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New Format Idea in Dissolution Application Political Parties in Indonesia

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Abstract

This research formulates several problems, namely: 1) why do reasons and applicants for the dissolution of political party in Indonesia need to be extended in the request?, 2) how is the ius constituendum of the stage of the application for the dissolution of political party in Indonesia? The research method used a juridical normative method by using a philosophical approach and a legislative approach. The results of the research show that corruption must also be included in one of the reasons for the dissolution of a political party, because corruption is a crime that can cause harm for the community. As for the extension of applicants, the urgency can be viewed from four factors. First, the principle of popular sovereignty that adopted by Indonesia. Second, the concept of rechtsstaat that adopted by Indonesia. Third, giving the government the role to be the only applicant in the application for dissolution of a political party will obstruct the process of supervision of political party carried out by the people. Fourth, one of the political party financial resources are from the APBN / APBD, so people reserve the right for the accountability of the use of APBD/APBN by political party. There are two stages in the constituendum of the dissolution of political parties in Indonesia, namely: 1) the stage of submitting an application to the Constitutional Court, 2) the stage of trial in the Constitutional Court. The trial stage consists of five stages: First, preliminary examination. Second, the follow-up trial. Third, the verification process. Fourth, Judicial Consultation Meeting (JCM). Fifth, the reading of the decision by the constitutional judges.

Keywords : Democracy, Corruption, Dissolution of Political Party

INTRODUCTION

The political party was first born in Western European countries. With the widespread idea that the people are one of the factors that need to be considered and included in the political process, political parties have been born spontaneously and have developed into liaisons between the community on the one hand and the government on the other (Budiardjo, 2008). At the beginning of its development, namely at the end of the 18th century in Western

countries such as England and France, political activity was mostly focused on political groups in parliament..

Suffrage moves so widely, so political activities also grow and develop outside the parliament. This can be seen from the formation of election committees whose task is to regulate the collection of votes for their respective supporters ahead of the election period. Because it was deemed necessary to gain support and sympathy from various elements of society, the political groups in the parliament were gradually trying to develop their organization. So, at the end of the 19th century, political parties were born which in the next period developed and functioned to bridge between the interests of the community on the one hand and the interests of the government on the other (Budiardjo, 2008). As the main pillar of democracy, political parties have a very important role, namely: (1) a means of political communication; (2) means of political socialization; (3) means of political recruitment; and (4) a means of conflict management. The four functions of political parties above are further elaborated into the objectives and functions of political parties in Law Number 2 of 2008 concerning Political Parties (Paputungan, 2020).

In its development in Indonesia, the formation of political parties has been guaranteed in Article 28 of the 1945 Constitution of the Republic of Indonesia (hereinafter will be abbreviated to the 1945 Constitution) which states that "freedom of association and assembly, expressing thoughts verbally and in writing and so on is determined by Constitution". Freedom of association and assembly to be able to form a group organization that supports a certain ideology, they struggle to realize the ideology in the life of the nation and state by obtaining and maintaining power to implement alternative general policies / government policies, the presence of group organizations such as political parties in the life of the nation and State is a form of freedom to gather and form a group organization (Finradost Yufan Madakarah, 2017)

Political parties are places for people to channel their various aspirations to the government, be it aspirations in the political, social, legal, economic, cultural and other fields. Political parties, which are essentially liaisons between the government and society, have a very important function in terms of making various regulations and policies, where the regulations and policies that will be made are solely for the benefit of the people. However, if the role of the political party is no longer in accordance with the original purpose of forming a political party, then the formation of the political party can be said to have failed. One clear example that can be seen from the failure of the formation of a political party is the rampant phenomena that occur where many cadres from a political party commit corruption. Examples are SN from the Golkar Party who was caught in the e-ID card case, AU; M N; AS from the Democratic Party involved in the Wisma Atlet (Hambalang) corruption case, SD; RZ; AM who comes from the Golkar Party where the three people are former Governor of Riau who was caught in a corruption case and there are many other examples. From this example, it can be seen that the phenomenon of corruption is very much carried out by political party cadres, so according to the author, the reason for corruption is very feasible to be included in one of the reasons for submitting a request for the dissolution of a political party..

