

THE NATURE OF POLITICAL PARTY FORMATION IN INDONESIA

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Abstract

This research aims to explore the nature of political party formation in Indonesia. This type of research is normative legal research, namely legal research carried out by examining library materials or secondary data. Normative legal research is carried out by examining primary, secondary and tertiary legal materials. The approaches used in this research are a philosophical approach, a statutory approach, a comparative approach and a conceptual approach. The theoretical framework used in this research includes: legislative theory, legal ideal theory, political party theory, Pancasila democratic theory, human rights theory, party system theory, government system theory, and legal system theory. The conceptual framework in this research includes: 1) simplification of political parties, 2) the concept of a simple multiparty system, and 3) positive law in Indonesia. The results of this research indicate that the essence of the formation of political parties in Indonesia is the realization of the right to freedom of association, assembly and expression, which are human rights recognized and guaranteed by Article 28 of the 1945 Constitution of the Republic of Indonesia.

Keywords: Nature, Political Parties, Positive Law, Indonesia.

INTRODUCTION

Currently, the multiparty system adopted in Indonesia has resulted in a proliferation of political parties (political parties) which has resulted in the ineffectiveness of the presidential system of government. According to Ali Masykur Musa, this increase in numbers marks two phenomena. First, it shows the fertile climate of democracy as a consequence of political freedom. Where every citizen is involved in organizing and doing politics, including establishing political parties. Second, it shows that the party system structure is not yet stable. This started from the desire to institutionalize simplified party rules.¹

The presence of extreme multipartyism is caused by psychological aspects, where political representation during the New Order era was closed in such a way through the fusion of political parties. As a result, people seem to be competing for 3, the original aim was to accommodate the representation of interests, ethnic groups and groups in politics through elections. However, prioritizing election goals like this invites a dilemma, on the one hand it wants to accommodate political representation, but on the other hand it contains the problem of ineffective government. Because the large number of political parties participating in elections makes it difficult to hold elections, wastes budgets and confuses people in making choices. More than that, it influences the ineffectiveness of the presidential government system.²

One of the problems with a presidential democratic system is if it is combined with a multiparty system. A presidential system of government and a multiparty system is not only a "difficult combination", but also opens up opportunities for paralysis or deadlock in executive-legislative

relations which then has an impact on the instability of presidential democracy. Ironically, this is the phenomenon that occurred in post-Soeharto Indonesia, where the presidential system existed simultaneously with the multiparty system.³

In an effort to simplify the number of political parties, a vote acquisition threshold (threshold) for general elections in Indonesia is implemented. Nationally, the vote acquisition threshold (threshold) in general elections is regulated in Article 414 paragraph 1 of Law Number 7 of 2017 concerning General Elections which states: "Participating Political Parties must meet the vote acquisition threshold of at least 4% (four percent) for included in determining the acquisition of DPR member seats." Furthermore, Article 415 paragraph 1 of Law Number 7 of 2017 concerning General Elections expressly states: "Election Contesting Political Parties that do not meet the vote acquisition threshold as intended in Article 414 paragraph (1) are not included in the calculation of DPR seats in each region. Election."

Even though a fairly high minimum vote threshold (threshold) has been implemented, this still cannot reduce the number of political parties, but rather new political parties continue to emerge in every election period held in the reform era. Political parties that do not meet the minimum threshold for obtaining votes in the previous election period and new parties are allowed to participate in the next election period.

