

**PARAMETER MODEL OF AUTOCRATIC LEGALISM IN THE LEGAL  
SYSTEM OF NAZI GERMAN PARTIES AS AN EFFORT TO PREVENT  
AUTHORITARIAN LEADERSHIP IN INDONESIAN POLITICAL  
PARTIES FROM SADD DZARIAH'S PERSPECTIVE**

**THESIS**

**By:**

**SEKAR AYU DWIRUNIA**

**NIM 220203110090**



**CONSTITUTIONAL LAW STUDY PROGRAM (SIYASAH)**

**FACULTY OF SHARIA**

**STATE ISLAMIC UNIVERSITY MAULANA MALIK IBRAHIM  
MALANG**

**2026**

**PARAMETER MODEL OF AUTOCRATIC LEGALISM IN THE LEGAL  
SYSTEM OF NAZI GERMAN PARTIES AS AN EFFORT TO PREVENT  
AUTHORITARIAN LEADERSHIP IN INDONESIAN POLITICAL  
PARTIES FROM SADD DZARIAH'S PERSPECTIVE**

**THESIS**

**By:**

**SEKAR AYU DWIRUNIA**

**NIM 220203110090**



**CONSTITUTIONAL LAW STUDY PROGRAM (SIYASAH)**

**FACULTY OF SHARIA**

**STATE ISLAMIC UNIVERSITY MAULANA MALIK IBRAHIM  
MALANG**

**2026**

## THESIS AUTHENTICITY STATEMENT

Demi Allah SWT,

With awareness and a sense of responsibility towards the development of knowledge, the author states that the thesis with the title:

### **PARAMETER MODEL OF AUTOCRATIC LEGALISM IN THE LEGAL SYSTEM OF NAZI GERMAN PARTIES AS AN EFFORT TO PREVENT AUTHORITARIAN LEADERSHIP IN INDONESIAN POLITICAL PARTIES FROM SADD DZARIAH'S PERSPECTIVE**

It is really a thesis that is prepared by yourself based on the rules of writing scientific papers that can be accounted for, not duplicates or transfers the work of others, unless as mentioned in the reference, either listed in footnotes or bibliography. If later this thesis research is the result of plagiarism of other people's works, either partially or in whole, then this thesis as a prerequisite for obtaining a bachelor's degree is declared null and void.

Malang, 12 Februari 2026



Sekar Ayu Dwirunia  
NIM. 220203110090

## CONSENT PAGE

After reading and proofreading Sekar Ayu Dwirunia's thesis, NIM: 220203110090, Constitutional Law Study Program (*Siyasah*) Faculty of Sharia, Maulana Malik Ibrahim State Islamic University, Malang, with the title:

**PARAMETER MODEL OF AUTOCRATIC LEGALISM IN THE LEGAL SYSTEM OF NAZI GERMAN PARTIES AS AN EFFORT TO PREVENT AUTHORITARIAN LEADERSHIP IN INDONESIAN POLITICAL PARTIES FROM SADD DZARIAH'S PERSPECTIVE**

So the supervisor states that the thesis has met the scientific requirements to be submitted and tested by the Board of Examiners.

Acknowledged by

Head of Constitutional Law  
Study Program (*Siyasah*),



Dr. Musleh Harry, S.H., M. Hum.  
NIP. 196807101999031002

Malang, 12 Februari 2026

Supervisor,



Dr. Mustafa Lutfi, S.Pd., S.H., M.H.  
NIP. 198405202023211024



KEMENTERIAN AGAMA  
UNIVERSITAS ISLAM NEGERI MAULANA MALIK IBRAHIM  
MALANG  
FAKULTAS SYARIAH  
Jl. Gajayana 50 Malang, Telp. (0341) 551354 Fax. (0341572533)

**PROOF OF CONSULTATION**

Name : Sekar Ayu Dwirunia  
NIM : 220203110090  
Study Programs : Constitutional Law (*Siyasah*)  
Supervisor : Dr. Mustafa Lutfi, S.Pd., S.H., M.H  
Thesis Title : Parameter Model Of Autocratic Legalism In The Legal System Of Nazi German Parties As An Effort To Prevent Authoritarian Leadership In Indonesian Political Parties From Sadd Dzariah's Perspective

No.	Hari/Tanggal	Materi Konsultasi	Paraf
1.	Monday/22-09-2025	Title Revision	/
2.	Wednesday/08-10-2025	Background Revision & Problem Formulation	/
3.	Thursday/18-09-2025	Research Methods	/
4.	Friday/07-11-2025	ACC Proposal Thesis Session	/
5.	Tuesday/02-12-2025	Proposal Revision	/
6.	Friday/12-12-2025	Consultation Chapter 3	/
7.	Friday/23-01-2026	Chapter 3 Revision	/
8.	Wednesday/28-01-2026	ACC Chapter 3	/
9.	Friday/06-02-2026	ACC Chapter 4	/
10.	Tuesday/10-02-2026	ACC Thesis Session	/

Malang, 12 Februari 2026

Acknowledged by,

Head of the Constitutional Law Study Program

(*Siyasah*),

Dr. Musleh Hany, S.H., M.Hum

NIP. 196807101999031002

## VERIFICATION PAGE

The Board of Thesis Examiners of Sister Sekar Ayu Dwirunia, NIM 220203110090, a student of the Constitutional Law Study Program, Faculty of Sharia, Maulana Malik Ibrahim State Islamic University, Malang, with the title:

**PARAMETER MODEL OF AUTOCRATIC LEGALISM IN THE LEGAL SYSTEM OF NAZI GERMAN PARTIES AS AN EFFORT TO PREVENT AUTHORITARIAN LEADERSHIP IN INDONESIAN POLITICAL PARTIES FROM SADD DZARIAH'S PERSPECTIVE**

Has been declared **PASSED** with a grade of:

Examiner Lecturer:

1. Imam Sukadi, S.H., M.H.  
NIP. 198612112023211000

  
(.....)  
Chairperson

2. Dr. Mustafa Lutfi, S.Pd., S.H., M.H.  
NIP. 198405202023211024

  
(.....)  
Secretary


3. Dr. H. M. Aunul Hakim, S.Ag., M.H.  
NIP. 196509192000031000

  
(.....)  
Principal Examiner

Malang, 11 Maret 2026

Dekan,



  
Dr. Hj. Umi Sumbulah, M.Ag  
NIP. 197108261998032002

## **MOTTO**

*“Power tends to corrupt, and absolute power corrupts absolutely”*

**-Lord Acton-**

*“Sesungguhnya Allah menyuruh kamu menyampaikan amanat kepada yang berhak menerimanya, dan apabila kamu menetapkan hukum di antara manusia hendaklah kamu menetapkannya dengan adil”*

**- QS. An-Nisa' (4): 58-**

## FOREWORD

بِسْمِ اللَّهِ الرَّحْمَنِ الرَّحِيمِ

Alhamdulillahirabbil'amin, an expression of gratitude for the presence of Allah SWT who has given His grace and help to the author, so that the author can complete a thesis entitled: **"PARAMETER MODEL OF AUTOCRATIC LEGALISM IN THE LEGAL SYSTEM OF NAZI GERMAN PARTIES AS AN EFFORT TO PREVENT AUTHORITARIAN LEADERSHIP IN INDONESIAN POLITICAL PARTIES FROM SADD DZARIAH'S PERSPECTIVE"** well. Our prayers and greetings to the Prophet Muhammad PBUH who has given us watun hasanah to us in living this life according to shari'i. By following him, may we be classified as believers and receive his intercession on the last day of judgment. Amien.

With all the teaching, guidance/direction, and assistance of the services that have been given, the author with all humility expresses his incomparable gratitude to:

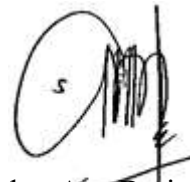
1. Prof. Dr. Hj. Ilfi Nur Diana, M.Si., as the Rector of the State Islamic University Maulana Malik Ibrahim Malang.
2. Prof. Dr. Hj. Umi Sumbulah, M.Ag., as the Dean of the Faculty of Sharia, Maulana Malik Ibrahim State Islamic University, Malang.
3. Dr. Musleh Harry, S.H., M.Hum., as the Head of the Constitutional Law Study Program (*Siyasah*) of the Faculty of Sharia, Maulana Malik Ibrahim State Islamic University, Malang.

4. Prayudi Rahmatullah, M.HI. as the author's guardian lecturer while studying at the Faculty of Sharia, Maulana Malik Ibrahim State Islamic University, Malang. Thank you to the author for providing guidance, advice, and motivation during the lecture.
5. Dr. Mustafa Lutfi, S.Pd., S.H., M.H., as the writer's supervisor who has taken the time to provide direction and motivation in completing the writing of this thesis.
6. The Thesis Examiner, who has provided criticism and suggestions as well as useful directions in perfecting the writing of this thesis.
7. All lecturers of the Faculty of Sharia, Maulana Malik Ibrahim State Islamic University of Malang who have provided learning. With sincere intentions, hopefully their deeds will all be part of worship to get the pleasure of Allah SWT.
8. Dear family, Mr. Abdul Manaf, Mrs. Tatik Hariyati, and the writer's brother Nizar Nafta Aswin for all their sacrifices and services so that the writer can get to this point. Thank you for the prayers that are always offered so that it becomes a strength for the writer to continue to move towards goals and ideals.
9. All of the writer's friends, especially Izzah, Yevina, Balqis, and Nisa who always accompany, motivate, and help in writing this thesis.
10. To those who can't, the author mentions one by one who has helped in the writing process from the beginning to the end. Thank you to all of you.

With the completion of this thesis, it is hoped that the knowledge that the author has gained during his studies at the Maulana Malik Ibrahim State Islamic

University Malang can provide benefits for religion and the nation and become a good charity in this life and the hereafter. The author realizes that in writing this thesis there are still shortcomings, therefore, the author expects criticism and suggestions from all parties for improvement in the future.

Malang, 12 February 2026

A handwritten signature in black ink, consisting of a large, stylized letter 'S' followed by several vertical strokes and a horizontal line at the bottom.

Sekar Ayu Dwirunia  
NIM. 220203110090

## **TRANSLITERATION GUIDELINES**

### **A. General**

Transliteration is the transfer of Arabic writing into Indonesian (Latin) script, not Arabic translation into Indonesian. Included in this category are Arabic names of Arab nations, while Arabic names of nations other than Arabic are written as spelled in their national language, or as written in the book that is referenced. Writing book titles in *footnotes* and bibliographies still follows these transliteration guidelines. There are various choices of standards that can be used in writing scientific papers, both at the national, international, and special standards applied by certain publishers.

In writing this thesis, the transliteration guidelines used follow the rules applied by the Faculty of Sharia, Maulana Malik Ibrahim State Islamic University of Malang, which is guided by Enhanced Spelling (EYD) plus. The guidelines are based on the Joint Decree (SKB) of the Ministry of Religion and the Ministry of Education and Culture of the Republic of Indonesia, which was stipulated on January 22, 1988 with Number 158 of 1987 and Number 0534b/U/1987. This rule also refers to A Guide to Arabic Transliteration compiled by INIS Fellows in 1992.

### **B. Consonants**

The list of Arabic letters and their transliteration into Latin can be seen on the following page:

Arabic Letters	Name	Latin Letters	Name
أ	Alif	Tidak dilambangkan	Tidak dilambangkan
ب	Ba	B	Be
ت	Ta	T	Te
ث	Şa	Ş	Es (Titik di atas)
ج	Jim	J	Je
ح	Ĥa	Ĥ	Ha (Titik diatas)
خ	Kha	Kh	Ka dan Ha
د	Dal	D	De
ذ	Ż	Ż	Zet (Titik diatas)
ر	Ra	R	Er
ز	Zai	Z	Zet
س	Sin	S	Es
ش	Syin	Sy	Es dan Ye
ص	Şad	Ş	Es (Titik dibawah)
ض	Ḍad	Ḍ	De (Titik dibawah)
ط	Ṭa	Ṭ	Te (Titik dibawah)
ظ	Ẓa	Ẓ	Zet (Titik dibawah)
ع	‘Ain	‘.....	Apostrof terbalik
غ	Gain	G	Ge
ف	Fa	F	Ef
ق	Qof	Q	Qi

ك	Kaf	K	Ka
ل	Lam	L	El
م	Mim	M	Em
ن	Nun	N	En
و	Wau	W	We
هـ	Ha	H	Ha
ء / أ	Hamzah	.....'	Apostrof
ي	Ya	Y	Ye

Hamzah (أ) located at the beginning of the word follows the vowel without being given any mark. If it is located in the middle or at the end, then it is written with a sign (').

### C. Vocals

Arabic vowels, like Indonesian vowels, consist of single vowels or monophthongs and double vowels or diphthongs. Arabic singular vowels whose symbol is in the form of a sign or harakat, the transliteration is as follows:

Signs	Name	Latin Letters	Name
َ	Fathah	A	A
ِ	Kasrah	I	I
ُ	Dhammah	U	U

Arabic double vowels whose symbol is a combination of harakat and letters, the transliteration is in the form of a combination of letters, namely:

Signs	Name	Latin Letters	Name
اِيّ	Fathah and Ya	Ai	A and I
اُوّ	Fathah and Wau	At	A and U

Example:

كَيْفَ : kaifa

حَوْلَ : Haula

#### D. Maddah

Maddah or long vowels whose symbols are in the form of harkat and letters, the transliteration is in the form of letters and signs, namely:

Dignity and Letters	Name	Letters and Signs	Name
اِيّ / اِيّ	<i>Fathah and alif</i> or <i>ya</i>	Ā	a and the line above
اِيّ	<i>Kasrah and ya</i>	Ī	i and the line above
اُوّ	<i>Dhammah and wau</i>	Ū	U and the line above

Example:

مَاتَ : māta

رَمَى : ramā

قِيلَ : qīla

يَمُوتُ : yamūtu

#### E. Ta' Marbutah

There are two transliterations for *ta marbūṭah*, among others: *ta marbūṭah* lives or attains harakat *fathah*, *dammah* and *kasrah*, transliterated to

[t]. While *ta marbūṭah* who died or was given harakat *breadfruit*, is transliterated with [h]. If a word ends *in ta marbūṭah* followed by the verb *al-* and the two words are read separately, so that *ta marbūṭah* is transliterated to ha (h). For example:

رَوْضَةُ الْأَطْفَالِ : *Raudah al-Atfāl*  
 الْمَدِينَةُ الْفَضِيلَةَ : *Al-Madinah al-Fādīlah*  
 الْحِكْمَةُ : *Al-Hikmah*

#### F. Syaddah (Tasydid)

*Shayddah* or *tashdid* which in the Arabic written system is denoted by a sign *tasydid* (◌◌), in this transliteration it is symbolized by the repetition of letters (double consonants) which are marked *with shayddah*.

For example:

رَبَّنَا : *rabbanā*.  
 نَجَّيْنَا : *Najjainā*  
 الْحَقُّ : *Al-Haqq*  
 الْحَجَّ : *Al-Hajj*  
 عَدُوُّ : *'aduwwun*

If the letter *ḥ* is *tasydid* at the end of a word and is preceded by *the letter kasrah* (◌◌), then it is transliterated like the maddah letter (Ī).

For example:

عَرَبِيٌّ : 'Arabī (not 'Arabiyy or 'Araby)  
 عَلِيٌّ : 'Ali (not 'Aliyy or 'Aly)

## G. Words

The adjective in the Arabic writing system is denoted by the letter (*alif lam ma'arifah*). In this transliteration guideline, the word *genang* is transliterated as usual, *al-*, both when it is followed by the letter *syamsiah* and the letter *qamariah*. The verb does not follow the sound of the direct letter that follows it. The verb is written separately from the word that follows it and is connected by a horizontal line (-). For example:

الشَّمْسُ	: <i>Al-Syamsu</i> (not <i>Asy-Syamsu</i> )
الزَّلْزَلَة	: <i>Al-Zalزالah</i> (Not <i>Az-Zalزالah</i> )
الفَلْسَفَة	: <i>Al-Falsafah</i>
الْبِلَادُ	: <i>Al-Bilādu</i>

## H. Hamzah

The rule of transliterating the letters *hamzah* into an apostrophe (') only applies to *hamzah* located in the middle and at the end of the word. However, if *hamzah* is located at the beginning of the word, it is not symbolized, because in Arabic writing it is in the form of *alif*. For example:

تَأْمُرُونَ	: <i>ta'murūna</i>
النَّوْءُ	: <i>Al-Nau'</i>
أُمِرْتُ	: <i>umirtu</i>

## I. Writing Arabic Words Commonly Used in Indonesian

Arabic words, terms or sentences that are transliterated are words, terms or sentences that have not been standardized in the Indonesian language. Words,

terms or sentences that are common and part of the Indonesian language, or have often been written in Indonesian writing, are no longer written according to the above transliteration method. For example, the word Al-Qur'an (from the Qur'an), Sunnah, specific and general. However, if these words are part of a series of Arabic texts, then they must be transliterated in their entirety. Example:

*Fī zilāl al-Qur'ān*

*Al-Sunnah qabl al-tadwīn*

*Al-'Ibārāt Fī 'Umūm al-Lafẓ lā bi khuṣūṣ al-sabab*

#### **J. Lafẓ Al-Jalālah (الله)**

The word "Allah" is preceded by particles such as *jarr* and other letters or positioned as *muḍāf ilaih* (nominal phrase), transliterated without the letter hamzah. For example

دِينُ اللهِ : Dīnullah

As for *ta marbūtah* at the end of the word which is based on *the word al-jalālāh*, it is transliterated with the letter [t]. For example:

فِي رَحْمَةِ اللهِ : fi rahmatillah

#### **K. Capital Letters**

Although in the Arabic writing system there is no concept of capital letters (All Caps), in the process of transliteration into Indonesian, the letters follow the rules for the use of capital letters in accordance with the general guidelines of Indonesian Spelling (EYD). The use of capital letters is applied, for example, to the first letter of one's name (such as the name of a person, place, or month), as well as the initial letter of each sentence. If the personal name

begins with the adjective "al-", then the capital letter is still the first letter of the pronoun, not the first letter of the pronoun. However, if the verb "al-" is at the beginning of a sentence, then the letter "A" in the word is capitalized as "Al-". This rule also applies to the writing of reference titles that use the verb "al-", both in the main text and in bibliographies or reference records such as CK, DP, CDK, and DR.

For example:

*Wa mā Muḥammadun illā rasul*

*Syahru Ramaḍān al-laḏī unzila fīh al-Qur'ān*

*Naṣīr al-Dīn al-Ṭūs*

*Inna awwala baitin wuḏi'a linnāsi lallaḏī bi Bakkata mubārakan*

*Abū Naṣr al-Farābī*

*Al- Munqiz min al-Ḍalāl*

*Al- Gazāli*

## TABLE OF CONTENTS

THESIS AUTHENTICITY STATEMENT .....	ii
CONSENT PAGE .....	iii
PROOF OF CONSULTATION .....	iv
THESIS CONFIRMATION .....	v
MOTTO .....	vi
FOREWORD .....	vii
TRANSLITERATION GUIDELINES.....	x
TABLE OF CONTENTS .....	xviii
TABLE LIST .....	xx
IMAGE LIST.....	xxi
ABSTRAK .....	xxii
ABSTRACT .....	xxiii
المُلخَص .....	xxiv
<b>CHAPTER I INTRODUCTION .....</b>	<b>1</b>
A. Background .....	1
B. Problem Formulation .....	10
C. Research Objectives.....	10
D. Research Benefits .....	11
E. Operational Definition .....	11
F. Research Methods .....	14
1. Types of Research .....	15
2. Research Approach .....	15
3. Source of Legal Materials .....	17
4. Methods of Collecting Legal Materials .....	19
5. Legal Material Processing Methods .....	20
G. Previous Research .....	20
H. Discussion Systematics .....	29
<b>CHAPTER II LITERATURE REVIEW .....</b>	<b>31</b>
A. Demokrasi Konstitusional Theory .....	33
B. Negara Hukum ( <i>Rechtsstaat</i> ) Theory .....	35
C. <i>Sadd Dzari'ah</i> .....	37
<b>CHAPTER III RESULTS OF RESEARCH AND DISCUSSION .....</b>	<b>45</b>
A. Model Parameters <i>Autocratic Legalism</i> in the Nazi German Party Legal System .....	45

B. Parameter Model Urgency <i>Autocratic Legalism</i> in the Nazi German Party as a Warning for the Prevention of Authoritarian Leadership in Indonesian Political Parties .....	82
C. Redesign of the Parameter Model <i>Autocratic Legalism</i> As an Ius Constituendum in an Effort to Prevent Authoritarian Leadership In Indonesian Political Parties Perspective <i>Sadd Dzari'ah</i> .....	104
<b>CHAPTER IV CONCLUSION .....</b>	<b>133</b>
A. Conclusion .....	133
B. Suggestions .....	136
<b>BIBLIOGRAPHY .....</b>	<b>137</b>
<b>CURRICULUM VITAE .....</b>	<b>154</b>

## TABLE LIST

<b>Table 1.1</b> Comparison Model of Indonesia and the Nazis.....	8
<b>Table 1.2</b> Previous Research.....	21
<b>Table 3.1</b> Deployment Flow <i>Autocratic Legalism</i> in the Nazi German Party Legal System .....	72
<b>Table 3.2</b> Results of the Recapitulation of the Four Winning Parties in the 2024 Legislative Election .....	81
<b>Table 3.3</b> The Term of Term of Chairmanship of the Four Winning Parties in the 2024 Election as an Indicator of Centralization.....	82
<b>Table 3.4</b> Configuration of Coalition Political Parties in the Legislation Process.....	85
<b>Table 3.5</b> Indicator <i>Autocratic Legalism</i> Potential to Emerge in Indonesia.....	88
<b>Table 3.6</b> Structural Similarities Between Symptoms <i>Autocratic Legalism</i> In Indonesia With Nazi Germany .....	93
<b>Table 3.7</b> Structure of the PDIP DPP 2025-2030.....	101
<b>Table 3.8</b> Structure of the Golkar DPP 2025-2030.....	102
<b>Table 3.9</b> Gerindra DPP Structure 2025-2030 .....	103
<b>Table 3.10</b> Structure of the PKB DPP 2024-2029 .....	104
<b>Table 3.11</b> Design of Political Parties' Internal Structures as the Application of Sadd Dzari'ah .....	106
<b>Table 3.12</b> Mapping of Concepts, Functions, Work Mechanisms, and Newness of Political Parties' Internal Structures in the Perspective of Sadd Dzari'ah.....	109
<b>Table 3.13</b> Formulation of Ius Constituendum in the Optimization of the Political Party Law Based on the Principle of Sadd Dzari'ah .....	120
<b>Table 3.14</b> Findings of Research Results.....	123

## IMAGE LIST

<b>Figure 3.1</b> Coat of arms and leader of the German National Socialist Labour Party (NSDAP) .....	39
<b>Figure 3.2</b> Internal Structure of the Nazi Party (NSDAP) .....	49
<b>Figure 3.3</b> Verordnung des Reichspräsidenten zum Schutz von Volk und Staat ( <i>Reichstag Fire Decree 1933</i> ) .....	55
<b>Figure 3.4</b> Votes Obtained in the 1933 Election .....	58
<b>Figure 3.5</b> Gesetz zur behebung der not von volk und Reich ( <i>Enabling Act 1933</i> ) .....	60
<b>Figure 3.6</b> Gesetz gegen die Neubildung von Parteien ( <i>Law Against the Formation of Parties</i> ) .....	64
<b>Figure 3.7</b> Gesetz zur Wiederherstellung des Berufsbeamtentums ( <i>Law for the Restoration of the Professional Civil Service</i> ).....	68

## ABSTRAK

**Sekar Ayu Dwirunia**, NIM 220203110090, “Model Parameter *Autocratic Legalism* Dalam Sistem Hukum Kepartaian Nazi Jerman Sebagai Upaya Pencegahan Kepemimpinan Otoriter Dalam Partai Politik Indonesia Perspektif Sadd Dzariah”. Skripsi. Program Studi Hukum Tata Negara. Fakultas Syariah. Universitas Islam Negeri Maulana Malik Ibrahim Malang. Dosen Pembimbing: Dr. Mustafa Lutfi, S.Pd., S.H., M.H.

---

---

**Kata Kunci:** *Autocratic Legalism*, Sistem Hukum Kepartaian Nazi Jerman, Kepemimpinan Otoriter, Partai Politik Indonesia, Sadd Dzariah.

Penelitian ini menganalisis model parameter *autocratic legalism* dalam sistem hukum kepartaian Nazi Jerman sebagai *early warning system* pencegahan kepemimpinan otoriter dalam partai politik Indonesia. Rumusan masalah penelitian ini difokuskan pada model parameter *autocratic legalism* dalam sistem hukum kepartaian Nazi Jerman, urgensi model parameter tersebut sebagai peringatan untuk mencegah potensi kepemimpinan otoriter di partai politik Indonesia, dan upaya mencegah potensi lahirnya kepemimpinan otoriter di partai politik Indonesia perspektif *sadd dzari'ah*.

Metode penelitian yang digunakan yuridis normatif dengan pendekatan konseptual, pendekatan historis, dan pendekatan komparatif. Sumber hukum yang digunakan berupa sumber hukum primer, sekunder, dan tersier yang dikumpulkan dengan metode *library research* dan diolah dengan metode yuridis kualitatif.

Temuan pada penelitian ini ialah, 1) Potret parameter *autocratic legalism* dalam sistem hukum kepartaian Nazi Jerman diantaranya konsentrasi kekuasaan pada figur tunggal, aturan legal sebagai alat legitimasi, *legal suppression* terhadap kritik dan oposisi, penempatan loyalis sebagai mekanisme penguasaan berkaitan dengan praktik patronase, dan lemahnya mekanisme *check and balance* secara struktural. Parameter tersebut kemudian melahirkan beberapa produk hukum *autocratic legalism* yaitu *Verordnung des Reichspräsidenten zum Schutz von Volk und Staat article 1 dan 2*, *Gesetz Zur Behebung Der Not Von Volk Und Reich article 1*, *Gesetz gegen die Neubildung von Parteien article 1* dan *Gesetz zur Wiederherstellung des Berufsbeamtentums article 4*. 2) Urgensi model parameter *autocratic legalism* dalam kepartaian Nazi Jerman sebagai peringatan untuk mencegah potensi kepemimpinan otoriter di partai politik Indonesia karna munculnya indikator kemiripan struktural diantaranya: a. Terkonsentrasinya kewenangan strategis ketua umum partai, b. Konfigurasi koalisi dan oposisi terbentuk melalui kooptasi partai, c. Aturan internal partai memberi kewenangan sangat luas kepada ketua atau elite partai, d. Kaderisasi dan rekrutmen politik menekankan pada kedekatan personal, e. pelemahan oposisi. 3) Redesain model parameter *autocratic legalism* sebagai *ius constituendum* dalam upaya pencegahan kepemimpinan otoriter di partai politik Indonesia sangat diperlukan. Redesain diarahkan pada distribusi kekuasaan yang lebih seimbang di internal partai melalui redesign struktur internal partai, penguatan organ kontrol melalui penetapan Dewan Etik sebagai lembaga independen, dan optimalisasi undang-undang partai politik.

## ABSTRACT

**Sekar Ayu Dwirunia**, NIM, 220203110090, “*Parameter Model of Autocratic Legalism in the Legal System of Nazi German Parties as an Effort to Prevent Authoritarian Leadership in Indonesian Political Parties from Sadd Dzariah's Perspective*”. Undergraduate Thesis. Department of Constitutional Law (Siyasah). Faculty of Sharia. State Islamic University of Maulana Malik Ibrahim Malang. Supervisor: Dr. Mustafa Lutfi, S.Pd., S.H., M.H.

---

---

**Keywords:** Autocratic Legalism, Nazi Germany's Party Legal System, Authoritarian Leadership, Indonesian Political Parties, Sadd Dzariah.

This study analyzes the parameter model of autocratic legalism in the legal system of Nazi German parties as an early warning system to prevent authoritarian leadership in Indonesian political parties. The formulation of the research problem is focused on the parameter model of autocratic legalism in the legal system of Nazi German parties, the urgency of the parameter model as a warning to prevent the potential for authoritarian leadership in Indonesian political parties, and efforts to prevent the potential for the birth of authoritarian leadership in Indonesian political parties from the perspective of sadd dzari'ah.

The research method used is normative juridical with conceptual approaches, historical approaches, and comparative approaches. The legal sources used are primary, secondary, and tertiary legal sources collected using library research and processed using qualitative juridical methods.

The findings of this study are: 1) A portrait of the parameters of autocratic legalism in the legal system of the Nazi German party, including the concentration of power in a single figure, legal rules as a means of legitimacy, legal suppression of criticism and opposition, the placement of loyalists as a mechanism of control related to patronage practices, and weak structural checks and balances. These parameters then gave rise to several legal products of autocratic legalism, namely: *Verordnung des Reichspräsidenten zum Schutz von Volk und Staat article 1 dan 2*, *Gesetz Zur Behebung Der Not Von Volk Und Reich article 1*, *Gesetz gegen die Neubildung von Parteien article 1 dan Gesetz zur Wiederherstellung des Berufsbeamtentums article 4*. 2) The urgency of the autocratic legalism parameter model in Nazi Germany's political parties as a warning to prevent the potential for authoritarian leadership in Indonesian political parties due to the emergence of structural similarity indicators including: a. Concentration of strategic authority of the party chairman, b. Coalition and opposition configurations are formed through party co-optation, c. Internal party rules give very broad authority to the chairman or party elite, d. Cadre formation and political recruitment emphasize personal closeness, e. Weakening of the opposition. 3) Redesigning the parameter model of autocratic legalism as a *ius constituendum* is essential to prevent authoritarian leadership in Indonesian political parties. This redesign aims to achieve a more balanced distribution of power within the party through redesigning its internal structure, strengthening oversight organs through the establishment of an Ethics Council as an independent institution, and optimizing political party laws.

## الملخص

سيكار أبو دوويرونيا، رقم التسجيل ٢٢٠٢٠٣١١٠٠٩٠، "نموذج معيار القانون الاستبدادي في النظام القانوني للحزب النازي الألماني كمحاولة لمنع القيادة السلطوية في الأحزاب السياسية الإندونيسية من منظور ساد زاريا". أطروحة. برنامج دراسة القانون الدستوري. كلية الشريعة. جامعة مولانا مالك إبراهيم الإسلامية، مالانغ. المشرف: الدكتور مصطفى لطفي، S.H., S.Pd., M.H.

الكلمات المفتاحية: الشرعية الاستبدادية، النظام القانوني للحزب النازي الألماني، القيادة السلطوية، الأحزاب السياسية الإندونيسية، سد زاريا

تحلل هذه الدراسة نموذج معايير الشرعية الاستبدادية في النظام القانوني للحزب النازي الألماني كنظام إنذار مبكر لمنع القيادة السلطوية في الأحزاب السياسية الإندونيسية. يركز صياغة هذه المشكلة البحثية على نموذج معايير الشرعية الاستبدادية في النظام القانوني للحزب النازي الألماني، وأهمية نموذج المعلومات كتحذير لمنع احتمال القيادة السلطوية في الأحزاب السياسية الإندونيسية، والجهود لمنع احتمال ولادة القيادة السلطوية في الأحزاب السياسية الإندونيسية من منظور السعد زاريا.

طريقة البحث المستخدمة هي فقهية معيارية مع نهج مفاهيمي، ونهج تاريخي، ومنهج مقارنة. المصادر القانونية المستخدمة هي المصادر القانونية الأولية والثانوية والثالثة التي تجمع بواسطة طرق البحث في المكتبات وتعالج باستخدام طرق قانونية نوعية.

نتائج هذه الدراسة هي: (١) تشمل صورة معايير الشرعية الاستبدادية في النظام القانوني الحزبي الألماني النازي تركيز السلطة في شخصية واحدة، والحكم القانوني كأداة للشرعية، وقمع النقد والمعارضة قانونياً، ووضع الموالين كآلية للسيطرة على ممارسة المحسوبية، والضعف الهيكلي لآلية الرقابة والتوازن. ثم أنجب البارميتر عدة منتجات قانونية للقانونية الاستبدادية، وهي *article 1 & Verordnung des Reichspräsidenten zum Schutz von Volk und Staat*، *article 1 , Gesetz gegen die Neubildung von Parteien*، *article 1 dan Gesetz zur Wiederherstellung des 2, Gesetz Zur Behebung Der Not Von Volk Und Reich*، *article 4. 2 Beruftsbeamtentums* إلخ. نموذج معايير الشرعية الاستبدادية في الحزب الألماني النازي كتحذير لمنع احتمال وجود قيادة سلطوية في الأحزاب السياسية الإندونيسية بسبب ظهور مؤشرات التشابه الهيكلي، منها: أ. تركيز السلطة الاستراتيجية لرئيس الحزب، ب. تشكيل التحالف والمعارضة المكونين من خلال استيعاب الحزب، ج. تمنح القواعد الداخلية للحزب سلطة واسعة جداً لرئيس أو نخبة الحزب، د. يؤكد التجديد السياسي والتجنيد على القرب الشخصي، هـ. إضعاف المعارضة. (٣) إعادة تصميم نموذج معايير الشرعية الاستبدادية كأساس للسياسة في محاولة لمنع القيادة السلطوية في الأحزاب السياسية الإندونيسية أمر عاجل. تهدف إعادة التصميم إلى توزيع أكثر توازناً للسلطة داخل الحزب من خلال إعادة تصميم الهيكل الداخلي للحزب، وتقوية أجهزة الرقابة من خلال إنشاء مجلس الأخلاقيات كمؤسسة مستقلة، وتحسين قوانين الأحزاب السياسية.

# CHAPTER I

## INTRODUCTION

### 1. Background

Modern democracy places the law as the main instrument limiting power as well as the guardian of political freedom. In a constitutional democratic state system, political parties hold a central position as a means of people's interests, leadership recruitment, and power control mechanisms. Research on contemporary democracy shows that the strategic role of political parties can have a positive impact on the democratic system, but it can also have a negative impact if democratic practices within the party do not run well<sup>1</sup>.

The practice of world political history shows that laws do not always function as a limiting instrument of power. The phenomenon known as *autocratic legalism*<sup>2</sup> shows that authoritarian regimes can actually use formal legal mechanisms to consolidate power. One of the most extreme examples can be found in the Nazi regime's party legal system in Germany. The legal product of *autocratic legalism* in the Nazi party legal system gave the authority to make and implement laws without the approval of the parliament or the president, so

---

<sup>1</sup> Kaamiliaa Dewi, Achmad Nurmandi, Helen Dian Fridayani, "Observing democratization in the management process of political parties in Indonesia", *Journal of Political Issues*, Volume 6, Number 2, January 2025

<sup>2</sup> Javier Corrales said that *autocratic legalism* is a legal practice that includes *the use, abuse, and non-use of the law*, namely the formal use of the law, abuse of the application of the law, and the neglect of the law that hinders the goals of the regime. Javier Corrales. "The Authoritarian Resurgence: Autocratic legalism in Venezuela". *Journal of Democracy* Volume 26 Number 2, April 2015. In addition, Kim Lane Scheppele in his research stated that *autocratic legalism* is the practice of using formal legal rules to strengthen authoritarianism. The law loses its independence as a protector of citizens' rights and turns into a political instrument used for the benefit of the ruling regime. Kim Lane Scheppele, "Autocratic Legalism", accessed on September 29, 2025 <https://lawreview.uchicago.edu/print-archive/autocratic-legalism>

that the mechanism of constitutional *checks and balances* practically disappeared and paved the way for totalitarian <sup>3</sup>dictatorships.

The consolidation steps did not stop at one regulation but were born into several regulations, including *Verordnung des Reichspräsidenten zum Schutz von Volk und Staat* (Reichstag Fire Decree) which suspended various civil rights so that the government could take action against political opposition, *Gesetz Zur Behebung Der Not Von Volk Und Reich* (Enabling Act 1933) which gave the government the authority to make laws without parliamentary approval, *Gesetz gegen die Neubildung von Parteien* (Law Against the Establishment of New Parties 1933) which made the Nazi Party the only legal party, and *Gesetz zur Wiederherstellung des Berufsbeamtentums* (Law for the Restoration of the Professional Civil Service) which was used to clean the bureaucracy from parties deemed disloyal.

The history of law during German rule under the Nazi regime shows how law can be used to support the birth of authoritarian power<sup>4</sup>. During Adolf Hitler's leadership, the law lost its primary function as a means of upholding justice and protecting the rights of citizens, as it was transferred to a tool of strengthening absolute authority through the Nazi Party (*Nationalsozialistische Deutsche Arbeiterpartei/NSDAP*). The party was used as the center of state

---

<sup>3</sup> Britannica, "Enabling Act", accessed on 14 October 2025, [https://www.britannica.com/topic/Enabling-Act?utm\\_source.com](https://www.britannica.com/topic/Enabling-Act?utm_source.com)

<sup>4</sup> Nadilla Syabriya, "The Origin and History of the Nazis, the Political Party That Took Millions of Human Lives", accessed on October 14, 2025 <https://news.okezone.com/read/2022/11/18/18/2710274/asal-usul-dan-sejarah-nazi-partai-politik-yang-menghabisi-jutaan-nyawa-manusia?page=all>

control, and the Nazi regime succeeded in removing political pluralism, restricting freedom of opinion, and suppressing the existence of opposition<sup>5</sup>.