Because political parties are a reflection of the freedom of association and assembly as a form of freedom of thought and freedom of expression, the existence of political parties is

highly protected through the constitution. in a constitutional democracy (Sri Hastuti Puspitasari, 2016). In addition to giving freedom to form political parties, the state can also limit its implementation by providing sanctions for violations of the prohibitions or restrictions on the activities of political parties that have been regulated in the legislation. The heaviest sanction for violations committed by political parties is the dissolution of the political party concerned by the Constitutional Court (Antari, 2014). The dissolution of political parties is basically believed to be a mechanism for supervising political parties. (Asshiddiqie, Freedom of Association: Dissolution of Political Parties and the Constitutional Court, 2005) The act of dissolving a political party is a follow-up to a political party that violates a prohibition that has been stipulated in the legislation or the constitution (Falady, 2020).

Talking about the dissolution of political parties, the state institution authorized to decide on the dissolution of political parties is the Constitutional Court. In Article 24C paragraph (1) of the 1945 Constitution it is stated that the Constitutional Court has the authority to adjudicate at the first and final levels whose decisions are final to examine laws against the Constitution, to decide on disputes over the authority of state institutions whose powers are granted by the Constitution, to decide disbanding political parties, and deciding disputes over the results of general elections.

In Article 68 of Act No. 24 of 2003, stated that the only government that has legal standing to apply for the dissolution of a political party is the government, the government referred to in the explanation of the article is the central government. Furthermore, in Article 68 paragraph (2) stated that the Constitutional Court requires the government as the applicant to clearly describe: (1) ideology; (2) principle; (3) purpose; (4) programs; and (5) the activities of a political party, all of which are contrary to the 1945 Constitution which is the reason for the political party to be dissolved. The implementation of the decision of the Constitutional Court regarding the dissolution of a political party is carried out by canceling the registration of the party with the government (Siahaan, 2012).

Since the Constitutional Court was established and given the authority to dissolve political parties, there has never been a political party dissolved by the Constitutional Court. This illustrates two things, namely the reason is limited to matters relating to opposing ideology and the constitution and the petition is only given to the government (Sri Hastuti Puspitasari, 2016). The reality on the ground is that at this time there are no political parties that violate the provisions of the legislation, but commit violations that are not regulated in the laws and regulations. One example can be seen with the acts of corruption that the author has alluded to above, where acts of corruption are not explicitly regulated in the laws and regulations relating to the dissolution of political parties. In fact, the phenomenon of corruption committed by political party cadres has occurred and has caused losses to the community. Because basically corruption is an extraordinary crime, so the reason for corruption should be considered as one of the reasons for submitting an application for the dissolution of a political party to the Constitutional Court.

In addition, giving a single role to the government which has legal standing to apply for the dissolution of political parties is considered inappropriate because basically Indonesia is a democratic country, where the main pillar of a democratic state is the people. If the people are

not given the same opportunity to participate as petitioners in terms of submitting applications for the dissolution of political parties, more and more political parties will continue to commit violations that are not regulated in these laws and regulations. For example, the government may protect the government's political parties that are indicated to be problematic, or vice versa, the government may propose the dissolution of political parties that are opponents of the government's political parties. (Sri Hastuti Puspitasari, 2016) Based on the description that the author has described above, it can be formulated several problem formulations as follows:

1. Why is it necessary to initiate a new format for the dissolution of political parties in Indonesia?
2. What are the stages of the ius constituendum application for the dissolution of a political party in Indonesia?

RESEARCH METHOD

This research belongs to the type of normative legal research, where the author will try to examine and examine various literary sources, such as books, journals, papers, magazines, newspapers and so on related to the object of research. While the nature of this research is descriptive, where the author will explain the reason why the author initiated a new format in terms of proposing the dissolution of political parties in Indonesia.

The research data in this study is in the form of secondary data where the data is obtained indirectly, but the data can provide information in answering the problems studied, in this case in the form of laws and regulations, court decisions, theories and/or expert opinions. related to research contained in books, journals, papers, magazines, newspapers, research results and electronic media such as the internet and various other types of documents.

This study uses the technique of collecting legal materials through the study of library documents, namely the activities of collecting and examining or tracing documents or literature that can provide information or information needed by researchers, (Syamsudin, 2007) both in the form of books, scientific journals, mass media and the internet as well as other references related to the object of research.

Associated with data processing in this study, which is only secondary data. Secondary data is library data and/or documents that will be classified according to the problem the author wants to study. So that in this secondary data, there is no need to process because secondary data is finished data obtained from various literature studies. Therefore, here the author only uses the data as expected in answering research problems.

