

The Phenomenon of Political Dynasty in Regional Head Elections in Indonesia

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Abstract: Direct regional head elections (Pilkada) provide opportunities for civilian circles to become candidates for regional heads, but this has created a new problem, namely the rampant phenomenon of dynasty politics. This condition is quite concerning, not only because incumbent families participate in the replacement, but also due to the negative effects of the desire for power. Therefore, it is necessary to analyze why the phenomenon of dynasty politics emerges and its influence on the implementation of Pilkada. Additionally, it is important to analyze how this phenomenon is viewed from the perspectives of human rights, law, and justice. This is in line with the research objective, which is to analyze the causes of the emergence of dynasty politics and its influence on Pilkada, as well as to analyze the phenomenon from various perspectives. The research method used is socio-legal. The conclusion drawn is that the emergence of dynasty politics is due to the recruitment function of political parties not being based on quality and the weakness of regulations. This has consequences for the implementation of Pilkada, resulting in candidates who are of lower quality and competence. From a human rights perspective, the regulations regarding dynasty politics may indeed violate human rights, but considering the widespread phenomenon of dynasty politics, it is not excessive to establish rules similar to those previously included in Law Number 8 of 2015. From a legal perspective, election laws and political parties should also be improved. All of these efforts are intended to prevent the further spread of dynasty politics, as it can result in injustice for other individuals who wish to run for office.

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Introduction

Since the beginning of the reform era in 1998, following the New Order government, the procedures for regional head elections (governors, mayors, regents) in Indonesia have undergone fundamental changes after the issuance of Law Number 32 of 2004 concerning Regional Head Elections.

Prior to the enactment of this law, regional heads in Indonesia were indirectly selected by members of the Regional People's Representative Council (DPRD), rather than by the people. The dynamics of this change were motivated by various reasons, such as collusion between representatives (DPRD) and prospective regional heads (governors, mayors, and regents) (Suyatno, 2016). This phenomenon has led to political corruption and blurred accountability, as political elites eliminated transparency and instead fueled money politics (Suyatno, 2016).

The model of the election system through the DPRD was considered undemocratic, especially during the New Order era. During that time, although candidates for regional heads were indeed chosen by DPRD members, the decision had to be determined and approved by the central government. Mayors and regents had to obtain approval from the governor, while the governor had to obtain approval from the president (Yusyanti, 2015). In other words, the candidates for regional heads were selected by the DPRD but then submitted to higher-ranking government officials for appointment as regional heads. The Regional People's Representative Council merely acted upon the wishes of the central government, as the authority and rights to determine who becomes a regional head rested with the central government (Yusyanti, 2015), since regional autonomy during the New Order era was highly centralized.

During the New Order government, the majority of regional heads were predominantly active members of the Indonesian Armed Forces (ABRI), which is now known as the Indonesian National Defense Forces (TNI). During that time, due to the perceived importance of national stability, provinces that served as military regional commands (Kodam) such as North Sumatra (Kodam Bukit Barisan), South Sumatra (Kodam Sriwijaya), West Java (Kodam Siliwangi), and Jakarta (Kodam Jaya) rarely had civilian governors. Additionally, ABRI's involvement in government politics aimed to prevent political decisions that contradicted Pancasila, the Proclamation, and the 1945 Constitution of the Republic of Indonesia (Anwar, 2020).

All of this was due to the implementation of the concept of ABRI's dual function during the New Order government. This concept meant that ABRI, in addition to its role in maintaining national security, actively participated in all aspects of societal, national, and state life, including active involvement in socio-political affairs. The Indonesian Armed Forces, especially the Army, were highly privileged during the New Order government. In addition to being able to become regional heads, an ABRI officer could even become the CEO of a State-Owned Enterprise (BUMN) or a diplomat. Apart from being considered undemocratic, this type of election system closed the possibility for civilians to become regional heads or hold other civil positions. ABRI's involvement in politics during the New Order government was an implementation of ABRI's dual function.

