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Political Influence in Regional Head Elections in Indonesia

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Abstract

Elections for regional heads in Indonesia have not yet achieved the objectives of the General Election for Regional Heads as referred to in the 1945 Constitution. This is heavily influenced by political parties, therefore the issue raised is how political influence is in the regional head election system in Indonesia. Based on the results of the discussion that has been analyzed, conclusions can be drawn, including: political influence in the regional head election system in Indonesia has a very important position (status) and role (role) in every democratic system. The party plays a very strategic liaison role between government processes and citizens. In fact, it is political parties that determine democracy, so that parties are very important pillars to strengthen the degree of institutionalization in any democratic political system. A good party system determines the functioning of a constitutional system based on the principle of "checks and balances" in a broad sense. On the other hand, the effectiveness of the functioning of state institutions according to the principle of "checks and balances" based on the constitution also greatly determines the quality of the party system and democratic mechanisms developed in a country, so that political parties are only one form of institutionalization as a form of expression of ideas. It is the thoughts, views, and beliefs that are free in a democratic society and political parties that act as intermediaries in the process of making state decisions, connecting citizens with state institutions.

Keywords: *Influence; Politics; Election; Regional Head*

A. Introduction

Democracy in post-New Order Indonesia is almost always discussed in relation to the formation of a political system that reflects the principles of representation, participation and control. Democratic government presupposes the separation of powers in three institutional areas, namely the executive,

legislative and judiciary. A government is said to be democratic if there are main indicators, namely representation, participation and control over the administration of government by the three institutions. The principle of participation guarantees the aspect of people's participation in the regional development planning process; or people's participation in the process of electing representatives in political institutions; while the control principle emphasizes the aspect of government accountability.

In a democracy, the institutional aspect is a priority for the ongoing practice of democratic politics, so that there are political parties, general elections and a free press. In a country that adheres to constitutionalism (constitutional democracy), one of the characteristics is the passive nature of the government, in the sense that the government is only the executor of the various wishes of the people formulated by its representatives in parliament. The state has a smaller role than the role of the people.

In relation to law, constitutional democracy which gives a very limited role to the state is called a formal (classical) rule of law state. Based on the neutrality and independence of the state, the concept of a formal rule of law state is called a pluralism state, namely the state is not independent and acts as a filter for various desires that exist in society. The policies issued are not initiatives that arise from the independence of the state but are born from the process of fully absorbing people's aspirations through parliament.¹

In the development of a democratic state in the future, it is time for pseudo-democratic practices to be abandoned and replaced with real democracy, namely democracy that places the people as the main determinant in the administration of the state, both in the fields of government, politics, economy, and socio-culture. Therefore, democracy in its essence cannot be separated from "the people" and "people's sovereignty".²

Sovereignty for a country is very important. A country that is already independent means that it already has sovereignty, because independence is the right of every nation in the world and is the basic right of every human being in the world. The Indonesian nation condemns and is anti-colonial as stated in the Preamble to the 1945 Constitution in the first paragraph.

Sovereignty of the people implies that the best in society is what is considered good by all people who are the people. The definition of sovereignty itself is the supreme power to make laws and implement them in all available ways. Therefore, people's sovereignty brings consequences, that the people as the highest authority in the life of society and state.³

In this sense democracy is a system of government in which the majority of the members of society participate in politics through a representative method that ensures the government is responsible for its duties to society. In other words, contemporary constitutional state must be based on a system of representative democracy known as people's sovereignty.

The concept of democracy presupposes that government is from, by and for the people. The most basic thing in democracy is the participation of the people, as well as mutual agreement or consensus to achieve goals that are formulated together. The development of decentralization requires democratic

¹ Noer, Deliar, *Op. cit.*, p. 135

² Juanda, *Hukum Pemerintahan Daerah Pasang Surut Hubungan Kewenangan antara DPRD dan Kepala Daerah*, (Bandung: 2004), p. 19

³ *Beberapa pemikiran mengenai kedaulatan dan pemegang kedaulatan suatu negara setelah revolusi Perancis dikemukakan oleh Jean-Jacques Rousseau dalam karyanya Du Contrat Social Ou Principes Du Droit Politique (Mengenai Kontrak Sosial atau Prinsip-prinsip Hak Politik) membagi tingkat kedaulatan menjadi dua yaitu de facto dan de jure.*

processes not only at the central level but at the regional level, such as the election of governors, district heads and village head elections.

Indonesia as a democratic rule of law, accommodates the principles of a rule of law and democratic principles. The Republic of Indonesia has expressly chosen a form of democracy with the provision that sovereignty lies in the hands of the people and must be implemented according to legal provisions. Thus, as a consequence, Indonesia must also be a constitutional state. This was stated in the 1945 UUDNRI at the opening of paragraph IV.

Indonesia is a country that upholds democratic legal values based on Pancasila and the 1945 Constitution of the Republic of Indonesia,⁴ uphold human rights, protect the entire Indonesian nation and all of Indonesia's bloodshed, promote public welfare, educate the nation's life, and realize social justice.⁵

Article 22E of the 1945 Constitution of the Republic of Indonesia states that elections are held directly, publicly, freely, confidentially, honestly and fairly every five years, held to elect members of the People's Representative Council, Regional Representative Council, President and vice president and the People's Representative Council. Area. General elections are held by an election commission that is national, permanent and independent. Then paragraph (6) of Article 22E explains that further provisions regarding general elections are regulated by law.

At the implementation level, the holding of general elections, especially the election of Regional Heads, which is regulated by law in the Indonesian constitutional system, is always changing. The law on regional government that regulates regional head elections, prior to the first amendment to the 1945 Constitution, Law no. 1 of 1945 known as the Regional National Committee, until the Law on Regional Government No. 22 of 1999, and subsequent Law on Regional Government No. 32 of 2004, which was amended by Law on Regional Government No. 12 of 2008. After the amendment to the 1945 Constitution, both before and after the amendment to the 1945 Constitution, this law has always changed, both before and after the amendment to the 1945 Constitution.

