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## Expanding Legal Standing in Political Party Dissolution Disputes in Indonesia

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**ABSTRACT.** The dissolution of political parties is a constitutional mechanism intended to uphold democracy, constitutionalism, and the principle of the rule of law. The Constitution grants the Constitutional Court the authority to decide on cases of dissolution of political parties, but the provisions of the Law on the Constitutional Court limit the right to submit petitions to the government only. This provision creates problems in practice, especially when allegations of serious violations committed by political parties that have a broad impact on the democratic system are not followed by a petition for dissolution. This study aims to examine the urgency of expanding the subject of petitioners in cases of dissolution of political parties, formulate more comprehensive criteria regarding the grounds for dissolution, and analyze the implications of this limitation on the principles of democracy in Indonesia. This study uses normative legal methods with statutory, philosophical, and sociological approaches. The results show that limiting petitioners to the government has the potential to create conflicts of interest and weaken the oversight function of political parties. Therefore, it is necessary to expand legal standing to other parties, such as election supervisory institutions and the public, and expand the grounds for dissolution to include serious violations of democracy and election law, in order to strengthen political party accountability and consolidate constitutional democracy in Indonesia.

**KEYWORDS:** Dissolution of Political Parties; Legal Standing; Constitutional Court; Democracy; Rule of Law.

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### INTRODUCTION

An ideal nation is characterized by an organization formed through the efforts of individuals within the nation, who desire an agency capable of guaranteeing and protecting its citizens. The primary characteristic of a nation's development stems from human nature, characterized by the ability to uphold oneself, fulfill one's needs, and protect one's existence. This is a component of human nature that enables one to understand and observe one's environment. Humans use reason to discern and distinguish between good and evil, especially in adapting to their surroundings. Protecting one's possessions, fulfilling one's needs, and striving for survival demonstrate that humans possess the capacity to bear the consequences of their lives (Ahmad Iskandar Nasution, 2021).

As a democratic nation, Indonesia upholds political integrity, which is one of the principles of the right to freedom of association, as stated in Article 28 of the 1945 Constitution of the Republic of Indonesia. Politicians are crucial because they hold a strategic position and function as a bridge between the government and the people. Essentially, a well-functioning system will influence the effectiveness of the overall

checks and balances system. In the political context, particularly in power relations, politics has transformed the interaction between the public and the elite. Previously, the public was discredited from the political sphere, but now the public has become the primary actor in this relationship. In modern democracies, political participation has become the most important tool for the general public to become competent and hold political institutions accountable (Sri Hastuti Puspitasari, Zayanti Mandasari, and Harry Setya Nugraha, 2016).

The growth of political parties in Indonesia is not only due to the increasing number of parties participating in general elections, but also to their ability to carry out their functions in accordance with the national values enshrined in the constitution. Muchamad Ali Syafaat calls this phenomenon the constitutional aspect of politic (Fikri Ilham Yulian, 2020). In addition to providing the means to establish political parties, the state also provides support by imposing sanctions on participants as stipulated in the ratified Political Party Law. The most severe sanction for violations is the dissolution of the political party by the Constitutional Court, in accordance with the authority stipulated in the Constitution (Putu Eva Ditayani Antari, 2014).

Regarding the dissolution of political parties, the Constitutional Court which was established in 2003 based on Article 25 C paragraph (1) of the 1945 Constitution of the Republic of Indonesia has a constitutional mandate to dissolve political parties. In general, the reason for the dissolution of political parties by the Constitutional Court is because the party carries out activities that are contrary to Pancasila, the 1945 Constitution of the Republic of Indonesia, disrupts the integrity of the Republic of Indonesia, and is proven to spread communist, Marxist, and Leninist ideology. In accordance with Article 68 paragraph (1) of Law No. 24 of 2003 concerning the Constitutional Court, the party submitting the application for the dissolution of a political party is the government, while the respondent is the political party (Nadzirotus Sintya Falady, 2020).

