



# International Conference on Law and Social Science

**Editorial Office:** postgraduate at Riau Islamic University, Universitas Islam Riau, Pekanbaru, Indonesia.

Phone: +62 85234073707, +62 85329106484

E-mail: [law\\_s3@uir.ac.id](mailto:law_s3@uir.ac.id)

Website : <https://pps.uir.ac.id/icls2024/>

## STATE OF LAW, DEMOCRACY AND OLIGARKY IN INDONESIA

Ellydar Chaidir<sup>a</sup>, Umi Muslikhah<sup>b</sup>

<sup>a</sup>Universitas Islam Riau

[ellydar@law.uir.ac.id](mailto:ellydar@law.uir.ac.id)

<sup>b</sup>Universitas Islam Riau

[muslikhah@law.uir.ac.id](mailto:muslikhah@law.uir.ac.id)

### Abstract:

*The dynamics of democracy from the early era of independence to reform experienced ups and downs, the configuration of which was largely tied to the interests of certain elites, which later became known as oligarchy. A democratic rule of law is included as an ideal concept for implementing the protection of the interests of citizens' constitutional rights. This was then contained in the 4th paragraph of the 1945 Constitution of the Republic of Indonesia "... to protect the entire Indonesian nation and all of Indonesia's blood and to promote general welfare, educate the life of the nation and participate in world order."*

**Keywords:** *Democracy; Oligarchy, Legal State*

## I. Introduction

A democratic rule of law is an ideal concept for implementing the protection of the interests of citizens' constitutional rights. As stated in the 4th paragraph of the Constitution of the 1945 Constitution of the Republic of Indonesia "... to protect the entire Indonesian nation and all of Indonesia's blood and to promote general welfare, make the life of the nation intelligent and participate in world order...".

In line with this, the dynamics of the implementation of democracy in Indonesia in recent decades show a configuration that is closer to the interests of certain groups or elites. The main principle in democracy, where the interests of the people/people's welfare are prioritized, is eroded by the interests put forward by certain elite groups. The constitution is a means of limiting government power on the one hand and providing guarantees for the rights of citizens.<sup>1</sup>

---

<sup>1</sup> Umi Muslikhah, Ellydar Chaidir, and Rini Irianty Sundari, "Succession of Regional

Heads Based on Kinship Relations Judging Concept of the Pancasila Legal State," *Jurnal Ius*

The dynamics of democracy from the early era of independence to reform experienced ups and downs, the configuration of which was largely tied to the interests of certain elites, which later became known as oligarchy.

Even though democracy has become a political choice which is believed to be one of the best forms of political system to achieve effectiveness in administering state government, in the 70 years since the Indonesian nation became independent, the practice of democratic life is still experiencing ups and downs, along with the direction of the dynamics of political development which is still in progress. the process of determining the format of an ideal political system that is in accordance with the ideals of democracy as initiated by the founding fathers.<sup>2</sup>

Indonesia experienced a transition from an authoritarian to a democratic political system, which initially showed progress towards democratic consolidation. However, during this process, many problems occurred that affected the quality of democracy in this country.<sup>3</sup>

In the relatively long age of Indonesian independence, it seems that

we all still have a lot of homework to do to improve the nation's social and political conditions. The democratic climate, which should be fertile in providing people's freedom and improving people's welfare, is currently threatened by political oligarchy. The political elite has hijacked democracy in a direction that is very dangerous for the future of the nation.<sup>4</sup>

## II. Legal Materials and Methods

This research is normative legal research, where in this research the researcher will study and examine various literary sources, for example, books, journals, papers, regulations, and other scientific works that are related to the research object that the researcher is studying. Meanwhile, the nature of this research is descriptive, where the author will describe a problem in a certain area or at a certain time and try to reveal the existing facts completely. The research specifications used in the research use several approaches, namely the statutory approach, the conceptual approach, the historical conceptual approach, and the case approach. In this research, the analysis carried out is qualitative

---

*Constituendum* 9, no. 2 (2024): 194–214, <https://doi.org/http://dx.doi.org/10.26623/jic.v9i2.8849>.

<sup>2</sup> Ni'matul Huda dan Imam Nasef, *Penataan Demokrasi & Pemilu Di Indonesia Pasca Reformasi* (Jakarta, 2017).

<sup>3</sup> Ahmad Muhajir and Febriyantika Wulandari, "Demokrasi Oligarkis Dan Resesi Demokrasi Di Indonesia Pasca-Suharto: Sebuah

Tinjauan Sejarah Politik," *Warisan: Journal of History and Cultural Heritage* 4, no. 1 (2023): 1–10, <https://doi.org/10.34007/warisan.v4i1.1876>.

<sup>4</sup> Ismayani Ismayani, Yusri Yusri, and Pantas Sianturi, "Analisis Pengaruh Oligarki Terhadap Demokrasi Dan Hak Asasi Manusia Di Indonesia," *All Fields of Science Journal Liaison Academia and Society* 2, no. 2 (2022): 385–95, <https://doi.org/10.58939/afosj-las.v2i2.269>.

analysis, which is a research procedure that produces descriptive data, namely what is stated in writing.<sup>5</sup> Next, the author concludes deductively, namely concluding things that are general to specific things. Getting a conclusion begins by looking at real factors and ends with drawing a conclusion which is also a fact where the two facts are bridged by theories.<sup>6</sup>

### III. Result and Discussion

#### A. The style of Indonesian government in various power regimes

The style of Indonesian government in various power regimes has had a long history. The political configuration and dynamics of government give rise to several styles of government which also influence the implementation of a democratic rule of law.