With the euphoria of the reform era in 1998 and the transition from an authoritarian to a democratic government through four amendments to the 1945 Constitution of the Republic of Indonesia between 1999 and 2002 (Satrio, 2023). Criticisms and scrutiny of ABRI's dual function emerged within society. Various demonstrations, seminars, and media coverage at

that time tended to view ABRI as the institution most responsible for all political issues that arose after the New Order government. The rulers of the New Order were seen to have exploited ABRI's socio-political role to strengthen their existence as both heads of state and government. The implementation of ABRI's social and political functions was considered to have developed as a form of intervention in civil positions, including regional heads (Huda & Nasef, 2017)

The direct election of regional heads through the Regional Representative Council (DPRD) was gradually abolished shortly after the elimination of ABRI's dual function following the New Order government. This condition opened opportunities for various civilian groups to run for regional head positions. The direct election of regional heads is actually an interpretation of the phrase "elected democratically" stated in Article 18, paragraph (4) of the amended 1945 Constitution. Thus, after the enactment of Law Number 32 of 2004, the electoral process for regional heads in Indonesia began to undergo changes.

The determination of the method for appointing regional heads through direct elections, as adopted by Law Number 32 of 2004 on Regional Governance, was based on various political and state events, namely: 1) Direct elections had previously been implemented in the province of Nanggroe Aceh Darussalam based on Law Number 18 of 2001 on Special Autonomy; 2) The successful implementation of the direct election of the President and Vice President in 2004, which was carried out for the first time; 3) The official government draft for direct elections in the revision of Law Number 22 of 1999 on Regional Governance; 4) The recommendation in MPR Decree Number IV/MPR/2000 to conduct a fundamental revision of Law Number 22 of 1999 on Regional Governance.

Direct elections for regional heads provide opportunities for civilians to become candidates, as long as they meet the requirements stipulated by the law. However, this opportunity has led to a widespread issue, namely the prevalence of political dynasties. Political dynasties can be understood as a political power exercised by a group of individuals who are connected by family ties. According to A.G.N. Dwipayana, a lecturer in Political Science at the Faculty of Social and Political Sciences, Gadjah Mada University, this familial political trend is a symptom of neopatrimonialism, which has long been rooted in traditional patrimonial systems and emphasizes political regeneration based on genealogical ties rather than a merit system based on achievements (*Pengertian Politik Dinasti*, 2015).

The prevalence of political dynasties in Indonesia became evident after the New Order government. Throughout Indonesia, from Sabang to Merauke, one cannot escape the clutches of political dynasties. The phenomenon of incumbent regional heads or those currently in office "passing on" their positions to their family members, especially their children, is a familiar political occurrence nowadays. It has become commonplace for a father who is a regent to be succeeded by his child, or for a father who is a mayor to be succeeded by his child. The most severe case of political dynasty phenomenon occurred in Banten Province under the leadership of Governor Ratu Atut Choisyah.

Such a situation is quite concerning, not only because family members take over positions, but also due to the negative consequences of the desire for power, which often leads to issues in the public sphere (Junaidi, 2019). Instead of competing fairly and openly, the nomination and electoral processes often employ various methods as long as the family can hold power. It is even frequently observed that political dynasties give rise to corruption involving the family members of the incumbent officials.

Efforts to limit political dynasties legally were included in Law Number 8 of 2015 on Amendments to Law Number 1 of 2015 concerning the Determination of Government Regulation in Lieu of Law Number 1 of 2014 concerning the Election of Governors, Regents, and Mayors into Law. Article 7 letter r of the law states that candidates for regional heads should not have a conflict of interest with the incumbent. In the explanation section, it is mentioned that a conflict of interest refers to "not having a blood relationship, marriage ties, and/or direct lineal descent one level up, down, or sideways with the incumbent, namely father, mother, in-laws, uncles, aunts, siblings, siblings-in-law, children, and children-in-law, except after one term of office has passed."