The Law on Regional Government prior to the amendment to the 1945 Constitution was regulated by Law Number 1 of 1945 concerning Regional Government, this Law has not yet regulated the Election of Regional Heads. Subsequently in succession the Law on Regional Government, relating to Regional Head Elections, was regulated by Law Number 22 of 1948, Law Number 1 of 1957, Presidential Decree Number 6 of 1959, Law Number 18 of 1965, Law Number 5 of 1974 and Law Number 22 of 1999.

Law Number 22 of 1948 concerning Regional Government, came into force on August 17, 1945 until the 1949 RIS Constitution, which was previously Law Number 1 of 1945 concerning Regional Committees. This law has not yet regulated regional head elections. Presidential Decree Number 6 of 1959 concerning Regional Government was in effect from 1959 to 1967, including Law Number 18 of 1965 concerning Regional Government. Law Number 5 of 1974 concerning Regional Government was valid from 1967 to 1998 and the reform period in 1999 applied Law Number 22 of 1999 concerning Regional Government.

The Law on Regional Government after the amendment to the 1945 Constitution, is regulated by Law no. 32 of 2004 concerning Regional Government and underwent a second amendment with Law no.

⁴ Padmo Wahjono, *Negara Indonesia Berdasarkan Atas Hukum*, Ghalia Indonesia, Jakarta, 1982, pp. 7-32; see also Philipus M. Hadjon, *Legal Protection for the Indonesian People*, Development of Science Surabaya, 1987, pp. 83, 90 and 208; compare also with Basah Sjachran, *Existence and Benchmarks of Administrative Courts in Indonesia*, Alumni, Bandung, 1985, p. 11-15 and p. 147-153;

⁵ See paragraph four of the Preamble to the 1945 Constitution of the Republic of Indonesia.

12 of 2008. As we know, the amendment to the 1945 Constitution went through 4 (four) stages, starting from the change: First, date. October 12-19, 1999, Both dates. 18 August 2000, Third date. November 9, 2001, and the Fourth change of date. August 10, 2002, among the four existing amendments, the Second amendment includes 27 (twenty seven) articles, and which are spread over 7 (seven) Chapters, including Chapter VI concerning *Regional Government*.

Special laws and regulations regarding regional head elections are currently regulated specifically in the Law of the Republic of Indonesia No. 8 of 2015 concerning Amendments to Law Number 1 of 2015 concerning Stipulation of Government Regulations in Lieu of Law Number 1 of 2014 concerning Elections Governors, Regents and Mayors Become Laws.

This is apart from regional government laws, namely Law of the Republic of Indonesia Number 2 of 2015 concerning Stipulation of Government Regulations in Lieu of Law Number 2 of 2014 concerning Amendments to Law Number 23 of 2014 concerning Regional Government to Become Laws.

As is known, after the amendment of the 1945 Constitution to the 1945 Constitution of the Republic of Indonesia, specifically Article 18 paragraph (4) of the 1945 Constitution of the Republic of Indonesia states that Governors, Regents and Mayors respectively as heads of provincial, district and city regional governments are democratically elected. The formulation of "elected democratically" in the provisions of Article 18 paragraph (4) of the 1945 Constitution of the Republic of Indonesia is then interpreted by the government and the DPR, to be "elected directly". This can be seen from the provisions of Article 56 paragraph (1) of Law Number 32 of 2004 concerning Regional Government. Law Number 32 of 2004 is a substitute for Law Number 22 of 1999 concerning Regional Government which has been revised in a limited manner by Law Number 12 of 2008, after the decision of the Constitutional Court (MK) which determined that Governors, Regents and Mayors respectively as heads of provincial, regency and city regional administrations were elected in a pair of candidates which was carried out democratically based on the principles of direct, public, free, confidential, honest and fair .

Therefore, the *pilkada* is then categorized as part of the legal domain of elections, especially after the enactment of Law Number 22 of 2007 concerning the General Election Commission (KPU) which was later changed to Law Number 15 of 2011 concerning Election Organizers. Technically, regional election arrangements will refer to the provisions of laws and regulations regarding elections and consequently are within the realm of election law and are no longer within the realm of regional government.

The implementation of the regional elections themselves in Indonesia is still being debated among the people. There are those who are pro and there are those who are against the direct regional election, since the direct election began (starting in June 2005). The pros and cons are due to the many problems that arise and have a negative impact on the election. These problems start from the planning of election activities, up to voting. What is of greatest concern to the public, especially academics, is the lack of clarity on the legal basis for regional elections.

This is in stark contrast to the spirit of the ideals of reform to make the regions self-sufficient with their decentralization system mandated by Article 18 of the 1945 Constitution of the Republic of Indonesia, namely that the election concept philosophically, juridically and sociologically must be synergistic with the spirit of regional autonomy in accommodating local wisdom values. based on the principles of the Unitary State of the Republic of Indonesia Several regions in Indonesia still use traditional culture in democracy, such as: (1) in Aceh the regional head election organizers are not KPU or KPUD which are national and independent, but KPID which are based on local wisdom (2) in Papua where citizens' voting rights can be represented by their respective tribal chiefs in general elections and

local elections. See the Constitutional Court's decision regarding the Yahukimo district election dispute. (3) determination of the governor of the Special Region of Yogyakarta (DIY). The election methods above are contrary to the principles of direct, public, free, honest, confidential and fair elections.

Another opinion also suggests that the second amendment to the 1945 Constitution of the Republic of Indonesia The provisions of Article 18 paragraph (4) of the 1945 Constitution of the Republic of Indonesia are that Governors, Regents and Mayors respectively as heads of provincial, regency and city regional governments are democratically elected. The use of the word "elected democratically" is flexible and has two meanings, namely direct election and through DPRD, both of which are democratic.⁶

Therefore, the people think that elections in a democratic manner (direct, public, free, honest, confidential and fair) are the principles of elections which make regional elections part of the election provisions. As a result, the government and the DPR agree with the meaning of regional elections, which means elections, so that the laws and regulations that are made are not directed towards the true nature of the goals expected of Article 18 paragraph (4) of the 1945 Constitution of the Republic of Indonesia.

