

Dynasty Politics in Legal Perspective

Abdul Ukas Marzuki¹

¹Fakultas Hukum, Universitas Muhammadiyah Luwuk, Indonesia

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Corresponding Author:

Author Name*: Abdul Ukas Marzuki

Email*:

abdulukasmarzuki@gmail.com

Abstract: *Dynasty politics has hurt and injured democracy in Indonesia. The rise of this practice creates injustice in society due to the lack of transparency in the government process. This research aims to see how dynastic political issues are reviewed from a legal perspective. The research method uses normative juridical research with a legislative and conceptual approach. The results of the research conducted show that political dynasties in Indonesia have begun to flourish and have taken root in local governments. The rise of political dynasties in Indonesia is due to the absence of firm law enforcement for political actors who perpetuate this power. This is also exacerbated by the weakness of laws and regulations that regulate political dynasties in Indonesia.*

Keywords: *Democracy, Dynasty Politics, Rights*

INTRODUCTION

Indonesia as one of the largest countries in Southeast Asia uses a legal system based on democratic principles¹. Indonesian democracy is based on the principles of people's sovereignty, freedom of opinion, and respect for human rights². The implementation of democracy is carried out in various aspects ranging from general elections, the role of political parties, press freedom to the opportunity for citizens to be actively involved in the world of politics. The democratic system is contained in the mandate of the 1945 Constitution of the Republic of Indonesia in article 1 paragraph (2) which states that sovereignty is in the hands of the people and is implemented according to the 1945 Constitution³.

The real implementation of democracy in Indonesia is manifested in simultaneous general elections which are carried out to determine future leaders who will run the

wheels of government. At this stage, people have the freedom to become voters or become people chosen by the people to become leaders in their regions. This event is often known as the people's "democratic party" to elect the President and Vice President, legislative members at the central and regional levels, regional representative councils, Regional Heads ranging from Regency to Province to Village Heads⁴. However, in reality, the freedom of the people was confined because of the existence of political dynasties. Political dynasties are hereditary leadership within the confines of close families that are often found in national and local elections which can in essence interfere with the consolidation of democracy⁵.

Political dynasties consolidate their power by continuing to try to dominate power in a region. This group is a group of people who have the ability to influence the political decision-making process, allowing them to access power easily or compete for it⁶. The

¹ Purnamawati, Evi. "Perjalanan Demokrasi di Indonesia." *Solusi* Vol 18. No. 2, (2020), hlm. 251

² Nuna, Muten, and Roy Marthen Moonti. "Kebebasan Hak Sosial-Politik Dan Partisipasi Warga Negara Dalam Sistem Demokrasi Di Indonesia." *Jurnal Ius Constituendum* Vol 4. No. 2, (2019), hlm 110.

³ Undang-Undang Dasar Negara Republik Indonesia Tahun 1945 Pasal 1 ayat (2)

⁴ Idris, F., and D. Jaya Wardana. "Aspek Hukum Presidensial Threshold Dalam Pemilihan Presiden Dan Wakil Presiden Di Indonesia". *UNES Law Review*, Vol. 5, no. 4, (2023), hlm. 2508

⁵ A Bathoro, 2011, "Perangkap Dinasti Politik Dalam Konsolidasi Demokrasi," *Jurnal FISIP UMRAH* Vol. 2, No. 2 Hlm.15–25.

⁶ 2 M Mietzner, *Indonesia's 2009 Elections: Populism, Dynasties and the Consolidation of the*

group retains its power by appointing family members to replace him as leader⁷. Political dynasties will create political gaps and opportunities for every citizen who has the desire to participate in the political process. This action is of course contrary to the principle of justice in the legal perspective that has been regulated in laws and regulations. Political dynasties will lead to the abuse of power which will open up opportunities for corruption, collusion and nepotism⁸.

The Political Dynasty is increasingly lasting because the law enforcement that should regulate and supervise is not properly implemented. The government's inability to enforce the rule of law decisively provides room for elite groups to continue to strengthen and expand their power without fear of legal repercussions. This creates an environment in which corrupt practices and abuse of authority become increasingly difficult to eradicate, so that democracy is increasingly threatened and society becomes a victim of systemic injustice.

METHODOLOGY

This research is normative juridical research with a legislative approach and a conceptual approach. This study was carried out by analysing the laws and regulations on the legal issues discussed in the research.