Political freedom is part of the freedom of association and assembly which is too free to conflict with the Pancasila democracy adopted in Indonesia. In Pancasila democracy, individual freedom is not absolute, but must be harmonized with social responsibility. In this freedom, responsibility must always be attached to the public interest and common interests. In Pancasila democracy, the universality of democratic ideals is combined with the ideals of life of the Indonesian people, which are imbued with a family spirit. Thus, in the Pancasila system and mechanism there will be no "majority domination" or "minority tyranny", because the concepts of majority and minority are not in line with the spirit of family.⁴

Indonesia is a nation state built on "cleavages" or groupings based on religion, ethnicity, region and social class which are very diverse and therefore very fragile and easily broken. Each cleavage has different political aspirations and demands so that to channel it a form of non-majority democracy is needed. The diverse socio-cultural, geographical and political nature of the Indonesian nation was well understood by the founders of this nation state, and they gave it various names. Bung Karno called it a "mutual cooperation society" because he wanted to show that Indonesian society had a very strong spirit of cooperation or mutual assistance. Bung Hatta used a kinship community because he understood that production activities in rural areas were based on a spirit of shared ownership, working together for results by all.⁵

The large number of political parties that have emerged has made people confused and think that political parties no longer have the function they expected, so people tend to be apathetic and choose to be abstainers (white groups) in every election. The problem of white groups (abstention) is often a hot and crucial discourse. Even though it is not very significant, there is a tendency or trend towards an increase in the number of abstentions in each election.⁶ The existence of political parties as one of the pillars of democracy that fights for the aspirations

and interests of the people, provides political education and resolves conflicts, has not been implemented optimally. Various surveys conducted by survey institutions show that the public is disappointed and dissatisfied with the existence of political parties. The existing political parties are very disappointing people because they do not fight for the aspirations and interests of the people, but instead fight for the interests of their parties and groups.⁷

Regulations regarding political parties seem to stand alone as a law, without being related to the general election law. This situation gives rise to a multiparty system which has a great influence on the stability of state administration, especially in a presidential government system. The government in making public policies is very dependent on the dynamics and support of parties in the DPR. This condition not only has an impact on the continuity and trust in democracy and government.⁸ The desire to strengthen the presidential system of government in Indonesia has been reflected in changes to the political party law. General Explanation of Law Number 2 of 2011 concerning Amendments to Law Number 2 of 2008 concerning Political Parties confirms: "Efforts to strengthen and make the presidential system more effective include at least four things, namely first, conditioning the formation of a simple multiparty system, second, encouraging the creation of democratic and accountable party institutions, third, conditioning the formation of democratic and accountable party leadership and fourth encouraging the strengthening of the base and party structure at the community level". Therefore, it is not in vain that the discourse regarding simplifying the number of political parties in Indonesia must be intensified. Although this does not mean that a dual party system must be implemented, remembering that the history of Indonesian democracy shows that the multiparty system is a political tradition that seems difficult to abandon.

METHOD

In accordance with the legal issues studied in this research, this type of research is normative legal research, namely legal research carried out by examining primary legal materials, secondary materials and non-legal materials. The approach method used to answer the problems and objectives of this research is as follows:

- a. The philosophical approach is carried out with a comprehensive, fundamental and speculative nature of philosophy, philosophical exploration will examine legal issues.
- b. The statutory approach is carried out by examining all statutory regulations related to the legal issue being studied.
- c. A comparative approach is carried out by comparing the laws of one country with the laws of one or more other countries regarding the same matter. Apart from that, it can also be compared alongside the law, namely court decisions in several countries for the same case. Researchers use a comparative approach to compare with countries that adhere to a presidential system which is similar to Indonesia, namely the United States, Venezuela and Costa Rica.

In this research, the legal materials needed come from, among others, the following:

- a. Primary legal materials, namely legal materials consisting of statutory regulations ordered based on the hierarchy of the 1945 Constitution, Laws (UU)/Government Regulations in Lieu of Laws (Perpu), Government Regulations (PP), Presidential Regulations (Presidential Decree), and Regional Regulations (Perda), as well as court decisions that have permanent legal force.
- b. Secondary legal materials are legal materials consisting of textbooks written by influential legal experts (*de herseende leer*), legal journals, opinions of scholars, legal cases, and legal dictionaries.
- c. Non-legal materials are legal materials that provide instructions or explanations for primary legal materials and secondary legal materials such as the Big Indonesian Dictionary, encyclopedia, etc.

