



JLPH:
**Journal of Law, Politic
and Humanities**

E-ISSN: 2962-2816
P-ISSN: 2747-1985

<https://dinastires.org/JLPH> dinasti.info@gmail.com +62 811 7404 455

DOI: <https://doi.org/10.38035/jlph.v6i4>
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The Ambiguity of The "Conducted Democratically" Provision In Article 27 of The Political Parties Law: The Need For A Definitive Provision To Ensure Legal Certainty

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Abstract: Political parties fulfill a constitutional function as the sole official channel for filling the nation's highest political offices; thus, the quality of their internal decision-making has a direct impact on the quality of democracy. Although Article 27 of Law Number 2 of 2008 as amended by Law Number 2 of 2011 on Political Parties (Political Parties Law) requires that party decision-making be "...conducted democratically," this phrase is not accompanied by a defining provision that operationalizes its meaning, thereby potentially violating the principle of clarity of formulation and creating legal uncertainty. This study poses two research questions: first, does the phrase "...conducted democratically" in Article 27 of the Political Parties Law meet the principle of clarity of formulation as required by Article 5(f) of Law No. 12 of 2011 on the Formation of Legislation; and second, how should the minimum criteria for that phrase be formulated to ensure legal certainty in the relationship between central and regional leadership. The study employs a normative legal method with legislative, conceptual, and historical approaches; legal analysis is conducted through grammatical interpretation to unravel the meaning of the normative text and teleological interpretation to trace the purpose of the norm's formulation. The research results indicate that the phrase fails to meet the three indicators of the principle of clarity of formulation: the word "democratic" is not defined in the Political Parties Law, it provides no operational guidance, and it has proven to lead to multiple interpretations in the party's Articles of Association and Bylaws; furthermore, the delegation to the Articles of Association and Bylaws via Article 28 does not resolve the ambiguity because the Articles of Association and Bylaws are not legislation. Based on the historical context of the 1998 reforms and Scarrow's categorization of internal democracy, inclusivity is identified as the most relevant substantive content of "democratic." This study concludes that legal certainty requires the addition of a definitional provision to Article 1 or the Explanatory Notes to Article 27 of the Political Parties Law, which must include two minimum indicators: meaningful representative involvement from the levels of leadership directly affected, and a prohibition on mechanisms of unilateral domination by one level over the authority of another level.

Keyword: Ambiguity of Norms; Intra-Party Democracy; The Principle of Clarity of Formulation; Definitional Norms; Legal Certainty

INTRODUCTION

Within the framework of Indonesia's constitutional democracy, political parties are regulated by Article 28E(3) of the 1945 Constitution of the Republic of Indonesia, which addresses the rights to freedom of association, assembly, and expression. Political parties are not merely private associations in terms of the rights and obligations related to their day-to-day activities, but are public in nature when operating to fulfill their objectives and interests related to the interests of the general public (Asshiddiqie, 2006). Political parties are also organs of constitutional significance. The constitutionalization of political parties following the reform era, as reflected in Article 6A(2), Article 22E(3), and Article 24C(1) of the 1945 Constitution of the Republic of Indonesia, positions parties as the sole official channel for filling the nation's highest political offices. The logical consequence of such a constitutional position is that internal party practices are not merely private matters but have direct implications for the quality of democracy at the state level. The constitutional role of political parties, as reflected in these various articles, positions political parties as intermediaries between citizens and the state in the decision-making process of state governance (Toloh, 2023). Therefore, a decision-making process that produces democratic programs cannot be achieved by political parties that are managed undemocratically.

Law No. 2 of 2008 on Political Parties, as amended by Law No. 2 of 2011 (hereinafter referred to as the Political Parties Law), mandates internal democratization as a legal obligation. The General Explanation of the Political Parties Law explicitly states that this law accommodates a new paradigm aimed at strengthening the system and institutions of political parties, which includes internal democratization. To operationalize this mandate, the Political Parties Law uses the term "democratic" in four articles; the third of these four articles relates to the three general categories of intra-party democracy as categorized by Susan Scarrow: selecting party candidates (*rekrutmen/kandidasi*—Article 29), selecting party leaders (*pemilihan kepengurusan*—Article 22), and defining policy positions (*pengambilan keputusan*—Article 27), (Scarrow, 2005). Two of these three articles, Articles 22 and 27, are interrelated provisions that outline the general rules governing inter-level relationships within political party organizations. Among the three articles containing the phrase "democratic," only Article 22 has ever been the subject of a constitutional review. The Constitutional Court's ruling on Article 22 is therefore the sole authoritative interpretive reference regarding the meaning of "democratic" in the context of the Political Parties Law.