Arrangements regarding local elections in Law Number 32 of 2004 concerning Regional Government were compiled based on the provisions of Article 22E paragraph (1) of the 1945 Constitution of the Republic of Indonesia, therefore regional elections are categorized as provisions of Article 22E of the 1945 Constitution of the Republic of Indonesia, namely that elections are carried out in a direct, public, free, confidential, honest and fair every five years⁷

Pilkada is an election provision after the second amendment of Law Number 32 of 2004 to Law Number 12 of 2008 concerning Regional Government regarding the delegation of authority to resolve election disputes from the Supreme Court (MA) to the Constitutional Court (MK).⁸

While in the provisions of Article 24C paragraph (1) of the 1945 Constitution of the Republic of Indonesia regarding the authority of the Constitutional Court, the provisions of Article 24C paragraph (1) of the 1945 Constitution of the Republic of Indonesia are: "The Constitutional Court has the authority to try at the first and final level whose decision is final to test the law against the law. constitution (UUD), decide disputes over the authority of state institutions whose authority is granted by the Constitution, decide on the dissolution of political parties and decide disputes about election results." does not contain provisions for the settlement of regional election disputes.

This is what raises a problem, because when viewed based on the provisions in the 1945 Constitution of the Republic of Indonesia Article 22E paragraph (2) of the 1945 Constitution of the Republic of Indonesia, then: "Elections are held to elect members of the DPR, DPD, President and Vice President and DPRD". However, this provision only regulates elections to elect members of the DPR, DPD, DPRD and the President and Vice President, so that at the level of regional elections in Indonesian territory, the assumption is permissibility and appropriateness and habits that have been passed down from generation to generation by the people, such as in Papua. With the phenomenon of a shift in the direct election system to no, the cancellation of the direct election law using a Perpu, the implementation of the token system in regional head elections.

⁶ A. Mukthie Fadjat dkk, 2010, *Konstitusionalisme Demokrasi: sebuah diskursus tentang Pemilu Otonomi Daerah dan Mahkamah Konstitusi*. InTrans Publising, Malang, p.212.

⁷ Ramlan Surbakti, Pilkada adalah Pemilu, *Kompas*, 2015, p. 4

⁸ Mustafa Lutfi, 2010, *Hukum Sengketa Pemilukada di Indonesia. Gagasan Perluasan Konstitusional Mahkamah Konstitusi*, UII Press, Yogyakarta, p. 151

Therefore, there are several problems related to the shift in the regional head election system, including:

- a. The philosophical problem is that the process of electing regional heads is related to conveying the vision, mission and program, being held without dialogue means that democratic rights have been abolished, the values of empowerment and educating the nation's life have been eliminated.
- b. Juridical problems, in the election of regional heads related to being elected democratically, as well as relating to the delivery of vision, mission and programs there are blurred norms, and conflicting norms.
- c. Theoretical problems, in the election of regional heads there are inconsistencies, among other things, the purpose of democratically electing regional heads is for the benefit of society in the nation and state, the interests are only for a few people and rulers.
- d. Sociological problems, the implementation of existing regional head elections, according to the Law on Regional Government as a legal basis that is always changing, and not steady in the Indonesian constitutional system, has reduced public trust in law and government in general and regional government in particular.

The election of regional heads is a complicated, unique and tedious job in the Unitary State of the Republic of Indonesia, because the implementation of regional head elections cannot only be seen from the electoral system, but is also important to ensure the harmonization of the President's (government) relationship with the regional heads (regions). In the 1945 Constitution, the identity of the Unitary State of the Republic of Indonesia lies in Article 4 paragraph (1), reads in full: "The President of the Republic of Indonesia holds government power according to the Constitution". There is no state institution other than the president who is assigned to administer the government. The president holds control of government from the center to the lowest.

Administration of government is not interrupted but hierarchical. However, the administration of government based on the 1945 Constitution determines the implementation of the principle of decentralization which gives birth to autonomous regions. The debate arose later in the context of regional autonomy, namely whether the president had a hand in determining Kdh or not at all, except for administrative functions. This has never been consistent in any laws governing regional autonomy.

The election problem is how to choose the right system to maintain a balance between the interests of harmony between the president and the head of the region, and to maintain the interests of regional participation in the context of regional autonomy. This problem is a consequence of the contents of the constitution, namely the 1945 Constitution. Before the 1945 Constitution was amended, it did not regulate elections at all. General elections are held by the government (because indeed there is no state institution assigned to organize them) by interpreting the provisions of Article 1 paragraph (2) of the 1945 Constitution which strictly adheres to the ideology of people's sovereignty and then based on Articles 2 and Article 19. Its embodiment is carried out through representative institutions the filling of membership is usually done through General Elections.

The election of regional heads used the 1945 Constitution before it was amended, the arrangements were left to the law, at that time there was hegemony of presidential power over the DPR. Regional head elections are placed as part of government activities. as a result of the hegemony that lasted too long and the weakening of democratization, causing dissatisfaction and a willingness to change it through amendments to the Constitution. Unfortunately, the amendments were made partially or not comprehensively. The Constitution was amended by not having a complete constitutional design as the building of the state to be drafted.

As an example of the juridical problems from the description above it is clear that the Law on Regional Government regulates Regional Head Elections, in the Indonesian constitutional system it has always been and always changes, both before the amendment to the 1945 Constitution, with the Law on Regional Government Number 22 Years 1948, Law Number 1 of 1957, Presidential Decree Number 6 of 1959, Law Number 18 of 1965, Law Number 5 of 1974 and Law Number 22 of 1999. Likewise after the 1945 Constitution of the Republic of Indonesia, the existing changes regarding the Law on Regional Government, namely Law Number 32 of 2004 which underwent a second amendment to Law Number 12 of 2008, which essentially states that regional head candidate pairs are not only the authority of political parties or coalitions of political parties, but individual candidate pairs can also be displayed.

The regulation on the election of regional heads in Law Number 32 of 2004 makes Indonesia do not have a national post-conflict local election standard and subsequently fails to institutionalize the Pilkada system as stipulated in the 1945 Constitution. This difficulty was resolved by a decision of the Constitutional Court (MK) which no longer places the General Election Commission The regions (KPU) are responsible to the DPRD and Law Number 22 of 2007 which places the election of regional heads as part of the election and through the Constitutional Court's decision also regional head candidates may come from individuals.

