

THE CONCEPT OF DYNASTY IN OPTIMA FORMATION IN INDONESIAN POSITIVE LAW AND ISLAMIC CIVIL LAW

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Abstract

This article examines the concept of Dinasti in Optima Forma from the perspectives of Indonesian positive law and Islamic civil law. The term "dynasty" in political and legal contexts is often understood as a hereditary transmission of power. Meanwhile, the Latin phrase in optima forma implies an ideal or most perfect form of a system. This study aims to evaluate whether a dynastic system in its ideal form can be accepted and institutionalized within national and Islamic legal frameworks, or whether it contradicts the principles of justice, meritocracy, and public welfare. The research employs a normative and comparative legal approach. The findings reveal both convergences and conceptual divergences between the two legal systems in assessing the legitimacy and validity of dynastic power structures.

Keywords: Political dynasty, Islamic law, positive law, in optima forma, power succession.

INTRODUCTION

Today, the phenomenon of dynastic politics has become a central topic in the discourse on constitutional law and the dynamics of democracy in various countries, including Indonesia. This term refers to the practice of hereditary power transfer within a family or specific kinship group, whether in executive, legislative, or other public institutions.¹ Although not explicitly prohibited in Indonesia's positive legal system, dynastic politics often comes under critical scrutiny because it is considered to have the potential to perpetuate oligarchy, hinder meritocracy, and reduce the space for political participation by the wider community.²

The debate about the existence of political dynasties has become increasingly relevant in light of contemporary political realities, where many strategic government positions are held by individuals with family ties to the previous rulers. On the one hand, this phenomenon is often seen as a distortion of democracy and a deviation from the principle of equal political rights. However, on the other hand, many also argue that as

¹ Tim Lindsey dan Simon Butt, *The Constitution of Indonesia: A Contextual Analysis*, (Oxford: Hart Publishing, 2012), hlm. 210–212. Politik dinasti didefinisikan sebagai penguasaan jabatan publik oleh kelompok keluarga melalui mekanisme yang sah, namun berpotensi menutup akses publik lain.

² Denny Indrayana, *Negara Paraeliten: Dinasti Politik dalam Demokrasi*, (Jakarta: Pustaka LP3ES, 2020), hlm. 34–38

long as the succession process is conducted legally, formally, and transparently, the rights of every citizen including those from the ruling family must still be guaranteed.³

In Islamic legal tradition, the discourse on the inheritance of power also has a long history, ranging from the caliphate system and the imamate system to Islamic kingdoms. Although the basic principles of Islamic leadership are justice, trustworthiness, and the welfare of the people, the practice of appointing leaders from within a particular family or lineage is not completely rejected, as long as the leader meets sharia requirements such as competence, honesty, and integrity.⁴

Meanwhile, in the history of Islamic civilization, dynastic forms of government are also widely known. The post-death rule of the Prophet Muhammad (peace be upon him), initially based on the principle of shura, later evolved into dynasties such as the Umayyads, Abbasids, and Ottomans. Therefore, it is interesting to examine how the concept of dynasty was accepted, debated, and idealized within Indonesian positive law and Islamic civil law.

In this context, a conceptual approach has emerged that attempts to offer a new dimension to dynastic practices: the concept of "Dynasty in Optima Forma." This phrase originates from Latin, where "dynasty" means inherited power, while "in optima forma" means in the best or most ideal form. Thus, "Dynasty in Optima Forma" can be interpreted as a form of kinship-based leadership regeneration that upholds the principles of democracy, accountability, professionalism, and public acceptability.⁵

Some relevant studies include: Shalesya Fatiha Rizkika and Delly Maulana (2025) examined the development of dynastic politics in political parties and its impact on internal party democracy.⁶ Bonaventura Pradana Suhendarto (2024) examines the relationship between dynastic politics of regional heads and corruption and efforts to prevent it.⁷ Meanwhile, Rizal Rizqi Ramadhan and Sulistyanta Sulistyanta (2025) highlighted the emergence of post-New Order dynastic politics as a result of weak political parties and high political costs.⁸

The novelty of this research presents a new approach through the construction of "dynasty in optima forma," which combines the principles of Islamic law and positive law to evaluate the legality and morality of the practice of power inheritance in

³ Mahkamah Konstitusi Republik Indonesia, *Putusan No. 33/PUU-XIII/2015*, yang membatalkan larangan terhadap pencalonan kepala daerah oleh kerabat petahana karena bertentangan dengan prinsip hak politik warga negara.