According to law, the dissolution of a political party can be accomplished in two ways. First, through an internal initiative, where the desire for dissolution originates from within the party itself, which can be an internal decision to dissolve itself or merge with another party. Second, through an external initiative, where the party is dissolved by the Constitutional Court for limited and predetermined reasons (Konstitusi, 1999).

However, researchers believe that the reasons stipulated in the law for the dissolution of political parties in Indonesia are less relevant to the empirical situation on the ground. The reality in society is that many political parties commit violations not regulated in the law governing the reasons for the dissolution of political parties. However, these actions actually violate statutory regulations and have a systemic impact on the administration of the state. For example, political parties are perpetrators of structured, massive, and systematic violations. Furthermore, granting the government an exclusive role as the petitioner to dissolve political parties is considered problematic when confronted with the basic principles of democracy, and there are concerns that it could be misused as a tool to strengthen government power. For example, there is a possibility that the government will protect political parties that support it even though they are suspected of committing violations, or conversely, propose the dissolution of political parties that are in opposition to the government part (Puspitasari et al., 2016).

This situation encourages researchers to propose an expansion of the application

for the dissolution of political parties, both in terms of the reasons for the application and the parties submitting it, and to conduct a more in-depth study through research entitled "THE URGENCY OF EXPANDING THE LEGAL STANDING FOR APPLICANTS IN DISPUTES OVER THE DISSOLUTION OF POLITICAL PARTIES IN INDONESIA".

Based on the background that has been explained, the formulation of the problem regarding the importance of expanding the applicants for the dissolution of political parties in Indonesia can **be formulated as follows:**

1. Why is it necessary to expand who can be an applicant or have legal standing to submit an application for the dissolution of a political party?
2. What are the appropriate criteria for determining the reasons for the dissolution of a political party?
3. What is the impact of limiting applicants on the principles of democracy in Indonesia.

### **RESEARCH METHOD**

This type of research is normative legal research. This research uses a normative legal approach that focuses on analyzing the laws and regulations governing the dissolution of political parties, as well as a sociological approach; examining the social and political context in which political parties operate, as well as the impact of dissolution on society. Philosophical Approach: Examines the values underlying the dissolution of political parties and their relevance to democratic principles. The data sources used are primary and secondary. Primary data uses applicable laws and regulations as the primary source, while secondary data consists of literature, books, articles, and opinions from legal experts, as well as case studies related to the dissolution of political parties. Data collection techniques include literature review, which examines legal documents, academic literature, and other relevant sources to obtain information on the mechanisms and procedures for the dissolution of political parties.

### **RESULTS AND DISCUSSION**

#### **The Urgency of Expanding Legal Standing in Applications for Political Party Dissolution**

The existence of political parties in Indonesia began to receive serious attention after the issuance of Government Decree No. 3 in November 1945. This decree encouraged the birth of various political parties in line with the democratic atmosphere that was intended to maintain independence and ensure public security. Since then, political parties have become a vital element in national and state life. At that time, there were no specific regulations governing the establishment or dissolution of political parties. Political parties became a symbol of freedom of association, supporting it, although they also brought negative impacts such as inter-party conflict and government instability (Achmad, 2016).

Political parties reflect human rights and democratic principles. Essentially, political parties are a manifestation of freedom of association, where every citizen has the right to participate in political organizations and participate in the democratic process in Indonesia. The state accommodates this by specifically regulating the existence of political parties through applicable laws and regulations, from the early days

of independence to the current reform era (Bungamayang et al., 2016a).

To maintain balance between political parties, political party operations must be conducted in accordance with and adhere to the fundamental principles of the state as outlined in the 1945 Constitution and Pancasila. This aims to ensure that each political party operates within a legal framework that supports the state ideology. In this context, the Constitutional Court has the authority to dissolve political parties found to be inconsistent with these principles. (Arifin, 2020) Article 24C paragraph (1) of the 1945 Constitution of the Republic of Indonesia states that "The Constitutional Court has the authority to adjudicate at the first and final level, the decisions of which are final, to test laws against the Constitution, decide on disputes over the authority of state institutions whose authority is granted by the Constitution, decide on the dissolution of political parties and decide on disputes over the results of general elections." (Qamar, 2012) Based on this article, the authority to decide on the dissolution of political parties is constitutionally granted to the Constitutional Court. This means that legally, the Supreme Court's authority to dissolve political parties is removed. Referring to this authority, the Constitutional Court has the responsibility to review or resolve political issues, such as reviewing laws against the Constitution and deciding on the dissolution of political parties.