In addition, in Law Number 8 of 2015 concerning Amendments to Law Number 1 of 2015 concerning the Stipulation of Government Regulations in Lieu of Law Number 1 of 2014 concerning the Election of Governors, Regents and Mayors to Become Laws concerning General Elections, there are complex norms, the emptiness of norms, the blurring of norms.

The Conflict of Norms can be seen in Article 109 of Law Number 8 of 2015 concerning General Elections in conflict with Article 11 of KPU regulations Number 3 of 2016 and in Article 57 (3) of Law Number 8 of 2015 concerning General Elections in conflict with Law Number 42 of 2008 concerning Presidential Elections and Law Number 8 of 2012 concerning Legislative Elections, as well as Article 27 (1) of the 1945 UUDNRI, and Article 7 paragraph (2) letter g conflicts with letter i of Law Number 10 of 2016 concerning local elections.

Meanwhile, in the absence of norms in the regional election law, it is found that there are no criminal sanctions that regulate anyone who will give money or promise something to influence voters and in Article 109 paragraph (1) and paragraph (2) of Law Number 8 of 2015 contains the element of void norms, where if there is equal vote acquisition and equally distributed voter support which must be taken as the winner, so it needs to be regulated in the law.

Meanwhile, the blurring of norms can be seen in Article 7 paragraph (2) letter "g" and letter "I" Law Number 10 of 2016 concerning local elections contains a blurring of norms where ex-convicts may become candidates as long as they are honest and openly convey to the public that the person concerned is a convict but in letter "i" stipulates that those who may run for office are those who have never committed a disgraceful act as evidenced by a Police Record Certificate (SKCK). This is a blurring of norms and even a conflict of norms.

Thus, based on the descriptions above, the author is interested in researching the development of regional head election arrangements in the democratic system in Indonesia, it is important to study and analyze the various problems that arise, especially regarding the shift in democratic values, from the registration stage to the determination of the results. the election turned out to be a lot culminated in court.

Based on the thoughts that have been described above, the problem can be raised, namely how is political influence in the regional head election system in Indonesia?

B. Discussion

1. The Role of Political Parties in a Democratic System. Peranan Partai Politik dalam Sistem Demokrasi.

Political parties have a very important position (status) and role (role) in every democratic system. The party plays a very strategic liaison role between government processes and citizens. Many even argue that it is political parties that actually determine democracy, as stated by Schattschneider (1942), "*Political parties created democracy*". Therefore, the party is a very important pillar to strengthen the degree of institutionalization in every democratic political system. In fact, Schattschneider also said, "*Modern democracy is unthinkable save in terms of the parties*".

However, there are also many critical and even skeptical views of political parties. The most serious of them stated that the political party was actually nothing more than a political vehicle for a group of elites who had power or intended to satisfy their own 'lust' for power. Political parties only function as a tool for a few lucky people who succeed in winning the voices of the people who are easily deceived, to force the enactment of certain public policies 'at the expense of the general will' (Rousseau, 1762) or the general interest (Perot, 1992).

In a democratic country, the position and role of each state institution must be equally strong and control each other in a "checks and balances" relationship. However, if these state institutions do not function properly, their performance is not effective, or their authority is weak in carrying out their respective functions, then what often happens is that greedy or extreme political parties dominate and control all processes. implementation of government functions.

Therefore, a good party system determines the functioning of a constitutional system based on the principle of "checks and balances" in a broad sense. On the other hand, the effective functioning of the state's institutional functions according to the principle of "checks and balances" based on the constitution also greatly determines the quality of the party system and democratic mechanisms developed in a country. All of this is of course closely related to the dynamics of the growth of traditions and culture of free thinking in social life. This tradition of thinking or freedom of thought in turn influences the growth and development of the principles of freedom of association and assembly in the dynamics of the life of the democratic society in question.

Of course, political parties are just one form of institutionalization as a form of free expression of ideas, thoughts, views and beliefs in a democratic society. Apart from political parties, other forms of expression are also incarnated in the form of freedom of the press, freedom of association, or freedom of association through non-political party organizations such as Non-Governmental Organizations (NGOs), community organizations (Ormas), non-governmental organizations (NGO's), and so forth.

However, in relation to the activities of the state, the role of political parties as media and vehicles is certainly very prominent. Apart from other factors such as a free press and the role of an enlightened middle class, and so on, the role of political parties can be said to be very decisive in the dynamics of state activities. Political parties, however, play a very important role in the dynamic process of the struggle for values and interests of the constituents they represent to determine policy in the context of state activities.

It is political parties that act as intermediaries in state decision-making processes, connecting citizens with state institutions. According to Robert Michels in his book, "*Political Parties, A Sociological*

Study of the Oligarchical Tendencies of Modern Democracy", "... organizations ... are the only economic or political means to shape collective will"⁹.

The chance of success in any interest struggle depends very much on the level of togetherness in the organization. The level of togetherness is organized in an orderly and orderly manner in carrying out joint struggles among people who have the same interests who are members of the organization concerned.

Therefore, it can be said that being organized is an absolute and essential prerequisite for every political struggle. In this way, it must also be acknowledged that the role of party organizations is very important in the dynamics of the institutionalization of democracy. With the existence of an organization, the struggle for common interests becomes stronger in the face of opponents or rivals, because small and fragmented forces can be consolidated on one front.

The process of institutionalizing democracy is basically determined by the institutionalization of political party organizations as an integral part of the democratic system itself. Therefore, according to Yves Meny and Andrew Knapp¹⁰, "A democratic system without political parties or with a single party is impossible or at any rate hard to imagine". A political system with only 1 (one) political party is hard to imagine being called democratic, especially if there are no political parties at all.

According to Yves Meny and Andrew Knapp, the level or degree of political party institutionalization itself depends on 3 (three) parameters, namely (i) "its age", (ii) "the depersonalization of organization", and (iii) "organizational differentiation".¹¹ Every normal organization grows and develops naturally according to its own time stages. Therefore, the older the age, the more institutionalized the ideas and values in the organization become the tradition within the organization.

