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The Authority of the Party Court in Resolving Internal Disputes of Political Parties in Indonesia (A Case Study of Golkar Party)

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ABSTRACT

In its development, political parties as organizations are always faced with a conflict that often leads to divisions. On that basis, the internal party settlement is then regulated in the political party law. In Law no. 2 of 2011, it is stated that the resolution of internal conflicts of political parties related to management is resolved by the Party Court and the decision is final. However, many conflicts that occur in political parties are not resolved, for example as happened to the Golkar Party. The research method uses normative juridical with a statutory approach. Based on the results of the study, there are several influential factors in the resolution of internal disputes within the Golkar party, including: 1. The unusual and multi-interpreted form and format of the decision from the Golkar Party Court does not solve the problem of internal disputes in the management of the Golkar party, 2. There is a tendency for the government to intervene in the internal affairs of political parties, in this case the Golkar party, by acknowledging one of the parties close to or supporting the government in the form of ratification of the management of political parties, 3. The neutrality of the membership of the Party Court from internal political parties is doubtful and there is a tendency to side with one of the disputing parties. 4. The even number of members of the Party Court when hearing the dispute over the management of the Golkar party creates problems when the number of those who support and reject it is the same or balanced.

ABSTRAK

Dalam perkembangannya partai politik sebagai organisasi senantiasa dihadapkan dengan suatu konflik yang tidak jarang berujung pada perpecahan. Dalam Undang-Undang No. 2 Tahun 2011 disebutkan bahwa penyelesaian konflik internal partai politik terkait dengan kepengurusan diselesaikan oleh Mahkamah Partai dan putusannya bersifat final. Tetapi walaupun demikian konflik yang terjadi pada partai politik banyak tidak terselesaikan sebagai contoh apa yang terjadi pada Partai Golongan Karya (Golkar). Metode penelitian menggunakan yuridis normative dengan pendekatan perundang-undangan. Berdasarkan hasil penelitian ada beberapa faktor yang berpengaruh dalam penyelesaian sengketa internal partai politik partai Golkar antara lain adalah 1. Bentuk dan format putusan dari Mahkamah Partai Golkar yang tidak lazim dan multi tasir justru tidak menyelesaikan masalah terhadap sengketa internal kepengurusan partai Golkar, 2. Adanya kecenderungan pemerintah ikut intervensi masalah internal partai politik dalam hal ini partai Golkar dengan cara mengakui salah satu pihak yang dekat atau yang mendukung pemerintah dalam bentuk pengesahan kepengurusan partai politik, 3. Keanggotaan Mahkamah Partai yang berasal dari internal partai politik diragukan netralitasnya dan ada kecenderungan memihak salah satu pihak yang bersengketa, 4. Jumlah anggota Mahkamah Partai yang berjumlah genap ketika menyidangkan sengketa kepengurusan partai Golkar, menimbulkan masalah ketika jumlah yang mendukung dan menolak jumlahnya sama atau berimbang.

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I. INTRODUCTION

In a country that adheres to a democratic system like Indonesia, the rights to associate, assemble and express ideas are part of the effort to create a strong united, sovereign, democratic and law-based nation that is guaranteed by the constitution. Through a responsible freedom, all citizens have the right to assemble and associate in order to realize their political ideals in real terms. Togetherness is a vehicle to achieve the goals of the nation and state so that all forms of challenges are easier to deal with. One of the forums for implementing this purpose is through political parties. Political parties can play an important role in fostering freedom, equality and togetherness as an effort to form a democratic nation and state. (Budiardjo, 2008). Political parties are very important pillars to strengthen their institutional degrees in every democratic political system. (Surbakti, 1994).

There is an interesting phenomenon after a decade of reform era of political party life in Indonesia marked by the presence of new parties. Several parties show character as *post-democratic* parties with a large role for entrepreneurs and the involvement of business networks as the main drivers. (Noor, 2017).

The Constitution of 1945, The Republic of Indonesia as the state constitution of Indonesia, has provided a firm guarantee in terms of freedom of association. Article 28E paragraph (3) of the Constitution of 1945, The Republic of Indonesia affirms that "Everyone has the right to freedom of association, assembly and expression". The provisions in Article 28E paragraph (3) contain a guarantee of freedom of association that is more assertive than the provisions in Article 28 which originates from the formulation of the Constitution of 1945, The Republic of Indonesia prior to the amendment.

