



ICCPR AND THE FUTURE OF POLITICAL RIGHTS: A CRITICAL ANALYSIS OF EXISTING INTERNATIONAL LEGAL NORMS

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Abstract

Background: This article examines the normative gap within the International Covenant on Civil and Political Rights (ICCPR) concerning the regulation of internal democracy within political parties. While Article 25 guarantees the procedural right to vote and to be elected, it does not sufficiently address substantive democratic deficits such as oligarchic practices, vote buying, and the absence of internal party accountability. **Methodology:** The analysis is grounded in normative legal research, relying on doctrinal interpretation of international human rights instruments, particularly the ICCPR, and exploring the horizontal application of human rights and the state's due diligence obligations with respect to political parties. **Objectives:** The primary objective is to argue that political parties, as pivotal actors in democratic systems, should be subject to human rights standards, especially regarding integrity, participation, and non-discrimination, and to identify legal mechanisms that could strengthen internal party democracy under international law. **Findings:** The study finds that existing international legal instruments inadequately regulate the internal functioning of political parties, allowing undemocratic practices that undermine the substantive realization of political rights. It also identifies that the state's positive obligations can justify regulatory oversight of political party governance. **Originality/Novelty:** This article advances three normative proposals to fill the regulatory void: the drafting of a new General Comment to Article 25 of the ICCPR, the adoption of an Optional Protocol to impose binding obligations, and the creation of UN Guiding Principles as soft law. These proposals collectively offer a novel framework for reconstructing political rights substantively and reinforcing democratic legitimacy through international law.

Keywords: political rights; political parties; state obligations

Abstrak

Latar Belakang: Artikel ini mengkaji kesenjangan normatif dalam Kovenan Internasional tentang Hak Sipil dan Politik (ICCPR) terkait dengan pengaturan demokrasi internal dalam partai politik. Meskipun Pasal 25 menjamin hak prosedural untuk memilih dan dipilih, ketentuan tersebut belum secara memadai menangani defisit demokrasi substantif seperti praktik oligarki, politik uang, dan kurangnya akuntabilitas internal partai. **Metodologi:** Analisis dalam artikel ini didasarkan pada penelitian hukum normatif, dengan pendekatan doktrinal terhadap instrumen hak asasi manusia internasional, khususnya ICCPR, serta mengeksplorasi penerapan horizontal hak asasi manusia dan kewajiban negara untuk bertindak secara due diligence terhadap partai politik. **Tujuan:** Tujuan



utama dari artikel ini adalah untuk mengemukakan bahwa partai politik, sebagai aktor sentral dalam sistem demokrasi, seharusnya tunduk pada standar hak asasi manusia, terutama terkait integritas, partisipasi, dan non-diskriminasi serta untuk mengidentifikasi mekanisme hukum yang dapat memperkuat demokrasi internal partai dalam kerangka hukum internasional. **Temuan:** Studi ini menemukan bahwa instrumen hukum internasional yang ada belum cukup mengatur secara memadai fungsi internal partai politik, sehingga membiarkan praktik-praktik yang tidak demokratis yang merusak pemenuhan hak politik secara substantif. Selain itu, artikel ini menunjukkan bahwa kewajiban positif negara dapat menjadi dasar untuk mengatur dan mengawasi tata kelola internal partai politik. **Kebaruan/Orisinalitas:** Artikel ini mengajukan tiga usulan normatif untuk mengatasi kekosongan pengaturan: penyusunan Komentar Umum baru atas Pasal 25 ICCPR, perumusan Protokol Opsional untuk menetapkan kewajiban yang mengikat, serta pengembangan Prinsip-Prinsip Panduan PBB tentang Partai Politik dan Integritas Demokrasi sebagai *soft law*. Ketiga pendekatan ini secara kolektif menawarkan kerangka baru untuk merekonstruksi makna hak-hak politik secara substantif dan memperkuat legitimasi demokrasi melalui hukum internasional.

Kata Kunci: hak politik; partai politik; kewajiban hukum internasional

A. Introduction

International law today has undergone significant processes of humanization and internalization.¹ Humanization is marked by a shift in the primary subject of international law from states to individuals as rights holders, while internalization reflects the growing influence of international norms within national legal systems. One manifestation of this development is the strengthening of the human rights' legal regime, in which the protection of fundamental human rights is no longer regarded as an internal affair of a state, but rather as a collective concern and obligation of the international community. This regime is affirmed in various international instruments such as the *Universal Declaration of Human Rights* (UDHR), the *International Covenant on Civil and Political Rights* (ICCPR), and numerous other binding regional and sectoral conventions.

One of the crucial categories of human rights in the international legal system is political rights, particularly the right to vote and to be elected. This right is an integral part of the right to participate in democratic governance. Guarantees for this right are not only enshrined in Article 21 of UDHR and Article 25 of ICCPR, but also affirmed in Protocol No. 1 Article 3 of the *European Convention on Human Rights* (ECHR), Article 13(1) of the *African Charter on Human and Peoples' Rights* (ACHPR), Article 23(1) of the *American Convention on Human Rights* (ACHR), as well as in specific conventions such as Article 7 of the *Convention on the Elimination of All Forms of Discrimination against Women* (CEDAW), Article 29 of the *Convention on the Rights of Persons with Disabilities* (CRPD), and Article 2 of the *International Convention on the Elimination of All Forms of Racial Discrimination* (ICERD). All these instruments affirm that the right to vote and be elected is an essential element of a legally valid and morally legitimate democratic government.

¹ Thomas Buergenthal, "International Human Rights in an Historical Perspective," in *Human Rights: Concept and Standards* (UNESCO Publishing, 2000), 3–30, <https://unesdoc.unesco.org/ark:/48223/pf0000121894>.

However, political rights in international instruments are often understood in a formalistic manner as individual procedural rights.² Such an understanding overlooks the fact that political rights are inherently linked to and heavily dependent on the existence of institutions known as political parties. As key actors in a democratic system, political parties play a central role in regulating access to candidacy, leadership recruitment, and the selection of public figures who will hold government positions. Political rights and the obligations of political parties cannot be separated, as they are interrelated within a system of substantive democracy.³ The reconstruction of political rights cannot be achieved without regulating the main actors responsible for exercising those rights namely, political parties. In human rights theory, rights and obligations are two sides of the same coin. According to Henry J. Steiner: "Every human right presupposes a duty bearer. The efficacy of rights depends not only on their recognition, but on the accountability of those responsible to fulfill them."⁴ This means that the political rights of citizens under Article 25 of the ICCPR cannot be guaranteed without regulating the obligations of political parties.

In a democratic system, political parties are the gatekeepers of political rights. They determine who may be nominated, elected, filtered, or excluded. Giovanni Sartori emphasized: "Modern democracy is unthinkable without political parties. They are the selectors of leadership, and therefore are accountable to the people's political rights."⁵ Therefore, discussing political rights without addressing political parties is an empty abstraction. Unfortunately, to this day, the internal democracy of political parties has not been adequately regulated under international law, including in the ICCPR. There exists a normative gap, where political rights are recognized, but the institutions responsible for ensuring those rights are not properly regulated. The absence of binding international standards has led many political parties to adopt internal processes that are elitist⁶,

² Tim Wood, "Reinforcing Participatory Governance Through International Human Rights Obligation of Political Parties," *Harvard Human Rights Journal* 28 (2009): 153. U.N. Secretary-General, "Strengthening the Role of the U.N. in Enhancing the Effectiveness of the Principle of Periodic and Genuine Election and the Promotion of Democratization" (n.d.). The UN Secretary-General has reminded governments that the formal (rather than substantive) success of election administration is not sufficient to produce good governance.