In its ruling, the Constitutional Court (hereinafter referred to as the MK) explained the phrase "democratically" in Article 22 of the Political Parties Law. In its reasoning, the MK explained that the phrase "democratically through *musyawarah*" refers to the legislature's effort to prioritize the principle of *musyawarah* to reach consensus (*mufakat*) as the first option in filling leadership positions. From this explanation, the issue lies in the fact of whether the explanation of Article 22 can be extended to the provisions of Article 27, which is similarly related to leadership; this search for interpretation is based on the reality that the provisions of Article 27 have never been brought before the Constitutional Court. Article 27, however, simply states, "Decision-making by political parties at every level shall be conducted democratically," without any procedural qualifications, meaningful delegation, or explanatory norms. The explanation of Article 27 merely states it is "sufficiently clear," a statement that is legally paradoxical, as it is precisely here that interpretive or ambiguous interpretations are permitted.

Bagir Manan asserts that even if a legal regulation reflects adequate legal, sociological, and philosophical foundations, it remains potentially problematic if it is not well-formulated, resulting in unclear meaning, intent, and purpose (ambiguous), or if it can be interpreted in various ways (interpretative) (Manan, 1992). Satjipto Rahardjo explains that one of the main characteristics of good law is that it is formulated in such a way as to avoid ambiguity and to

provide clear operational guidance for its implementation (Rahardjo, 1978). The normative benchmark for this standard is found in Article 5(f) of Law No. 12 of 2011 on the Formation of Legislation (Law P3), which states that the principle of clarity of formulation requires every piece of legislation to meet technical drafting requirements, systematic structure, choice of words or terms, and legal language that is clear and easily understood so as not to give rise to various interpretations in its implementation.

The phrase “...conducted democratically” in Article 27 of the Political Parties Law indicates a potential failure to meet the requirements set forth in the Explanatory Notes to Article 5(f) of the P3 Law: (a) the term “democratically” is not defined anywhere in the Political Parties Law; (b) the legal language does not provide operational guidance on how “democratic” decision-making should be carried out; and (c) the phrase has the potential to give rise to various interpretations, as evidenced by the diverse patterns found in party statutes and bylaws.

The absence of these minimum standards affects the provisions of Article 28, which delegates the implementation of Article 27 to the party’s Articles of Association. Delegation without standards is not legally meaningful; it merely shifts the ambiguity to a lower-level instrument. This issue is underscored by Supreme Court Decision No. 39/P/HUM/2021, which explains in its reasoning that the party’s Articles of Association are not statutory regulations (Munawar, 2022). This implies that without clear norms at the statutory level, there is no legal benchmark that can be used to assess whether the decision-making patterns outlined by a party in its AD/ART meet the “democratic” standards referred to in Article 27.

This normative ambiguity also has implications for the application of these norms, as reflected in the articles of association of the top three political parties that won the 2024 legislative elections, regarding the structure of relations between central and regional leadership, particularly concerning the role of the Central Executive Board (DPP) and Regional Executive Board (DPW) in the appointment, dismissal, or handling of vacancies in leadership positions at the provincial and regency/city levels. Of these three parties, two adopt a decision-making approach that tends to be centralist.

W.B. Gallie identifies democracy as a paradigmatic example of an “essentially contested concept,” a concept whose meaning is inherently contested not because of imprecise usage, but because the concept contains an evaluative judgment (appraisive), in the sense that it signifies or accredits some kind of valued achievement, which means that no single definition can be claimed as definitive and final (Gallie, 1956). It is the evaluative nature of behavioral norms (Putranto et al., 2020)—which possess high normative value—that theoretically necessitates the presence of secondary norms in the form of definitional norms. Shidarta explains that definitional norms function as metarules that determine how behavioral norms are understood and applied; the more abstract and evaluative a norm is, the greater the need for metarules to operationalize it. This need is not merely a theoretical requirement but also a requirement of positive law, as reflected in the principle of clarity in the formulation of Article 5(f) of the P3 Law.

Previous research has identified that the provisions on internal party democratization in the Political Parties Law remain highly general and abstract, leaving room for multiple interpretations; however, the analysis was limited to the context of leadership succession (Article 22) (Ghafur, 2023). Meanwhile, other studies have constructed an index of intra-party democracy and found that the weaknesses of the Political Parties Law include delegating the dimensions of participation and transparency directly to the Articles of Association without strict norms (Safaa’at et al., 2024). Both studies confirm the existence of problems regarding the vagueness of the Political Party Law’s norms; however, none have specifically analyzed the vagueness of the phrase “...conducted democratically” in Article 27 and its implications for legal certainty. Based on the above identification, two legal questions arise, namely whether the phrase “...conducted democratically” in Article 27 of the Political Parties Law meets the

principle of clarity of formulation as required by Article 5(f) of the P3 Law, and what the minimum indicators are for the phrase “...conducted democratically” in Article 27 in conjunction with Article 28 of the Political Parties Law must be formulated to ensure legal certainty in the relationship between the central and regional party leadership.