⁴ Wahbah az-Zuhaili, *Al-Fiqh al-Islami wa Adillatuhu*, Jilid 8, (Damaskus: Dar al-Fikr, 1985), hlm. 634. Dalam fikih siyasah, pemimpin harus memiliki kelayakan syar'i, meskipun berasal dari keturunan penguasa sebelumnya.

⁵ Lihat penjelasan konsep dalam Wibowo Prasetyo, "Membaca Ulang Dinasti Politik dalam Demokrasi," *Jurnal Konstitusi*, Vol. 16 No. 2 (2020), hlm. 225.

⁶ Shalesya Fatiha Rizkika and Delly Maulana, "Politik Dinasti Di Indonesia Dalam Perspektif Hukum Dan Demokrasi," *Mizan: Jurnal Ilmu Hukum* 14, no. 2 inpress (2025): 278–89.

⁷ Bonaventura Pradana Suhendarto, "Masa Depan Pengaturan Politik Dinasti Dalam Pemilihan Kepala Daerah Di Indonesia," *Jurnal Gagasan Hukum* 6, no. 01 (2024): 62–76.

⁸ Rizal Rizqi Ramadhan and Sulistyanta Sulistyanta, "Upaya Pencegahan Praktik Jual Beli Jabatan: Mewujudkan Birokrasi Bersih Dan Bebas Korupsi Di Lingkungan Pemerintah Daerah," *Hukum Inovatif: Jurnal Ilmu Hukum Sosial Dan Humaniora* 2, no. 3 (2025): 188–201.

Indonesian politics. This approach offers an ethical-normative framework that has been missing from conventional academic discourse on political dynasties.

The phrase "in optima forma," meaning "in its most ideal form," challenges us to assess: is a dynasty in its best form acceptable within the legal framework and principles of justice? Can a political dynasty based on justice, openness, and public benefit be justified within both positive and Islamic legal systems? To address the above issues, this research is formulated in the following questions: 1) How is the concept of political dynasty understood and regulated in Indonesian positive law? 2) How does Islamic law view dynastic forms of government within the framework of fiqh siyasah? 3) Is there a meeting point between positive law and Islamic law in understanding political dynasties in their ideal form (in optima forma)?

METHOD

This research is a normative legal research (doctrinal legal research) that focuses on a literature review of applicable legal norms. This approach is used to analyze the concept of Dynasty in Optima Forma from the perspective of Indonesian positive law and Islamic civil law, both in terms of normative rules and scientific doctrine.

Furthermore, this research also employs a comparative legal approach, comparing the concept of inheritance of power in the positive legal system with the norms of inheritance law in Islam. Normative legal research is considered relevant because its object of study is not empirical human behavior, but rather systematic, logical, and consistent legal principles.⁹

his research employs three types of legal materials as the foundation of analysis, namely primary, secondary, and tertiary legal sources.

1. Primary legal materials include:
 - The 1945 Constitution of the Republic of Indonesia;
 - Law No. 7 of 2017 on General Elections;
 - The Compilation of Islamic Law (KHI);
 - The Indonesian Civil Code (Burgerlijk Wetboek/BW);
 - The Qur'an and Hadith; and
 - Constitutional Court decisions related to political dynasties.
2. Secondary legal materials consist of:
 - Scholarly literature such as books, journals, dissertations, and theses relevant to the research topic;
 - Academic articles discussing political dynasties and Islamic law; and
 - Opinions and interpretations of experts in constitutional and Islamic law.
3. Tertiary legal materials comprise:
 - Legal dictionaries;
 - Legal encyclopedias; and
 - Other reliable references from credible academic media sources.

