
JURIDICAL ANALYSIS OF POLITICAL DYNASTY IN REGIONAL HEAD ELECTIONS IN INDONESIA

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ABSTRACT

Political dynasty is a power run by a group of people who are still related by blood or within the family sphere. If we look at the reality of government in Indonesia, the practice of this power often occurs in political dynasties, one of which is in local government in Indonesia. The research method used by the author in this journal has a normative nature and is based on the perspective of democratic theory as a reference in writing this journal. Then, this type of research is descriptive qualitative with data analysis techniques in the form of literature studies by examining books and literature related to problems in this journal. A democratic state that involves the right of its people to participate in politics. Whereas autocratic states, political rights are granted and held to a larger group of citizens. Implicitly, it means that the phenomenon of political dynasties is a manifesto of an autocratic state. The phenomenon of political dynasties practiced by regional heads massively can be conceded that the practice of political dynasties has contradicted Article 7 letter r of the Election Law, but this article also contradicts the 1945 Constitution unconstitutionally and has no binding legal force.

Keywords: democracy; Political dynasties; Regional Head

INTRODUCTION

Indonesia is a country that adheres to the principles of democracy, meaning that the highest holder of sovereignty in Indonesia is the people. Basically, the legal basis of the Indonesian State is a country based on democracy as explained in the 1945 Constitution, Article 1 paragraph (2), which reads: "Sovereignty is in the hands of the people and is implemented according to the Constitution. Quoting from David Beetham and Kevin Boyle, in the concept of democratic theory, democracy accommodates the manifestation of desires in decisions that have a massive impact on associations taken by everyone and every individual has the same rights when making decisions. Explicitly, democracy has a concept or principle of thought (twin principles) as controlling all elements of society over the collective decision-making process and having equal rights in controlling this."¹

In collective decisions, the authority of each individual can mean that someone's voice has value and their perspective has an influence on their participation in making decisions so that it has two consequences in its application, namely the realization of the public good and the interests of each individual becoming a reality.² In every country that adheres to the principles of democratic theory, it often comes into contact with various problems in the government system, such as: democratic dilemmas, namely the social conditions of democracy, the influence of philosophy on politics, reconciliation of political roles³ and facing the weaknesses of democratic theory itself, namely referring to Michael Mann's book entitled "The Dark Side of Democracy, Explaining Ethnic Cleaning" which has a main thesis that "deadly ethnic cleansing is uniquely modern because it is the dark side of democracy".⁴ The essence of the thesis explains that the dark part of democracy is a form of despotism and ethnic erasure carried out by colonialism which freely creates government, but in reality local people experience oppression. In this

¹ David Beetham & Kevin Boyle, *Demokrasi: 80 Tanya Jawab*, Yogyakarta: Kanisius, 2000, hlm. 19-20

² Mufti, M. (2013). Teori-teori demokrasi.

³ Mufti, M. (2013). Teori-teori demokrasi.

⁴ Mann, M. (2005). *The dark side of democracy: Explaining ethnic cleansing*. Cambridge University Press.

case, it needs to be underlined that those who carried out this action were sympathizers of the idea of democracy. In practice, it was carried out selectively or discriminated because many factions did not have the opportunity, giving rise to gender supremacy by men over women. Not only that, democracy also triggers interests between civilized groups and primitive groups and has the possibility of supremacy emerging within the majority group. Apart from that, the capitalist system gives birth to minority groups that have more freedom in the wheels of a country's economy.

On the political side, the majority group has a stratum of bargaining power in power, while the minority group, those who control the economic sector in society. When the democratic system and the capitalist system are interconnected, it results in inequality in the economic sector so that the economic sector is dominated by minority groups (such as in Southeast Asian countries dominated by ethnic Chinese and in Western or European countries dominated by the white race). In this case, it is also possible for the emergence of political dynasties in a country. A political dynasty is a power exercised by a group of people who are related by blood or family. If we examine the reality of government in Indonesia, the practice of power often occurs in political dynasties, one of which is in local government in Indonesia (such as in the area of regional head elections). The prevalence of dynastic politics is closely related to the presence of political parties and administration. Candidates nominated by political parties are not chosen based on their credibility or quality, but rather based on the preferences of people (family circles) within the party in the struggle for power, thus giving rise to misconceptions about political issues and disrupting the running of the democratic party.