The practice of democratic life, as is often the case in developing countries, including Indonesia, is often misled by political formats that appear to be democratic but in practice are authoritarian. This was seen when the 1945 Constitution was re-established through a Presidential Decree of 5 July 1959, and was determined to implement the 1945 Constitution and Pancasila purely and consistently. However, its

implementation could not be realized during the Guided Democracy period (1959-1966) because the government (old order) at that time tended to concentrate its power on the President alone, which ultimately caused Indonesia (1965) to be on the verge of collapse both politically, economically, socially and culturally. as well as defense and security.<sup>7</sup>

A similar thing happened during the Soeharto regime (new order), which was characterized by the concentration of power in the President, which brought the Indonesian nation to the brink of a multidimensional crisis and finally the new order fell in 1998. Each stage of regime change always contained new hopes in the form of life. which is more democratic than the previous government. The fall of the old order which was replaced by the new order, marked by the participation of technocrats from the academic world in government, initially brought fresh air and new hope to political life in Indonesia. However, due to inconsistencies in attitudes and thinking in upholding basic democratic values, in the end the new order was dragged into pragmatic and authoritarian government practices. As a result, the law is subjugated to serve a repressive system of power<sup>8</sup>.

---

<sup>5</sup> "Soerjono Soekanto and Sri Mamudji, *Penelitian Hukum Normatif Suatu Tinjauan Singkat* (Jakarta: Raja Grafindo, 2003)."

<sup>6</sup> "Aslim Rasyad, *Metode Ilmiah: Persiapan Bagi Peneliti* (Pekanbaru: UNRI Press, n.d.). hlm. 20"

<sup>7</sup> Ni'matul Huda dan Imam Nasef, *Penataan Demokrasi & Pemilu Di Indonesia Pasca Reformasi*.

<sup>8</sup> Ni'matul Huda, *Negara Hukum, Demokrasi & Judicial Review* (Yogyakarta: UII Press, 2005).

Winters further added that the rapid but unbalanced economic growth in the Soeharto era became a haven for the growth of conglomerates which gradually became oligarchic powers under Soeharto's control. Soeharto utilized the economic power of conglomerates as the main engine driving economic growth by referring to the trickle down effects school. As economic drivers, they were privileged and received many exceptions and assistance - including legal and official support to smooth their role in Suharto's economic development scheme.<sup>9</sup>

Michael van Lengenbergh assessed that the New Order since 1965/1966 had built a hegemonic state system, with the formulation of ideology as its main pillar. Thus, the basis for the construction of state hegemony is order, stability and national security.<sup>10</sup>

In government practices built on democratic principles, there are several pillars of democracy as general indicators of a constitutional democratic government. Political expert J. Kristiadi mentions the ten pillars of democracy as follows:<sup>11</sup>

1. Popular sovereignty
2. Government based on the consent of the governed
3. Majority rule (election results)

4. Guarantee of minority rights
5. Guarantee of human rights
6. Equality before the law
7. Fair legal process
8. Limitation of government power through the constitution
9. Social, economic and political pluralism
10. Developing the values of tolerance, pragmatism, cooperation and consensus.

The practice of democratic life, as is often the case in developing countries, including Indonesia, is often misled by political formats that appear to be democratic but in practice are authoritarian. This was seen when the 1945 Constitution was re-established through Presidential Decree 5 July 1959, and was determined to implement the 1945 Constitution and Pancasila purely and consistently. However, its implementation could not be realized during the Guided Democracy period (1959-1966) because the government (old order) at that time tended to concentrate its power on the President alone, which ultimately caused Indonesia (1965) to be on the verge of collapse both politically,

---

<sup>9</sup> Henky Widjaja, "Evolusi Oligarki Di Indonesia," *Research Gate*, no. August 2021 (2022): 820-30, <https://www.researchgate.net/publication/359437362>.

<sup>10</sup> Ni'matul Huda dan Imam Nasef, *Panataan Demokrasi & Pemilu Di Indonesia Pasca Reformasi*.

<sup>11</sup> A. Ubaedillah & Abdul Rozak, *Pancasila, Demokrasi, HAM Dan Masyarakat Madani* (Jakarta: Kencana Prenadamedia group, 2014).

economically, socially and culturally. as well as defense and security.<sup>12</sup>

## **B. State of Law, Democracy and Oligarchy in Indonesia**

Power is a central problem in a country, because the state is the largest institution of political society (polity) and has authoritative power. Even in Max Weber's view, power in a country includes the use of absolute coercion within a certain area. That is why, when political scientists study the state, they automatically discuss something related to the power within it, such as how power arises, its sources, the process of fighting for and maintaining it, its dynamics, and its allocation and distribution.<sup>13</sup>