METHOD

This study is a normative legal study, which examines law as norms, rules, principles, doctrines, and legal literature to address the legal issues under investigation. The study employs three approaches: a statutory approach to examine the interrelationship of regulations relevant to this study; a conceptual approach to examine relevant views or doctrines consistent with this study; and a historical approach to explore the evolving meaning of ‘democratic’ within post-reform party law. Primary legal materials include relevant legislation and court decisions, such as the 1945 Constitution of the Republic of Indonesia, the Political Parties Law, the P3 Law, Constitutional Court Decision Number 194/PUU-XXIII/2025, and Supreme Court Decision Number 39/P/HUM/2021. Secondary legal materials include legal scholarship, such as academic drafts of the Political Parties Bill, legal books, and journals. Non-legal materials consist of all official publications related to political parties and their relevance to decision-making by party leadership, media coverage, and the Articles of Association and Bylaws of political parties relevant to the issues under study. Data collection techniques for primary and secondary legal materials as well as non-legal materials were conducted through a literature review. Analysis of legal materials was performed using grammatical interpretation to unravel the meaning of normative texts and teleological interpretation to trace the purpose of the norms’ formulation (Muhaimin, 2020).

RESULTS AND DISCUSSION

Compliance with the principle of clarity of wording as required by Article 5(f) of the P3 Law regarding the phrase “conducted democratically” in Article 27 of the Political Parties Law

Article 5(f) of the P3 Law, along with its explanatory notes, stipulates that the principle of clarity in drafting requires that every piece of legislation meet technical requirements regarding drafting, structure, choice of words or terms, and legal language that is clear and easily understood, so as not to give rise to various interpretations in its implementation. It is emphasized in Annex II of the Act that legislative language must be straightforward and precise to avoid ambiguity or confusion, and must provide careful definitions or delimitations of meaning for every key term used. These three elements—word choice, clear language, and unambiguity—are tested through a grammatical approach that focuses on the analysis of language, word order, or sound (Hasibuan et al., 2023), which is used to analyze the word choice of “democratic” as stated in the text of Article 27 of the Political Parties Law.

The imperative of the principle of clarity in legal formulation rests on the fundamental nature of legal norms, which differ fundamentally from other norms. Legal norms are heteronomous—meaning they originate from outside the individual and bind legal subjects not by their own will, but because the state’s authority enforces their application. Unlike moral norms or customary norms, which are autonomous and observed out of inner conviction, legal norms must be obeyed regardless of an individual’s subjective acceptance of their content (Soeprapto, 2020).

Because legal subjects do not participate in the formulation of the norms that bind them, the state has a duty to ensure that the content of those norms can be known, understood, and implemented with certainty. If heteronomous norms are formulated vaguely, structural injustice occurs: legal subjects are required to comply with rules whose meaning cannot be

understood with certainty. This is what makes the principle of clarity of formulation a necessity in a system of heteronomous legal norms.

Bruggink distinguishes between two major categories of legal norms: behavioral norms (*gedragsregel*) and meta-norms (*metanorm*). Behavioral norms are norms that directly concern human behavior; they may take the form of commands, prohibitions, permissions, or exemptions (Bruggink, 2015). Article 27 of the Political Parties Law states: "Decision-making by political parties at every level shall be conducted democratically." This is a behavioral norm in the form of a command, which mandates that political parties at every level must behave in a specific manner, namely "democratically."

In addition to rules of conduct, there is a group of rules that determine matters concerning the rules of conduct themselves, known as meta-rules. Hart identifies three types of meta-rules, namely: rules of recognition, rules of change, and rules of adjudication. Bruggink supplements these with a category of meta-rules that is particularly relevant in the context of lawmaking, namely meta-rules containing definitions or determinations of meaning, which in this study are referred to as definitional norms. Definitional norms serve to determine the meaning of key terms used in behavioral norms, so that legal subjects can know with certainty the content of the obligations imposed upon them (Kementerian Hukum dan Hak Asasi Manusia (2016); Bruggink, 2015).

The functional relationship between rules of conduct and definitional norms is complementary; that is, rules of conduct determine what should be done, while definitional norms determine what is meant by the terms used in those rules of conduct. When rules of conduct use terms with a high degree of normativity, such as "democratic," without accompanying definitional norms, those rules of conduct lose their guiding power, in the sense that they become a command without explaining what is actually being commanded.

Gustav Radbruch identified three fundamental values of law: justice, utility, and legal certainty. Legal certainty requires that the law be positive in the sense that it can be concretely defined, clearly formulated, consistent, and applied in a measurable manner (Julyano & Sulistyawan, 2019). Jan Otto adds that legal certainty requires rules that are clear, unambiguous, consistent, and accessible (Fahrozi, 2025). Legal certainty is directly linked to the principle of clarity of formulation, where clarity of formulation is a prerequisite for legal certainty (Sofwan et al., 2021). Without clarity of formulation, legal certainty cannot be achieved even if the norm is formally in force. Thus, if Article 27 of the Political Parties Law does not meet the principle of clarity of formulation, it simultaneously fails to guarantee legal certainty for its legal subjects.

Susan Scarrow identifies three general categories of internal democracy within political parties, namely: selecting party candidates, selecting party leaders, and defining policy positions (Scarrow, 2005). These three dimensions conceptually correspond to three articles in the Political Parties Law, each of which uses the term "democratic" in different contexts. This study focuses its analysis on the third dimension—defining policy positions—which corresponds to Article 27 and, within the context of the Political Parties Law, is interpreted as the process of determining the party's stances and policies through decision-making mechanisms at various levels of the party organization.