Freedom of association can be understood as the freedom possessed by everyone to form an association together with others. There are many forms of associations, one of which, and which will be the focus of this paper, is political parties. The right to associate and assemble was later realized in the formation of Political Parties as one of the pillars of democracy in the Indonesian political system. (Chaidir & Suparto, 2017). In relation to the Constitution of a country, political parties are the institutionalization of the freedom of citizens to associate and assemble which has been guaranteed by the Constitution. That means, political parties function as providers of the right of every citizen to associate or assemble. (Suwito, 2017).

With this forum, they can fight for the values, beliefs or goals of a group of citizens more systematically and guaranteed by law. Although there is a guarantee from the constitution that every citizen has the right to form associations and one of them is in the form of a political party, the principles, activities or activities of these political parties must not conflict with the state ideology, namely Pancasila. If that happens, the government can apply for dissolution to the Constitutional Court.(Suparto, 2017).

According to Miriam Budiardjo, in general it can be interpreted that a political party is an organized group whose members have the same orientation, values and ideals. The purpose of this group is to gain political power and seize political position. (Budiardjo, 2008). Because the purpose of political parties is to gain and seize power, it is commonplace that internal conflicts and divisions often arise within political parties.

There are several factors that cause internal party conflicts to continue and occur repeatedly during the reform era, namely internal and external factors. Internal factors include party ideology, institutionalization of personal and oligarchic party leadership, and fluid party coalitions. While external factors are the ineffectiveness of the formal rule of law, as well as the combination of a direct election system, an open proportional system and an extreme multiparty system. (Budiarti, *et.al.*, 2017).

There are several laws that have been issued since the “Orde Baru” era until now related to political parties, namely Law no. 3 of 1975 concerning Political Parties and Working Groups, Law no. 3 of 1985 concerning Amendments to Law no. 3 of 1975 concerning Political Parties and Working Groups, Law no. 2 of 1999 concerning Political Parties, Law no. 31 of 2002 concerning Political Parties, Law no. 2 of 2008 concerning Political Parties and Law no. 2 of 2011 concerning Political Parties.

The last three laws have regulated how to resolve internal conflicts of political parties. In Law no. 2 of 2011 concerning Amendments to Law No. 2 of 2008 concerning Political Parties Article 32 paragraph (2) states that the settlement of internal political party disputes is carried out by a political party court or other designation established by political parties, and in paragraph (5) it is stated that the decision of the political party court is final and internally binding in the case of disputes relating to the management. The problem of party management is a technical problem that is rarely known to outsiders and if there is a dispute then the resolution is left entirely to the internal party is very appropriate, because the settlement through the court will prolong the problem. (Rachman, 2016).

Although the laws and regulations have clearly regulated it, disputes that occur within political parties sometimes drag on and go through a very long-time process. an example is, what happened to the Golkar party. In the case of the dispute over the management of the Golkar party between the Agung Laksono camp (Munas Ancol) and the Abu Rizal Bakri camp (Munas Bali) it has been processed at the Party Court and the Party Court has made a decision, however, the form of the decision is unusual and has multiple interpretations so it does not solve the problem. In addition to the Party Court, the Golkar party dispute also proceeds in the general court and the state administrative court.

The existence of dualism in the management of political parties does not only damage the internal conditions of conflicting political parties, but can also threaten the democratization process in Indonesia, especially elections, considering that many state institutions whose positions involve political parties. (Purba, 2017). Therefore, strengthening the institutionalization of the Political Party Court is a real effort in respecting the sovereignty and independence of political parties so that it will prevent dualism in the management of political parties. (Zakaria, 2016).

Based on this description, the formulation of the problem is that : How is the authority of the Political Party Court in resolving internal disputes of political parties in Indonesia (A Case Study of the Golkar Party) "

II. RESEARCH METHOD

In this study, the Authors used a normative legal research method with a statutory approach. The data used is secondary data, that is Law no. 2 of 2011, the ruling of the Golkar Party Court No. 02/PI-GOLKAR/II/2015 Regarding the Settlement of Internal Disputes of the Golkar Party and the Decree of the Minister of Law and Human Rights No. M.HH-07.AH.11.01 of 2014 dated October 28 and from the results of research, journals, books and related laws and regulations.

The secondary data is then classified and analyzed qualitatively, then the researcher performs an interpretation or interpretation and compares it with concepts and theories that are relevant to the research topic.

III. RESULT AND DISCUSSION

1. Settlement of Political Party Disputes According to Political Party Law

Institutionally, a political party is actually a civil legal entity founded by a group of people who have the same desires and goals, but are functionally public-oriented and become a forum for the struggle for political aspirations in government. For this reason, the institutionalization of political parties is important in creating the stability of a democratic government. In its development, political parties as organizations are always faced with a conflict that often leads to divisions. Party

institutions and instruments often fail to relocate the occurrence of the conflict so that it drags on and is prolonged. Party conflicts and divisions are not positive and productive things for the nation and state.