Organizations that are increasingly institutionalized tend to experience a process of "depersonalization". Insiders and outsiders alike are aware of and treat the organization in question as an institution, and do not mix it up with personal or private issues of individuals who happen to be its administrators. Many organizations, even though they are very old, have not built a tradition in which the personal affairs of the management are completely separated from organizational matters. In this case, it means that the degree of institutionalization of the organization as an institution is still not strong, or more specifically, it has not been institutionalized as a strong organization.

If this is related to the reality that is happening in Indonesia, there are many social organizations whose management is still very "personalized". Large organizations in the religious field, such as Nahdhatul Ulama, Muhammadiyah, and others with varying degrees, still show strong or even very strong symptoms of personalization. There are many organizations in the youth sector, in the social sector, and even in the education sector, which are still 'personalized', even though the degrees are different. In fact, because of the 'personalized' nature of the organization in question, many of them disbanded soon after their chairman died.

Symptoms of "personalization" are also seen when an organization experiences difficulties in succession or change of leadership. Said by Monica and Jean Charlotte,¹²

⁹ Robert Michels, *Partai Politik: Kecenderungan Oligarkis dalam Birokrasi*, Penerbit Rajawali, Jakarta, 1984, p.23.

¹⁰ Yves Meny and Andrew Knapp, *Government and Politics in Western Europe: Britain, France, Italy, Germany*, third edition, Oxford University Press, 1998, p. 86.

¹¹ *Ibid* p. 7.

¹² Monica and Jean Charlot, 'Les Groupes Politiques dans leur Environnement' in J. Leca and M. Grawitz (eds.), *Traite de Science Politique*, iii (Paris: PUF, 1985), 437; in *Ibid.*, p. 89.



“Until a party (or any association) has surmounted the crisis of finding a successor to its founder, until it has drawn up rules of succession that are legitimate in the eyes of its members, its ‘institutionalization’ will remain precarious”.

As long as an organization has not been able to overcome the crisis in changing its leadership, and has not succeeded in laying down a regulatory basis that can be recognized and trusted by its members, then during that time the institutionalization of the organization is still problematic and cannot be said to be strong. Moreover, if the change relates to a leader who is a founder who has contributed to the organization concerned, it is often difficult to carry out an orderly and peaceful change. However, the degree of institutionalization of the organization concerned depends on how the problem of replacement can be carried out in an "impersonal" and "depersonalized" way.

If we use this "personalization" parameter to evaluate social organizations and political parties in our homeland today, of course there are many organizations with varying degrees that not all of them are institutionalized in a "depersonalized" way. Pay attention to how parties such as the Golongan Karya Party (GOLKAR), the National Mandate Party (PAN), the Indonesian Democratic Party of Struggle (PDIP), the National Awakening Party (PKB), the United Development Party (PPP), the Crescent Star Party (PBB), and etc. Some were accompanied by divisions, some were not at all successful in holding congress forums, national congresses or congresses.

In addition to the two parameters above, the degree of organizational institutionalization can also be seen in terms of "organizational differentiation". What needs to be seen is how far the social organization or political party in question has managed to organize itself as an instrument to bolster the support of its constituents. In a democratic system with many political parties, various competing aspirations and political interests in society require proper distribution through the institutionalization of political parties. The greater the support that can be mobilized by and channeled its aspirations through a political party, the greater the potential for said political party to be called properly institutionalized.

To guarantee its ability to mobilize and channel the aspirations of the constituents, the organizational structure of the political party concerned must be structured in such a way that the widest possible range of interests in society can be accommodated and accommodated. Therefore, the internal structure of political parties is important to be properly structured. On the one hand, it must be in accordance with the needs for mobilizing support and channeling constituent aspirations. On the other hand, the organizational structure of political parties must also be adjusted to the ideal form of government organization according to the vision of political parties that are asked to provide their support to constituents. The more suitable the internal structure of the party organization with the needs, the higher the degree of institutionalization of the organization concerned.

In general, political scientists usually describe the existence of 4 (four) functions of political parties. The four functions of political parties, according to Miriam Budiardjo, include: (i) means of political communication, (ii) political socialization, (iii) means of political recruitment, and (iv) conflict management. In terms of Yves Meny and Andrew Knapp, the functions of political parties include the functions of (i) mobilization and integration, (ii) a means of forming influence over voting behavior (voting patterns); (iii) means of political recruitment; and (iv) means of elaborating policy options;

The four functions are equally related to one another. As a means of political communication, parties play a very important role in efforts to articulate interests or "political interests" that exist or are sometimes hidden in society. These various interests are best absorbed by political parties into ideas, visions and policies of the political parties concerned. After that, the ideas and policies or policy

aspirations are advocated so that they can be expected to influence or even become official state policy material.

Related to political communication, political parties also play an important role in carrying out political socialization. Strategic ideas, visions and policies that are the choices of political parties are socialized to constituents to get 'feedback' in the form of support from the wider community. Related to this political socialization, the party also plays a very important role in the framework of political education. It is the party that becomes the 'intermediate structure' which must play a role in grounding the ideals of statehood in the collective consciousness of the citizenry.

For example, in the context of the need to promote awareness of a constitutional state, parties can play an important role. Of course, the important role of political parties in this case, should not be interpreted that only political parties have the exclusive responsibility to popularize the Constitution. All circles, and even political leaders who sit in public positions, especially executive government leaders have the same responsibility for this. What I want to emphasize here is that the role of political parties in the framework of political education and political socialization is very large.

The function of the three political parties is a means of political recruitment. The party formed was meant to be a legitimate vehicle for selecting cadres of state leaders at certain levels and positions. Some of these cadres are directly elected by the people, while others are elected indirectly, such as by the People's Representative Council, or through other indirect methods.

Of course not all positions that can be filled by the role of political parties as a means of political recruitment. Professional positions in the field of civil service and other non-political appointments may not involve the role of political parties. Parties may only be involved in filling political positions and therefore require the appointment of officials through political procedures as well (political appointment).