The phenomenon of abuse of the law by totalitarian regimes such as in the Nazi era shows the importance of maintaining the role of political parties in the modern democratic system. Political parties basically have a very important position and role in every system that adheres to people's sovereignty. Its existence is often referred to as a pillar of democracy or part of political infrastructure, because political parties function as a bridge between the government (*the state*) and the citizen (*the citizen*). Based on the principle of people's sovereignty, when the democratic space is wide open and becomes the main part of the constitutional system, the emergence of various political parties is inevitable<sup>6</sup>.

According to Solly Lubis, legal politics is a form of political policy that determines the direction and content of the applicable law to regulate various aspects of social and state life<sup>7</sup>. Based on this concept, legal politics during the Nazi German regime shows how law is used as a tool of legitimization of authoritarian power, not as an instrument of justice. Political parties should ideally be a pillar of democracy, but in practice they can also be instruments of

---

<sup>5</sup> The National WWII Museum. "How Did Adolf Hitler Happen?", accessed October 14, 2025, <https://www.nationalww2museum.org/war/articles/how-did-adolf-hitler-happen>

<sup>6</sup> M. Iwan Satriawan and Mustafa Lutfi. *Treatise on the Law and Theory of Political Parties in Indonesia*. (New York: UB Press, 2016)

<sup>7</sup> Jazim Hamidi and Mustafa Lutfi "Constitutional Provisions for the Implementation of Emergencies in a Country (Comparative Model of the Constitution between the State of Indonesia and the United States in a Political and Legal Perspective)", *Constitutional Journal* Vol.6 No.1, 2009

consolidation of power that actually weaken the principle of people's sovereignty, as happened in Nazi Germany.

This series of historical facts shows that authoritarianism does not always emerge through revolutions or coups, but can grow legalistically through regulatory engineering and institutional design. Regulatory engineering refers to the creation of legal products such as the Reichstag Fire Decree, the Enabling Act 1933, the Law Against the Establishment of New Parties, and the Law for the Restoration of the Professional Civil Service. Institutional design in the context of the Nazi Party is reflected in the application of the *Führerprinzip* principle, namely the party's organizational structure that places Adolf Hitler as the supreme leader with absolute authority and eliminates effective internal control mechanisms. This pattern forms structural parameters that can be identified as an *early warning system* for the emergence of authoritarian leadership. The relevance of this study is even stronger when it is associated with the condition of democracy and the party system in Indonesia.

Indonesia's party law still leaves great potential to be infiltrated by the practice of *autocratic legalism*. The centralization of power in the general chairman, the weak internal democratic mechanism, and the dominance of the elite in changes to the party's AD/ART are forms of "legalization of power" that are formally legitimate but weaken the substance of democracy<sup>8</sup>. This condition

---

<sup>8</sup> Jamaludin Ghafur, "Term Limits of Political Party Chairmen: A Review of the State of Law and Democracy", *Journal of Litigation*, Vol. 25 (2), October 2024

can result in political party law becoming a new instrument of authoritarian control that is contrary to the ideals of *the rule of law* and substantive justice.

A real constitutional and practical challenge in recent years is that the internal rules of political parties regarding democratization are still general and abstract, thus opening up a space for interpretation that allows the practice of internal authoritarianism and leadership to endure for a long time<sup>9</sup>. The absence of term limits also provides room for authoritarian leadership because leadership changes do not run regularly and are replaced on the basis of the leader's subjective rules<sup>10</sup>.

The institutional design of parties in Indonesia is still undemocratic, where the decision-making system and filling party positions are more controlled by political elites than through participatory and accountable processes. These structural weaknesses create space for the abuse of internal party laws that are formally legitimate but substantively contrary to democratic principles<sup>11</sup>. The problem of party law in Indonesia is a contemporary manifestation of the practice of *autocratic legalism*. The Nazi German legal system used the law formally to suppress opposition and consolidate the power of the Fuhrer, so in the Indonesian context, internal party law was often used to close the space for regeneration, eliminate internal opposition, and strengthen the position of the general chairman.

---

<sup>9</sup> Jamaludin Ghafur, "Internal Democratization of Political Parties in the Reform Era: Between Das Sollen and Das Sein", *Ius Quia Iustum Law Journal* Vol. 30 No.1 January 2023

<sup>10</sup> Jamaludin Ghafur, "Term Limits of Political Party Chairmen: A Review of the State of Law and Democracy", *Journal of Litigation*, Vol. 25 (2), October 2024

<sup>11</sup> Elva Imeldatur Rohmah, "Initiating the Institutional Design of Political Parties in Indonesia", *Journal of Constitutional Studies*, Volume 03 Issue 02, 2023

Legal politics in the context of state administration is the result of the decisions and actions of parties with authority as regulated in laws and regulations. Every formation process or legal product produced should reflect the principle of usefulness and favor the interests of the community at large. Legal politics ideally serves to ensure that public policy is not used as a tool for consolidating oppressive power, but as an instrument that guarantees justice, protection, and the welfare of the people<sup>12</sup>. Legal politics must be directed to prevent the practice of *autocratic legalism* that has the potential to weaken the principles of democracy and the rule of law in the Indonesian party system<sup>13</sup>.

The combination of these findings shows that although formal party rules (such as the Political Party Law and the Party AD/ART) state internal democracy and open party governance, practices on the ground often still show centralization of power, irregular succession, dominance of the elite/top management, and a lack of transparency and active participation of party members. These challenges have direct implications for the potential emergence of authoritarianism in the party because formal law can be used as an instrument to strengthen internal power rather than limit or balance it<sup>14</sup>.

---

<sup>12</sup> Mustafa Lutfi, "Legal politics and public policies in the industrial era 4.0 (an Indonesian legal civilization discourse perspective of prophetic science religiosity)", *IOP Conf. Series: Earth and Environmental Science* 456, 2020

<sup>13</sup> Moh. Mahfud MD explained that legal politics is an official line that is used as a basis for making and implementing laws in order to achieve the goals of the nation and state. Mustafa Lutfi and Aditya Prastian Supriyadi, "The Legal Politics of National Economic Recovery Due to the Covid-19 Pandemic Perspective of the Economic Constitution", *De Jure: Journal of Law and Shariah*, Vol. 13, No. 2, 2021

<sup>14</sup> Muchamad Ali Safa'at, et al., "The Construction of the Internal Democracy Index of Political Parties in a Constitutional Democratic State: Indonesian Perspective", *Ius Quia Iustum Legal Journal*, May 2024

This condition shows the potential for structural problems, if the party's internal democracy is weak, then the national leadership recruitment process also risks producing a centralistic or oligarchic leadership pattern. From the perspective of *sadd dzariah*, any means that have the potential to cause damage must be prevented from the beginning. Thus, the prevention of the emergence of authoritarian leadership is not enough to be done at the state level, but must start from the internal legal design of political parties as power-producing institutions. The principle of *Sadd al-Dzari'ah* in the Islamic legal tradition means to close or prevent all means and roads that may ultimately lead to harm (*mafsadah*), even if outwardly it appears permissible or neutral. *Sadd al-Dzari'ah* is used as a preventive method to close legal loopholes that could potentially be abused for the purpose of authoritarianism or centralization of power<sup>15</sup>.

Based on this description, it can be seen that there is a connection between the historical experience of totalitarian regimes that use the law as a tool of power legitimization, the empirical condition of internal party democracy in Indonesia that is not optimal, and the need for a preventive conceptual framework based on legal theory. Research on the model of *autocratic legalism* parameters in the Nazi German party legal system is relevant to be constructed as an analytical instrument to prevent the emergence

---

<sup>15</sup> Muhamad Takhim, "Saddu al-Dzari'ah in MuamalahIslam", *Journal of Economics and Business*, Vol. 14 No.12019

of authoritarian leadership in Indonesian political parties from the *perspective of Sadd Dzari'ah*.

In order to make it easier for readers to identify the analytical relationship between the historical experience and contemporary conditions, the author presents a systematic grouping of indicators in the form of a table. This presentation is intended to clarify the pattern of structural similarity that can be used as an early detection tool against potential authoritarian tendencies in political party governance. Here is a comparison model between Indonesia and the Nazis:

**Table 1.1**  
**Comparison Model of Indonesia and the Nazis**

Yes	Structural Aspects	Model Nazi Germany (1933–1945)	Current Symptoms of Indonesia	Shape Similarity
1.	Concentration of Leaders' Power	<i>Führerprinzip</i> : Hitler holds absolute authority	The chairman holds strategic authority and final decisions	Concentration of power in a single figure
2.	Manipulation of Internal Rules	Organisationsbuch der NSDAP → legalized <i>the Führer's dominance</i>	AD/ART can be changed by party elites for certain interests	Legal rules are used as a tool of legitimacy
3.	Elimination of Internal Opposition	Gleichschaltung → forced coordination	Critical cadres silenced through disciplinary articles	" <i>Legal suppression</i> " against criticism

4.	Loyalty Regeneration	Promotion based on loyalty to the Führer	Promotion through elite proximity	Patronage & Personal Loyalty
5.	Weak Oversight Loopholes	All supervisory agencies were merged	Ethics Committee Less Independent	Ineffective supervision

Source: Author's Creation (2026)

Based on the description of the table, this study is directed to examine the practice of *autocratic legalism* in the Nazi German party legal system and how this phenomenon can be used as a historical lesson to prevent the emergence of authoritarian leadership in Indonesian party law. The focus of the research includes an analysis of how the Nazi regime used the formal legal apparatus to consolidate power, eliminate political opposition, and undermine democratic principles and *the rule of law*.

This study connects these phenomena, this study not only describes the forms of legal deviations in the Nazi era, but also compares it with the condition of party law in Indonesia which still leaves the potential for abuse of the law through the centralization of party elite power, the lack of internal democracy, and the potential legalization of authoritarian practices through formal changes in party rules.

This research is expected to provide a comprehensive understanding of how the law can be used legalistically to strengthen authoritarianism as happened in Nazi Germany, as well as how the design of party law in Indonesia can be strengthened so that it does not become a means of legitimizing elite power.

## 2. Problem Formulation

Based on the Background of the Problem, the author in this study identified several problems in the discussion:

1. What are the models of *autocratic legalism* that appear in the Nazi German party legal system?
2. Why is the model of *the parameters of autocratic legalism* in the Nazi German party important as a warning to prevent the potential for authoritarian leadership in Indonesian political parties?
3. How to prevent the potential birth of authoritarian leadership in Indonesian political parties by learning from the model of *the parameters of autocratic legalism* Nazi Germany from the perspective of *sadd dzar'ah*?

## 3. Research Objectives

1. To analyze and identify the model of *the parameters of autocratic legalism* that appears in the German Nazi party legal system
2. To analyze the urgency of the model of *autocratic legalism* parameters in the Nazi German party to be used as a warning in preventing the potential for authoritarian leadership in Indonesian political parties
3. To elaborate and offer efforts that can be made in order to prevent the potential birth of authoritarian leadership in Indonesian political parties from the perspective of *sadd dzar'ah*.

#### **4. Research Benefits**

##### **1. Theoretical Benefits**

The theoretical benefits of this research are expected to contribute to the development of constitutional law studies. Another benefit is that this research can expand the literature and add academic references that can be used for research and subsequent studies.

##### **2. Practical Benefits**

This research is expected to be the basis for the development of the direction of law formation in Indonesia, especially in party law. The researcher also hopes that with this study, policymakers can formulate rules that encourage transparency, accountability, and power limitation in the structure of political parties so that political parties can function as a healthy democratic forum, not as a means to maintain power dominance or give birth to authoritarian leadership.

#### **5. Operational Definition**

In an effort to facilitate understanding and ensure consistency in this study, some of the key terms used will be explained through operational definitions. This operational definition aims to ensure that each concept studied can be measured and analyzed clearly in accordance with the research context. Some of the definitions used are as follows:

##### **1. Model Parameters**

Parameter models are generally values or variables that are the main components in a model to describe, regulate, or determine the

characteristics of the modeled system. This term is used to include important elements so that the model can represent the reality being studied<sup>16</sup>. In this study, the parameter model was used to identify and map the main elements in *autocratic legalism* in the Nazi German party legal system such as the centralization of authority, the delegitimization of opposition, and the use of the law as a tool of control so that its relevance can be analyzed as an effort to prevent authoritarian leadership in political parties in Indonesia based on the perspective of *sadd dzari'ah*.

## 2. *Autocratic legalism*

Javier Corrales said *autocratic legalism* is the use of law to legitimize undemocratic actions<sup>17</sup>. A practice of abuse of the law in which the ruler uses formally legitimate legal procedures and instruments to limit opposition, weaken *checks and balances*, and strengthen the concentration of power. The term emphasizes that authoritarianism does not always emerge through coups or blatant violations of the law, but rather by "hiding" behind formal legality<sup>18</sup>.

## 3. The Nazi Party Legal System

The Nazi Party legal system in this study is defined as the legal policies and legal practices formed and mobilized by the Nazi Party to enforce the single party's dominance over the state and society in Germany

---

<sup>16</sup> Wisdom Library, "Significance of Model parameters", accessed January 2, 2026 [https://www.wisdomlib.org/concept/model-parameter?utm\\_source=com](https://www.wisdomlib.org/concept/model-parameter?utm_source=com)

<sup>17</sup> Media Indonesia, accessed on October 14, 2025, <https://epaper.mediaindonesia.com/detail/a-9929>

<sup>18</sup> Zainal Arifin Mochtar, Eid al-Rishan, "Autocratic Legalism: the Making of Indonesian Omnibus Law", *Jurisprudence Journal* Vol. 11 No. 1, 2022

in the period 1933–1945. This system is characterized by the use of law as a tool to consolidate dictatorial power, dissolve political plurality, weaken supervision and institutionalize policies for the legalization of party dominance and repression through laws and decrees designed according to party ideology<sup>19</sup>.

#### 4. Authoritarian Leadership

Authoritarian leadership is the oldest form of leadership that places power in one person or small group with the dominance of a major leader. Etymologically, the term authoritarian comes from the Latin word *auctoritas* which means power or authority, which gives legitimacy for a leader to influence others. Authoritarian leadership in practice is characterized by the leader's full dominance in determining the direction of the group's activities, without involving the participation of members, as well as the distance between the leader and the group he<sup>20</sup> leads.

#### 5. Sadd Dzariah

Ash-Shaṭibi explained that *sadd al-dzari'ah* is interpreted as an effort to cover or obstruct an act that is basically permissible, if the act has the potential to lead to something forbidden<sup>21</sup>. *Sadd dz-dzari'ah* is one of the methods of determining the law that is carried out by closing all means or roads that have the potential to lead to prohibited acts and cause confusion.

---

<sup>19</sup> Safferling, C. "The Long Shadows of the Past: The Federal Ministry of Justice and the Nazi Era. In *Dealing with Totalitarian Regimes and Human Rights*", 2024

<sup>20</sup> Salsabila, et al, "Analysis of the Government's Authoritarian Leadership Style and Its Relation to Democracy Theory", *JPW (Walisongo Political Journal)*, Vol 5 No 2, 2023

<sup>21</sup> Meidinie Maulida, et al., "Sadd Al-Dzari'ah : Principles of Prevention in Islamic Law", *Journal of Scholars*, Vol.1 No.3, December 2024

This method aims to limit something that was originally allowed so that it does not develop into a prohibited act<sup>22</sup>.

## 6. Research Methods

The research method is a series of activities in finding the truth of a research study, which begins with a thought that forms the formulation of the problem so as to give rise to an initial hypothesis, with the help and perception of previous research, so that the research can be processed and analyzed which finally forms a conclusion<sup>23</sup>.

Based on this description, the research method essentially functions as a foundation and guideline in the implementation of a research. In order to find solutions to the problems studied, the author uses several research methods which are described as follows:

### 1. Types of Research

The type of research used in this thesis is normative juridical. This type of research focuses on the provisions contained in laws and regulations and the application of rules and norms that become guidelines in community life<sup>24</sup>. Normative legal research is chosen because the focus of the study lies in the analysis of legal and legal norms that are relevant to the problem being studied. The research is directed at the study of *autocratic legalism* in the

---

<sup>22</sup> Rolia Ulfah, "The Method of Sadd Adz-Dzariah in the Determination of the Mui Fatwa on Marriage Under the Hand", *Indonesian Journal of Islamic Jurisprudence, Economic and Legal Theory*, Vol. 2, No. 4

<sup>23</sup> Syafrida Hafni Sahir. *Research Methodology*. (Jogjakarta: KBM Indonesia Publisher, 2022)

<sup>24</sup> Amiruddin & Zainal Asikin. *Introduction to Legal Research Methods*. (Jakarta, Raja Grafindo Persada, 2012)

Nazi German legal system, especially through party legal instruments that are used to strengthen authoritarian leadership.

## 2. Research Approach

The approach can be interpreted as an effort to establish a relationship with the research object or as a way to gain an understanding of the problem being studied. The approach functions as a tool to examine as well as direct the focus of research to be in accordance with the goals that have been set. Johnny Ibrahim divides the normative legal research approach into seven approaches, which include<sup>25</sup>:

- a. Legislative approach;
- b. Conceptual approach;
- c. Analytical approach;
- d. Comparative approach;
- e. Historical approach;
- f. Philosophical approach;
- g. Case approach

This study uses several research approaches so that the analysis can be carried out comprehensively. The research approaches used are conceptual approaches (*Conceptual Approach*), historical approaches (*Historical Approach*), and comparative approaches (*Comparative Approach*).

---

<sup>25</sup> Dr. Wiwik Sri Widiarty, S.H., M.H. *Textbook of Legal Research Methods*. (Yogyakarta: Publika Global Media, 2024)

The conceptual approach is used in this study to build a theoretical foundation and clarify the understanding of the main concept that is the focus of the study, namely *autocratic legalism*. The author examines the theories and views of relevant legal and political scientists to explain how the law is abused or ignored as a tool of injustice, power, and legalization of authoritarian actions within a formal legal framework.

A historical approach is used to trace the background of the emergence of the practice of *autocratic legalism* during the Nazi German regime, including how the law was used to strengthen Adolf Hitler's power so that through this approach, it can be understood the patterns and dynamics of the abuse of the law in support of authoritarian leadership. A comparative approach is used to compare the legal practice of Nazi Germany with party law in Indonesia. The research can show differences and similarities, as well as draw valuable lessons in the context of preventing authoritarian leadership in Indonesia.

### 3. Source of Legal Materials

Legal materials in general can be classified into 3 (three) groups, namely primary legal materials, secondary legal materials, and tertiary legal materials. Primary legal materials include laws and regulations, court decisions, and other legal documents that have binding power. Secondary legal materials include literature such as books, journals, and articles that explain primary materials. Tertiary legal materials are used as a complement to understanding the two previous sources, such as legal dictionaries,

encyclopedias, and bills<sup>26</sup>. Based on the source of these legal materials, the data sources used in this study are in the form of:

a. Primary Legal Material:

- *Verordnung des Reichspräsidenten zum Schutz von Volk und Staat (Reichstag Fire Decree) article 1 then article 2*
- *Gesetz zur Behebung Der Not Von Volk und Reich (Enabling Act 1933) article 1*
- *Gesetz gegen die Neubildung von Parteien (Law Against the Establishment of New Parties 1933) article 1*
- *Gesetz zur Wiederherstellung des Berufsbeamtentums (Law for the Restoration of the Professional Civil Service) article 4*
- Pasal 30 Undang-Undang Nomor 2 Tahun 2011 Tentang Perubahan atas Undang-Undang Nomor 2 Tahun 2008 Tentang Partai Politik

b. Secondary Legal Materials:

Secondary legal materials are materials that provide explanations of primary legal materials, such as draft laws, research results, and works from legal circles<sup>27</sup>. Based on this, the author uses legal materials from legal circles in the form of books, articles, journals that review or discuss *autocratic legalism*, the Nazi legal system, authoritarian leadership, and party law in Indonesia.

---

<sup>26</sup> Muhaimin. *Legal Research Methods*. (West Nus Tenggara: Mataram University Press, 2020)

<sup>27</sup> Ishaq. *Legal Research Methods and Writing Thesis, Thesis, and Dissertation* (Bandung: Alfabeta, 2017)

c. Tertiary Legal Materials:

Tertiary data is a source of data that acts as a complement or support for primary and secondary data. This data is obtained from sources that are not directly related to the research object, but still have relevance to the problem being studied<sup>28</sup>. The tertiary legal materials used in this study include legal dictionaries and encyclopedias and other sources that can help in interpreting the terms used.

4. Methods of Collecting Legal Materials

The method of collecting legal materials in this study uses *library research*. Literature research is a study that is used in collecting information and legal materials with the help of various kinds of materials in the library such as documents, books, magazines, and historical stories<sup>29</sup>. The initial step used in this study is to determine the type of legal material, namely primary legal material, secondary legal material, and tertiary legal material.

The next stage is the inventory of relevant legal materials by collecting and recording legal sources. After the legal materials are collected, the study of legal materials is carried out in accordance with the research approach used, namely conceptual approach (*Conceptual Approach*), historical approach (*Historical Approach*), and comparative approach (*Comparative Approach*).

---

<sup>28</sup> Undari Sulung, Mohamad Muspawi, "Understanding Research Data Sources: Primary, Secondary, and Tertiary", *Journal of Edu Research Indonesian Institute For Corporate Learning And Studies (IICLS)*, Vol.15 No.3, September 2024

<sup>29</sup> Eko Haryono, et al. "New Paradigm of Library Research Methods", *An-Nuur Journal*, Vol.14 No.1, 2025

## 5. Legal Material Processing Methods

The technique of processing legal materials in this study uses qualitative juridically. Soerjono Soekanto said that qualitative juridical analysis is that the data obtained is not stated in the form of numbers, but is analyzed based on the content and meaning contained in the legal material. Data processing is carried out by compiling, interpreting, and connecting legal materials with each other in a systematic manner, in order to obtain a logical legal conclusion that is consistent with the theoretical framework used. The research is directed to identify and analyze the relevance between the practice of *autocratic legalism* in Germany and its potential prevention in Indonesian party law<sup>30</sup>.

## 7. Previous Research

Some of the previous studies have a thematic connection to this study, but differ in their focus and analytical perspective. This study specifically seeks to examine the phenomenon of *autocratic legalism* in the Nazi German legal system as a preventive effort to prevent the emergence of authoritarian leadership in Indonesian party law. This study seeks to raise a theme that has rarely been discussed in previous studies. The following are a number of previous studies that have been traced through various literature sources.

---

<sup>30</sup> Soerjono Soekanto and Sri Mamudji. *Normative Law Research: A Brief Overview*. (Rajawali Press: 2019)

**Table 1.2**  
**Previous Research**

<b>Yes</b>	<b>Name/College/ Year/Title</b>	<b>Problem Formulation</b>	<b>Results Research</b>	<b>Differences</b>	<b>Elements of Novelty</b>
1	Rifan Azzam Amrulloh <sup>31</sup> /UN S/2024/Jurnal/ "Autocratic legalism in the Formation of Legal Products During Jokowi's Administration: A Critical Analysis of Article 218 of Law Number 1 of 2023 Concerning the Penal Code".	<i>How is the practice of autocratic legalism manifested in the process of forming legal products, especially Article 218 of the Criminal Code, during the Jokowi administration ?</i>	<i>Article 218 of the Criminal Code (prohibiting insults against the president/vice president) demonstrates autocratic legalism because:</i>  <i>1. it is formulated through a legitimate formal legal mechanism;</i>  <i>2. its substance has the potential to threaten freedom of expression and strengthen executive power;</i>  <i>3. it contains elements of</i>	The research conducted by Rifan basically analyzes autocratic legalism in national legal products, namely in Article 218 of the Criminal Code	1. This research is a development of previous research that focused on the symptoms of the practice of autocratic legalism that occurs in the Indonesian party legal system by focusing on efforts to prevent it.  2. This study

<sup>31</sup> The research conducted by Rifan Azzam Amrulloh is a research that uses a legislative approach and a case approach. Regarding the results of this study, it is explained that Article 218 of the Criminal Code shows the practice of *autocratic legalism* and considers that the formation of the law is a form of deviation from the *rule of law*. Quoted from Rifan Azzam Amrulloh, Thesis, "Autocratic legalism in the Formation of Legal Products During Jokowi's Administration: A Critical Analysis of Article 218 of Law Number 1 of 2023 Concerning the Penal Code", International Journal Of Research And Innovation In Socia Science (IJRISS), Vol. VIII Issue X, October 2024

			<p><i>restricting the opposition and weakening the values of constitutional democracy.</i></p> <p><i>4. It is considered that the creation of this law is a deviation from the substantive rule of law, despite its formal legality.</i></p>		<p>raises the legal system of Nazi Germany as a historical mirror that is rarely discussed in the study of Indonesian constitutional law</p>
2	<p>Ananda Prasetya Utami and Lita Tyesta Addy Listya Wardhani<sup>32</sup>/Diponegoro University/2024/Journal/ "Autocratic legalism Phenomenon in Democratic Institutions in Indonesia: Corruption Eradication Commission, Constitutional Court, and House of Representatives (DPR)? And</p>	<p>How does the phenomenon of autocratic legalism occur in democratic institutions in Indonesia, particularly the Corruption Eradication Commission (KPK), the Constitutional Court (MK), and the House of Representatives (DPR)? And</p>	<p><i>The results of this study state that the Revision of Law Number 19 of 2019 is considered to reduce the independence of the Corruption Eradication Commission (KPK) by making it part of the executive through the formation of a Supervisory Board and</i></p>	<p>The object of research conducted by Ananda and Lita focuses on the phenomenon of autocratic legalism in Indonesian democratic institutions (KPK, MK, DPR).</p>	

<sup>32</sup> The research conducted by Ananda Prasetya Utami and Lita Tyesta Addy Listya Wardhani is a research that uses legislative and doctrinal approaches. Regarding the results of this study, it shows that there is an *autocratic legalism practice* within the scope of the KPK, the Constitutional Court, and the DPR. Quoted from Ananda Prasetya Utami and Lita Tyesta Addy Listya Wardhani, Journal, "Autocratic legalism Phenomenon in Democratic Institutions in Indonesia: Corruption Eradication Commission, Constitutional Court and House of Representatives", International Journal of Social Science and Human Research, Vol.07 Issue 06, 06 June 2024

	<p><i>Court and House of Representatives"</i></p>	<p>what steps must be taken to prevent and address this phenomenon?</p>	<p><i>changing the status of employees to ASN, thereby losing this institution's critical power in eradicating corruption. In the Constitutional Court, the fourth revision of the Constitutional Court Law of 2024 is considered to threaten the independence of judges through the regulation of tenure, evaluation mechanisms, and intervention from the proposing institution, which weakens the principle of separation of powers. Meanwhile, the House of Representatives (DPR) shows a decline in its oversight function due to political</i></p>		
--	---	---	--	--	--

			<i>pragmatism and weak use of its constitutional rights, so that it tends to become part of the executive power.</i>	
3	Zainal Arifin Mochtar and Idul Rishan <sup>33</sup> /Gadjah Mada University/2022/ Journal/" <i>Autocratic Legalism: The Making of Indonesian Omnibus Law</i> ".	1. <i>What forms of procedural injustice occurred in the process of drafting the Omnibus Law on Job Creation in Indonesia?</i> 2. <i>What are the root causes and preventive measures for the phenomenon of autocratic legalism that emerged in the legislative process?</i>	<i>The results of this study explain that there were several violations of procedural justice in the formation of the Job Creation Law and the study shows several main factors causing autocratic legalism in Indonesia.</i>	The object of research conducted by Zainal Arifin Mochtar is the process of legislation on the Job Creation Law as a form of <i>autocratic legalism</i> in Indonesia
4.	Aria Dwi Pratama <sup>34</sup> /Unive	1. What is the relationshi	1. The system of	This research focuses on

<sup>33</sup> The research conducted by Zainal Arifin Mochtar and Eid al-Rishan is a research that uses a legislative approach, a conceptual approach and a historical approach that reviews the origins of *autocratic legalism* from the experience of a democratic regime that has regressed. Regarding the results of this study, it is explained that there are several violations of procedural justice in the formation of the Job Creation Law and there are several main factors that cause *autocratic legalism*. Quoted from Zainal Arifin Mochtar and Idul Rishan, Thesis, "*Autocratic Legalism: the Making of Indonesian Omnibus Law*", Yustisia Jurnal Hukum Vol. 11 No. 1, 2022

<sup>34</sup> The research conducted by Aria Dwi Pratama is a research that uses a juridical approach and a historical approach. Regarding the results of this study, it explains the need to simplify the party and strengthen the legislative and executive functions to maintain the balance of power. Quoted from

	<p>rsity of Muhammadiyah Surakarta/2009/thesis/"<i>The Relationship between Party System and Government System in Forming Effective Government in Indonesia</i>"</p>	<p>p between the government system and the party system in producing an effective government?</p> <p>2. What party system is needed to produce an effective government according to the 1945 Constitution of the Republic of Indonesia?</p>	<p>government in Indonesia is quasi-presidential, which is a mixture of presidential and parliamentary systems.</p> <p>2. The multiparty system that is adopted causes political fragmentation and difficulties in forming a stable and effective government.</p> <p>3. The dominance of political parties over the political process leads to a coalition that is pragmatic and not oriented to programs.</p> <p>4. To realize effective government,</p>	<p>the relationship between the party system and the government system in the effectiveness of government</p>	
--	--	---	---	---	--

Aria Dwi Pratama, Thesis, "*The Relationship of Party Systems and Government Systems in Forming Effective Government in Indonesia*", (Surakarta: University of Muhammadiyah Surakarta, 2009)

			it is necessary to simplify the party system and strengthen legislative and executive functions in order to create balanced <i>checks and balances</i> .		
5.	Inna Soffika Rahmadanti <sup>35</sup> /UIN Purwokerto/2025/thesis/" <i>Autocratic legalism in the Government's Authority Regarding Mining Licensing (Study of the Constitutional Court Decision Number 37/PUU-XIX/2021)</i> "	1. What is the <i>legal reasoning of the constitutional court judge</i> in deciding the authority of mining licensing in the constitutional court decision number	1. Indonesia's system of government is quasi-presidential, which is a mixture of presidential and parliamentary systems. 2. The multiparty system leads to political fragmentation, pragmatic coalitions,	This study examines <i>autocratic legalism</i> in government authority	

<sup>35</sup> The research conducted by Inna Soffika Rahmadanti is a research that uses a normative juridical approach, a legislative-legislative approach, and a conceptual approach. The results of this study explain the need to simplify the party system and strengthen the executive legislative function to maintain the balance of power (*checks and balances*) and increase the effectiveness of the government. Quoted from Inna Soffika Rahmadanti, Thesis, "*Autocratic legalism in the Government's Authority Regarding Mining Licensing (Study of the Constitutional Court Decision Number 37/PUU-XIX/2021)*", (Purwokerto: State Islamic University Prof. K.H. Saifuddin Zuhri Purwokerto, 2025)

		<p>37/PUU-XIX/2021?</p> <p>2. What is the analysis of <i>autocratic legalism</i> in the government's authority regarding mining licensing in the Constitutional Court decision number 37/PUU-XIX/2021?</p>	<p>and lowers the effectiveness of government.</p> <p>3. It is necessary to simplify the party system and strengthen the legislative-executive function to maintain the balance of power (<i>checks and balances</i>) and increase the effectiveness of the government.</p>		
--	--	--	---	--	--

Based on this description, it can be concluded that some previous studies have quite striking differences compared to the focus of the research raised in this study. The research conducted by Rifan Azzam focuses on the analysis of *autocratic legalism* on national products, namely article 218 of the Criminal Code. The research conducted by Ananda Prasetya Utami and Lita Tyesta Addy Listya Wardhani focuses on *autocratic legalism* in Indonesian democratic institutions (KPK, MK, DPR). Zainal Arifin Mochtar and Eid al-Rishan's research focuses on

*autocratic legalism* in the Job Creation Law. Aria Dwi Pratama's research focuses on the relationship between the party system and the government system in the effectiveness of government. The last research is Inna Soffika Rahmadanti's research which focuses on *autocratic legalism* in government authority.

Based on the previous research that has been described above, it is clear that the striking difference with this research is the focus of the research raised. In this study, we analyze *the autocratic legalism* that exists in the Nazi German party legal system as an effort to prevent authoritarian leadership in Indonesian party law. This research is important to study because there have been many symptoms that lead to the practice *of autocratic legalism*, especially in the Indonesian party legal system which has the potential to give rise to authoritarian leadership using formal legality to suppress opposition and maintain power.

## **8. Discussion Systematics**

The structure of writing this research basically follows the systematics of thesis writing in general. In order to maintain harmony and focus of the discussion, the author compiles the following writing systematics as an overview of the overall research. This writing is compiled using the following systematics:

### **Chapter I: Introduction**

The introductory chapter consists of background, problem formulation, research objectives, research methods, previous research, and also writing systematics. Then in the research method, a sub-chapter is mentioned consisting of the type of research, the

research approach, the type of data, the method of data collection, and the method of data processing.

## **Chapter II: Literature Review**

This chapter describes the literature review that is used as a comparison and reference material in this study in order to obtain more valid and objective results. The literature review contains various thoughts, theories, and concepts that are the theoretical basis for analyzing research problems. This section also describes the theoretical framework and conceptual framework relevant to the topic being studied.

## **Chapter III: Research and Discussion Results**

This chapter contains the results of research obtained through the process of data collection and processing. The data that has been analyzed is then presented to answer the formulation of the problem that has been formulated by the previous author.

## **Chapter IV: Conclusion**

This chapter is the concluding section that contains conclusions and suggestions. The conclusions are compiled based on the results of analysis and discussion in the previous chapters, while the suggestions contain recommendations submitted by the author as a follow-up to the research results.

## CHAPTER II

### LITERATURE REVIEW

The theoretical framework is an arrangement of mindsets that are compiled based on various theories to assist researchers in the research process. This theory serves to explain, predict, and connect various facts that are found regularly and systematically<sup>36</sup>. Soerjono Soekanto said that the theoretical framework includes 3 types, namely *grand theory*, *middle theory*, and *applied theory*<sup>37</sup>.

*Grand theory* is a theory that functions as the main foothold or foundation for other theories in analyzing a research problem. *Middle theory* is a theory that supports the main theory and this theory is at the intermediate level. *Applied Theory* is a theory that is essentially the application of a certain theory that explains how a legal principle is able to provide solutions to various problems that arise in research<sup>38</sup>.

The researcher makes the theory of constitutional democracy as a *grand theory*. This theory became the normative foundation for assessing the practice of *autocratic legalism* in which political power uses the law in a manipulative manner. This theory can show that legal deviations under the democratic system can damage the principle of people's sovereignty as happened to the Nazi German regime and can be a threat to Indonesian party law.

---

<sup>36</sup> Arsy Shakila Dewi, "The Effect of the Use of Brisik.Id Website on the Increase of Contributors' Journalistic Activities", *Journal of Communication* Vol. 17, No. 2, 2021

<sup>37</sup> Research conducted by Ardia Fatkhul Amin, Thesis, "Juridical Implications of the Constitutional Court Decision Number 10/PUU-XXI/2023 Related to the Testing of Law No. 01 of 2023 Perspective on the Theory of Legal Purpose and Maslahah Mursalah", (Malang: Maulana Malik Ibrahim State Islamic University, 2024)

<sup>38</sup> Munir Fuady. *Grand Theories in Law*. (Jakarta: Kencana. 2003)

The theory of negara hukum (Rechtsstaat) subsequently became a middle theory. This theory serves to support the main theory or grand theory. It is used to examine how law in a political system can be distorted when used as an instrument to strengthen power. This phenomenon can be seen in the practice of autocratic legalism in Nazi Germany, where various legal instruments were used to legitimize the consolidation of power and eliminate political opposition. This condition indicates a deviation from the principle of the rule of law, which should place law as a mechanism for limiting power. Based on the theory of negara hukum (Rechtsstaat), it can be examined how abuse of law marks the decline of the democratic legal system and how Indonesia needs to strengthen the rule of law to avoid similar practices.

