



The Influence Of The Constitutional Court's Role As A Guardian Of Democracy Against Dynastic Politics

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Abstract-The the nearness of the Protected Court (Mahkamah Konstitusi) could be a step towards dodging a majority rule government emergency. However, there is the phenomenon of dynasty politics that poses a threat to the sustainability of democracy, as one family or several families dominate the political stage. This study employs a form of normative legal research. Thus, the Constitutional Court, serving as the protector of democracy, plays a role in ensuring that the the idea of "checks and balances" among government institutions runs smoothly, thereby avoiding overlapping functions, which would otherwise lead to political tension. Considering that the Sacred Court has the specialist to form choices both as a negative lawmaker and a positive administrator, in its capacity as the guard of majority rule government, the Protected Court plays a part in choices that maintain equitable standards as a long-term exertion against line legislative issues. Thus, the Constitutional Court contributes to limiting dynasty politics, as dynasty politics can disrupt the democratic system.

Keywords-Constitutional Court, Democracy, Dynatic Politics

I. INTRODUCTION

The change time brought approximately the foundation of the Protected Court as a response to challenges inside the state framework. Moreover, the nearness of the Sacred Court speaks to a step toward dodging the law based emergency experienced amid the period of the Modern Arrange administration. Since the change time in Indonesia, the nation has experienced major changes in its political and legitimate frameworks. One pivotal perspective of these changes is the foundation of the Sacred Court as a body entrusted with supervising the legality of laws and playing a imperative part in keeping up the rule of "checks and equalizations." The guideline is exceptionally vital within the context of vote based system, because it is one of the most columns ensuring that power held by different educate isn't manhandled. Vote based system itself could be a strategy within the state administration handle that guarantees the acknowledgment regard for human rights and the foundation of majority rule government must be comprehensively based on human rights.[1]

The realization of democracy can occur through legislative and executive elections, both on local and national scales. However, the judiciary is not included in this process, as the judicial line, according to the idea of dividing governmental powers, is designed to remain neutral. The presence relating to the Protected Court as a isolated and independent substance combined with the specialist looking at the defendability of laws gives lawful quality to the concept of "checks and equalizations" inside Indonesia's authoritative handle. Considering that The foundation of the Protected Court points to guarantee the execution of the structure by the arrangements underneath it, the parts of the Sacred Court as a sacred legal body (protected court).[2]

At the same time, the phenomenon of dynastic politics has become a serious concern, including issues related to conflicts of interest, lack of political diversity, and the consolidation of power within strong political families. This unique dynamic in the political system faces greater challenges associated with the dominance of certain political families. The phenomenon of dynastic politics, where one or a few families dominate the political stage, has become

an increasing concern. Dynastic politics can create inequalities in political competition, a lack of ideological diversity, and abuse of power.

The interests of political families often compete with those of the public, impacting the quality of public policy. Laws serve as instruments to regulate and guide society towards its desired goals.[3] However, when political families with extensive influence are present in the government, public interests are frequently marginalized by the interests of these families. This occurs through weakened public oversight of government transparency in policymaking. It is thus unsurprising that political dynasties arise from the weakening of the judiciary, which is supposed to be a neutral institution. When the judiciary is undermined by either the executive or legislative branches, democracy itself is threatened. The judiciary, as an impartial institution dedicated to truth and justice, plays a critical role, particularly the Constitutional Court, in reducing the influence of political dynasties. Consequently, Indonesian politics should not be based on factors detrimental to democracy but should aim for improvement, prioritizing merit over lineage.

The public requires legislative and executive representatives who reflect diverse societal elements. This can only be achieved when democratic principles are upheld by all parties. Under political dynasties, public policy ceases to address the needs of the people, as political representation is dominated by family interests. These families will inevitably seek to secure important positions for their members, obstructing the representation of other societal groups in the government.

The Constitutional Court, as the highest judicial body specifically dealing with constitutional matters, plays a key role in determining whether laws produced by the legislature comply with constitutional provisions. However, the court's primary duty is concretely justified only in assessing what is right or wrong.[4] Subsequently, an examination of the Sacred Court's part in tending to dynastic legislative issues is essential to maintain popular government, which is portion of the Court's work as the gatekeeper of vote based system.

II. LITERATURE REVIEW

A. *The Constitutional Court (Mahkamah Konstitusi)*

The Sacred Court is an organization substance of the state set up taking after the third revision to the 1945 Structure of the Republic of Indonesia.[5] The establishing of the Sacred Court was driven and impacted by the genuine conditions at that time. The Sacred Court epitomizes an independent legal specialist to conduct trials in arrange to defend law and equity. It was made to guarantee that the structure, as the most noteworthy law, can be actualized, winning it the title of "guardian of the constitution". The Sacred Court has four powers and one obligation as stipulated in Article 24C, section (1) of the 1945 Structure.[6]

As for the commitment of the Sacred Court, it lies in issuing choices on on sees of the Parliament with respect to indicated legitimate infractions by the President and/or Bad habit President. The Protected Court could be a legal specialist nearby the Incomparable Court, particularly dealing with protected or political legal things. Since the sanctioning of Law Number 12 of 2008, which revises Law Number 32 of 2004 (Undang-Undang Nomor 32 Tahun 2004) concerning the specialist of the Sacred Court, another obligation has been included, analyzing and choosing debate with respect to neighborhood decisions (pilkada), that were already beneath the competence of the Incomparable Court.