³ Jan Teorell, "A Deliberative Defence of Intra-Party Democracy," *Party Politics* 5, no. 3 (1999): 363-82. Jon Elster, "Deliberative Democracy," *Cambridge University Press*, 1998, 1-18. Jhon S. Dryzek, "Deliberative Democracy and Beyond: Liberals, Critics, Contestations," *Oxford University Press*, 2002, 1-12. Anika Gauja, *Political Parties and Elections: Legislating for Representative Democracy* (Farnham: Ashgate Publishing, 2010). Gabriela Borz and Kenneth Janda, "Contemporary Trends in Party Organization: Revisiting Intra-Party Democracy," *Party Politics* 6, no. 2018 (24AD): 655-56. Susan E. Scarrow, *Political Parties and Democracy in Theoretical and Practical Perspectives: Implementing Intra-Party Democracy* (Washington DC: National Democratic Institute for International Affairs, 2005).

⁴ Henry J. Steiner, *Political Participation as a Human Right*, Harvard Hu (Cambridge: Harvard Law School, 1988).

⁵ Giovanni Sartori, *Parties and Party Systems: A Framework for Analysis* (Cambridge: Cambridge University Press, 1976).

⁶ OSCE Office for Democratic Institutions and Human Rights (ODIHR), "Guidelines on Political Party Regulation (Second Edition)" (Warsaw, 2023).

opaque⁷, oligarchic⁸, and rife with money politics.⁹ As a result, democratic processes often fail to produce leadership that is legitimate and morally grounded, instead reinforcing the dominance of unaccountable political elites. The poor state of internal democracy within political parties has contributed to the global decline of democracy.¹⁰ According to data from International IDEA, by the end of 2021, as many as 3.5 billion people worldwide were living in democracies experiencing backsliding, including in well-established democratic countries.¹¹ Indonesia's 6th President, Susilo Bambang Yudhoyono (SBY), expressed a similar view during the book discussion event *Standing Firm for Indonesia's Democracy* at the Indonesian Embassy in Tokyo in March 2025. He stated, "Setback, regression of democracy around the globe."¹²

Specifically in Indonesia, the country's democracy index, according to the Economist Intelligence Unit in 2022, recorded a score of 6.71 and was categorized as a *flawed democracy*.¹³ The 2023 Freedom House report gave Indonesia a score of 53 out of 100,¹⁴ indicating a trend of weakening protection of civil and political rights. The UN Human Rights Committee, in its 2024 Concluding Observations, even highlighted that elections in Indonesia were considered neither free nor fair due to elite interference and the weak independence of the electoral commission.¹⁵ The facts above demonstrate that political parties can not only hinder the realization of citizens' political rights but also have the potential to become perpetrators of human rights violations. In this context, it is necessary to apply the *horizontal application of human rights* approach, which refers to the application of human rights norms to non-state actors. This concept asserts that human rights violations can be committed not only by the state but also by private entities, corporations, and socio-political organizations such as political parties.¹⁶ Therefore, the state has a positive obligation to prevent and respond to human rights violations committed by non-state actors, including by regulating the internal governance

⁷ Else Suhaimi, *Hukum Kepartaian Indonesia* (Depok: PT Raja Grafindo Persada, 2021).

⁸ Komnas HAM RI, "Ancaman Oligarki Dan Kelangsungan Hak Asasi Manusia," n.d., <https://www.komnasham.go.id/>. In the 'FGD on Oligarchy and Human Rights: Concepts and Practices in Indonesia' organized by the Indonesian National Commission on Human Rights (Komnas HAM RI), Komnas HAM Chairperson Ahmad Taufan Damanik emphasized that oligarchic practices are fundamentally incompatible with human rights principles. Such practices violate the mandate of General Comment No. 25 of the UN Human Rights Committee concerning the Right to Participate in Public Affairs, the Right to Vote and Be Elected, and the Right to Equal Access to Public Service. Ironically, the dominance of elites in Indonesian politics obscures the principle of equal rights. If this principle is neglected, a political climate shaped by oligarchic practices becomes a serious human rights issue, as it effectively erases the right to vote.

⁹ "Pakar: Politik Uang Di Indonesia Tertinggi Ketiga Di Dunia," CNN Indonesia, n.d., <https://www.cnnindonesia.com/nasional/>.

¹⁰ Retno Kusniati, Prasit Aekaputra, and Nhonlaphat Pitpiboonpreeya, "Domestic Implementation of International Law in Indonesia and Thailand," *Indonesian Journal of International Law* 22, no. 1 (September 27, 2024), <https://doi.org/10.17304/ijil.vol22.1.1895>.

¹¹ International IDEA's, "The Global State of Democracy 2021: Building Resilience in a Pandemic Era" (Stockholm, 2021). "Democratic Backslide a Threat Free Elections Globally," University of Gothenburg, n.d., <https://www.gu.se/en/news/democratic-backslide-a-threat-to-free-elections-globally>.

¹² "Di Tokyo, SBY Singgung Kemunduran Demokrasi," *Kompas.Com*, n.d., <https://nasional.kompas.com/>.

¹³ The Economist Intelligence Unit, "Democracy Index 2022" (London, 2023).

¹⁴ Freedom House, "Freedom in the World Report 2023: Marking 50 Years" (Washington DC, 2023).

¹⁵ United Nations Human Rights Committee, "Concluding Observations on the Fifth Periodic Report of Indonesia CCPR/C/IDN/CO/5" (Geneva, 2024).

¹⁶ Andrew Clapham, "Human Rights Obligations of Non-State Actors," *Oxford University Press*, 2006, 29–30.

of political parties to ensure alignment with international human rights and democratic principles.¹⁷

In many countries, access to individual political rights is determined not only by state regulations but also by the internal rules of political parties. Political parties hold the power to decide who can become a candidate in elections, how the nomination process is conducted, and how party leadership is managed. Therefore, the quality of internal party democracy is a key factor in substantively ensuring individual political rights. Internal democracy within political parties refers to the extent to which decision-making processes are conducted in a transparent, inclusive, and accountable manner. Strong internal democracy ensures that party members have the right to participate in the election of party leadership and the selection of political candidates without interference from oligarchies or elite party groups.¹⁸ If internal democracy is not guaranteed, individual political rights become limited, as the political choices available to the broader public have already been controlled from the outset by internal party mechanisms that may not be democratic. For example, in many countries with a closed-list proportional representation system, party elites have the authority to determine the list of legislative candidates without the involvement of party members. As a result, the right to be elected is limited to those who have access to party elites, rather than being based on merit or genuine representation of the people.¹⁹

In a healthy democratic system, political parties should serve as a platform for leadership recruitment that is conducted with integrity, transparency, and accountability. If the internal democracy of political parties violates human rights principles, then both the vertical approach (state to individual) and the horizontal application of human rights (between non-state actors) can be applied to political parties. This provides a strong legal basis to demand that the state regulate political parties democratically and accountably under national law, and to impose human rights obligations on political parties within the framework of international law. Thus, the reconstruction of political rights within the ICCPR must be directed not only toward protecting individual rights but also toward affirming the collective obligations of political parties as key actors in the democratic system. To achieve this, an international legal instrument is needed as a normative solution to fill the legal void (normative gap) in the protection of substantive political rights. The research questions addressed in this discussion are as follows: can political parties be qualified as subjects of international law? What are the obligations of political parties in fulfilling citizens' political rights? Is a new international legal instrument needed to regulate the internal democracy of political parties. This study employs a normative juridical research

¹⁷ United Nations, "General Comment n. 31 (2004) on Art 2 of the ICCPR: The Nature of the General Legal Obligation Imposed on States Parties to the Covenant," 2004.