Article 27 of the Political Parties Law reads in its entirety: "Decision-making within political parties at every level shall be conducted democratically." Article 28 further states: "Decision-making as referred to in Article 27 shall be in accordance with the political party's Articles of Association and Bylaws." These two articles are found in Chapter VII of the Political Parties Law, titled "Decision-Making." In terms of the normative structure, Article 27 functions as a rule of conduct that mandates that decision-making at every level of the party be carried out "democratically."

The ambiguity of Article 27 is not yet considered “resolved” by the delegation to the Articles of Association in Article 28, because the legal reasoning in Supreme Court Decision No. 39/P/HUM/2021 explains that the Articles of Association are not statutory regulations; more specifically: the Articles of Association of a political party are not generally binding legal norms, but are binding only within the political party in question; Political parties are not state institutions, bodies, or agencies established by law or by the government pursuant to law; and there is no delegation from the law requiring political parties to establish statutory regulations.

These considerations essentially address the jurisdictional question of whether articles of association can be subject to judicial review, but they do not address whether, and to what extent, a law may delegate important normative regulations to the articles of association. In other words, the Supreme Court’s logic regarding the formal status of the Articles of Association and Bylaws is relevant for determining whether they can be reviewed as legislation, but it is insufficient for assessing the quality of the delegation of substantive provisions from the law to the Articles of Association and Bylaws themselves.

From the perspective of Hans Kelsen’s theory, the issue of delegation is understood within the nomodynamic dimension of the legal system—that is, how higher-level norms grant authority to specific bodies to formulate lower-level norms (Arimba, 2023). Kelsen views the legal system as a hierarchical structure of norms (Stufenbau) in which each lower-level norm derives its validity from a higher-level norm, all the way up to the presupposed Grundnorm (Asshiddiqie & Safa’at, 2006). Within this framework, higher-level norms may more or less prescribe the content of lower-level norms: some norms specify the content and procedures in detail (narrow discretion), while others grant only general authorization without prescribing the content (broad discretion), as explained by Escher in his analysis of Kelsen’s statement: “The general norm is always only a frame within which the individual norm is to be created. But this frame can be narrower or wider.” (Ešer, 2019). This typology of narrow versus broad variation can be understood as a conceptual foundation for distinguishing between strict delegation (with a clear substantive limiting framework) and broad delegation (with a loose limiting framework). In this context, the Supreme Court’s statement that the Articles of Association (AD/ART) are not legislation at all fails to address whether the delegation of law to the AD/ART constitutes a strict delegation within a clear limiting framework or, conversely, a very broad one without adequate substantive determination.

Using these criteria, it can be argued that when the law merely requires that “decision-making by political parties at every level be conducted democratically” and then leaves it to the internal mechanisms of the party’s bylaws without establishing minimum substantive (democratic) standards at the statutory level. In classical legislative theory, a delegation without adequate substantive standards may create legal uncertainty because the delegated norm lacks clear guidance. In this context, what occurs is a form of delegation that, from the perspective of legal certainty, resembles a blank delegation, because the statute does not provide adequate substantive standards to guide the content of the delegated norms (Al-fatih, 2023). This characterization does not deny the constitutional value of party autonomy; rather, it shows that such autonomy still requires a minimum statutory benchmark if the obligation to act democratically is to be legally operable. In this situation, the law relinquishes regulatory authority without any limiting provisions regarding what may or may not be regulated, so that the substance of the AD/ART is determined almost entirely by the body receiving the delegation. This pattern of delegation without clear substantive benchmarks has been widely criticized for opening up an extremely broad scope of discretion and potentially eroding the principle of legal certainty (Al-Fatih, 2023). If this model of very broad delegation is applied to Article 27 in conjunction with Article 28 of the Political Parties Law, then the AD/ART could regulate matters fundamental to the internal democratic life of the party, such as decision-making mechanisms at the leadership levels, based on a law whose provisions are highly vague.

At the same time, the AD/ART are not formally recognized as statutory regulations that can be reviewed by the Supreme Court, so there is no external mechanism to evaluate the conformity of such provisions with the mandate of the Article. Therefore, regardless of the formal status of the AD/ART according to the Supreme Court's ruling, delegation without minimum standards at the statutory level should be assessed as a blank delegation that creates a gap between what is mandated by Article 27 (a binding heteronomous obligation) and clarity regarding what is actually mandated, thereby violating the principle of legal certainty.