The last theory is the *applied theory*. The researcher makes the concept of *sadd dzari'ah* as an *applied theory*. *Sadd dzari'ah* is used to examine how the closure of all potential paths (*dzari'ah*) to destruction, abuse of power, and the birth of authoritarian leadership through the design of legal and party systems. This concept emphasizes the importance of early prevention of party policies, structures, or legal mechanisms that have the potential to open up space for tyranny. *Sadd dzari'ah* shows that law in an Islamic perspective not only responds to damage after it occurs, but ethically and normatively closes every opportunity that can lead to injustice and public harm. Based on this description, there are several theories that are considered relevant to be used in analyzing the problems discussed by the author:

## 1. Constitutional Democracy Theory

Constitutional democracy is a system of government that places the constitution as the basis for the exercise of state power and as a mechanism for limiting political power. This theory posits that popular sovereignty is exercised through democratic procedures regulated and limited by the constitution. Democracy is not only defined as government originating from the people, but also as a system that guarantees the protection of citizens' rights and limits government power through constitutional rules<sup>39</sup>.

The concept of constitutional democracy emerged from the development of modern political thought, which seeks to combine the principles of democracy with those of constitutionalism. Democracy emphasizes popular participation in the political process, while constitutionalism emphasizes limiting state power through fundamental law. Constitutional democracy is a system that ensures that political power is exercised based on the constitution and does not violate the principles of human rights and the rule of law<sup>40</sup>.

The Constitution plays a crucial role as the supreme legal document governing the structure of state power, the relationship between state institutions, and the relationship between the state and its citizens. It also serves as an instrument to prevent abuse of power through mechanisms

---

<sup>39</sup> Jimly Asshiddiqie dalam bukunya menyatakan demokrasi konstitusional merupakan sistem demokrasi yang dilaksanakan berdasarkan konstitusi yang berfungsi membatasi kekuasaan pemerintah dan menjamin hak-hak dasar warga negara. Jimly Asshiddiqie, *Konstitusi dan Konstitusionalisme Indonesia*, (Jakarta: Sinar Grafika), 2014

<sup>40</sup> Muchamad Ali Safa'at, dkk, "Konstruksi Indeks Demokrasi Internal Partai Politik dalam Negara Demokrasi Konstitusional: Perspektif Indonesia", *Jurnal Hukum Ius Quia Iustum* Vol.31 No.1, 2024

of separation of powers, checks and balances, and guarantees of protection for citizens' fundamental rights. The Constitution serves not only as a formal legal rule but also as a mechanism to maintain the stability and legitimacy of the democratic system<sup>41</sup>.

Constitutional democracy has become one of the most widely adopted models of government in countries around the world. This system developed in response to the practice of absolute power that existed during the monarchies in Europe. The theory of constitutional democracy states that state power no longer rests with a single ruler, but is instead limited by the constitution and controlled through democratic institutional mechanisms<sup>42</sup>.

The principles of constitutional democracy can be seen in the state structure stipulated in the 1945 Constitution of the Republic of Indonesia. The constitution regulates the division of power between state institutions, general election mechanisms, and guarantees of human rights. Indonesia's political system is fundamentally designed to ensure that democracy operates within a constitutional framework and is subject to the principle of the rule of law.

Constitutional democracy places the constitution as the primary foundation for implementing a democratic system. This system aims to

---

<sup>41</sup> Sri Hastuti Puspitasari, "Menegakkan Demokrasi dan Konstitusionalitas Pemilihan Umum Kepala Daerah," *Jurnal Konstitusi*, Vol. 8 No. 3 (2016)

<sup>42</sup> Bisariyadi, Anna Triningsih, Meyrinda Rahmawaty H., dan Alia Harumdani W., "Komparasi Mekanisme Penyelesaian Sengketa Pemilu di Beberapa Negara Penganut Paham Demokrasi Konstitusional," *Jurnal Konstitusi* 9, no. 3 (2012)

maintain a balance between political power and the protection of citizens' rights, thereby preventing the emergence of authoritarian practices. Constitutional democracy theory is used to analyze how a democratic political system should operate based on the constitution and how deviations from this principle can open the door to the emergence of authoritarian practices within the political system<sup>43</sup>.

Almon Leroy Way Jr. stated that constitutional democracy has two main elements, namely constitutional and democratic elements. Furthermore, he explained that the constitutional aspect in democracy refers to the concept of *constitutionalism* or *constitutional government* in the modern system. Miriam Budiardjo, also revealed that constitutional democracy is the idea that a democratic government must limit its power so as not to act arbitrarily against its citizens<sup>44</sup>.

The Constitutional Democracy Theory emphasizes that the exercise of state power must always be limited and regulated by the constitution, so that the sovereignty of the people is not abused by the rulers. Democracy in this view is not only limited to procedural such as the implementation of general elections or the existence of political parties but also substantial, namely ensuring that power is exercised according to the principle of the rule *of law*, protection of human rights, and the limitation of power through the *mechanism of checks and balances*. Based on

---

<sup>43</sup> Mardhatillah, dkk., "Kedudukan Hukum Tata Negara dalam Menjamin Keberlangsungan Demokrasi Konstitusional," *Causa: Jurnal Hukum dan Kewarganegaraan*, Vol. 6 No. 1 (2024)

<sup>44</sup> Rahadi Budi Prayitno and Arlis Prayugo. *Theory of Democracy Understanding Theory and Practice*. (Sleman: Deepublish, 2023)

constitutional democracy, the law functions as an instrument of controlling power, not a tool to legitimize the arbitrary actions of the government or political parties. This theory emphasizes the close relationship between democracy and constitutionalism, where the constitution is a bulwark to maintain a balance between state power and the rights of citizens<sup>45</sup>.

The main principles in this theory include the supremacy of the constitution, the separation of powers and the *mechanism of checks and balances*, the protection of citizens' rights, and free and equal political participation. The Constitution serves as the highest norm that limits all actions of state institutions and political parties so that they do not deviate from the basic values of justice and freedom. This theory was instrumental in preventing the emergence of authoritarian leadership that used the legal apparatus for one-sided political interests, as happened in the practice of *autocratic legalism* in Nazi Germany's legal system.

Based on Idulal-Rishan's research, it is stated that one of the forms of constitutional democracy decline can occur when legal and constitutional mechanisms are actually used as a tool to strengthen the power of the ruler through formal changes that weaken the principle of *checks and balances*. This condition shows that the weakening of the constitution is not always carried out in an unconstitutional way, but can occur legally through the

---

<sup>45</sup> Ahmad Sadzali, "The Role of the Constitutional Court in Realizing Substantive Democracy in the 2024 Election through Progressive Law Enforcement", *As-Siyasi: Journal of Constitutional Law*, Vol. 2 Number 2, 2022

abuse of political authority<sup>46</sup>. Mahardika emphasized that public involvement and participatory mechanisms, such as referendums, are a form of constitutional democracy that can limit the tendency of *autocratic legalism* in the legislative process<sup>47</sup>.

In Indonesia, constitutional democracy theory is relevant to assess the extent to which the party legal system supports the implementation of a healthy democracy. Political parties should play a role as a means of people's participation and control of power, not as a tool of domination by the political elite. Abuse of the law in political contestation can be an indication of the weakening of *the rule of law* in democracy. Therefore, the principle of constitutional democracy is important to be applied so that Indonesian party law continues to function to maintain justice, protect the rights of citizens, and prevent the birth of authoritarian leadership as has happened in the totalitarian regime of Germany<sup>48</sup>.

## 2. Negara Hukum Theory (Rechtsstaat)

A state based on the rule of law is a state founded on law, guaranteeing justice for its citizens. Aristotle stated that a good state is one governed by a constitution and has the sovereignty of law. A state based on the rule of law based on a democratic system can be called a democratic

---

<sup>46</sup> Idul Rishan, "Autocratic Constitutional Change: A Comparative View in Hungary and The Risks of Formally Change the Indonesian Constitution", *Journal of the Constitution* Volume 22 Issue 1, March 2025

<sup>47</sup> Ahmad Gelora Mahardika, "The Implementation of Referendum as a Limitation to Autocratic Legalism in the Formation of the Nusantara Capital City Law. *Al-Ahkam Journal of Islamic Law*" *Al-Ahkam: Journal of Sharia and Law*, Vol. 9, Number 2, 2024

<sup>48</sup> Alfeus Jebabun, "Autocratic legalism In The 2024 Elections: Distortions Of The Rule Of Law In Indonesia's Democracy", *Sociae Polites Socio-Political Scientific Magazine*, Vol.26 No. 1, 2025

state of law (demokratische rechtsstaat), a further development of constitutional democracy. The principles of a state based on the rule of law are<sup>49</sup>:

- 1) The principle of legality;
- 2) Protection of human rights (HAM);
- 3) The government's adherence to the law;
- 4) The government's monopoly on coercion to ensure law enforcement;
- 5) Oversight by independent judges regarding the implementation and enforcement of legal regulations by government organs.

The concept of a state based on the rule of law (rechtsstaat) is a fundamental principle in the administration of state power, placing law as the primary foundation for governance. A state based on the rule of law does not exercise power arbitrarily, but rather must be subject to and limited by the law. This principle aims to guarantee the protection of citizens' rights and prevent abuse of power by those in power<sup>50</sup>.

The concept of a rechtsstaat developed within the Continental European legal tradition (civil law) as a reaction to the practice of a power-based state (machtsstaat), a system of government that places the ruler's power above the law. Law is positioned as an instrument that regulates and limits government authority, preventing absolute power. The existence of

---

<sup>49</sup> Muntoha, *Negara Hukum Indonesia Pasca Perubahan UUD 1945*, (Yogyakarta: Kaukaba Dipantara), 2013

<sup>50</sup> Jimly Asshiddiqie, *Konstitusi dan Konstitusionalisme Indonesia*, (Jakarta: Sinar Grafika), 2014.

law serves as a control mechanism for the state's actions in exercising its power<sup>51</sup>.

Friedrich Julius Stahl stated that a state based on the rule of law has several key elements: protection of human rights, a division of power in state administration, governance based on statutory regulations, and the existence of administrative courts that oversee government actions. These elements demonstrate that in a state based on the rule of law, state power must be exercised in a limited manner and within a clear legal framework<sup>52</sup>.

In the context of Indonesian constitutionalism, the principle of the rule of law is expressly stated in Article 1 paragraph (3) of the 1945 Constitution, which states that Indonesia is a state based on the rule of law. The concept of the rule of law in Indonesia is essentially influenced by the concept of *rechtsstaat* from the civil law tradition, which was then adapted to the values of Pancasila and the Indonesian constitutional system. This demonstrates that law functions as the primary instrument in limiting state power while guaranteeing the protection of citizens' rights<sup>53</sup>.

The concept of the rule of law emphasizes that political power must be controlled through legal mechanisms to prevent it from developing into authoritarianism. The theory of the rule of law is a crucial principle in

---

<sup>51</sup> M. Tahir Azhary, *Negara Hukum: Suatu Studi tentang Prinsip-Prinsipnya Dilihat dari Segi Hukum Islam*, (Jakarta: Kencana), 2004

<sup>52</sup> Philipus M. Hadjon, *Perlindungan Hukum Bagi Rakyat di Indonesia*, (Surabaya: Bina Ilmu), 1987

<sup>53</sup> Rokilah, "Dinamika Negara Hukum Indonesia: Antara *Rechtsstaat* dan Rule of Law," *Nurani Hukum*, Vol. 3 No. 1, 2020

maintaining constitutional democracy and preventing the concentration of power that could potentially give rise to authoritarian practices<sup>54</sup>.

The concept of a state based on the rule of law (*rechtsstaat*) is a fundamental principle in the modern constitutional system, which places law as the basis for the implementation of state power. All government actions must be based on applicable law so that power is not exercised arbitrarily. This principle emphasizes that law's primary function is as an instrument for limiting power while simultaneously protecting citizens' rights. A state based on the rule of law places the supremacy of law as the primary foundation for running its government system<sup>55</sup>.

The concept of a state based on the rule of law emerged as an attempt to emphasize that state power must be limited by law and not be exercised solely based on the will of the ruler. This concept later became known as *rechtsstaat*, which literally means a state governed by law. The concept of a state based on the rule of law is also closely related to the principle of limitation of power within the government system. Limiting power is crucial to prevent the concentration of power in a single political actor, which could potentially lead to authoritarian governance practices<sup>56</sup>.

---

<sup>54</sup> Zahermann Armandz Muabezi, "Negara Berdasarkan Hukum (*Rechtsstaat*) Bukan *Machtsstaat*," *Jurnal Hukum dan Peradilan*, Vol. 6 No. 3, 2017

<sup>55</sup> Jimly Asshiddiqie, "Gagasan Negara Hukum Indonesia," *Jurnal Konstitusi* 1, no. 1 (2004)

<sup>56</sup> Jimly Asshiddiqie, *Pengantar Ilmu Hukum Tata Negara*, (Jakarta: Rajawali Pers), 2016

### 3. Sadd Dzari'ah *Theory*

Sadd al-Dzari'ah is a concept in ushul fiqh (Islamic jurisprudence) related to efforts to prevent actions that have the potential to cause damage or harm. Etymologically, the word "sadd" means to close or obstruct, while "dzari'ah" means a path or means that can lead to a goal. Sadd al-Dzari'ah can be understood as the principle of closing or preventing all means that can lead to prohibited actions or cause harm. This principle emphasizes that an action that is essentially permissible can become forbidden if it has the potential to become a means to greater harm<sup>57</sup>.

The concept of sadd al-dzari'ah is used as a method to maintain benefits and prevent the emergence of mafsadat in people's lives. This principle is based on the consideration that Islamic law not only regulates prohibitions against actions that are directly detrimental, but also against all forms of means that have the potential to lead to such losses<sup>58</sup>.

According to Wahbah Az-Zuhaili, sadd al-dzari'ah is a legal principle that closes all forms of means that can lead to something that is prohibited by the Shari'a. An act that is basically permissible can be prohibited if it actually becomes a means to an act that is haram or causes harm to society. Sadd al-dzari'ah has an important function in maintaining social stability and preventing deviations from the objectives of Islamic law.

---

<sup>57</sup> Wahbah az-Zuhaili, *Ushul al-Fiqh al-Islami* (Damaskus: Dar al-Fikr, 1986)

<sup>58</sup> Abu Ishaq al-Syatibi, *Al-Muwafaqat fi Ushul al-Shari'ah* (Beirut: Dar al-Kutub al-Ilmiyyah, 1997)

Abdul Wahhab Khallaf explained that *sadd al-dzari'ah* is a method of *ijtihad* used to prevent harm by blocking the path to prohibited actions. This principle demonstrates the preventive nature of Islamic law, meaning it not only regulates actions that have already occurred but also prevents the emergence of potential actions that could cause harm in the future. *Sadd al-dzari'ah* is an important instrument in maintaining the public interest and preventing the emergence of practices that conflict with sharia values<sup>59</sup>.

Imam Ash-Syatibi argued that *sadd adz-dzari'ah* is an approach to establishing law that is oriented towards the prevention of damage. The purpose is to ensure that an act does not become a means that plunges *mukallaf* into evil<sup>60</sup>. Ash-Shatibi classified *sadd adz-dzari'ah* into three types<sup>61</sup>:

- 1) Means that definitely lead to damage (*mafsadah*)

The first category is a means that will almost certainly lead to prohibited actions. In this condition, this act must be prevented because it actually becomes a path to *mafsadah*.

- 2) Means that are likely to lead to damage

The second category is means that generally have great potential to cause *mafsadah*, although this does not always happen for sure

---

<sup>59</sup> Abdul Wahhab Khallaf, *Ilmu Ushul Fiqh* (Kairo: Dar al-Qalam, 1978)

<sup>60</sup> Rizka, et al, "Sadd Adz-Dzari'ah and its Application to the Fatwa in the Health Sector of the Indonesian Ulema Council", *Indonesian Scientific Journal*, Vol. 6 No. 2, December 2021

<sup>61</sup> Laila Ifti Faiyah, et al., "Sadd Dzari'ah in Fatwa Dsn-Mui No: 157/Dsnmui/VII/2024", *Journal of Academic Media (JMA)*, Vol.2, No.12 December 2024

3) Means that rarely cause damage

The third category is means that are generally permitted because the possibility of causing mafsadah is very small.

Based on Asy-Syatibi's classification, this research is placed in the category of dzari'ah (laws that lead to corruption). Autocratic legalism in the legal system of Nazi Germany's political parties demonstrates legal patterns that are outwardly legal, but in practice pave the way for the concentration of power and the emergence of authoritarian leadership. This analysis is directed at preventing the paths that commonly lead political parties toward authoritarianism, before the corruption inevitably occurs. This classification demonstrates that sadd al-dzari'ah not only aims to prohibit an act but also functions as an instrument to maintain a balance between public welfare and the prevention of corruption in Islamic law.

## CHAPTER III

### RESULTS OF RESEARCH AND DISCUSSION

#### A. Model of *Autocratic Legalism* Parameters in the Nazi German Party Legal System

The model of *autocratic legalism* parameters in the Nazi German party legal system refers to the systematic pattern of the use of the law as an instrument of legitimacy and consolidation of authoritarian power by the Nazi Party (NSDAP). The NSDAP itself was the German National Socialist Workers' Party under the leadership of Adolf Hitler between 1933 and 1945. This party is known for its totalitarian ideology, extreme racism, and antisemitism as the basis of its political orientation which is institutionalized through the legalization of the law, thus forming the practice of *autocratic legalism*<sup>62</sup>. Here is a picture of the Nazi Party emblem and leader.

**Figure 3.1**  
**Coat of arms and leader of the German National Socialist Labour Party (NSDAP)**



Source: Dutchmilitaria.com and manado media

<sup>62</sup> Britannica Editors, "Nazi Party", *Britannica*, retrieved 29 January 2026, <https://www.britannica.com/topic/Nazi-Party?utm>

*Autocratic legalism*<sup>63</sup> in the Nazi German party legal system did not abolish the law openly but retained legal forms and procedures to give the impression of legality to repressive policies and party domination over the state<sup>64</sup>. Law does not function as a *rule of law*<sup>65</sup>, but as a means of strengthening political power (*rule by law*<sup>66</sup>), thus creating a legal structure that is formally legal but substantively negates the principles of justice and democracy<sup>67</sup>.

Javier Corrales in *The Authoritarian Resurgence: Autocratic Legalism in Venezuela* presents the characteristics of *autocratic legalism*, which is when the ruling regime uses the rule of law to strengthen its power. The interests of the ruling elite are inserted into articles that on the surface appear to be pro-people, but in

---

<sup>63</sup> Kim Lane Scheppelle in his study mentions that *autocratic legalism* is a concept used to describe the practice in which formal legal laws and procedures are used by powerful leaders or regimes to undermine the principles of democracy and constitutional control, while maintaining a view of formal legality, See in Kim Lane Scheppelle, "Autocratic Legalism", *The University of Chicago Law Review*, accessed on January 8, 2025, [https://lawreview.uchicago.edu/print-archive/autocratic-legalism?utm\\_source=.com](https://lawreview.uchicago.edu/print-archive/autocratic-legalism?utm_source=.com). In line with Kim Lane Scheppelle, Javier Corrales stated that *autocratic legalism* is the use of law to strengthen power through mechanisms that appear to be legal. Javier Corrales, "The Authoritarian Resurgence: Autocratic Legalism in Venezuela", *Journal of Democracy* Vol.26 No.2, April 2015, <https://www.journalofdemocracy.org/wp-content/uploads/2015/04/Corrales-26-2.pdf>

<sup>64</sup> Anne Frank House, "The Enabling Act: even more power for Hitler", March 23, 1933, accessed December 18, 2025, <https://www.annefrank.org/en/timeline/48/the-enabling-act-even-more-power-for-hitler/>

<sup>65</sup> According to Prof. Dr. H. Jimly Asshiddiqie, S.H., M.H., the Rule of Law is a principle that affirms that the law is the highest guideline that must be obeyed by everyone, including office holders. See on the Al-Azhar University Indonesia Website, "Prof. Jimly Asshiddiqie Explains the Principle of 'The Rule of Law, not A Man,' in the Inaugural Lecture of the S3 Doctoral Study Program in Law UAI", October 7, 2024, <https://uai.ac.id/prof-jimly-asshiddiqie-jelaskan-prinsip-the-rule-of-law-not-a-man-dalam-kuliah-perdana-prodi-s3-doktor-hukum-uai/#:~:text=Dalam%20paparannya%2C%20Prof.%20Dr.,%20people%2C%20including%20para%20stakeholders%20positions>.

<sup>66</sup> According to Mahfud MD, Professor of the Faculty of Law, Islamic University of Indonesia, Rule by Law is a concept of law used by rulers as a tool to control society and maintain their power. Adinda Putri Kintamani Nugraha and Icha Rastika, "Mahfud MD Calls 'Rule By Law' a Disease of the Indonesian Legal System", *Kompas*, June 14, 2024, <https://nasional.kompas.com/read/2024/06/14/18240881/mahfud-md-sebut-rule-by-law-jadi-penyakit-sistem-hukum-indonesia>

<sup>67</sup> The Wiener Holocaust Library, "How did the Nazis consolidate their power?", accessed December 18, 2025, <https://www.theholocaustexplained.org/the-nazi-rise-to-power/how-did-the-nazi-gain-power/gleichschaltung/>

practice open up space for legal deviations, abuse of authority, and arbitrary actions<sup>68</sup>.

This conceptual framework is important as an analytical tool to understand how law does not always function as a mechanism of limiting power, but can be engineered and used as an instrument of authoritarianism. Through *the approach of autocratic legalism*, law is understood as a means of formalizing the political will of the ruler wrapped in procedures and norms that appear to be legally legitimate.

The discussion of *autocratic legalism* in the Nazi party legal system cannot be separated from how the structure and political culture within the Nazi Party (NSDAP) was formed. Before becoming the political force that controlled the country, the NSDAP first organized its organization in a strict and hierarchical manner by placing Adolf Hitler as the sole center of authority. *The Fuhrerprinzip*<sup>69</sup> arranged the NSDAP like a pyramid. All were subject to Hitler, subordinates were chosen out of ideological loyalty and given room to act as long as they supported his cause<sup>70</sup>.

*The Fuhrerprinzip* became the main pillar of the Nazi party system by concentrating all authority and legal legitimacy on the figure of the party leader, so

---

<sup>68</sup> Muhammad Rakha Ramadhan, "Autocratic Legalism Regime and Repressive Law in Indonesia", *Indoprogress*, July 17, 2023, <https://indoprogress.com/2023/07/rezim-legalisme-otokrasi-dan-hukum-represi/>

<sup>69</sup> *The Fuhrerprinzip* was a central component of the National Socialist ideology, structure, and function after Hitler's release from prison. John Pike, "Fuhrerprinzip (Leadership Principle)", *Global Security*, December 28, 2017, <https://www.globalsecurity.org/military/world/europe/de-fuhrerprinzip.htm>

<sup>70</sup> Sarah Zama, "Führerprinzip: A Dogma Now Associated With Adolf Hitler Had Its Origins In Pre-Weimar Prussian Culture", *Never Was*, February 21, 2021, <https://neverwasmag.com/2021/02/fuhrerprinzip/>

that internal democratic mechanisms and structural accountability lost their role<sup>71</sup>. *The Fuhrerprinzip* has a cadre process that is hierarchically designed and loaded with ideological content in order to instill absolute loyalty to the leader (*fuhrer*), not to form an independent and critical cadre, so that the party organization functions as a means of perpetuating authoritarian power that appears to be formally<sup>72</sup> legitimate. This situation is further strengthened by the weak oversight mechanisms, both from within and outside the party, as a result of the centralization of authority and the subordination of legal institutions to party political interests, which opens up structural space for the abuse of power through legal mechanisms. This pattern shows that the existence of party laws and procedures without substantive restrictions is actually a means that leads to the practice of authoritarianism<sup>73</sup>.

*The Organisationsbuch der NSDAP*<sup>74</sup> clearly shows the party's bureaucratic structure and functions according to these principles. The party structure was designed as a pyramid organization with Hitler at the top and each unit and regional or local leader had responsibility as well as authority over his territory but remained tied to the command of a higher leader. *The*

---

<sup>71</sup> Gabor Hamza, "The idea (concept) of 'third Reich' in the German legal, philosophical and political thinking in the 20th Century", *Revista Brasileira de Estudos Político*, July-December 2014

<sup>72</sup> Robert Wilde, "The Hitler Youth and the Indoctrination of German Children", *Thought Co*, 4 May 2025, <https://www.thoughtco.com/hitler-youth-and-indoctrination-1221066>

<sup>73</sup> Wayne Geerling, Gary B. Magee, and Russell Smyth "Sentencing, Judicial Discretion, and Political Prisoners in Pre-War Nazi Germany", *The Journal of Interdisciplinary History*, Vol. 46 No. 4, February 2016

<sup>74</sup> *The Organisationsbuch der NSDAP* was a Nazi Party (NSDAP) guideline in which the political mission and structure of Germany were described, along with the duties of Party members and leadership, with useful colour images of Uniforms, Awards, Medals, Flags and other regalia. See in Uniforms Of The NSDAP "Organisationsbuch der NSDAP", accessed on 8 January 2025, [https://www.nsdapuniforms.com/organisationsbuch-der-nsdap?utm\\_source=](https://www.nsdapuniforms.com/organisationsbuch-der-nsdap?utm_source=)

*Organisationsbuch der NSDAP* is not only an administrative record of the structure, symbols, and duties of the office but also a document that embodies *the fuhrerprinzip* in the form of a formal party organization.

*Organisationsbuch der NSDAP* can be understood as a concrete example of how the law is used to legitimize and stabilize authoritarian power within the body of a political party. This kind of codification reflects the pattern of *autocratic legalism*, which uses formal laws and procedures to strengthen the dominance of power rather than to limit or control it. The Nazi Party's organizational design standardized in *the Organisationsbuch der NSDAP* systematically negates a democratic internal conflict management mechanism. There is no standard procedure for raising objections to the policies of the leadership, there is no independent internal arbitration body, and the concept of horizontal accountability between party organs is not known. The absence of such corrective mechanisms creates a structural condition in which the elimination of internal opposition is the only effective way to maintain the unity and stability of power<sup>75</sup>.

After being appointed Chancellor of Germany on 30 January 1933<sup>76</sup> through the mechanism of *Die Verfassung des Deutschen Reichs* (constitutional Weimar Republic),<sup>77</sup> Hitler transferred the authoritarian culture that had been

---

<sup>75</sup> Armin Nolzen, "Charismatic Legitimation and Bureaucratic Rule: The NSDAP in the Third Reich, 1933–1945", *German History* Vol. 23 No. 4, 498

<sup>76</sup> Adolf Hitler was appointed Chancellor directly by President Hindenburg when his party, the NSDAP failed to hold a majority in parliament. Despite winning 37% of the vote, the German Nazi movement and the idea of the National Revolution they campaigned failed to achieve majority support. Julia Hitz, "Nazi Germany: Can Adolf Hitler's Power Be Repeated?", January 30, 2023, accessed January 9, 2025, [https://www.dw.com/id/apakah-kekuasaan-adolf-hitler-bisa-berulang/a-64552477#:~:text=Why%2C%20even%20Higher%20NSDAP%20\(%20Party%20Workers,Adolf%20Hitler%20\)%20appointed%20be%20Chancellor%20Germany.](https://www.dw.com/id/apakah-kekuasaan-adolf-hitler-bisa-berulang/a-64552477#:~:text=Why%2C%20even%20Higher%20NSDAP%20(%20Party%20Workers,Adolf%20Hitler%20)%20appointed%20be%20Chancellor%20Germany.)

<sup>77</sup> *Die Verfassung des Deutschen Reichs* (The Weimar Constitution) was a basic German legal document from 1919-1933 that established Germany as the first democratic parliamentary republic

deeply rooted within the Nazi Party into the administration of state power. This pattern shows that authoritarian party organizations tend to give birth to authoritarian government practices when the party is in power<sup>78</sup>. *The Führerprinzip* which had previously been normatively institutionalized in *the Organisationsbuch der NSDAP* became the framework of the Nazi party, in which the will of the leader was positioned as the supreme source of legitimacy, the construction of absolute leadership then finding its momentum at the state level through the birth of the *Gesetz zur Behebung der Not von Volk und Reich (Enabling Act)*<sup>79</sup> in March 1933.

This law became an institutional bridge that transformed the *Führerprinzip* from an internal party norm to an operational principle in the constitutional system, effectively giving the government the authority to Hitler to make laws without parliamentary approval.

The will of the leader that was previously legitimized within the framework of *the Organisationsbuch der NSDAP* has now acquired formal constitutional legitimacy, marking a legal shift from a power-limiting instrument to a tool of consolidation of executive authority. *The Enabling Act* not only strengthened Nazi political dominance, but also institutionalized the party's

---

with universal suffrage and broad civil rights. Bundeszentrale für Politische Bildung, "Die Weimarer Verfassung", accessed January 9, 2025, <https://www.bpb.de/themen/nachkriegszeit/grundgesetz-und-parlamentarischer-rat/39193/die-weimarer-verfassung/>. Hitler was elected chancellor according to Article 53 of the Weimar Constitution, under which the president could recommend a chancellor. Article. 53 "Die Verfassung des Deutschen Reichs (Weimar Constitution)", 11 August 1919

<sup>78</sup> Angelo Panebianco. *Political Parties: Organization and Power*. (Cambridge University Press: 1988)

<sup>79</sup> The *Gesetz zur Behebung der Not von Volk und Reich (Enabling Act)* was an Enabling Act that happened to be unanimously approved by the Reichsrat and with the approval of this law, the Reich government under Hitler was able to pass legislation without the consent of the Reichstag and without debate in the Reichsrat. Bundesrat, "Vor 75 Jahren wurde der Reichsrat aufgelöst" retrieved January 10, 2025, <https://www.bundesrat.de/SharedDocs/texte/09/20090303-reichsrat.html>

authoritarian culture into the structure of the state, paving the way for the systematic removal of opposition and an increasingly absolute concentration of power<sup>80</sup>. The institutionalization of authoritarian culture was soon followed by the practice of repression of any power center that had the potential to rival the authority of *the Führer*, including power derived from the Nazi Party's own body.

*The Sturmabteilung* (SA),<sup>81</sup> which originally functioned as a tool of political violence for the party, was instead seen as a threat as it developed into a mass paramilitary organization with political loyalty and agenda that Hitler did not fully control. The existence of the SA, especially under the leadership of Ernst Rohm, was perceived to interfere with the consolidation of state power and Hitler's relationship with the official military.

The *Night of the Long Knives* incident in 1934, Hitler eliminated the SA leadership who was considered dangerous. Once internal opposition was controlled<sup>82</sup>, the regime turned to eliminating external opposition through state legal instruments. This was realized by the passage of the *Law Against the Formation of New Parties* (1933) which expressly established the Nazi Party (NSDAP) as the only legitimate political party in Germany. The law abolished political pluralism and the party system was changed to a single-party system<sup>83</sup>. This series shows a

---

<sup>80</sup> David Dyzenhaus, "Dictatorship and the German Constitution: 1933–1937," *University of Chicago Law Review* 61, no. 2 (1994): 475–498, p. 541

<sup>81</sup> *The Sturmabteilung* (SA) was the paramilitary wing of Nazi Germany's party formed in 1921 and led by Ernst Rohm (1887-1934) with the aim of intimidating rival parties and attacking those identified as enemies of Nazism. Mark Cartwright, "Sturmabteilung", *World History Encyclopedia*, 09 October 2024, <https://www.worldhistory.org/Sturmabteilung/>

<sup>82</sup> Eleanor Hancock, "The Purge of the SA Reconsidered: "An Old Putschist Trick"?", *Central European History* 44, 669–683, 2011

<sup>83</sup> Justice Richard D. Fybel, "Judges, Lawyers, Legal Theorists, and the Law in Nazi Germany (1933–1938); Kristallnacht; and My Parents' Escapes from the Nazis", *UCLA Law Review*, 10 September 2022

typical pattern of *autocratic legalism*, where democratic restrictions are not carried out outside the law but are institutionalized through formal legal norms to ensure an absolute and centralized consolidation of power.

The passage of *the Law Against the Formation of New Parties*, which established the NSDAP as the only legitimate political party, created a structural prerequisite for the consolidation of power as a whole. With the abolition of political competition and legal opposition, the process of recruitment and filling strategic positions in the state was no longer based on political pluralism but on ideological loyalty to the Nazi Party and *the Fuhrer*. The placement of Nazi cadres and loyalists in key positions in the government, bureaucracy, military, and judiciary became an advanced mechanism that ensured harmony between the party and state structures<sup>84</sup>.

The establishment of the NSDAP as the sole political party, preceded by the consolidation of power and the elimination of opposition within the party body, demonstrates the continuity between the internal authoritarian culture and the practice of power at the state level<sup>85</sup>. The Nazi party structure that emphasized absolute loyalty and eliminated internal correction mechanisms was then expanded into the national political space when the party came to power. In the absence of party pluralism, the function of political supervision is no longer carried out through competition and differences of opinion, but is replaced by hierarchical obedience to

---

<sup>84</sup> John Bellamy Foster, "Gleichschaltung in Nazi Germany", *Monthly Review* 67, No. 3, June 2025, accessed January 10, 2026

<sup>85</sup> On July 14, 1933, the "Law against the Establishment of Parties", marked the factual end of the party system and parliamentary democracy. This law secured the National Socialist monopoly of power on a legislative basis. German History Document and Images, "Law to Safeguard the Unity of Party and State", accessed January 10, 2025, [https://ghdi.ghi-dc.org/sub\\_document.cfm?document\\_id=1502&utm\\_source=](https://ghdi.ghi-dc.org/sub_document.cfm?document_id=1502&utm_source=)

the will of the leadership, This condition confirms that authoritarianism that is institutionalized from the party legal system, when it gains state control, will inherently give birth to an authoritarian, centralized form of power, and negate the role of democracy<sup>86</sup>.

The model of *the parameters of autocratic legalism* in the Nazi German Nazi party legal system asserts that the principles of internal party authoritarianism such as absolute loyalty, centralization of authority, and weak internal correction mechanisms form a conceptual framework that allows the use of law as a tool of power legitimization. This framework is not only normative in the party structure, but also the foundation for the expansion of authoritarian power when the NSDAP takes control of the country. The model of *the parameters of autocratic legalism* in the Nazi party legal system that has been mentioned earlier needs to be understood further as a portrait of parameters, so that its conceptual principles are visible in the practice, documents, and policies of the party.

The final analysis of the discussion of the Model Parameters of Autocratic Legalism in the Nazi German Party Legal System emphasizes that the understanding of the principles of authoritarianism institutionalized within the party, such as absolute loyalty and centralization of power, is not merely an assessment of the party structure normatively, but is used as a conceptual framework to see how these principles allow for centralized control of law and political practice.

---

<sup>86</sup> E. N. Peterson, "The Bureaucracy and the Nazi Party," *The Review of Politics* 10, no. 1 (January 1948): 63–85, <https://sci-hub.se/10.1017/S0034670500006227>

## 1. Portrait of the Parameters of Autocratic Legalism in the Nazi German Party Legal System

A study of the model of *autocratic legalism* parameters in the Nazi German party legal system shows the existence of a number of key characteristics that can be formulated as parameters. These parameters include structural and functional aspects that are interrelated in forming and operationalizing *autocratic legalism* in the Nazi German party legal system, including:

### 1) Concentration of Power in a Single Figure

The Nazi party's legal system, rooted in *the fuhrerprinzip*, reflected the party's internal culture that prioritized the sole authority of the leader (*the Führer*) as the core of the power structure. *The Fuhrerprinzip* not only served as an ideological doctrine, but also as the basic principles that formed the organizational structure of the Nazi Party (NSDAP). This principle governed hierarchical relations within a centralized party, where all organizational authority culminated in the *fuhrer* as supreme leader. The following is the internal structure of the Nazi Party (NSDAP).<sup>87</sup>

---

<sup>87</sup> Bruce F. Pauley, "Fascism and the *Führerprinzip*: The Austrian Example," *Central European History* 12, no. 3 (1979), p. 279



norms and public policies is exercised based on the will of the party leader who is at the same time in the position of the head of state and government<sup>89</sup>.

## 2) Legal Rules as a Tool of Legitimacy

Legal rule as a tool of legitimacy highlights that the law is still formally maintained, but its substance is directed to justify regime dominance. Legal products appear procedurally legitimate, but at the same time eliminate political competition and narrow the space for participation. The restriction of citizens' rights is then given legitimacy through the discourse of "order", "unity", or "state safety", so that authoritarian actions appear to be a reasonable legal necessity. This pattern is in line with the idea of *rule by law*. According to Brian Z, *rule by law* is a law used as an exercise of arbitrary power by the state or government and not as a limitation of power, but turned into an instrument of political justification for the ruler<sup>90</sup>.