Political dynasties show the persistence of feudal origins even more, and monarchical traditions have not completely changed. Regional elections are based on nepotism and collusion rather than meritocracy. When dynastic politics is sought to be kept out of democratic systems, it involves preventing political supremacy over one group. In *das sein*, a person or group that carries out a political dynasty indirectly prioritizes all matters within the family sphere so that sometimes it has a bad impact on the wheels of government and centralized political authority in one group creates opportunities for the emergence of corruption, collusion and nepotism.

Therefore, by looking at the background regarding the phenomenon of political dynasties, this is what makes the author want to discuss it in a journal study with the title "Judicial Analysis of Political Dynasties in Regional Head Elections in Indonesia". Then, the author wrote this journal with the aim of analyzing and understanding the problems with the phenomenon of political dynasties carried out by several regional heads in Indonesia. Therefore, the formulation of the problem in this journal is related to the mechanism for selecting regional heads carried out by regional head candidates who practice political dynasty, whether it is in accordance with existing administration and laws and what is the perspective of democratic theory on the phenomenon of political dynasty practiced by heads. area.

Likewise, the aims and benefits of this journal include understanding the misconceptions that occur regarding political dynasties during each regional election and knowing the legal view from the perspective of democratic theory regarding the phenomenon of this political issue.

RESEARCH METHODS

On The research method used by the author in this journal is normative in nature and is based on the perspective of democratic theory as a reference in writing this journal. Then, this type of research is descriptive qualitative with data analysis techniques in the form of literature study by examining books and literature related to the problems in this journal.⁵

⁵ Ardana, N. A. D. I., & Purwoko, B. (2018). *Studi kepustakaan penerapan konseling naratif dalam lingkup pendidikan* (Doctoral dissertation, State University of Surabaya).

RESULTS AND DISCUSSION

- **Administrative Expedition in the Regional Head Election Mechanism Carried Out by Regional Head Candidates Who Practice Political Dynasty**

In a book written by Prof. Dr. Moh. Mahfud MD with the title "Legal Politics in Indonesia" which boils down to one conclusion, namely "if we want to build responsive law then the first and main condition that must be met first is democratization in political life".⁶The essence of this sentence means universally that the principle of democracy is the legitimacy of the regional elections and the urgency of the administrative journey for regional head candidates because administration is also part of the implementation mechanism of the law. As intended in Law Number 8 of 2015 concerning Amendments to Law Number 1 of 2015 concerning the Determination of a Government Regulation in Replacement of Law Number 1 of 2014 concerning the Election of Governors, Regents and Mayors, Article 7 letter r reads "not having a conflict of interest with the incumbent" and explained further in Article by Article what is meant by Article 7 letter r that "does not have a conflict of interest with the incumbent" means not having a blood relationship, marriage ties and/or lineage 1 (one) level straight up, down, to alongside the incumbent, namely father, mother, in-laws, uncles, aunts, brothers, sisters, in-laws, children, sons-in-law unless they have passed 1 (one) term of office. However, the Constitutional Court stated that this article was unconstitutionally contradictory and did not have binding legal force. Because the Constitutional Court considers that this article has discriminatory elements because the provisions clearly contain (and contain) differences in treatment based solely on a person's birth and kinship status which is contrary to Article 28I paragraph (2) of the 1945 Constitution.

