Journal of Educational Research & Social Sciences* 1, no. 2 (2019): 916–22.

that all cadres are treated fairly and are aware of their rights and obligations. Lastly, the principle of equality obliges political parties to provide opportunities for minority groups, including women and the millennial generation, to participate in the cadre formation and recruitment process, ensuring it is participatory and substantive.

Based on the analysis, it is essential that the recruitment of candidates for the House of Representatives (DPR) by political parties prioritizes aspects of ideology and party orientation, as seen in practices in Malaysia and the United States. Additionally, the principles governing the formation and recruitment of political party cadres should be enshrined in statutory regulations. These principles include character, usefulness, ideology, balance of votes, democracy, openness, justice, and equality.

CONCLUSION

Cadre-based political party recruitment aims to enhance loyalty, enforce ideological discipline, and prepare future political leaders. Key aspects of cadre-based recruitment include strong communication skills, sensitivity to public issues, a political identity tied to electoral districts, a focus on community interests (representation), an understanding of religious norms and values, and experience in holding structural positions within the party. Meanwhile, the current implementation of cadre formation for filling seats in the House of Representatives has faced several issues, such as weak party ideologies, non-qualified and non-credible instant candidates who rely solely on popularity, and the easy switching of cadres between parties (cadre jumping). An ideal cadre-based recruitment model can be achieved through a merit system that considers individual experience in party positions. Additionally, cadre-based recruitment of legislative candidates can function optimally if the nine main principle -- character, expediency, ideology, balance of votes, democracy, representation, openness, justice and equality -- are incorporated into the Political Party Law and implemented effectively. Thus, the author strongly suggests revising the Political Party Law to regulate a uniform recruitment and cadre system for all political parties. This revision should emphasize the cadre formation system as a separate chapter within the Political Party Law and align it with the provisions of the Election Law.

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