The legal products as a tool of legitimacy were Gesetz zur Behebung Der Not Von Volk Und Reich (*Enabling Act 1933*), Gesetz gegen die Neubildung von Parteien (*Law Against the Establishment of New Parties 1933*), Verordnung des Reichspräsidenten zum Schutz von Volk und Staat (*Reichstag Fire Decree*), and Gesetz zur Wiederherstellung des Berufsbeamtentums (*Law for the Restoration of the Professional Civil*

---

<sup>89</sup> Hans Gerth, "The Nazi Party: Its Leadership and Composition", *American Journal of Sociology*, Vol. 45, No. 4, 517-541, January 1940

<sup>90</sup> Made Hendra Wijaya, "The Existence of the Concept of Rule By Law in the Theory of the State of Law The Rule Of Law", (Undergraduate thesis, Udayana University, 2013), <https://ojs.unud.ac.id/index.php/jmhu/article/view/7287/5528>

*Service*)) which was entirely legalized through the formal legal procedures in force at the time.

### 3) *Legal Suppression* of Criticism and Opposition

*Legal suppression*<sup>91</sup> of criticism and opposition shows how the law has been transformed into a tool of repression<sup>92</sup>. The suppression of criticism is no longer carried out solely through direct violence, but is processed through legal mechanisms so that it appears legitimate and orderly. *Legal suppression* of criticism and opposition occurs through restrictions on civil liberties and legitimized through emergency legal instruments, while political opposition is criminalized and public spaces are silenced in the name of stability and security. This pattern was evident in the use of emergency decrees during the Nazi era that allowed repressive measures to be carried out within the framework of formal legality<sup>93</sup>.

---

<sup>91</sup> Legal means having a formal status derived from the law. Merriam Webster, accessed January 10, 2026, <https://www.merriam-webster.com/dictionary/legal>. Suppress means preventing the disclosure or introduction of certain evidence in legal proceedings. USLegal, accessed January 10, 2026, [https://legalresources.uslegalforms.com/s/suppress?utm\\_source=](https://legalresources.uslegalforms.com/s/suppress?utm_source=). Legal suppression means the deliberate use of legal instruments, regulations, or legal procedures to restrict, silence, or weaken critics and opposition groups,

<sup>92</sup> Repression in the Great Dictionary of the Indonesian Language (KBBI) means oppression, the Great Dictionary of the Indonesian Language (KBBI), accessed on January 10, 2025, <https://kbbi.web.id/represi>

<sup>93</sup> Learning From History, "Chapter 3: The Reichstag Fire Decree", accessed December 27, 2025, <http://learning-from-history.de/Online-Lernen/content/11895>

#### 4) Placement of Loyalists as a Mechanism of Control Related to Patronage Practices

The placement of loyalists is one of the main mechanisms in the consolidation of power that is carried out through the practice<sup>94</sup> of legally legitimized patronage<sup>95</sup>. Within this framework, bureaucratic cleansing acquires a<sup>96</sup> legal basis so that it appears administratively legitimate, while promotion of positions is based more on loyalty than competence. The framework of *autocratic legalism* shows that the mechanism shows a form of legalized consolidation of power. Power is centralized through legal procedures, but at the same time erodes the independence of public institutions<sup>97</sup>.

#### 5) Structural weakness of *the check and balance* mechanism

This weakening confirms that *autocratic legalism* does not necessarily dissolve supervisory institutions. These institutions were formally maintained, but gradually lost control. Such a configuration, the supervisory agency is still on paper, but it is not effective because the legal procedures are engineered in such a way as to limit their authority in

---

<sup>94</sup> *Patronage* is an appointment or appointment to a government position in exchange for assistance to a politician to win or retain his office. EBSCO, accessed January 10, 2026, <https://www.ebsco.com/research-starters/political-science/patronage>

<sup>95</sup> Anti-Corruption Education Center, "The Politics of Patronage that Fuels Corruption", February 2024, [https://aclc.kpk.go.id/aksi-informasi/Eksplorasi/20240227-politik-patronase-yang-memicu-corruption?utm\\_source=.com](https://aclc.kpk.go.id/aksi-informasi/Eksplorasi/20240227-politik-patronase-yang-memicu-corruption?utm_source=.com)

<sup>96</sup> Bureaucracy is a government system run by government employees because it has adhered to the hierarchy and level of position, the Great Dictionary of the Indonesian Language (KBBI), accessed on January 20, 2026, <https://kbbi.web.id/birokrasi>

<sup>97</sup> Muhamad Adian Fimas, et al., "Bureaucratic and Political Relations: The Issue of Bureaucratic Neutrality in the Early Depok Regional Elections of Reform", *El-Riyasah Journal*, Volume 15 Number 1, 2024

carrying out supervision. As a result, the democratic mechanism that was supposed to work as a limit to power turned into a mere institutional symbol with no substantive function<sup>98</sup>.

The portrait of the parameters *of autocratic legalism* in the Nazi German party legal system as described above, provides a conceptual framework for understanding how the law functions as a tool for consolidating legalized power. *Autocratic legalism* in the legal system of the Nazi German party did not stop at the normative level, but was systematically manifested in patterns of organizational control, subjugation of opposition, and the integration of political loyalty into the legal structure.

The meaning of these parameters becomes more complete when studied further through the model of its application in concrete institutional and political practices. An application model-based study will outline the relationship between authoritarian norms, power, and practices, while affirming that the survival of the Nazi regime was not only supported by violence, but also by institutionalized legal engineering.

## **2. Model of the Application *of Autocratic Legalism* in the Nazi German Party Legal System**

The application *of autocratic legalism* to the Nazi regime's party legal system was seen through the manipulation of legal instruments that procedurally appeared to be legitimate, but were designed to strengthen

---

<sup>98</sup> Yad Vashem, "Significant events that occurred between the years 1914-1933", accessed December 27, 2025, <https://www.yadvashem.org/holocaust/resource-center/timeline/1914-1933.html>

executive dominance and negate the function of democratic control. The application has its roots since the appointment of Adolf Hitler as Chancellor of Germany through the constitutional mechanism of the Weimar Republic<sup>99</sup> which then became the entry point for the systematic use of executive authority to engineer laws and institutional structures for the consolidation of power.

Hitler used this position to realize his personal and ideological ambitions for power. The main foundation of the consolidation was the application of *the fuhrerprinzip*, the principle of absolute leadership that placed the will of the leader as the supreme source of legitimacy that had previously been firmly rooted in the internal structure of the Nazi Party. This principle was then transplanted from the realm of the party into the state structure through the uniformity of the hierarchy. The process was also marked by the use of the Reichstag fire on February 27, 1933, which was blamed on the communists despite being strongly suspected of being fabricated.

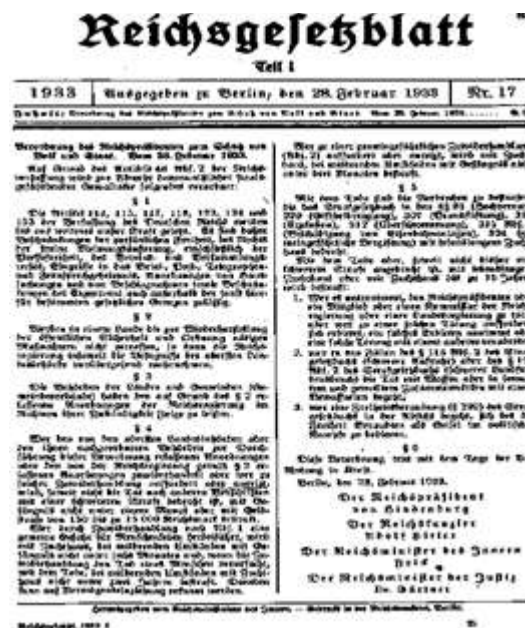
This event led the president of Hindenburg, under pressure from Hitler, to issue *the Reichstagsbrandverordnung (Reichstag Fire Decree)* which revoked not only civil rights and legitimized the mass arrests of opposition, but served as a parameter for the abuse of the state of emergency in *autocratic legalism*. This decree became an effective means for the Nazis to silence dissent. This decree was issued under article 48 of the Weimar Constitution (emergency

---

<sup>99</sup> Article 53 of the Weimar Constitution stated "*Der Reichskanzler und auf seinen Vorschlag die Reichsminister werden vom Reichspräsidenten ernannt und entlassen*" meaning Reich Chancellor and, on his recommendation, Reich Ministers were appointed and dismissed by the President of the Reich. This law was the starting point for Hitler's appointment as chancellor. Article 53 "*Die Verfassung des Deutschen Reichs (Weimar Constitution)*", 11 August 1919

authority), so it formally appears legal and constitutional. However, its substance paves the way for systematic repression<sup>100</sup>. Here is a picture of the Reichstagsbrandverordnung (*Reichstag Fire Decree*):

Figure 3.3  
Reichstagsbrandverordnung (*Reichstag Fire Decree*)



Source: dzok-uhl.de, *Arbeitsbogen-2.pdf*, 2021

In the Reichstagsbrandverordnung (*Reichstag Fire Decree*) Article 1 which states that "*Die Artikel 114, 115, 117, 118, 123, 124 und 153 der Verfassung des Deutschen Reichs werden bis auf weiteres außer Kraft gesetzt. Es sind daher Beschränkungen der persönlichen Freiheit, des Rechts der freien Meinungsäußerung, einschließlich der Pressefreiheit, des Vereins- und Versammlungsrechts, Eingriffe in das Brief-, Post-, Telegraphen- und Fernsprechgeheimnis, Anordnungen von Haussuchungen und von*

<sup>100</sup> Ernesto Auci, "Reichstag: the fire that paved the way for Nazism in 33", *First Online*, February 27, 2020, accessed December 25, 2025, <https://www.firstonline.info/id/accadde-oggi-reichstag-lincendio-che-nel-33-spiano-la-strada-al-nazismo/>

*Beschlagnahmen sowie Beschränkungen des Eigentums auch außerhalb der sonst hierfür bestimmten gesetzlichen Grenzen zulässig*"<sup>101</sup>.

Article 1 shows that the purpose deviation of *Die Verfassung des Deutschen Reichs* (Weimar constitution) Article 48 which states "*Zu diesem Zwecke darf er vorübergehend die in den Artikeln 114, 115, 117, 118, 123, 124 und 153 festgesetzten Grundrechte ganz oder zum Teil außer Kraft setzen*"<sup>102</sup> and directly affirmed that the President of the Reich could take the necessary measures to restore "temporary" security and public order, but in the *Reichstagsbrandverordnung (Reichstag Fire Decree)* it was never revoked so that the "temporary" became permanent.

In Article 2 of the *Reichstagsbrandverordnung (Reichstag Fire Decree)* states "*Werden in einem Lande die zur Wiederherstellung der öffentlichen Sicherheit und Ordnung nötigen Maßnahmen nicht getroffen, so kann die Reichsregierung insoweit die Befugnisse der obersten Landesbehörde vorübergehend wahrnehmen*"<sup>103</sup>". It gave the Reich government the authority to take over the power of the highest state authority and in this case extended the authority of the central executive to take over the state (*Länder*) and suspend political rights, thus gradually weakening party competition.

Article 2 of the *Reichstagsbrandverordnung (Reichstag Fire Decree)* is contrary to Article 6 of *Die Verfassung des Deutschen Reichs* (Weimar

---

<sup>101</sup> Article.1, *Reichstagsbrandverordnung (Reichstag Fire Decree)*, Reichsgesetzblatt, 28 February 1933

<sup>102</sup> Article.48, *Die Verfassung des Deutschen Reichs (Weimar Constitution)*, Reichsgesetzblatt, 11 August 1919

<sup>103</sup> Article. 2, *Reichstagsbrandverordnung (Reichstag Fire Decree)*, Reichsgesetzblatt, 28 February 1933

Constitution) which contains the limits of the authority of the Reich while *Article 2* allows the center to take over the supreme power of the state (Länder). *Article 2* is also contrary to *Die Verfassung des Deutschen Reichs* (Weimar constitution) *Article 17* which states that "*Die Volksvertretung muß in allgemeiner, gleicher, unmittelbarer...*"<sup>104</sup> which means that the Land government was born from democracy & people's representatives whereas in *Article 2* it allows the central government to replace the government without a democratic process so that from that event the principle of local democracy is paralyzed.

This decree clearly shows how *autocratic legalism* works that the law is used as a tool of repression. The law no longer protects citizens, but allows the state to crack down on anyone it deems an opponent. Everything goes through official documents, presidential signatures, and emergency legal mechanisms. *The Reichstag Fire Decree* makes the law a weapon to silence criticism and crush political opposition while still appearing legal and constitutional<sup>105</sup>.

The Reichstag elections of March 5, 1933, held after the event were under serious restrictions on the political rights of the opposition. The enactment of *the Reichstag Fire Decree* gave state officials broad authority to arrest KPD cadres, disband political activities, and censor opposition media, so that public space and political competition were significantly narrowed. The










---

<sup>104</sup>Article. 17, *Die Verfassung des Deutschen Reichs* (Weimar Constitution), Reichsgesetzblatt, 11 August 1919

<sup>105</sup> History, "Reichstag Fire", accessed December 25, 2025, [https://www.history.com/articles/reichstag-fire?utm\\_source=](https://www.history.com/articles/reichstag-fire?utm_source=)

election results that gave the NSDAP 43.9% of the vote were then used by Hitler as electoral legitimacy, although it was obtained within a legal framework that had deviated from the principles of substantive democracy. The following were the Nazi votes in the March 1933 election:

**Figure 3.4**  
**Votes Obtained in the 1933 Election**

Suara Populer		
NSDAP		43,91%
SPD		18,25%
KPD		12,32%
Zentrum		11,25%
KSWR		7,97%
BVP		2,73%
DVP		1,10%
DStP		0,85%
Lain-lain		1,62%

Source: P2k.stekom.ac.id

The election results showed that the NSDAP received 43.9% of the vote and only 288 seats out of the 647 seats available.<sup>106</sup> The results of this election have not reached an absolute majority. The combination of the election results then with the support of the German People's National Party (DNVP) allowed Hitler to form a simple majority coalition in the Reichstag. This configuration is important because it provides the political basis for proposing the Enabling Act.

Furthermore, this election was held in the context of the systematic weakening of the opposition, especially the Communist Party (KPD) whose cadres were arrested en masse and whose seats were effectively deactivated. As

<sup>106</sup> Spartacus Educational, "The 1933 elections in Germany", accessed on February 5, 2026, <https://spartacus-educational.com/GER1933.htm>

a result, the number of Reichstag members who could attend and vote against *the enabling act* was politically reduced before the session took place. The Reichstag elections of March 1933 served as a transitional legitimacy mechanism that allowed the birth of *the Enabling Act*, in which election results obtained under repressive conditions were used to justify the transfer of legislative power to the executive through a seemingly constitutional legal procedure.<sup>107</sup>

This process was then born *Gesetz Zur Behebung Der Not Von Volk Und Reich (Enabling Act 1933)*, a law that gave legislative power to the executive almost unlimited<sup>108</sup>. Here is a picture of *Gesetz Zur Behebung Der Not Von Volk Und Reich (Enabling Act 1933)*:

**Figure 3.5**  
***Gesetz zur behebung der not von volk und Reich (Enabling Act 1933)***



Source: Deutsches Historisches Museum

<sup>107</sup> Deutscher Bundestag, "National Socialism", accessed on February 5, 2026, [https://www.bundestag.de/en/parliament/history/parliamentarism/third\\_reich/third\\_reich-200358?utm](https://www.bundestag.de/en/parliament/history/parliamentarism/third_reich/third_reich-200358?utm)

<sup>108</sup> P2K STEKOM, "Power of Attorney Law", accessed on December 27, 2025, [https://p2k.stekom.ac.id/ensiklopedia/Undang\\_Pemberian\\_Kuasa](https://p2k.stekom.ac.id/ensiklopedia/Undang_Pemberian_Kuasa),

*The Enabling Act* came from the tense political atmosphere following the fire of the Reichstag building on February 27, 1933, which Hitler used as evidence of the threat of a "communist uprising"<sup>109</sup> so that, through an emergency decree under Article 48 of the Weimar Constitution, citizens' basic rights were suspended and the opposition was widely arrested. This was done by political intimidation and the arrest of political opponents, Hitler gained majority support in the *Reichstag*<sup>110</sup> so that this law could be officially passed. The law was eventually passed because procedures were twisted such as many communist members were imprisoned and not counted in a quorum, SA/SS intimidation took control of the courtroom, and moderate parties were persuaded by promises that were later betrayed. Formally it seems "legal", but in substance this is the point when Weimar democracy collapses and power is authoritatively concentrated on Hitler<sup>111</sup>.

*Gesetz zur Behebung der not von volk und Reich (Enabling Act 1933)*  
*Article 1 mentions "Reichsgesetze können außer in dem in der Reichsverfassung vorgesehenen Verfahren auch durch die Reichsregierung beschlossen werden. Dies gilt auch für die in den Artikeln 85 Abs. 2 und 87 der Reichsverfassung bezeichneten Gesetze"*<sup>112</sup> which means that Reich Laws can be passed by the Reich

---

<sup>109</sup> C N Trueman "The Enabling Act March 1933", *The History Learning Site*, 9 March 2015

<sup>110</sup> The Reichstag was a German representative body that served as the national parliament during the Weimar Republic (1919–1933) and in the early phases of Nazi rule under Adolf Hitler. Since the Nazis took over the government in 1933, the Reichstag's formal existence has been maintained, but its functions have been seriously stripped away to the point that it remains only a symbolic institution with no substantive political authority. P2K STEKOM, "Reichstag (Nazi Germany)", accessed January 11, 2026, [https://p2k.stekom.ac.id/ensiklopedia/Reichstag\\_\(German\\_Nazi\)](https://p2k.stekom.ac.id/ensiklopedia/Reichstag_(German_Nazi))

<sup>111</sup> World History, "Hitler's Rise to Power", accessed December 27, 2025, <https://courses.lumenlearning.com/suny-worldhistory/chapter/30-5-3-hitlers-rise-to-power/>

<sup>112</sup> Article. 1, Gesetz zur Behebung der Not von Volk und Reich (Enabling Act 1933), Reichsgesetzblatt, 24 March 1933

Government in addition to the procedures provided for in the Reich Constitution.

*The article contradicts article 69 of the Die Verfassung des Deutschen Reichs (Weimar Constitution) which contains the authority of the Reichstag in national legislation. The article mentions "Die Einbringung von Gesetzesvorlagen der Reichsregierung bedarf der Zustimmung des Reichsrats<sup>113</sup>" which explains that the submission of draft laws by the National Ministry requires the approval of the Reichsrat. On the contrary, the Enabling Act 1933 actually collapses this principle. This law gave the government the authority not the Reichstag to make laws, even those that deviate from the Weimar Constitution without going through the usual legislative procedures and without the consent of parliament.*

*The Enabling Act of 1933 represented the application of the parameters of the legal rule as legitimacy so that Hitler was no longer only an authoritarian figure in the internal structure of the Nazi Party, but also the sole center of power in the entire German state order. Legislation and the exercise of state power moved to a single figure who ruled through formal legal instruments. Formally this law is legal, but it substantively removes the function of the people's representation. The Enabling Act not only contradicted the basic principles of the constitution but also took away the political arena for non-Nazi parties, paving the way for a single dominant party<sup>114</sup>.*

---

<sup>113</sup> Article. 69, Die Verfassung des Deutschen Reichs (Weimar Constitution), Reichsgesetzblatt, 11 August 1919

<sup>114</sup> The Guardian, "Enabling Act becomes law in Germany- archive, 1933", 24 March 2017, <https://www.theguardian.com/world/2017/mar/24/enabling-act-germany-hitler-nazis-1933>

The transformation of the legal and political system in Nazi Germany was also marked through *the Gesetz gegen die Neubildung von Parteien (Law Against the Formation of Parties)*. This legal product was the culmination of a series of Nazification policies (*Gleichschaltung*)<sup>115</sup> driven by Hitler and his cabinet to transform the democratic state of Weimar into a one-party regime. This law explicitly stipulated that the Nazi Party (NSDAP) was the only legitimate political party in Germany, while the formation or preservation of other party organizations was prohibited with the threat of criminal penalties for violators.

*The Law Against the Formation of Parties* solidifies a process that has been going on for several months, making it not just a political declaration, but a legal instrument that formally abolishes multipartisan political competition in Germany. This law is seen as a legitimate product of law, however, the substance of this law completely negates fundamental political rights such as freedom of association and freedom of party, which are fundamental features of liberal democratic systems<sup>116</sup>.

After a long political and social crisis in early 1933, the law was presented as a measure of social stabilization and harmonization in the public interest as well as a narrative that gave formal legitimacy to the restriction of

---

<sup>115</sup> Gleichschaltung literally means synchronization. The Nazi policy of the Gleichschaltung was an attempt to cleanse the country of independent institutions, almost every public institution and policy instrument was altered to serve the Nazi objectives so that all such institutions and instruments were subject to the Party. "The Nazi Part in Power (*Gleichschaltung*)," *GlobalSecurity.org*, accessed January 11, 2026, [https://www.globalsecurity.org/military/world/europe/de-nazigleichschaltung.htm?utm\\_source=](https://www.globalsecurity.org/military/world/europe/de-nazigleichschaltung.htm?utm_source=)

<sup>116</sup> Jan-Olof Sundell, "The Destruction of Democracy and Civil Rights in Germany 1933", accessed December 25, 2025, <https://www.scandinavianlaw.se/pdf/55-9.pdf>

rights. This kind of framing approach allows the regime to claim that exclusionary measures against other political parties are part of the legal and national security reconstruction even though in reality it perpetuates the forced dominance of one party<sup>117</sup>. Here is a picture of *Gesetz gegen die Neubildung von Parteien (Law Against the Formation of Parties)*:

**Figure 3.6**  
**Gesetz gegen die Neubildung von Parteien (Law Against the Formation of Parties)**



Source: Wikisource.org

The Gesetz gegen die Neubildung von Parteien (*Law Against the Formation of Parties*) Article 1 which reads "In Deutschland besteht als einzige

<sup>117</sup> The Holocaust Explained, "How did the Nazis consolidate their power?", accessed December 25, 2025, [https://www.theholocaustexplained.org/the-nazi-rise-to-power/how-did-the-nazi-gain-power/?utm\\_source=com](https://www.theholocaustexplained.org/the-nazi-rise-to-power/how-did-the-nazi-gain-power/?utm_source=com)

*politische Partei die Nationalsozialistische Deutsche Arbeiterpartei*<sup>118</sup>" established the NAZI as the only legal political party in Germany on July 14, 1933. This law shows the parameters of monopolization of the political space. The regime legally abolished pluralism, so that repression of opposition was no longer seen as a violation, but as if it were a normal legal consequence.

The law is contrary to *the Die Verfassung des Deutschen Reichs* (Weimar Constitution) *Article. 124 "Alle Deutschen haben das Recht, zu Zwecken, die den Strafgesetzen nicht zuwiderlaufen, Vereine oder Gesellschaften zu bilden*<sup>119</sup>" which means that all German citizens have the right to form associations or associations for purposes not prohibited by criminal law. Association means an association of people who have common interests<sup>120</sup> and in this case the party is a form of political association.

*Article 76 of the Die Verfassung des Deutschen Reichs* (Weimar Constitution) also states "*Die Verfassung kann im Wege der Gesetzgebung geändert werden. Jedoch kommen Beschlüsse des Reichstags auf Abänderung der Verfassung nur zustande, wenn zwei Drittel der gesetzlichen Mitgliederzahl anwesend sind und wenigstens zwei Drittel der Anwesenden zustimmen*<sup>121</sup>" which means the Constitution can be amended by legislative act. The Reichstag's resolution for a constitutional amendment is valid only if two-thirds

---

<sup>118</sup> Article.1, Gesetz gegen die Neubildung von Parteien (*Law Against the Formation of Parties*), Reichsgesetzblatt, 14 July 1933

<sup>119</sup> Article 1, Die Verfassung des Deutschen Reichs (Weimar Constitution), Reichsgesetzblatt, 11 August 1919

<sup>120</sup> The Great Dictionary of Indonesian Language (KBBI) defines an Association as an association of people who have common interests, accessed on December 25, 2025

<sup>121</sup> Article 76, Die Verfassung des Deutschen Reiches (Weimar Constitution), Reichsgesetzblatt, 11 August 1919

of the lawful members are present and if two-thirds of those present give their consent. *Article 1 Gesetz gegen die Neubildung von Parteien* in practice made material changes to the constitution. Making the NSDAP the only party, the law abolished political pluralism and the representative functions of parliament. This fundamental change was not taken through the amendment mechanism as ordered by *Article 76*, thus showing the character of *autocratic legalism*.

The law of *Gesetz gegen die Neubildung von Parteien* shows how the parameters of legal rule as a tool of legitimacy work in the practice of *autocratic legalism*. Legal products appear procedurally legitimate because they are authorized and announced through the formal legal channels of the Nazi government. However, the substance revokes the right to party and political competition, so the law is used not to protect democracy, but to remove political pluralism within the framework of legality. Restrictions on political freedom are framed as measures of national order and state unity, the legitimacy of which the regime uses to rationalize its repressive actions<sup>122</sup>.

The parameters of the placement of loyalists as a mechanism of domination were evident in the Nazi strategy of controlling the state structure through legal channels. Through *the Gleichschaltung* policy, the government not only controls the party and parliament, but also carries out systematic bureaucratic cleansing using formal legal instruments. An important piece of legislation in this process was *the Gesetz zur Wiederherstellung des*

---

<sup>122</sup> Martin Broszat, *The Hitler state: The foundation and development of the internal structure of the Third Reich* (New York: British Library Cataloguing, 1981), 262

*Berufsbeamtentums (Law for the Restoration of the Professional Civil Service)*, which provided a legal basis for the regime to dismiss civil servants deemed politically untrustworthy, including opposition and Jewish officials<sup>123</sup>.

The justification used is administrative reform and professionalization of public services, even though substantially this law serves to remove elements critical of the regime and replace them with individuals loyal to the Nazi Party. After the purge process, the filling of public office was gradually directed at figures who showed ideological loyalty to Hitler, even to the point where state officials were obliged to take an oath of allegiance directly to the *Fuhrer*, not to the constitution<sup>124</sup>.

Promotion to positions is no longer based on quality and competence, but on political loyalty. Through this kind of legal mechanism, the consolidation of power is successfully institutionalized and legitimized so that the entire state structure works as an extension of the regime, not as an independent public institution<sup>125</sup>. Here is a picture of *Gesetz zur Wiederherstellung des Berufsbeamtentums (Law for the Restoration of the Professional Civil Service)*:

---

<sup>123</sup> Sabine Dumschat, "7. April 1933: Gesetz zur Wiederherstellung des Berufsbeamtentums", accessed December 28, 2025, <https://www.bundesarchiv.de/themen-entdecken/online-entdecken/geschichtsgalerien/7-april-1933-gesetz-zur-wiederherstellung-des-berufsbeamtentums/>

<sup>124</sup> Grokipedia, "Law for the Restoration of the Professional Civil Service", accessed December 28, 2025, [https://grokipedia.com/page/Law\\_for\\_the\\_Restoration\\_of\\_the\\_Professional\\_Civil\\_Service](https://grokipedia.com/page/Law_for_the_Restoration_of_the_Professional_Civil_Service),

<sup>125</sup> COJS, "April 7, 1933 Nazi Law for the Restoration of the Professional Civil Service", accessed December 28, 2025, <https://cojs.org/35769-2/>

Figure 3.7  
Gesetz zur Wiederherstellung des Berufsbeamtentums (*Law for the Restoration of the Professional Civil Service*)



Source: Wikisource.org

Article 4 Gesetz zur Wiederherstellung des Berufsbeamtentums (*Law for the Restoration of the Professional Civil Service*) states "Civil servants whose former political activity affords no guarantee that they will act in the interest of the national state at all times and without reservation can be dismissed from service..."<sup>126</sup>. In substance, the article gives the state the authority to dismiss civil servants if "previous political activities" are considered not to guarantee loyalty to the state. The language is vague because there is no clear definition of "disloyal". His practices that were considered "disloyal" were the political opposition (SPD, KPD), critics, and anyone who was not in line with the Nazis.

<sup>126</sup> Article. 4, Gesetz zur Wiederherstellung des Berufsbeamtentums (*Law for the Restoration of the Professional Civil Service*), Reichsgesetzblatt, 7 April 1933

The Weimar Constitution also stipulates on the guarantee of civil servant status and in this case *Article 4 Gesetz zur Wiederherstellung des Berufsbeamtentums (Law for the Restoration of the Professional Civil Service)* is contrary to the Weimar constitution *Article 129* which states "*Die Beamten können nur unter den gesetzlich bestimmten Voraussetzungen und Formen vorläufig ihres Amtes enthoben, einstweilen oder endgültig in den Ruhestand oder in ein anderes Amt mit geringerem Gehalt versetzt werden...*"<sup>127</sup>". The article provides for a clear legal procedure for dismissal however, in *article 4* it allows dismissal without clear legal error. In practice, this was passed to get rid of political opposition.

These policies show how *autocratic legalism* works. The law is used to clean up the bureaucracy by removing employees who are not in line through rules that appear to be administrative and constitutional. Positions are given to loyalists, not competent ones, thus making state institutions a political tool of the regime. This all seems legal because it is formalized in the form of a law<sup>128</sup>.

Another of the *most prominent practices of autocratic legalism* under the Nazi regime was the systematic weakening of state surveillance mechanisms. The weakening is not carried out by dissolving all supervisory institutions, but by allowing the institution to remain formally but made powerless through legal engineering. The regime appears to be working within

---

<sup>127</sup> Article 129, Die Verfassung des Deutschen Reichs (Weimar Constitution), Reichsgesetzblatt, 11 August 1919

<sup>128</sup> Samuel Miner, "The Reconstruction of Justice in Post-Nazi Western Germany", *WWII The National Museum*, August 11, 2021, [https://www.nationalww2museum.org/war/articles/justice-in-post-nazi-western-germany?utm\\_source=com](https://www.nationalww2museum.org/war/articles/justice-in-post-nazi-western-germany?utm_source=com)

a legal framework but at the same time creates a political structure without control<sup>129</sup>.

Policies such as *the Enabling Act* of 1933, the substantive authority of the courts, and some of these administrative institutions were gradually transferred to the Nazi government. The Reichstag still held the session, but there was no longer a process of deliberation and oversight of the executive. The same thing happens to judicial institutions. The courts remain in operation, but are directed and subject to the political interests of the regime. Supervisory institutions that are normatively supposed to be *checks and balances* have turned into a tool for legitimizing government policies<sup>130</sup>.

*Gesetz zur Behebung der not von volk und Reich (Enabling Act 1933)*  
*Article 1* mentions "*Reichsgesetze können außer in dem in der Reichsverfassung vorgesehenen Verfahren auch durch die Reichsregierung beschlossen werden. Dies gilt auch für die in den Artikeln 85 Abs. 2 und 87 der Reichsverfassung bezeichneten Gesetze*<sup>131</sup>" which means that Reich Laws can be passed by the Reich Government in addition to the procedures provided for in the Reich Constitution.

*The article* is in direct contradiction to what has been established in *Die Verfassung des Deutschen Reichs (Weimar Constitution) Article 68* which

---

<sup>129</sup> David Dyzenhaus, "Legal Theory and the Politics of Legal Space", accessed December 28, 2025, <https://www.law.ed.ac.uk/sites/default/files/2021-05/Legal%20Theory%20and%20The%20Politics%20of%20Legal%20Space.pdf>

<sup>130</sup> Matthew A. McIntosh, "The Enabling Act: Hitler's Tool for Dictatorship and Complete Nazification of Germany in 1933", *Brewminate*, 6 March 2024, <https://brewminate.com/the-enabling-act-hitlers-tool-for-dictatorship-and-complete-nazification-of-germany-in-1933/>

<sup>131</sup> Article. 1, Gesetz zur Behebung der Not von Volk und Reich (Enabling Act 1933), Reichsgesetzblatt, 24 March 1933

states that "*Die Gesetzesvorlagen werden von der Reichsregierung oder aus der Mitte des Reichstags eingebracht. Die Reichsgesetze werden vom Reichstag beschlossen*"<sup>132</sup>". It confirmed that the Bill had to be submitted by the Reich government, or by members of the Reichstag. National laws will be passed by the Reichstag

The product of the law, formal supervision remains, but is changed to ceremonial. Legal procedures are engineered so that any potential surveillance loses its legal basis. The law was not abolished, but was procedurally reorganized to close out the possibility of control over power. The regime does not destroy the law but uses the law to neutralize the surveillance mechanism. Power does not appear arbitrary, but works through legal channels that have been engineered so that control over the government is systematically weakened. Institutions (parliament, other parties) remain symbolically but do not function<sup>133</sup>. Based on this description, the application of *autocratic legalism* in the Nazi German party legal system can be mapped as follows:

---

<sup>132</sup> Article. 68, Die Verfassung des Deutschen Reichs (Weimar Constitution), Reichsgesetzblatt, 11 August 1919

<sup>133</sup> Europenow Daily, "Legal Sabotage: Ernst Fraenkel in Hitler's Germany by Douglas G. Morris", 23 March 2022, <https://www.europenowjournal.org/2022/03/23/legal-sabotage-ernst-fraenkel-in-hitlers-germany-by-douglas-g-morris/>

**Table 3.1**  
**The Flow of the Application of *Autocratic Legalism* in the Legal System of the Nazi German Party**



Source: Author's Creation (2026)

The table illustrates the flow of the implementation of *autocratic legalism* in the Nazi German party legal system which took place gradually and systematically. This process began with the legitimacy of power through a constitutional mechanism, then strengthened through the exploitation of the state of emergency and the transfer of legislative authority to the hands of the executive. The next stage is the elimination of political pluralism and the control of the state bureaucracy through formal legal instruments. All of these stages lead to the weakening of the supervisory mechanisms and checks and balances, so that the law no longer functions as a limit to power, but as a means of legitimacy and consolidation of authoritarian regimes.

An analysis of the model of the application of *autocratic legalism* in the Nazi German party legal system shows that law can function as an

instrument of rationalization of power. Party structures built on *fuehrerprinzip*, absolute discipline, and closed hierarchy create a space in which the concentration of power derives normative justification. The internal rules and products of party law, the *will of the fuehrer* no longer appear as a mere political will, but as a legally valid norm.

### **3. The Implications of *Autocratic Legalism* in Nazi Germany's Party Legal System on Party Structure**

The implication of *autocratic legalism* in the Nazi German party legal system was the loss of party autonomy and the disappearance of democratic decision-making mechanisms in it. When all authority is centered on one leader, party decisions are no longer born from deliberation, voting, or a healthy cadre regeneration process, but from personal will that cannot be corrected. In this kind of situation, the rationality of the organization is replaced by the cult of the individual. Loyalty to figures becomes more important than ideas, integrity, and competence<sup>134</sup>. Political parties no longer function as a space for articulating public interests, but are transformed into instruments of loyalty that only serve to sustain and perpetuate the power of their leaders<sup>135</sup>.

Another implication is the shift of the legal function from the protector of pluralism to an instrument of justification for the dominance of one party. Restrictions on the activities of political parties and the dissolution of the opposition are no longer seen as arbitrary measures, as they are packaged in the

---

<sup>134</sup> Archie Brown, "Against the Führerprinzip: For Collective Leadership", *Daedalus the Journal of the American Academy of Arts & Sciences*, 2016

<sup>135</sup> The Avalon Project, "Nazi Conspiracy and Aggression Volume 2 Chapter XV Part 2", accessed December 27, 2025, [https://avalon.law.yale.edu/imt/chap15\\_part02.asp?utm\\_source=](https://avalon.law.yale.edu/imt/chap15_part02.asp?utm_source=)

form of laws and decrees that appear procedurally valid. With this framework, political monopolies acquire formal legitimacy. The law is not used to guarantee fair competition, but to legally eliminate competitors<sup>136</sup>.

*Autocratic legalism* in the Nazi party legal system also led to the death of party dynamics because all forms of dissenting views were treated as legal threats. The criminalization of criticism and restrictions on opposition political activities have caused parties other than the rulers to lose space to articulate interests and control over the government. In this situation, political parties are no longer an arena for debate and exchange of ideas, but have turned into a tool of social control that mobilizes support for the regime<sup>137</sup>.

The placement of loyalists as a control mechanism in the Nazi party's legal system resulted in the transformation of the party structure into a patronage network based on personal loyalty, rather than on capacity and integrity. The party is no longer understood as an organization that is managed rationally, but as a circle of close people who look after each other's interests. Loyalty eventually replaces accountability. Party and state officials do not feel responsible to the public or the constitution, but to the leaders and groups that protect their careers<sup>138</sup>.