Although the Articles of Association and Bylaws were approved by the Ministry of Law and Human Rights for the purpose of obtaining legal entity status for the party, such approval was limited to verifying the completeness of administrative requirements and compliance with Pancasila and the 1945 Constitution of the Republic of Indonesia, not to a substantive review of whether the decision-making mechanisms stipulated in the Articles of Association and Bylaws meet the "democratic" standards referred to in Article 27. There is not a single provision in the Political Parties Law that grants the Ministry of Law and Human Rights the authority to reject the Articles of Association and Bylaws on the grounds of failure to meet "democratic" standards, as such standards have never been explicitly defined in the law. In practice, Kemenkumham's administrative authority operates more frequently within the dynamics of political interests rather than as a neutral and measurable mechanism for overseeing internal democratization (Saputra et al., 2025). Thus, Kemenkumham's approval does not address the substantive issues stemming from the ambiguity of Article 27.

The ambiguity of Article 27 becomes increasingly clear when systematically compared with two other articles in the Political Parties Law that also use the phrase "democratic," but with different phrasing. This comparison reveals inconsistencies in the phrasing of articles that explicitly use the same phrase by the lawmakers.

Article 22 states: "The leadership of a political party at every level shall be elected democratically through *musyawarah* in accordance with the Articles of Association." The word "democratically" here is explicitly qualified by the specific procedure "through *musyawarah*," which provides operational guidance and limits the scope for interpretation. Article 29, paragraphs (1a) and (2), state: "democratically and openly in accordance with the Articles of Association and Bylaws." The word "democratically" is qualified by the term "openly," which adds a dimension of transparency as a guideline for implementation. Meanwhile, Article 27 simply states: "conducted democratically," without procedural qualifications or limiting meanings, and thus has the potential for interpretive meaning.

This pattern reveals two things. First, the drafters clearly understood the contextual differences in the use of "democratic" in each article, as evidenced by the inconsistency in the qualifying terms used. Second, Article 27 is the provision with the highest level of ambiguity among the three, as it is the only one that uses the phrase "democratic" without any qualifiers.

In Decision Number 194/PUU-XXIII/2025, the Constitutional Court explained that Article 22 of the Political Parties Law, which mandates that party leadership be elected "democratically through deliberation," reflects the legislature's intent to prioritize the principle of *musyawarah* to reach consensus (*mufakat*) as the primary method for filling leadership positions, and that various possible models for filling these positions must be explicitly regulated in the Articles of Association.

Constitutional Court rulings are final and binding and have the force of law. However, such an interpretation is inherently limited by the wording of Article 22 itself. The Constitutional Court can interpret "democratic" in Article 22 to mean *musyawarah* to reach consensus (*mufakat*) because the word "*musyawarah*" is already present in the text of Article 22. The Court's interpretation relies on the words contained in the text of the article under review.

Article 27 does not contain the word “*musyawarah*,” and its legal structure does not provide for any procedural qualifications. Therefore, the Constitutional Court’s interpretation of Article 22 cannot automatically be equated with or extended to apply to Article 27. Doing so would be equivalent to adding the word “*musyawarah*” to Article 27, an action that risks exceeding the scope of interpretive authority and encroaching upon the legislative domain. Furthermore, Article 27 has never been the subject of a review by the Constitutional Court, so there is no valid constitutional interpretation of it.

Based on the criteria set forth in the Explanation of Article 5(f) of the P3 Law, Article 27 fails to meet all three indicators of the principle of clarity of formulation.

First, the choice of words or terms. The word “democratic” is a highly normative term that can have a wide range of conceptual meanings: direct participation by all members, a representative system, decision-making by majority vote, deliberation to reach consensus, or a combination of these various mechanisms. This word is not defined in Article 1 of the Political Parties Law (General Provisions); there is no defining provision to clarify its meaning, and the Explanatory Notes to Article 27 provide no limitations whatsoever. Bruggink asserts that an ambiguous definition is one whose content cannot be precisely determined, leaving its scope unclear (Bruggink, 2015). Such is the case with the phrase “democratic” in Article 27; the absence of a definitional norm means that the wording of this behavioral norm does not technically meet the required criteria.

Second, clear and easily understandable legal language. Given that legal norms are heteronomous, all party officials at every level must be able to understand the obligations imposed upon them without requiring complex interpretation. However, the phrase “...conducted democratically” provides no operational guidance whatsoever on how decision-making must be conducted—whether through open plenary meetings, voting, *musyawarah*, or other mechanisms. No legal entity can independently and definitively determine whether the mechanisms they employ have or have not met the “democratic” standard referred to in Article 27.

Third, it does not give rise to various interpretations. In the practice of implementing the provisions of the Political Parties Law into the Articles of Association and Bylaws, particularly regarding the relationship between the central and regional leadership, it is known that the phrase “democratic” in Article 27 has resulted in various interpretations and differing implementations among parties; some interpret “democratic” with a strong tendency toward centralization, while others interpret it with a tendency toward decentralization.

Based on the above explanation, the phrase “...conducted democratically” in Article 27 of the Political Parties Law does not meet the principle of clarity of wording as required by Article 5(f) of the P3 Law. The choice of the word “democratically” in Article 27 lacks a clear definitional reference within the legal framework; its legal language does not provide adequate operational guidance; and the phrase has proven to give rise to various interpretations in its implementation. The Constitutional Court’s interpretation of Article 22 cannot be equated due to differences in the construction of the legal norms. The delegation to the Articles of Association (AD/ART) via Article 28 does not resolve the ambiguity because the AD/ART is not classified as legislation. This ambiguity directly gives rise to legal uncertainty in the relationship between the central and regional party leaderships, which is a central issue to be addressed in the second discussion.