Many studies prove that from the start there was a hijacking of democratic institutions and procedures, and this made Indonesian democratization very elitist in nature. Robison & Hadiz (2004) conducted a study which underlined that the old predatory elite (the elite that preys on the people) based on political parties dominates the political stage. They carried out a reorganization of power following the logic of cartel politics, namely cartel politics is

described as a situation where political parties collectively ignore their ideological commitments and programs in order to remain in power by choosing to join the new government after the election. In return for the support provided, they shared government posts. Cartel politics in turn forms a government with an oligarchic character. Oligarchy is a mechanism for centralizing power in a handful of ruling elites that emphasizes the power of material resources (wealth) as the basis for maintaining power and wealth within the elite.<sup>14</sup>

In Indonesia, the oligarchic political system has played an important role in determining the direction of national and local politics since the Dutch colonial era until today. Political oligarchy focuses on concentrated power in a group of people who have shared political interests and are interconnected. Most oligarchies in Indonesia consist of a power group consisting of a group of politicians, business experts and leaders of military forces.<sup>15</sup>

As Hidayat explains, oligarchy is the power of a small group that is oriented towards personal interests. So oligarchy can be concluded as the possession of power and the use of power whose main

---

<sup>12</sup> Ni'matul Huda dan Imam Nasef, *Penataan Demokrasi & Pemilu Di Indonesia Pasca Reformasi*.

<sup>13</sup> Kacung Marijan, *Sistem Politik Indonesia: Konsolidasi Demokrasi Pasca Orde Baru* (Jakarta: Kencana Prenadamedia group, 2010).

<sup>14</sup> Intan Rachmina Koho, "Oligarki Dalam Demokrasi Indonesia," *Lensa* 15, no. 1

(2021): 60–73, <https://doi.org/10.58872/lensa.v15i1.6>.

<sup>15</sup> Elva Rohmah, "Perubahan Paradigma Politik Di Indonesia Dari Demokrasi Ke Oligarki," *Politeia: Jurnal Ilmu Politik* 16, no. 1 (2024): 01–12, <https://doi.org/10.32734/politeia.v16i1.12424>.

target is not the people (society) but the perpetrators themselves. Oligarchy is understood in the form of power relations from politico-business coalitions to enrich themselves by exploiting public resources.<sup>16</sup>

The evolution of various oligarchs has actually occurred since at least the 1980s, which was marked by the beginning of the strengthening of indigenous conglomerate groups that held important positions in the Golkar Party as the ruling party of the New Order, at the national and regional levels. Their emergence and strong footprint in the Golkar Party has become a counterbalance to the power of Chinese conglomerates in the economic sector<sup>17</sup>.

Kendati para ilmuwan sebelumnya has explained a lot about oligarchy, but Winters (2011) provides a more adequate analysis and places wealth resources as an important factor in the relationship between oligarchy and power. For Winters (2011), oligarchy is not just a ruling minority elite or a form of government, but actors who control and control large concentrations of material resources that can be used to maintain or increase their personal wealth and exclusive social position.<sup>18</sup>

---

<sup>16</sup> Anita Febriani, Dilla Janu Istanti, and Ponco Wibowo, "Teori Oligarki Winters Atas Penambangan Batubara Di Kalimantan Timur," *Cices* 7, no. 1 (2021): 1–11, <https://doi.org/10.33050/cices.v7i1.1210>.

<sup>17</sup> Widjaja, "Evolusi Oligarki Di Indonesia."

Gadjah Mada University constitutional law expert Zainal Arifin Mochtar defines oligarchs as capital owners who have direct capacity for capital sources who will use various methods, including controlling the government in order to maintain capital and accumulate profits. over a number of people or a group of people (elite group). In running the government, this group of elites always uses all means so that they can control and control the people.<sup>19</sup>

According to Mahfud MD (Rol (8/2/2014): From oligarchy gives birth to transactions, transactions give birth to oligarchy, oligarchic politics is a political system that makes important decisions controlled by a group of political party ruling elites, because the position of leader of a political party is contested by many Many people are fighting to occupy political party leadership positions and quite a few are using money to get there. According to Firman Noo, Head of the LIPI Political Research Center, there are several countries that adopt a democratic system of government that are trapped by oligarchy and are the roots for the creation of oligarchy. One of the institutions that plays a role is political parties.<sup>20</sup>

<sup>18</sup> Herri Junius Nge, "Oligarki Partai Politik Dalam Rekrutmen Calon Kepala Daerah," *Jurnal Academia Praja* 1, no. 01 (2018): 59–84, <https://doi.org/10.36859/jap.v1i01.42>.

<sup>19</sup> Satjipto Rahardjo, *Pengantar Teori Hukum* (Yogyakarta: Genta Publishing, 2013).

<sup>20</sup> Koho, "Oligarki Dalam Demokrasi Indonesia."

According to Haris Azhar, the space to fight oligarchy through the realm of law is very limited, considering that existing legal mechanisms have also been co-opted by people who are under the influence of oligarchy. Therefore, Haris encouraged civil society to increase each other's capacity, become more independent so that they can help each other in facing repression and domination.<sup>21</sup>.

Mugiyanto provides an analysis of the relationship between oligarchic power and the legal politics of the rulers as follows: First <sup>22</sup>, In the Old Order era, President Soekarno's power was very strong, political and legal policies were based on his thoughts. Political and legal policies are very populist, capable of hypnotizing the people. The role of parliament in forming laws is very weak so that people trust the President more than parliament.