---

<sup>136</sup> Britannica, "Enabling Act", accessed December 27, 2025, [https://www.britannica.com/topic/Enabling-Act?utm\\_source.com](https://www.britannica.com/topic/Enabling-Act?utm_source.com)

<sup>137</sup> Canonica, "Enabling Act of 1933", accessed December 27, 2025, [https://canonica.ai/page/Enabling\\_Act\\_of\\_1933](https://canonica.ai/page/Enabling_Act_of_1933)

<sup>138</sup> Jennifer Llewellyn, Jim Southey, and Steve Thompson, "Historiography of Nazi Germany," AlphaHistory, 2018, <https://es.alphahistory.com/Alemania-nazi/historiograf%C3%ADa-de-la-Alemania-nazi/>

The weakening of the *check and balance mechanism* also results in the strengthening of the party structure which no longer has a brake on power both from within and from outside. When the internal control of the party does not work and state institutions lose the ability to control the actions of the ruling party, then the party grows as an entity that stands above the state. It is no longer subject to legal procedures and democratic correction mechanisms but rather to determine the direction of policies without institutional boundaries. In a situation like this, power runs without a counterbalance. Party decisions automatically become state decisions while the opportunity to correct them is almost non-existent, so the potential for abuse of power is even greater and institutionalized<sup>139</sup>.

The implications of the application of *autocratic legalism* in the Nazi German party legal system show that the law can be transformed from an instrument of regulation to a means of institutionalizing authoritarian power. The structure of the Nazi party no longer functioned as a space for the articulation of plural political interests, but rather as a mechanism for the transmission of *the führer's* legally institutionalized will. This implication does not stop at the party level, but seeps into the state order. When the party has been constructed as a legally authoritarian organization, the state it leads tends to reproduce the same logic. The experience of Nazi Germany confirms that *autocratic legalism* in the party legal system not only forms a repressive party

---

<sup>139</sup> Steven Levitsky & Lucan A. Way, "*Competitive Authoritarianism: The Origins and Dynamics of Hybrid Regimes in the Post-Cold War Era*", University of Toronto

structure, but also becomes the normative foundation for the birth of an authoritarian state regime based on law.

## **B. The Urgency of the Model of *Autocratic Legalism* Parameters in the Nazi German Party as a Warning for the Prevention of Authoritarian Leadership in Indonesian Political Parties**

*Autocratic legalism* in Nazi Germany is important not only as a historical study, but as a mirror of how laws can be formed to justify authoritarian rule. In the Nazi context, the consolidation of power was not always carried out by means of an overt coup or mere violence, it was carried out through legal tools, formal procedures, and regulations that appeared legitimate but substantively killed the opposition, limited political participation, and eliminated oversight of leaders. This model is what makes *autocratic legalism* dangerous. *Autocratic legalism* works from within the legal system itself<sup>140</sup>.

The collapse of democracy within the framework of *autocratic legalism* does not occur when the law is broken, but precisely when the law is formally obeyed but is substantively distorted. Democracy in such a condition is eroded from within because the mechanism that is supposed to protect it is actually used to destroy it<sup>141</sup>. The Nazi experience is no longer treated as history alone, but as a

---

<sup>140</sup> Prof. Mahfud MD, Professor of Constitutional Law at Gajah Mada University Yogyakarta, stated that Adolf Hitler was democratically elected in the 1933 election in Germany which at that time was experiencing an economic crisis. The Nazi party he founded won unanimously and controlled parliament. Three years after coming to power, Hitler changed completely. He implemented a fascist system that was anti-democratic. To sustain his power, he applied the law strictly and authoritatively and this was called *autocratic legalism*. Langgeng Widodo, "Talking about Hitler at the Unisri Solo Seminar, Mahfud MD: He Was Originally Democratically Elected", INews Muria, 04 March 2025, <https://muria.inews.id/read/564498/ndongeng-soal-hitler-di-seminar-unisri-solo-mahfud-md-dia-semula-terpilih-secara-demokratis>

<sup>141</sup> Dian A.H. Shah, "Dismantling democratic change in Asia: Modalities and weapons of choice", *International Journal of Constitutional Law*, Volume 22, Issue 4, October 2024

theoretical warning of how the legal system and the design of political organizations can be used to transform democracy into authoritarianism without having to step outside the framework of legality.

The modern democratic system places political parties as the main gateway to state power. Almost all public officials, members of parliament, heads of government, and strategic executive officials were born from the selection, recruitment, and nomination process controlled by the party<sup>142</sup>. This fact shows that although the constitution and elections are democratically designed, who controls the political party essentially controls access to the country itself.

The experience of the NSDAP clearly shows how legal control of the party can be transformed into legal control of the state. Hitler did not seize state power through a coup or the annulment of the Weimar Constitution, but rather through his control of the internal structure of the Nazi Party. When the party later became the dominant political force in parliament and government, Hitler's legal dominance of the party automatically turned into legal dominance over the state. The prevention of tyranny cannot start from the state alone, but must start from the law and the internal structure of political parties.

The autocratic legalism *parameter model* functions as an *early warning system* to detect the erosion of democracy since it is still in the party. Through

---

<sup>142</sup> Zainal Arifin Mochtar and Idul Rishan in their research said that there are three indicators of *autocratic legalism*, namely the co-optation of the ruling party in parliament, violations of the law and the constitution, and undermining the independence of the judiciary. The overweight coalition political cartels in parliament have a detrimental impact on the law. The cartel political system is formed through the control of political parties and elections. Zainal Arifin Mochtar and Idul Rishan, "Autocratic Legalism: the Making of Indonesian Omnibus Law", *Juristicia Jurnal Hukum*, Vol. 11 No. 1, 2022

parameters such as the concentration of power in a single figure, legal rule as a tool of legitimacy, legal suppression of criticism and opposition, the placement of loyalists as a control mechanism related to patronage practices, and the structural weakness of the check and balance mechanism, this model allows for early identification of parties that are moving towards authoritarianism. The existence of these parameters opens up the possibility of prevention from the party phase before the damage is institutionalized nationally.

The constitutional implications for Indonesia are very basic because constitutional democracy cannot survive if the political party is not democratic<sup>143</sup>. The principle of people's sovereignty and the guarantee of political rights can only be meaningful if citizens have fair and free access to the political process mediated by the party. An authoritarian party will still be able to win elections and form a government, but produce a procedurally democratic and substantively authoritarian state, or what is known as *illiberal democracy*<sup>144</sup>. This condition makes the development and implementation of *the autocratic legalism* parameter model an urgent need in the framework of protecting Indonesian democracy.

The model has a preventive urgency. Indonesia's democracy relies on political parties as the main channel for leader recruitment and articulation of public

---

<sup>143</sup> Puspita, "Unisri Holds National Seminar, Presents Prof. Mahfud MD to Discuss Autocratic Legalism in Democracy", *Metta News*, February 27, 2025, <https://mettanews.id/unisri-gelar-seminar-nasional-hadirkan-prof-mahfud-md-bahas-autocratic-legalism-dalam-demokrasi/>

<sup>144</sup> Fareed Zakaria in his book "The Rise of Illiberal Democracy" defines *illiberal democracy* as a regime that gains legitimacy through elections or referendums, but in practice systematically ignores constitutional restrictions on power and negates the fundamental rights and freedoms of citizens, See "Democracy at Risk", *Global Challenges* Issue 2, September 2017, <https://globalchallenges.ch/issue/2/figure/what-is-illiberal-democracy/>

interests<sup>145</sup>. When the party structure is too centralized on the chairman figure, when the AD/ART is easily engineered to secure elite power, and when both internal and external supervisory institutions have no independent power, the seeds of *autocratic legalism* have the potential to grow. Authoritarian power does not always come suddenly, it is often born out of the process of normalizing practices that appear to be legal but slowly erode the substance of democracy.

### **1. Indicators of Autocratic Legalism that Have Emerged in Indonesia**

The main problem of democracy in Indonesia no longer lies in blatant violations of the law but in the way in which the law is used to consolidate power through seemingly legitimate procedures<sup>146</sup>, this is what in the literature is called *autocratic legalism*. The law continues to work but loses the function of limiting power within the framework of the Pancasila state. This condition is not just a deviation in governance but a structural threat because it undermines the principles of people's sovereignty, justice, and deliberation by replacing it with procedural legality that is subject to the interests of the rulers<sup>147</sup>.

The initial indicator of *autocratic legalism* in the party system is the concentration of strategic authority on one figure or core elite of the party so that the collective and representative functions of the organization become

---

<sup>145</sup> Dian Aulia, "Strengthening Democracy: Political Parties and Election (System) as a Pillar of Democracy", Indonesian Society, Vol. 42 No.1, June 2016, <https://ejournal.brin.go.id/jmi/article/view/8490/6531>

<sup>146</sup> Any Ihsany Nasution and Mustafa Lutfi, "Decolonizing Constitutional Democracy: Reconfiguring Indonesia's Presidential Election System from the Perspective of Siyasa Syar'iyah" *Tribakti: Journal of Islamic Thought*, Volume 36, Issue 2, July 2025

<sup>147</sup> Haryatmoko, "Autonomous Legalism Merongrong Pancasila", *Kompas*, March 2025 [https://www.kompas.id/artikel/legalisme-otokratis-merongrong Pancasila?utm\\_source=.com](https://www.kompas.id/artikel/legalisme-otokratis-merongrong-Pancasila?utm_source=.com)

pseudo<sup>148</sup>. When the internal structure of the party is designed to secure the dominance of a single leader through the mastery of candidacy, discipline, and decision-making, the party in parliament tends to act as a loyal bloc for the executive, rather than as a counterweight institution<sup>149</sup>. The weakening of legislative independence is not a mere technical failure but a consequence of the party's legal design that has been autocratized before<sup>150</sup>.

This situation shows a culture of centralization of authority within the party body where the general chairman or core elite controls strategic decision-making without effective oversight, will be carried over when the elite is in power at the state level, so that supervisory institutions can be weakened through regulatory changes, restrictions on authority, or procedural engineering to secure their political dominance. *Autocratic legalism* does not appear suddenly in the state, but is a projection of the party's internal legal practices that have previously normalized power without control.

The centralization of the authority of the party elite can be traced through the length of the term of office of the chairman of a political party. This research focuses on the four political parties that won the most votes in the 2024 Legislative Election. A total of 18 national political parties participating in the election, the Indonesian Democratic Party of Struggle (PDI Perjuangan)

---

<sup>148</sup> Jainuri and Solahudin, "Strongmen of Political Party at Local Level: A Case Study on Fight between and Elites in Partai Amanat Nasional in Malang, Indonesia", *Journal of Government Studies* Vol.8 No. 1, February 2017, <https://jsp.umy.ac.id/index.php/jsp/article/view/177/147>

<sup>149</sup> Zainal Arifin Mochtar and Idul Rishan, "Autocratic Legalism: the Making of Indonesian Omnibus Law", *Juristicia Jurnal Hukum*, Vol. 11 No. 1, 2022

<sup>150</sup> Ady Thea DA, "3 Indicators of 'Autocratic Legalism' in State Policy", *Law Online*, July 2021, <https://www.hukumonline.com/berita/a/3-indikator-autocratic-legalism-dalam-kebijakan-negara-lt6102bdb6645ee/?page=2>

occupies the first position, followed by the Golongan Karya Party (Golkar) in second place, and the Greater Indonesia Movement Party (Gerindra) and the National Awakening Party (PKB) which are in third and fourth positions<sup>151</sup>, respectively.

**Table 3.2**  
**Results of the Recapitulation of the Four Winning Parties in the 2024 Legislative Election**

Yes	Political Parties	Vote Acquisition	Percentage
1.	PDIP	25.387.279	16,72%
2.	Golkar	23.208.654	15,28%
3.	Gerindra	20.071.708	13,22%
4.	PKB	16.115.655	15,28%

Source: processed from the [bawaslu.go.id](http://bawaslu.go.id) website

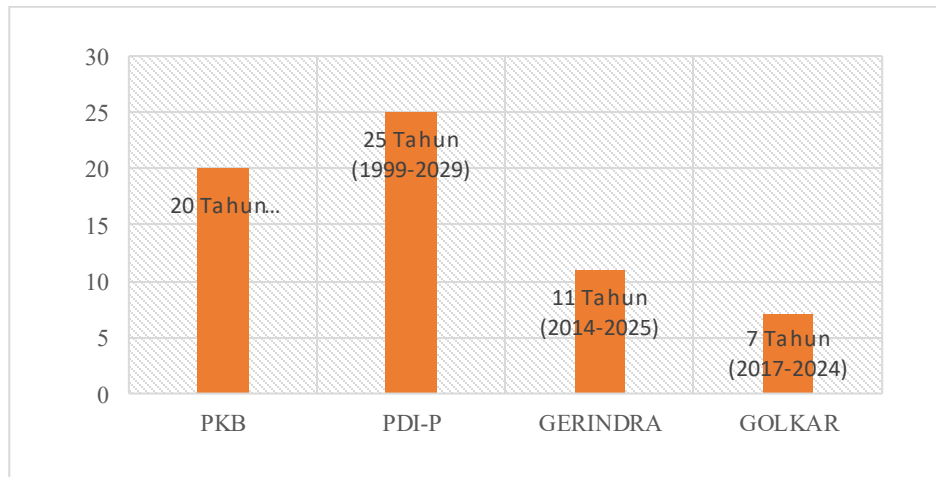
The General Election Commission (KPU) presented the results of the recapitulation of votes for the 2024 election. The Indonesian Democratic Party of Struggle (PDIP) won the most votes in the election with 25,387,279 votes or 16.73%. The Golongan Karya Party (GOLKAR) received 23,208,654 votes or 15.29%. The Gerindra Party was in third place with 20,071,708 votes or 13.22% and the PKB Party was fourth with votes obtained<sup>152</sup>. These parties in their internal structure reflect the centralization of elite authority which is

<sup>151</sup> Muhammad Reza Ilham Taufani, "KPU Announces Election Results: PDIP-P Number 1, Golkar 2nd, Gerindra 3rd", *CNBC Indonesia*, March 20, 2024

<sup>152</sup> "KPU Determines 2024 Election Results After Completing Vote Recapitulation from 38 Provinces and 128 Overseas Territories" *BAWASLU*, accessed January 13, 2025, <https://cimahikota.bawaslu.go.id/berita/kpu-tetapkan-hasil-pemilu-2024-usai-rampungan-rekapitulasi-suara-dari-38-provinsi-dan-128>

marked by the length of the chairman's term of office that exceeds the provisions of periodization in each party's AD/ART.

**Table 3.3**  
**The Term of Term of Chairmanship of the Four Winning Parties in the 2024 Election as an Indicator of Centralization**



Source: processed based on research by Indra Setiawan Moki, Toar N. Palilingan, and Lendy Siar on the Term of Office of the Chairman of Political Parties Based on the Principles/Principles of a Democratic State of Law in Indonesia<sup>153</sup>

The diagram shows the term of office of the general chairman in the four parties that won the 2024 election which is more than 5 years. Based on the AD/ART of each party, in general, the term of office of the general chairman of a political party only lasts for 5 years. This mechanism is contained in the

<sup>153</sup> The party's chairman who served for more than five years included Megawati Soekarnoputri (Chairman of PDI Perjuangan), Muhaimin Iskandar (Chairman of PKB), Prabowo Subianto (Chairman of Gerindra) and Airlangga Hartarto (Chairman of the Golkar Party) Indra Setiawan Moki, Toar N. Palilingan, and Lendy Siar, "Juridical Review of the Term of Office of the Chairman of Political Parties Based on the Principles/Principles of a Democratic State of Law in Indonesia" *Lex Privatum Journal of the Faculty of Law Unsrat*, Vol. 15 No. 1, 2025

AD/ART of the PDIP Party Article 70 Paragraph 2<sup>154</sup>, AD/ART of the Golkar Party Article 23 Paragraph 4<sup>155</sup>, AD/ART of the PKB Party Article 15 Paragraph 2<sup>156</sup>, AD/ART of the Gerindra Party Article 35 Paragraph 1<sup>157</sup>.

The length of the chairman's term in a political party reflects the level of centralization of authority within the party's internal structure. A leadership period that is not effectively limited will further increase the chances of the accumulation of power in one figure or a narrow circle of elites. This condition allows the chairman to control the candidacy mechanism, distribution of political resources, and the direction of party policies without balanced control from members or collective organs, so that the party moves from a representative organizational model to a personalistic hierarchical model<sup>158</sup>.

---

<sup>154</sup> In the AD/ART of the PDIP Party Article 70 Paragraph 2 states "The Congress is held every 5 (five) years". One of the congress authorities in the PDIP Party is to appoint the general chairman of the party who also acts as a formator to compile the party's DPP personnel. This authority is explained in Article 70 Paragraph 3(d). AD/ART PDIP Party Article 70 Paragraph 2, accessed on January 13, 2026, <https://drive.google.com/file/d/1Mlys3Nv3uScglMFn-RLpX9ZmKiVuKnmU/view>

<sup>155</sup> In the AD/ART of the Golkar Party Article 23 Paragraph 4 states that "The Central Leadership Council holds office for 5 (five) years from the date of its establishment in the National Congress", AD/ART of the Golkar Party Article 23 Paragraph 4, accessed on January 13, 2026, <https://www.partaigolkar.com/wp-content/uploads/2020/08/ANGGARAN-DASAR-DAN-ANGGARAN-RUMAH-TANGGA-PARTAI-GOLKAR-2019.pdf>

<sup>156</sup> In the AD/ART of the PKB Party Article 15 Paragraph 2 states "The term of service of the DPP is 5 (five) years.", AD/ART of the PKB Party Article 15 Paragraph 2, , accessed on January 13, 2026 <https://pkb.id/files/download/AD%20ART%20PKB%202024.pdf>

<sup>157</sup> In the Gerindra Party AD/ART Article 35 Paragraph 1 states "The Congress is the holder of the highest power of the Party which is held once in 5 (five) years", Gerindra Party AD/ART Article 35 Paragraph 1, accessed on January 13, 2026, [https:// Gerindra.id/wp-content/uploads/2022/05/AD\\_ART-2020\\_REVISI\\_FULL-COLOR\\_WEB-1.pdf](https:// Gerindra.id/wp-content/uploads/2022/05/AD_ART-2020_REVISI_FULL-COLOR_WEB-1.pdf)

<sup>158</sup> Leonardo Siahaan said, "Indonesia is a country of law, so it is appropriate for political parties to have clarity regarding the issue of term limits for political party chairmen because after all, political parties are very central organizations and are a reflection of democracy or the pillars of democracy." Public Relations of the Ministry of Political Parties, "The Term of Office of the General Chairman of Political Parties is in Question", July 11, 2023, accessed on January 13, 2026, <https://www.mkri.id/berita/-19330>

The centralization of authority in the hands of the party elite does not stop as an internal problem of the organization, but becomes a pattern that is then brought into the practice of state administration. When party structures are built on closed, hierarchical, and minimal accountability, the same pattern will guide the way the elites use legal instruments once they have taken control of the legislative and executive institutions<sup>159</sup>.

Law is no longer produced as the result of a competition of ideas and public deliberation, but rather as a means of formalizing decisions that have previously been centered in a narrow circle of power. The law drafted through a closed, fast, and minimal public consultation process is not a technical deviation, but a manifestation of the centralization of elite power that has already taken root in political parties. The tendency for legal products to be born without adequate transparency and participation shows how law is used to strengthen existing power configurations, not to guarantee democratic competition<sup>160</sup>.

The law is positioned as an extension of the will of the centralized elite, and the substance of the regulation is directed to protect the configuration of

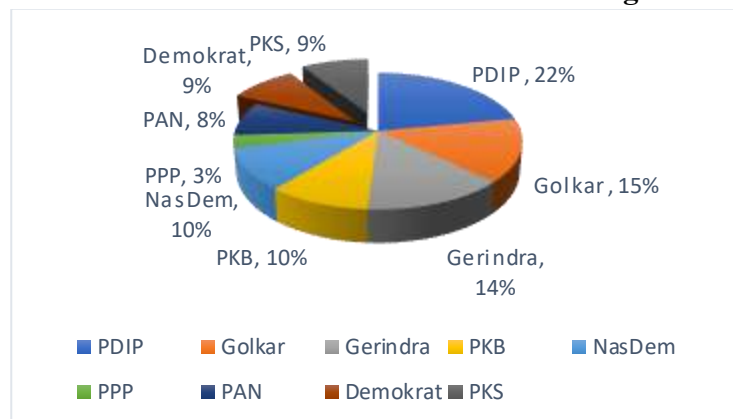
---

<sup>159</sup> Egi Fauzi, Herry Tarmidjie Noor, and Fahmi Ali Ramdhani, "The Concept of Meaningful Public Participation as a Prevention of the Symptoms of Autocratic Legalism in Indonesia", *Journal of Reformasi* Volume 14 Number 1, 2024, <https://jurnal.unitri.ac.id/index.php/reformasi/article/view/4455>

<sup>160</sup> Umar Sholahudin said that the practice of depoliticization for 32 years carried out by the New Order has made the people intellectually and politically helpless. The power of the people is only used and played with by the regime to produce and maintain its power. This then gives rise to the performance of an authoritarian and centralistic government. Umar Sholahudin, "Regional Elections, Autocratic Legalism, and Extra-Parliamentary Opposition", Detiknews, September 2024, <https://news.detik.com/kolom/d-7531775/pilkada-legalisme-otokratik-dan-oposisi-ekstra-parleментар>

power. The weakening of the opposition in the law-making process is carried out through a legislative mechanism controlled by a majority coalition of the President and the House of Representatives. These accommodative relationships are packaged in formal procedures and public interest narratives such as government stability and policy effectiveness that give the impression of being neutral and constitutional even though they functionally operate to close the substantive debate space and marginalize the opposition's position in parliament.

**Table 3.4**  
**Configuration of Coalition Political Parties in the Legislation Process**



Source: processed based on Zainal Arifin Mochtar and Eid al-Rishan's research on autocratic legalism in making Indonesian omnibus law<sup>161</sup>

The diagram shows that party co-optation occurred through accommodative relations during the time of President Joko Widodo and the House of Representatives which was supported by a majority coalition of

<sup>161</sup> Zainal Arifin Mochtar, Eid al-Rishan, "Autocratic Legalism: the Making of Indonesian Omnibus Law", *Jurisprudence Journal* Vol. 11 No. 1, 2022

political parties where the president was supported by 80% of legislators, so that the opposition's function in the legislation process became weak. This configuration makes the House of Representatives not operate as a power supervisory institution, but as an extension of executive political support, where differences of opinion are absorbed in the coalition consensus. As a result, the formation of laws takes place in a formal-constitutional manner, but there is little substantive debate and opposition participation, which reflects the practice of autocratic legalism within the framework of procedural democracy.

The elimination of opposition through legal instruments not only limits political freedom, but also undermines the main foundation of the *checks and balances mechanism*<sup>162</sup>. The opposition serves as an institutional actor that tests, criticizes, and challenges the decisions of the rulers. When security regulations, emergency laws, or rules of order are used to silence criticism and narrow the space for opposition, those oversight functions are systematically crippled<sup>163</sup>. As a result, power that has been centralized in the hands of the elite is increasingly difficult to correct, as it no longer faces effective political competition in parliament or in the public sphere.

---

<sup>162</sup> Montesquieu's principle of *checks and balances* was created as a mechanism to prevent the concentration of power in the hands of only one branch of government, thus protecting against potential abuse of authority. Looking at the framework of democratic governance, opposition political parties play a key role as one of the main mechanisms of checks and balances. Lutfi Mubarak and Juan Turpyn, "The Importance of Political Party Opposition as a Mechanism of Checks and Balances in Democratic Government", *Journal of Iuris Scientia* Volume 3 Number 1, January 2025

<sup>163</sup> David Cristian Liyanto, "The Position of Opposition Parties in Realizing Checks and Balances in Indonesian Legal Politics", *Journal of Legal Analysis* Vol.7 Issue.2, 2024, <https://journal.undiknas.ac.id/index.php/JAH/article/view/5238/1614>

The absence of strong opposition makes the legislative and policy-making process run without substantive resistance, so that laws are easily produced to serve the interests of the rulers and lead to the weakening of the *checks and balances*<sup>164</sup> mechanism. This condition shows that weak institutional supervision is not only a matter of constitutional design, but also closely related to the internal dynamics of political parties. The weak *checks and balances* mechanism in the constitutional system cannot be separated from the process of regeneration of political parties which tend to be closed, hierarchical, and oriented towards personal closeness to the party elite, thus producing political actors who are more loyal to the party leadership than to constitutional principles and public interests.

Political parties exist as instruments of people's representation that allow the distribution of aspirations, the organization of interests, and the creation of leadership that has a basis of constitutional validity. In fact, politics in Indonesia shows a significant gap between normative constructions and empirical practices. The process of political cadre regeneration and recruitment tends to be more influenced by personal closeness to the party elite or the financial capacity of the candidate than by the quality, competence, and consistency of track record<sup>165</sup>. The following is a table of indicators of *autocratic legalism* that has the potential to emerge in Indonesia:

---

<sup>164</sup> Jamila, "Coalition and opposition in the perspective of Indonesian constitution ", *Journal of Law Science*, Vol.7 No.2, 2025

<sup>165</sup> Titi Anggraini stated that this phenomenon gave birth to a tendency to personalize power and strengthen kinship politics in the body of political parties. Many strategic positions, both in parliament and government, are filled by people from family circles or cronies of the party elite. Legislative candidates and public officials are determined more by the ability to "buy political

**Table 3.5**  
**Indicators of Autocratic Legalism that Have Emerged in Indonesia**

Yes	Analytical Parameters	Empirical Indicators in the Indonesian Party System	Structural Consequences for the Democratic System
1.	Concentration of Power on a Single Figure	The centralization of authority to the general chairman or the party's core elite is characterized by the length of the term of office beyond the periodization of the AD/ART	Power is personalized to certain figures so that the collective and representative mechanisms of the party become pseudo-
2.	Legal Rules as a Tool of Legitimacy	The use of legal procedures and formal-constitutional mechanisms in the formation of laws that take place quickly, behind closed doors, and with minimal public participation.	The law does not function as a limitation of power, but as an instrument to give legitimacy to political decisions that have been determined by the elite
3.	Legal Suppression of Criticism and Opposition	The co-optation of political parties in a very dominant majority coalition in the House of Representatives so that the opposition is weakened and substantive debates in legislation are silenced	Restrictions on criticism are carried out not through open repression, but through legal and procedural mechanisms that appear legitimate
4.	Placement of Loyalists through Patronage Practices	Political cadre and recruitment are based on personal closeness, political loyalty, and financial capacity, not competence and accountability	Personal loyalty became a mechanism for the control of power, replacing meritocracy and representation of the people.
5.	Structurally Weak Checks and Balances Mechanism	The accommodating relationship between the executive and the legislature and the absence of effective opposition caused the House of Representatives to fail to carry out its supervisory function	The constitutional structure remained formally democratic, but lost corrective power over power

Source: Author's Creation (2026)

---

tickets" than the results of the ideological and institutional regeneration process. FHUI Public Relations, "The Momentum of Political Parties Improved by Titi Anggraini, S.H., M.H.", Faculty of Law, University of Indonesia, accessed on January 20, 2026, [https://law.ui.ac.id/momentum-partai-politik-berbenah-oleh-titi-anggraini-s-h-m-h/?utm\\_source](https://law.ui.ac.id/momentum-partai-politik-berbenah-oleh-titi-anggraini-s-h-m-h/?utm_source)

The whole series of democratic deformations as described above, is essentially rooted in the way power is organized within the political party itself. When the party was built from the beginning on an elitist, hierarchical, and minimal participation structure, it not only gave birth to unaccountable leaders, but also transplanted that authoritarian pattern into the legal system and the government after coming to power.

The symptoms of *autocratic legalism* in Indonesia can be recognized as a series of indicators rooted in the internal structure of political parties: the centralization of the authority of the elite that became the initial foundation of power, when the elite in legal power was no longer produced as the result of a competition of ideas and public deliberation, but as a means to formalize decisions that had previously been centered in a narrow circle of power. Then there was a weakening of the opposition through the co-optation of political parties to silence the corrective power of parliament and strengthened by political regeneration and recruitment that emphasizes personal closeness. The entire process cumulatively leads to the weakening of *the check and balance mechanism* in the constitutional system.

## **2. Structural Similarity Parameters between the Symptoms of *Autocratic Legalism* in Indonesia and the *Autocratic Legalism* Model in the Nazi German Party Legal System**

Studies on *autocratic legalism* show that what is dangerous is not only repressive power, but when power is structured through law so that it appears legitimate, but substantially erodes democracy. This is what is seen in the Nazi

German party system and in a much more lenient version is beginning to show its symptoms in some Indonesian political practices<sup>166</sup>.

In the Nazi context, the concentration of power began when legislative authority was transferred to the executive through *the Enabling Act* of 1933, allowing Hitler to make laws without *the control of the Reichstag*. This pattern is structurally similar to the situation when power in political parties in Indonesia is concentrated in party or coalition leaders, so that strategic decisions are no longer born from deliberative mechanisms, but from a single figure who has legal legitimacy through AD/ART or organizational decisions. This pattern of similarity is not in the level of authoritarianism, but in the direction of the concentration of power and the narrowing of the space of internal control<sup>167</sup>.

The Nazis also used the law as a tool of legitimacy. Through *Gesetz gegen die Neubildung von Parteien* (1933), the regime gave the impression of a neat law, but in reality closed off political competition. Such a structure can be read in parallel with the practice when the internal rules of the party in Indonesia give very broad authority to the chairman or elite to determine policies, sanctions, and organizational direction. Formally it appears procedural but substantially limits member participation and reinforces the dominance of the leadership<sup>168</sup>.

---

<sup>166</sup> Bivitri Susanti, "Authoritarianism Wrapped in Law", accessed December 27, 2025

<https://www.jentera.ac.id/publikasi/otoritarianisme-berbungkus-hukum>

<sup>167</sup> Sindo News, "Chairman of DPD RI Says There Is a Funny Face of National Legislation Determined by 9 Political Party Chairs", November 25, 2021, <https://nasional.sindonews.com/read/609833/12/ketua-dpd-ri-sebut-ada-kelakar-wajah-legislasi-nasional-ditentukan-9-ketum-parpol-1637827889/20>

<sup>168</sup> Yusril Ihza Mahendra submitted a *judicial review* to the Supreme Court regarding the Articles of Association and Bylaws (AD/ART) of the Democratic Party. Based on the positive law that is currently in force, the party's AD/ART is not a type of legislation because it is not made by state

The next parameter is *the legal suppression* of criticism. Nazi restrictions on civil rights were legalized through the *Reichstag Fire Decree*. A symptom that has structural similarities arises when in the body of Indonesian political parties, the configuration of coalitions and opposition formed through party co-optation causes the opposition to be in a weak position<sup>169</sup>. The opposition serves as an institutional actor that tests, criticizes, and challenges the decisions of the rulers. The elimination of opposition through legal instruments not only limits political freedom, but also undermines the main foundation of the *checks and balances mechanism*.

The Nazi regime also placed loyalists through the *Law for the Restoration of the Professional Civil Service* (1933), removing those deemed disloyal. Structural similarities can be seen when the promotion of positions and party cadres in Indonesia prioritize closeness and loyalty to the elite rather than quality. It establishes an organizational structure that depends on figures, not systems, thus opening up space for the formation of personal power that is difficult to control<sup>170</sup>.

---

institutions or officials. All of this happens because the AD/ART as a political party constitution that should function optimally in providing protection and legal guarantees for the rights of members actually only contains things that accommodate the interests of the party rulers. As a result, cadres and members became helpless in front of the elite and the general chairman. Jamaludin Ghafur, "Testing the AD/ART of Political Parties in the Supreme Court", accessed on December 28, 2025, <https://law.uji.ac.id/blog/2021/09/29/menguji-ad-art-parpol-di-mahkamah-agung/>

<sup>169</sup> Tunjung Sulaksono, et al., "Political Recruitment and Party Institutionalization: PDIP's Internal Tension in the 2020 Surakarta Mayoral Election", *Journal of Local Government Issues (LOGOS)* Vol.6 No. 1, 2023

<sup>170</sup> Esty Ekawati, and Mouliza K Donna Sweinstani, "The Impact of Party Personalization on Party Internal Democracy in Post-New Order Indonesia", *Journal of Political Discourse* Vol. 5, No. 2, October 2020

The last structural similarity parameter is weak *checks and balances*. In the Nazi party's legal system, the combination of decrees and administrative regulations rendered the parliament and courts no longer effective in functioning. In Indonesian parties, structural similarities are seen when supervisory institutions remain formally (councils, ethics committees, party assemblies), but their authority is limited and legal procedures are engineered so that supervision is only a formality<sup>171</sup>.

The weakening of the opposition also led to weak *checks and balances*. The absence of a strong opposition makes the legislative and policy-making process run without substantive resistance. Opposition is an institutional element that functions to test the rationality of policies, criticize the use of authority, and open up space for alternative deliberation in the political decision-making process. When the opposition is co-opted into a power coalition or weakened through legal and procedural design, those corrective functions no longer work effectively.

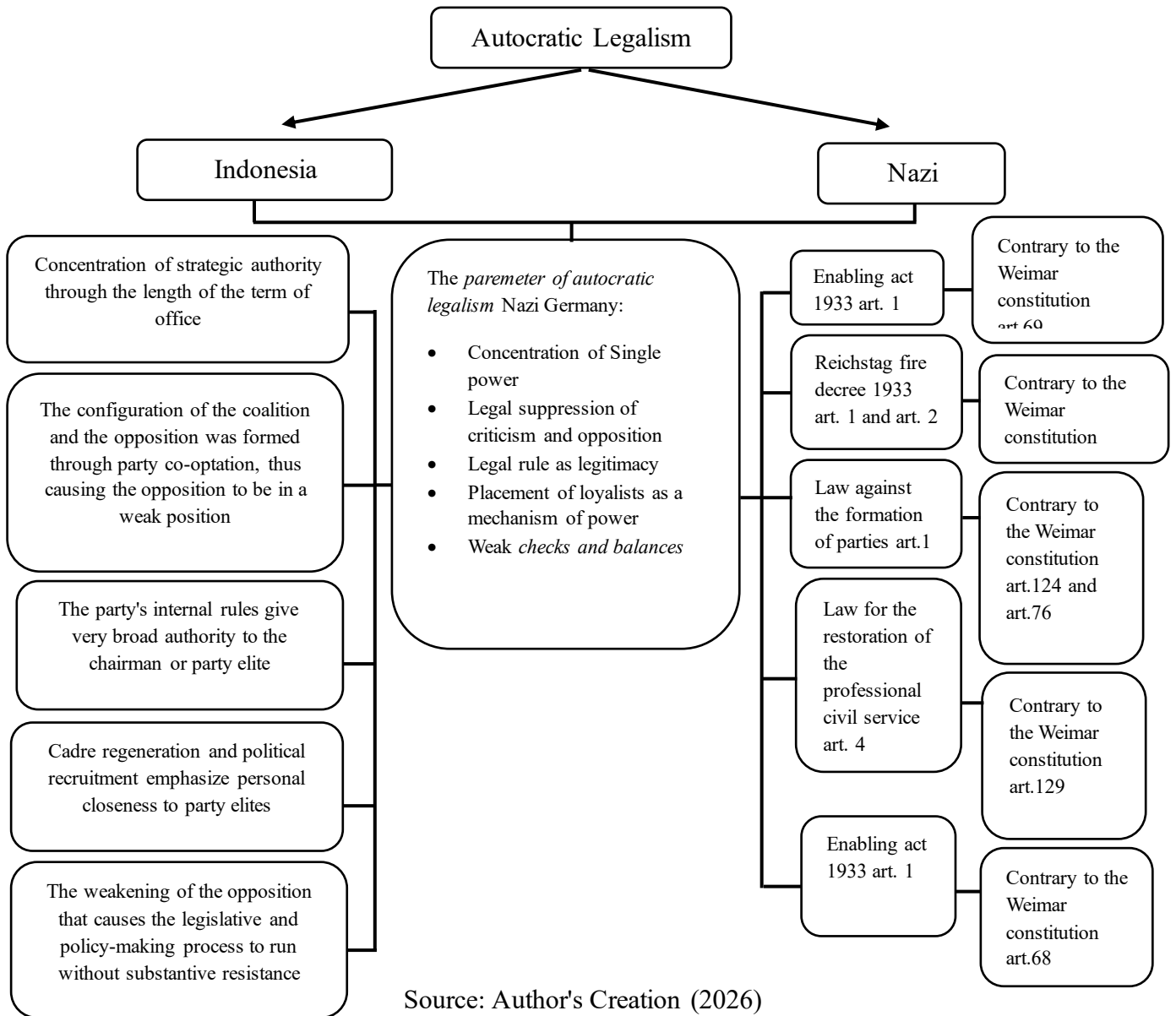
In order to show that *autocratic legalism* has a relatively consistent pattern across historical contexts and legal systems, the following analysis is prepared in the form of structural comparisons. This comparison focuses on aspects of institutional design, decision-making mechanisms, and internal legal instruments used to legitimize the concentration of power. The following is a table of structural similarities between the symptoms of autocratic legalism in

---

<sup>171</sup> Bedjo Sukarno, "The Role of the Opposition as Checks and Balances in the Democratic Political System in Indonesia", accessed December 28, 2025

the Indonesian party and the *model of autocratic legalism* in the Nazi German party legal system:

**Table 3.6**  
**Structural Similarities Between the Symptoms of Autocratic Legalism in Indonesia and Nazi Germany**



This discussion emphasizes that *autocratic legalism* does not appear suddenly, but rather is built through a series of legal mechanisms that are formally legal but substantively eliminate restrictions on power. The experience

of Nazi Germany shows how the centralization of authority, the legalization of elite decisions, the weakening of the opposition, and the placement of loyalists were institutionalized through law to the point that *checks and balances* lost their corrective function. Similar patterns can be conceptually recognized in the Indonesian context, especially through the centralization of the authority of party elites, the use of internal rules as the legitimacy of power, opposition co-optation, and political regeneration and recruitment based on personal closeness. All of these symptoms suggest that vulnerability to *autocratic legalism* is rooted in the internal structure of undemocratic political parties, which are then projected into the practice of state power.