Formulating minimum criteria for the phrase "conducted democratically" in Article 27 in conjunction with Article 28 of the Political Parties Law to ensure legal certainty in the relationship between central and regional party leadership

The ambiguity of Article 27 is not merely a technical issue of legislation. It is also related to the interpretation of “democratic” as it applies in the post-reform normative context of

Indonesia. Therefore, a historical approach is used to reinforce a teleological interpretation regarding societal realities and to ensure that the principle of clarity—in the formulation of legislation is upheld on the basis of legal certainty (Khalid, 2014).

The New Order system was consistently characterized as a centralist-authoritarian regime. Centralism was consciously chosen as an instrument of political stability that allowed for full control over all elements of national life, including political parties. Indonesian politics became increasingly centralized around personal leadership, and the centralization of resource management placed the central government in an autonomous position without significant influence from lower-level entities (Farchan, 2022). The 1998 Reforms fundamentally served as a correction to that logic of centralism. The Reform Era marked a significant transformation toward the decentralization of power and a more open and inclusive democracy (Erinaldi, 2024).

The mandate for internal party democratization contained in the Political Parties Law, which was enacted during the Reformation era, cannot be interpreted in isolation from this historical spirit. The spirit of strengthening the system and institutions of political parties—one aspect of which concerns the internal democratization of political parties—is explicitly articulated in the General Explanation of Law No. 2 of 2008. However, in its amendment under Law No. 2 of 2011, the terminology regarding the internal democratization of political parties appears to have been omitted from the entire text of the law; the General Explanation places greater emphasis on the refinement of a democratic political system to support an effective presidential system.

In the context of post-reform Indonesia, the term "democratic" in party management can be read as closely related to inclusivity, in the sense of enabling meaningful participation, granting autonomy to leadership levels affected by the decision, and limiting the dominance of a single center of power over all levels (Amsari et al., 2021). This reading is historically persuasive because it reflects the Reform Era's corrective response to the centralism of the New Order. At the same time, inclusivity should be understood as a normative orientation that operates within, not against, the constitutional value of party autonomy. Scarrow also affirms this understanding from a conceptual perspective, noting that the expansion of intra-party democracy almost definitively entails an increase in inclusivity within decision-making structures.

If "democratic" in Article 27 is interpreted as inclusive in accordance with the historical and conceptual context outlined above, then there are structural implications that must be consistently followed in the relationship between the central and regional leaderships within a political party. Inclusivity in the dimension of defining policy positions means that decision-making at every level of the party must be genuinely carried out at that level in a meaningful way, not merely as a formal act that has in fact already been determined by the central leadership.

This means that an inclusive interpretation of "democracy" inherently contains a decentralizing tendency in the context of central-local relations, implying that decisions at the local level must reflect the deliberations and autonomy of that level, rather than merely implementing the will of the central government. Sholikin, explicitly states that the decentralization of political parties is part of the effort to democratize the internal structure of political parties (Solikhin, 2017). Wawan Gunawan, identifies a relevant paradoxical phenomenon: while the political superstructure is undergoing decentralization, the political infrastructure is actually experiencing a centralization of authority in the hands of the DPP, an anomaly that contradicts the spirit of democracy that forms the foundation of the reform era (Gunawan, 2018).

The spirit of decentralization and inclusivity in the post-reform era must therefore be accompanied by the embodiment of these values within political parties. However, based on

the provisions of the articles of association of the top three parties that won the 2024 legislative elections—by analyzing the patterns of relations between central and regional leadership using data on the allocation of authority in a centralized and decentralized manner, as well as regarding the form of involvement of the DPP and DPW in the provisions for the appointment and dismissal of leadership at the provincial and regency/city levels—it was found that two of them exhibit a centralistic tendency (Amsari et al., 2021).

Table 1. Patterns of Relations Between Central and Regional Leadership

Party	Party Statute	Centralized	Decentralized
PDIP	Constitution of the Indonesian Democratic Party of Struggle, 2019.	<p>The Party’s Provincial Executive Committee carries out the duties and functions of the Party’s Central Executive Committee at the provincial level. (Article 56, Section (1))</p> <p>The Party’s District/City Branch (DPC) carries out the duties and functions of the Party’s Central Executive Board (DPP) at the district/city level. (Article 57, Section (1))</p> <p>The Party’s Central Executive Board (DPP) may suspend or dissolve the Party leadership and/or executive bodies at all levels below the Party’s Central Executive Board. (Article 65, section (1))</p>	
GOLKAR	Constitution of the Functional Groups Party (Golkar), 2024.		<p>The DPP has the authority to approve the composition and membership of the provincial DPD. (Article 23, Section (2)(f))</p> <p>The provincial DPD has the authority to approve the composition and membership of the regency/city DPDs. (Article 24, Section (2)(c))</p> <p>An extraordinary provincial congress is convened, provided that two-thirds of the regency/city DPDs agree and with the approval of the DPP, due to: the leadership of the provincial DPD being under threat. (Article 38, Section (3)(a)(i))</p> <p>An extraordinary provincial congress is convened, provided that two-thirds of the sub-district leaders consent and with the approval of the provincial DPD, due to the fact that the leadership of the regency/city DPD is under threat. (Article 39, Section (3)(a)(i))</p>
GERINDRA	Constitution of the Great Indonesia	The Chair of the Board of Trustees approves or disapproves	