The legal materials in this research were obtained through library research, namely by searching legal materials, including primary legal materials, secondary legal materials, and non-legal materials in the form of statutory regulations, documents, scientific literature, research by experts, Big Indonesian Dictionary, and others that suit the problems in this research.

RESULTS AND DISCUSSION

Origins of Political Parties

The word "party" is a translation of the word "partij" (Dutch) or the word "party" (English). The word "party" itself comes from the verb "partire" (Latin) which means "to divide", or divide. Meanwhile, there are also people who say it comes from the word "pars" (Latin) or part. So it could be said that the term party is related to parts, divisions, and so on. In this way, party as a term is not an independent part, but is interconnected with other parts, so that this understanding can later lead to the understanding of party as a system.⁹

The word *partire* itself did not become important in political vocabulary until the seventeenth century. Its much earlier predecessor which has the same etymological connotation is "sect", a word that comes from the Latin *secare*, which means to separate, cut and divide. Because "sect" was already available and well-established to convey the strict meaning of *partire*, the term "party" was then used in a looser and more unclear meaning. Basically, the word "party" carries the idea of a part. The word part enters the French *partager*, which means to share, and enters the English "parttaking" (entering into partnership and participation). However, it should be noted that while "party" enters the political vocabulary, "sect" has its own journey. During the seventeenth century the word *sect* became associated with religion and especially with Protestant sectarianism.¹⁰ Since then the word "party" has taken the role of the word "sect" to describe a certain group of people who organize to carry out their political or ideological interests so that they can be accepted by the public as a common stance in running the country.

The use of the word "party" which means "division" also appears to replace the term faction which has a negative connotation because it is interpreted as a division. However, party movements are not always negative or evil and do not necessarily mean they will always reduce the public interest (*bonum commune*).¹¹ This means that the word party is used to emphasize sharp political groupings in society, especially divisions in managing a country. Of course, it is also not possible, parties will become groups that are designed to then fight each other within the party itself. In fact, parties are designed to unite public ideas and hopes which are expected to be transformed into policies that can "make" all groups in society happy. Of course, parties are a solution to the diversity of society by uniting these differences through their respective representations in the legislative body or parliament.¹²

The word "politics" comes from the word "politics" (English) indicating personal characteristics or actions. Lexically, the original word can be interpreted as: "acting or judging wisely, well judged prudently".¹³ This word has long been known in Latin as "politicus" and in Greek "politicos which means: relating to a citizen". These two words come from the word "polis" which means city, namely city.¹⁴

The word "politics" in the Big Indonesian Dictionary (KBBI) is understood as "knowledge about state administration or statehood (such as about government systems, the basis of government)", or it can also be understood as "all affairs and actions (policies, strategies, etc.) regarding state government or towards other countries".¹⁵ In simple terms, a political party can be defined as an organized group of people. Therefore, it can also be confirmed that a political party is a "collection" of people who have the same "views" and "same ideals" regarding a government. To strengthen this argument, we can see that the principles of togetherness of people who gather in political parties are with the aim of occupying positions in government institutions.¹⁶

Political parties were first born in Western European countries. With the widespread idea that the people are a factor that needs to be taken into account and included in the political process, political parties have been born spontaneously and developed into a link between the people on the one hand and the government on the other. At the beginning of its development, at the end of the 18th decade in Western countries such as England and France, political activities were focused on political groups in parliament. This activity was initially elitist and aristocratic, defending the interests of the nobility against the demands of the king.¹⁷

The representative institution in England was originally only the House of Lords (High House) which was filled by nobles and was permanent or for life. In its development, to accommodate the demands of the middle class and the people, another representative institution known as the House of Common (Lower House) was formed. Thus, the representative institution or parliament in England consists of two bodies, namely the House of Lords (Upper House) and the House of Common (Lower House). The nature of the membership of these two bodies is different, for the House of Commons (Lower House) the membership comes from the middle class and the people, which is not permanent. To be able to return to being members of the House of Commons (Lower House), they must go through an election process that involves the people in their respective regions.