*Second* <sup>23</sup>, In the New Order era, power was placed more as a legal subject. However, in the New Order era, legal policies were also directed at development. Third <sup>24</sup>, In the reform era, the role of the people as owners of state sovereignty greatly influenced power.

*Fourt*<sup>25</sup>, In the era of President Jokowi's leadership, party elites and financiers were united in an oligarchy of power.

Power is able to control parliament in forming laws. The people have no choice but to follow the orders of the authorities.

In a democracy, formally political power is distributed based on rights, procedures and levels of popular participation. This contrasts with oligarchy where the concentration of material power is based on the strength of claims or rights to property and wealth. Winters (2011) explains about power resources according to which there are five important forms of individual power, namely:<sup>26</sup>

1. Power based on formal political rights;
2. Official position in the government or organization;
3. Coercive/coercive power;
4. Mobilization power;
5. Material power.

In his article "Oligarchic Hegemony and the Collapse of the Rule of Law", Sudek said, Why can political oligarchy exist in a democracy? Democracy does provide an open path to what is called popular sovereignty. Opening a wide path for people's aspirations. When the people are sovereign, they can determine what is best for them. In theory, that is what democracy supporters want and envision. But in fact that is not the case.

---

<sup>21</sup> AGUS RISWANTO, *MELAWAN OLIGARKI PILKADA 2020*.

<sup>22</sup> Mugiyanto Mugiyanto, "Hubungan Oligarki Kekuasaan Dengan Politik Hukum Penguasa," *Jurnal Penegakan Hukum Indonesia* 3, no. 1 (2022): 14–28, <https://doi.org/10.51749/jphi.v3i1.54>.

<sup>23</sup> Mugiyanto.

<sup>24</sup> Mugiyanto.

<sup>25</sup> Mugiyanto.

<sup>26</sup> Nge, "Oligarki Partai Politik Dalam Rekrutmen Calon Kepala Daerah."

When democracy opens the door as wide as possible for the people to determine the course of the country, it is easy to predict that the very rich (read: entrepreneurs in the media industry and other strategic industries) will not remain silent. They will try to gain power to maintain and develop their interests. Finally, democracy changed completely from popular sovereignty to conglomerate sovereignty.<sup>27</sup>

President Abraham Lincoln (1860-1865) may have said that democracy is "From the people, by the people and for the people." But eleven years after Lincoln died, President Rutherford B. Hayes in 1876 said that conditions in the United States at that time were "From company, by company and for company." In other words, democracy will naturally transform into the face of oligarchy. Namely the political system of conglomerates, by conglomerates and for conglomerates. "Of the 1%, by the 1%, for the 1%. (From one percent, by one percent, for one percent of people)." (Joseph Stiglitz, Nobel Prize winner in

Economics). Apart from that, this transformation cannot be separated from the nature of democracy itself. Even though in theory the people are the sovereign, in reality the people are only used as vote getters in the election. After that, the role of the people disappeared because they were represented by representatives who came from political parties (parpol). Meanwhile, those with authority/power in political parties are the owners and administrators<sup>28</sup>.

The biggest problem in Indonesia is that law and the state are sidelined because of the confusion in uniting the government with the state<sup>29</sup>. Criticism of the Government risks being seen as defiance of the state. The state is also personified in the form of politicians. Consciously, when the law is set aside, we give permission to politicians to claim *L'etat c'est moi* or him as the embodiment of law and the state. Bad things are familiar to Indonesia, which has roots in feudalism, elitism, acute indiscipline towards rules and laws, and

---

<sup>27</sup> Suteki Suteki, "Hegemoni Oligarki Dan Ambruknya Supremasi Hukum," *Crepido* 4, no. 2 (2022): 161-70, <https://doi.org/10.14710/crepido.4.2.161-170>.

<sup>28</sup> Suteki.

<sup>29</sup> Several academics, including Daniel S. Lev, emphasize the importance of separating the state and government (Lev, 1990). Ivan Hadar in an article about the separation of the state from government wrote that the state bureaucracy is not the government bureaucracy, because the government is not the state. In such an understanding, the state bureaucracy becomes a servant of the state and the public and is fully subject to the Constitution and laws and their

derivatives. Not to government representatives, such as the president, ministers, regional leaders, legislature and all leaders and elites who are elected through elections. If not, the bureaucracy will become a political tool for the government in power. When governments change, the bureaucracy will vacillate. Indonesia is a country of law, so it is the state and its laws that determine it, not the government (sumber: [https://www.merdeka.com/khas/pemerintah-harus-tunduk-pada-negara.html?fbclid=IwAR24CdqauOgIp4lQYW4fzQKXCmASN\\_gxIhDjy7CpNFgNsrGy0vOeNI0VDU](https://www.merdeka.com/khas/pemerintah-harus-tunduk-pada-negara.html?fbclid=IwAR24CdqauOgIp4lQYW4fzQKXCmASN_gxIhDjy7CpNFgNsrGy0vOeNI0VDU), diakses 10 April 2021, lihat Widjaja, "Evolusi Oligarki Di Indonesia.

now a political system based on idolization.<sup>30</sup>

Indonesia's democratic system is run without the support of a good legal system, providing free space for oligarchs in managing political system processes. Not only in preparing potential leaders to be popularized, but also in terms of controlling post-election/Pilkada conflicts in Indonesia<sup>31</sup>. As we saw in the final 2019 presidential election which ended in a happy ending, when Jokowi and Prabowo finally built a political coalition, or in various regional elections with similar results <sup>32</sup>.

