

DYNASTIC POLITICAL TRADITION IN CONSTITUTION

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Abstract

The politics of the dynasty actually experienced ups and downs in the pros and cons in society. Previously there were no rules governing dynastic politics. The birth of Law Number 8 year 2015 concerning the Election of Regional Heads was made as a law governing the dynastic ban. But the prohibition related to dynastic politics was later canceled by the Constitutional Court. The decision of the Constitutional Court is considered as part of the omission of dynastic politics. After the decision of the Constitutional Court overturned Article 7 letter (r) of Law Number 8 year 2015 concerning Election of the Regional Head, it has consequences. The consequence meant is dynastic politics which is constitutional and this cannot be denied. This means that the existence of political dynasties is not prohibited by legislation. Besides, dynastic politics also do not conflict with Human Rights.

A. INTRODUCTION

Politics by some people is considered as a way to gain power. In fact, many people are willing to sacrifice everything with politics to achieve or gain power. Ways to get power through politics are carried out in various ways. Controversy occurs when the way to get power is done by dynastic politics. Dynasty politics is political power controlled by people and relatives who still have family relations. In Indonesia dynastic politics actually existed and this had caused controversy related to dynastic politics. Many people think that dynastic politics can cause corruption. Although the causes of corruption are not only derived from dynastic politics and not always dynastic politics cause corruption. However, the existence of a dynasty point will expand the conditions for corruption because power is carried out by groups of family-related people (Saputra, 2017).

Basically dynastic politics are not prohibited by statutory rules. The decision of the Constitutional Court essentially cancels related to dynastic politics. Article 7 letter (r) of Law Number 8 of 2015 concerning Election of Regional Heads states that (Saputra, 2017):

"Indonesian citizens who can become Candidates for Governors and Candidates, Deputy Governors, Candidates for Regents and Candidates for Deputy Regents, and Candidates for Mayor and Candidates for Deputy Mayor are those who do not have a conflict of interest" (Saputra, 2017).

Words of interest according to the Explanation of Law Number 8 year 2015 concerning Election of Regional Heads are:

What is meant by "not having a conflict of interest with persons" is not having a blood relationship, marriage ties and/or lineage level straight up, down, next to the incumbent, namely father, mother, father-in-law, uncle, aunt, brother, sister, brother-in-law, children, daughter-in-law, unless they have passed a gap of 1 term (Saputra, 2017).

The Constitutional Court then in its decision considered that the article was contrary to the constitution. The Constitutional Court stated that the existence of a limit given to the family of the person who was serving as the regional head or the deputy regional head was actually inappropriate. The intended limit should be the limit to limit the Regional Head and Deputy Regional Head in holding power (Saputra, 2017).

Decision from the Constitutional Court then received responses from diverse communities. The assumption that political dynasties can cripple the recruitment system in political parties is also indisputable. Political parties will have the potential to think practically so they can gain votes to win victories against the candidates they carry on. This is because candidates who come from dynastic politics are usually well-known and have strong basics. So that political parties do not work too hard to win the contestation in general elections or regional elections (Prabowo, 2016).

The existence of pros and cons that occur related to dynastic politics does not really need to exist. This is because dynastic politics based on the Constitutional Court Decision are constitutional. The situation that must be done is to close the gap of corruption as a result of the dynastic politics. As mentioned, dynastic politics also have the potential to cause corruption. Therefore, there needs to be a way to reduce the potential for corruption caused by dynastic politics. This method does not mean having to eliminate dynastic politics. Since dynastic politics are legally valid. This method is a system so that dynastic politics do not cause corruption.

B. PROBLEM FORMULATION

1. What is the political position of the dynasty after the decision of the Constitutional Court
2. How can dynastic politics not cause corruption?

C. DISCUSSION

The Position of Political Dynasty after the Decision of the Constitutional Court

The politics dynasty actually experienced ups and downs in the pros and cons in society. Previously there were no rules governing dynastic politics. The birth of Law Number 8 year 2015 concerning the Election of Regional Heads was made as a law governing the dynastic ban. However, the prohibition related to dynastic politics was later canceled by the Constitutional Court. The decision of the Constitutional Court is considered as part of the omission of dynastic politics (Bayu, 2016).

It has been explained above that after the decision of the Constitutional Court overturned Article 7 letter (r) of Act Number 8 year 2015 concerning Election of Regional Heads, it has consequences. The consequence meant is dynastic politics which is constitutional and this cannot be denied. This means that the existence of political dynasties is not prohibited by legislation. Besides, dynasty politics also does not conflict with Human Rights (Saputra, 2017).

After the decision of the Constitutional Court, dynastic politics were clearly legal in Indonesia. Every person who is a family of the Regional Head or Deputy Regional Head has the right to nominate himself as a candidate for Regional Head and Deputy Regional Head in addition to fulfilling other requirements regulated by statutory regulations. Dynasty politics may grow in Indonesia. It depends on the Indonesian people who determine it.

The Indonesian people are given opportunity to make choices through general elections and regional head elections. If general elections and regional elections result in dynastic politics, then this is not a mistake of dynastic politics. This was the will of the people who wanted a political dynasty. Moreover, there is no prohibition on dynastic politics.

Ways that the Dynasty Politics Will Not Cause Corruption

The decision of the Constitutional Court stated that the dynasty politics does not conflict with the 1945 Constitution of the Republic of Indonesia, it, however, received various responses from the public. The diverse responses of the people related to dynastic politics continued to develop and caused much speculation. The pros and cons of the community are

related to dynastic politics after the decision of the Constitutional Court should be ended. What must be done after the decision of the constitutional court is related to dynastic politics is to make a way for dynastic politics to not cause corruption.