However, through the process of judicial review, the Constitutional Court (MK) in decision Number 33/PUU-XII/2015 actually annulled the regulation regarding the limitation of political dynasties. The Constitutional Court deemed the limitation of political dynasties to be unconstitutional. The Constitutional Court also considered the article to be discriminatory as it restricts a person's right to engage in politics and participate in governance. According to the Constitutional Court, the issue of political dynasties does not lie in the regulations concerning their limitation, but rather in the lack of effective oversight in the implementation of regional elections, particularly those involving incumbent officials.

With the Constitutional Court's decision, the issue of political dynasties is not resolved; instead, it becomes more prevalent and is feared to undermine the social and political order of the Indonesian nation. Formally, direct regional elections do provide opportunities for individuals from all backgrounds to run for office. However, the presence of political dynasties closes off opportunities for others outside the circle of incumbent officials. Such a situation is unhealthy.

The issue of political dynasties is a broad problem, not limited to existing court decisions. Therefore, this issue is not solely a matter of formal legality but extends to social, political, and cultural concerns on a wide scale (socio-legal). The root causes of political dynasties must be identified to prevent their further expansion, as we can see the current consequences of this issue exacerbating the already acute problem of corruption in Indonesia. Political dynasties need to be viewed comprehensively, not solely based on human rights considerations. Other aspects must also be taken into account, including the concept of justice. The issue of political dynasties in regional elections in Indonesia is indeed interesting to discuss. Hence, the author is interested in exploring and analyzing it in this research.

Based on the above description, the author can formulate the research problem as follows: 1). Why does the phenomenon of political dynasties

emerge in direct regional elections in Indonesia?; 2). How does the phenomenon of political dynasties influence the implementation of regional elections in Indonesia?; 3). From the perspective of human rights, law, and justice, how should the phenomenon of political dynasties in regional elections in Indonesia be assessed? These issues are aligned with the objectives of this research, which are to analyze the causes of the emergence of political dynasties in the implementation of regional elections in Indonesia. Additionally, the research will analyze the impact of the phenomenon of political dynasties on the implementation of regional elections and examine the perspective of human rights, law, and justice regarding the increasingly prevalent phenomenon of political dynasties.

Research Method

The research method used in this study is socio-legal research. The socio-legal research approach incorporates legal, political, and historical perspectives. By employing these methods, the research problem can be analyzed. The data used in this study consists of both primary and secondary data. Primary data is obtained through interviews with constitutional law experts and relevant legislation related to the research topic. On the other hand, secondary data is derived from books, journals, papers, and other scholarly works that are relevant to the research. The data collection techniques used in this study include observation, interviews, and interpretation of primary and secondary documents related to the research. All collected data will be analyzed using concepts and theories relevant to the study, such as theories of justice and human rights. Furthermore, the data analysis in this research will be conducted qualitatively.

Discussion and Results

The emergence of the phenomenon of dynasty politics in direct regional elections (Pilkada) in Indonesia

The election of regional leaders is a moment for the people in the region who have the right to vote to democratically determine their local leaders. In addition, direct regional elections (Pilkada) conducted in Indonesia allow any individual who meets the requirements to run as a candidate for regional head. However, individuals aspiring to be candidates for regional head cannot directly and automatically run, but must go through a political party or a coalition of political parties.

It is a well-known fact that in order to run as a regional head candidate, one must have a budget to facilitate the endorsement of their candidacy through a political party. After obtaining such endorsement, a candidate for regional head must incur extra expenses during the campaign period. It is not an exaggeration to say that the cost of running for regional head is very high, and this can have implications once elected. The elected regional head is feared to misuse the authority of the Regional Budget (APBD) to cover the political expenses they have incurred during the campaign period (Kuswanto, 2020). To address this, the elected regional head, who subsequently becomes an incumbent (holding the position again), will then "inherit" their power as

regional head to their closest associates (children, spouse, in-laws, nieces/nephews). This phenomenon further nourishes the practice of dynasty politics in regional elections in Indonesia (*Pengertian Politik Dinasti*, 2015).