Winters menempatkan oligarki dalam two dimensions, namely power and material. These two forms are of course very difficult to solve in terms of their scope because they are systematic, plus

the actors or individual oligarchs are very clever in creating models of power. A form of power that is concentrated in a small group of individuals and has a basis in material wealth, of course with the intention of controlling enormous resources. Understanding oligarchy begins with the fact that extreme material inequality to maintain or increase personal wealth and social position is indicative of oligarchic power. According to J. Winters, this will give rise to arbitrariness in every policy that prioritizes maximum personal gain<sup>33</sup>.

Siti Hasanah in the Webinar "End of Year Reflections of the Muhammadiyah Constitutional Law Society (MAHUTAMA) with the theme Conditions of Constitutional Law 2020:

---

<sup>30</sup> Widjaja, "Evolusi Oligarki Di Indonesia."

<sup>31</sup> No political contestation in Indonesia has ended in blood. This was discussed by Michael Buehler (2009) by comparing the process and results of political contestation in Indonesia and the Philippines, which are 180 degrees different. Conditions of violent conflict resulting from political contestation in the Philippines do not occur in Indonesia, neither in the regional elections nor the presidential elections. This is for one reason: in Indonesia the principle does not apply: winner takes all, but rather the flexibility to share power with the defeated party. The fortunes of power are too great to eat alone, and by making peace each party (especially the oligarchs with political talents) will be able to benefit. Buehler in his analysis does not explicitly mention oligarchy because he only discusses tension-stabilizing factors but suggests that there are controlling parties, namely oligarchs.. *Ibid*.

<sup>32</sup> The fact is that since the first period, the policy of retribution has been implemented systematically, massively and structured. Not only positions in the cabinet, expert staff, ambassadors, but also strategic positions in

BUMN. The fuss about the distribution of thousands of BUMN commissioner and director positions raised by insiders such as Adian Napitupulu is an indication of the intensive politics of retribution using BUMN media. This does not include access to various privileges for people who are reluctant to appear or do not need public office. Against the opposition, Jokowi's strategy is not much different. Not only did he offer public positions or state awards, Jokowi also did not apply scorched earth politics to parties associated with the opposition. Project players affiliated with the opposition are still given portions. They are the bridge of communication with the opposition. Of course, Jokowi's kindness is a form of stick and carrot strategy. Those who are useful are given rewards. Those who persist in being annoying will definitely be beaten. *Ibid*....

<sup>33</sup> Sami an Sami an and Satria Unggul Wicaksana Prakasa, "Analisis Politik Hukum Pengaruh Oligarki Dan Budaya Korupsi Di Kabupaten Bangkalan," *Media of Law and Sharia* 2, no. 4 (2021): 329–45, <https://doi.org/10.18196/mls.v2i4.11737>.

Surplus Oligarchy, Deficit Democracy" grouped the implementation of the principles of Democracy and Oligarchy in State Practice in Indonesia as follows:<sup>34</sup>

**Table I**  
**Implementation of the Principles of Democracy and Oligarchy in State Practice in Indonesia**

NO			Style of Government	
	Das Sollen (Legal norm)	Das Sein (empiris)	Democracy	Oligarchy
1	Article 1 paragraph (2) "Sovereignty is in the hands of the people and is implemented according to the Constitution"	People's sovereignty has been emasculated by oligarchy (RUU KUH P, Job Creation Bill, Omnibus Law, which	Not Democratic	Rulers, political parties/ coalitions of political parties supporting the rulers, financiers

		was desired unilaterally by the government by taking advantage of social restrictions in the midst of the Covid 19 outbreak.		
2	Article 2 paragraph (1) "The People's Consultative Assembly consists	The revision of the Election Law strengthens the DPR's oligarchic tendencies	Not Democratic	Rulers, political parties/ coalitions of political parties

<sup>34</sup> Siti Hasanah, "KONDISI HUKUM TATA NEGARA TAHUN 2020: 'SURFLUS OLIGARKI, DEFISIT DEMOKRASI,'" 2020.

	ts of members of the People's Representative Council and members elected through general elections and further regulated by law".	ncies by strengthening the role of political parties in recruiting legislative candidates		
3	Article 6A paragraph (1) "The President and Vice President	Politics is hereditary, politics of retribution	Not Democratic	Party elite, coalition party

	ent are elected as a pair directly by the people."			
4	Article 19 paragraph (1) "Members of the People's Representative Council are elected through General Elections"	The revision of the Election Law strengthens the DPR's oligarchic tendencies by strengthening the role of political parties in recruiting legislative	Not Democratic	Political parties/ coalitions of political parties

		candidates		
5	Article 22E paragraph (1) "General elections are carried out directly, publicly, freely, secretly, honestly and fairly once every five years."	Elections are a means of systemic strengthening of party political power and the financial power of investors. Political recruitment and party cadre formation are conditional on elite political	Not Democratic	Rulers, political elites, capital owners

		al interests.		
6	Article 28E paragraph (3) "everyone has the right to freedom of association, assembly and expression of opinion".	Utilizing the Covid-19 emergency to pass the Job Creation Law so that people cannot freely express their opinions	Not Democratic	Rulers, supporting parties and ruling coalitions, financiers/investors

From the description of the table above, we can see how the oligarchy influences the laws and regulations in force in Indonesia. The Constitution has regulated in such a way that the applicable legal norms contain the principle of usefulness and prioritize the welfare of the people. However, the legislative body which has the authority to form laws, in the process of forming

laws itself has been influenced by the interests of certain elite groups. So the law which is the basis for the Government in fulfilling the aspirations of the people is not fully in the interests of the people.