In order to avoid confusion, it is necessary to properly understand the difference between positions of a political nature and those of a technical-administrative and professional nature. Within the ministry, there is only one position that is political in nature, namely the Minister. Meanwhile, ministerial assistants in the agencies they lead are civil servants who are subject to the laws and regulations in force in the field of staffing.

Positions are distinguished between state positions and civil servant positions. Those who occupy state positions are referred to as state officials. Supposedly, for simplicity, those who occupy civil servant positions are called civil servants. In state positions or civil servant positions, especially civil servants, there are known to be two types of positions, namely structural positions and functional positions.

The hierarchy of each position has been determined very clearly in the context of career advancement. For example, structural position levels are arranged starting from echelon 5, 4, 3, 2, up to echelon 1. For functional positions, the position level is determined based on the nature of work in each work unit. For example, for lecturers in tertiary institutions the highest level is the professor. The levels below are associate professors, head associate professors, associate head associate professors, lecturers, associate professors, associate associate professors, and expert assistants, assistant associate experts, assistants. In other fields, both the level and the nomenclature used are different depending on the field of work.

For the filling of positions or the recruitment of state/state officials, either directly or indirectly, political parties can play a role. In this case, the function of political parties in the context of political

recruitment is considered important. Meanwhile, for the filling of state positions as mentioned above, parties should be prohibited from getting involved and involving themselves.

The fourth function is to regulate and manage conflicts that occur in society (conflict management). As mentioned above, the values (values) and interests (interests) that grow in people's lives are very diverse, complex, and tend to compete and collide with each other. If there are many political parties, these diverse interests can be channeled through the polarization of political parties which offer different ideologies, programs and alternative policies.

In other words, as a regulator or manager of conflict (conflict management), the party acts as a means of aggregation of interests which channels the various different interests through party political institutional channels. Therefore, in Yves Meny and Andrew Knapp's category, the function of conflict management can be associated with the integration function of political parties. The party aggregates and integrates these various interests by channeling them as well as possible to influence state political policies.

2. The Role of Post-Reform Political Parties

In the early period of independence, political parties were formed with broad degrees of freedom for every citizen to form and establish political parties. In fact, there were also many independent candidates who appeared on their own as participants in the 1955 election. The multi-party system continued to be practiced until the beginning of the New Order period from 1966. During the 1971 election, the number of political parties was still quite large. But in the 1977 election, the number of political parties was limited to just three. In fact, officially there are only two political parties, namely PPP and PDI. Meanwhile, Golkar is not referred to as a political party, but only a work group.

It was only during the reform period that freedom of party was reopened and suddenly the number of political parties increased sharply in accordance with the level of diversity found in Indonesia's pluralistic society. This multi-party system is certainly very difficult for the implementation of a presidential government system to work effectively. This was evident in the government that was formed during the reform era, starting with the BJ government. Habibie, Abdurrahman Wahid's government, and Megawati's government up to the current SBY government volumes 1 and 2. The need to accommodate the interests of many political parties to guarantee the support of a majority in parliament greatly complicates the effectiveness of the government, including the current SBY-Boediono government.

However, in the future, especially starting from the 2014 election, of course the situation will change for the better. In line with the stages of consolidating the political system carried out in response to the many bitter experiences during the ten-year reform period, the Constitutional Court has decided on an important policy, namely the general election with the most votes system as the system that is considered most in line with the intent of the 1945 Constitution to regulate the implementation general election.

A further implication of the majority vote system is of course that in the future (starting in 2014), the role of individual representatives of the people will become increasingly important. Meanwhile, the role of political parties as an organization in determining serial numbers is becoming less and less important. In the long term, anyone who wishes to become a representative of the people must be closer to the people than spending time being an administrator of a political party which is expected to guarantee the obtaining of candidate numbers with small numbers.

The positive consequences are (i) the people's representatives will be closer to the people and therefore will guarantee more representation of people's aspirations in people's representative institutions, and (ii) the management of political parties will develop to become more professional. Being an official of a political party is no longer attractive. What is even more important is how to make yourself known to potential voters so that at the next election, you can get a greater chance of being elected. A further consequence is that political parties will be better cared for and managed by their management, not only at the time of the election but throughout the five years of their working period the administrators must be active in making political parties close to the people. Thus, the institutionalization of political parties in our democratic system in the future can be expected to develop even stronger, and in this way the future of our democracy can be expected to grow more and more healthily.

These are some of my suggestions for the board of the National Mandate Party. If future trends can be properly and precisely anticipated, then Partai Amanah Nasional will grow and develop healthily. The potential for this party to develop is wide open. In the midst of the collapse of other parties in the face of competition with the SBY party, the decline in PAN's seats can be said to be very slight, even insignificant. This means that PAN's performance in the 2009 election was quite good. Because of this, the current strength can be further enhanced in the future, especially in the face of the 2014 election. However, if future trends are not properly anticipated by the National Mandate Party Management, then of course this will also affect the existence of the reform party. this is in the future.

3. Political Participation in Regional Head Elections

⁴⁵ Political participation according to Samuel P. Huntington and Joan M. Nelson is "activity by private citizens designed to influence government decision-making."¹³ Dengan terjemahan "Kegiatan warganegara yang bertujuan untuk mempengaruhi kebijakan pemerintahan." Sedangkan partisipasi politik menurut Herbert McClosky yaitu:¹⁴

¹⁵ Political participation is "the term political participation will refer to those voluntary activities by which members of a society share in the selection of rulers and, directly or indirectly, in the formation of public policy, with translation: voluntary activities of community members through which they take part in the process of electing rulers, and directly or indirectly, in the process of forming public policy.