⁹ Soerjono Soekanto dan Sri Mamudji, *Penelitian Hukum Normatif: Suatu Tinjauan Singkat*, (Jakarta: RajaGrafindo Persada, 2013), hlm. 13.

Data analysis was conducted qualitatively and normatively, namely by examining and deriving meaning from the collected legal materials, then systematically organizing them, critically reviewing them, and drawing legal conclusions. Researchers interpreted and constructed the term "Dynasty in Optima Forma" (Dynasty in Optima Forma) in both positive and Islamic legal contexts to identify common ground, differences, and syntheses.

RESULTS AND DISCUSSION

The Concept of Dynasty: Between Power and Kinship

The term dynasty classically refers to a form of government or power passed down through generations within a family. In the context of political history, dynasty is synonymous with a royal or monarchical system, in which power is inherited through bloodlines.¹⁰ In the modern world, particularly in contemporary democratic systems, the term has expanded its meaning. Political dynasties are no longer limited to monarchical structures, but also manifest in the dominance of power by family members in public office through legitimate electoral processes, while still exhibiting patterns of power exclusivity.

According to Winters, dynastic practices in democracies often signal the emergence of electoral oligarchies, where political power is reproduced by a small elite with access to substantial political and economic capital.¹¹ In Indonesia, this phenomenon is clearly visible in the implementation of regional head elections (pilkada) and in the structure of political parties, where strategic positions tend to be inherited or controlled by certain families.

Etymologically, the term "Dynasty in Optima Forma" is a combination of the word "dynasty," derived from the Latin *dynasteia*, meaning hereditary power or government, and the Latin phrase "in optima forma," meaning in the most ideal or perfect form.¹² In this context, Dynasty in Optima Forma can be interpreted as an ideal form of power or leadership regeneration based on the values of justice, capability, and sustainable governance, rather than solely on blood ties or kinship.

Conceptually, this term offers a discourse on the practice of inheriting power or office, which is often synonymous with nepotism or family oligarchy. In political and institutional practice, dynasties often draw criticism for being perceived as hindering meritocracy and democratic participation. However, through the perspective of dynasty in optima forma, dynasty is viewed from a more normative and transformative perspective, namely as a model of leadership succession that upholds the principles of professionalism, integrity, and public legitimacy, despite being descended from the same lineage.¹³

¹⁰ John Hirst, *The Shortest History of Europe*, (Melbourne: Black Inc., 2009), hlm. 73–75.

¹¹ Jeffrey A. Winters, *Oligarchy*, (New York: Cambridge University Press, 2011), hlm. 200–203.

¹² John M. Roberts, *The New Penguin History of the World*, (London: Penguin Books, 2007), hlm. 221. Kata *dynasteia* dalam Yunani klasik merujuk pada bentuk kekuasaan turun-temurun yang dilembagakan.

¹³ Denny Indrayana, *Negara Paraeliten: Dinasti Politik dalam Demokrasi*, (Jakarta: Pustaka LP3ES, 2020), hlm. 45-47

In legal studies, particularly within the realm of constitutional law and Islamic law, this term is relevant for explaining models of inheritance of office or power that are not only legally and formally valid but also possess moral and social legitimacy. In the context of Indonesian positive law, for example, there is no explicit prohibition against nominating family members in political contests, as long as they meet the normative requirements stipulated in the law.¹⁴ However, this practice continues to generate ethical and sociological debate if it is not accompanied by a fair and accountable selection mechanism.

In Islamic history, power after the Prophet Muhammad (peace be upon him) was held by caliphs, which later developed into a dynastic system: the Umayyads, Abbasids, and Ottomans. Scholars of Islamic jurisprudence (*fiqh siyasah*) differ on the legitimacy of dynasties: some consider them legitimate as long as they fulfill the principles of justice and benefit; others reject them as deviating from the principle of *shura* (deliberation).¹⁵

Thus, the Dynasty in Optima Forma is not a form of dynasty that perpetuates power exclusively for a particular family, but rather a concept of dynasty that has undergone a transformation into a sustainable leadership model that is ideal, progressive, and widely accepted by society, both in terms of positive law and in terms of the norms of justice in Islamic law.