After going through the data processing process, the next step is the data analysis process. The data that has been obtained from the literature study will be analyzed descriptively qualitatively, namely collecting and selecting legal materials according to the problems studied, then will be described so that it will produce a picture that is in accordance with the actual situation so that it can answer all the existing problems..

DISCUSS AND ANALYSIS

The Need to Initiate a New Format in Filing the Dissolution of Political Parties in Indonesia

Corruption is a criminal act committed by someone who holds power / strategic position in the government, usually the corruption they do is done by abusing the power or authority attached to their position. At this time corruption is no longer classified as an ordinary crime, but is classified as an extraordinary crime that occurs massively and is organized.

Government officials caught in corruption cases are members of a political party, of course this raises the question, why many political party cadres when holding positions in government are even involved in corruption cases. The presence of political parties is indeed a form of implementation of the rights to freedom of association and assembly and the right to express opinions. However, these rights and freedoms can be limited by making arrangements, including the dissolution of political parties.

With regard to the dissolution of a political party, the regulation can be seen in Article 2 of the Regulation of the Constitutional Court No. 12 of 2008:

1. The ideology, principles, goals, programs of political parties are contrary to the 1945 Constitution; and/or
2. The activities of political parties are contrary to the 1945 Constitution or the consequences thereof are contrary to the 1945 Constitution.

The several reasons for submitting a request for the dissolution of a political party that the author has described above, the reason for corruption is not included in the reason for submitting a request for the dissolution of a political party, even though the act of corruption has been carried out on a massive and organized basis by officials who hold positions in government with very nominal values. big. This act of corruption is very detrimental to the state, especially the community because the funds that should be used to build infrastructure, education, health, etc. are actually misused by these officials and the funds are used to finance personal interests or the interests of certain groups.

Corruption can cause suffering and misery for the people and is contrary to the constitution. This can be seen in the preamble considering the letters a and b the Act No. 31 of 1999 which states that:

1. Whereas the criminal act of corruption is very detrimental to state finances or the state economy and hinders national development, so it must be eradicated in the context of realizing a just and prosperous society based on Pancasila and the 1945 Constitution;
2. Whereas the consequences of criminal acts of corruption that have occurred so far in addition to harming state finances or the state economy, also hinder the growth and continuity of national development which demands high efficiency.

From the preamble to Act No. 31 of 1999, it can be seen that this act of corruption is indeed very detrimental to the state because it can hinder national development and the distribution of welfare which is actually mandated in the constitution. Because the impact of corruption is so extraordinary that it causes 2 (two) parties to suffer losses, namely the state and the community. Therefore, according to the author, this reason for corruption should be considered as one of the reasons for submitting an application to dissolve a political party.

The idea of using corruption as one of the reasons for submitting a request for the dissolution of a political party is also based on the fact that the majority who commit corruption are those from political parties. This can be seen from tabulated data released by the Corruption Eradication Commission (KPK), where in the period 2004-2014 there was an increase and decrease in corruption in several state institutions. The KPK qualifies those who commit criminal acts of corruption based on their profession and position as follows: (Putra, 2017)

Table

Jabatan	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014	Jumlah
Anggota DPR dan DPRD	0	0	0	2	7	8	27	5	16	8	3	76
Kepala Lembaga dan Kementrian	0	1	1	0	1	1	2	0	1	4	8	19
Duta Besar	0	0	0	2	1	0	1	0	0	0	0	4
Komisioner	0	3	2	1	1	0	0	0	0	0	0	7
Gubernur	1	0	2	0	2	2	1	0	0	2	2	12
Walikota / Bupati dan Wakil	0	0	3	7	5	5	4	4	4	3	9	42
Ekselon I/II/III	2	9	15	10	22	14	12	15	8	7	1	115
Hakim	0	0	0	0	0	0	1	2	2	3	2	10
Swasta	1	4	5	3	12	11	8	10	16	24	12	106
Lainnya	0	6	1	2	4	4	9	3	3	8	8	48
Jumlah Keseluruhan	4	23	29	27	55	45	65	39	50	59	45	439

Positions that are printed in black: are positions that can be obtained from political parties

Based on data released by the KPK, it can be seen that in the period 2004-2014, the majority of perpetrators of corruption were those who held positions as members of the DPR and DPRD, both of which came from political parties. This is because the positions of the DPR and DPRD have more opportunities to create a 'project' under the pretext of being aimed at development in various fields, for example in the fields of health, infrastructure, education, economy and others, all of which are for the benefit of the community. This is inseparable from the function of the legislative body itself, namely carrying out the regulatory function (legislation), carrying out the supervisory function (control) and carrying out the representative function (representation). (Asshiddiqie, Introduction to Constitutional Law Volume II, 2006).