The emergence of dynasty politics can be attributed to the stagnation of political party cadres in recruiting qualified candidates for regional heads, thus creating political pragmatism by encouraging family members of regional heads to hold public or political positions (Effendi, 2018). This stagnation in cadreship is caused by the malfunctioning of political parties as a means of political recruitment.

Political recruitment is a logical consequence in a living and evolving political system of a country. In its implementation, political recruitment can occur through two methods: (Qodir, 2016), 1) Formal recruitment, where individuals occupy political positions recruited openly through general provisions and joint approval. This type of recruitment is usually carried out through selection processes or elections; 2) Informal recruitment, where individuals seek opportunities or are approached by others to hold certain positions within a political structure without going through an open process. This second method of recruitment is highly susceptible to dynasty politics and can cultivate power oligarchies. Thus, it is very likely to give rise to rent-seeking behavior motivated by economic interests (Novianto & Dessi Wulansari, 2023). In the context of state institutions, the term "rent-seeking" refers to the behavior of public officials in deciding the allocation of public funds, such as state and regional budgets, or policies aimed at the public, with the motivation of personal and group gains that may harm public interests in the short or long term (*Rent Seeking Para Pejabat Publik*, 2008).

The presence of oligarchy within political parties can also disrupt the proper mechanism of candidate selection and nomination. There has been a tendency for political parties to nominate candidates based on the desires of party elites, rather than through a democratic mechanism that considers the abilities and integrity of the candidates (Susanti, 2017). In a contextual sense, the community members who seek to maintain the status quo in their regions may encourage family members or close associates of incumbent regional heads to succeed them in power.

The Influence of Dynasty Politics on the Implementation of Local Elections in Indonesia

The prevalent phenomenon of dynasty politics has undoubtedly affected the implementation of local elections in Indonesia, and if left unchecked, it will have negative consequences. Dynasty politics can restrict political competition, exacerbate corruption, worsen poverty levels in society, and lead to abuses of power (Garces et al., 2021). A more detailed explanation of the negative impacts of dynasty politics includes: (*Pengertian Politik Dinasti*, 2015) 1) Transforming political parties into mere political machines can hinder their ideal functions (Budiardjo, 2008) reducing their focus to attaining power without any other objectives. In such a position, party recruitment, including the selection of candidates for regional leaders, is no longer based on merit or qualifications; 2) As a logical consequence of the first phenomenon, opportunities for the wider population, which may include

competent and qualified individuals, are closed off from becoming candidates for regional leaders. The circulation of power remains confined within the elite circles; 3) It becomes challenging to realize the ideals of democracy due to the absence of good and clean governance. The effectiveness of power oversight weakens, increasing the likelihood of abuses of power such as corruption and collusion. In summary, these effects of dynasty politics limit the functioning of political parties, hinder the participation of qualified individuals from the wider society, and impede the achievement of good and clean governance. To address these issues, efforts should be made to restore the ideal functions of parties, promote inclusivity in candidate selection, and strengthen power oversight mechanisms to combat corruption and abuses of power.

According to the concept of an ideal democracy, all eligible citizens should have a greater opportunity to participate in the political process. It means that there should be an open space for participation by the entire society in competing for political positions, including the position of regional leaders, in accordance with applicable laws and regulations. However, in reality, members of the general public who aspire to become regional leaders are still hindered by social rights and their status (meaning they lack kinship ties with the incumbent) as a result of the phenomenon of dynasty politics. If democracy entails political power or governance exercised by the people, for the people, and of the people, then this political dynasty has created political pragmatism by encouraging relatives of regional leaders to become public officials (Susanti, 2017). Thus, the presence of this dynasty politics influences the implementation of regional elections that are "flooded" with the participation of incumbents' relatives. This phenomenon can lead to injustice and even fraud, as incumbents often go to great lengths to secure victory for their relatives competing in the elections.