RESULT AND DISCUSSION

History of Dynasty Politics in Indonesia

Dynasty politics is historically reviewed as a phenomenon that has existed since the Kingdom era and has grown and developed in Indonesia. Until the colonial period, this practice became more prevalent because the VOC used this political system to control indigenous leaders and was quite

effective in controlling Indonesia at that time. This political system then continued until the independence period, namely during the Old Orde and New Orde periods. This dynastic political system then continued until the independence period, including the Old Orde era led by President Soekarno, and continued into the New Orde period under the administration of President Soeharto. During the Old Orde period, political dynasties were seen in various forms of patronage and power relations involving family and close relatives. Meanwhile, during the New Orde period, the practice of dynastic politics became increasingly structured and systematic, with many close family members and relatives of President Soeharto holding important positions in the government and the business sector. This phenomenon created a strong and impenetrable network of power, which lasted until the 1998 reforms.

During the New Orde led by President Soeharto, he once made a controversial policy because he appointed his daughter Siti Hardiyani Rukmana (Tutut) as a member of the MPR. He was also appointed Minister of Social Affairs at the end of Soeharto's administration and had great influence on social and economic projects. In strengthening the political dynasty, Soeharto also appointed Regional Heads who came from his closest people and generally came from the ABRI. Soeharto used his proximity to the military and security forces to control and maintain power. Many family members and relatives are given important positions in military and security institutions. This power network strengthened the position of Soeharto and his family, making them virtually untouched by the law and criticism during his reign⁹.

President Soeharto also made the dominance of the Golkar party to become the House of Representatives. During the Soeharto administration, the Golkar Party played the role of the main political vehicle that supported its power. Many members of this party had personal or family ties to Soeharto, which helped maintain their loyalty and

Party System (Lowly Institute: For International Policy, 2009).

⁷ Sari, Fatimah Kurnia, et al. "Fenomena Dinasti Politik Dalam Perspektif Hukum Tata Negara." *Al-Hakam Islamic Law & Contemporary Issues* 3.1 (2022), hlm. 19.

⁸ Darmansyah, Ramlan, Siti Desma Syahrani, and Zulfa Harirah. "The Image of Political Dynasty in Filling the Administrative Position." *Journal of Political Issues* 2.1, (2020), hlm. 34

⁹ Crouch, Harold. *The Army and Politics in Indonesia*. (Ithaca, NY: Cornell University Press, 1985), hlm. 200.

influence within the party. The involvement of the Soeharto family in the political system in Indonesia has made many policies that only benefit one party¹⁰. This made the practice of Corruption, Collusion and Nepotism flourish at that time¹¹. This made the community angry and demanded reform.

Reforms that are expected to provide justice and resolve gaps in the political system in Indonesia cannot be eliminated. Dynastic politics, which in the past was centralized, has now begun to take root in the local government. This shows that political practices involving the dominance of families or kinship relationships in political decision-making, the placement of public officials, and the control of political resources, have not only occurred at the national level but have also reached local governments. Political dynasties, which previously focused on the national political elite, are now seen at various levels of local administration, with significant impacts on governance and political dynamics at the regional level. One of the political dynasties that was quite lasting in exercising its power was the Chasan Sochib Dynasty which was in the Banten Regional Government.

Based on research conducted by Azi Wansaka (2023), it shows that the Chasan Sochib Dynasty held several positions from time to time, namely as follows¹²:

1. Ratu Atut Chosiyah (son) became the Governor of Banten for two terms (2007-2013);
2. Ratu Tatu Chasanah (child) became the Deputy Regent of Serang for two periods (2010-2015) and 2016-2020);
3. Airin Rachmi Diany (son-in-law) became the Mayor of South Tangerang for two periods, (2011-2020);
4. Andika Hazrumy (grandson) became a member of the DPD RI from Banten Province for the

period (2009-2014), a member of the House of Representatives of the Republic of Indonesia Dapil I Banten for the period (2014-2016); and Deputy Governor of Banten for the period (2017-2022);

5. Andiara Aprilia Hikmat (granddaughter) became a member of DPD RI from Banten for the period (2014-2019);
6. Tubagus Khaerul Jaman (son) became the Mayor of Serang for the period (2013-2018);
7. Heryani Yuhana (5th wife) became a member of the Pandeglang DPRD for the period (2009-2011);
8. Ratna Komalasari (6th wife) became a member of the Serang City DPRD for the period (2009-2013);
9. Ratu Ella Nurlaella (niece) became a member of the Banten Provincial DPRD for the period (2009-2019);
10. Ade Rossi Khaerunnisa (grandson-in-law) as DPRD of Serang City for the period (2009-2014) and DPRD of Banten Province for the period (2014-2019);
11. Tanto Warsono Arban (grandson-in-law) as the Banten Provincial DPRD for the period (2014-2015);
12. Aden Abdul Khaliq (son-in-law) as a member of the Banten Provincial Parliament (2009-2012).