The large number of political party cadres who commit corruption, further emphasizes that the reasons for this corruption need to be included in one of the reasons for submitting applications for the dissolution of political parties. An example is SN, who is from the Golkar Party, where he was involved in the e-KTP corruption case and is currently serving a sentence

in prison. In addition, there are high-ranking Democrat Party officials during the administration of Susilo Bambang Yudhoyono (2004-2014) who committed a lot of corruption and other examples. From this example, it can be seen that this corruption is a serious problem because it has often happened, therefore it also requires serious handling. This serious handling can be done by giving severe punishment to political parties, for example by disbanding the political party whose cadres are proven to have committed corruption, especially if those who commit corruption are the core management or high-ranking political parties such as the Chair, Deputy Chair, Secretary. and Treasurer. Because so far only political party cadres have been investigated, while political parties have not been investigated. Even though there is a possibility that political parties also receive the flow of corruption funds carried out by their cadres. Examination of political parties can be carried out because political parties are in the form of legal entities, where legal entities are one of the legal subjects so that they can also be examined and given sanctions based on the principle of strict liability. This allows political parties to be subject to various types of sanctions, including severe sanctions in the form of disbanding political parties.

According to the Director of Community Synergy for Indonesian Democracy (Sigma) Said Salahudin, he is of the opinion that corrupt activities carried out by core management or political party officials can be qualified as corrupt activities carried out by political parties institutionally. Furthermore, Said said that history recorded a number of political parties that had been disbanded due to actions taken by their management and members. For example, the Masjumi Party and the Indonesian Socialist Party (PSI) were dissolved because their leaders were considered to have participated in the PRRI and Permesta rebellions. Likewise, the Indonesian Communist Party (PKI) was dissolved because its administrators and members were accused of wanting to overthrow the legitimate government through violence. This indicates that the dissolution of a political party that occurs is always related to the activities carried out by the core administrators or high-ranking officials of the political party concerned. Thus, when the core management of a political party is involved in a number of corruption cases, the political party actually deserves to be dissolved (Republika.co.id, 2013).

From the opinion above, it can be concluded that if there is a core management or high-ranking official from a political party who commits corruption, then the political party can be proposed to be dissolved because basically the actions committed by the core management are the actions of an institutional political party, so that the act can be result in down to members of political parties.

There are several things that can be taken into consideration when the core management or high-ranking political party officials commit corruption and for such acts of corruption, the political party in question deserves to be submitted for disbandment. First, the core management or high-ranking political party is considered to know about the law. This means that the core management already knows that corruption is one of the crimes in the category of extraordinary crimes. Even though they already know about it, the core administrators or high-ranking political parties continue to commit corruption. Therefore, the political party concerned should receive a severe punishment in the form of filing for the dissolution of the political party. Second, when the core management or high-ranking political party officials commit corruption, it will indirectly affect the members below them, so that acts of corruption

committed by the core management or political party officials can be considered as acts on behalf of the institution.

In addition to initiating the expansion of the reasons, the author also initiated the expansion of the applicant in submitting an application for the dissolution of a political party because the granting of legal standing which was only given to the government was deemed inappropriate. This is inseparable from the concept of popular sovereignty adopted by Indonesia, where the main pillar is the people so that the people need to be involved in this process. There are several reasons that underlie the author's idea that the community and/or community groups should also be given the same opportunity to become applicants in submitting an application for the dissolution of a political party. These reasons include: First, the idea of granting legal standing to the community and/or community groups is a logical consequence of the concept of popular sovereignty adopted by Indonesia, where in this concept the people hold the highest power. In Article 1 paragraph (2) of the 1945 Constitution it is stated that "*Sovereignty is in the hands of the people and is carried out according to the Constitution*". Political parties are the embodiment of the people where the political parties will accommodate all the aspirations of the people which will then be forwarded in meetings in parliament so that later legal products and policies produced can make laws and regulations for the benefit of the people.