It is undeniable that dynasty politics, which foster political dynasties, has thrived since the end of the New Order government. In the book "Membongkar Gurita Cikeas" written by George Aditjondro, it is depicted how Indonesian politics, following the start of the reform era in 1998, is still marked by oligarchy, which tends to build political dynasties (Hady, 2018). In a contextual sense, dynasty politics is not only prevalent at the national level but also in local or regional politics. Currently, there are approximately dozens of regional leaders who have established local political dynasties through dynasty politics.

Dynasty politics, which leads to political dynasties, can also occur due to the strong role of political party leaders in local elections and the weak regulations surrounding this issue, particularly regarding the procedures for determining party cadres eligible to participate in legislative elections and regional elections. In several regions, political dynasties are built through dynasty politics in local elections. According to the Regional Autonomy Implementation Monitoring Agency (KPPOD), an independent institution monitoring the implementation of regional autonomy, there is a tendency for political dynasties to exist in 10-20% of all regions in Indonesia. This practice is particularly prevalent in the provinces of Banten, North Sulawesi, South Sulawesi, West Java, and other regions. The pattern is that after gaining

power, regional leaders hold the authority, incentives, and means to maintain their positions, and they prepare their family members to be nominated in both national and local legislative elections and to succeed them once their term as regional leaders ends. This is facilitated by the fact that regional leaders often also hold the position of party chairman in their respective regions. For example, there are eight families related to the former Governor of South Sulawesi, Syahrul Yasin Limpo (2007-2018), who obtained positions through elections, the majority of which were supported by the Golkar Party. The late Yasin Limpo was the founder of Golkar, and Syahrul Yasin Limpo served as the Chairman of the Regional Leadership Council (DPD) of the Golkar Party in South Sulawesi from 2009 to 2013 (Fitriyah, 2020).

The implementation of dynasty politics has the potential to result in the election of poor regional leaders and negatively affect the conduct of local elections that have taken place so far. Political party recruitments based on dynasty politics have the potential to overlook the personal qualities of candidates. This phenomenon has emerged due to the current prevalence of dynasty politics in Indonesia.

The phenomenon of dynasty politics in local elections in Indonesia, from the perspective of human rights, law, and justice, raises several concerns.

From the perspective of human rights

From the perspective of human rights, according to the Constitutional Court's decision number 33/PUU-XII/2015, (Fauzia, 2017) the prohibition of incumbent families from running for regional head positions is actually contrary to Article 28I paragraph (2) of the 1945 Indonesian Constitution. This article states that every individual is free from discriminatory treatment based on any grounds and has the right to protection against such discriminatory treatment. Furthermore, the prohibition of dynasty politics is also considered to be contrary to Article 28D paragraph (3) of the 1945 Indonesian Constitution, which states that every citizen has the right to equal opportunities in the government.

In addition to the 1945 Indonesian Constitution, the prohibition of incumbent families from becoming candidates for regional heads is also contrary to Article 21 paragraph (1) of the Universal Declaration of Human Rights of the United Nations in 1948 (Fauzia, 2017). Which states that everyone has the right to participate in the government of their own country, either directly or through freely chosen representatives. It also contradicts paragraph (2) of the same article, which states that everyone has the right to equal access to public office in their own country.

The prohibition of incumbent family members from becoming candidates for regional heads is not only considered to be contrary to the UDHR but also violates the provisions of Law Number 39 of 1999 on Human Rights, namely: 1) Article 5 paragraph (1), which states that every person is recognized as a human being with the right to demand and obtain equal treatment and protection in accordance with their human dignity before the law; 2) Article 15, which states that every person has the right to advocate for the development of themselves, both individually and collectively, to build their

nation and country; 3) Article 43 paragraph (1), which states that every citizen has the right to vote and be elected in elections based on equal rights through a direct, general, free, secret, honest, and fair voting process in accordance with the provisions of applicable laws and regulations.