Indeed, so far corruption caused by dynastic politics has not been proven with certainty. This is only speculation in the community. But prevention efforts related to corruption arising from dynastic politics still need to be done. This situation needs to be done in order to ensure that dynastic politics do not cause corruption. Therefore a way is needed so that dynastic politics do not cause corruption. There are several ways that can be done so that dynastic politics do not cause corruption.

1. Note the nomination requirements

The first way that needs to be done to prevent dynastic politics from causing corruption is by tightening the nomination requirements. Tightening the nomination requirement is the nomination requirement when going to be the regional head. Candidates for the Regional Head and Deputy Regional Head have to tighten the conditions so that no one can advance as a regional head candidate. These conditions must not violate human rights. The concrete requirement that must be made by the prospective Regional Head and Deputy Regional Head before running for the position of Head of Regional and Deputy Regional Heads is to make a commitment. This commitment was made with the people in the area. So, the candidate for Regional Head and Deputy Regional Head make a commitment to the community. Fill in the commitment, namely stating that if elected as Regional Head and deputy Regional Head, it will not be corrupt. It needs to be done as part of commitment and moral responsibility to the people not to commit corruption. If this is done, the Regional Head candidates and deputy Regional Heads will have a moral burden and a political burden to the people to avoid corruption. If the prospective Regional Head and Deputy Regional Head are consistent with the commitments made by the Regional Head candidate and the Deputy Regional Head if later elected, they will not commit corruption. Even though the elected Regional Head and Deputy Regional Head are part of dynastic politics, it will not cause any problem.

2. Integrity Test and track record

The second way that must be done so that dynastic politics do not cause corruption is by conducting integrity tests and track records for Candidates for Regional Heads and Deputy Regional Heads. Before advancing as a candidate for Regional Head and Deputy Regional Head, the prospective Regional Head and Deputy Regional Head must first carry out an

integrity test and track record. The integrity test and track record is carried out by the General Election Commission together with independent community leaders. The integrity test and track record needs to be done so that the Candidates for Regional Heads and Deputy Regional Heads who will nominate themselves as Regional Heads and Deputy Regional Heads are known by the community of integrity and track record. So the task of carrying out the integrity test and track record is to find out the integrity and track record of the Candidates for Regional Heads and Deputy Chief of Staff. The integrity test and track record are carried out objectively so that the results obtained are also objective. The results of the integrity test and track record carried out for the Candidates of Regional Heads and Deputy Regional Heads are then submitted to the community to be made references. So the integrity test and the track record cannot cancel the Candidate for Regional Head and Deputy Regional Head to become the Candidate Regional Head and Deputy Regional Head. The integrity test and track record is only carried out so that the community gets references related to the integrity and track record of the Candidates for the Regional Heads and Deputy Regional Heads. If the integrity test and track record are carried out in an objective and detailed manner, it can be ascertained that the regional head general election will result in a Regional Head who has integrity and has a clean track record. This certainly becomes political education for the community when it comes to electing Regional Heads and Deputy Regional Heads. The integrity test and track record test will result in a Regional Head and Deputy Regional Head who have no corrupt behavior. Even though the Regional Head and Deputy Regional Head chosen are from political dynasties but if the Regional Head and Deputy Regional Head do not have corrupt behavior then this is not really necessary.

The two methods described above if they are shared together will result in a regional head and deputy regional head. The question is whether this method can be applied to the Election of Regional Heads and Deputy Regional Heads? The answer is 'it can be'. This is because these two methods do not cause legal consequences related to the cancellation of the Candidates for Regional Heads and Deputy Regional Heads. Although this method has no impact on the law related to the nomination of Regional Head Candidates and Deputy Regional Heads, the two ways have an impact on the moral of the Candidates for Regional Heads and Deputy Regional Heads. The moral impact caused by the Candidates for Regional Heads and Deputy Regional Heads will cause Candidates for Regional Heads and Deputy Regional Heads to rethink to advance in the Election of Regional Heads and Deputy Regional Heads. Candidates for Regional Heads and Deputy Regional Heads who have corrupt

behavior will think repeatedly before participating in the Election of Regional Heads and Deputy Regional Heads.

D. CONCLUSION

The political position of dynasties in Indonesia does not need to be pro and contra in society. The decision of the Constitutional Court essentially states that dynastic politics do not conflict with the 1945 Constitution of the Republic of Indonesia, making dynastic politics constitutional. This constitutional character signifies dynastic legal politics in Indonesia. The same concern is not directed at the political position of the dynasty. Attention should be given to find ways to prevent dynastic politics from causing corruption. There are two ways that are done, so that dynastic politics do not cause corruption. The two methods are first by implementing the nomination of the Regional Head and Deputy Regional Head strictly. Second is by conducting an integrity test and track record to the Candidates for Regional Heads and Deputy Regional Heads who will run as Regional Heads and Deputy Regional Heads. If these two methods are carried out, corruption will not occur. Although dynastic politics occur, the corruption will not occur if the method is implemented. So it is time for all Regional Heads and Deputy Regional Heads in the Indonesian state to be clean. Although the head of the region is likely in the future many will be part of dynastic politics but if the Regional Head and Deputy Regional Head in question have integrity and are clean of corrupt behavior then this is not a problem.

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