In order to get support from the wider community, political groups in parliament try to organize their supporters and form election committees for prospective members of parliament. They carry out various campaigns through their supporters in one committee which carries out campaigns for them in their respective regions so that the people in their regions elect them to be representatives of the people of their regions in the representative institution, namely the House of Commons. In this way, a permanent and continuous relationship is established between political groups in parliament and election committees who have the same understanding and interests, which in turn gives birth to political parties. As a consequence of the process of filling positions in the House of Commons, an electoral system involving the people was born, which became known as the first general election system with a district system and the committees developed into political parties.¹⁸

Initially, the birth of political parties in England was closely related to the election of members of parliament through an electoral system that involved the wider community in an area. Therefore, the existence of political parties and general elections is a series of representative institutions. In this regard, usually the activities of political parties include fighting for their programs, conveying the aspirations they represent through representative institutions, which generally consist of members of the people's representative institutions who are members of political parties who are elected through general elections.¹⁹ In general, the definition of a political party is a group of people who have the same values, ideals and goals who organize themselves in a political party. The aim of a political party is to gain political power and political position in a country so that it can implement the party's policies.²⁰

The background to the formation of a political party in parliament at this time was due to the need to accommodate the interests of each region. In 1789 at Versailles, representatives of the provinces of the General State met. A group of legislative members from the same region gather to fight for the interests of their respective regions. This activity was first carried out by representatives from Breton. They regularly hold meetings by renting a cafe. There they shared opinions regarding their local problems and formed what they called the "Breton Club". In its development, the members of this club did not only consist of people's representatives from Breton. They also opened up opportunities for representatives of other regions to exchange opinions so that the topics of their discussions reached national issues. With this development they transformed into an ideological group. Apart from the Breton Club, this kind of initial development was also experienced by the Girondin Club.²¹

With the expansion of voting rights, political activities also developed outside parliament, namely election committees that organize the collection of votes from their supporters ahead of the general election (sometimes called caucus parties). Because it was felt necessary to obtain support from various groups of society, political groups in parliament gradually also tried to develop mass organizations. So at the end of the 19th century political parties were born, which in the following period developed into a link between the people on one side and the government on the other.²²

Throughout Europe and North America in the 19th century there was a broad movement towards mass electoral politics. As the electorate grows, so does the electoral competition organized by parties. Therefore the presence of many competing political parties is gradually being considered as one of the advantages of a democratic regime; as EE said. Scattschenider in the mid-20th century, “political parties created democracy and modern democracy is unthinkable without parties”.²³

During its development, after a long period (late 18th century-late 20th century), political parties in developed countries were able to carry out their function as liaison. Apart from that, the party also has its functions as an aggregator, articulator and involved in political socialization. All of this has been successfully carried out mechanistically.²⁴

The emergence of political parties in developing countries is different from political parties. In general, countries that are called developing countries today were previously colonies of developed countries. Political parties emerged in developing countries around the beginning of the 20th century, even though political parties at that time were not yet in the modern sense. The basic motivation for the birth of political parties by their leaders was because parties were considered to be a rival force in opposing colonialism.²⁵

Thus, their first introduction to political parties was through their colonial countries, where the meaning of the party concept was translated as "a means of conflict with the (colonial) government".²⁶In its development, political parties influenced and developed in colonial countries such as Asia and Africa. Political parties in colonial countries often act as unifiers of people's aspirations and movers towards national unity aimed at achieving independence. Furthermore, political parties are accepted as an important institution, especially in countries based on constitutional democracy, namely as an instrument of democracy in a country.²⁷

The Role and Function of Political Parties

In general, political scientists describe the functions of political parties. Miriam Budiadjo stated that the functions of political parties in democratic countries include

- (1) Means of political communication,
- (2) Political socialization,
- (3) Means of political recruitment; and
- (4) Conflict management.²⁸

In Yves and Andrew Knapp's terms, the function of a political party includes the functions of

- (1) Mobilization and integration,
- (2) A means of forming influence on voting behavior (voting patterns),
- (3) A means of recruitment,
- (4) A means of elaborating policy options.²⁹