This is the difference in authority between the Constitutional Court and the Supreme Court. Normatively, there are three main factors that can lead to the dissolution of a political party. First, dissolution can occur if a political party chooses to dissolve itself independently or voluntarily. Although this is an internal decision, the impact is significant because it ends the party's existence as a recognized legal entity. The second factor arises when a political party decides to merge with another party. In some cases, this merger process can result in the loss of legal status for one or both parties involved, especially if the newly formed entity chooses to use a different name and identity (Lalenoh, 2018).

Third, and perhaps the most serious, is dissolution by the Constitutional Court. Dissolution by the judiciary can occur in two situations stipulated in the Political Parties Law. First, if a political party has been sanctioned with a one-year suspension for violating the law's provisions, and then violates those provisions again after the suspension period has expired. This demonstrates that the state provides political parties with an opportunity to correct their mistakes, but if violations continue, dissolution may be the next step. Second, a political party can be directly proposed for dissolution by the Constitutional Court if it is found to have engaged in activities detrimental to the national interest, such as spreading or developing an ideology that contradicts state principles. The dissolution process must also follow clear and transparent procedures. All steps taken in the dissolution process must be reported to the relevant minister, who will then revoke the political party's legal status. Furthermore, an official announcement of the dissolution must be published in the state gazette, confirming that the dissolution decision is valid and legally binding.

Understanding the process of dissolving political parties by the Constitutional Court needs to be explained in detail. Article 24C paragraph (1) of the 1945 Constitution does not explain who has the right to submit a request for the dissolution of a political party, while Article 68 paragraph (1) of the Constitutional Court Law actually limits

requests to be submitted only by the government. This creates a discrepancy, because to date no request for the dissolution of a political party has been submitted to the Constitutional Court, despite strong indications of violations, such as involvement in criminal acts of corruption. This limitation makes political parties appear immune to the legal process.

In principle, Article 40 paragraph (2) of the Political Parties Law states that a political party may be disbanded if the party carries out activities that are contrary to the 1945 Constitution of the Republic of Indonesia and other laws and regulations. However, there is no clear explanation regarding the possibility of disbandment if party members holding public office are involved in criminal acts of corruption that are detrimental to the state. This raises questions regarding the application of norms in handling serious cases such as corruption among political party members.

The Constitutional Court's authority to decide on the dissolution of political parties is currently the only authority granted to this judicial institution that has not been utilized. Since the establishment of the Constitutional Court, no cases of dissolution of political parties have ever been decided. This is not because the Constitutional Court is reluctant to do so, but because of restrictions on who can submit a request, as stipulated in Article 68 Paragraph (1) of Law Number 24 of 2003 concerning the Constitutional Court. This article expressly states that only the government, represented by the Minister of Home Affairs or the Attorney General, can submit a request for the dissolution of a political party. In addition, Article 3 Paragraph (1) of Constitutional Court Regulation Number 12 of 2008 concerning Procedural Procedures for the Dissolution of Political Parties emphasizes that the applicant in this case is the government, which can be represented by the Attorney General and/or a minister appointed by the president.

The provision designating the government as the sole petitioner in the process of dissolving a political party has become a significant obstacle to oversight of political parties. As the sole party authorized to file a petition for dissolution of a political party with the Constitutional Court, the government faces difficulties in making decisions due to a conflict of interest. The government's position, particularly the president's, is particularly delicate. If the government files a petition for dissolution against a party that supports it, such an action would be considered treason and could risk impeachment if the coalition party holds a majority in parliament. On the other hand, if the government files a petition for dissolution against an opposition party, it would be seen as an attempt to silence and stifle criticism, even if the party has committed a violation against the state (Putra, 2024).