Siti Hasanah <sup>35</sup> stated that the current condition of democracy in Indonesia shows post-democracy tendencies. This is what causes our democracy to become essentially elitist and straddled by oligarchic power that is difficult to match. This happens both at the national and local levels. Under these conditions, a democracy without demos emerged. In post-democracy conditions there are several tendencies.

1. 1. Community involvement in politics is limited or artificial. Almost all aspects of political life are determined by elites, especially elites (*crème a la crème*). The approval of the center or central leadership really determines and colors all the lives of party cadres wherever they are.
2. 2. Parties are no longer a means of channeling people's interests. Parties are no longer tools of a political base, but tools of the interests of party

owners. Parties are managed exclusively (top-down) like a "political firm" and rely on the distribution of materials which tends to be centralized, which results in the founder/main funder of party funds being the center of everything. The party's vision and movements are determined more by the suggestions of political advisors who are oriented towards accommodating the interests of elites and oligarchs, rather than the real interests of grassroots society.

3. 3. There is a tendency to use populism and artificial (post-truth) methods in politics. This is because in post-democracy conditions there is no need for a battle of ideas, the most important thing is how to build an image and win over voters' emotions with tempting political promises. A contestation developed around improving one's image and bringing down opposing groups, which ultimately led to duping and a decline

---

<sup>35</sup> Siti Hasanah.

in the quality of democracy.

4. This goes hand in hand with the tendency of people's ignorance. In many political moments, people's political enthusiasm declines. People also generally do not understand the problem, only focus on surface phenomena. This happens because political awareness is getting lower, especially because the world of politics is considered not directly related to them, apart from because there is too much deception.
5. As a result of all this, respect for democratic institutions, processes and values is lost. This is what causes party management to be far from the essence of democracy. Likewise, state institutions have become "servants of the oligarchy" which ultimately results in low public respect for them. The loss of respect is also reflected in the continued manipulation, fraud and violations in the

implementation of elections which have led to the emergence of an exclusive government. Meanwhile, the dimness of democratic norms makes it easy for democracy to trigger political conflicts or be hijacked by the momentary interests of elites

Fukuyoka in this case also gave a term regarding the phenomenon of implementing democracy which is influenced by oligarchy, namely oligarchic democracy is a term used by Yuki Fukuoka <sup>36</sup>, which displays a democratic order where political battles are dominated by predatory coalitions of interests and encourage the marginalization of civil society forces. The failure of democratic consolidation after the collapse of Soeharto's authoritarian regime had negative implications for the democratic climate in the reform era. Most people were caught up in the euphoria of reform which made them forget that the collapse of the New Order was not accompanied by the disappearance of the oligarchic power raised by the Soeharto regime. In fact, the oligarchic forces that were originally in contact with the Soeharto regime re-consolidated

---

<sup>36</sup> Yuki Fukuoka, *Oligarchy and Democracy in Post-Soeharto* (Political Studi Review II, 2003).

themselves (adapted) to a reform regime that was much more profitable for them.<sup>37</sup>

Furthermore, the existence of oligarchy in the government system in Indonesia has recently been in the spotlight. Regarding several policies and political dynamics that occurred, starting from the implementation of post-conflict regional elections in several regions to the stages of implementing the 2024 Presidential and Vice-Presidential Elections. The implementation of the 2020 Regional Elections which coincided with the Covid-19 pandemic that hit the entire world, gave rise to a polemic in its implementation which resulted in several indications of violations of the post-conflict regional election process and strengthening the existence of oligarchy in government.

The Executive Director of the study said that there are several factors that underlie the assessment of the potential for increasing oligarchy in the 2020 post-conflict regional elections, one of which is the lack of transparency in the regional elections in the midst of the Covid-19 pandemic, because regional head

nominations are increasingly elitist and closed, indicating that they are taking advantage of the limited post-conflict regional election situation.<sup>38</sup> In democratic countries, governance is approved by the people.<sup>39</sup> However, in this case, the influence of the political elite also controls the stages of the implementation of the regional elections.

Then, the strengthening presence of oligarchs in government was seen very strongly in the 2024 Presidential and Vice Presidential Elections. Starting from the Constitutional Court decision no. 90/PUU-XXI/2023 which changes the provisions regarding the age limit for Vice Presidential Candidates. This decision caused a polemic not only regarding the decision which was being debated but also the involvement of one of the Constitutional Court judges who had a family relationship with the petitioner submitted. The existence of a conflict of interest in the application for a judicial review, resulting in a decision that shows partiality, has resulted in oligarchy entering the realm of justice which

---

<sup>37</sup> Richard Robinson, *Soeharto Dan Bangkitnya Kapitalisme Indonesia* (Jakarta: Komunitas Bambu, 2012).