On that basis, the government and the House of Representatives (DPR) through their authority in terms of forming laws have regulated it, namely in the law on political parties. Starting with Law no. 31 of 2002, Law no. 2 of 2008 and the last with Law no. 2 of 2011. Even in Law no. 2 of 2011 stipulates that the resolution of internal conflicts of political parties is resolved by the party's internal organ called the Party Court.

In Law no. 2 of 2011 is regulated in articles 32 as follows : Article 32 1). Political party disputes are resolved by internal political parties as regulated in the AD and ART. 2). Settlement of internal political party disputes as referred to in paragraph (1) is carried out by a political party court or other designations established by political parties. 3). The composition of the political party court or other designations as referred to in paragraph (2) shall be submitted by the political party leadership to the Ministry. 4.) Settlement of internal political party disputes as referred to in paragraph (2) must be completed no later than 60 (sixty) days. 5). The decision of the Court of a political party or other designation is final and binding internally in the case of disputes relating to the management.

The birth and existence of the Party Court was motivated by the awareness and saturation of the party which was always entangled in a prolonged internal conflict. Several alternatives provided by the laws and regulations so far, both through the judiciary and outside the judiciary at that time often actually complicate and prolong the settlement time. This omission and boredom were then captured by the government and the House of Representatives (DPR) to form internal political party organs that could resolve internal party conflicts. Institutionally, the Party Court is the internal judiciary of political parties. The establishment of the Party Court which is ordered by law to position the party court functionally in the position of a state delegate placed in the party structure. (Susanto, 2017).

Although the laws and regulations have regulated how to resolve the internal conflicts of political parties, it turns out that the implementation is not as expected. Internal party conflicts, particularly those related to management, remain complicated and protracted. (Firdaus & Kurniawan, 2017). For example, the case can be presented with what happened to one of the oldest parties in Indonesia, namely the Golkar Party.

2. The Decision Result of Golkar Party Court

In the decision-making process, there were different opinions among the 4 members of the Golkar Party Court Council regarding the Principal Application, so that no unity of opinion was reached in resolving disputes regarding the legitimacy of the two Golkar Party National Conferences IX.

a. Members' Opinions of Party Court on behalf of Muladi and HAS Natabaya
   a) In connection with the cassation from the Respondents on behalf of Aburizal Bakrie and Idrus Marham as the Plaintiffs in Case No.8/Pdt.Sus-Parpol/2015/PN.JktBrt.in the District Court in West Jakarta, as stated in the Deed of Cassation Statement dated March 2, 2015 Number 83/Lawsuit, the Party Court is of the opinion that the Respondent Party has taken a stand to settle the dispute without having to go through the Party Court as formulated in Article 32 of Law no. 2 of 2011 concerning Amendments to Law No. 2 of 2008 concerning Political Parties, and this is in accordance with the Recommendation of the Party Court dated December 23, 2014 on point 3, that the dispute resolution of the Golkar party is taken through the District Court.
   b) Besides the above legal considerations, Members of the Party Court on behalf of Muladi and HAS Natabaya provide the following recommendations: (a) Avoid that the winner takes all (b) Dismissed rehabilitation (c) Appreciation for those who lost in management (d) The loser promises not to form a new