¹⁸ Kartz R. S and Mair P, "Changing Models of Party Organization and Party Democracy: The Emergence of the Cartel Party," *Party Politics*, 1995, 10–12.

¹⁹ Rahat G and Razan RY, "Candidate Selection Methods: An Analytical Framework," *Party Politics*, 2001, 297–99.

method, which involves examining literature or secondary data sources.²⁰ This study uses a qualitative data analysis method through two approaches. Statute Approach, this approach examines various legal norms contained in legislation related to human rights. The norms studied include international treaties, international customs, and general principles of law. Conceptual Approach. this approach involves exploring, examining, and evaluating legal principles and theories concerning human rights, Pancasila democracy, progressive law, and the principles of good governance. The principles considered include both those written in positive legal norms and those unwritten but recognized and upheld within the social order of society.

B. Discussion

1. Political Parties as Subjects of International Law

In the structure of modern society, political parties play a crucial role in organizing the political, social, and economic aspirations of the people. However, the concept and function of political parties are not limited to the domestic context; in international law, the existence and continuity of political parties also hold significant importance.²¹ International law, as framework governing relations between states and shaping global interactions, provides the foundation for the recognition and protection of both individual and collective political rights, including the right to form and join political parties. The discussion of the concept of political parties in international law encompasses several key aspects, including: the legal status of political parties, their influence on democratization processes, and the challenges of internal party democracy in an evolving global context. Additionally, analyzing how international law establishes norms and principles governing the existence of political parties—and their impact on human rights and political diversity—is highly relevant. Through this understanding, it can be concluded that political parties are not merely instruments within a system of governance, but also entities that contribute to the creation of a more just and democratic global order.²²

International law, through various global instruments such as the UDHR and ICCPR, provides both protection and obligations for states and political parties to play a key role in upholding high democratic standards. By committing to international norms and standards, political parties not only enhance the quality of democracy but also contribute to the stability and sustainability of democratic governance. In this discussion, we will further explore the relationship between the concept of political parties in international

²⁰ Soerjono Soekanto and Sri Mamudji, *Penelitian Hukum Normatif: Suatu Tinjauan Singkat* (Jakarta: Rajawali Pers, 2001).

²¹ Wilhelm Hofmeister, *Political Parties Shape Democracy, Their Role, Performance, and Organisation from a Global Perspective* (Singapore: Konrad Adenauer Stiftung, 2022). Political parties perform essential functions for democracy, namely: 1) Aggregation and Communication Function; 2) Representation Function; 3) Mobilization and Socialization Function; 4) Competitive Function; 5) Executive Function; and 6) Legitimization Function.

²² National Democratic Institute, "Minimum Standard for the Democratic Functioning of Political Parties" (Washington DC, 2008). Luis Ayala, Secretary General of the Socialist International, stated: "There is no democracy without political parties. Political parties are essential to democracy: good and healthy parties will produce good and healthy democracy."

law, the rights and obligations of political parties, the urgency of recognizing political parties as international entities, and the importance of internal party democracy. Through this understanding, it is hoped that we can find a path toward achieving substantive democracy—one in which leaders do not merely hold power, but also lead with wisdom, creating justice and prosperity for all segments of society.

1.1 Definition and Concept of Political Parties

Richard S. Katz stated, “Modern democracy is party democracy.”²³ This statement indicates that building a democratic system of governance without political parties is difficult—if not nearly impossible.²⁴ Political parties play a vital role in democratic governance. No democratic system can function without parties. Political parties are essential for aggregating interests, presenting policy alternatives to the public, nominating candidates, and connecting voters with elected public officials. The concept of political parties as defined by several international organizations is explained below. According to the Institute for Democracy and Electoral Assistance (IDEA), a political party is a structured organization that functions to organize individuals with similar political views in order to gain power through elections. Political parties typically focus on public policy formulation and the implementation of governance. IDEA also emphasizes that political parties play a crucial role in building a healthy democratic system by creating channels for organized political participation.²⁵

The European Union (EU) views political parties as organizations that play a vital role in strengthening public participation in the political process. Within the EU context, political parties operate not only at the level of member states but also contribute to the broader European political system, as seen in the elections to the European Parliament. The EU also emphasizes the importance of transparency, accountability, and clear regulation of political party funding in order to safeguard the integrity of democracy.²⁶ According to the United Nations Development Programme (UNDP), strong, transparent, internally democratic, and accountable political parties are a cornerstone of democratic governance. Political parties provide a structure for political participation, serve as a training ground for future political leaders, and aim to win elections in order to enter government. Political parties exist to transform social interests into public policy. According to the 2002 Human Development Report, “A well-functioning democracy depends on well-functioning and responsive political parties.”²⁷

²³ Richard S. Katz, *A Theory of Parties and Electoral System* (Baltimore: The Johns Hopkins University Press, 1980).

²⁴ Yves Meny and Andrew Knapp, *Government and Politics in Western Europe: Britain, France, Italy, Germany (Third Edition)* (New York: Oxford University Press, 1998).

²⁵ International IDEA’s, “Handbook on Political Parties and Democracy,” 2007.

²⁶ European Union, “Regulation No 1141/2014 of European Political Parties and European Political Foundations” (2014).

²⁷ UNDP, “Handbook on Working with Political Parties” (New York, 2012).

In the *Guidelines on Political Party Regulation* issued by ODIHR, political parties are defined as key institutions in a democracy, designed to organize public aspirations, channel political preferences into policy, and foster healthy political competition through free and democratic elections.²⁸ The European Court of Human Rights (ECtHR) has stated that political parties are a form of association essential to the proper functioning of democracy. Given the nature of the role they play, political parties are the only bodies capable of holding power and influencing the entire regime of a state. In order for both the state and political parties to function effectively, they must uphold several key principles, including 1) The state's obligation to protect the individual right to freedom of association; 2) Legality; 3) Proportionality; 4) Non-discrimination; 5) Political pluralism; 6) Effective and independent electoral governance, and 7) Accountability.²⁹

1.2 The Legal Basis of Political Parties in International Law

Under international law, although political parties are not primary subjects like states, they nonetheless hold important roles and responsibilities within the global democratic order. Several international legal instruments that support the status of political parties can be found in UDHR, ICCPR, and various regional conventions. Although the UDHR is declaratory in nature and not legally binding, the principles it contains have become a moral foundation for constitutions and national regulations in many countries. Article 20 guarantees the freedom of assembly and association, including the right to peacefully assemble and to form associations or political parties.³⁰ This creates space for citizens to organize themselves and advocate for their political interests.