### **3. Measuring the *Autocratic Parameter* Model of the German Nazi Party on the Structural Vulnerabilities that Trigger Authoritarian Leadership in Indonesian Political Parties**

Measuring the model of *the parameters of autocratic legalism* in the Nazi German party is to use it as an analytical mirror to read the structural vulnerability of Indonesian political parties that have the potential to give birth to authoritarian leadership. Symptomatic indicators and structural similarities to *the parameters of autocratic legalism* that have occurred in the history of the Nazi German party, such systematic practices became a legal entry point to increasingly centralized and elusive domination.

Conceptually, as Kim Lane Scheppele explains in his study of *autocratic legalism*, modern authoritarianism does not always come about through coups or the outright dissolution of democratic systems, but through

the use of "seemingly legitimate" laws and legal procedures as instruments of consolidation of power. When political actors use the law to consolidate power without preserving substantive democratic values, they not only weaken institutions but also gradually erode the institution's ability to withstand the accumulation of power of the executive as well as other dominant elites. This tactic became the cornerstone of authoritarianism that was increasingly difficult to detect <sup>172</sup>.

In the Indonesian context, the practice of using laws and state instruments to marginalize political opponents (*lawfare*<sup>173</sup>) where the passage of laws protested by the public because of the minimal process of public participation, as well as the control of public narratives through legal instruments show symptoms that are in line with the findings in the literature *on autocratic legalism*.

Furthermore, research on the symptoms of authoritarianism in democracy in Indonesia shows that practices such as *abusive constitutionalism*, *electoral cartelization*, and *political jurisdiction* tend to lead to the domination of certain elites. When the democratic structure has lost effective internal control, when the internal structure of the legislative institution is politicized

---

<sup>172</sup> Kim Lane Scheppele also explains the common phenomenon of democratic regression is where leaders are elected by the democratic public and then use their electoral mandate to dismantle the constitutional system they inherited by law. These leaders aim to consolidate power and remain in office indefinitely, ultimately depriving democratic citizens of the ability to exercise their basic democratic rights. Kim Lane Scheppele, "Autocratic Legalism", accessed on January 21, 2026 <https://lawreview.uchicago.edu/print-archive/autocratic-legalism>

<sup>173</sup> *Lawfare* is the use of legal process as an instrument of political competition. Deny M. Ramdhany, et al., "Political and Legal Dynamics in Influencing Law Enforcement in Indonesia", *Themis: Journal of Legal Sciences*, Vol.3 No.1, September 10, 2025, <https://publikasi.abidan.org/index.php/themis/article/view/1402/998>

and becomes only a *rubber-stamp*, *checks and balances* weaken so that the opportunity for dominance of one political group is more open<sup>174</sup>.

These vulnerabilities do not appear suddenly at the state level, but start from the culture and internal practices of the political party itself. Political parties as the main institution of leadership recruitment have a central role in shaping the orientation, ethos, and perspective of the political elite towards power and the law. The internal culture of the party, which from the beginning was built in a hierarchical manner, centralistically, and normalized obedience without criticism to the leadership, was carried by the party elite when occupying public positions<sup>175</sup>.

The accumulation of these symptoms can accelerate the transition to a more authoritarian form of leadership for several reasons, namely the erosion of substantive democratic norms. The law no longer functions as a limitation of power but as an instrument of domination, control over the behavior of political actors is not necessarily effective, so the space for authoritarian leaders<sup>176</sup>

---

<sup>174</sup> Fadli Ramadhani and Beni Kurnia Illahi, "Autocratic Influencelegalism On The Institution Of Democracy And The Consolidation Of Civil Society In Indonesia", *Rule of Law: Journal of Legal Research*, Vol. 34, No 2, August 2025

<sup>175</sup> Esty Ekawati and Mouliza K Donna Sweinstani in their research stated that the factors that cause the party to be dominated by one particular figure/individual are charisma figures, patron-client culture, and economic motives. The personalization of political parties is incomprehensible and compromised because this phenomenon has an impact on the building of political parties that are built from a system of dependence on certain figures who can play a holistic role for their party. Furthermore, this condition threatens the party's internal democracy which hinders the institutionalization of political parties, the death of the party's internal democracy, and the negative impact on elite circulation. Esty Ekawati and Mouliza K Donna Sweinstani, "The Impact of Party Personalization on Party Internal Democracy in Post-New Order Indonesia", *Journal of Political Discourse*, Vol. 5, No. 2, October 2020, <https://journal.unpad.ac.id/cgi/viewcontent.cgi?article=1082&context=wacanapolitik>

<sup>176</sup> The critical thinking offered by Satjipto Rahardjo and Zainal Arifin Mochtar strengthens the analysis that the law is often a tool of elite interests, not a means of protection for the wider community. This condition is even more evident when looking at several regulations and legal policies that show blatant partiality towards the ruling group. Ana Nurfita and Karnia ulia wulan

grows. Another reason is the marginalization of public control. The lack of meaningful public participation in the legislative process tends to reduce the accountability of leaders to their constituents, making the government less responsive and more oriented towards the dominance of elite power<sup>177</sup>. The last reason is the manipulation of legal and judicial institutions. The use of the law to impose political will has the potential to erode the independence of institutions that are supposed to be the pillars of democracy<sup>178</sup>.

If left unchecked, institutional structures and political parties that were initially formally democratic can give birth to increasingly authoritarian or dominant leadership without strong internal controls and effective balancing mechanisms. Preventive efforts are absolutely necessary to keep the political structure from degenerating towards a form of authoritarianism.

The model of *the parameters of autocratic legalism* in the Nazi German party shows that authoritarian leadership was not born suddenly, but rather grew out of structural vulnerabilities institutionalized through laws, organizational procedures, and party culture that normalized the concentration of elite power. These indicators find relevance in the context of Indonesian political parties, especially in the practice of centralization of authority, weakening of member participation, and lack of effective internal control

---

Febrianti, "Law as an Instrument of Power: A Sociological Analysis of Non-Neutral Policies", *Triwikrama: Journal of Social Sciences*, Volume 8, Number 3, 2025, <https://ejournal.warunayama.org/index.php/triwikrama/article/view/13217/11215>

<sup>177</sup> Bagus Hermanto, "The Dynamics of Public Participation in Realizing Participatory Legislation", *Judicial Journal* Vol. 16 No. 2 August 2023, <https://jurnal.komisiyudisial.go.id/jy/en/article/view/668/426>

<sup>178</sup> Adinda Zahra Fathya and Rani Santika, "Judicial Independence and Political Influence in Modern Democracies", *Journal of Law and Social Politics*, Volume 3 Issue 2, 2025, <https://jolastic.id/index.php/jlsp/article/view/60/66>

mechanisms. If this pattern is left unchecked, political parties have the potential to become a space for authoritarian leadership that is then projected into the management of state power. Therefore, this sub-chapter emphasizes that the prevention of authoritarianism must begin with the improvement of the internal structure and culture of political parties as the initial door to the consolidation of substantive democracy.

### **C. Redesign of the *Autocratic Legalism Parameter Model* as an *Ius Constituendum* in an Effort to Prevent Authoritarian Leadership in Indonesian Political Parties from the Perspective of *Sadd Dzari'ah***

*Sadd dzari'ah* according to Imam As-Syatibi is an intermediary with everything that appears to be *maslahat* to something that is basically *mafsadah*<sup>179</sup>. As a method of *istinbat* (law-making), *Sadd al-Dzari'ah* works by evaluating the "*wasilah*" or pathway that can lead to significant fascism, and then legally restricting or prohibiting such means before the adverse effects are realized<sup>180</sup>. *Sadd*

---

<sup>179</sup> The views of some scholars such as Qadi Abd Wahab, Imam Syaokani, and Imam Al-Baji narrow the meaning of *Sadd Ad Dzari'ah* as a matter that was initially permissible. In contrast to the views of Imam al-Qarafi and Imam Syatibi who interpreted the word *Sadd Ad Dzari'ah* in general and did not narrow it down like other groups. Fashihuddin Arafat, "The Blasphemy of *Sadd Ad-Dzari'ah* in Pregnancy Delay During the COVID-19 Pandemic", *MASADIR: Journal of Islamic Law*, Volume 02, Number 02, October 2022

<sup>180</sup> There are 2 (two) divisions of *al-dzari'ah* that are put forward by the scholars of *ushul fiqh*. *Dzari'ah* is seen in terms of the quality of its usefulness (its damage) and *dzari'ah* is seen in terms of the type of its reasonableness. *Al-Dzari'ah* seen in terms of the quality of its *kemafsdada*, Imam Syathibi as quoted by Ma'ruf Amin, stated that in terms of the quality of its *kemafsdad*, *dzari'ah* is divided into 4 (four) types: 1) The deed done causes real harm (*qathi'*), 2) The deed done is permissible, because the coral leads to damage, 3) The deed done is usually or is likely to lead to damage and 4) This action is in principle, it can be used because it contains benefits, but this action can also cause harm. While *al-dzari'ah* is seen in terms of the type of damage caused, Ibn Qayyim al-Jauziyah divides it into 2, namely: The act leads to a damage, such as liquor that causes drunkenness and the act is basically an act that is permissible or encouraged, but is used as a way to commit an unlawful act. Muhammad Idris Sarumpaet and Dhiauddin Tanjung, "Al-Adillah Al-Mukhtalaf Fiha: *Sadd Al-Zari'ah*", *Journal of Law, Politics and Social Sciences (JHPIS)*, Vol.3, No.4 December 2024, <https://ejurnal.politeknikpratama.ac.id/index.php/jhpis/article/view/3981/3816>

*Dzari'ah* provides a theoretical foothold that the prevention of the potential for authoritarianism in the structure of political parties must begin from the design of its internal laws, not only from negative control after it has been consolidated, since a legal mechanism that seems legitimate can at the same time become *dzari'ah* for authoritarian domination.

The experience of *autocratic legalism* in the Nazi party shows how structural loopholes such as concentration of power, weak supervision, and manipulation of rules can give birth to authoritarian leadership even if it formally appears legal. Therefore, from the perspective of *sadd dzari'ah*, prevention must be carried out from the level of institutional design. The redesign is directed at a more balanced distribution of power within the party, limiting the authority of the general chairman, and strengthening independent control organs so that they are not easily politicized.

The supervision mechanism between party organs (central, regional, and branch) also needs to be strengthened in a transparent and accountable manner so that it can function as a *preventive guard* against the abuse of power<sup>181</sup>. Optimizing the law on political parties can be done by incorporating the principle of *Sadd Dzari'ah*, namely by narrowing the opportunities for legal manipulation, strengthening internal democracy, and ensuring that every party decision is subject to the principles of justice, accountability, and protection from authoritarian practices. The redesign of *the parameters of autocratic legalism* is not just a

---

<sup>181</sup> Muchamad Ali Safa'at, et al., "The Construction of the Internal Democracy Index of Political Parties in a Constitutional Democratic State: Indonesian Perspective", *Ius Quia Iustum* Law Journal Vol.31 No.1, 2024

technical correction, but a normative strategy to ensure that political parties remain a pillar of democracy, not an instrument of power domination<sup>182</sup>.

### **1. Redesign of Political Parties' Internal Structures as the Application of *Sadd Dzari'ah* to the Parameters of Autocratic Legalism**

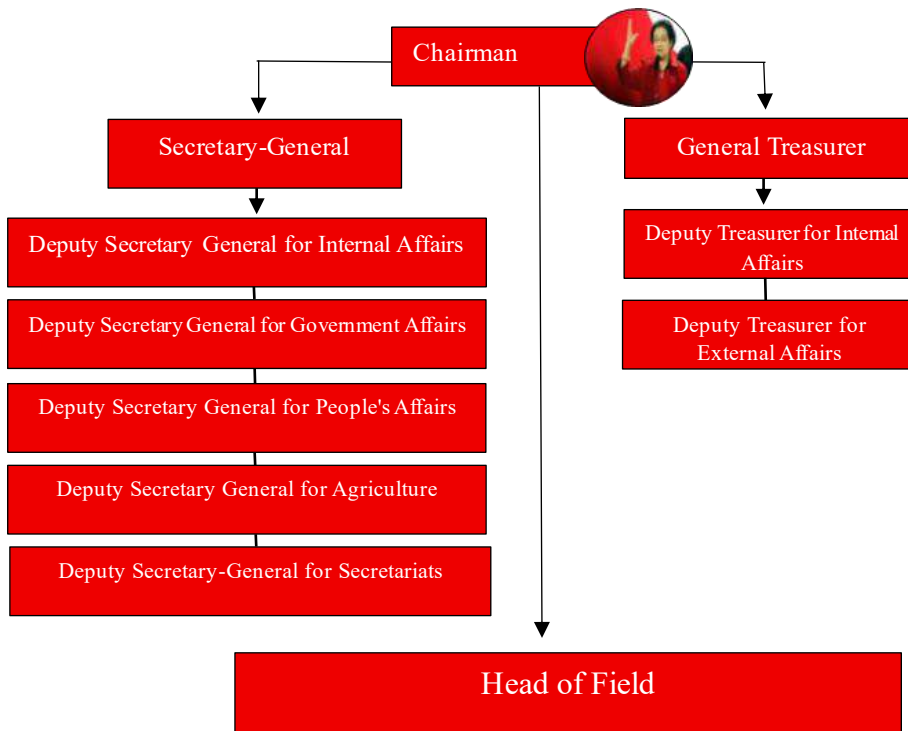
The redesign of the internal structure of political parties in the context of *sadd dzari'ah* (prevention of mafsadah) refers to efforts to improve the governance of political party organizations in order to reduce the opportunity *for the practice of autocratic legalism*. The main focus is on strengthening internal democracy, accountability mechanisms, and transparency in decision-making so that political parties become participatory vehicles rather than instruments of elite domination.

The internal structure of political parties in Indonesia is generally built on the principle of organizational hierarchy that places the central level management as the main holder of control over the direction of policies, political strategies, and strategic decision-making of the party. In order to provide a relevant picture, this discussion is limited to the four political parties that won the 2024 election. The analysis of the internal structure of the party is not only descriptive, but also the basis for assessing the potential concentration of power and the vulnerability of internal governance of political parties in Indonesia.

---

<sup>182</sup> Agatha Olivia Victoria, "Ministry of Law and Human Rights: Strengthening Internal Governance to Realize Democratic Political Parties", Antara News Agency Indonesia, September 2024, [https://www.antaraneews.com/berita/4360575/kemenkumham-penguatan-tata-kelola-internal-wujudkan-parpol-demokratis?utm\\_source=](https://www.antaraneews.com/berita/4360575/kemenkumham-penguatan-tata-kelola-internal-wujudkan-parpol-demokratis?utm_source=)

**Table 3.7**  
**Structure of the PDIP DPP 2025-2030**



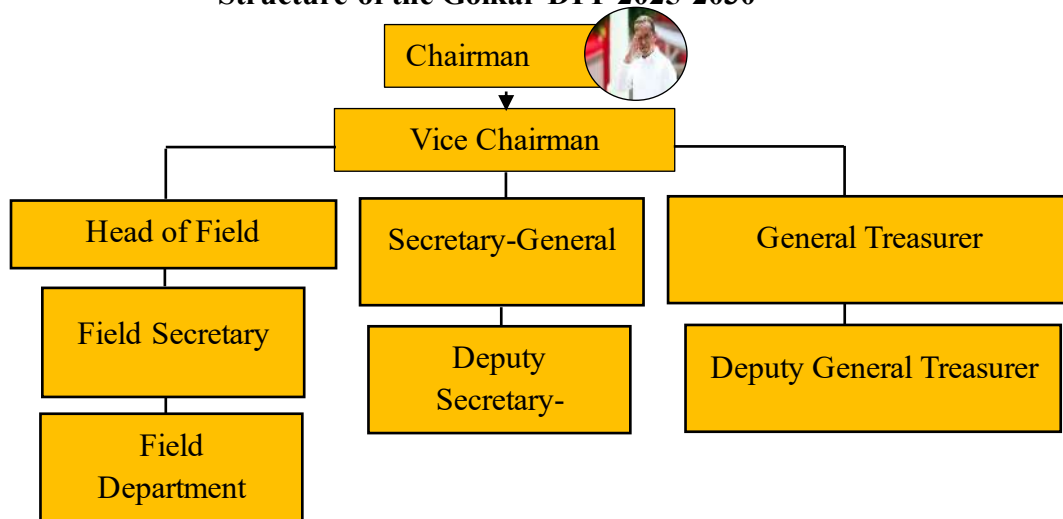
Source: Data processed from the [pdiperjuangankalsel.id](https://pdiperjuangankalsel.id) website<sup>183</sup>

The structure of the PDIP Central Leadership Council (DPP) is not effective in practice because it is marked by a very strong centralization of authority in the General Chairman as the center of strategic decision-making of the party. PDI Perjuangan recognizes the ethical mechanism through the ethics court or the ethics council in internal regulations, the institution is not placed as an independent part of the DPP structure and is structurally under the influence of the DPP itself, thus losing its control and substantive accountability. This condition causes internal oversight mechanisms to be formalistic and incapable of limiting elite dominance, which ultimately reinforces the pattern

<sup>183</sup> South Kalimantan Provincial PDI Perjuangan Regional Leadership Council, "PDI Perjuangan Central Leadership Council", accessed on January 30, 2026, <https://pdiperjuangankalsel.id/dpp/>

centralization of authority. Such a structure creates hierarchical and personalistic power relations, opens up space for authoritarian leadership practices within the party, and weakens the principles of internal democracy that should be the foundation of political parties in a democratic system.

**Table 3.8**  
**Structure of the Golkar DPP 2025-2030**



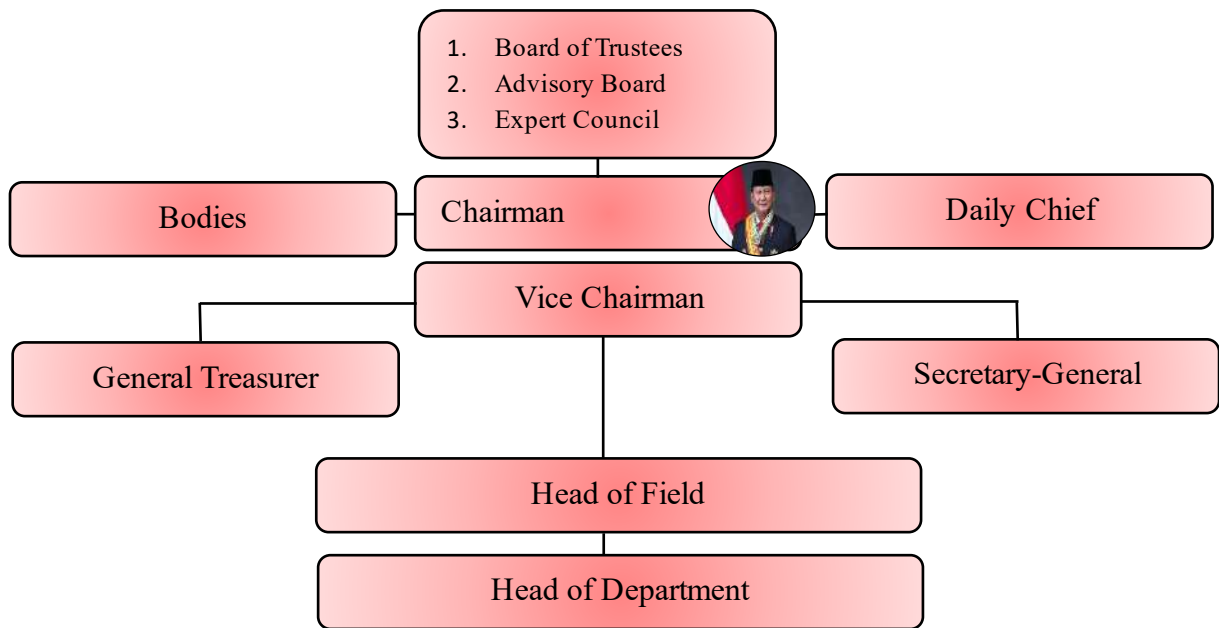
Source: Data processed from the Decree of the Central Leadership Council of the Golongan Karya Party Number: Skep-27/DPP/GOLKAR/XI/2024<sup>184</sup>

The structure of the Central Leadership Council (DPP) of the Golkar Party is formally designed to be more complete, including the existence of an Honorary Council or Ethics Council which is explicitly listed in the AD/ART as an institution that enforces the party's ethics and honor. In practice, the structure still shows ineffectiveness in limiting the power of the central elite. As a result, although Golkar has a clearer ethical apparatus than other parties, the institution often does not function as an effective control tool for the elite, but as an instrument of

<sup>184</sup> Decree of the Central Executive Council of the Golongan Karya Party Number: Skep-27/DPP/GOLKAR/XI/2024, accessed on January 30, 2026, <https://dpppartaigolkarofficial.com/sk-pengurus-dpp-golkar/>

legitimacy of the leadership's political decisions. The centralization of authority in the DPP structure weakens internal accountability and encourages the birth of a hierarchical and oligarchic leadership pattern

**Table 3.9**  
**Structure of the Gerindra DPP 2025-2030**



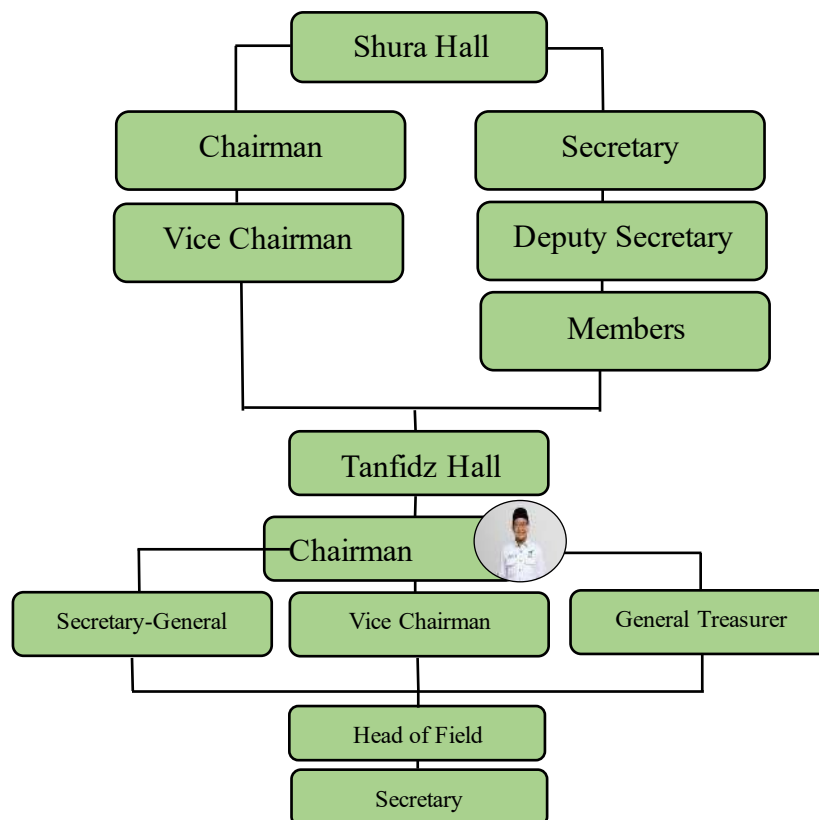
Source: data processed from the gerindra.id website<sup>185</sup>

The structure of the Gerindra Party's Central Leadership Council (DPP) is arranged hierarchically with the dominance of the Board of Trustees in determining the direction of the party's policies and strategic decisions, including the DPP. AD/ART opens up space for the formation of a cadre discipline and ethics mechanism, the mechanism is not institutionalized as an independent ethical organ and is not clearly placed in the structure of the DPP, so that the supervisory function of the party elite becomes weak. This configuration strengthens the centralization

<sup>185</sup> Composition of the Gerindra Party Central Leadership Council, accessed on January 30, 2026, <https://gerindra.id/wp-content/uploads/2022/08/SUSUNAN-PENGURUS-DEWAN-PIMPINAN-PUSAT-PARTAI-GERINDRA.pdf>

of power in the top elite and establishes a personalistic leadership pattern within the party.

**Table 3.10**  
**Structure of DPP PKB 2024-2029**



Source: data processed from the rri.co.id website<sup>186</sup>

The structure of the Central Leadership Council (DPP) of the National Awakening Party (PKB) is formally structured with a leadership dualism between the Shura Council as the guardian of the ideological line and the Tanfidz Council as the party's executive executor, which at the normative level is intended to create an internal balance of power. In practice, these structural relations actually show ineffectiveness because the

<sup>186</sup> Yurike Fitri, "PKB DPP Announces Management Composition for the 2024-2029 Period", September 18, 2024, <https://rri.co.id/nasional/982061/dpp-pkb-umumkan-susunan-pengurus-periode-2024-2029>

party's strategic authority tends to be centered on the elite of the Tanfidz Council and the figure of the General Chairman, while the function of the Shura Council is more symbolic and normative. The PKB does not explicitly include an independent ethics court or ethics council in the structure of the DPP as listed in the AD/ART, so the mechanism of ethics enforcement and internal oversight depends on the decisions of the same structural elite. The absence of an independent and clearly integrated ethical institution in the structure of the DPP causes control over the abuse of authority to be weak and formalistic.

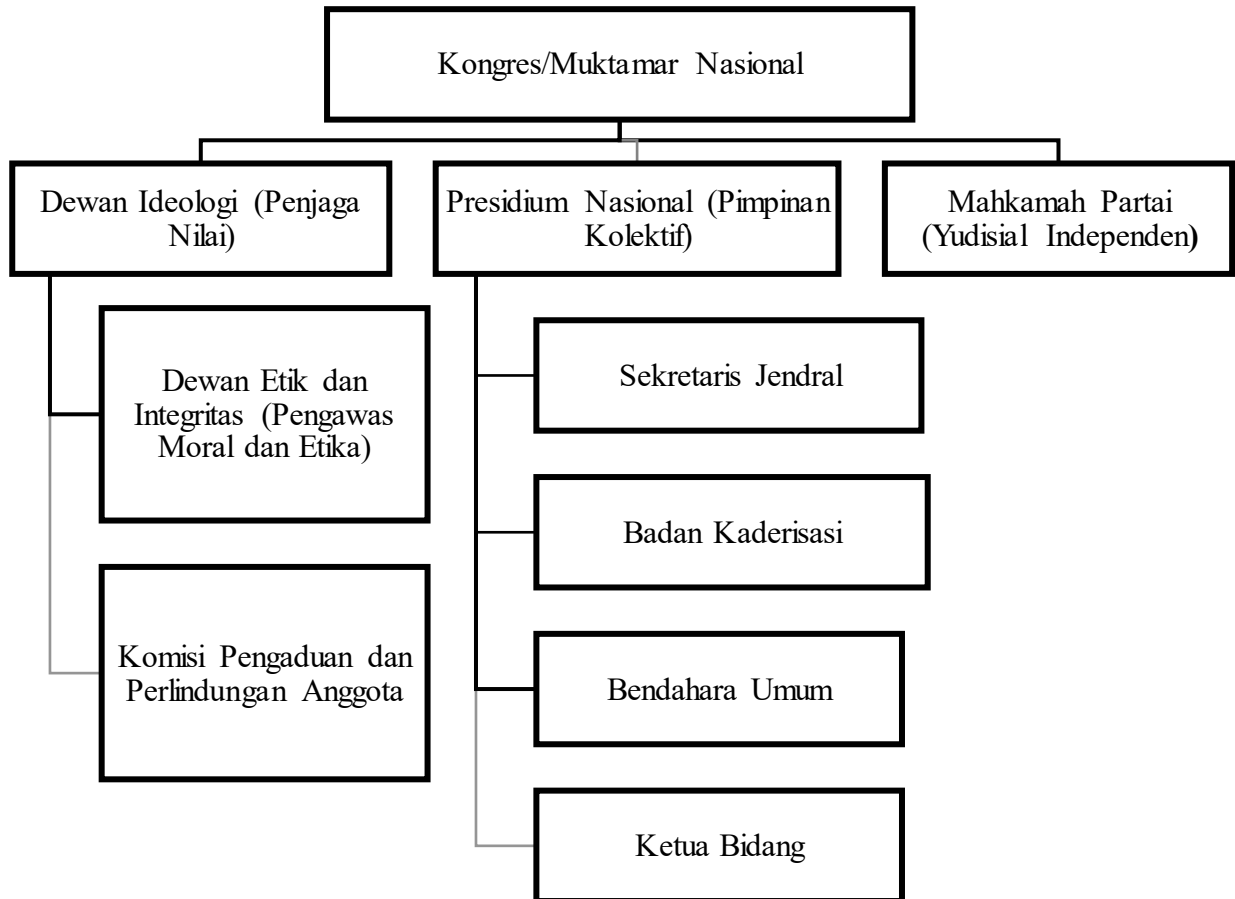
The internal structure of political parties needs to be designed in such a way that internal institutions have a clear control role and supervise each other. This is important because strong institutions are the main tool in preventing power concentration, conflicts of interest, and internal oligarchy that often lead to the practice of authoritarianism<sup>187</sup>.

Redesigning the internal structure of political parties, the author seeks to design the concept of the design of the internal structure of political parties as an instrument of prevention (*sadd dzari'ah*) against the parameters of *autocratic legalism*. This formulation is carried out based on the principles of harm prevention in the perspective of *sadd dzari'ah*. The draft redesign of the internal structure of political parties is presented in the following table.

---

<sup>187</sup> Proborini Hastuti, "Redesign of the Internal Structure of Political Parties in the Framework of General Election Contestation in Indonesia", *Mimbar Yustitia* Vol.2 No.1, June 2018

**Table 3.11**  
**Design of Political Parties' Internal Structures as the Application of Sadd**  
**Dzari'ah**



Source: Author's Creation (2026)

The chart of the internal structure of political parties presented above is a normative design (*ius constituendum*) designed to close legal and institutional channels (*dzari'ah*) that have the potential to give birth to authoritarian leadership in the body of political parties. This structure is not intended to represent the institutional practices of a particular political party, but rather as an ideal model that serves as a standard of prevention against the symptoms of *autocratic legalism* that are often rooted in the concentration of internal power of the party.

At the top of the party's internal structure, the congress or national congress is placed as the holder of the highest authority. This placement is based on the principle of *Sadd Dzari'ah*, which is an effort to close the means (*wasilah*) that have the potential to give birth to fascism in the form of concentration of power and authoritarian leadership in the party body. The placement of strategic authority such as policy direction, leadership election, and changes to the AD/ART in a collective forum representing members and regional structures, this design limits the space for manipulation of internal laws by party elites unilaterally before the authoritarian impact is realized.

Under the congress, the structure is divided into three axes of internal power, namely executive leadership functions, normative-ethical supervision, and internal justice, as a form of internalization of the principle of *checks and balances*. The national presidium is placed as a collective leadership that replaces the dominant single-chairman model. This collective leadership aims to limit the personalization of power and prevent the formation of a central figure who has the potential to use internal law as an instrument of power consolidation, as the main character of *autocratic legalism*.

Furthermore, the existence of the Party Court as an independent internal judicial institution is a key element in the application of *the principle of sadd dzari'ah*. The Party Court is designed to handle internal disputes, ethical violations, and the process of dismissing cadres or

administrators in a fair and procedural manner. With the separation of disciplinary enforcement authority from the party's executive leadership, this design closes the path of using sanctions as a tool of political repression against dissent or internal opposition.

The ideological council and the ethics and integrity council function as normative and moral oversight organs that are independent of the day-to-day leadership structure. The existence of these two institutions is intended to ensure that the policy direction and behavior of the party elite remain in line with the party's basic values and the principle of justice, while preventing the normalization of distorted but procedurally legalized practices of power. This institution acts as an early prevention mechanism against structural deviations before it develops into internal authoritarianism.

The Secretariat General, the Regeneration Agency, and the Finance Agency are placed as operational technical organs that are under the control of collective leadership and internal supervision. This placement is intended to prevent the control of organizational resources, both administrative, regeneration, and financial, by one specific actor or elite group.

The design of the internal structure of this ideal political party reflects the application of *the principle of Sadd Dzari'ah* in the context of party law, which is to close legal avenues that appear to be formally legitimate but have the potential to give birth to the illusion of authoritarian leadership. Prevention is carried out from the upstream formation of

political elites through institutional designs that limit power, strengthen internal control, and ensure justice and meaningful participation in the body of political parties. In order to make it easier for readers, the author summarizes the concept, function, way of working, and updating the design of the internal structure of political parties in the following table:

**Table 3.12**  
**Mapping of Concepts, Functions, Work Mechanisms, and Newness of**  
**Political Parties' Internal Structures in the Perspective of Sadd**  
**Dzari'ah**

Structure	Basic Concepts	Function	How It Works	Design Updates
National Congress/Congress	The party's supreme sovereignty forum as <i>the ultimate authority</i>	Establish AD/ART, Elect and dismiss leaders, Establish the party's policy outline	Congress is given corrective authority, rules of conduct are prepared by independent committees, congress delegates are mandatory, not centrally controlled, congress becomes a forum for power evaluation	In the old structure, congresses were often formalistic and elite-controlled. In this design, congress is positioned as an instrument of limiting power, not just legitimacy
National Presidium (Collective Leadership)	Collective leadership replaces a single central figure	Making strategic decisions, coordinating the party's executive organs	Decisions are taken collectively and quorum, Term of office is limited and evaluated	In contrast to the dominant chairmanship model, the presidium eliminates the concentration of power in one individual

General Secretariat	Administrative and technical organs	Party administration, Correspondence and archives management	Responsible to the presidium, not individuals, Not authorized to determine political direction	Previously, it was often the "political hand" of the chairman. In this design, the secretary general is positioned to be neutral and administrative
Cadre Regeneration Agency	Merit-based and ideologically-based regeneration systems	Cadre recruitment, Political and leadership education	Standard cadre curriculum, Objective and tiered assessment, Supervised by the Ideology Council and the Ethics Council	Avoiding patronage politics and party dynasties
General Treasurer	Financial transparency and accountability	Party financial management and Fund reporting	Internal and external audits, Periodic reports to congress	Different from the old closed practice, this body is separated from political power
Head of Field	Program implementation coordinator	Coordinating the implementation of programs according to their fields	Responsible to the Presidium and Supervisory Bodies	focused on technical work, Authority is structurally limited
Party Court	Independent internal judicial institutions	Internal dispute resolution, AD/ART compliance test	The verdict is final and binding	Old practices are often subordinate. In this design, the Party Court was completely independent
Ethics & Integrity Council	Instruments for the prevention of moral	Maintaining leadership ethics,	Ethical investigations, sanctions	The novelty lies in its function as an <i>early</i>

	mafsadah and abuse of power	Supervising the behavior of party elites	recommendations, can trigger proceedings in the Party Court	<i>warning system</i> against authoritarianism
Member Complaints & Protection Commission	Bottom-up control channel	Accommodating cadre reports, Protection from structural bullying	Confidential and secure complaints, Protected from political sanctions, Connected to the Ethics Board and the Courts	to prevent <i>abuse of power</i>
Ideological Council	Guardian of the party's ideological direction and basic values	Guarding ideological consistency, Preventing elite pragmatic deviations	Provide ideological assessments of policies, Recommendations for correction to the presidium and congress	This design has corrective authority

The table above shows that the design of the internal structure of political parties not only serves as an organizational arrangement, but also as a preventive instrument in closing the loophole for abuse of power. Through the division of authority, oversight mechanisms, and restrictions on the role of political actors, the structure designed is oriented towards the prevention of authoritarian leadership from the early stages, in line with the Sadd Dzari'ah approach.

## **2. Strengthening the Internal Supervision Mechanism Between Party Organs as an Effort of Sadd Dzari'ah in Preventing the Potential of Authoritarian Leadership Mafsadah**

Internal supervision in a political party is an instrument of control between party organs that aims to keep the party consistent with internal

democratic values. Supervisory structures such as the Ideological Council and the Ethics Council on the internal structure of political parties show that internal oversight mechanisms do work, but their effectiveness<sup>188</sup> is highly dependent on institutional design and consistency of implementation<sup>189</sup>.