In the concept of popular sovereignty, it is the people who hold the highest power in the state in planning, regulating, implementing and evaluating the functions of that power. Because without the people, democratic processes such as elections and political parties cannot run as they should, so it can be said that based on the concept of popular sovereignty, it is the people who hold the highest pillar of power. Therefore, if the people (communities or community groups directly affected by corruption) are not given the same rights as the applicant in the case of submitting an application for the dissolution of a political party, then it is tantamount to violating the principle of popular sovereignty adopted by the Indonesian people.

Second, Indonesia is a state of law. This can be seen in Article 1 paragraph (3) of the Constitution. According to Julius Stahl, the concept of a rule of law with the term rechtsstaat has four important elements, namely: (Asshiddiqie, 2012)

1. protection of human rights;
2. power sharing;
3. government based on law;
4. state administrative court.

Furthermore, Frans Magnis Suseno put forward the characteristics of the rule of law as a feature of democracy (Jurdi, 2016):

1. State functions are carried out in accordance with the Constitution;
2. The Constitution guarantees human rights;
3. State bodies exercise their powers according to applicable laws;
4. Against state actions, the public can complain to the court and the decision must be carried out by state agencies;
5. The judiciary is free and impartial.

Furthermore, Muntoha in his book entitled *Indonesian Law State after the Amendment of the 1945 Constitution* which states the principles of the rule of law as follows: (Muntoha, 2013)

1. The principle of legality;
2. Protection of human rights (HAM);
3. Government attachment to law;
4. The government's coercive monopoly to ensure law enforcement;
5. Supervision by independent judges in terms of government organs implementing and enforcing the rule of law.

From some of the opinions above, it can be concluded that one of the main elements of the rule of law concept is the protection of human rights. Article 28C paragraph (2) of the 1945 Constitution states that "everyone has the right to advance himself in fighting for his rights collectively to build his community, nation and state". It should be noted that the submission of an application to the Constitutional Court can be interpreted as an effort for citizens to fight for their rights to avoid losses or potential losses that can be caused by political parties or individuals from those political parties which should not have occurred because the losses and potential losses have been guaranteed in the Constitution. constitution. This is a form of protecting people's rights against the rights they should get. Examples are the right to get a proper education, the right to get good health services and the right to get welfare and so on. If there are parties who commit corruption, then the rights of the community cannot be implemented because the funds that should have been used for assistance in education, health, public welfare have been corrupted by these parties, so that here the people have the right to guide them because all these rights have been guaranteed and protected. by constitution.

Third, the granting of a single role to the government as an applicant in submitting an application for the dissolution of a political party will have an impact on the non-implementation of the process of monitoring political parties carried out by the community. This is because the public cannot monitor political parties that are indicated to commit crimes such as corruption. If you link the supervision of political parties to criminal acts of corruption, it is clear that many cadres from political parties commit corruption. An example is the party that won the elections for the 2004-2009 period and the 2009-2014 period, namely the Democratic Party. In the period 2004-2014, many high-ranking officials and cadres of the Democratic Party committed corruption, some of them: (Tempo.co, 2016)

1. Andi M. Mallarangeng
   Position: Former Minister of Youth and Sports
   Case: Hambalang Project
   Sentence: 4 years in prison and a fine of Rp. 200 million (MA Cassation 9/4/2015)
2. Anas Urbaningrum
   Position: Former Chairman of the Democratic Party
   Case: Hambalang Corruption
   Sentence: 14 years in prison, a fine of Rp 5 billion, and a replacement money of Rp 57,592,330,580 (MA Cassation 8/6/2015)

3. Jero Wacik
   Position: Deputy Secretary General of the Democratic Party DPP
   Case: Corruption of Minister's Operational Fund
   Sentence: 4 years in prison and a fine of IDR 150 million (9/2/2016)
4. Muhammad Nazaruddin
   Position: Former General Treasurer
   Case: Money Laundering and Corruption of Wisma Atlet
   Punishment: 6 years in prison and a fine of Rp. 1 billion for money laundering (15/6/2016), 7 years in prison and a fine of Rp. 300 million (MA Cassation 23/1/2013)
5. Angelina Sondakh
   Position: Former Deputy Secretary General of Democrats
   Case: Wisma Atlet Corruption
   Punishment: 10 years in prison, fined Rp 500 million, and paid compensation of Rp 2.5 billion and US$ 1.2 million (MA Cassation 30/12/2015)