Movement 2020.	Party,	the ratification of the composition of the DPP, DPD, and DPC executive boards. (Article 19, Section (3)(o)(1)) The Chair of the Board of Trustees approves or disapproves the dismissal of Executive Board members or their resignation at their own request, due to permanent incapacity, or switching parties at the DPP, DPD, and DPC levels. Article 19, Section (3)(o)(15))
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Source: Pembaharuan Partai Politik di Indonesia (Amsari et al., 2021), data updated by the author.

There are at least two points to note from the table above: first, the hierarchical principle pertains to working relationships among management bodies according to their respective levels—and second, in its democratic implementation, it relates to decision-making that emphasizes tiered accountability at every level.

In the PDIP, regional leadership bodies are positioned not as autonomous entities, but as extensions of the Central Executive Board (DPP) that carry out the central leadership’s duties and functions at the regional level. This structure negates meaningful autonomy at the regional level, as decision-making at the provincial and regency/city levels is, in substance, the implementation of the central leadership’s will, rather than the result of deliberation at those levels. The authority to freeze and dissolve leadership bodies is unilateral and does not require the participation of the relevant levels.

In Gerindra, authority is not concentrated solely at the DPP level, but rests with a single individual who serves as the sole veto holder over all decisions regarding the composition and dismissal of leadership at all levels.

Golkar, on the other hand, exhibits a significantly different pattern. Grammatically, the word “ratify” implies that the composition is proposed by the relevant level and ratified by the level above it, not determined unilaterally. The Extraordinary Regional Congress mechanism requires an initiative from below with approval from above, which indicates a division of authority between levels. Nevertheless, an element of hierarchical control remains present through the approval mechanism.

The critical legal point is that neither Gerindra nor the PDIP “violated” Article 27, because Article 27 does not specify what constitutes “democratic.” Such a centralist model is normatively “permissible,” and it would be difficult for any institution to identify it as a violation. This situation is a direct consequence of the ambiguity of the norm, whereby a norm that neither prohibits nor provides guidance creates a normative space for a governance model that is substantively at odds with the very spirit of the norm itself.

From the above discussion, a causal chain emerges that explains why legal certainty has not yet been achieved. The vagueness of the phrase “...conducted democratically” in Article 27 has led to multiple interpretations of the term “democratic” by political parties. These multiple interpretations have opened the door to decision-making practices that tend toward centralization in the relationship between central and regional leadership, which is inconsistent with the spirit of democratization in post-reform Indonesia. Without clear legal benchmarks at the statutory level, such centralist practices cannot be assessed as either compliance with or a violation of Article 27, and this inability to assess compliance is a concrete manifestation of legal uncertainty. This legal uncertainty is a direct consequence of the failure to meet the principle of clarity of formulation as required by Article 5(f) of the P3 Law.

In legislative drafting, definitional provisions are typically included in the main text of Article 1 (General Provisions) of a law, and/or in the explanatory notes attached to the relevant article, and/or in the explanatory notes to the law itself (Kementerian Hukum dan Hak Asasi Manusia (2016). Definitional norms function as metarules that determine the meaning of key terms used in behavioral rules (Bruggink, 2015), which can constitute the authentic meaning of the law.

The legal resolution of the ambiguity in Article 27 does not lie in forced interpretations or analogies that are not textually justified. With the establishment of inclusivity as the substantive content of “democracy”—relevant both historically and conceptually—the next issue is no longer what should be defined, but rather how to define it technically within the legal framework so that such inclusivity truly possesses measurable normative binding force.

This is where the distinction between choosing substance and formulating definitional norms becomes crucial. Establishing inclusivity as the foundational value of the new “democratic” framework is the first step; the next step is to operationalize it into a formulation that is concrete enough to provide legal certainty, yet not so detailed as to eliminate the party autonomy guaranteed by Article 28E(3) of the 1945 Constitution of the Republic of Indonesia. If the defining norm is formulated too narrowly—for example, by establishing specific mechanisms such as a direct vote by all members—then the behavioral guidelines of Article 27 can no longer accommodate the diverse contexts of decision-making at all levels of the party. Conversely, if formulated too broadly, merely stating “in an inclusive and participatory manner” without measurable minimum elements, the problem of multiple interpretations merely shifts from the phrase “democratic” to its replacement, without resolving the root of the problem.