Dynasty in the Perspective of Indonesian Positive Law

1. Constitutionality of Political Dynasties

Indonesian positive law does not explicitly prohibit political dynasties, but the principles of democracy and the principle of honest and fair elections must be upheld. Article 28D paragraph (3) of the 1945 Constitution states that every citizen has the right to equal opportunities in government. In this sense, the prohibition against candidates who have family ties to previous officials is considered contrary to the principle of citizens' constitutional rights to be elected and to vote. However, this phenomenon is often seen as a deviation from the spirit of democracy because it has the potential to perpetuate power within certain family circles and hinder the principles of meritocracy and electoral justice. Political dynasties refer to the practice where individuals who have blood or kinship ties with incumbent public officials run for or hold public office through the electoral process or appointment.¹⁶

2. Election Law and Neutrality of Power

General elections (*Pemilu*) are one of the main pillars of democracy. In a democratic state governed by the rule of law, elections serve as an instrument of legitimacy for power. Therefore, the continuity of direct, general, free, and secret elections and honest and fair elections must be guaranteed through a robust legal framework and implementation free from interference by the authorities. In this context, Law Number 7 of 2017 concerning General Elections (hereinafter referred to as the Election Law) is the primary legal instrument governing election mechanisms and principles, including the issue of neutrality of power.

¹⁴ Undang-Undang Nomor 10 Tahun 2016 tentang Pilkada, khususnya pasal-pasal mengenai syarat pencalonan kepala daerah, tidak menyebut larangan terhadap calon dari keluarga petahana, selama melalui prosedur demokratis.

¹⁵ Wahbah az-Zuhaili, *Al-Fiqh al-Islami wa Adillatuhu*, Jilid 8, (Damaskus: Dar al-Fikr, 1985), hlm. 634. Dalam hukum Islam, prinsip keadilan dan kelayakan menjadi dasar utama dalam penetapan seorang pemimpin, terlepas dari asal-usul kekerabatannya.

¹⁶ Denny Indrayana, *Negara Paraeliten: Dinasti Politik dalam Demokrasi*, (Jakarta: LP3ES, 2020), hlm. 44–46

Neutrality of power is a fundamental principle in the implementation of fair and democratic elections. Neutrality here refers to the impartiality of state apparatus, including the executive, judicial, and legislative branches, as well as the security and bureaucratic apparatus, in favor of any particular election contestant.

This principle is based on the principles of justice and political equality as stipulated in Article 22E paragraph (1) of the 1945 Constitution, which stipulates that elections must be held directly, universally, freely, secretly, honestly, and fairly every five years. Law No. 7 of 2017 explicitly prohibits the abuse of power in elections. Some important provisions include:

- a. Article 280 paragraph (2) of the Election Law stipulates that state officials, civil servants (ASN), members of the Indonesian National Armed Forces (TNI) and the Indonesian National Police (Polri), as well as village heads and village officials, are prohibited from making decisions and/or taking actions that benefit or disadvantage any election participant during the campaign period.
- b. Article 282 emphasizes that state officials are prohibited from taking any action that benefits or disadvantages any election participant during the campaign period.
- c. Article 283 further provides that state officials, structural and functional officials within public offices, and civil servants are required to maintain neutrality and are prohibited from engaging in any activity indicating partiality toward any election participant.

These provisions emphasize that the Election Law prioritizes the principle of neutrality of power as a crucial element in ensuring fair play in electoral competition. From a political ethics perspective, neutrality of power is a prerequisite for elections to be a platform for a contest of ideas, not an instrument of domination by those in power. Non-neutral elections will give rise to powers that are morally and politically illegitimate.

From a constitutional law perspective, the principle of neutrality of power is derived from the principle of the rule of law (*rechtstaat*), which requires equality before the law, including in the electoral arena. If power intervenes and takes sides, this principle is violated and can lead to the delegitimization of election results.