The Constitutional Court serves as the guardian of the democratic process, ensuring it operates in accordance with the will of the people. This role is a direct consequence of the Court's function as a judicial body overseeing the conduct of general and regional elections. Therefore, the Constitutional Court can be regarded as a protector of democracy.

B. *Democracy*

In standardizing understanding, majority rule government is something that's in a perfect world carried out or organized by a state, such as the expression "Government of the individuals, by the individuals, and for the individuals." This expression is ordinarily deciphered into the structure of each country, for illustration, within the Structure of the Republic of Indonesia of 1945 for the Indonesian state. "The sway is within the hands of the individuals, and is completely actualized by the People's Consultative Get together (MPR) (Article 1 passage 2)" "The opportunity to relate and amass, express considerations verbally and in composing, and so forward is directed by law" (Article 28).

These Article citations speak to the standardizing definition of majority rule government. In any case, what is regulating may not fundamentally be apparent from the setting of ordinary political life in a nation.[7] The empirical implementation of democracy does not directly guarantee substantive democratic practices. One of the key

features of a democratic state, as previously noted, is the conduct of General Elections (*Pemilu*) to facilitate the rotation of power. However, the conduct of elections does not ensure that a country is considered democratic.

This is due to the fact that elections are merely a method; their execution relies on those who utilize them. In some countries, Elections are merely a recurrent means of giving governmental power holders legitimacy. Democratic elections must be conducted in accordance with certain principles in order to accomplish the intended outcome. Otherwise, it will create subjective parameter designs and limit the desired objective perspectives.

C. Political Dynasties

Political dynasties have long emerged in democratic countries. In Indonesia, political dynasties have been visible since the Old Order.[8] What often appears in the dynamics of Indonesian politics is dynasty politics, which are oriented towards hereditary power and kinship. Ideally, such phenomena should be avoided and not practiced because the growing trend of dynasty politics emphasizes familial or kinship ties. Dynasty politics begins with political party figures in power, who tend to maintain power legitimacy by placing their family members in government positions.

This leads to political contests conducted through the electoral process that lack democratic principles. As a result, democratic practices stagnate, and even decline, failing to reflect the true values of democracy in elections.[9] In the principle of popular sovereignty, governments led by a single individual (whether a dictator or an absolute monarch) or a small group (such as an ideological elite or technocrats) lack moral legitimacy. This is because public policies are decided by only a few individuals. This is inconsistent with the principle of popular sovereignty.

Dynastic politics also leads to unhealthy competition in general and regional elections. Family members who hold strategic positions often exploit political resources—such as campaign funds, political connections, and media access—to bolster the candidacy of other family members. This practice hinders the public's ability to access and consider other candidates who may offer different ideas and perspectives.

III. METHOD

This consider utilizes a frame of regulating legitimate inquire about, particularly legitimate investigate carried out by looking at writing or auxiliary information, which are information gotten from the comes about of investigate and considers of writing materials, to be handled and analyzed subjectively utilizing descriptive-analytical information introduction strategies.[10] In this way, in this ponder, information will frequently comprise of a arrangement of controls and composed writing with respect to the Impact of the Sacred Court's Part as the Gatekeeper of Vote based system on Tradition Legislative issues through writing survey as a strategy for information collection purposes in inquire about.

IV. RESULT AND DISCUSSION

The paradigm of the state institutional structure has undergone significant modifications made between 1999 and 2002, when the constitutional revision process started. Since As a result of different demands and motivations, certain governmental institutions were eliminated and others were created. The Constitutional Court was among the newly established establishments. Subsequently, there was a transfer of authority regarding the adjudication of regional head election disputes, which was a consequence of the provisions of Law Number 22 of 2006 concerning General Election Administration, which placed regional head elections under the electoral regime.

In this way, concerning the position of the Sacred Court, it can serve as a implies of control in a lawful framework of state life. The ultimate translator of the structure is the Sacred Court. In its improvement, the Protected Court is in some cases evaluated and dreaded to surpass its specialist. The Sacred Court has the one-sided control to decipher the 1945 Structure of the Republic of Indonesia without being addressed.

Furthermore, compounded by its final and binding decisions, if there are parties dissatisfied with the Constitutional Court's rulings, they cannot pursue other legal remedies. Based on that, in its the control to scrutinize laws in agreement with the 1945 Structure of the Republic of Indonesia in expansion to acting as a negative lawmaker, the Protected Court can too issue choices that are administrative (positive assembly).