Bruggink formulated two important principles regarding the relationship between intension and extension in definition: 1) The first principle states that the characteristics specified in a definition (intension) determine which objects are included within it (extension). In other words, specifying the characteristics or elements of a concept directly limits the scope of its application; 2) Intension is Inversely Proportional to Extension. The second principle states that the more characteristics specified in a definition (the greater the intension), the fewer objects it encompasses (the smaller the extension), and vice versa (Bruggink, 2015). As an illustration, if the concept of “social security” is expanded to include the characteristic “social protection provided by the government,” its extension narrows because social protection can only be provided by the government and not by other parties. Based on these two principles, the solution to the problem of definitions that are either too narrow or too broad lies in achieving the right balance between intension and extension. Lawmakers must be careful in defining the characteristics of a legal concept: specific enough to provide legal certainty, yet not so numerous as to unduly narrow the scope of the norm. Conversely, a definition must not be so minimal in its characteristics that it encompasses situations that should not be regulated.

Based on the entire analysis above, the phrase “...conducted democratically” in Article 27 in conjunction with Article 28 of the Political Parties Law can only guarantee legal certainty if accompanied by a definitional norm that operationalizes inclusivity as its substantive content. With reference to the balance between intension and extension as outlined, such a definitional norm must at least include two minimum indicators. First, the involvement of representatives from the relevant level in decision-making that directly affects that level. Second, a prohibition on mechanisms that are allowing one level to dominate or unilaterally determine decisions that fall within the authority of another level. These two indicators are specific enough to produce measurable assessment criteria, so that centralist practices such as those carried out by the PDIP and Gerindra can be identified as non-compliance, yet not so narrow as to lock in internal deliberation models that each party may choose through its Articles of Association and Bylaws. Thus, a definitional norm containing these two minimum indicators, placed in Article 1 or the

Explanation of Article 27 of the Political Parties Law, constitutes a legal prerequisite for fulfilling the principles of clarity of formulation and legal certainty required by Article 5(f) of the P3 Law.

CONCLUSION

This study yielded two interrelated findings. First, the phrase “...conducted democratically” in Article 27 of the Political Parties Law does not meet the principle of clarity of formulation as required by Article 5(f) of the P3 Law. The word “democratic” is not defined in the general provisions of the Political Parties Law, provides no operational guidance for its legal subjects, and has been shown to result in diverse interpretations in the articles of association of political parties. The delegation of Article 28 to the Articles of Association does not resolve this issue because it is not accompanied by minimum standards at the statutory level, so there is no external benchmark to assess whether the decision-making patterns set forth by the party in its Articles of Association have fulfilled the obligations of Article 27. The absence of such benchmarks is a concrete manifestation of legal uncertainty stemming directly from the failure to meet the principle of clarity of formulation.

Second, the legal application of the phrase “...conducted democratically” requires a definitional standard grounded in inclusivity as the substantive content of internal democratization within political parties in the post-reform era. Such a definitional standard must include at least two indicators: meaningful representation and involvement of the management levels directly affected in decision-making that impacts those levels, and a prohibition on mechanisms that allow one level to unilaterally determine decisions that fall within the authority of another level. These two indicators establish sufficiently measurable boundaries to ensure legal certainty, while not eliminating the party’s freedom to design internal mechanisms in accordance with Article 28E(3) of the 1945 Constitution of the Republic of Indonesia.

Overall, these two findings indicate that the issue with Article 27 is not merely a technical drafting flaw, but rather a structural deficiency: a behavioral norm that imposes an obligation is not accompanied by a definitional norm that operationalizes the content of that obligation. The addition of a definitional provision to Article 1 or the Explanatory Notes to Article 27 of the Political Parties Law is a legal prerequisite for the phrase “...conducted democratically” to function properly as a binding norm whose fulfillment can be assessed.

Based on the research findings, lawmakers in future amendments to the Political Parties Law need to add a definitional norm to Article 1 or reformulate the Explanation of Article 27 with the following substance.

Option 1 - Amendment to Article 1 (General Provisions):

"Democratic decision-making is the decision-making process of a political party that ensures meaningful representation and involvement of the relevant level of leadership in every decision that directly affects that level, and does not include mechanisms that allow one level of leadership to unilaterally determine decisions that fall within the authority of another level of leadership."

Option 2 - reformulation of the Explanation of Article 27:

"The term 'conducted democratically' refers to decision-making within a political party that meets two minimum requirements: first, there is meaningful representation and involvement from the levels of leadership directly affected by the decision; and second, there are no mechanisms that allow one level of leadership to unilaterally determine decisions that, organizationally, fall under the authority of another level of leadership. Further implementation

of these minimum standards is regulated in the Political Party's Articles of Association and Bylaws."

The addition of a definitional provision with such substance provides parameters that political parties can use in drafting their Articles of Association and Bylaws, while simultaneously offering an operational benchmark in the event of disputes regarding compliance with Article 27. The choice between the two options depends on technical legislative considerations: option 1 provides a definition that applies generally throughout the Political Parties Law, while option 2 limits the explanation to the context of Article 27 alone.

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