3. Praktik Dinasti Politik di Indonesia: Fakta dan Tantangan

The phenomenon of political dynasties in Indonesia is nothing new. Data from various regional and legislative elections shows that many public figures have direct family ties to former officials. Examples can be found at both the local and national levels, ranging from children and wives to close relatives of incumbents running for office.

This phenomenon has sparked public debate. On the one hand, there is no explicit prohibition on the involvement of family members of officials in political contests. However, on the other hand, this situation raises concerns about the potential for dynastic political practices that undermine democratic values, such as the principles of equality and fair competition.

The main challenges of dynastic practices are the tendency for power to be dominated by one family group, the use of state resources for electoral gain, and the

potential decline in leadership quality due to a lack of meritocracy. This is feared to create a political oligarchy and restrict public access to the democratic process.

Despite strict regulations, practice in the field demonstrates numerous violations of the principle of neutrality. Reports from the Elections Supervisory Agency (Bawaslu) in several general elections and regional elections (Pilkada) indicate the involvement of state officials in favor of certain candidates, whether through bureaucratic mobilization, the use of state facilities, or pressure on civil servants.

Cases such as job transfers in the lead-up to elections, regional heads favoring certain candidates, and the involvement of village officials in campaigns are clear violations of the neutrality of power that can undermine the integrity of elections.¹⁷

4. Positive Legal Perspective: Regulatory Limitations and Legitimacy Gaps

In Indonesian positive law, there is not a single article in the 1945 Constitution or the Election Law that explicitly prohibits political dynasties. Article 28D paragraph (3) of the 1945 Constitution states that every citizen has the right to equal opportunities in government. This means that the nomination of family members of public officials is legally permitted as long as they meet formal and procedural requirements.¹⁸

However, the practice of political dynasties in practice reveals loopholes for abuse of power. For example, the use of state facilities, bureaucratic influence, and government intervention frequently occur when relatives of incumbents run for office. Although Law No. 7 of 2017 concerning Elections prohibits state officials from taking sides, its implementation remains problematic.¹⁹

The absence of a legal norm explicitly prohibiting dynasties poses a challenge to upholding the principles of fair democracy. Therefore, discourse on specific regulations related to limiting political dynasties frequently arises, whether through revisions to election laws or ethical regulations within political parties.

Analysis of Dynasties from an Islamic Legal Perspective

1. Principles of Leadership in Islam

Leadership (imamah or wilayah al-amr) is not merely an administrative position or a symbol of power, but rather a sharia mandate entrusted to individuals who meet certain religious and moral requirements. Classical scholars emphasized that a leader must possess the qualities of justice ('adl), capability (kafa'ah), and the ability to safeguard the welfare of the community. This is as stated by al-Mawardi, who stated that an imam must be "just in behavior, possess adequate knowledge, and be strong in leadership."²⁰

In this context, Islamic civil law does not recognize the concept of automatic inheritance of office based on blood relations. Public office or authority is not inherited like property (irth), as they are ontologically distinct. Inheritance is an

¹⁷ Badan Pengawas Pemilu (Bawaslu), *Laporan Pelanggaran Netralitas ASN dan Aparat Negara dalam Pemilu*, 2024.

¹⁸ Undang-Undang Dasar Negara Republik Indonesia Tahun 1945, Pasal 28D ayat (3).

¹⁹ Undang-Undang No. 7 Tahun 2017 tentang Pemilihan Umum, Pasal 280 ayat (1).

²⁰ Abu al-Hasan al-Mawardi, *Al-Ahkam al-Sulthaniyyah*, (Kairo: Dar al-Hadits, 2006), hlm. 17–19. Lihat juga Sayyid Qutb, *Fi Zhilal al-Qur'an*, tafsir QS. An-Nisa: 58.

individual right, while leadership positions are public rights and must be determined based on merit.²¹

However, throughout Islamic history, the practice of family-based power inheritance persisted, particularly during the Umayyad, Abbasid, and Ottoman caliphates. In many cases, this practice was maintained not solely on the basis of lineage, but rather because of the recognition of the successor's competence and legitimacy in leading the community. In this regard, a kind of social consensus (ijma' sukhuti) strengthened the legitimacy of the heir to power.²²

2. The Relevance of Dynasty in Optima Forma in Islamic Civil Jurisprudence

The concept of Dynasty in Optima Forma can be understood within Islamic civil law as a transformation of the value of inheritance of power from a purely biological relationship to one oriented toward feasibility and benefit. From this perspective, dynasty is not automatically reprehensible, as long as the elements of goodness (maslahah), justice, and professionalism are maintained. This principle stems from the following Islamic jurisprudence principle:

“تصرف الإمام على الرعية منوط بالمصلحة”

(A leader's policy towards his people must be based on public welfare)²³.