These four functions are equally related to one another. As a means of political communication, political parties play an important role in efforts to articulate interests (interest articulation) or "political interests" that exist or are hidden in society. These various interests are absorbed as best as possible by political parties into ideas, visions and policies of the political party concerned. After that, the ideas and policies or policy aspirations are advocated so that they are expected to influence or even become official state policy material.³⁰

Regarding political communication, political parties also play an important role in carrying out political socialization. Ideas, visions and strategic policies chosen by political parties are disseminated to constituents to get feedback in the form of community support. Related to this political socialization, political parties also play an important role in the context of political education. Political parties are the intermediate structures that must play a role in grounding state ideals in the collective consciousness of citizens.³¹

In order to promote awareness of the state and constitution, the role of political parties is very important. Of course, the important role of political parties in this case does not mean that only political parties have exclusive responsibility for promoting the Constitution. All groups, even political leaders who hold public office, even executive government leaders have the same responsibility for this, namely the role of political parties in the context of political education and political socialization is very large.³²

The third function, political parties are a means of political recruitment. Political parties are formed to be a legitimate vehicle for selecting state leadership cadres at certain levels and positions. Some of these cadres are elected directly by the people, some are elected directly by the people, and some are elected through indirect means, such as by the DPR or other indirect methods. Not all positions that can be filled by political parties are a means of political recruitment, namely only positions that are political (political appointment) and involve the role of political parties which require the appointment of officials through political procedures. To avoid confusion, the differences between political positions and technical administrative and career positions must be carefully noted. To fill positions or recruit state officials, either directly or indirectly, political parties can play a role. In this case, the function of political parties in the context of political recruitment is considered important.³³

The fourth function is to regulate and manage conflicts that occur in society (conflict of management). The values and interests that grow in people's lives are diverse, complicated, and tend to compete and collide with each other. If there are many political parties, various interests can be channeled through the polarization of political parties which offer different ideologies, programs and policy alternatives to each other.³⁴

For authoritarian countries, the existence of political parties has a function that really depends on whether the communist party is in power in the country where it is located or not. In countries where a communist party is not in power, other political parties are perceived as representing the interests of a particular class that cannot work for the public good. In this situation, the communist party will use every opportunity and facility available to seek the widest possible support. The communist party aims to achieve a position of power that can be

used as a stepping stone to control all existing parties by destroying the democratic political system.³⁵

The function of political parties in communist countries is different from parties in democratic countries. If in a democratic country the party regulates the desires and aspirations of groups in society, then the communist party functions to control all aspects of life monolithically. If in a democratic society the party seeks to integrate citizens into general society, the role of the communist party is to force individuals to adapt to a way of life that is in line with the party's interests (enforcement of conformity).³⁶

Meanwhile, the function of political parties in developing countries is that political conditions are very different from each other; likewise, the conditions of political parties vary greatly. Except in some countries based on communism, such as North Korea, political parties are generally weak in organization and rarely have broad and strong mass support.³⁷ In developing countries, political parties, even though they have many weaknesses, are still considered an important tool in political life. Efforts to involve political parties and other political groups in the development process in all its aspects and dimensions are very important in a country that wants to build a society based on equality and social justice.³⁸

Political parties play a decisive role in a modern democratic system and are the main pillars in the political system. Political parties translate the values and interests of a society in a bottom-up process so that the values and interests of that society become draft state laws, binding regulations and programs for the people.³⁹

In a democratic system, political parties play an important role in aggregating interests. Political parties always try to change demands into alternative policies.⁴⁰ Political parties communicate with the people in the form of receiving aspirations from the people and conveying the political party's programs. Political parties accept aspirations and organize them into public opinion and express them in the form of programs and strive to become government decisions.⁴¹

The existence of political parties in a country is a means of community political participation in developing democratic life to uphold responsible freedom. With healthy and functional political parties, to carry out leader recruitment or cadre formation processes, political education and healthy control can occur. Apart from that, with political parties, conflict and consensus can be achieved to mature society. The conflict that is created is not necessarily used as a reason to divide a healthy and functional party.⁴²