Actually, in principle, it is not absolute to implement human rights in its entirety in a country. It does not mean that individuals are free to do whatever they want without considering the freedoms of others. In other words, the freedom possessed by individuals as citizens can be justified, recognized, and guaranteed by the state through the constitution as long as it does not infringe upon the freedoms of others. The rights held by individuals are not unlimited, but it does not mean that these rights can be exercised completely freely and absolutely. Similarly, the freedom of citizens towards their country needs careful regulation, and in certain situations, the state is granted the authority to limit the human rights of its citizens (Erfandi, 2014).

There are several fundamental aspects that can legitimize the state in imposing restrictions on the human rights of its citizens, including limitations as stated in the International Covenant on Economic, Social, and Cultural Rights. Limitations or restrictions are often applied to manage conflicts between one person's rights and the rights of others. For example, freedom of expression is a fundamental freedom in a democratic society, but it does not mean that someone is allowed to say anything to others that may violate their rights and freedoms (Erfandi, 2014). Therefore, such freedoms must have limitations to respect the rights of others, and these limitations must be incorporated into national laws and regulations. In the context of the prevalent political dynasty in Indonesia, it is appropriate to apply these limitations or restrictions. However, these restrictions must not be arbitrarily imposed and should have predetermined objectives specified in the governing laws. Restrictions on rights and freedoms can only be imposed to the extent necessary to fulfill legitimate purposes.

In fact, the restriction on incumbent family members from running in regional elections has been regulated in Article 7 letter r of Law Number 8 of 2015 on the Election of Regional Heads, as it is currently difficult to reform the recruitment function of political parties in Indonesia. It started with Law Number 2 of 1999, which did not systematically regulate how political parties determine their eligible candidates for legislative elections, and this also extended to regional elections. Without provisions governing the mechanism for party members to be nominated as candidates for political office or in regional elections, political parties can determine anyone as participants. In situations like this, long-serving members and dedicated cadres of political parties can easily be ousted by participants who provide registration fees or "bribes" (Amsari et al., 2020). In other words, in the context of regional elections, a candidate who is endorsed by a political party and is a party cadre can be excluded from running for regional head if a relative of the incumbent participates.

The indecisiveness of political parties in determining their eligible candidates for elections remains a problem, as seen in Law Number 2 of 2008, Law Number 31 of 2002, and Law Number 2 of 2011 concerning Political Parties. Due to the absence of regulations on this matter in the law, party

leaders can freely regulate it through the party's Articles of Association and Bylaws (AD/ART). Such internal party regulations create greater opportunities for both party members and non-members who are close to the party leadership to participate in elections. This also applies in the context of regional elections, where if the incumbent regional head is also a party leader, they can freely nominate a candidate from their family members. It is not surprising that such political dynasties are prevalent in various regions (Amsari et al., 2020).

In reality, Article 7 letter r of Law Number 8 of 2015 on the Election of Regional Heads does not prohibit family members of incumbents from running as regional heads; it merely imposes limitations. As known, human rights enshrined in the Indonesian Constitution (UUD NRI 1945) are further elaborated in specific laws regarding human rights. These human rights are balanced between the rights and obligations of individuals to create a harmonious life. Moreover, the human rights protected by the Indonesian Constitution restrict individuals in exercising their rights and fulfilling their obligations (Handayani, 2019). The limitations established by law, such as those stipulated in Article 7 letter r of Law Number 8 of 2015 on the Election of Regional Heads, solely aim to ensure recognition and respect for the rights and freedoms of others. It recognizes that individuals unrelated to the incumbent also have the right to run in regional elections. Furthermore, these limitations, as stated in Article 7 letter r of Law Number 8 of 2015 on the Election of Regional Heads, are meant to fulfill fair demands in accordance with moral considerations, religious values, security, and public order within a democratic society.