In general, there are two reasons that influence voters in determining the use of their right to vote, namely political awareness and trust in the government (political system).¹⁵ Political awareness is understood as awareness of rights and obligations as citizens. This is related to one's knowledge of the social and political environment which concerns the person's interest and attention to the social and political environment in which he lives. Meanwhile, trust in the government is understood as a person's evaluation of the government. Is the government considered trustworthy and influenced or not. Political awareness and trust in government are not independent factors. These two factors will still be influenced by other factors, such as social status and economic status, political affiliation and organizational experience. This variable is called the influence variable or independent variable, while political awareness and trust in the government are categorized as intervening variables. While political participation itself is categorized as an affected variable or dependent variable.¹⁶

¹³ Samuel P.Huntington and Joan M.Nelson, 1976, *No easy choice: Political participation in developing countries*, England: Harvard University Press, p. 3

¹⁴ Miriam budiarjo, *op cit*, p. 367.

¹⁵ Ramlan Surbakti,1992, *Memahami Ilmu Politik*, Grasindo, p. 144.

¹⁶ *Ibid*, p. 144

General election is an instrument of democracy to measure the democratic process. General elections can describe how the legitimacy of the succession of government leaders is obtained through the political participation of citizens voting in general elections. The quality of general elections can be seen from the level of political participation. The political participation rate shows that citizens understand the existing political problems and want to participate in general election activities. The low participation rate shows that citizens do not care about the problems faced by the nation. In addition, Huntington said that the country's economic growth rate affects the level of political participation. A high growth rate of a country will create an upper social class whose level of political participation is higher than that of a lower social class.¹⁷ More educated citizens tend to create a character of trust, satisfaction and competence to encourage citizen participation.

4. The Effect of Political Configuration on Patterns of Regional Head Election Arrangements

Political configuration is defined as the composition or constellation of political power which is dichotomously divided into two diametrically opposed concepts, namely democratic political configuration and authoritarian political configuration.¹⁸ A democratic political configuration is an arrangement of a political system that opens opportunities for full people's participation to actively participate in determining public policies. This participation is determined on the basis of a majority by the people's representatives in periodic elections which are based on the principle of political equality and are held in an atmosphere of political freedom. Democratic political configurations tend to produce responsive/populist legal products. An authoritarian political configuration is an arrangement of a political system that allows the state to play a very active role and take almost all initiatives in making state policy. Authoritarian political configurations tend to produce conservative/orthodox/elitist legal products.

Based on a study conducted by Moh. Mahfud MD regarding political configuration on the character of legal products, that there are variations in the influence of political configurations on the character of legal products. This means that the level of influence of certain political configurations to produce the character of certain legal products is not always the same or not absolute. It was explained that the orthodox character of a legal product born from an authoritarian political configuration, for example, could be different from the orthodox level of another legal product from the same political configuration. The difference in the level of influence or variation is determined by the existence of an "intermediate variable", namely the relationship of power. The conclusion from the study is that certain political configurations will give rise to the character of certain legal products which will be increasingly significant for legal products that regulate power relations or *gezagsverhouding*.

Based on the configuration submitted by Moh. Mahfud MD above, the author tries to analyze the influence of political configurations on the pattern of local head election arrangements.

1. Konfigurasi Politik Responsive/Populistik.

This configuration occurred in 1945-1959 (Liberal Democracy). The law that was in effect during this period was Law Number 1 of 1945 concerning the Position of the Regional National Committee which adhered to dualism of governance in the regions because the regional head was positioned as an organ of the autonomous region as well as a central organ in the region. Law Number 1 of 1945 concerning the Position of the Regional National Committee adheres to the principle of formal autonomy, in which this law does not regulate matters belonging to the regional household because it only

¹⁷ Samuel P. Huntington, *op cit*, p. 67-68.

¹⁸ Moh. Mahfud MD, *Politik Hukum di Indonesia*, (Jakarta: Rajawali Pers, 2011), p. 30

determines the KNID as DPRD together with the regional head to regulate and manage regional households as long as they do not conflict with regulations higher area.

Law No. 22 of 1948 that regional government consists of the DPRD and the Regional Government Council (DPD) which are chaired by the Regional Head. Governance in the regions is carried out collegially and the regional head is not a separate operating unit because he is included in the DPD structure, namely as chairman and concurrent member. Although the appointment of regional heads is carried out by the central or higher regional governments, Law Number 22 of 1948 is far more democratic and responsive because the DPRD is given the role to nominate regional heads and propose their dismissal. In addition, the DPD is responsible to the DPRD.

History records that Indonesia has changed its constitution twice, namely the 1949 RIS Constitution and the 1950 UUDS. The 1950 UUDS adheres to a parliamentary system, Indonesian people can channel their aspirations freely through parties. The parties will fight for it freely also through the people's representative body. Thus the political configuration at this time shows more responsiveness. What is often called liberal democracy creates excesses in the form of continuous social conflicts. Political stability is almost non-existent, so the cabinet is barely able to function.¹⁹ If this is viewed from the point of view of the workings of the pillars of democracy, it will be seen: First, the role of parties through parliament is very dominant. Second, the role of the executive or cabinet was very weak, so that it could be said to be almost non-functional, and Third, the life of the press was relatively freer. Where party life in this period was still based on the Government Decree dated November 3, 1945 which adhered to a multi-party system which was later reflected in power in parliament (DPR). However, changes to the Indonesian constitution became one of the reasons that Law Number 22 of 1948 could not be implemented as a whole, which in the end the government wanted to change Law Number 22 of 1948 for the implementation of decentralization so that it resulted in Law Number 1 of 1957 concerning Principles Local government.

In Law Number 1 of 1957 concerning Fundamentals of Regional Government, regional heads are elected according to the provisions of Article 23, namely directly elected by the people from those who are close and known to the people, but before the Regional Head Election law was enacted, for a while the elections by the DPRD. So the central government does not interfere in appointing regional heads because in principle regional heads are fully autonomous regional tools, regional heads are not central tools and their position is independent of the center. In terms of the appointment of regional heads, this shows that the political configuration at this time was responsive/populist.

Konservatif/ortodoks/elitis.