Until now, the issue of dynastic politics in Indonesia is still rarely discussed because it is often muted by powerful leaders. In essence, there is no system that justifies the existence of power on the basis of kinship relations. Political dynasties are contrary to democracy because they have limited the scope of democracy. The Constitution upholds every citizen to vote and be elected, so it is clear that dynastic politics has injured the concept of democracy that applies in Indonesia. Dynastic politics accommodates personal closeness

¹⁰ *Ibid.*, hlm. 180

¹¹ Jiddan Gamal Qondas. "Politik Dinasti ditengah Sistem Demokrasi: Menyimak Isu Republik Rasa Kerajaan." *The Republic: Journal of Constitutional Law* 2.1, (2024), hlm. 26

¹² *Ibid.*, hlm. 27

without looking at the abilities of the person appointed or appointed as a leader. Leaders who are incompetent in managing the government will of course be a threat.

Political Dynasties Reviewed from a Legal Perspective

Dynastic politics is considered unethical from the perspective of legal morality because it violates the principles of justice, equality and freedom. Dynastic politics can also trigger the abuse of political power in one family which will increase the risk of corruption and nepotism. Dynastic politics can also violate the principles of democracy and fairness in general elections. This is because the power that is in one family will ignore the principles of equality and healthy competition in the general election process¹³.

Political dynasties have the potential to nourish a corrupt culture in government. Public anxiety about this practice makes the government prohibit the practice of dynasties, this is done by prohibiting people who have relationships or relatives to participate in the General Election. This is contained in article 7 letter r of Law No. 8 of 2015 concerning the Regional Elections which states that "Indonesian citizens can be Candidates for Governor & Deputy Governor, Candidates for Regents & Deputy Regents, and Candidates for Mayor & Deputy Mayor are those who meet the requirements & do not have a conflict of interest in using the *Pertahana*". *Pertahana* means a person who does not have blood relations, marital ties or bloodlines unless they have passed a gap of 1 term of office.

The Constitutional Court also took firm action against the existence of political dynasties. This demand was then granted by the Constitutional Court by deleting the article "political dynasty" because it was considered contrary to the Constitution and the Basic Law of the Republic of Indonesia in 1945. At least there are human rights issues that have been

violated due to the existence of the "political dynasty" article, including¹⁴:

1. Article 21 of the 1948 United Nations Human Rights Code

a. Everyone has the right to participate in the government of his own country, either directly or through the intermediary of freely elected representatives.

b. Everyone has the same right to be appointed to a position in the government of his country.

2. Article 5 paragraph (1) of the Human Rights Law

Everyone is recognized as a personal human being who has the right to demand and obtain the same treatment and protection in accordance with his human dignity before the law.

3. Article 15 of the Human Rights Law

Everyone has the right to fight for their right to self-development, both individually and collectively, to build their society, nation, and country.

4. Article 43 paragraph (1) of the Human Rights Law

Every citizen has the right to be elected and vote in general elections based on equal rights through direct, public, free, confidential, honest, and fair voting, in accordance with the provisions of laws and regulations.

Political dynasties can be ended if there is policy reform, public awareness and changes in political culture. The perpetuation of political dynasties in Indonesia is due to the weak governing law and the lack of supervision in the field. The weakness of laws and regulations is used by some circles to expand their power. Freedom in politics is also a gap for political actors to be able to stay in power for longer.

¹³ Retno Mawarini dan Ceprudi. "Batasan Dinasti Politik Perspektif Moral Hukum." *Jurnal Ilmiah Hukum Dan Dinamika Masyarakat* Vol. 21 No.2 (2023), Hlm. 13.

¹⁴ Fatimah Kurnia Sari et al., Fenomena Dinasti Politik dalam Perspektif Hukum Tata Negara, *Journal Al-Hakam Islamic Law & Contemporary Issues*, Vol. 3 No. 1, (2022) Hlm. 24

Based on this, it is necessary to have the role of state institutions, community participation and build a healthy political culture. State institutions need to be active and independent in supervising and enforcing regulations related to the election of regional heads. The community must participate consciously and critically in the democratic process, especially in the election of regional heads. A healthy political culture must prioritize democratic values, such as diversity, tolerance, active participation, openness, accountability, and well-being.

CONCLUSSION

When viewed from a legal point of view, the practice of political dynasties is not directly prohibited by the 1945 Constitution or other legal regulations in Indonesia. Nevertheless, this raises questions about political justice, transparency, and conflicts of interest. State institutions have an important role in supervising and enforcing rules related to the election of regional heads and ensuring integrity in the political process. The active and critical participation of the community in the democratic process is also important to reduce the risk of political dominance of the family or dynasty. A healthy political culture needs to promote democratic values such as pluralism, tolerance, open public participation, accountability, and shared prosperity.

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