Unfortunately, the Constitutional Court (MK), in its ruling number 33/PUU-XII/2015, actually revoked Article 7 letter r of Law Number 8 of 2015 on the Election of Regional Heads. Therefore, this ruling serves as the formal legal basis for the practice of political dynasty through political dynasties in Indonesia. With the issuance of this ruling, the Constitutional Court has legalized the participation of family members of incumbents in regional elections, inevitably strengthening the practice of political dynasty in Indonesia.

After the issuance of Constitutional Court Decision Number 33/PUU-XIII/2015, there are no more legal instruments that can be applied to break the chain of political dynasty practices in Indonesia. Therefore, we can only rely on one function of political parties, which is as a means of recruitment and political education. To that end, the political party law needs to be revised to strengthen its function as a means of recruitment and political education. As mentioned at the beginning of this writing, the procedures and mechanisms for determining party members and non-members to participate in legislative elections or regional elections are not regulated in the political party law. Without provisions in the legislation governing the nomination mechanisms for party members in legislative elections and regional elections, parties can determine who can participate in elections, including regional elections. With such nomination mechanisms, political parties can be flooded by various parties, including family members of incumbents, who register as party members. Long-serving party members can easily be dismissed as long

as the candidates provide registration fees to the political party, commonly referred to as "mahar."

The lack of clarity in the mechanisms and qualifications for a party member or non-member to be nominated as an election participant is indeed a recurring problem in Law Number 2 of 2008, as amended by Law Number 2 of 2011, concerning Political Parties. Both laws only regulate the right of political parties to nominate candidates but do not specify the qualifications and mechanisms. Due to the absence of regulations in the legislation, party leaders can freely determine these qualifications and mechanisms through the party's articles of association and bylaws. Such internal regulations provide greater opportunities for party members or non-members close to the party leadership to participate in legislative elections or regional elections.

Given these facts, the general public, as prospective voters, should also be provided with political education. They need to be informed that candidates for regional heads and deputy regional heads who have the potential to build political dynasties or engage in dynasty politics should not be chosen. This is because political dynasties not only disregard democratic values but also have the potential for abuse of power. Moreover, in preventing the further spread of political dynasties through dynasty politics, the active role of mass media and online platforms is crucial. The media plays a significant role in providing more objective and rational information regarding the dangers of political dynasties in the democratic system in Indonesia.

From a legal perspective

The development of regulations regarding regional elections (pilkada) began with the Regional Government Law, which later separated the context of pilkada into its own specific law. The enactment of Law Number 32 of 2004 on Regional Government, as mentioned earlier, marked the initial implementation of direct pilkada by the people in 2005. Subsequently, the Law Number 22 of 2007 on General Elections Organizers came into effect, which included pilkada as one of the electoral systems. The Law Number 22 of 2007 was later replaced by the Law Number 15 of 2011 on General Elections Organizers. However, in 2014, the Indonesian House of Representatives (DPR) decided to revert to the indirect method of conducting pilkada, through the mechanism of elections by regional legislative council members. This decision faced significant opposition from the public, leading to the then-President, Soesilo Bambang Yudhoyono, issuing a government regulation in lieu of law (Perppu Number 1 of 2014 on the Election of Governors, Regents, and Mayors). This regulation was later passed as Law Number 1 of 2015 on the Election of Regional Heads, which was subsequently revised and became Law Number 8 of 2015 on the Election of Regional Heads.

After the issuance of Constitutional Court Decision Number 33/PUU-XIII/2015, which annulled the provisions of Article 7 letter (r) of the Law Number 8 of 2015 on the Election of Regional Heads, the phenomenon of political dynasties has become increasingly prevalent. The removal of Article 7 letter (r) became the starting point for the dynamics of democracy at the local level in Indonesia. The implication of the removal of this article allowed

a number of candidate regional heads with familial ties to incumbents to participate in the electoral contests held in 2015 and onwards.