According to the government's view, Article 7 letter r of the Regional Election Law is temporary. However, the MK views this temporary goal as unjustified because it prevents every citizen from running for regional head.⁷In Article 7 letter r Pilkada, das sollen explains that there is a prohibition on the practice of political dynasties in regional elections because it can give rise to issues and various problems such as corruption, collusion and nepotism. In fact, it is true that in 2017 in Klaten Regency, the mass media of Klaten residents were shocked by the corruption case of Regent Sri Hartini who carried out the practice of buying and selling positions for around 2 billion rupiah.⁸If we trace her background, Regent Sri Hartini turns out to be the wife of Regent Haryanto Wibowo who served for 2 terms (2005-2015).⁹Not only that, political dynasty is also practiced in Sragen Regency with dr. Hj. Kusdinar Untung Yuni Sukowati as Regent of Sragen Regency for 2 periods (2016 – Present) is the daughter of H. Untung Wiyono who also served for 2 periods (Served as regent in 2001-2011), as a former regent, he also served was involved in a corruption case, namely by misusing APBD funds while serving as regent. The phenomenon of political dynasties is also practiced massively in several other regions, such as in the provinces of Lampung, Banten, South Sulawesi, North Sulawesi, North Sumatra, Jambi, West Java, Central Java, Yogyakarta Special Region, East Java. There are also in the

⁶ Md, M. (2009). Politik hukum di Indonesia. *Jakarta: PT RajaGrafindo Persada*. Halaman 380.

⁷ ASH. 8 Juli 2015. MK: Larangan Politik Dinasti Inkonstitusional. <https://www.hukumonline.com/berita/a/mk--larangan-politik-dinasti-inkonstitusional-1t559d2a11ac96f/>. Diakses Pada 29 April 2022 Pukul 02:32 WIB

⁸ Siregar, Edmiraldo. 28 September 2018. Kepala Daerah Tersangka Korupsi 2017. <http://news.liputan6.com/read/3110149/7kepala-daerah-tersangka-korupsi-2017>. Diakses Pada 29 April 2023 Pukul 03:02 WIB.

⁹ Irfani, Faisal. 4 Maret 2021. Kamu Pusing dengan Dinasti Politik di Klaten? Sama, Saya Juga. <https://asumsi.co/post/59632/kamu-pusing-dengan-dinasti-politik-di-klaten-sama-saya-juga/>. Diakses Pada 29 April 2023 Pukul 02:15 WIB.

provinces of West Nusa Tenggara, Central Kalimantan, East Kalimantan and Maluku.¹⁰

In several incidents, regional officials, in general, the administrative journey of regional heads after the regional elections became problematic and several regional heads were proven to have committed corruption, thereby violating Article 7 letter r of the Regional Election Law, but this article also contradicts the 1945 Constitution. giving rise to a tendentious oligarchic government towards a democratic system. In fact, in essence, Indonesia is a democratic country with an electoral system and regional heads as a symbol of leadership who are directly elected by the people in the regions.

- **Perspective from Democratic Theory on the Phenomenon of Political Dynasties Practiced by Regional Heads**

According to Hans Kelsen, democracy is the will expressed in a legal state order that is identical to the will of the subjects of that legal order. What is meant by the subjects is the people as a manifestation of democracy in a country based on the supremacy of law. According to universal terminology, a country is called a democratic country if democratic principles are included in its implementation.¹¹In democratic theory, government is created so that it does not dominate the system, this does not mean that government is soft. The misconception that occurs is that democracy does not provide room for power for the government in the state. Democratic countries show that it is precisely high commitment and maximum awareness of citizens' devotion to the state and government that makes the existence and sustainability of democratic countries.¹²Democracy will not come, grow and develop by itself in state life, because democracy requires real efforts from every citizen and government. The existence of a conducive culture as a manifestation of a framework of thought, societal design and concrete forms of manifestation makes democracy a better way of governing than monarchy or aristocracy.¹³