Based on this, it can be concluded that when a political party that wins an election with a lot of cadres commits corruption, the government (in this case the party that wins the election), seems unwilling to ask for the dissolution of its own political party. This is because the applicant for the case for the dissolution of a political party is only given to the government, so the logic is which political party cadre wants to apply for the dissolution of his own political party. Of course this will have an impact on socio-political stability in Indonesia, where the level of public trust in political parties will decrease. Therefore, granting a single role to the government as an applicant in submitting a request for the dissolution of a political party becomes problematic because there is no counterbalance that acts as a controller and supervisor of a political party. Whereas Indonesia is a country that adheres to the principle of people's sovereignty, so the people should be considered as one of the applicants in submitting an application for the dissolution of a political party that is indicated to be corrupt. This indication can be seen from the number of cadres of political parties and/or high-ranking officials from political parties who have been arrested and tried by law enforcers where their corruption cases have been decided and have permanent legal force.

Fourth, another reason that needs to be considered is regarding the funding of political parties. Where the funding of political parties is regulated in Article 34 paragraph (1) of Law Number 2 of 2011 concerning Amendments to Law Number 2 of 2008 concerning Political Parties which states *"Political party finances are sourced from: Member fees; Legal donations; and Financial assistance from the State Revenue and Expenditure Budget/Regional Revenue and Expenditure Budget*."

In Article 34 paragraph (1) of Law Number 2 of 2011 it is stated that one of the financial sources of political parties comes from financial assistance from the State Revenue and Expenditure Budget (APBN) / Regional Revenue and Expenditure Budget (APBD). As it is known that the majority of the APBN or APBD comes from the taxation sector where people routinely pay various types of taxes that have been determined by the state. This is a logical consequence when the people ask for accountability from political parties that have used money sourced from the APBN / Regional Budget because in that money there are people's rights that must be carried out by political parties, where political parties are a form

of people's representatives in parliament. which will make different kinds of policies. Therefore, if a political party is indicated to misuse the APBN/APBD not for the benefit of the people, for example in corruption, then the people have the right to demand accountability from the political party for the actions that have been carried out by the political party which is proven to be detrimental to the people by submitting petition for dissolution of political parties to the Constitutional Court.

The granting of legal standing is also a form of public participation in the context of supervising political parties so that political parties can carry out their duties properly. Because the legal standing given to the community and/or community groups means that the community can exercise supervision over political parties, so that if there are political parties that are indicated to be corrupt, the community and/or community groups affected by this corruption can apply to dissolve the party. politicians who are indicated to have committed such corruption. This is done so that political parties can be freed from the shackles of corruption because the sanctions that will be imposed on these political parties are quite heavy, namely the political parties are threatened to be dissolved. So it is hoped that this will prevent corruption.

Based on the provisions of the legislation, it is stated that the legal standing in the case of dissolving a political party is only given to the government. This of course hurts the sense of justice because in the concept of popular sovereignty, it is the people who hold the highest power. So it is proper for the community to be given the same rights as the government as the applicant in the case of the dissolution of a political party. In a lawsuit in court, there is a principle that is universally applicable, namely the point d'interet point d'action principle, which means that if there is a legal interest, you may file a lawsuit. That means that this principle at the same time alludes to the issue of legal standing or personae standi in judicio related to the right or legal position to file a lawsuit or petition before the court (standing to sue). (Achmad, 2015) For example in Slovenia where everyone has the right to apply for the dissolution of a political party as stated in Chapter VIII Deciding On The Unconstitutionality Of The Acts And Activities Of Political Parties, Article 68 Paragraph 1 of The Constitutional Court Act Slovenia states "*Anyone may lodge a petition , and the applicants referred to in Article 23 of this Act may submit a request to review the unconstitutionality of the acts and activities of political parties*" (Setyanugraha, 2013).

Ius Constituendum Stages of Application for Dissolution of Political Parties in Indonesia

The author will divide it into several stages, the first stage is related to submitting an application to the Constitutional Court. In the second stage regarding the trial process at the Constitutional Court.