The political configuration in the guided democracy era was in 1959-1967. This period was marked by tug-of-war between the three main political forces. The three main political forces referred to are: Soekarno, the Army, and the PKI, which among the three simultaneously took advantage of each other. Soekarno needed the PKI to face the army's mighty rival, the PKI needed Soekarno to get protection from the President against the Army, while the Army needed Soekarno to gain legitimacy for his involvement in politics.²⁰ From this tug of war Soekarno's position was politically the most powerful so that in a guided democracy Sukarno could transform himself into an authoritarian leader. Along with these conditions and in the context of restructuring the administration of regional government, this was marked by the issuance of Presidential Decree Number 6 of 1959 concerning Regional Government based

¹⁹ Moeljarto Tjokrowinoto, *Beberapa Pokok Pikiran tentang System Kepartian di Indonesia*, (Yogyakarta: Seksi Penerbitan Fakultas Sospol UGM, 1968), p. 8

²⁰ Rex Mortimer, *Indonesia Communism under sukarno: ideology and politics*, (Ithaca, cornell University press, 1974), hlm. 366-367. Lihat juga dalam Mohtar Mas' oed, *ekonomi dan struktur politik orde baru 1966-1971*, Jakarta: LP3ES, 1989), p. 30



on the concentration of power in the hands of the center. Regional heads are appointed by the center, without having to be bound by the candidates proposed by the DPRD. This means that if none of the candidates submitted by the DPRD are accepted, then the center can appoint other people besides the candidates submitted by the DPRD (in Article 14 paragraph (1) of Presidential Decree Number 6 of 1959 concerning Regional Government). Therefore this Presidential Decree creates a dual function, namely; First, the regional head as a central tool supervises the running of government in the region besides the DPRD which in carrying out its duties is assisted by the Daily Government Agency (BPH). Second, the regional head in his position as an independent regional tool is not responsible to the DPRD and cannot be dismissed by the DPRD either.

Act No. 18 of 1965 concerning Fundamentals of Regional Government as a substitute for Presidential Decree No. 6 of 1959 concerning Regional Government can be said to continue Presidential Decree No. 6 of 1959 concerning Regional Government. The government system remains centralized, although there have been changes in the outline of the relationship between the regional head and the DPRD. If according to Presidential Decree Number 6 of 1959 concerning Regional Government the regional head, because his position is the chairman of the DPRD, then according to Law Number 18 of 1965 concerning Principles of Regional Government, the regional head is no longer the chairman of the DPRD, even though the DPRD leadership must be responsible for the implementation the duties of the regional head. Thus, central control over the regions through regional heads as an extension of the center becomes even stronger. With the centralization of power in the hands of the center, both Presidential Decree Number 6 of 1959 concerning Regional Government and Law Number 18 of 1965 concerning Fundamentals of Regional Government, the character of the legal products can be qualified as conservative/orthodox/elitist laws.

Konservatif/ortodoks/elitis

The election of regional heads in the 1966-1998 period (New Order) was based on Law Number 5 of 1974 concerning Principles of Governance in the Regions which in principle stipulates that regional heads are appointed by the President for District I and by the Minister of Home Affairs for Region II from a minimum two candidates elected by the DPRD. In determining one of these candidates, the President and the Minister of Home Affairs are not bound by the rating of the votes in their respective DPRD. This means that the one who gets the most votes does not have to be appointed, because in the final stage the determination is the prerogative of the President (which for the head of a Level II Region is carried out by the Minister of Home Affairs).²¹ Konservatif/ortodoks/elitis/responsive.

During this reform period, the domination of DPRD authority as indicated by Article 18 and Article 34 of Law Number 22 of 1999 concerning Regional Government as well as Government Regulation Number 151 of 2000 concerning Procedures for Election, Ratification, Appointment and Dismissal of Regional Heads are not pro-people, reflecting more favor of members of the DPRD. It is as if they are permitted by and in the name of law, to capture the aspirations of the people, especially regarding the regional head figure that the community wants.²² Therefore, it can be said that the political configuration at this time gave birth to conservative/orthodox/elitist legal products. So that through changes to the constitution in 1999-2002, the development of political configurations with a democratic political system gave birth to increasingly responsive legal products, this can be seen through the direct election of regional heads. So from this explanation it appears that the changes that have occurred to the regional head election system are strongly influenced by the regime in power.

²¹ Ateng Syafrudin, *Pasang Surut Otonomi Daerah*, (Jakarta: Binacipta, 1985) p. 36-37

²² Nover Ali, *Tuntutan Rakyat Dalam Pemilukada*, dalam Satoto dkk, *Pemilukada di Era Otonomi Berlayar Sambil Menambal Lubang di Kapal*, PK2G Jateng 2003-2008, (Semarang: DPRD Jateng kerjasama dengan CV. Aneka Ilmu, 2003), p. 178

Oleh karena itu konfigurasi politik pada masa ini dapat dikatakan melahirkan produk hukum konservatif/ortodoks/elitis.

Conclusion

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Based on the results of the discussion that has been analyzed on the issues raised which have been presented in the Discussion, it can be concluded that, among other things, political influence in the regional head election system in Indonesia has a very important position (status) and role (role) in every democratic system. The party plays a very strategic liaison role between government processes and citizens. In fact, it is political parties that determine democracy, so that parties are very important pillars to strengthen the degree of institutionalization in any democratic political system. A good party system determines the functioning of a constitutional system based on the principle of "checks and balances" in a broad sense. On the other hand, the effectiveness of the functioning of state institutions according to the principle of "checks and balances" based on the constitution also greatly determines the quality of the party system and democratic mechanisms developed in a country, so that political parties are only one form of institutionalization as a form of expression of ideas. It is the thoughts, views, and beliefs that are free in a democratic society and political parties that act as intermediaries in the process of making state decisions, connecting citizens with state institutions. Political configuration is defined as the composition or constellation of political power which is dichotomously divided into two diametrically opposed concepts, namely democratic political configuration and authoritarian political configuration. A democratic political configuration is an arrangement of a political system that opens opportunities for full people's participation to actively participate in determining public policies. This participation is determined on the basis of a majority by the people's representatives in periodic elections which are based on the principle of political equality and are held in an atmosphere of political freedom. Democratic political configurations tend to produce responsive/populist legal products. The influence of political configuration on the pattern of local head election arrangements can be seen from the 1945-1959 period (Liberal Democracy), the 1959-1967 period (Guided Democracy), the 1966-1998 period (New Order) and the Reform Order period.

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