<sup>38</sup> Muhlis, "Polemik Pilkada 2020 Di Masa Pandemi Covid-19: Antara Demokrasi Dan Oligarki," *Jurnal Ilmu Sosial Dan Humaniora* 4, no. 1 (2021): 116–41.

<sup>39</sup> Umi Muslikhah et al., "Problems of Appointing Acting Regional Heads Following the Postponement of Simultaneous Elections," *JCH (Jurnal Cendekia Hukum)* 9, no. 1 (2023): 15–27, <https://doi.org/10.3376/jch.v9i1.704>.

upholds the impartiality and independence of judicial power.

Then at the next stage of the election, especially during the campaign period until the implementation of the determination of voting rights. There were many indications of fraud committed by one of the candidate pairs and involving the government in power through the provision of social assistance. This then became one of the lawsuits that was submitted to the Constitutional Court in the case of dispute over general election results.

However, with several "precedents" occurring and the public being clearly shown how the process of state management is carried out by elites, the existence of oligarchy in the Indonesian government as a democratic rule of law is increasingly strengthening. This is because the existence of

oligarchy is accompanied by weak supremacy of law in government.

In fact, law is the rule of the game which will prevent or hinder rulers and ordinary people from acting arbitrarily. Law is the boundaries of individuals and authorities in every social interaction, so that law is the protection of public order and justice in order to realize the welfare of society..<sup>40</sup>

It cannot be denied that in a situation of strengthening the dominance of oligarchic political interests, control of state instruments has become one of the most important operational patterns.<sup>41</sup>

The importance of finding a balance between political stability and justice is a major concern in addressing this issue. There are efforts from a number of elements of society and political activists to advocate for political reform that creates a more transparent and fair system.<sup>42</sup>

#### IV. Conclusion and Suggestion

The existence of oligarchy in the concept of Indonesian rule of law and government influences the functioning

of democracy. The current power that is influenced by the interests of several elites has indirectly had an impact where power that should be aimed at the

---

<sup>40</sup> Umi Muslikhah, Halimah Nur Izzati, and Ahmad Fuadi, "KEBERADAAN POLITIK KEKERABATAN DALAM KONSEP NEGARA HUKUM PANCASILA," *UIR LAW REVIEW* 6, no. 1 (2022), [https://doi.org/https://doi.org/10.25299/uirlrev.2022.vol6\(1\).15558](https://doi.org/https://doi.org/10.25299/uirlrev.2022.vol6(1).15558).

<sup>41</sup> Dini Suryani et al., "Kemunduran Demokrasi Tata Kelola Sda: Penguatan Oligarki Dan Pelemahan Partisipasi Civil Society," *Jurnal*

*Penelitian Politik* 18, no. 2 (2021): 173–89, <https://doi.org/https://doi.org/10.14203/jpp.v18i2.1032>.

<sup>42</sup> Ilham Budiman Panggabean and Aprilinda Martinondang Harahap, "Perspektif Islam Tentang Dinasti Politik ( Studi Kasus Isu Dinasti Politik Tahun 2023-2024 )," *Kamaya: Jurnal Ilmu Agama* 7, no. 2 (2024): 1–15, <https://doi.org/https://doi.org/10.37329/kamaya.v7i2.3169>.

welfare of the people becomes power that prioritizes the interests of certain elite groups. The existence of legal norms is misunderstood and used to perpetuate the power of those in power.

### Acknowledgement (optional)

The research team offers praise and gratitude to Allah SWT for His grace and gifts, allowing the research team to finish the report resulting from this study. Special thanks to the writer's family for their unmatched support and motivation, ceaselessly provided for the ease of writing this journal."