The concept of democracy contains the principle of popular sovereignty, which determines the course of government. The realization of the principle of popular sovereignty in government life can be seen from the people's intensive political participation in deciding government policies. The measure of popular sovereignty can be seen from the increasing portion of the role played by the people, as well as the greater alignment of the people's interests with government policies. This is where political parties play a role, namely bridging the interests of the people so that they can be realized in a policy. Political parties accommodate various aspirations and interests that develop in society so that they can be articulated into policies.⁴³

Political participation is the activity of a person or group of people to actively participate in political life, namely by electing state leaders, either directly or indirectly, and influencing government policy (public policy).⁴⁴ Herbert McClosky said "the term "political participation" will refer to those voluntary activities by which members of a society share in the selection of rulers and, directly or indirectly, in the information of public policy".⁴⁵ Meanwhile, Samuel P. Huntington and Joan M. Nelson define political participation as: "by political participation we mean activity by private citizens designed for government decision-making. Participation may be individual or collective, organized or spontaneous, sustained or sporadic, peaceful or violent, legal or illegal, effective or ineffective."

Political parties can carry out their roles and functions in the life of the nation and state if general elections are held peacefully and periodically. General elections are a mechanism for selecting leaders who will occupy certain strategic political positions in formal political institutions, namely executive and legislative institutions at the central and regional levels.⁴⁶

Moh. Kusnardi and Harmaily Ibrahim stated that general elections are one of the most fundamental human rights of citizens. In accordance with the principle that the people are sovereign, everything is returned to the people to determine. Therefore, general elections are an absolute requirement for a democratic country to implement popular sovereignty.⁴⁷ This means that general elections must be held democratically based on the principles of direct, general, free, secret, honest and fair.

Apart from that, general elections are also a way to express the people's desires for the government's political lines. Ismail Suny stated that general elections are a certainty and an institution that is very vital for democracy. A free election means that within a certain period of time the people will have the opportunity to express their desires regarding the political lines that the state and society must follow and about the people who must implement these policies.⁴⁸

General elections are a necessity for a country that calls itself a democracy. The holding of general elections is a benchmark for a democratic country. With people's political participation, general elections become a mechanism for selecting and delegating people's sovereignty to trusted people or political parties.

Political Party Typology

Political party typology is the classification of various parties based on certain criteria. Several figures gave their views regarding the classification of political parties. Ramlan Surbakti classifies political parties based on principles and orientation, composition and function of members, as well as social base and objectives.⁴⁹

In reality, most political parties not only have their social base from certain groups, but also from various groups with one or two groups as the dominant party. Democratic Party supporters in the United States generally come from the middle and lower classes, are black, and Catholic. This does not mean that there are no supporters of this party who come from upper classes, whites and Protestants.⁵⁰

Based on objectives, political parties are divided into three. First, group representative parties. This means a party that brings together various groups of society to win as many seats as possible in parliament, such as Barisan Nasional in Malaysia. Second, the nation building party. This means a party that aims to create national unity and usually suppresses narrow interests such as the People's Action Party in Singapore. Third, party mobilization. This means that parties seek to mobilize society towards achieving the goals set by party leaders, while group participation and representation tends to be ignored. This party tends to be monopolistic because there is only one party in society. Communist Parties in communist countries are examples of mobilization parties.⁵¹

Ichlasul Amal classifies political parties based on the level of political party commitment to ideology and interests into 5 (five) types of political parties, namely Proto Parties, Cadre Parties, Mass Parties, Dictatorial Parties and catch-all parties.⁵² The Proto Party was an early type of political party before it reached the level of development it has today. Parties of this kind emerged in Western Europe around the middle ages to the end of the 19th century. The most prominent characteristic of proto parties was the distinction between groups of members or 'ins' and non-members or 'outs'. Moreover, this party has not yet shown the characteristics of a proto-party, namely a faction formed based on the grouping of community party ideologies.⁵³