In addition to the UDHR, the freedom of association for political parties is regulated under Articles 21 and 22 of the ICCPR. Article 21 (Freedom of Peaceful Assembly): The right to peaceful assembly provides space for people to organize, deliberate, and collectively express their views on government policies. Article 22 (Freedom of Association): This right enables citizens to form or join associations and political parties, which are key elements in a democratic system and in the management of public affairs.³¹ The ICCPR is also closely related to the activities of political parties. Article 22(1) affirms that everyone shall have the right to freedom of association, while Article 25, which pertains to the rights to freedom of assembly, expression, and association, also guarantees citizens the right to participate in public affairs through civil society

²⁸ OSCE Office for Democratic Institutions and Human Rights (ODIHR), "Guidelines on Political Party Regulation (Second Edition)."

²⁹ OSCE Office for Democratic Institutions and Human Rights (ODIHR).

³⁰ "Human Rights Resolution Council A/HRC/RES/15/21," 2010. It recognizes that the right to freedom of peaceful assembly and association is a fundamental component of democracy, providing individuals with a valuable opportunity to choose leaders who will represent their interests and to hold them accountable.

³¹ OSCE Office for Democratic Institutions and Human Rights (ODIHR), "Guidelines on Political Party Regulation (Second Edition)." Paragraph 42. Political parties have been developed as the primary vehicle for individual participation and political contestation, and have been recognized by the European Court of Human Rights as vital to the functioning of democracy. The Parliamentary Assembly of the Council of Europe has also acknowledged that political parties are "a key element of electoral competition, and an essential linkage mechanism between individuals and the state," by "integrating groups and individuals into the political process..." In accordance with paragraph 3 of the Copenhagen Document, political pluralism—through competing and opposition parties—is essential to the proper functioning of democracy.

organizations and non-governmental associations. Participation includes the obligation to ensure that all citizens have the right and opportunity to take part in public affairs—specifically through political parties. The right to participate serves as a foundational principle underpinning the entire framework of international human rights concerning elections.³² The Human Rights Committee (UN-HRC) considers freedom of association to be “an important adjunct to the rights protected by Article 25.” Furthermore, the right to freely form and join political associations plays “a crucial role in the effective exercise of the right to vote in elections.” Alongside the freedoms of expression and assembly, political parties are required to function democratically in order to safeguard the political rights of the people.³³

Furthermore, Article 13(4) of the *Convention on the Standards of Democratic Election, Electoral Rights and Freedoms in the Member States of the Commonwealth of Independent States (CIS Convention)* states that “political parties... shall be guaranteed the freedom to campaign in any form permitted by law.” In addition, Article 1(i) of the *ECOWAS Protocol* affirms that “political parties... shall have the right to carry out their activities freely, within the limits of the law.” Article 16 of the *American Convention on Human Rights (ACHR)* also guarantees the freedom of association and the right to form and join organizations, including political parties. This article emphasizes that State Parties must regulate political parties in a manner that ensures respect for human rights, while also promoting freedom of association and participation in political life.³⁴ States that have ratified the ACHR must ensure that political parties operate in accordance with democratic principles, political freedoms, as well as transparency and accountability in their activities. The next regional international legal instrument governing the foundation of political parties is the African Charter on Democracy, Elections, and Governance (ACDEG). Article 11 of ACDEG stipulates that State Parties must ensure that political parties can operate freely and without hindrance. It emphasizes the importance of transparency and accountability in the management of political parties in Africa. State Parties are obligated to ensure that political parties operate in a manner that promotes democracy, human rights, and fairness in the electoral process.³⁵

³² Domenico Tuccunardi, *International Obligations for Election, Guideline for Legal Frameworks* (Stockholm Sweden: International Institute for Democracy and Electoral Assistance, 2014). “Human Rights Resolution Council A/HRC/RES/19/36,” 2012.

³³ Tuccunardi, *International Obligations for Election, Guideline for Legal Frameworks*.

³⁴ Scott Davidson, *Hak Asasi Manusia Sejarah, Teori Dan Praktek Dalam Pergaulan Internasional* (Jakarta: Pustaka Utama Grafiti, 1994).

³⁵ Larry Diamond, Juan Linz, and Seymour Martin Lipset, *Democracy in Developing Countries, Volume 2: Africa* (Lynne Rienner Publishers, 1988). At its core, democracy must be founded on free and fair elections through which governance is carried out by the people, and the government remains accountable to its electorate. To uphold this principle, several key elements are essential: genuine, regular, and non-violent competition among individuals and groups—particularly political parties—for all significant positions in government; a high level of political participation in the selection of leaders and policy-making, primarily through regular and fair elections that ensure no adult social group is excluded; and a robust degree of civil and political liberties, including freedom of expression, freedom of the press, and the freedom to form and join organizations. These freedoms must be strong enough to sustain continuous political competition and public participation.

Furthermore, the *European Convention on Human Rights* (ECHR), specifically Article 11, guarantees the freedom of association and the right of individuals to form or join associations, including political parties. This provides a foundation for European states to regulate political parties in a manner that ensures organizational freedom and free political participation.³⁶ The aforementioned international instruments indeed provide the legal basis for the right to associate or to form political parties; however, these regulations do not explicitly establish standards for the internal democracy of political parties³⁷, therefore, considering the crucial role of political parties in the development of democracy, it is necessary to establish a more specific international legal instrument that sets global standards regarding the role of political parties in upholding the principles guaranteed by the ICCPR. The international instrument aims to complement and clarify the obligations of State parties to ensure that political parties operate in a democratic, transparent, and accountable manner. Some of the main objectives of this protocol include: enhancing transparency of political parties regarding sources of funding and expenditures; guaranteeing internal democracy within political party structures, including fair leadership selection processes; preventing oligarchic domination within political parties that could hinder democratic participation; and regulating external oversight of political party practices that are inconsistent with human rights and democratic principles.

1.3 Political Parties as Non-State Actors

Globalization has led to a shift where national governments are no longer the sole actors in the international system. Non-state actors now also hold a position that enables them to engage in transnational activities. These actors include international civil society organizations, multinational corporations, intergovernmental organizations (IGOs), international media, and political parties, all of which play roles as subjects of international law.³⁸ Non-state actors in international law refer to entities or individuals that operate within international relations but are not sovereign states. They play a significant role in global dynamics, both as positive contributors to the development of international law and as challenges to the existing legal system.³⁹

³⁶ OSCE Office for Democratic Institutions and Human Rights (ODIHR), "Guidelines on Political Party Regulation (Second Edition)." Page 32. The right to associate has been explicitly extended to political parties by the European Court of Human Rights. Article 11 of the European Convention on Human Rights (ECHR), which mirrors Article 22 of the ICCPR, protects the right to associate in political parties as part of the broader freedom of assembly and association.

³⁷ Hofmeister, *Political Parties Shape Democracy, Their Role, Performance, and Organisation from a Global Perspective*. Page 108. In general, internal procedures are governed by each party's statutes or internal regulations. However, in most countries, national laws remain vague regarding the internal functioning of political parties. Only a few countries have established clear guidelines on internal party procedures. For instance, in Germany, the political party law explicitly requires intra-party democratic procedures for candidate selection when registering for general elections. Ideally, countries that provide public funding to political parties should impose stricter rules on internal party procedures. Nevertheless, in many democratic countries, such regulations are not very prescriptive, which contributes to frequent violations of democratic principles. Party laws and statutes from around the world can be accessed through the Party Statute Archive at: <https://www.politicalpartydb.org/statutes>.