Hence, the Sacred Court, working as a legal institution display to refine the usage of the "check and equalizations" rule, must position itself as commanded by the structure so that the capacities and specialists given to this institution can work as they ought to. Within the 1945 Structure of the Republic of Indonesia, as well as in Article 56 and Article 57 of Law Number 24 of 2003 and Law Number 8 of 2011 concerning the Sacred Court, the Protected Court is endowed as a negative lawmaker, where when checking on laws, the Sacred Court essentially issues choices expressing whether the appeal is rejected, not acknowledged, or allowed. However, over time, the

Constitutional Court, through its decisions, has been considered to overstep its authority by issuing decisions that regulate positive legislation and are *ultra petita*.

As a result, this tends to create friction with the legislative and executive powers as positive legislators (norm-makers).[11] In this way, in its capacity as the shield of popular government, the Protected Court, is making modern breakthroughs that don't cover with the administrative and official powers. By considering the concept of "checks and equalizations," the Protected Court fulfills its part as a legal institution. Hence, the part of the Protected Court as the guardian of vote based system is clear through the execution of the "checks and equalizations" concept among state teach, in this manner dodging covering capacities, which would something else lead to political pressures.

Dynasty politics refers to the organization of power by perpetuating authority that contradicts democratic principles, thereby forming an oligarchy within the government. Dynasty politics begins with political influence by expanding networks of power based on familial ties, placing each member strategically within the government. This will lead to social jealousy because other members of society do not have the same opportunities.

However, the opportunity for society to contribute to the state in politics is hindered by the political influence of individuals who prioritize their families in occupying strategic positions in the government. This will also obstruct political regeneration and prevent the emergence of new potential leaders who do not come from families with a political background. Therefore, this is inconsistent with the concept of democracy, where democracy implies that power is exercised according to democratic values, not based on biological factors.[12]

Hence, the Sacred Court, as a legal control institution additionally as a state institution that fulfills a part in shielding popular government, is alluded to as the gatekeeper of popular government. Through its decisions containing principles of justice enforcement, the Constitutional Court ensures substantive justice.[13] In this manner, the Protected Court has an commitment to guarantee its work in shielding majority rule government, where majority rule government may be a essential thought within the run the show of law, contained inside the concept of "checks and equalizations," which adjusts with the Protected Court's specialist as stipulated in Article 24C of the 1945 Structure.[14]

The part of the Protected Court in connection to tradition legislative issues can be seen through the closure of the space for tradition legislative issues bypassing territorial head decisions with the standard in Article 7 letter (r) of Territorial Head Decision Law Number 8 of 2015, which forbids family individuals of officeholders from running as territorial head candidates, unless they have experienced a one-term break. In any case, some time recently the run the show can be upheld, it was obstructed because it was canceled by the Sacred Court through a legal survey prepare. The endeavor to prevent line legislative issues through directions was invalidated by the Sacred Court. Taking after the issuance of Protected Court Choice Number. 33/PUU-XIII/2015, which canceled the ban on line legislative issues, by implication influenced the multiplication of line legislative issues within the execution of Neighborhood Pioneer Races.

Since The Neighborhood Pioneer Decision Law controls common prerequisites for territorial head candidates, which contain ensures within the sacred right that every citizen has the correct to be chosen. Therefore, requirements that are perceived to limit citizens' rights, such as restrictions on the politic that every citizen has the right to run for office l rights of individuals that tend to come from dynasty politics, have been corrected by Constitutional Court decisions.[15] The endeavors to constrain dynastic legislative issues were considered by the Sacred Court to be opposite to the values found in Article 28 I section (2) of the 1945 Structure of the Republic of. Since the Sacred Court felt there was a restriction on citizens' political rights to be chosen and to vote. In any case, what the Protected Court did tends to quicken the event of dynastic legislative issues.[16]

The Protected Court ought to without a doubt consider the long-term suggestions of each of its choices, as Protected Court choices are last and authoritative. In this way, By its decisions, the Sacred Court acts as a rampart for majority rule government. Not as it were through The Sacred Court's work as the defender of vote based system, but tradition legislative issues can moreover be avoided on the off chance that the open incorporates a good understanding of legislative issues. There's much that must be done, but there should be mindfulness from political parties, where they start, to possess seats within the governing body and be given the specialist to make laws and incorporate arrangements to avoid the proceeded development of tradition legislative issues.[17]

V. CONCLUSION

The nearness of the Sacred Court's part in reflecting endeavors to defend majority rule government that impact the political framework in Indonesia is obvious through its choices, whether they act as a negative lawmaker or a positive administrator. When there is stability in the "checks and balances" among state institutions, it is to comply with the regulations while adhering to constitutional principles. By following to law based standards, the Protected Court, through its choices, plays a portion in repressing line legislative issues. Therefore, the Constitutional Court

can fulfill Its function as the protector of democratic principles, as dynasty politics can disrupt the democratic system.

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