Therefore, researchers believe it is inappropriate to make the government the sole party requesting the dissolution of political parties. For this reason, it is necessary to expand the scope of those who can request the dissolution of political parties in Indonesia. Currently, no political party in Indonesia formally dares to oppose the ideology of Pancasila, the 1945 Constitution of the Republic of Indonesia, and the Unitary State of the Republic of Indonesia. However, facts on the ground show that violations committed by political parties are more often related to matters not regulated by the law governing the dissolution of political parties. Yet, such actions clearly violate laws and regulations, undermine democratic values, and negatively impact the administration of the state. One example is when political parties commit violations during elections.

An example is the practice of "dawn attacks" or money politics in an effort to gain seats in representative or legislative institutions or in the executive branch. In general, money politics can be defined as a form of voter mobilization by giving them money, gifts, or goods to encourage them to vote in elections. Several studies link money politics to the theory of political distribution, which is divided into two forms. First, specific money politics refers to the strategy of buying votes (vote buying) usually carried out in the lead-up to elections, often referred to as "dawn attacks." This action can be carried out before election day (prepaid) or after support is provided (postpaid). Second, there is a more long-term, wholesale and collective strategy of money politics, which involves the misuse of programmatic policies such as social assistance, grants, or pork barrel funds for electoral gain (Muhtadi, 2019).

Although vote buying is practiced by legislative candidates, they actually use political parties as a means to gain seats in representative institutions. If a candidate successfully secures a seat and is found guilty of vote buying during the general election process, the political party with which they are registered must be held accountable. To date, sanctions for the crime of vote buying have been imposed only on individual perpetrators, while political parties have not been subject to sanctions. Sanctions for vote buying should be applied not only to legislative candidates but also to political parties, both as perpetrators and as the party where the candidate is based.

Based on this, election violations committed by political parties in Indonesia constitute actions that threaten democracy, meaning that election violations can essentially be grounds for disbanding a political party. Furthermore, political parties must also be prepared to be disbanded if proven to have committed actions that threaten democracy, one of which is election violations.

Given the importance of elections for a democratic nation, and the importance of honest, fair, and clean elections as a key instrument for realizing democratic elections in Indonesia, expanding requests for the dissolution of political parties by including election violations as one of the grounds for proposing their dissolution is a necessity that cannot be ignored. Thus, Indonesia has consciously taken a step back toward a more democratic electoral system.

The expansion of parties who can submit requests for the dissolution of political parties can essentially be granted to individuals or community groups as the highest executors of sovereignty, as well as the Election Supervisory Body in connection with the researcher's idea of expanding the grounds for the dissolution of political parties. The involvement of individuals or community groups as applicants for the dissolution of political parties is certainly very relevant in efforts to create a democratic electoral system. In a democratic electoral system, the people are placed as the holders of the highest sovereignty, including in aspects of political life. Thus, active public participation in the supervision and evaluation of political parties is something that cannot be ignored.

In relation to the researcher's idea to expand the grounds for disbanding political parties, the involvement of individuals or community groups as petitioners for disbandment of political parties is crucial, as the public essentially holds a voice in elections. If these interests are compromised by electoral violations by political parties, where votes are manipulated and obtained unfairly and in violation of the Election Law, then the public should be involved as petitioners in the disbandment of political parties.

Bawaslu's involvement in this matter is not without reason. As previously explained, political parties are prohibited from engaging in actions that violate statutory regulations. Therefore, if a political party is legally proven to have committed a structured, systematic, and massive election crime, with a broad impact on the political system as a whole, then that political party has violated election regulations and can be proposed for dissolution. Given that Bawaslu has the authority and jurisdiction to oversee the implementation of elections, it is reasonable for Bawaslu to be involved in submitting requests for the dissolution of political parties in Indonesia (Puspitasari et al., 2016).