³⁸ Hodjat Khosrowshahi, *The Challenge of Political Parties and International Law*, GRIN Verlag, 2019.

³⁹ National Intelligence Council, "Non-State Actors Playing Greater Roles in Governance and International Affairs (Memorandum)," 2023. The National Intelligence Council (NIC) classifies entities based on their functions and roles in global dynamics into several categories: governments below the national level, commercial entities, academic

In the context of modern international law, the recognition of non-state actors has grown stronger,⁴⁰ including political parties. Although they are not states, political parties have a tangible influence on the functioning of democratic systems and the implementation of human rights, particularly in the areas of political recruitment and the distribution of power.

Thomas Buergenthal, a judge of the International Court of Justice and an expert in human rights law, stated: “*Non-state actors, including political parties, may be bound by international human rights obligations if they perform public functions or control access to power.*”⁴¹ Similarly, Antonio Cassese, a renowned international law scholar and former President of the International Criminal Tribunal for the former Yugoslavia, emphasized: “*Non-state actors, including powerful political movements and parties, can be held accountable under international law when their actions have direct bearing on the exercise of fundamental rights.*”⁴² Andrew Clapham, a professor of international law and director of the Geneva Academy of International Humanitarian Law, stated that “actors beyond the state,” such as corporations, religious organizations, and political parties, must be brought within the scope of international obligations when they directly regulate public life.⁴³ He even explicitly affirmed: “*Political parties, as collective entities with power to shape public policy and select leadership, are increasingly viewed as human rights duty-bearers, especially in transitional democracies.*”⁴⁴ A strong statement also comes from the Venice Commission: “*Political parties must be regulated by international democratic norms because they are instruments of representation.*”⁴⁵ This assertion appears in the *Guidelines on Political Party Regulation*, a joint effort between the Venice Commission and OSCE/ODIHR. Accordingly, both normatively and functionally, political parties fulfill the characteristics of limited subjects of international law, particularly in relation to their obligations to respect, protect, and fulfill the principles of democracy and human rights.

Non-State actors in contemporary international law can be categorized into several groups. The first category is International Organizations, such as the United Nations (UN), the European Union (EU), the World Trade Organization (WTO), and the World Health Organization (WHO). Although they are not sovereign states, these organizations possess international legal capacity based on the treaties and legal instruments that establish and govern them.⁴⁶ The second category is Non-Governmental Organizations (NGOs), such as

and research institutions, public service organizations, civil society entities (including political parties), illegal and extra-legal organizations, and super-empowered individuals (such as social media influencers).

⁴⁰ Retno Kusniati et al., “An ASEAN Transboundary Haze Court: Why Does It Matter and How Is It Possible?,” *Journal of Indonesian Legal Studies* 9, no. 2 (November 30, 2024): 739–66, <https://doi.org/10.15294/jils.v9i2.4488>.

⁴¹ Thomas Buergenthal, “The Normative and Institutional Evolution of International Human Rights,” in *The Normative and Institutional Evolution of International Human Rights* (Kluwer Law International, 1993), 151–52.

⁴² Antonio Cassese, *International Law* (Oxford University Press, 2005). Fergus Green, “Fragmentation in Two Dimensions: The ICJ’S Flawed Approach to Non-State Aktors and International Legal Personality,” *Melbourne Journal of International Law* 9 (n.d.): 26.

⁴³ Clapham, “Human Rights Obligations of Non-State Actors.”

⁴⁴ Clapham.

⁴⁵ OSCE Office for Democratic Institutions and Human Rights (ODIHR), “Guidelines on Political Party Regulation (Second Edition).”

⁴⁶ John O’Brien, *International Law* (London: Cavendish, 2001).

Amnesty International, Greenpeace, the World Wide Fund for Nature (WWF), and Human Rights Watch. These organizations play significant roles in international advocacy and humanitarian work. In particular, the International Committee of the Red Cross (ICRC) holds a special legal status under the Geneva Conventions, granting it a unique mandate and recognition in international humanitarian law.⁴⁷ The third category includes Multinational Corporations (MNCs) such as Google, Apple, and Shell. These entities exert significant influence in areas of international trade law, environmental protection, and human rights, particularly within the framework of instruments like the *UN Guiding Principles on Business and Human Rights*. The fourth category comprises Non-State Armed Groups, such as ISIS, the Taliban, Hezbollah, FARC, and Boko Haram. These groups play key roles in armed conflicts and are regulated under *Additional Protocol II* of the 1977 Geneva Conventions. They may be held legally accountable for acts constituting war crimes or crimes against humanity under international humanitarian and criminal law.⁴⁸ Fifth, Individuals, such as perpetrators of international crimes based on ICC rulings (for example: Benjamin Netanyahu, Vladimir Putin, Slobodan Milošević, and Rodrigo Duterte).⁴⁹ Sixth, Political Parties and Transnational Political Groups, such as international political parties like the *Socialist International* or the *Global Greens*. In the context of this research, political parties can be considered Non-State Actors that hold international obligations within the global democratic system.⁵⁰ As primary actors in the democratic process, political parties are, in fact, subject to international obligations to uphold the principles of democracy and human rights. Although they are not classical subjects of international law, they have evolved into entities with limited international legal personality, subject to the principles of good governance as reflected in various international legal instruments—both hard law and soft law.

1.4 International personality of Political Parties

The term International Personality in international law refers to the capacity of an entity to possess rights and obligations under the international legal system, as well as to act independently in international relations.⁵¹ The concept of international personality is important because it determines who is entitled to: sign international treaties, have the authority to bring cases before the International Court of Justice, enjoy rights and bear

⁴⁷ Jawahir Thantowi, *Hukum Internasional Kontemporer* (Bandung: PT Refika Aditama, 2006).

⁴⁸ Rhona K M, *Hukum Hak Asasi Manusia* (Yogyakarta: PUSHAM UII, 2010).

⁴⁹ Green, "Fragmentation in Two Dimensions: The ICJ'S Flawed Approach to Non-State Aktors and International Legal Personality." Page 3. Non-state actors play a crucial role in an increasingly interdependent world. The actions of international organizations, multinational corporations, terrorist groups, non-governmental organizations (NGOs), minority communities, and individuals now permeate all areas of international life—from economics and trade to peace and security, and from human rights to environmental governance. Many international scholars have noted a shift in the nature of international relations and the structure of global power, indicating the rise of non-state actors. See: Jessica Mathews, *Power Shift* (1997); Anne-Marie Slaughter, *A New World Order* (2004); Christoph Schreuer, *The Waning of the Sovereign State: Towards a New Paradigm for International Law* (1993); Oscar Schachter, *The Decline of the Nation-State and Its Implications for International Law* (1998).

⁵⁰ Peter Wijnnga et al., "State And Non-State Aktors," *Hague Centre for Strategic Studies*, 2014, <https://www.jstor.org/stable/resrep12608.8>. Tim Wood, "Reinforcing Participatory Governance Through International Human Rights Obligation of Political Parties."