Internal supervision of the party can be strengthened through institutional mechanisms, one of which is the establishment of internal independent bodies such as the Ideology Council, the Ethics Council, and the Party Court which have the authority to investigate violations of administrators and cadres, provide recommendations for sanctions, and supervise strategic decisions to remain in accordance with the party's AD/ART. This body should ideally be independent of the party's top power structure so that it does not function as a proxy tool for elite interests, but rather as an effective instrument of control to maintain accountability and prevent the domination of power by certain groups<sup>190</sup>.

Supervision of the party's internal democracy can also be carried out by adding a new body, namely the Complaints and Member Protection

---

<sup>188</sup> Firman Noor, in his research, stated that the internal problem of parties in Indonesia is *a lack of transparency* in party management. The current management of the party is so centralized, where various important party policies are more determined by a handful of elites exclusively. In most parties, rules are often removed in policy-making which causes party elites to easily make decisions without having to consult cadres. In addition, there is also a *lack of discipline*. The party has not been successful enough in disciplining its cadres to conduct politics in a clean and dignified manner. This condition is closely related to the party's failure to instill idealistic values through an internal education process or regeneration. Firman Noor, "Corruption and Internal Party Problems in Indonesia", *Kompas*, 06 Jul 2021, accessed on 22 January 2026, <https://www.kompas.id/artikel/korupsi-dan-problematika-internal-partai-di-indonesia>

<sup>189</sup> Bandyah, "Supervision of Political Parties Over Their Cadres in the DPRD Study on PDIP, Golkar, Democrats in Bali Province", *Journal of Political Science and Government*, Vol. 2 Number 1, January 2016

<sup>190</sup> Farida Azzahra, "Reconstruction of the Political Party Dispute Settlement Body: A Study of the Position of Political Party Courts in Indonesia", *Crepido Journal* Volume 04 Number 02, November 2022

Commission, as a *bottom-up control* channel that functions to accommodate cadre reports and protect cadres and members from structural intimidation. Various facts show that political party cadres in Indonesia not only face structural challenges in the process of regeneration, but also experience various forms of pressure and intimidation that hinder their freedom of opinion and political participation<sup>191</sup>.

Sri Budi Eko Wardani, Lecturer of Political Science, Faculty of Social and Political Sciences (Fisip), University of Indonesia stated that the low enforcement and consistency of the internal rules of political parties (political parties) occurred because the party focused more on trying to survive in political competition than improving its institutions. As a result, political parties have become an exclusive organization dominated by kinship relationships so that they increasingly do not represent the interests of society at large. Many political parties at the AD/ART level include a supervisory body or honorary body to supervise violations of ethics and cadre discipline, the existence of this formal rule does not automatically guarantee the substantive independence of the body<sup>192</sup>.

---

<sup>191</sup> Secretary General (Secretary General) of the PDIP DPP, Hasti Kristiyanto, revealed the practice of intimidation by the apparatus against his cadres, namely I Wayan Koster when he moved to win the number 03 Ganjar-Mahfud candidate. In addition to Koster, other cadres who were intimidated were Hevearita Gunaryanti Rahayu, a number of regents, and members of the House of Representatives. He even mentioned that there was a Village Head in Makassar, South Sulawesi, who experienced intimidation in the form of verbal violence. Muhammad Farhan Sharty, "Revealed, PDIP reveals evidence of regime intimidation in the 2024 elections", Sindo News March 17, 2024, accessed January 31, 2026, <https://nasional.sindonews.com/read/1342119/12/terbongkar-pdip-beberkan-bukti-intimidasi-rezim-dalam-pemilu-2024-1710673389/7>

<sup>192</sup> The measurement of the Political Party Institutionalization Index in 2020-2024 includes three main dimensions, namely 1) the degree of systematics that assesses the party's consistency in implementing recruitment rules, conflict resolution, leadership change, and policy processes in accordance with party rules. 2) an infusion of values that measure the existence of values or

Democracy theory states that the principle *of checks and balances* is considered important to prevent the accumulation of authority in one individual or group. This applies not only to state institutions such as the executive, legislative, or judicial, but also within political party structures. The same principle needs to be applied in the party organization so that there is no concentration of power in one person or a small group of elites, which can open up space for the practice of internal authoritarianism<sup>193</sup>. Political parties that implement *internal checks and balances*, for example, through an independent ethics supervisory body, are better able to control the behavior of party leaders who try to expand power authoritarily and close the space for internal criticism.

The strengthening of the internal supervision mechanism between party organs is not only an institutional technical issue, but a normative effort to close the way for the birth of a mafsadah of power. From the perspective *of sadd dzari'ah*, any structural loopholes that allow for the concentration of authority, silencing of criticism, and hijacking of internal

---

principles that are believed and applied consistently within the party, 3) the independence dimension to assess the extent to which the party is able to manage the organization independently without external interference. Of the three dimensions, the degree of systematicism received the lowest score, which was 57.1. This means that political parties are still less institutionalized systemically. BRIN Political Research Center researcher Mouliza Kristhopher Donna Sweinstani concluded that this index provides an overview of the condition of political party institutionalization that needs to be improved. Denty Piawai Nastitie, "BRIN's Institutional Political Party Index: The Most Institutionalized PKS-Nasdem", *Kompas*, October 30, 2024, [https://www.kompas.id/artikel/indeks-pelembagaan-parpol-brin-pks-nasdem-paling-terlembaga?utm\\_source=](https://www.kompas.id/artikel/indeks-pelembagaan-parpol-brin-pks-nasdem-paling-terlembaga?utm_source=)

<sup>193</sup> *Checks and balances* can prevent the concentration of power in one person or group, and protect citizens from abuse, oppression, or exploitation. *Checks and balances* also help ensure the stability and continuity of government by preventing sudden shifts of power or policies. Thum Ping Tjin, "Principles of Democracy: Checks and Balances", *New Naratif*, accessed January 22, 2026, [https://newnaratif.com/principles-of-democracy-checks-and-balances/?utm\\_source=](https://newnaratif.com/principles-of-democracy-checks-and-balances/?utm_source=)

laws by the party elite must be seen as potential damage that must be prevented from an early stage. The absence of effective oversight not only reduces the internal democracy of the party, but also contributes to the normalization of authoritarian leadership through formally-legitimate procedures.

### **3. Formulation of *Ius Constituendum*: Optimization of the Political Party Law Based on the Principle of *Sadd Dzari'ah* for Strengthening the Internal Democracy of Indonesian Political Parties**

*Ius constituendum* is a legal term that refers to the right and authority of lawmakers to formulate ideal norms, including in the formation or reform of laws<sup>194</sup>. This framework, the normative foundation of *the ius constituendum*, aims to create a Political Party Law that not only meets formal requirements but also functions in strengthening internal democracy while making the party a vehicle for political education and the glue of member representation.

Law No. 2 of 2011 concerning Amendments to Law No. 2 of 2008 concerning Political Parties (Law on Political Parties) is the legal basis for the formation, management, and function of parties in Indonesia. This law mandates several provisions related to internal democracy such as party decision-making, member rights, transparency, accountability, women's representation, political education, and cadre recruitment. However, in

---

<sup>194</sup> Diva Lufiana Putri and Inten Esti Pratiwi, "Ius Constitutum and Ius Constituendum, This is the Meaning and Difference", Kompas, accessed December 29, 2025 [https://www.kompas.com/tren/read/2022/08/27/181000565/ius-constitutum-dan-ius-constituendum-ini-pengertian-dan-perbedaannya?utm\\_source=.com](https://www.kompas.com/tren/read/2022/08/27/181000565/ius-constitutum-dan-ius-constituendum-ini-pengertian-dan-perbedaannya?utm_source=.com)

practice, the implementation is not optimal. The party often faces criticism of the lack of transparency in the cadre selection process and the dominance of internal elites<sup>195</sup>.

This lack of optimization is caused by the absence of regulations on independent supervision. The Law on Political Parties does not establish standards of obligations and independent institutional mechanisms for the internal supervisory body of political parties. The internal provisions of the party are generally left to the Articles of Association/Bylaws (AD/ART), so that the supervisory institution can be controlled by the party elite without a guarantee of strong autonomy. This increases the dominance of party leaders and gives rise to undemocratic practices in organizational decision-making<sup>196</sup>.

Indonesia does not have provisions in the Political Parties Law that clearly regulate the term limit of the chairman's term. The article in the law only affirms that the management is democratically elected by the party forum, but does not include a limit on the number of periods or maximum

---

<sup>195</sup> Firstnandiar Glica Aini Suniaprily, et al., "Factorization of the Difficulty of Political Parties in Indonesia to Develop as an Implementation of Democratic State", *INNOVATIVE: Journal Of Social Science Research*, Volume 4 Number 3, 2024

<sup>196</sup> William P Cross and Richard S Katz believe that political parties are key institutions in producing healthy democracy (William & Richard, 2013; Junaidi, 2016). If democracy does not grow within the party, it cannot meet the expectations and needs of the people. Tamar Bagratia and Medea Badashvili claim that political parties play an important role as important actors in building social justice and democratic norms. Feri Amsari, "Designing An Intra-Party Democracy In Indonesia", *Journal of Legal, Ethical and Regulatory Issues* Volume 24, Issue 4, 2021, [https://www.abacademies.org/articles/Designing-an-intra-party-democracy-in-indonesia-1544-0044-24-4-666.pdf?utm\\_source=](https://www.abacademies.org/articles/Designing-an-intra-party-democracy-in-indonesia-1544-0044-24-4-666.pdf?utm_source=). Adding, in the research of Jazim Hamidi and Mustafa Lutfi, it is stated that legal reform in Indonesia is a prerequisite for becoming a democratic state of law and with the optimization of the Political Party Law, internal party democracy can be realized, Jazim Hamidi and Mustafa Lutfi, "Constitutional Question (Between Political Reality and Legal Implementation)", *Constitutional Journal*, Volume 7, Number 1, February 2010

term of office. As a result, party leaders can serve for a long time without formal limits in the law. Several studies show that without term limits, party leadership tends to stagnate, strengthen the dominance of certain figures, hinder cadre regeneration, and potentially foster an oligarchic or feudalistic culture in the party body. This is considered contrary to the principles of internal democracy<sup>197</sup>.

*The Ius constituendum* is relevant as a normative concept in designing a reform of the provisions of the Political Party Law that more strictly regulates the internal democratic mechanism, including a transparent and competitive cadre selection process, strengthening the role of members in party decision-making, limiting the term of office of leaders to prevent the formation of internal oligarchy, and providing clear and accountable<sup>198</sup> internal oversight instruments. All of these reforms are in line with the principle of *sadd dzari'ah*, which serves to close all paths that allow the practice of authoritarianism and abuse of power within the party structure, so that internal democracy can run effectively and sustainably<sup>199</sup>.

The principle of *sadd dzari'ah* in this context is implemented through rules that limit the concentration of power in one individual or small group such as the term of office of the party's main leader (general

---

<sup>197</sup> Lingga Zalfa Adhiba, "Juridical Review of The Term Limitation of Political Party Chairman to Realize Constitutional Democracy in Indonesia", *Journal of Legal Sovereignty*, Vol. 8 No.2, June 2025, <https://jurnal.unissula.ac.id/index.php/RH/article/view/45595/12712>

<sup>198</sup> Tri Sandi Muji Areza, et al., "Democratization in the Recruitment Process of Political Party Management in Indonesia", *GRONDWET: Journal of Constitutional Law & State Administrative Law* Vol. 2 No.1, January 2023

<sup>199</sup> Safrijal, "The Application of Sadd Al-Dzari'ah in the Determination of Regulations for the Enforcement of Islamic Sharia in Aceh", *FATHIR: Journal of Islamic Studies* Vol. 1 No. 3, Jul-Oct 2024

chairman),<sup>200</sup> internal mechanisms that place real *checks and balances* between party organs so that big decisions are not only born from elite consensus, and provisions on accountability and transparency in the selection of cadres<sup>201</sup>.

The formulation of *ius constituendum* in the optimization of the Political Party Law based on *the principle of sadd dzari'ah* emphasizes that the law is not enough to function only as a procedural regulator, but must be placed as a preventive instrument to close the way for the birth of *mafsadah* in party life. The vacancy and weakness of the regulation regarding the independence of the supervisory board and the limitation of the term of office of the general chairman are structural gaps that have the potential to perpetuate the concentration of power and leadership that tends to be authoritarian.

The principle of *sadd dzari'ah* provides an ethical-normative basis that potential damage should not be allowed to develop just because it has not caused a direct impact. Therefore, future legal formulation must expressly integrate an independent, authoritative, and independent internal oversight mechanism that is free from elite domination, as well as the term of office of party leaders as an instrument of early prevention of abuse of

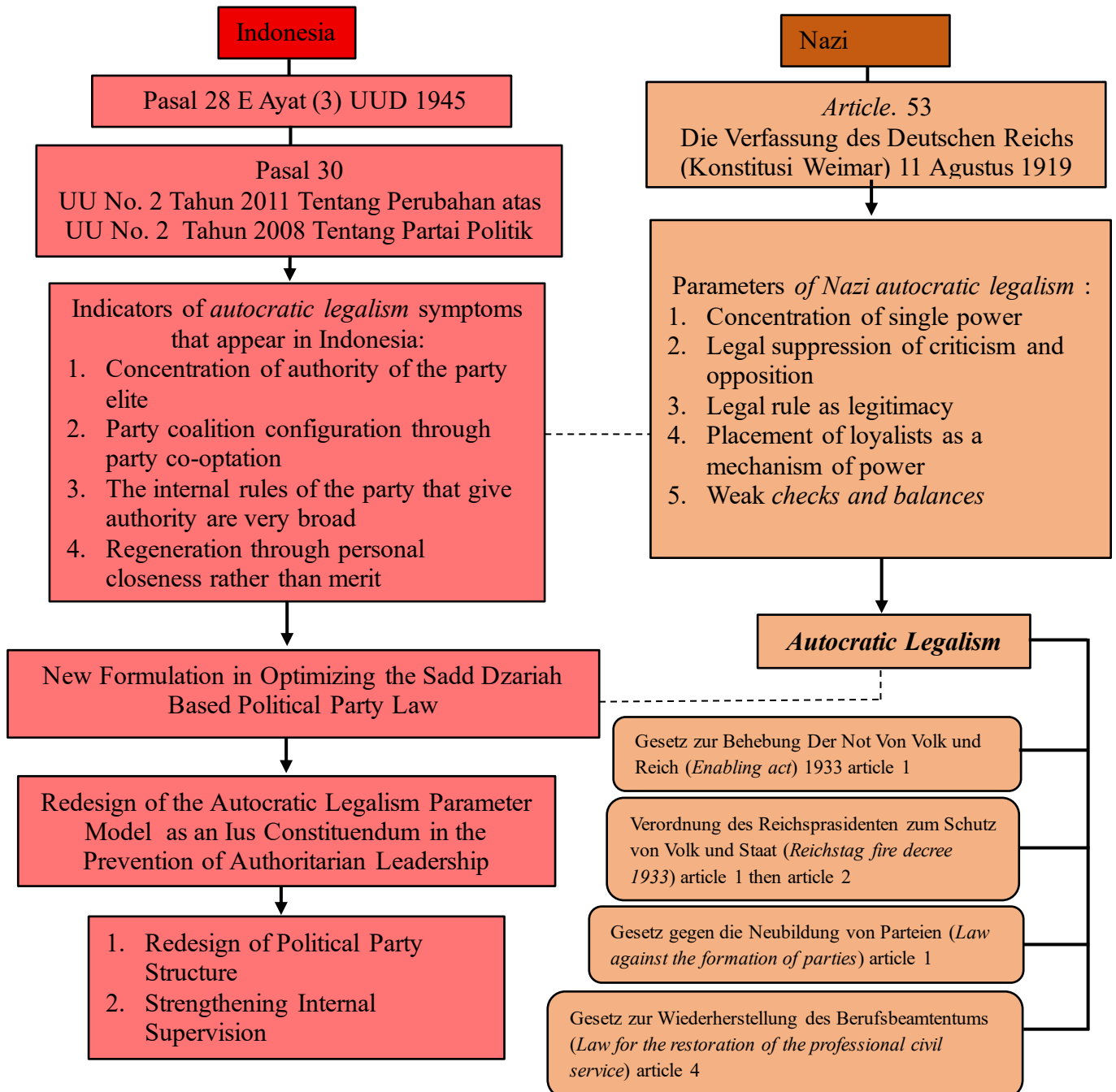
---

<sup>200</sup> Mu'tashim Billah, et al., "Balancing Democracy and Az-zari'ah Principles: Legal Reasoning Term Limits for Political Party Chairpersons in Indonesia", *Rule of Law: Journal of Legal Studies*, Vol. 12, No. 2, 2023

<sup>201</sup> Eza Tri Yandy, et al., "The Principle of Checks and Balances in Islamic State Administration Studies", *Journal of MEDIASAS: Media Ilmu Syari'ah and Ahwal Al-Syakhsiyyah* Vol.7, No.1, 2024

power. The following author formulates the formulation of *ius constituendum* in optimizing the Political Party Law in the table below:

**Table 3.13**  
**Formulation of *Ius Constituendum* in the Optimization of the Political Party Law Based on the Principle of *Sadd Dzari'ah***



Source: Author's Creation

The table above shows that the legal basis for the birth of political parties is in Article 28 E Paragraph (3) of the 1945 Constitution. Article 28E paragraph (3) of the 1945 Constitution guarantees the right of every citizen to associate and assemble. The constitutional guarantee was then lowered in Law Number 2 of 2008 concerning Political Parties as amended by Law Number 2 of 2011 which regulates the institutional aspects, functions, and internal mechanisms of political parties.

Furthermore, Article 30 of Law Number 2 of 2008 affirms the party's authority in forming the Army and ART as the main instrument of internal party regulation. In practice, the legal framework shows the root of the symptoms of *autocratic legalism*, namely the use of formal legal instruments to legitimize concentrated power. This chart identifies a number of indicators of *autocratic legalism* that have emerged in Indonesian parties, including the concentration of authority of party elites, internal arrangements that provide excessive flexibility for leaders, the configuration of party coalitions through personal control, regeneration based on personal closeness to the elite, and weak *checks and balances mechanisms* within the party structure.

In order to strengthen the comparative analysis, the author presents the parameters of *autocratic legalism* in the Nazi German regime such as the concentration of single power, the use of the rule of law for the legitimacy of the regime, legal repression of opposition, the dominance of the executive institution, and the absence of an independent supervisory

body. This comparison shows that *autocratic legalism* is not just a violation of the law, but a deviation in institutional design and practice.

Based on this identification, the author formulates a new formulation in optimizing the Political Party Law based on *sadd al-dzari'ah*, namely a preventive approach to potential abuse of power from the norm design stage. This principle emphasizes that legal loopholes that have the potential to give birth to authoritarianism must be closed in the first place, even if they formally appear legitimate.

This formulation is realized through the redesign of the autocratic legalism parameter model as an *ius constituendum* to prevent authoritarian party leadership. This redesign includes three main aspects. First, the structuring of the party structure by affirming the independence of the Ethics Council and the establishment of a Complaints and Member Protection Commission. Second, strengthening the internal supervisory mechanism so that the control function is not under the domination of the party elite and third, optimizing the Political Party Law through the regulation of term limits and period of party leadership.

This chart shows that the prevention of *autocratic legalism* in the party is not enough to be done through law enforcement alone, but requires a systemic reconstruction of the legal and institutional design of political parties, so that it is in line with the principles of constitutional democracy and the value of justice in the perspective of law and *siyasah*. In order to

make it easier to understand the research, the author will present a table of the findings of the research results as follows:

**Table 3.14**  
**Findings of Research Results**

Yes	Problem Formulation	Research Findings
1.	What are the models of <i>autocratic legalism</i> that appear in the Nazi German party legal system?	<p><b>Theoretical Findings:</b></p> <p><i>Autocratic legalism</i> in the Nazi German party's legal system is built through five main parameters, namely (1) the concentration of power in a single figure, (2) the legal rule as a tool of legitimacy, (3) <i>legal suppression</i> of criticism and opposition, (4) the placement of loyalists as a control mechanism related to the practice of patronage, (5) the weak <i>check and balance</i> mechanism. structurally. The implication is that democracy loses its substantive meaning and <i>the rule of law</i> has shifted to <i>rule by law</i>.</p> <p><b>Normative Findings:</b></p> <p><i>Autocratic legalism</i> appears through the use of legal products that are procedurally valid but materially deviate from the Weimar Constitution, including <i>Verordnung des</i></p>

		<p>Reichspräsidenten zum Schutz von Volk und Staat <i>article 1</i> and <i>article 2</i>, Gesetz Zur Behebung Der Not Von Volk Und Reich <i>article 1</i>, Gesetz gegen die Neubildung von Parteien <i>article 1</i>, Gesetz zur Wiederherstellung des Berufsbeamtentums <i>Article 4</i>.</p>
<p>2.</p>	<p>Why is the model of <i>the parameters of autocratic legalism</i> in the Nazi German party important as a warning to prevent the potential for authoritarian leadership in Indonesian political parties?</p>	<p><b>Theoretical Findings:</b></p> <p>The model of <i>autocratic legalism</i> parameters in the Nazi German party legal system is important as an <i>early warning system</i> for Indonesian political parties because it shows structural similarities with the development of Indonesian political parties, including the centralization of authority in the party elite, the use of internal legal rules as a tool for power legitimization, the weakening of opposition and criticism through procedural legal mechanisms, and the placement of loyalists in a patronage-based strategic structure, as well as the weakening of <i>the checks and balances mechanism</i>.</p> <p><b>Normative Findings:</b></p> <p>The Law on Political Parties leaves the regulation of the term of office, organizational</p>

		<p>structure, and independence of the ethics council to the AD/ART of each party, so that it differs between parties and has the potential to be abused for the centralization of power. Normatively, uniformity is needed through the Political Party Law and preventive supervision mechanisms (<i>Sadd Dzari'ah</i>) to prevent authoritarian domination and keep the party democratic.</p>
<p>3.</p>	<p>How to prevent the potential birth of authoritarian leadership in Indonesian political parties by learning from the model of <i>the parameters of autocratic legalism</i> Nazi Germany from the perspective of <i>sadd dzari'ah</i>?</p>	<p><b>Theoretical Findings:</b></p> <p>Sadd Dzari'ah's <i>perspective</i> emphasizes that the prevention of authoritarianism must begin from institutional design through a balanced distribution of power, limiting the authority of the leadership, and strengthening independent control organs. Transparent and accountable supervision mechanisms function as a preventive means to close the road before it occurs. The <i>parameters of the autocratic legalism</i> of the Nazis also serve as an indicator of the risk of authoritarianism and a normative foothold for the party's internal democracy.</p>

		<p><b>Normative Findings:</b></p> <ol style="list-style-type: none"><li>1. Redesign of the internal structure of political parties by the House of Representatives together with the President through the provisions in the Political Party Law</li><li>2. Strengthening the internal and external supervision mechanisms of political parties</li><li>3. Formulation of additional articles in the Political Party Law regarding term limits and period of party leadership</li></ol>
--	--	---

## CHAPTER IV

### CONCLUSION

#### A. Conclusion

Based on the author's explanation regarding the results and discussion above, it can be concluded that:

1. The model of *the parameters of autocratic legalism* in the Nazi German party legal system shows that authoritarianism is built not through the abolition of the law, but through the institutionalization of law as an instrument of legitimacy of power. *Autocratic legalism* maintains formal legal procedures but negates the substance of democracy, so that the law shifts from a limitation of power to a means of political consolidation. The model of *autocratic legalism* parameters in the Nazi German party legal system can be formulated to include the concentration of power on a single figure as the highest source of legitimacy, the use of legal rule as a tool for legitimization of repressive policies; the suppression of criticism and opposition through formal legal *mechanisms (legal suppression)*, the placement of loyalists through legalized patronage practices and the weakening of checks *and balances* mechanisms structurally without explicitly dissolving the institution. These parameters were operationalized through legal products such as *the Reichstag Fire Decree, the Enabling Act of 1933, the Law Against the Formation of New Parties, and the Law for the Restoration of the Professional Civil Service*, which were procedurally legitimate, but

substantively destroyed political pluralism and power surveillance, so that the Nazi party legal system served as a normative foundation for the Nazi party. The birth of an authoritarian state regime based on formal legality. The implication is that the Nazi party's legal system transforms from an internal democratic space into a normative foundation for the birth of an authoritarian state regime that works through formal legality.

2. The urgency of the *autocratic legalism* model in the Nazi party lies in its function as an *early warning system* to detect and prevent the birth of authoritarian political party leadership before it is projected into state power. Indicators of *autocratic legalism* that have the potential to emerge in Indonesia are reflected in the centralization of party elite authority, weak internal democracy and cadre supervision mechanisms, the use of legal rules and formal rulings to limit internal opposition or criticism, and the practice of political patronage legalized through regulations and party organizational structures. The parameters of structural similarity between the symptoms of Nazi Germany's autocratic legalism and structural vulnerability in Indonesian political parties lie in the pattern of elite power concentration, weakening of internal checks and balances mechanisms, and normalization of political dominance through formal legal rules. As in Nazi Germany, authoritarianism did not emerge suddenly through the dissolution of institutions, but rather was built from within through the design of party organization, cadre control, and the legalization of the exclusive practice

of power. These structural similarities create a vulnerability to the emergence of authoritarian leadership in Indonesian political parties, where the law tends to function as an instrument of power stabilization rather than as a limiting mechanism and controlling political power. This similarity is structural and potential, so it serves as an analytical warning that the legal design and internal practices of political parties have a crucial role in the birth of authoritarian leadership in a democratic system.

3. The redesign of the model *of the autocratic legalism* parameter as *an ius constituendum* in this study shows that the prevention of authoritarian political party leadership must start from improving the legal design and internal institutional structure of the party. The practice of parties in Indonesia shows the concentration of elite authority, weak supervisory mechanisms, and the use of internal rules as a legitimacy of power, which is in line with the *autocratic legalism as* reflected in the experience of the Nazi German regime. Through the perspective *of sadd al-dzari'ah*, legal and structural gaps that have the potential to give birth to fascism in the form of power dominance must be closed from the norm formulation stage. Therefore, this study formulates three main steps, namely the redesign of the party's internal structure by affirming the independence of the Ethics Council and the existence of the Complaints and Member Protection Commission, strengthening effective and independent internal and external supervision

mechanisms, and optimizing the Political Party Law through the regulation of term limits and term of office of party leaders.

## **B. Suggestions**

Based on the conclusions that have been presented by the author, some of the suggestions that the author can give are as follows:

1. Redesign the internal structure of political parties by the House of Representatives together with the President through the provisions in the Political Party Law to ensure a democratic division of authority and supervision mechanism.
2. Strengthening the internal and external supervision mechanism of political parties by the House of Representatives together with the President through the provisions in the Political Party Law by establishing the Ethics Council as an independent body.
3. Formulating an additional article in the Political Party Law regarding the limitation of term of office and period of party leadership by the House of Representatives together with the President as the lawmaker.

## BIBLIOGRAPHY

### BOOKS

- Amiruddin & Zainal asikin, “*Pengantar Metode Penelitian Hukum*”, (Jakarta, Raja Grafindo Persada, 2012)
- Angelo Panebianco. *Political Parties: Organization and Power*. (Cambridge University Press: 1988)
- David Dyzenhaus, “Dictatorship and the German Constitution: 1933–1937,” *University of Chicago Law Review* 61, no. 2 (1994): 475–498, hlm.541
- Dr. Wiwik Sri Widiarty, S.H., M.H, “*Buku Ajar Metode Penelitian Hukum*”, (Yogyakarta: Publika Global Media, 2024)
- Ishaq, “*Metode Penelitian Hukum Dan Penulisan Skripsi, Tesis, Serta Disertasi*”, (Bandung: Alfabeta, 2017)
- Jimly Asshiddiqie, *Konstitusi dan Konstitusionalisme Indonesia*, (Jakarta: Sinar Grafika), 2014
- Jimly Asshiddiqie, “Gagasan Negara Hukum Indonesia,” *Jurnal Konstitusi* 1, no. 1 (2004)
- Jimly Asshiddiqie, *Pengantar Ilmu Hukum Tata Negara*, (Jakarta: Rajawali Pers), 2016
- Martin Broszat, *The Hitler state: The foundation and development of the internal structure of the Third Reich* (New York: British Library Cataloguing, 1981), 262
- M. Tahir Azhary, *Negara Hukum: Suatu Studi tentang Prinsip-Prinsipnya Dilihat dari Segi Hukum Islam*, (Jakarta: Kencana), 2004
- Muhaimin, “*Metode Penelitian Hukum*”, (Nus Tenggara Barat: Mataram University Press, 2020)
- Munir Fuady, “*Teori-teori Besar (Grand Theory) Dalam Hukum*”, (Jakarta: Kencana. 2003)
- Muntoha, *Negara Hukum Indonesia Pasca Perubahan UUD 1945*, (Yogyakarta: Kaukaba Dipantara), 2013

Rahadi Budi Prayitno dan Arlis Prayugo, “*Teori Demokrasi Memahami Teori dan Praktik*”, (Sleman: Deepublish, 2023)

Syafrida Hafni Sahir, “*Metodologi Penelitian*”, (Jogjakarta: Penerbit KBM Indonesia, 2022)

M.Iwan Satriawan dan Mustafa Lutfi, “*Risalah Hukum dan Teori Partai Politik di Indonesia*”, (Malang: UB Press, 2016)

Philipus M. Hadjon, *Perlindungan Hukum Bagi Rakyat di Indonesia*, (Surabaya: Bina Ilmu), 1987

## JOURNAL

Adinda Zahra Fathya dan Rani Santika, “Judicial Independence and Political Influence in Modern Democracies”, *Journal of Law and Social Politics*, Volume 3 Issue 2, 2025, <https://jolastic.id/index.php/jlsp/article/view/60/66>

Ahmad Gelora Mahardika, “*The Implementation of Referendum as a Limitation to Autocratic legalism in the Formation of the Nusantara Capital City Law. Al-Ahkam Journal of Islamic Law*” *Al-Ahkam: Jurnal IlmuSyari'ah dan Hukum*, Vol. 9, Nomor 2, 2024

Ahmad Sadzali, “*Peranan Mahkamah Konstitusi dalam Mewujudkan Demokrasi Substantif pada Pemilu 2024 melalui Penegakan Hukum Progresif*”, *As-Siyasi: Journal of Constitutional Law*, Vol. 2 Nomor 2, 2022

Alfeus Jebabun, “*Autocratic legalism In The 2024 Elections: Distortions Of The Rule Of Law In Indonesia's Democracy*”, *Sociae Polites Majalah Ilmiah Sosial Politik*, Vol.26 No. 1, 2025

Ananda Prasetya Utami dan Lita Tyesta Addy Listya Wardhani, “*Autocratic legalism Phenomenon in Democratic Institutions in Indonesia: Corruption Eradication Commission, Constitutional Court and House of Representatives*”, *International Journal of Social Science and Human Research*, Vol.07 Issue 06, 06 Juni 2024

Ana Nurfitia dan Karnia ulia wulan febrianti, “*Hukum Sebagai Alat Kekuasaan: Analisis Sosiologis Terhadap Kebijakan Yang Tidak Netral*”, *Triwikrama: Jurnal Ilmu Sosial*, Volume 8, Number 3, 2025, <https://ejournal.warunayama.org/index.php/triwikrama/article/view/13217/11215>

Any Ihsany Nasution dan Mustafa Lutfi, “*Decolonizing Constitutional Democracy: Reconfiguring Indonesia 's Presidential Election System from the Perspective of Siyasah Syar'iyah*” *Tribakti: Jurnal Pemikiran Keislaman*, Volume 36, Issue 2, July 2025

- Archie Brown, "Against the Führerprinzip: For Collective Leadership", *Daedalus the Journal of the American Academy of Arts & Sciences*, 2016
- Armin Nolzen, "Charismatic Legitimation and Bureaucratic Rule: The NSDAP in the Third Reich, 1933–1945", *German History* Vol. 23 No. 4, 498
- Arsy Shakila Dewi, "Pengaruh Penggunaan Website *Brisik.Id* Terhadap Peningkatan Aktivitas *Jurnalistik Kontributor*", *Jurnal Komunika* Vol. 17, No. 2, 2021
- Arya Apriansyah, "Analisis Yuridis Putusan Mahkamah Konstitusi Nomor 90/PUU-XXI/2023 Tentang Batas Usia Calon Presiden Dan Calon Wakil Presiden Republik Indonesia", *Journal of Lex Philosophy (JLP)*, Vol.5, No.2, Desember 2024
- Bagus Hermanto, "Dinamika Partisipasi Publik Dalam Mewujudkan Legislasi Yang Partisipatoris", *Jurnal Yudisial* Vol. 16 No. 2 Agustus 2023, <https://jurnal.komisiyudisial.go.id/jy/en/article/view/668/426>
- Bandiyah, "Pengawasan Partai Politik Terhadap Kadernya Di Dprd Studi Pada PDIP, Golkar, Demokrat Di Profinsi Bali", *Jurnal Ilmu Politik dan Pemerintahan*, Vol. 2 Nomor 1, Januari 2016
- Bruce F. Pauley, "Fascism and the Fuhrerprinzip: The Austrian Example," *Central European History* 12, no. 3 (1979), hlm. 279
- David Cristian Liyanto, "Kedudukan partai oposisi dalam mewujudkan check and balances di politik hukum Indonesia", *Jurnal Analisis Hukum* Vol.7 Issue.2, 2024
- Deny M. Ramdhany, dkk, "Dinamika Politik dan Hukum dalam Mempengaruhi Penegakan Hukum Di Indonesia", *Themis: Jurnal Ilmu Hukum*, Vol.3 No.1, 10 September 2025, <https://publikasi.abidan.org/index.php/themis/article/view/1402/998>
- Dian A.H. Shah, "Dismantling democratic change in Asia: Modalities and weapons of choice", *International Journal of Constitutional Law*, Volume 22, Issue 4, October 2024
- Dian Aulia, "Penguatan Demokrasi: Partai Politik Dan (Sistem) Pemilu Sebagai Pilar Demokrasi", *Masyarakat Indonesia*, Vol. 42 No.1, Juni 2016
- Egi Fauzi, dkk, "Konsep Partisipasi Publik yang Bermakna Sebagai Pencegahan Gejala Autocratic legalism di Indonesia", *Reformasi* Volume 14 Nomor 1, Juni 2024

- Eleanor Hancock, “The Purge of the SA Reconsidered: “An Old Putschist Trick”?”, *Central European History* 44, 669–683, 2011
- Elva Imeldatur Rohmah, “*Menggagas Desain Kelembagaan Partai Politik di Indonesia*”, *Jurnal Kajian Konstitusi*, Volume 03 Issue 02, 2023
- E. N. Peterson, “The Bureaucracy and the Nazi Party”, *The Review of Politics* 10, no. 1 (January 1948): 63–85
- Ernesto Auci, “Reichstag: api yang membuka jalan bagi Nazisme pada tahun 33”, *First Online*, 27 Februari 2020, diakses pada 25 Desember 2025, [https://www.firstonline.info/id/accadde-oggi\\_reichstag-lincendio-che-nel-33-spiano-la-strada-al-nazismo/](https://www.firstonline.info/id/accadde-oggi_reichstag-lincendio-che-nel-33-spiano-la-strada-al-nazismo/)
- Esty Ekawati , dan Mouliza K Donna Sweinstani, “Dampak Personalisasi Partai Terhadap Demokrasi Internal Partai Di Indonesia Pasca Orde Baru”, *Jurnal Wacana Politik* Vol. 5, No. 2, Oktober 2020
- Eza Tri Yandy, dkk, “The Principle of Checks and Balances in Islamic State Administration Studies”, *Jurnal MEDIASAS: Media Ilmu Syari’ah dan Ahwal Al-Syakhsiyah* Vol.7, No.1, 2024
- Fadli Ramadhanil dan Beni Kurnia Illahi, “Autocratic Influencelegalism On The Institution Of Democracy And The Consolidation Of Civil Society In Indonesia”, *Supremasi Hukum: Jurnal Penelitian Hukum*, Vol. 34, No 2, Agustus 2025
- Farhan Abdullah Amir, dkk, “*Tinjauan Siyasah Dusturiyah Tentang Fungsi Partai Politik Dalam Menjaga Prinsip Demokrasi di Indonesia*”, *Ranah Research Journal Of Multidisciplinary Research and Development*, 2025
- Farida Azzahra, “Rekonstruksi Badan Penyelesaian Perselisihan Partai Politik: Studi Kedudukan Mahkamah Partai Politik Di Indonesia”, *Jurnal Crepido* Volume 04 Nomor 02, November 2022
- Fasihuddin Arafat, “Kehujjahan Sadd Ad-Dzari’ah Dalam Penundaan Kehamilan Pada Masa Pandemi COVID-19”, *MASADIR: Jurnal Hukum Islam*, Volume 02, Nomor 02, Oktober 2022
- Feri Amsari, “Designing An Intra-Party Democracy In Indonesia”, *Journal of Legal, Ethical and Regulatory Issues* Volume 24, Issue 4, 2021, [https://www.abacademies.org/articles/Designing-an-intra-party-democracy-in-indonesia-1544-0044-24-4-666.pdf?utm\\_source=](https://www.abacademies.org/articles/Designing-an-intra-party-democracy-in-indonesia-1544-0044-24-4-666.pdf?utm_source=)