Thus, the Dynasty in Optima Forma in Islamic civil law can be understood as a model of leadership regeneration within a legally valid family structure, while remaining subject to the principles of substantial justice, not merely a formality of lineage.

Furthermore, Islamic law recognizes the concept of Wilayah al-'ahd, the appointment of a leader by a previous leader. This practice was implemented by Caliph Abu Bakr when he appointed Umar ibn al-Khattab as his successor. Although not based on blood ties, appointing a successor leader from a close circle known for their integrity and capacity constitutes a sharia precedent that reinforces the meaning of the Dynasty in Optima Forma.²⁴

3. Contextual Implications in Family and Social Law

Islamic civil law, which regulates family relations, rights, and responsibilities between family members, places significant importance on kinship. However, the inheritance of power is not automatically passed on to children or relatives, as is the case with property, because power is a public matter (masalih al-'ammah) and must be subject to a community-based selection mechanism.

Therefore, if a child or family member of a former ruler advances in a power contest and is selected based on merit and justice, this does not conflict with Islamic civil law principles and is in fact in line with the maqasid al-shari'ah (the principle of protecting religion, life, intellect, property, and descendants through just and trustworthy leaders).²⁵

²¹ Wahbah az-Zuhaili, *Al-Fiqh al-Islami wa Adillatuhu*, Jilid 8, (Damaskus: Dar al-Fikr, 1985), hlm. 634–637.

²² Harun Nasution, *Islam Ditinjau dari Berbagai Aspeknya*, Jilid 1, (Jakarta: UI Press, 1985), hlm. 147.

²³ Al-Suyuthi, *Al-Ashbah wa al-Nazha'ir*, (Beirut: Dar al-Kutub al-'Ilmiyyah, 1990), hlm. 121.

²⁴ Muhammad Abu Zahrah, *Tarikh al-Mazahib al-Islamiyyah fi al-Siyasah wa al-'Aqa'id wa al-Fiqh*, (Kairo: Dar al-Fikr al-'Arabi, 1955), hlm. 95.

²⁵ Jasser Auda, *Maqasid al-Shariah as Philosophy of Islamic Law*, (London: IIIT, 2008), hlm. 128–130.

4. Dynasty in the Context of Islamic Civil Law: Between Historical Reality and Normative Principles

Leadership is a significant mandate that requires justice, competence, and responsibility towards society. Although Islamic history recognizes the lineage-based model of power inheritance in the form of the caliphate or imamate, scholars differ on the legitimacy of family-based politics. Al-Mawardi, for example, stated that a leader must be just, pious, and competent, without specifying the necessity of family ties to previous leaders.²⁶

However, in practice, Islamic dynasties (such as the Umayyad or Abbasid) demonstrated a family-based succession mechanism, which sometimes maintained stability but also sometimes gave rise to internal conflict. Therefore, the concept of dynasty in Islamic law is not automatically rejected, as long as it meets sharia requirements and does not conflict with the principles of justice ('adl) and public welfare (maslahah).²⁷

In Islamic law, dynastic forms of government are not expressly prohibited. In fact, throughout Islamic history, many dynasties, such as the Umayyad and Abbasid, have maintained long-term political stability. However, this does not mean that Islam absolutely condones hereditary systems of power.

Al-Mawardi, in *Al-Ahkam al-Sultaniyyah*, provides a normative framework that requires leaders to be selected through a pledge of allegiance (bai'ah) and based on their capacity to carry out the mandate of the people.²⁸ If these conditions are met, then the form of power – including if it is inherited – can still be justified as long as it meets the principles of justice, benefit and implementation of sharia.