1. Stage of Submission of Application to the Constitutional Court

In the litigation process at the Constitutional Court regarding the submission of an application for the dissolution of a political party, it does not provide special requirements, meaning it is the same as the litigation process at the Constitutional Court in general. In Articles 29 to 31 of the Act No. 24 of 2003 stated that the procedure for filing a case application at the Constitutional Court in general is:

a. The application is submitted in writing in Indonesian by the applicant or his/her proxy to the Constitutional Court.
b. The application as referred to in paragraph (1) shall be signed by the applicant or his/her proxy in 12 (twelve) copies.

Furthermore, Article 30 of the Act No. 24 of 2003 states that an application must be made with a clear description:

a. Judicial review of the 1945 Constitution of the Republic of Indonesia;
b. Disputes on the authority of state institutions whose authorities are granted by the 1945 Constitution of the Republic of Indonesia;
c. Dissolution of political parties;
d. Disputes over election results; or
e. The opinion of the DPR that the President and/or Vice President is suspected of having violated the law in the form of treason against the state, corruption, bribery, other serious crimes, or disgraceful acts, and/or no longer meets the requirements as President and/or Vice President as referred to in the Law -The 1945 Constitution of the Republic of Indonesia.

Furthermore, Article 31 of Law Number 24 of 2003 concerning the Constitutional Court states that:

a. The application must at least contain:
1) applicant's name and address
2) a description of the subject on which the application is based as referred to in Article 30; and
3) things that are asked to be decided.
b. The submission of the application as referred to in paragraph (1) must be accompanied by evidence supporting the application.

Because the author wants to have an idea regarding the granting of legal standing to the community and/or community groups in the case of dissolving a political party, the word “his” in the phrase "constitutional" in Article 51 paragraph (1) of Law Number 24 of 2003 concerning the Constitutional Court should be means that the loss is a loss to the applicant and/or Indonesian citizen in general and is a real loss. (Mashuriyanto, 2013) If Article 51 paragraph (1) of the Act No. 24 of 2003, associated with corruption, then it is clear that the losses experienced by Indonesian citizens are real, some examples of which are the right to proper education and health. which cannot be implemented because the funds that should have been used for education and health assistance have been corrupted by these parties, so that the rights that should have been guaranteed by the constitution are not obtained by the public.

Since the reason for the dissolution of a political party in this idea is about corruption and the petitioners are the community and/or community groups, then matters related to this corruption and cannot be separated are the legal decisions that have permanent legal force (inkracht) against the perpetrators. corruption. This is because the existence of a legal decision that has permanent legal force (inkracht) can be one of the evidences for the applicant (the community and/or community groups) who wish to propose the dissolution of a political party against the political party in question which proves that the perpetrators are from of the political party has been proven to have committed corruption.

After the administrative requirements have been met, the application for dissolution of the political party that has been received by the Registrar will be recorded in the Constitutional Case Registration Book (BRPK). After being recorded in the Constitutional Case Registration Book, the Registrar shall submit the recorded application to the political party concerned within no later than 7 (seven) working days after the registration is made to be forwarded to the preliminary examination and trial stage. (Sri Hastuti Puspitasari, 2016)

2. Trial Stage in the Constitutional Court

Regarding the trial stage at the Constitutional Court, basically the trial process is not specifically regulated so that the next trial process follows the procedural law in the Constitutional Court, namely preliminary examination, trial examination and decision. The trial process can be seen in Articles 39 to 49 of the Act No. 24 of 2003.

Because the idea that the author wants to convey is not much different from the process in the Constitutional Court Regulation Number 12 of 2008 concerning Procedural Procedures for the Dissolution of Political Parties, the author divides it into several stages. First, in this first stage is a preliminary examination. At this preliminary examination stage, the Court is obliged to check the completeness and clarity of the application material, starting from the identity of the applicant, the legal standing of the applicant and the reason for the applicant submitting the application for the dissolution of a political party. In Article 39 of the Act No. 24 of 2003 stated that:

a. Before starting to examine the subject matter of the case, the Constitutional Court shall examine the completeness and clarity of the application material.
b. In the examination as referred to in paragraph (1), the Constitutional Court is obliged to provide advice to the applicant to complete and/or correct the application within a period of no later than 14 (fourteen) days.

From Article 39 it is clear that the first thing that the Constitutional Court must do is check the completeness of the administrative requirements and the clarity of the petitioner's material. With regard to legal standing, the applicant (in this idea the community and/or community groups) is obliged to prove that the applicant does have legal standing and explain thoroughly the reasons for the applicant submitting the application for the dissolution of the political party concerned.