In the 2015 and 2017 regional elections, around seventy and fourteen regions, respectively, had candidates who were indicated to have familial ties with the previous regional heads. This turned the electoral arena into a platform for strengthening the power of incumbent regional heads through candidates with familial relationships. The significant presence of candidates with direct familial ties in the 2015, 2017, and subsequent regional elections reflects how the ruling elites prevent the circulation or turnover of power, restricting it within their sphere of influence. This phenomenon directly narrows the dynamics of democracy at the local level over time. The government, as the policyholder, should reintroduce policies that can balance the competition in pilkada, which serves as a beacon of political democracy at the local level. Implementing democracy that considers the potential balance of power circulation at both the local and national elite levels will foster healthy competition for the development of democratic dynamics itself, thereby minimizing the presence of ineffective regional governments resulting from the dominance of incumbent power in local political contests.

From a legal perspective, it is necessary to address the laws on regional elections (pilkada) and political parties. This is important to prevent the rampant spread of political dynasties, as it results in injustice towards non-relatives of the incumbents who also aspire to become regional leaders. As Gustav Radbruch argued regarding law and justice, the value of justice should be the substance of legal rules, while legal rules should be the form that protects the value of justice. According to Radbruch, law, as the bearer of the value of justice, serves as a measure of the fairness or unfairness of the legal system. Radbruch posits that law must have three aspects: Firstly, the aspect of justice, which refers to equal rights before the law. Secondly, the aspect of finality, which refers to the goal of justice in advancing the well-being of human life. This aspect determines the content of the law. Thirdly, the aspect of certainty, which refers to the guarantee that the law (containing justice and norms that promote good) truly functions as rules to be obeyed (Tanya et al., 2019).

From the Perspective of Justice

From a perspective of justice, it is evident that political dynasties do not benefit or bring justice to individuals who are competent and aspire to become regional leaders, but lack access to the political sphere or do not have a family involved in politics. Political dynasties create opportunities that lead to an unhealthy political climate by sidelining potential candidates for regional leadership who possess the necessary capacity and integrity (Mihradi, 2021). Furthermore, political dynasties can foster oligarchy and serve as a gateway to corruption, collusion, and nepotism. For instance, if various policies made by incumbents are filled with discretion favoring their relatives, it can limit access to resources outside of the family network, thus jeopardizing democracy, which upholds fairness in competition (Mihradi, 2021).

Political dynasties only benefit one party, namely their own relatives or family, but are not fair to others. Unfortunately, Constitutional Court Decision No. 33/PUU-XIII/2015 disregards the substance of justice within political dynasties. The decision solely focuses on individual rights to compete in regional elections, overlooking equal access and the propensity for corruption practices within political dynasty environments. This should be part of the deconstruction of the Constitutional Court as a constitutional judiciary that upholds the constitutional dignity from the democratic practices in Indonesia (Mihradi, 2021).

Conclusion

The emergence of political dynasties in local elections in Indonesia is caused, among other factors, by the recruitment function of political parties, which often does not prioritize candidate quality, as well as weak regulations related to local elections. Consequently, the implementation of local elections is affected, resulting in the selection of less qualified and competent candidates as leaders. Candidates who are truly qualified and competent may be sidelined due to the practice of political dynasties.

From the perspective of human rights, regulations regarding political dynasties seem to violate human rights. However, considering the phenomenon of political dynasties in Indonesia, it is not excessive to establish regulations such as the provision previously contained in Article 7 letter (r) of Law Number 8 of 2015 concerning Regional Head Elections. This is because it is currently challenging to reform the recruitment function of political parties in Indonesia. Article 7 letter (r) does not prohibit family members of incumbents from running for regional head positions, but it sets limitations. From a legal perspective, it is crucial to improve regulations, including laws concerning local elections and political parties, particularly the reform of mechanisms for recruiting party cadres who will run in legislative elections, including for regional head positions. All of these measures are necessary to prevent the further proliferation of political dynasties in Indonesia, as they can lead to injustice against other individuals who also aspire to become regional heads.

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