- Feri Irawan,dkk, “*Tinjauan Siyasa Dusturiyah Terhadap Pelaksanaan Asas Keseimbangan dan Profesionalitas Pelayanan Publik di Kecamatan Naringgul Berdasarkan Pasal 4 Perda Kabupaten Cianjur Nomor 6 Tahun 2013 Tentang Pelayanan Publik*”, UNES LAW Review Vol.6 No.3, Maret 2024
- Firstnandiar Glica Aini Suniaprily, dkk, “Factorization of the Difficulty of Political Parties in Indonesia to Develop as an Implementation of Democratic State”, *INNOVATIVE: Journal Of Social Science Research*, Volume 4 Nomor 3, 2024
- Gabor Hamza, “The idea (concept) of “third Reich” in the German legal, philosophical and political thinking in the 20th Century”, *Revista Brasileira de Estudos Político*, Juli-Desember 2014
- German History Document and Images, “Law to Safeguard the Unity of Party and State”, diakses pada tanggal 10 Januari 2025, [https://ghdi.ghi-dc.org/sub\\_document.cfm?document\\_id=1502&utm\\_source=](https://ghdi.ghi-dc.org/sub_document.cfm?document_id=1502&utm_source=)
- Hans Gerth, “The Nazi Party: Its Leadership and Composition”, *American Journal of Sociology*, Vol. 45, No. 4, 517-541, Januari 1940
- Hans Petter Graver, “*Book Review: Jens Meierhenrich’s The Remnants of the Rechtsstaat: An Ethnography of Nazi Law*”, *German Law Journal*, 2020
- Herlinde Pauer-Studer, “*Symposium on Justifying Injustice. Legal Theory in Nazi Germany (CUP 2020): responses to critics*”, *Jurisprudence* Vol. 14, No. 2, 2023, hlm. 291-294
- Idul Rishan, “*Autocratic Constitutional Change: A Comparative View in Hungary and The Risks of Formal Change Indonesian Constitution*”, *Jurnal Konstitusi* Volume 22 Issue 1, Maret 2025
- Indra Setiawan Moki, Toar N. Palilingan, dan Lendy Siar, “Tinjauan Yuridis Mengenai Masa Jabatan Ketua Umum Partai Politik Berdasarkan Prinsipprinsip/Asas-Asas Negara Hukum Yang Demokratis Di Indonesia” *Lex Privatum Jurnal Fakultas Hukum Unsrat*, Vol. 15 No. 1, 2025
- Jainuri dan Solahudin, “Strongmen of Political Party at Local Level: A Case Study on Fight between and Elites in Partai Amanat Nasional in Malang, Indonesia”, *Jurnal Studi Pemerintahan* Vol.8 No. 1, Februari 2017, <https://jsp.umy.ac.id/index.php/jsp/article/view/177/147>
- Jamaludin Ghafur, “*Demokratisasi Internal Partai Politik Era Reformasi: Antara Das Sollen dan Das Sein*”, *Jurnal Hukum Ius Quia Iustum* Vol. 30 No.1 Januari 2023

- Jamaludin Ghafur, “Pembatasan Masa Jabatan Ketua Umum Partai Politik: Tinjauan Negara Hukum Dan Demokrasi”, *Jurnal Litigasi*, Vol. 25 (2), Oktober 2024
- Jamila, “Coalition and opposition in the perspective of Indonesian constitution”, *Journal of Law Science*, Vol.7 No.2, 2025
- Javier Corrales. “*The Authoritarian Resurgence: Autocratic legalism in Venezuela*”. *Journal of Democracy* Volume 26 Number 2, April 2015
- Jazim Hamidi dan Mustafa Lutfi, “Constitutional Question (Antara Realitas Politik dan Implementasi Hukumnya)”, *Jurnal Konstitusi*, Volume 7, Nomor 1, Februari 2010
- John Bellamy Foster, “Gleichschaltung in Nazi Germany”, *Monthly Review* 67, No. 3, Juni 2025, diakses pada tanggal 10 Januari 2026
- Justice Richard D. Fybel, “Judges, Lawyers, Legal Theorists, and the Law in Nazi Germany (1933–1938); Kristallnacht; and My Parents’ Escapes from the Nazis”, *UCLA Law Review*, 10 September 2022
- Kathryn Hendley, “*Annual Review of Law and Social Science: Legal Dualism as a Framework for Analyzing the Role of Law under Authoritarianism*” Law School and Department of Political Science, University of Wisconsin-Madison, April 2022
- Khodijah Srikandi,dkk, “*Tinjauan Siyasah Dusturiyah Tentang Peran Kementerian Agama Dalam Mengimplementasikan Program Moderasi Beragama (Studi Kasus di Kabupaten Bekasi)*”, *Ranah Research* Vol.7 No.4, 2025
- Lingga Zalfa Adhiba, “Juridical Review of The Term Limitation of Political Party Chairman to Realize Constitutional Democracy in Indonesia”, *Jurnal Daulat Hukum*, Vol. 8 No.2, June 2025, <https://jurnal.unissula.ac.id/index.php/RH/article/view/45595/12712>
- Lutfi Mubarak dan Juan Turpyn, “Pentingnya Oposisi Partai Politik Sebagai Mekanisme Checks And Balancesdalam Pemerintahan Demokratis”, *Journal Iuris Scientia* Volume 3 Nomor 1, Januari 2025
- Meidinie Maulida, dkk, “*Sadd Al-Dzari’ah : Prinsip-Prinsip Pencegahan Dalam Hukum Islam*”, *Jurnal Cendikia*, Vol.1 No.3, Desember 2024
- Miftah Faried Hadinatha, “*Peran Mahkamah Konstitusi Mencegah Gejala Autocratic legalism di Indonesia*”, *Jurnal Konstitusi*, Vol.19 No.4, Desember 2022, hlm.743

- Muchamad Ali Safa'at, dkk, "Konstruksi Indeks Demokrasi Internal Partai Politik dalam Negara Demokrasi Konstitusional: Perspektif Indonesia", *Jurnal Hukum Ius Quia Iustum*, Mei 2024
- Muhammad Idris Sarumpaet dan Dhiauddin Tanjung, "Al-Adillah Al-Mukhtalaf Fiha : Sadd Al-Zari'ah", *Jurnal Hukum, Politik Dan Ilmu Sosial (JHPIS)*, Vol.3, No.4 Desember 2024, <https://ejurnal.politeknipratama.ac.id/index.php/jhpis/article/view/3981/3816>
- Muhamad Adian Firnas, dkk, "Relasi Birokrasi Dan Politik: Persoalan Netralitas Birokrasi Dalam Pilkada Depok Awal Reformasi", *Jurnal El-Riyasah*, Volume 15 Nomor 1, 2024
- Mustafa Lutfi, "Legal politics and public policies in the industrial era 4.0 (an Indonesian legal civilization discourse perspective of prophetic science religiosity)", *IOP Conf. Series: Earth and Environmental Science* 456, 2020
- Mustafa Lutfi dan Aditya Prastian Supriyadi, "Politik Hukum Pemulihan Ekonomi Nasional Akibat Pandemi Covid-19 Perspektif Konstitusi Ekonomi", *De Jure: Jurnal Hukum dan Syar'iah*, Vol. 13, No. 2, 2021
- Mu'tashim Billah, dkk, "Balancing Democracy and Az-zari'ah Principles: Legal Reasoning on Term Limits for Political Party Chairpersons in Indonesia", *Supremasi Hukum: Jurnal Kajian Ilmu Hukum*, Vol. 12, No. 2, 2023
- Peter Scharff Smith, dkk, "*Ideology and the Application of Law in SS Courts: A Case Study of Legal Practice in the Third Reich*", Cambridge University Press Vol. 33, Issue.4, 3 Januari 2024
- Proborini Hastuti, "Redesain Struktur Internal Partai Politik Dalam Bingkai Kontestasi Pemilihan Umum Di Indonesia", *Mimbar Yustitia* Vol.2 No.1, Juni 2018
- Rolia Ulfah, "Metode Sadd Adz-Dzariah Dalam Penetapan Fatwa Mui Tentang Nikah Di Bawah Tangan", *Indonesian Journal of Islamic Jurisprudence, Economic and Legal Theory*, Vol. 2, No. 4
- Safferling, C. "*The Long Shadows of the Past: The Federal Ministry of Justice and the Nazi Era. Dalam Dealing with Totalitarian Regimes and Human Rights*", 2024

- Safrijal, “Penerapan Sadd Al-Dzari'ah Dalam Penetapan Regulasi Pemberlakuan Syariat Islam di Aceh”, *FATHIR: Jurnal Studi Islam* Vol. 1 No. 3, Jul-Okt 2024
- Salsabila,dkk, “*Analisis Gaya Kepemimpinan Otoriter Pemerintah Serta Kaitannya Dengan Teori Demokrasi*”, *JPW (Jurnal Politik Walisongo)*, Vol 5 No 2, 2023
- Soerjono Soekanto dan Sri Mamudji “*Penelitian Hukum Normatif Suatu Tinjauan Singkat*”, (Rajawali Pers: 2019)
- Steven Levitsky & Lucan A. Way, “Competitive Authoritarianism: The Origins and Dynamics of Hybrid Regimes in the Post-Cold War Era”, University of Toronto
- Tri Sandi Muji Areza, dkk, “Demokratisasi Dalam Proses Rekrutmen Kepengurusan Partai Politik Di Indonesia”, *GRONDWET: Jurnal Hukum Tata Negara & Hukum Administrasi Negara* Vol. 2 No.1, Januari 2023
- Tunjung Sulaksono, dkk, “Political Recruitment and Party Institutionalization:PDIP's Internal Tension in the 2020 Surakarta Mayoral Election”, *Journal of Local Government Issues (LOGOS)* Vol.6 No. 1, 2023
- Undari Sulung, Mohamad Muspawi, “*Memahami Sumber Data Penelitian : Primer, Sekunder, Dan Tersier*”, *Jurnal Edu Research Indonesian Institute For Corporate Learning And Studies (IICLS)*, Vol.5 No.3, September 2024
- Wayne Geerling, dkk, “Sentencing, Judicial Discretion, and Political Prisoners in Pre-War Nazi Germany”, *The Journal of Interdisciplinary History*, February 2016
- Wiratraman, H. P “*Constitutional Struggles and the Court in Indonesia's Turn to Authoritarian Politics*”, *Federal Law Review*, 2022
- Yefta Nikoyas Tarigan, Agusmidah, “*The Use of the Concept of Regulatory Impact Assessment to Prevent the Practice of Autocratic legalism in the Process of Legislative Formation in Indonesia*”, *Jurnal Ilmiah Wahana Pendidikan*, Oktober 2025
- Zainal Arifin Mochtar, Idul Rishan, “*Autocratic Legalism: the Making of Indonesian Omnibus Law*”, *Yustisia Jurnal Hukum* Vol. 11 No. 1, 2022
- Zhiyu Li, “*Two Kinds of Dual States: Judicial Empowerment and Disempowerment in Authoritarian Politics*” *Vanderbilt Journal Of Transnational Law* Vol. 58:609, 2025

## THESIS

The research conducted by Rifan Azzam Amrulloh is a research that uses a legislative approach and a case approach. Regarding the results of this study, it is explained that Article 218 of the Criminal Code shows the practice of *autocratic legalism* and considers that the formation of the law is a form of deviation from the *rule of law*. Quoted from Rifan Azzam Amrulloh, Thesis, "*Autocratic legalism in the Formation of Legal Products During Jokowi's Administration: A Critical Analysis of Article 218 of Law Number 1 of 2023 Concerning the Penal Code*", International Journal Of Research And Innovation In Socia Science (IJRISS), Vol. VIII Issue X, October 2024

The research conducted by Ananda Prasetya Utami and Lita Tyesta Addy Listya Wardhani is a research that uses legislative and doctrinal approaches. Regarding the results of this study, it shows that there is an *autocratic legalism practice* within the scope of the KPK, the Constitutional Court, and the DPR. Quoted from Ananda Prasetya Utami and Lita Tyesta Addy Listya Wardhani, Journal, "*Autocratic legalism Phenomenon in Democratic Institutions in Indonesia: Corruption Eradication Commission, Constitutional Court and House of Representatives*", International Journal of Social Science and Human Research, Vol.07 Issue 06, 06 June 2024

The research conducted by Aria Dwi Pratama is a research that uses a juridical approach and a historical approach. Regarding the results of this study, it explains the need to simplify the party and strengthen the legislative and executive functions to maintain the balance of power. Quoted from Aria Dwi Pratama, Thesis, "*The Relationship of Party Systems and Government Systems in Forming Effective Government in Indonesia*", (Surakarta: University of Muhammadiyah Surakarta, 2009)

The research conducted by Inna Soffika Rahmadanti is a research that uses a normative juridical approach, a legislative-legislative approach, and a conceptual approach. The results of this study explain the need to simplify the party system and strengthen the executive legislative function to maintain the balance of power (*checks and balances*) and increase the effectiveness of the government. Quoted from Inna Soffika Rahmadanti, Thesis, "*Autocratic legalism in the Government's Authority Regarding Mining Licensing (Study of the Constitutional Court Decision Number 37/PUU-XIX/2021)*", (Purwokerto: State Islamic University Prof. K.H. Saifuddin Zuhri Purwokerto, 2025)

Research conducted by Ardia Fatkhul Amin, Thesis, "*Juridical Implications of the Constitutional Court Decision Number 10/Puu-Xxi/2023 Regarding the Testing of Law No. 01 of 2023 Perspective on the Theory of Legal Purpose and Masalah Mursalah*", (Malang: Maulana Malik Ibrahim State Islamic University, 2024)

Research conducted by Made Hendra Wijaya, "The Existence of the Concept of Rule By Law in the Theory of the Rule of Law", (Denpasar: Udayana University, 2013)

## WEBSITE

Adinda Putri Kintamani Nugraha dan Icha Rastika, "Mahfud MD Sebut "Rule By Law" Jadi Penyakit Sistem Hukum Indonesia", Kompas, 14 Juni 2024, <https://nasional.kompas.com/read/2024/06/14/18240881/mahfud-md-sebut-rule-by-law-jadi-penyakit-sistem-hukum-indonesia>

Ady Thea DA, "3 Indikator 'Autocratic Legalism' dalam Kebijakan Negara", Hukum Online, Juli 2021, <https://www.hukumonline.com/berita/a/3-indikator-autocratic-legalism-dalam-kebijakan-negara-lt6102bdb6645ee/?page=2>

Agatha Olivia Victoria, "Kemenkumham: Penguatan tata kelola internal wujudkan parpol demokratis", Kantor Berita Indonesia, September 2024, [https://www.antaraneews.com/berita/4360575/kemenkumham-penguatan-tata-kelola-internal-wujudkan-parpol-demokratis?utm\\_source=](https://www.antaraneews.com/berita/4360575/kemenkumham-penguatan-tata-kelola-internal-wujudkan-parpol-demokratis?utm_source=)

Anne Frank House, <https://www.annefrank.org/en/timeline/48/the-enabling-act-even-more-power-for-hitler/>, diakses pada tanggal 18 Desember 2025

BAWASLU "KPU Tetapkan Hasil Pemilu 2024 Usai Rampungkan Rekapitulasi Suara dari 38 Provinsi dan 128 Wilayah Luar Negeri", diakses pada 13 Januari 2025, <https://cimahikota.bawaslu.go.id/berita/kpu-tetapkan-hasil-pemilu-2024-usai-rampungkan-rekapitulasi-suara-dari-38-provinsi-dan-128>

Bedjo Sukarno, "Peran Oposisi sebagai Checks and Balance dalam Sistem Politik Demokrasi di Indonesia", diakses pada 28 Desember 2025

Bernadetha Aurelia Oktavira, "*Pengertian Rule of Law dan Penerapannya di Indonesia*", <https://www.hukumonline.com/klinik/a/rule-of-law-di-indonesia-lt624ebfa5a3b7e/>, diakses pada tanggal 7 Oktober 2025

Bivitri Susanti, "Otoritarianisme Berbungkus Hukum", diakses pada 27 Desember 2025, <https://www.jentera.ac.id/publikasi/otoritarianisme-berbungkus-hukum>

Britannica, "Enabling Act", diakses pada 27 Desember 2025, [https://www.britannica.com/topic/Enabling-Act?utm\\_source.com](https://www.britannica.com/topic/Enabling-Act?utm_source.com)

- Bundesrat, “Vor 75 Jahren wurde der Reichsrat aufgelöst” diakses pada tanggal 10 Januari 2025, <https://www.bundesrat.de/SharedDocs/texte/09/20090303-reichsrat.html>
- Bundeszentrale für Politische Bildung, “Die Weimarer Verfassung”, diakses pada 9 Januari 2025, <https://www.bpb.de/themen/nachkriegszeit/grundgesetz-und-parlamentarischer-rat/39193/die-weimarer-verfassung/>
- Canonica, “Enabling Act of 1933”, diakses pada 27 Desember 2025, [https://canonica.ai/page/Enabling\\_Act\\_of\\_1933](https://canonica.ai/page/Enabling_Act_of_1933)
- C N Trueman "The Enabling Act March 1933", The History Learning Site, 9 Maret 2015, <https://www.historylearning-site.co.uk/nazi-germany/the-enabling-act-march-1933/>
- COJS, “April 7, 1933 Nazi Law for the Restoration of the Professional Civil Service”, diakses pada 28 Desember 2025, <https://cojs.org/35769-2/>
- Dandi Dwie Lisadi, “*Menguak Tirai Otokrasi Hukum: Bagaimana Kekuasaan Mmembelenggu Demokrasi Indonesia*” <https://law.uii.ac.id/blog/2024/05/02/menguak-tirai-otokrasi-hukum-bagaimana-kekuasaan-membelenggu-demokrasi-indonesia/#:~:text=%E2%80%9CAutocratic%20legalism%E2%80%9D%20menggambarkan%20penggunaan%20hukum,menguntungkan%20kelompok%20tertentu%20selama%20pemi>
- David Dyzenhaus, “Legal Theory and the Politics of Legal Space”, diakses pada 28 Desember 2025, <https://www.law.ed.ac.uk/sites/default/files/2021-05/Legal%20Theory%20and%20The%20Politics%20of%20Legal%20Space.pdf>
- Denty Piawai Nastitie, “Indeks Pelembagaan Parpol BRIN: PKS-Nasdem Paling Terlembaga”, Kompas, 30 Oktober 2024, [https://www.kompas.id/artikel/indeks-pelembagaan-parpol-brin-pks-nasdem-paling-terlembaga?utm\\_source=](https://www.kompas.id/artikel/indeks-pelembagaan-parpol-brin-pks-nasdem-paling-terlembaga?utm_source=)
- Dewan Pimpinan Daerah PDI Perjuangan Provinsi Kalimantan Selatan, “Dewan Pimpinan Pusat PDI Perjuangan”, diakses pada 30 Januari 2026, <https://pdiperjuangankalsel.id/dpp/>
- Diva Lufiana Putri dan Inten Esti Pratiwi, “Ius Constitutum dan Ius Constituendum, Ini Pengertian dan Perbedaannya”, Kompas, diakses pada 29 Desember 2025 [https://www.kompas.com/tren/read/2022/08/27/181000565/ius-constitutum-dan-ius-constituendum-ini-pengertian-dan-perbedaannya?utm\\_source=.com](https://www.kompas.com/tren/read/2022/08/27/181000565/ius-constitutum-dan-ius-constituendum-ini-pengertian-dan-perbedaannya?utm_source=.com)

- EBSCO, diakses pada tanggal 10 Januari 2026, <https://www.ebsco.com/research-starters/political-science/patronage>
- Europenow Daily, “Legal Sabotage: Ernst Fraenkel in Hitler’s Germany by Douglas G. Morris”, 23 Maret 2022, <https://www.europenowjournal.org/2022/03/23/legal-sabotage-ernst-fraenkel-in-hitlers-germany-by-douglas-g-morris/>
- Firman Noor, “Korupsi dan Problematika Internal Partai di Indonesia”, Kompas, 06 Jul 2021, diakses pada 22 Januari 2026, <https://www.kompas.id/artikel/korupsi-dan-problematika-internal-partai-di-indonesia>
- Geneva Graduate Institute “Democracy at Risk”, Global Challenges Issue 2, September 2017, <https://globalchallenges.ch/issue/2/figure/what-is-illiberal-democracy/>
- GlobalSecurity.org “The Nazi Part in Power (Gleichschaltung),” diakses 11 Januari 2026, [https://www.globalsecurity.org/military/world/europe/de-nazigleichschaltung.htm?utm\\_source=](https://www.globalsecurity.org/military/world/europe/de-nazigleichschaltung.htm?utm_source=)
- Grokopedia, “Law for the Restoration of the Professional Civil Service”, diakses pada 28 Desember 2025, [https://grokopedia.com/page/Law\\_for\\_the\\_Restoration\\_of\\_the\\_Professiona\\_l\\_Civil\\_Service](https://grokopedia.com/page/Law_for_the_Restoration_of_the_Professiona_l_Civil_Service),
- Haryatmoko, “Legalisme Otokratis Merongrong Pancasila”, Kompas, Maret 2025 [https://www.kompas.id/artikel/legalisme-otokratis-merongrong%20pancasila?utm\\_source=com](https://www.kompas.id/artikel/legalisme-otokratis-merongrong%20pancasila?utm_source=com)
- History, “*Adolf Hitler menjadi pemimpin Partai Nazi*”, <https://www.history.com/this-day-in-history/july-29/hitler-becomes-nazi-party-leader>, 30 Juni 2025
- Humas FHUI, “Momentum Partai Politik Berbenah Oleh Titi Anggraini, S.H., M.H.”, Fakultas Hukum Universitas Indonesia, diakses pada 20 Januari 2026, [https://law.ui.ac.id/momentum-partai-politik-berbenah-oleh-titi-anggraini-s-h-m-h/?utm\\_source](https://law.ui.ac.id/momentum-partai-politik-berbenah-oleh-titi-anggraini-s-h-m-h/?utm_source)
- Humas MKRI, “Masa Jabatan Ketua Umum Partai Politik Dipersoalkan”, 11 Juli 2023, diakses pada 13 Januari 2026, <https://www.mkri.id/berita/-19330>
- Jamaludin Ghafur, “Menguji AD/ART Parpol di Mahkamah Agung”, diakses pada 28 Desember 2025, <https://law.uii.ac.id/blog/2021/09/29/menguji-ad-art-parpol-di-mahkamah-agung/>

- Jan-Olof Sundell, “The Destruction of Democracy and Civil Rights in Germany 1933”, diakses pada 25 Desember 2025, <https://www.scandinavianlaw.se/pdf/55-9.pdf>
- Jennifer Llewellyn, Jim Southey, dan Steve Thompson, “Historiografia de la Alemania nazi”, AlphaHistory, 2018, <https://es.alphahistory.com/Alemania-nazi/historiograf%C3%ADa-de-la-Alemania-nazi/>
- Julia Hitz, “Nazi Jerman: Apakah Kekuasaan Adolf Hitler Bisa Berulang?”, 30 Januari 2023, diakses pada 9 Januari 2025, [https://www.dw.com/id/apakah-kekuasaan-adolf-hitler-bisa-berulang/a-64552477#:~:text=%20Sebabnya%2C%20bahkan%20petinggi%20NSDAP%20\(%20Partai%20%20Buruh,Adolf%20Hitler%20\)%20ditunjuk%20menjadi%20Kanselir%20Jerman](https://www.dw.com/id/apakah-kekuasaan-adolf-hitler-bisa-berulang/a-64552477#:~:text=%20Sebabnya%2C%20bahkan%20petinggi%20NSDAP%20(%20Partai%20%20Buruh,Adolf%20Hitler%20)%20ditunjuk%20menjadi%20Kanselir%20Jerman)
- John Pike, “Führerprinzip (Prinsip Pemimpin)”, Global Security, 28 Desember 2017, <https://www.globalsecurity.org/military/world/europe/de-fuhrerprinzip.htm>
- Kim Lane Scheppele, “*Autocratic Legalism*”, <https://lawreview.uchicago.edu/print-archive/autocratic-legalism>, diakses pada 29 September 2025
- Langgeng Widodo, “Ndongeng Soal Hitler di Seminar Unisri Solo, Mahfud MD : Dia Semula Terpilih Secara Demokratis”, INews Muria, 04 Maret 2025, <https://muria.inews.id/read/564498/ndongeng-soal-hitler-di-seminar-unisri-solo-mahfud-md-dia-semula-terpilih-secara-demokratis>
- Learning From History, “Chapter 3: The Reichstag Fire Decree”, <http://learning-from-history.de/Online-Lernen/content/11895>, diakses pada tanggal 27 Desember 2025
- Mark Cartwright, “Sturmabteilung”, World History Encyclopedia, 09 October 2024, <https://www.worldhistory.org/Sturmabteilung/>
- Matthew A. McIntosh, “The Enabling Act: Hitler’s Tool for Dictatorship and Complete Nazification of Germany in 1933”, *Brewminate*, 6 Maret 2024, <https://brewminate.com/the-enabling-act-hitlers-tool-for-dictatorship-and-complete-nazification-of-germany-in-1933/>
- Media Indonesia, <https://epaper.mediaindonesia.com/detail/a-9929>, diakses pada 14 Oktober 2025
- Merriam Webster, diakses pada tanggal 10 Januari 2026, <https://www.merriam-webster.com/dictionary/legal>
- Mirza Satria Buana, “Menepis Democracy Retrogression: Urgensi Penguatan Akuntabilitas Lembaga Legislatif dan Produk Legislasi”, <https://repositori.ulm.ac.id/bitstream/handle/123456789/19782/2%20Menepis%20Democracy%20Retrogression%20Urgensi%20Penguatan%20Aku>

[ntabilitas%20Lembaga%20Legislatif%20dan%20Produk%20Legislasi.pdf?sequence=1&isAllowed=y](#), diakses pada 27 Desember 2025

Muhammad Rakha Ramadhan, “Rezim Legalisme Otokrasi dan Hukum Represif di Indonesia”, <https://indoprogress.com/2023/07/rezim-legalisme-otokrasi-dan-hukum-represif/>, 17 Juli 2023

Muhammad Reza Ilham Taufani, “KPU Umumkan Hasil Pemilu: PDIP-P Nomor 1, Golkar Ke 2, Gerindra Ke-3”, CNBC Indonesia, 20 Maret 2024

Nadilla Syabriya, “*Asal Usul dan Sejarah Nazi, Partai Politik yang Menghabisi Jutaan Nyawa Manusia*”, <https://news.okezone.com/read/2022/11/18/18/2710274/asal-usul-dan-sejarah-nazi-partai-politik-yang-menghabisi-jutaan-nyawa-manusia?page=all>, diakses pada 14 Oktober 2025

P2K STEKOM, “Reichstag (Jerman Nazi)”, diakses tanggal 11 Januari 2026, [https://p2k.stekom.ac.id/ensiklopedia/Reichstag\\_\(Jerman\\_Nazi\)](https://p2k.stekom.ac.id/ensiklopedia/Reichstag_(Jerman_Nazi))

P2K STEKOM, “Undang-Undang Pemberian Kuasa”, [https://p2k.stekom.ac.id/ensiklopedia/%20UndangUndang\\_Pemberian\\_Kuasa](https://p2k.stekom.ac.id/ensiklopedia/%20UndangUndang_Pemberian_Kuasa), diakses pada 27 Desember 2025

Pusat Edukasi Antikorupsi, “Politik Patronase yang Memicu Korupsi”, [https://aclc.kpk.go.id/aksi-informasi/Eksplorasi/20240227-politik-patronase-yang-memicu%20korupsi?utm\\_source=.com](https://aclc.kpk.go.id/aksi-informasi/Eksplorasi/20240227-politik-patronase-yang-memicu%20korupsi?utm_source=.com), Februari 2024

Puspita, “Unisri Gelar Seminar Nasional, Hadirkan Prof. Mahfud MD Bahas Autocratic legalism dalam Demokrasi”, Metta News, 27 Februari 2025, <https://mettanews.id/unisri-gelar-seminar-nasional-hadirkan-prof-mahfud-md-bahas-autocratic-legalism-dalam-demokrasi/>

Rindyanti Septiana, “*“Autocratic Legalism”, Inkonsistensi Penguasa Demokrasi*”, <https://muslimahnews.net/2022/03/01/1975/#:~:text=Pembuatan%20aturan%20secara%20ugal%2Dugalan,mempercayai%20sistem%20demokrasi%20juga%20penguasanya>, 1 Maret 2022

Robert Wilde, “The Hitler Youth and the Indoctrination of German Children”, Thought Co, May 2025

Sabine Dumschat, “7. April 1933: Gesetz zur Wiederherstellung des Berufsbeamtentums”, diakses pada 28 Desember 2025, <https://www.bundesarchiv.de/themen-entdecken/online-entdecken/geschichtsgalerien/7-april-1933-gesetz-zur-wiederherstellung-des-berufsbeamtentums/>

- Samuel Miner, "The Reconstruction of Justice in Post-Nazi Western Germany", WWII The National Museum, 11 Agustus 2021, [https://www.nationalww2museum.org/war/articles/justice-in-post-nazi-western-germany?utm\\_source=.com](https://www.nationalww2museum.org/war/articles/justice-in-post-nazi-western-germany?utm_source=.com)
- Sarah Zama, "Führerprinzip: A Dogma Now Associated With Adolf Hitler Had Its Origins In Pre Weimar Prussian Culture", *Never Was*, 21 Februari 2021, <https://neverwasmag.com/2021/02/fuhrerprinzip/>
- Sindo News, "Ketua DPD RI Sebut Ada Kelakar Wajah Legislasi Nasional Ditentukan 9 Ketum Parpol", 25 November 2021, <https://nasional.sindonews.com/read/609833/12/ketua-dpd-ri-sebut-ada-kelakar-wajah-legislasi-nasional-ditentukan-9-ketum-parpol-1637827889/20>
- SK Dewan Pimpinan Pusat Partai Golongan Karya Nomor: Skep-27/DPP/GOLKAR/XI/2024, diakses pada tanggal 30 Januari 2026, <https://dpppartaigolkarofficial.com/sk-pengurus-dpp-golkar/>
- Susunan Pengurus Dewan Pimpinan Pusat Partai Gerindra, diakses pada 30 Januari 2026, <https://gerindra.id/wp-content/uploads/2022/08/SUSUNAN-PENGURUS-DEWAN-PIMPINAN-PUSAT-PARTAI-GERINDRA.pdf>
- The Avalon Project, "Nazi Conspiracy and Aggression Volume 2 Chapter XV Part 2", diakses pada 27 Desember 2025, [https://avalon.law.yale.edu/imt/chap15\\_part02.asp?utm\\_source=](https://avalon.law.yale.edu/imt/chap15_part02.asp?utm_source=)
- The Guardian, "Enabling Act becomes law in Germany- archive, 1933", 24 Maret 2017, <https://www.theguardian.com/world/2017/mar/24/enabling-act-germany-hitler-nazis-1933>
- The Holocaust Explained, "How did the Nazi consolidate their power?", diakses pada 25 Desember 2025, [https://www.theholocaustexplained.org/the-nazi-rise-to-power/how-did-the-nazi-gain-power/?utm\\_source=.com](https://www.theholocaustexplained.org/the-nazi-rise-to-power/how-did-the-nazi-gain-power/?utm_source=.com)
- The National WWII Museum. "How Did Adolf Hitler Happen?" <https://www.nationalww2museum.org/war/articles/how-did-adolf-hitler-happen>. Diakses pada 14 Oktober 2025
- The Wiener Holocaust Library, <https://www.theholocaustexplained.org/the-nazi-rise-to-power/how-did-the-nazi-gain-power/gleichschaltung/>, diakses pada tanggal 18 Desember 2025
- The Wiener Holocaust Library, "How did the Nazi consolidate their power?", diakses pada tanggal 18 Desember 2025,

<https://www.theholocaustexplained.org/the-nazi-rise-to-power/how-did-the-nazi-gain-power/gleichschaltung/>

Thum Ping Tjin, "Principles of Democracy: Checks and Balances", New Naratif, diakses pada 22 Januari 2026, [https://newnaratif.com/principles-of-democracy-checks-and-balances/?utm\\_source=](https://newnaratif.com/principles-of-democracy-checks-and-balances/?utm_source=)

Umar Sholahudin, "Pilkada, Legalisme Otokratik, dan Oposisi Ekstra Parlemerter", Detiknews, September 2024, <https://news.detik.com/kolom/d-7531775/pilkada-legalisme-otokratik-dan-oposisi-ekstra-parlemerter>

Uniforms Of The NSDAP "Organisationsbuch der NSDAP", diakses pada tanggal 8 Januari 2025, [https://www.nsdapuniforms.com/organisationsbuch-der-nsdap?utm\\_source=](https://www.nsdapuniforms.com/organisationsbuch-der-nsdap?utm_source=)

Universitas Al-Azhar Indonesia, "Prof. Jimly Asshiddiqie Jelaskan Prinsip 'The Rule of Law, not A Man,' dalam Kuliah Perdana Prodi S3 Doktor Hukum UAI", <https://uai.ac.id/prof-jimly-asshiddiqie-jelaskan-prinsip-the-rule-of-law-not-a-man-dalam-kuliah-perdana-prodi-s3-doktor-hukum-uai/#:~:text=Dalam%20paparannya%2C%20Prof.%20Dr.,orang%2C%20termasuk%20para%20pemangku%20jabatan,> diakses pada 7 Oktober 2024

USLegal, diakses pada 10 Januari 2026, [https://legalresources.uslegalforms.com/s/suppress?utm\\_source=](https://legalresources.uslegalforms.com/s/suppress?utm_source=)

World History, <https://courses.lumenlearning.com/suny-worldhistory/chapter/30-5-3-hitlers-rise-to-power/>, diakses pada 27 Desember 2025

Yad Vashem, "Significant events that occurred between the years 1914-1933", <https://www.yadvashem.org/holocaust/resource-center/timeline/1914-1933.html>, diakses pada 27 Desember 2025

Yurike Fitri, "PKB DPP Announces Management Composition for the 2024-2029 Period", September 18, 2024, <https://rri.co.id/nasional/982061/dpp-pkb-umumkan-susunan-pengurus-periode-2024-2029>

## LEGISLATION

Verordnung des Reichspräsidenten zum Schutz von Volk und Staat (*Reichstag Fire Decree*) article 1 and article 2

Gesetz zur Behebung Der Not Von Volk und Reich (*Enabling Act* 1933) article 1

Gesetz gegen die Neubildung von Parteien (*Law Against the Establishment of New Parties* 1933) article 1

Gesetz zur Wiederherstellung des Berufsbeamtentums (*Law for the Restoration of the Professional Civil Service*) article 4

## CURRICULUM VITAE



Name : Sekar Ayu Dwirunia  
Place of Birth : Malang, 13 November 2002  
Gender : Female  
Religion : Islam  
Nationality : Indonesia  
Address : Boro Selatan, RT 007/RW 001, Curungrejo, Kepanjen,  
Malang  
E-mail : [sekardwirunia@gmail.com](mailto:sekardwirunia@gmail.com)

### EDUCATIONAL HISTORY

Education	Agency Name	Year
SD/MI	Minu Curungrejo	2008-2014
SMP/MTS	MTsN 6 Malang	2014-2017
SMA/MA	Pondok Modern Darussalam Gontor	2017-2022
S1	UIN Maulana Malik Ibrahim Malang	2022-2026

### ORGANIZATIONAL EXPERIENCE

Departments	Organization	Year
General Secretary	Law Student Mootcourt UIN Malang	2024-2025

Divisional Secretary of the Multimedia Bureau	HMPS Hukum Tata Negara	2024
B&W Members	Jhepret Club Photography	2023
Members	Hai'ah Tahfidz Qur'an UIN Malang	2022
Members	Novo Club by Paragon Corp Batch 2	2022
Members	Ruang Edit	2022

### **AWARDS**

<b>Competition</b>	<b>Year</b>
General Champion of the Indonesian Tax Dispute Moot Court Competition (IMTAX) PKN STAN	2025
1st Place in Indonesian Tax Dispute Moot Court Competition (IMTAX) PKN STAN	2025
Best Expert in the Appeal Category of Indonesian Tax Dispute Moot Court Competition (IMTAX) PKN STAN	2025
2nd Place in National Debate Competition of University of Muhammadiyah Malang	2025
3rd Place in the Legal Study Case of Universitas Brawijaya	2024