On the other hand, Wahbah az-Zuhaili emphasized that the form of Islamic government can be adapted to the times and needs of society, as long as it does not conflict with the maqashid of sharia.²⁹ In this context, a political dynasty will be considered valid in sharia if it brings public benefit and does not conflict with the principles of shura and justice.

Convergence of Values between Islamic Law and Positive Law

Despite originating from different legal paradigms, Islamic law and positive law both emphasize the importance of the principles of justice, accountability, and transparency in the governance of power. In this context, the concept of dynasty in optima forma can serve as a normative bridge, allowing both legal systems to accept the practice of political dynasties in a limited and conditioned manner.

Islamic law, while historically familiar with dynastic rule, still requires leadership that is just, trustworthy, and oriented toward the welfare of the people. Meanwhile, Indonesian positive law guarantees the constitutional rights of every citizen but also needs to safeguard the integrity of the democratic system from the domination of family political elites.

²⁶ Abu al-Hasan al-Mawardi, *Al-Ahkam al-Sulthaniyyah*, (Kairo: Dar al-Hadits, 2006), hlm. 17–19.

²⁷ Wahbah az-Zuhaili, *Al-Fiqh al-Islami wa Adillatuhu*, Jilid 8, (Damaskus: Dar al-Fikr, 1985), hlm. 634–637

²⁸ Al-Mawardi, *Al-Ahkam al-Sultaniyyah* (Beirut: Dar al-Fikr), hlm. 5-12.

²⁹ Wahbah az-Zuhaili, *Al-Fiqh al-Islami wa Adillatuhu*, Jilid 8, (Damaskus: Dar al-Fikr, 1985), hlm. 630

This convergence can be translated into regulations on political ethics, limiting conflicts of interest, strengthening the role of political parties, and increasing public transparency. Thus, the practice of political dynasties can continue to operate within a just, controlled, and accountable legal framework.

Konsep *In Optima Forma* yang ditawarkan secara teoritis

The concept of *In Optima Forma* is theoretically rooted in the idea that ideal power must have a strong basis of legitimacy, both legally and morally.³⁰ In political science and law, legitimacy is an essential element that determines whether a power is considered legitimate and acceptable to society. Max Weber, a prominent sociologist, divided the legitimacy of power into three main forms: traditional, charismatic, and legal-rational legitimacy. Traditional legitimacy stems from a system of values and customs passed down through generations, charismatic legitimacy stems from the charm, prestige, and moral authority of a leader, while legal-rational legitimacy is based on a legitimate formal legal order. In this context, the concept of Dynasty in *Optima Forma* assumes that kinship-based power does not necessarily deviate from democratic principles, as long as it obtains legal and rational legitimacy, and is supported by the competence, integrity, and moral accountability of the individual holding it. In other words, power born of genealogical relations remains acceptable if exercised meritocratically and oriented toward the public interest. From the perspective of Islamic political ethics, public office is not viewed as a privilege, but rather as a trust that carries moral responsibility and sharia consequences. Islam does not explicitly prohibit someone descended from an official line from holding a position of power, as long as the individual meets the criteria of trustworthiness, capability, and justice. This principle is emphasized in the story of the Prophet Yusuf (peace be upon him), when he said: "Make me the treasurer of the land (of Egypt); indeed, I am a man of knowledge and skill" (Quran, 17:55). This verse provides moral legitimacy that claims to power are justified when based on knowledge, ability, and personal integrity, not merely on inheritance or family ties. Thus, Islam emphasizes that the essence of leadership lies in professionalism and morality, not genealogy.

Furthermore, within the treasury of Islamic law, there are the principles of *maslahah mursalah* and *istihsan*, which form the basis for legal flexibility in responding to social dynamics. *Maslahah mursalah* emphasizes achieving the public good, while *istihsan* orients toward selecting policies that are more just and beneficial than the application of rigid laws. In the context of power inheritance, if the continuation of a political dynasty can guarantee public welfare, social stability, and justice, then the practice is justified according to Islamic law. Al-Ghazali emphasized that the primary objective of Islamic law is to safeguard five fundamental principles: religion, life, intellect, posterity, and property (*maqāṣid al-syarī'ah*). Therefore, as long as a dynastic system of power ensures the protection of these five objectives and benefits the wider community, the continuation of that power can be considered legitimate from a moral, rational, and religious perspective.