b. Members' Opinions of Party Court on behalf of Jasri Marin and Andi Mattalata
   a) The granting of authority by law to the Party Court to resolve political party disputes with results that are final and internally binding, especially with regard to management, because the Party Court consists of figures who understand the internal conditions of the party concerned.
   b) The granting of authority by law to the Party Court in such a way should be carried out very wisely and wisely by the Party Court so that it does not only consider the juridical aspect, but also considers socio-cultural and sociopolitical aspects in every settlement of political party disputes.
   c) There has been chaos in the implementation of the Golkar Party National Conference, at least in the last two periods, due to the tight time limit for the succession of the national leadership, starting from the general election to the inauguration of the President. The overlapping time certainly opens up opportunities for the birth of biased thoughts that can affect the independence of the Golkar Party's position in managing its internal leadership succession.
   d) To maintain the independence of the Golkar party in managing its internal leadership succession, the Golkar Party National Conference agenda should not coincide with the national leadership succession process and also consider sufficient time, at least 2.5 years for the Golkar Party Central Leadership Council (DPP) to prepare the party for facing election.
   e) By looking at the upcoming national political agenda, in the form of general elections, both legislative elections and presidential elections which will fall in 2019, the Panel of Courts is of the opinion that the leadership of the Golkar Party Central Leadership Council (DPP) must have preparations for the national political agenda, no later than October 2016.
   f) To prepare for the birth of the new leadership of Golkar in October 2016 which is able to bring the Golkar Party ready to enter the arena of the 2019 election competition, leadership is needed that is able to unite all potential parties in a democratic, aspirational, transparent manner, guided by the Law on Political Parties, the new paradigm of Political Parties and The Articles of Association of the Golkar Party, in particular the Chapter concerning Objectives, Main Duties and Functions
   g) The National Conference (Munas) of the Golkar Party IX which took place in Bali was held on November 30 to December 4, 2014 and gave birth to the General Chair who was elected by acclamation, but the process was felt to be undemocratic, not aspirational, not transparent, as mandated by law. - Law on Political Parties, a new paradigm for the Golkar Party which is incorporated in the Golkar Party Advisory Council as a result of the Riau National Conference and made this the main consideration so that the figures asked for a joint National Conference to be held
   h) The implementation of the Bali National Conference which was felt to be undemocratic, not aspirational, not transparent as a requirement required in party management by Law no. 2 of 2011 concerning Amendments to Law No. 2 of 2008 concerning Political Parties, in particular Article 13 and the values of the struggle of the Golkar Party which are formulated in the Articles of Association due to the partiality of the organizers revealed in the trial and acknowledged by Respondent III
   i) The IX Golkar National Conference which took place in Ancol, Jakarta with all its shortcomings and criticisms of its legitimacy has been carried out in a democratic, aspirational and transparent manner as evidenced by the election process which was followed democratically and openly by the candidates.

   Based on the opinion above, the dictum in the main petition is as follows:
   a) Granted the Petitioner's request in part to accept the management of the Golkar Party Central Executive Board as a result of the Ancol National Conference selectively under the leadership of Br. Agung Laksono, with the obligation to accommodate Golkar Party cadres from the

Central Executive Board of the Golkar Party as a result of the Bali National Assembly meeting the criteria for Achievement, Dedication, Loyalty, and Not Disgraceful (PDLT), with the main task of consolidating the party, starting with the Regional Conference (Musda) level Regency/City, Provincial level, and Golkar Party National Conference no later than 2016, simultaneously consolidating other party equipment.

b) Requesting the Party Court to monitor the consolidation process until it is completed in October 2016.

Regarding disputes that occur within the Golkar party, in fact, procedurally the dispute resolution is in accordance with what is regulated in the law. However, substantially there are several issues that need to be criticized, including who can become members of the Party Court and the number of members of the Party Court. According to the authors, ideally, the members of the Party Court should not be internal party members or administrators, this is to ensure the creation of neutrality and fairness. It is hoped that a fair and impartial decision can be reached. In the case of the Golkar party long before the Party Court made a decision, the public had assumed or considered that 2 members of the Party Court were on the ARB side (Muladi and HAS Natabaya), while the other 2 were on the side of Agung Laksono (Jasri Marin and Andi Mattalata) and after the verdict came out, what was previously assumed by the public turned out to be true, that 2 members had a tendency to win the ARB and the other 2 won Agung Laksono.

Another problem is the number of judges who are members of the Party Court who adjudicate cases of management disputes with the Golkar party is an even number (actually the number of members of the Golkar party court is 5 people but 1 person is unable to attend), this is indeed unusual in a court because there is a chance the judges agree and which cannot be balanced making it difficult to make a final decision. Even if the number is forced to be even, provisions should be made, for example, the vote of the chairman of the Party Court will determine if the result is a draw as applied to the Constitutional Court. In the future, what also needs to be considered is whether the organ of the Party Court will be equated with the judiciary, for example with the general court, religious court or something else. If so, then the party court must submit to the regime of judicial power so that it is necessary, among other things, to have a procedural law. Likewise, if the party court is only an internal party institution that is not subject to the rules of judicial power, then there should be no further mechanism that leads to the court. The procedural law for dispute resolution at the Party Court needs to be made as a guide for proceedings at the Party Court trial, for example what are the rules if a disputing party is not present at the examination hearing at the Party Court as happened in the Golkar party dispute trial where the Aburizal Bakrie camp was not present at the trial.

In addition to the issue of the number of members in the party court, another issue is the format and form of the decision of the party court, which according to the author is unusual and not standardized as a decision. The contents of the decision are also multi-interpreted and do not decide anything. Thus, the Golkar Party Court did not resolve the management dispute that occurred within the Golkar party. The Party Court by law has been given a strong position and authority with the nature of its decision being final and binding on the parties.