### **Legal Criteria for the Dissolution of Political Parties**

The law stipulates that the dissolution of a political party can only be carried out through two initiatives. First, an intrinsic initiative. The desire to disband comes from the party itself. This can take the form of an internal party decision to develop itself or establish boundaries. Article 40 Paragraph 2 and Article 40 Paragraph 5 contain this information. Participants are required to engage in activities in accordance with the 1945 Constitution and applicable laws. Furthermore, participants are not permitted to participate in activities that support the integrity and security of the Unitary State of the Republic of Indonesia. Political parties, as organizations or community groups that represent the people's aspirations in government, make their activities crucial, thus believed to uphold democracy in the constitution. However, in reality, many political parties fail to create a lasting legacy for the nation and undermine the people's aspirations. Consequently, political parties become the primary actors in producing corruptors, whose numbers increase over time for the benefit of the party or the individual. This clearly demonstrates the failure of political parties in their democratic endeavors (Djunu et al., 2022).

The rights and freedoms regarding the existence of political parties can be likened to laws, one of which is the formation of political parties. In a democratic society, restrictions refer to the balance between public and private interests. To prevent chaos, these restrictions must include: (1) restrictions must be regulated by law; (2) carried out solely to achieve goals in a democratic society; and (3) are truly needed and proportional to social needs. The dissolution of a political party refers to the existence of the relevant political law. This can occur as a result of a dissolution that is contrary to one's own beliefs, a dissolution carried out by another political party, or a dissolution carried out by a political party that is not in accordance with public opinion. The last category of dissolution is called enforced dissolution (Bungamayang et al., 2016b).

The existence of political parties is indeed very important as facilitators of public aspirations, however, public trust in political parties is declining. This is because many political party members who hold public office do not carry out their roles and functions professionally. Many corrupt politicians have harmed the state and its citizens. Numerous unproductive legislative activities are carried out with the aid of legislative products, namely the resulting laws. There are several reasons to believe that political parties always fulfill their cadre-building and educational functions for their constituents. As facilitators of public aspirations, the existence of political parties is very important, yet public trust in political parties is increasingly eroding. This is because

many political party members who hold public office do not carry out their roles and functions properly. Many corrupt politicians have harmed the state and its citizens (Perdana, 2019).

However, the main cause is found in Article 48 paragraph 3 of the Political Party Law which states "Political parties that have been temporarily determined as referred to in paragraph (2) and conduct further research by taking into account the provisions referred to in Article 40 paragraph (2), are carried out with the assistance of the Constitutional Court." Violations by political parties against Article 48 of the Political Party Law do not completely result in administrative sanctions in the form of dissolution of the political party concerned by the Constitutional Court, meaning that if further developments occur, then administrative sanctions will be considered in the form of freezing the political party for at least one year. If during this period the election participant commits another violation, then it will be disbanded through a Constitutional Court decision. This means that if it is frozen, but continues to violate, it will be dissolved while temporarily receiving the freeze. What if after the break period, the party returns again? Will the punishment or sanction process continue from the beginning or will it end automatically?

In the statement above, it is said that "violating again during the freeze period" is a new thing. This is an example of a problem sentence that needs to be discussed with each other to determine the way forward. There are a number of unresolved legal issues and specific questions about how and why the Constitutional Court cannot carry out its duties in establishing political parties that function in the regions. Is the definition of the Political Party Law the same as its formation? If what is meant by the Political Party Law, then everything related to political parties is illegally handled by the government, starting from the rights of political parties as stated in Law Number 2 of 2011 and Law Number 2 of 2008 concerning Political Parties: Violations of the provisions are subject to administrative sanctions, as stated in Article 13 letter i, namely the termination of assistance from the State Budget/Regional Budget until the report issued by the Government in the relevant budget year, the right to participate in the General Election and the right to be elected. On the other hand, it is stated that Political Parties that have been determined by the Constitutional Court and carry out various party activities (Djunu et al., 2022).