Therefore, the idea of democracy has a perspective that the degree of freedom in society is proportional to the number of free individuals, which means that each individual has the same political values and that each individual has the same demands for freedom, and that means that the same demands for the collective will in line with his personal wishes.¹⁴In direct democracy, the political right that has an important role is the right to participate in the people's council because government is realized only in the production and implementation of legal norms, so that civic involvement is a condition of political rights. Therefore, only a democratic country involves the right of its people to participate in politics. Meanwhile, in an autocratic state, political rights are given and owned to a larger group of citizens.¹⁵Implicitly, it means that the phenomenon of political dynasties is a manifesto of an autocratic state because it involves individuals who are within the incumbent's family. If examined further, the incumbent's family is also part of a "larger group of citizens". If compared, the democratic system and the autocratic system are indeed contradictory to the principles contained in the two government systems. From a historical perspective, democracy and autocracy are not constitutional entities given by history, but rather ideal types. In political reality, there is no country that fully conforms to the mechanisms of one of these two types. However, each country shows a hybrid between elements of these two types, so that groups of people approach each other from each of these two types. If we examine it further, the practice of political dynasties

¹⁰ Aritonang Robekka. Deytri. 18 Oktober 2013.

<https://nasional.kompas.com/read/2013/10/18/1850579/60.Orang.yang.Terlibat.Politik.Dinasti..> Diakses Pada 29 April 2023 Pukul 03:40 WIB.

¹¹ Kelsen, H., & Muttaqien, R. (2006). Teori umum tentang hukum dan negara. (*No Title*). Halaman 402-403.

¹² Harimurti, Y. W. (2021). *Negara hukum dan demokrasi: konsep dan perkembangan kontemporer*. Setara Press. Halaman 71.

¹³ Harimurti, Y. W. (2021). *Negara hukum dan demokrasi: konsep dan perkembangan kontemporer*. Setara Press. Halaman 106.

¹⁴ Kelsen, H., & Muttaqien, R. (2006). Teori umum tentang hukum dan negara. (*No Title*). Halaman 406.

¹⁵ Kelsen, H., & Muttaqien, R. (2006). Teori umum tentang hukum dan negara. (*No Title*). Halaman 334

carried out by several regional heads clearly contradicts democratic theory because political dynasties are also an anatomical part of autocratic and oligarchic forms of government, thus triggering political issues in regional elections and when they have assumed the position of regional head and causing disruption. progress of the democratic party. The main cause of the political dynasty phenomenon is personal and family efforts to increase profits. This is demonstrated through a strategy that benefits family members by placing them in government positions. If this strategy is successful, personal and family benefits will come to them automatically, so they can have hope for themselves. In addition, efforts to limit the potential for rival political parties to occupy power. Kinship enters circles of political power as a result of persistent efforts to create political conspiracies that hinder the outside prospects of others.¹⁶

CONCLUSION AND SUGGESTION

With several problems and discussions related to the phenomenon of political dynasties being practiced by regional heads on a massive scale, it can be concluded that the practice of political dynasties is in conflict with Article 7 letter r of the Regional Election Law, however this article also conflicts with the 1945 Constitution in an unconstitutional manner and does not have binding legal force. It is ironic when looking at the existing reality, several cases of corruption were committed by regional heads because they were practicing political dynasty for personal gain, so that it had a bad impact on the image of the regional head, which was supposed to be a symbolic manifesto of regional leadership, becoming a bad image in the eyes of the citizens of their own region and disrupting the progress of the democratic party. . Then, the phenomenon of political dynasties is also ideologically contradictory from the perspective of democratic theory because political dynasties are a manifesto of an autocratic system. The government should be aware of the negative impacts on the phenomenon of political dynasties, one of which is the people's council as the holder of legislative power to seek improvements to the regulations and mechanisms in the law so that their implementation is more relevant to the conditions of political reality in Indonesia.

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¹⁶ Dedi, A. (2022). *Politik Dinasti Dalam Perspektif Demokrasi*. MODERAT: *Jurnal Ilmiah Ilmu Pemerintahan*, 8(1), 92-101.

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