If during the preliminary examination the application file submitted to the Constitutional Court is incomplete, then the Constitutional Court is obliged to provide advice to the applicant to complete and/or correct the application file within a period of no later than 14 (fourteen) days.

The second stage is a follow-up trial where the constitutional judge is obliged to summon the litigants to provide the required information and/or request written information to the applicant and/or the respondent. For this reason, at this stage the applicant will be given the opportunity to explain the material of the application that he has submitted to the Constitutional Court both orally and in writing accompanied by evidence which can be in the form of letters or writings, documents, witness statements, expert statements, statements of the parties, instructions. and other evidence. Furthermore, after the applicant explains the

material of his application, the respondent is also given the same opportunity to convey his statement regarding the material of the application that has been submitted by the applicant.

The third stage is the evidentiary process which includes document proof, letter or written proof. The proof of the document that the author means here is to assess whether the court's decision which has permanent legal force against the perpetrators of corruption can be used as the basis for the applicant in filing for the dissolution of the political party. If the court's decision has not been able to convince the constitutional judges, then other evidence can be carried out in the form of hearing witness statements, expert statements and statements of related parties. Listening to this information is done solely in order to provide enlightenment and confidence to constitutional judges in deciding cases regarding the proposed dissolution of political parties.

The fourth stage is the Judges Consultative Meeting (RPH). After the proof stage is completed, the next stage is the Judges Consultative Meeting (RPH). This Deliberative Meeting of Judges (RPH) was conducted with the aim of making a decision after the trial examination process by the Chief Justice was deemed sufficient. This stage can be seen in Article 8 paragraph (1) of the Regulation of the Constitutional Court Number 12 of 2008 concerning Procedural Procedures for the Dissolution of Political Parties. In addition, the Judges Consultative Meeting (RPH) is carried out by means of deliberation to reach consensus. After the stage of the Judges Consultative Meeting (RPH) is completed, the next stage is the reading of the decision.

The fifth stage is the reading of the decision by the constitutional judge. After all the stages have been passed, the final stage is the reading of the verdict by the constitutional judge. The decision of the constitutional judge regarding the dissolution of a political party is made within a period of no later than 60 (sixty) working days after the application is registered. This is in accordance with Article 9 paragraph (2) of the Regulation of the Constitutional Court Number 12 of 2008 concerning Procedural Procedures for the Dissolution of Political Parties. According to the author, the time limit is appropriate because the case for dissolving a political party is not an easy matter, so high care is needed in deciding it because it will have a wide impact on legal stability as well as political stability in Indonesia.

CLOSURE

Conclusion

Based on the analysis that the author has described above, it can be concluded as follows: that in terms of the expansion of reasons, corruption must also be included in one of the reasons for dissolving a political party, because corruption is a crime that can cause harm. and misery for society. Meanwhile, in terms of the expansion of the applicant, the urgency can be seen from four factors. First, Indonesia adheres to the principle of popular sovereignty, where it is the people who hold the highest power. Because without the people, democratic processes such as elections and political parties cannot run. Second, Indonesia is a state of law. Where one of the main elements of the rule of law concept is the guarantee and protection of human rights. Third, granting a single role to the government as the applicant in the petition for the dissolution of a political party will have an impact on the obstruction of the process of

monitoring political parties carried out by the people. Fourth, one of the financial sources of political parties comes from the APBN / APBD, so the people have the right to ask political parties to be accountable for the use of the APBN / APBD. There are two stages in the ius constituendum for the dissolution of a political party in Indonesia, namely: 1) the stage of submitting an application to the Constitutional Court, 2) the stage of trial at the Constitutional Court. The trial stage is divided into five stages, namely: First, the preliminary examination. Second, the follow-up trial. Third, the evidentiary process. Fourth, the Judges Consultative Meeting (RPH). Fifth, the reading of decisions by constitutional judges.

Suggestion

Based on the description that the author has explained in the previous chapter, the author recommends that legislators should revise Law Number 24 of 2003 concerning the Constitutional Court, especially Article 68. Because if the article is not revised, then the interests of the people's rights in the constitution are being held hostage. Political parties should be even stricter in recruiting their cadre members so that these corrupt practices do not occur again in the government order.

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