### References

- AGUS RISWANTO. *MELAWAN OLIGARKI PILKADA 2020*. Makassar: Nas Media Pustaka, 2020.
- Febriani, Anita, Dilla Janu Istanti, and Ponco Wibowo. "Teori Oligarki Winters Atas Penambangan Batubara Di Kalimantan Timur." *Cices* 7, no. 1 (2021): 1–11. <https://doi.org/10.33050/cices.v7i1.1210>
- Irwansyah. *Penelitian Hukum*. Yogyakarta: Mirra Buana Media, 2020.
- Ismayani, Ismayani, Yusri Yusri, and Pantas Sianturi. "Analisis Pengaruh Oligarki Terhadap Demokrasi Dan Hak Asasi Manusia Di Indonesia." *All Fields of Science Journal Liaison Academia and Society* 2, no. 2 (2022): 385–95. <https://doi.org/10.58939/afosj-las.v2i2.269>.
- Kacung Marijan. *Sistem Politik Indonesia: Konsolidasi Demokrasi Pasca Orde Baru*. Jakarta: Kencana Prenadamedia group, 2010.
- Koho, Intan Rachmina. "Oligarki Dalam Demokrasi Indonesia." *Lensa* 15, no. 1 (2021): 60–73. <https://doi.org/10.58872/lensa.v15i1.6>.
- Mugiyanto, Mugiyanto. "Hubungan Oligarki Kekuasaan Dengan Politik Hukum Penguasa." *Jurnal Penegakan Hukum Indonesia* 3, no. 1 (2022): 14–28. <https://doi.org/10.51749/jphi.v3i1.54>.
- Muhajir, Ahmad, and Febriyantika Wulandari. "Demokrasi Oligarkis Dan Resesi Demokrasi Di Indonesia Pasca-Suharto: Sebuah Tinjauan Sejarah Politik." *Warisan: Journal of History and Cultural Heritage* 4, no. 1 (2023): 1–10. <https://doi.org/10.34007/warisan.v4i1.1876>.
- Muhlis. "Polemik Pilkada 2020 Di Masa Pandemi Covid-19 :Antara Demokrasi Dan Oligarki." *Jurnal Ilmu Sosial Dan Humaniora* 4, no. 1 (2021): 116–41.
- Muslikhah, Umi, Ellydar Chaidir, and Rini Irianty Sundari. "Succession of Regional Heads Based on Kinship Relations Judging Concept of the Pancasila Legal State." *Jurnal Ius Constituendum* 9, no. 2 (2024): 194–214. <https://doi.org/http://dx.doi.org/10.26623/jic.v9i2.8849>.
- Muslikhah, Umi, Halimah Nur Izzati, and Ahmad Fuadi. "KEBERADAAN POLITIK KEKERABATAN DALAM KONSEP NEGARA HUKUM PANCASILA." *UIR LAW REVIEW* 6, no. 1 (2022). [https://doi.org/https://doi.org/10.25299/uirlrev.2022.vol6\(1\).15558](https://doi.org/https://doi.org/10.25299/uirlrev.2022.vol6(1).15558).
- Muslikhah, Umi, Halimah Nur Izzati, Wira Atma Hajri, and Husnu Abadi. "Problems of Appointing Acting Regional Heads Following the Postponement of Simultaneous Elections." *JCH (Jurnal Cendekia Hukum)* 9, no. 1 (2023): 15–27. <https://doi.org/10.3376/jch.v9i1.704>.
- Nge, Herri Junius. "Oligarki Partai Politik Dalam Rekrutmen Calon Kepala Daerah." *Jurnal Academia Praja* 1, no. 01

- (2018): 59–84.  
<https://doi.org/10.36859/jap.v1i01.42>.
- Ni'matul Huda. *Negara Hukum, Demokrasi & Judicial Review*. Yogyakarta: UII Press, 2005.
- Ni'matul Huda dan Imam Nasef. *Penataan Demokrasi & Pemilu Di Indonesia Pasca Reformasi*. Jakarta, 2017.
- Panggabean, Ilham Budiman, and Aprilinda Martinondang Harahap. "Perspektif Islam Tentang Dinasti Politik ( Studi Kasus Isu Dinasti Politik Tahun 2023-2024 )." *Kamaya: Jurnal Ilmu Agama* 7, no. 2 (2024): 1–15.  
<https://doi.org/https://doi.org/10.37329/kamaya.v7i2.3169>.
- Rasyad, Aslim. *Metode Ilmiah: Persiapan Bagi Peneli*. Pekanbaru: UNRI Press, n.d.
- Richard Robinson. *Soeharto Dan Bangkitnya Kapitalisme Indonesia*. Jakarta: Komunitas Bambu, 2012.
- Rohmah, Elva. "Perubahan Paradigma Politik Di Indonesia Dari Demokrasi Ke Oligarki." *Politeia: Jurnal Ilmu Politik* 16, no. 1 (2024): 01–12.  
<https://doi.org/10.32734/politeia.v16i1.12424>.
- Rozak, A. Ubaedillah & Abdul. *Pancasila, Demokrasi, HAM Dan Masyarakat Madani*. Jakarta: Kencana Prenadamedia group, 2014.
- Sami an, Sami an, and Satria Unggul Wicaksana Prakasa. "Analisis Politik Hukum Pengaruh Oligarki Dan Budaya Korupsi Di Kabupaten Bangkalan." *Media of Law and Sharia* 2, no. 4 (2021): 329–45.  
<https://doi.org/10.18196/mls.v2i4.11737>
- Satjipto Rahardjo. *Pengantar Teori Hukum*. Yogyakarta: Genta Publishing, 2013.
- Siti Hasanah. "KONDISI HUKUM TATA NEGARA TAHUN 2020: 'SURFLUS OLIGARKI, DEFISIT DEMOKRASI,'" 2020.
- Soerjono Soekanto, and Sri Mamudji. *Penelitian Hukum Normatif Suatu Tinjauan Singkat*. Jakarta: Raja Grafindo, 2003.
- Suryani, Dini, Fathimah Fildzah Izzati, Imam Syafi'i, Pandu Yuhsina Adaba, and Septi Satriani. "Kemunduran Demokrasi Tata Kelola Sda: Penguatan Oligarki Dan Pelemahan Partisipasi Civil Society." *Jurnal Penelitian Politik* 18, no. 2 (2021): 173–89.  
<https://doi.org/https://doi.org/10.14203/jpp.v18i2.1032>.
- Suteki, Suteki. "Hegemoni Oligarki Dan Ambruknya Supremasi Hukum." *Crepido* 4, no. 2 (2022): 161–70.  
<https://doi.org/10.14710/crepido.4.2.161-170>.
- Widjaja, Henky. "Evolusi Oligarki Di Indonesia." *Research Gate*, no. August 2021 (2022): 820–30.  
<https://www.researchgate.net/publication/359437362>.
- Yuki Fukuoka. *Oligarchy and Democracy in Post-Soeharto*. Political Studi Review II, 2003.