Meanwhile, within Indonesia's positive legal framework, the principle of the rule of law (*rechtsstaat*) serves as the foundation for all forms of power. This principle asserts that every public office must be obtained through legitimate legal mechanisms, based on the principles of justice, transparency, and accountability. Although there is no explicit prohibition against the practice of political dynasties in the Election Law or the Regional

³⁰ Max Weber, *The Theory of Social and Economic Organization*, trans. A.M. Henderson and Talcott Parsons (New York: Oxford University Press, 1947), hlm. 328.

Election Law, both regulations substantively emphasize the importance of the principles of anti-nepotism and justice in the political process. Deviant nepotism is considered contrary to democratic values and the rule of law. Therefore, the concept of Dynasty in Optima Forma can only be accepted if it is implemented professionally, based on law, and oriented towards the welfare of the people, not as an instrument for perpetuating power that ignores the principles of public morality and ethics.

Reflections on the Concept of In Optima Forma

The concept of "In Optima Forma" in the context of political dynasties is not intended to reject the existence of dynasties outright, but rather to place them within a framework of ideal values and norms. Political dynasties are essentially acceptable as long as they are exercised within the ethical framework of power, based on competence, procedural justice, and the moral awareness of their practitioners to refrain from abusing their authority. Therefore, this concept does not oppose the continuation of kinship-based power, but rather demands that such practices be within a framework of accountable legal and moral legitimacy. From both Islamic and positive law perspectives, this position forms the basis for the emergence of a form of power that is legally legitimate and ethically dignified.

The ideal model of "Dynasty in Optima Forma" requires the fulfillment of several normative criteria that serve as a measure of the legitimacy of power. First, power must be oriented towards the principles of justice and public welfare, as affirmed in the framework of the *maqāṣid al-shari'ah* (the objectives of Islamic law), namely, safeguarding religion, life, intellect, posterity, and property. Second, the practice of political dynasties must not violate the principle of meritocracy, where positions are awarded based on ability and achievement, not simply kinship. Third, the process of appointment or succession to power must be transparent and democratic, allowing for public scrutiny and freedom from manipulation of power. Fourth, an ideal political dynasty must be free from conflicts of interest within families, preventing oligarchic concentrations of power and the denial of the principle of social justice. By fulfilling these four principles, political dynasties can be positioned not as democratic anomalies, but as a form of power transformation that is ethical, rational, and oriented toward the welfare of the people.

CONCLUSION

From the results of the studies and analyses conducted, several important conclusions can be drawn, as follows:

1. The practice of political dynasties in Indonesia is a sociopolitical reality that is difficult to avoid in an open electoral democracy. Although not explicitly regulated in positive law, the existence of political dynasties has the potential to undermine the principles of meritocracy, political justice, and electoral neutrality if not strictly monitored.
2. In Islamic law, political dynasties are not an ideal form of government, as exemplified by the era of the *Khulafaur Rasyidin*, which was based on *shura* and *bai'at* (the pledge of allegiance). However, throughout Islamic history, dynastic systems have been practiced and justified as long as they uphold the principles of justice, benefit, and the responsibility of power as a trust. The concept of "Dynasty in Optima Forma" places dynasties within a normative and ethical

framework that requires the fulfillment of certain requirements: among them leadership capacity, public legitimacy, accountability, and the absence of abuse of power. Therefore, the practice of political dynasties should not be rejected outright; rather, they need to be evaluated and controlled using legal instruments and Islamic ethical values.

3. The convergence between Islamic law and positive law allows for a shared understanding that the continuation of power through family ties can only be justified if it guarantees the principles of justice, transparency, and the public interest. Political dynasties are not about family names, but about how power is exercised and for whom it is used.

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