With such a decision of the Party Court, it is hoped that it can close or even narrow the possibility of a dispute being brought to court as has been the case so far. Thus, it is hoped that the internal disputes of political parties, especially those related to the management of political parties, are not protracted and prolonged. (Leonardo, Hasan, & Tasween, 2016). However, in article 33 of Law no. 2 of 2011 it turns out that the road is still open to proceed to court if in the settlement carried out by the Party Court there are parties who are not satisfied. In fact, it is necessary to know that the parties who are defeated or harmed by the decision of the Party Court must be dissatisfied and do not accept, so that it is certain that it will proceed to court and it is certain that it will drag on and

take a long time. This is contradictory to the original purpose of establishing an organ called the Party Court. (Permana, 2016).

Another problem in the case of the Golkar party is the approval of Agung Laksono's version of the management of the Golkar party by the Ministry of Law and Human Rights based on the decision of the Golkar party court. According to the author, this is a covert form of intervention carried out by the government. In fact, if you look at the decision, Agung Laksono's side did not win, but 2 people recommended that it be resolved in court and 2 more people won the Golkar side of Agung Laksono. So if it is considered that 2 members of the Party Court won the Golkar Agung Laksono camp, then the position is equal to 2, which is 2 to 2. The Ministry of Law and Human Rights should not immediately or immediately ratify the management of Agung Laksono's Golkar party, it would be more appropriate to wait for the results of the court's decision related to the lawsuit from Abu Rizal Bakrie against Agung Laksono's camp who considers the Ancol National Congress to have chosen Agung Laksono violated the law. The Ministry of Law and Human Rights is not an interpreting institution for decisions from the Party Court, because it is the task of the judiciary which is indeed given the authority by law to declare legal status for the sake of justice.

This was done by the government because Agung Laksono's version of Golkar was in the camp that supported Joko Widodo's government. The government should mediate and be neutral so that political party disputes do not drag on and be prolonged. After all, if political parties continue to have disputes, it will directly or indirectly disrupt national political stability which in the end will have a bad impact on the government. What is meant by being neutral here is that when Agung Laksono's Golkar camp proposed ratification of the management results of the Jakarta congress, the Ministry of Law and Human Rights did not immediately ratify it. Indeed, the Ministry of Law and Human Rights has attributive authority to ratify the management of political parties, but this authority must be exercised under normal circumstances or there are no disputes between the administrators of the political parties concerned. If there is still a dispute, the Minister of Law and Human Rights may not issue a decision until the dispute is resolved or has permanent legal force. (Susanto, 2017).

The government's proactive attitude to immediately ratify the management of Agung Laksono's Golkar party cannot be separated from political factors, namely the government's alignment with one side, because from the beginning Agung Laksono was a supporter of the government while Abu Rizal Bakri's camp was the opposite. This should have been avoided, because conditions like this actually caused the conflict within the Golkar party to be protracted and prolonged. However, the Golkar party is an old and large party so that it will be able to influence the political climate in the country and will more or less affect the running of the government.

IV. CONCLUSION

The position and authority of the Party Court is very strong because it is mandated by law, even for the resolution of internal political party disputes related to the management of its decisions are final, meaning that the decision is the final decision so that there is no further legal action. The nature of this kind of decision can be equated with the decision of the Constitutional Court. However, even though the decision of the Party Court was strong and final, in the case experienced by the Golkar party, the opposite happened so that the conflict dragged on. The causes include; 1). The unusual and multi-interpreted form and format of the decision from the Golkar Party Court does not solve the problem of internal disputes in the management of the Golkar party. 2). There is a tendency for the government to intervene in the internal affairs of political parties, in this case the Golkar party, by acknowledging one of the parties close to or supporting the government in the form of ratification of the management of political parties. 3). The neutrality of the membership of the Party Court from internal political parties is doubtful and there is a tendency to side with one of the disputing parties. 4). The even number of members of the Party Court when hearing the dispute over the management of the Golkar party creates problems when the number of those who support and reject it is the same or balanced.

It is highly expected that in the future the form and format of the decision of the Party Court and its procedural law are made standardly and evenly for all political parties in Indonesia, so that there will be no disparity and multiple interpretations. When there is no clear and final decision from the party court related to the dispute over the management of a political party or it is still being processed in court, the Ministry of Law and Human Rights should not ratify it. Ideally, the membership of the Party Court comes from external political parties and has an odd number.

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