⁵¹ Akbar Kurnia Putra et al., "Agreement on Agriculture WTO: Discourse on Indonesia's Food Security in a Global Context," *Lex Scientia Law Review* 8, no. 1 (September 22, 2024), <https://doi.org/10.15294/lslr.v8i1.14066>.

obligations under international law, be held accountable for violations of international law, and participate in the formation of international law, including involvement in international organizations.⁵² Are political parties considered to possess international personality? In general, political parties are not regarded as having international personality, as they are not primary subjects like states. However, in certain contexts, political parties may gain recognition and obligations under international law, particularly in relation to human rights and democracy,⁵³ suppose that: First, in the context of bringing disputes before international courts, there is jurisprudence from the European Court of Human Rights (ECtHR) that demonstrates the ability of political parties to act as claimants. In the case of *Refah Partisi v. Turkey*, the Turkish Constitutional Court dissolved the party, and Refah Party subsequently brought the case before the ECtHR. Similarly, in Germany, when the government banned the Communist Party of Germany, the party challenged the decision at the ECtHR. A comparable case occurred in Russia, where the Ministry of Justice refused to register the Republican Party of Russia, leading the party to file a complaint with the ECtHR. Lastly, in Romania, *Partidul Comunistilor (Nepeceristi)* was denied registration by the Romanian High Court and brought the case to the ECtHR.⁵⁴ The above cases demonstrate that political parties possess international legal personality.

Secondly, in the context of signing international agreements, there are three international political party organizations: (1) Liberal International,⁵⁵ comprising 85 national political parties such as the Liberal Party of Canada, the Liberal Democrats of the United Kingdom, and the Democrat Party of Thailand; (2) Socialist International,⁵⁶ consisting of 168 political parties including the Australian Labor Party, the Socialist Party of Lebanon, and the Democratic Action Party of Malaysia; and (3) International Democrat Union,⁵⁷ made up of over 80 political parties such as the Republican Party of the United States, the Belarusian Popular Front, and the Democratic Alliance of Namibia. This demonstrates that political parties act as subjects with the authority to sign agreements and participate in the formation of international law. Thirdly, in the context of enjoying international rights and obligations, political parties possess rights and duties as outlined in Article 20 of UDHR, which guarantees the freedom of assembly and association; Article 21 of ICCPR, which ensures the right to peaceful assembly; and Article 22 of the ICCPR, which protects

⁵² O'Brien, *International Law*.

⁵³ Tim Wood, "Extending International Human Rights Obligation to Political Parties," *Cambridge Journal of International and Comparative Law* 2, no. 3 (2013): 444. Compared to other non-state actors such as international corporations and rebel groups, political parties can be considered the most natural bearers of international obligations. When in power, political parties bridge the divide between the public and private spheres—a division that has historically shaped the scope of human rights law. Even while in opposition, political parties possess the capacity to either promote or hinder individual participation in governance.

⁵⁴ European Court of Human Rights, "CASE OF REPUBLICAN PARTY OF RUSSIA v. RUSSIA" (2011), [https://hudoc.echr.coe.int/eng#%7B%22itemid%22:\[%22001-104495%22\]%7D](https://hudoc.echr.coe.int/eng#%7B%22itemid%22:[%22001-104495%22]%7D).

⁵⁵ Liberal International, "Constitutions," n.d., <https://liberal-international.org/who-we-are/our-mission/landmark-documents/governing-constitution/>.

⁵⁶ Socialist International, "Statutes," n.d., <https://www.socialistinternational.org/about-us/statutes/>.

⁵⁷ IDU The Global Alliance of the Centre Rights, "Declaration of Principles, London 1983," n.d., <https://www.idu.org/about/principles-statutes/>.

freedom of association. In the European Union, political parties operate within a legal framework established by the Venice Commission.

Fourthly, in the context of being held accountable for violations of international law—for instance, in the case of armed conflict—if a political party has a military wing involved in war crimes or crimes against humanity, it may incur international responsibility. An example of this is Hezbollah in Lebanon.⁵⁸ Alternatively, if a political party becomes a de facto governing entity or takes control of a state without a formal governmental structure (such as the Taliban in Afghanistan), it may be considered to bear obligations under international law.⁵⁹ Fifth, in the context of international relations: 1) Political parties influence international policy. The ruling party determines a country's foreign policy, which has an impact on international law. For example, the Republican and Democratic parties in the United States have differing foreign policies that influence global dynamics; 2) Political parties play an international role. They participate in international forums, such as the European Parliament or the Pan-African Parliament.

Considering the functions, strategic roles, and direct impact of political parties on citizens' political rights, as well as their normative recognition in various international legal instruments, it can be concluded that political parties possess limited international legal personality as subjects of international law in the field of human rights. Political parties may be subject to international obligations, either directly or indirectly, particularly through the positive obligations of the state. The horizontal application of human rights is a legitimate and relevant conceptual mechanism to ensure that political parties adhere to human rights principles, especially the right to vote and to be elected.

Political parties are Non-State Actors that bear international obligations in supporting democracy. Although they are not yet fully recognized as subjects of international law, political parties possess characteristics that closely resemble international legal personality. Therefore, there is a need to strengthen international legal instruments that regulate the obligations of political parties within global democracy.

2. Political Parties Obligations to Fulfill Citizens Political Rights

2.1 Traditional Approach: The State as the Sole Duty Bearer

Within the framework of traditional international human rights law, the state is the primary actor (duty bearer) responsible for respecting, protecting, and fulfilling human rights. This principle is reflected in all international human rights instruments, including ICCPR, which obliges state parties to take legislative, administrative, and judicial measures to ensure the implementation of the rights contained in the Covenant. However, this approach has limitations, particularly because human rights violations

⁵⁸ Erik Tristanto, "Tanggung Jawab Hizbullah Dalam Konflik Dengan Israel Menurut Hukum Internasional" (Airlangga University, 2011).

⁵⁹ Miko Aditiya Suharto and Maria Novita Apriyanti, "Kapasitas Pemerintahan Afganistan Rezim Taliban Baru Sebagai Peserta Dalam Perjanjian Internasional," *Jurnal Risalah Hukum* 18 (2023): 34–43.

today are not only committed by states, but also by non-state actors, including corporations, armed groups, social organizations, media, and political parties. In democratic systems, political parties even serve as key gatekeepers to access power, making it impossible to separate them from the obligation to respect the political rights of citizens.⁶⁰

2.2 The Concept and Relevance of the Horizontal Application of Human Rights

Horizontal application of human rights is a doctrine in human rights law that asserts human rights apply not only vertically (between the state and individuals), but also horizontally, meaning between individuals or non-state entities and other individuals.⁶¹ This approach emphasizes that in a complex modern society, non-state actors also have the capacity to either violate or respect human rights, especially when they perform public functions or hold structural power. Konsep ini mendapat legitimasi dari *General Comment No. 31* Komite HAM PBB, yang menyatakan: "Positive obligations on States Parties to ensure Covenant rights will only be fully discharged if individuals are protected by the State, not just against violations by its agents, but also against acts committed by private persons or entities."⁶² In other words, the state has a positive obligation to prevent human rights violations by non-state actors and to ensure the existence of legal mechanisms, oversight, and accountability for those responsible for such violations.

2.3 Political Parties as Non-State Actor dan Duty Bearer

Although not classical subjects of international law like states, political parties have evolved into important actors that influence the rights of citizens, particularly political rights. Andrew Clapham states that: "Political parties, as collective entities with power to shape public policy and select leadership, are increasingly viewed as human rights duty-bearers, especially in transitional democracies."⁶³ This statement affirms that political parties, through their roles in political recruitment and their influence on the direction of public policy, functionally fulfill the criteria of human rights duty-bearers, particularly when their actions have a direct impact on the political rights of citizens. In a similar vein, Antonio Cassese emphasizes that powerful political movements and parties can be held accountable for actions that affect fundamental rights,⁶⁴ and Thomas Buergenthal further adds that when political parties control access to power, they can be subjected to human rights obligations.⁶⁵

⁶⁰ Report Commissioned by International IDEA, "Building Political Parties: Reforming Legal Regulation and Internal Rules," 2004.