### **The Impact of Applicant Restrictions on Democratic Principles in Indonesia**

As a democratic country, Indonesia must respect all national interests that align with the people, as Abraham Lincoln once stated that democracy is a government that originates from, for, and by the people, and for the people, in accordance with the principle of popular sovereignty, which places the people as the holders of supreme power. The decision to propose the dissolution of political parties must also be made by the people because they are the ones who assess and feel the direct impact of political party activities in this country, not just the government. Political parties as representatives of the people in government have become the main actors in cases of corruption involving political elites must be a benchmark for the Constitutional Court which functions as a source of knowledge regarding how a political party should be

formed.

This is very detrimental to political elites and legislative candidates who will ensure that certain political parties have the competence to help the public in recognizing them because the position of these political parties has been weakened by the problem of corruption. As organizations or groups of people who represent the aspirations of the people in government, political parties should be able to prioritize democracy in the constitution. However, in reality, many political parties actually harm the country and damage the values upheld by the people. As a result, political parties become the primary cause of the rise of corruptors, which gradually weakens the will of the party or individual concerned. Simply put, this is the failure of political parties to advance democracy (Djunu et al., 2022).

Politicians should be a source of public aspirations and information, but they should also avoid becoming a venue for public opinion to be expressed in a way that favors private interests. Political parties committed to enhancing local capacity will provide resources for the development of political leaders who are “sweaty,” rooted, and pioneering. In this regard, political parties will also promote meritocracy as a logical principle for supporting a productive democracy. The Declaration made by three ASEAN member countries Indonesia, the Philippines, and Thailand at the Ministerial Conference Towards a Democratic Society in Warsaw, Poland on June 27, 2000, outlined democratic principles that addressed a number of issues:

1. The will of the people shall be the basis of the authority of government, through the proper exercise of power and regular representation of the people through free and fair elections which shall be universal and equal, open to all, held by secret ballot, assisted by an independent electoral authority, and free from intimidation and fraud.
2. Everyone should have equal access to public services and be able to participate in public meetings secretly or through free representatives.
3. National or social origin, property, birth, or status without discrimination on account of race, color, sex, language, religion, political or other opinion, property, birth, or similar status.
4. Providing every individual with freedom of opinion and expression, including exchanging and receiving ideas and information through media, even without barriers.
5. Make every individual have freedom of thought, conscience and religion.
6. Make every individual have equal access to education.
7. Using the press to collect, analyze, and disseminate information, news, and opinions.

Thus, the first impact discussed is that not all of the aforementioned community rights are affected; they are only a small portion of the total. If no restrictions are necessary for applicants requesting the dissolution of political parties, then it can be said that (Kasih, 2018).

## **CONCLUSION AND RECOMMENDATIONS**

### **Conclusion**

As a democratic state, Indonesia places political parties at the center of its political system, thereby requiring them to possess adequate institutional quality and to

carry out their functions in accordance with statutory regulations. Political parties are fundamentally established to uphold democracy, constitutionalism, national unity, state security, and the national ideology, and failure to comply with legal norms may constitute a legitimate ground for their dissolution. Once the formal requirements are satisfied, any political party may be formed in Indonesia; however, in the legal process concerning political parties, Mahkamah Konstitusi Decision No. 53/PUU-IX/2011 affirms that individuals do not have legal standing in proceedings related to the establishment of political parties. Political parties may originate from internal dynamics within existing parties or from external initiatives, as regulated in Article 41 letters (a) and (b) and letter (c) of Law Number 2 of 2008, reflecting a legal framework intended to ensure accountability and legal certainty in party formation.

### Recommendations

It is expected that the Government and the Dewan Perwakilan Rakyat immediately implement Article 68 of the Constitutional Court Law by empowering individuals or community groups to participate actively as partners in strengthening political parties and encouraging broader public involvement in party affairs. The formulation of Article 68 therefore needs to be refined to more clearly and accurately describe the legal position and characteristics of political parties, in harmony with the Constitution and other relevant laws governing party ideology, principles, objectives, programs, and activities. In this context, it is also recommended that regulations on political parties be aligned with standards established by the Attorney General/Ministry of Law and Human Rights and reflect the aspirations of society in Indonesia, in order to promote greater accountability, transparency, and democratic participation.

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