⁶¹ Myriam Hunter-Henin, "Horizontal Application of Human Rights in France: The Triumph of Tehe European Convention on Human Rights. Chapter 3: In D.Oliver and J Fedtke (Eds)," in *Human Rights and the Privat Sphere – a Comparative Study* (London and New York: Routledge-Cavendish, 2007), 98–124.

⁶² General Comment No. 31, CCPR/C/21/Rev.1/Add.13, 2004

⁶³ Clapham, "Human Rights Obligations of Non-State Actors."

⁶⁴ Cassese, *International Law*.

⁶⁵ Buergenthal, "Norm. Institutional Evol. Int. Hum. Rights."

2.4 Normative Basis and International Practice

Several international legal instruments support the idea that political parties can be held accountable for human rights violations, including *Declaration on Human Rights Defenders* (1998), Article 18 paragraphs (2) and (3), states the obligation of all actors, including non-state groups and institutions, to promote and protect human rights,⁶⁶ *Declaration on the Principles Governing Democratic Elections in Africa*, requires political parties that lose an election to acknowledge and accept the results declared by law in favor of the winning party,⁶⁷ *Declaration on Criteria for Free and Fair Elections* (1994), adopted by the Inter-Parliamentary Union, contains provisions that guide the behavior of political parties in member states to adhere to international norms, avoid violence, respect the rights and freedoms of others, and accept election results,⁶⁸ *United Nations Convention Against Corruption* (UNCAC), Articles 7(1) and 13(1), establish obligations for non-state actors such as political parties to ensure transparency in political financing and to encourage public participation in anti-corruption efforts,⁶⁹ *Model Protocol for Political Parties* by the Inter-American Commission of Women, affirms the responsibility of political parties to eliminate violence against women in the political sphere.⁷⁰ These documents reinforce the status of political parties as limited subjects of international law with specific responsibilities in advancing democracy and human rights.⁷¹

2.5 Implication for Political Rights in the ICCPR

According to Article 25 of the ICCPR, every citizen has the right to vote and to be elected in free and fair elections. However, if political parties—as key actors in the recruitment of power—act in a discriminatory, elitist, or corrupt manner, then the citizen's right to be elected becomes merely an illusion. In this context, violations of political rights can be committed not only by the state but also by the political parties themselves. Giovanni Sartori stated: “Modern democracy is unthinkable without political parties. They are the selectors of leadership, and therefore are accountable to the people’s political rights.”⁷²

⁶⁶ Office of the United Nation High Commissioner for Human Rights (OHCHR), “Declaration on Human Rights Defender” (n.d.).

⁶⁷ “Declaration on the Principles Governing Democratic Election in Africa, AHD/Decl.1 (XXXVIII)” (2002). Article IV (8), Article IV (11), Article IV (12), Article IV (13)

⁶⁸ Tim Wood, “Extending International Human Rights Obligation to Political Parties.”

⁶⁹ Tuccunardi, *International Obligations for Election, Guideline for Legal Frameworks*. Page 50. The UNCAC binds State Parties and political parties to adopt appropriate legislative and administrative measures regarding candidacy for public office, and to take appropriate legislative and administrative steps to enhance transparency in the funding of political parties and candidates for elected public office.

⁷⁰ Inter-American Commission of Women, “Model Protocol for Political Parties: Preventing, Addressing, Punishing and Eradicating Violence Against Women in Political Life” (2019). This protocol was developed as a follow-up to the *Declaration on Political Violence and Harassment against Women* and the *Inter-American Convention on the Prevention, Punishment and Eradication of Violence against Women* (commonly known as the *Convention of Belém do Pará*). Its purpose is to ensure that political parties within the Pan American Union (now known as the Organization of American States/OAS, consisting of 34 member states) have clear guidelines and procedures to establish standards for preventing violence against women in the political sphere within their internal party regulations.

⁷¹ Michael Bothe, *Legal and Non-Legal Norms: A Meaningful Distinction in International Relations* (Cambridge University Press, 2009). The international obligations of political parties can be interpreted as *hard law* norms articulated through *soft law* instruments. This is clearly reflected in the consistent use of mandatory language such as “shall” rather than the more suggestive “should.” Thus, even though they may not be legally binding, declarations issued by the African Union (AU) and the Inter-Parliamentary Union (IPU) clearly formulate obligations for political parties.

⁷² Sartori, *Parties and Party Systems: A Framework for Analysis*.

Accordingly, both vertical and horizontal approaches must be applied simultaneously to safeguard citizens' political rights: Vertically, the state has an obligation to regulate and oversee political parties to ensure compliance with human rights principles; horizontally, political parties as non-state actors are bound by the duty not to infringe upon citizens' rights within the political process. The application of the horizontal application of human rights to political parties paves the way for a reconstruction of political rights in international law, shifting the focus beyond mere procedural guarantees to also encompass substantive obligations for political parties to uphold ethical, fair, and transparent internal democracy. In this way, the approach offers a new normative framework that could serve as the basis for promoting a new General Comment or Optional Protocol to the ICCPR, explicitly outlining the obligations of political parties in ensuring the substantive political rights of citizens.

3. New International Legal Instruments to Regulate Internal Party Democracy

1.1 Normative Gaps in the ICCPR Regarding Internal Democracy of Political Parties

ICCPR, particularly Article 25, guarantees every citizen the right to participate in public affairs and to vote and be elected in free and fair elections. However, the ICCPR does not explicitly regulate the internal governance of political parties, including the principle of internal democracy in the candidate selection process. Indeed, General Comment No. 25 of the Human Rights Committee has acknowledged that political parties play a significant role in public affairs. However, it does not establish normative standards regarding internal party democracy.⁷³ This results in a normative gap in the substantive protection of political rights. In practice, candidate selection processes are often controlled by party elites without democratic, transparent, and accountable mechanisms. When political parties do not adhere to the principles of internal democracy, citizens' political rights to be elected and to vote become distorted. While elections may take place procedurally, the candidate selection process does not reflect the values of substantive democracy.⁷⁴ This situation creates the risk of producing leaders who lack integrity, are elitist, and are not accountable to the public. The concept of a "living instrument" in international human rights law requires that the ICCPR be interpreted in an evolutionary and adaptive manner in response to changing global socio-political contexts.⁷⁵ This principle provides the basis that the provisions of Article 25 should not be limited to elections alone, but must also encompass the obligations of key political actors—namely, political parties—to ensure the quality of democracy.

⁷³ United Nations Human Rights Committee, "General Comment No. 25, Paragraph 26 (Participation in Public Affairs and the Right to Vote). (CCPR/C/21/Rev.1/Add.7)," 1996.

⁷⁴ Ralph Gilbert Ross, "Democracy, Party, and Politics," *Ethics: International Journal of Social Political and Legal Philosophy* 64, no. 2 (1954): 100.

⁷⁵ *Tyrer v. the United Kingdom*, European Court of Human Rights, 1978, §31; as well as the Human Rights Committee, *General Comment No. 31*, CCPR/C/21/Rev.1/Add.13, 2004, §2, both affirm that the ICCPR is "a living instrument that must be interpreted in the light of present-day conditions."

1.2 Proposal for a New General Comment on Article 25 of the ICCPR (Soft Law)

As a strategic and implementative step, this dissertation proposes the drafting of a new General Comment or the insertion of a new paragraph (27bis) as an academic addendum to General Comment No. 25 by the Human Rights Committee. This form of *soft law* is more realistic as it does not require a complex ratification process, yet it still holds high normative authority as an official interpretation of the provisions of the ICCPR. The proposed draft paragraph (paragraph 27bis) is as follows: *“The fulfillment of political rights as stipulated in Article 25 requires a commitment to democracy that is not only procedural but also substantive. Political parties, as key actors in the democratic process, bear the responsibility of selecting leadership candidates who uphold the values of integrity and wisdom. State Parties are obligated to regulate political parties to ensure the implementation of internal democracy that respects human rights principles, transparency, accountability, and meaningful participation (good democratic governance).”*

1.3 Proposal for a New Optional Protocol to the ICCPR (Hard Law)

In addition to the soft law approach, this dissertation also proposes the establishment of a new legally binding Optional Protocol to the ICCPR. The proposed name for this protocol is: *“Additional Protocol on the Obligations of Political Parties to Promote Integrity in Leadership.”* The purpose of this protocol is to fill the normative gap in the ICCPR regarding the obligations of political parties and to establish minimum standards for internal party democracy, Oblige states to regulate party governance to ensure fairness, transparency, and accountability, Create a monitoring and reporting system to the UN Human Rights Committee. This Optional Protocol would have global significance and national implications. Normative regulation of political parties within the ICCPR framework would substantively strengthen the protection of political rights and help curb oligarchic practices within parties. It could also serve as the first global binding standard requiring political parties to operate democratically, particularly in transitional democracies. By proposing both a new General Comment and an Optional Protocol, the international community would not only expand the scope of political rights protection but also provide a global normative framework to ensure that political parties do not become threats to democracy, but rather its guardians. These two approaches—soft law and hard law—complement each other and can serve as a global foundation for reconstructing substantive political rights, in line with the needs of modern democracy that upholds ethical, inclusive, and welfare-oriented leadership (*bonum commune*).

1.4 Alternative Proposal: Guiding Principles on Political Parties and Democratic Integrity

Currently, there are many international guidelines (soft law) concerning political parties, but none of them possesses a single, globally authoritative normative framework that specifically regulates the minimum standards of internal party democracy within the context of international human rights law. Some relevant guidelines include UNDP, *Handbook on Working with Political Parties* (2012), emphasizes the importance of inclusive, accountable, and responsive political parties, but lacks legally binding power,⁷⁶ International

⁷⁶ UNDP, “Handbook on Working with Political Parties.”

IDEA, *Code of Conduct for Political Parties* (2008), provides ethical guidelines for political behavior, yet remains voluntary,⁷⁷ Venice Commission, *Guidelines on Political Party Regulation* (2010), outlines fundamental principles such as transparency and participation, but is binding only within the Council of Europe,⁷⁸ OAS, *Model Protocol of the Inter-American Commission of Women to Address Political Violence Against Women* (2015), encourages party responsibility in addressing gender-based political violence.⁷⁹ All of these guidelines lead to a single conclusion: there is still no comprehensive, inclusive, and universal international standard on internal party democracy—especially one explicitly linked to political rights under the ICCPR. As an analogy, in the context of business and human rights, the UN Human Rights Council adopted the United Nations Guiding Principles on Business and Human Rights (UNGPs) in 2011. Although non-binding, the UNGPs have become a de facto global standard encouraging corporations to respect human rights through due diligence principles.⁸⁰ Under the UNGPs, companies are required to assess human rights risks arising from their operations, prevent or mitigate violations, remedy the impacts of any violations.

If due diligence principles can be applied to corporations, they can certainly be applied to political parties—non-state entities with structural power and significant influence over citizens' rights. Based on this analogy and the global normative need, the author proposes that the UN Human Rights Council or Human Rights Committee develop a document titled: "United Nations Guiding Principles on Political Parties and Democratic Integrity" or "UN Guiding Principles on Democratic Accountability of Political Parties" or "Principles for Political Parties to Respect, Protect and Promote Political Rights." This document could take the form of a UN General Assembly or Human Rights Council resolution that would: 1) Articulate the human rights principles political parties must uphold; 2) Oblige states to regulate and monitor political parties normatively; 3) Encourage mechanisms for public oversight, open membership, and fair candidate selection; and 4) Promote values of integrity, transparency, accountability, participation, inclusiveness, and gender justice within party structures.

Key principles to be included in the Guiding Principles may include: 1) The Principle of Substantive and Inclusive Representation; 2) The Principle of Integrity in Political Leadership Selection; 3) The Principle of Internal Transparency and Accountability; 4) The Principle of Non-Discrimination and Equal Access; and 5) The Principle of Responsibility for Political Rights Violations. Advantages of the Guiding Principles approach more flexible and quicker to adopt than protocols or treaty amendments; encourages soft compliance while paving the way for normative internalization at the national level; can serve as a strong reference for national courts, electoral bodies, and public policy makers in regulating political parties; and provides a global values framework adaptable to local contexts without sacrificing human rights substance. The

⁷⁷ International IDEA, "Code of Conduct for Political Parties: Campaign Ethics" (2008).

⁷⁸ European Commission for Democracy through Law (Venice Commission), "Guidelines on Political Party Regulation, CDL-AD(2010)024" (2010).

⁷⁹ Inter-American Commission of Women, Model Protocol for Political Parties: Preventing, Addressing, Punishing and Eradicating Violence Against Women in Political Life.

⁸⁰ United Nations Human Rights Council, "Guiding Principles on Business and Human Rights" (2011).

creation of UN Guiding Principles on Political Parties and Democratic Integrity is a strategic and realistic normative alternative for strengthening the protection of citizens' political rights. This approach addresses gaps in international law without the lengthy process of treaty amendment, while still carrying international moral and political legitimacy. Through this initiative, the UN can offer a global minimum standard to encourage the transformation of political parties into pillars of democracy that uphold human rights and foster leadership with integrity.

C. Conclusion

This study finds that the protection of political rights under the ICCPR, particularly Article 25, remains insufficient in addressing the critical issue of internal party democracy. Political parties, as key institutions in democratic governance, hold significant influence over access to power and citizen representation, yet their internal operations are not subject to clear international legal standards. Although political parties may be regarded as limited subjects of international law due to their functional impact on human rights, especially voting and electoral rights, existing frameworks do not impose binding obligations on them. This normative gap enables undemocratic, elitist, and transactional practices within parties, thereby weakening the substantive realization of political rights. To address this deficiency, the study recommends a coherent strategy involving three interrelated approaches: the addition of a new paragraph to General Comment No. 25 of the ICCPR to enhance the substantive interpretation of political rights, the adoption of an Optional Protocol that imposes direct obligations on political parties, and the development of UN Guiding Principles on Political Parties and Democratic Integrity to serve as soft law standards. Together, these measures aim to establish a more robust international legal framework that promotes accountable, inclusive, and democratic party governance, thereby reinforcing the substantive content of political rights beyond procedural guarantees.

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