The Cadre Party is a further development of the proto party. This party emerged before the implementation of a system of widespread voting rights for the people, so it was very dependent on middle and upper class people who had the right to vote, its limited membership, leadership and funders. The actual level of party cadre organization and ideology is still low because their activities are rarely based on strong programs and organizations.⁵⁴

The membership of this party mainly comes from the upper middle class. As a result, the ideology adopted by this party is extreme conservatism or at most moderate reformism. Therefore, cadre parties do not need large organizations that can mobilize the masses. Thus, in this sense, the cadre party appears more as an informal group than as an organization based on discipline. An example of a cadre party is the Radical-Socialist Party (Parti Republicain Radical et Radical-Sociale) during the Third Republic, Fourth Republic and Fifth Republic in France. Today the characteristics of cadre parties can still be found in the liberal parties in Italy and the People's Freedom and Democracy Party in the Netherlands. This party's ability to recruit voters has increasingly declined because its ideology and organization are considered outdated. If a century ago this party was able to collect a majority of votes, today the target of upheaval that could destroy the whole is something that is difficult for this party to achieve.⁵⁵

The Mass Party emerged at a time when there was an expansion of people's voting rights, so it was considered a political and organizational response to the expansion of voting rights as well as a stimulus for further expansion of voting rights. So, the background to the emergence of mass pratai is very different from the emergence of proto parties and cadre parties. Proto parties and cadre parties are formed within the parliamentary environment (intra-parliamentary); has an upper middle class support base; and has a support base from the upper middle class; and have relatively low organizational and ideological levels. P On the other hand, mass parties are

formed outside the parliamentary environment (extra-parliamentary); oriented towards a broad support base, for example, workers, farmers and religious groups; and has an ideology that is neat enough to achieve its ideological goals. The main aim of this party is not only to achieve victory in elections, but also to "provide political education for its members in order to form an elite directly recruited from the masses". One example of a mass party is the French Social Party (Parti Socialiste) which is currently led by Francois Mitterand.⁵⁶

Dictatorial Parties are actually a sub-type of mass parties, but have a more rigid and radical ideology. The highest leader of this party exercises very strict control over subordinate officials and party members. Recruitment for membership in dictatorial parties is carried out more selectively than mass parties. To be accepted as a member of this party, a person must first be tested for loyalty and commitment to the party ideology. A dictatorial party demands total devotion from every member. Examples of parties of this kind are communist parties in Eastern Europe, the PRC, Cuba, Vietnam and the Fascist Party in Italy.⁵⁷

The Catch-all Party is a combination of a cadre party and a mass party. The term Catch-all was first proposed by Otto Kirchheimer to provide a typology for the changing tendencies in the characteristics of parties in Western Europe during World War II. Catch-all parties can be interpreted as accommodating as many social groups as possible to become members. The party's main goal is to win elections by offering programs and benefits to its members in lieu of a rigid ideology. Thus, this party's activities are closely related to interest groups and pressure groups.⁵⁸

The Nature of Political Party Formation in Indonesia

The existence of political parties cannot be separated from the rights to freedom of association and assembly which are regulated in the basic laws or constitutions of every country in the world. Freedom of association and self-assembly is part of human rights. Human rights themselves are one of the contents of the basic law or constitution. Sri Soemantri said that in general the basic law or constitution contains three main things, namely: first, there are guarantees for human and citizen rights; second, the establishment of a country's constitutional structure which is fundamental, and third, there is a division and limitation of constitutional duties which are also fundamental.⁵⁹

The idea of forming a political party in Indonesia cannot be separated from the rights of association and assembly which are regulated in Article 28 of the 1945 Constitution (original). This can be seen from the process of formulating and enacting Article 28 of the 1945 Constitution (original) during the BPUPKI and PPKI sessions. When the Investigating Committee for Preparatory Efforts for Indonesian Independence (BPUPKI) was discussing what materials would be included in the text of the 1945 Constitution, an idea emerged regarding the need to include human rights, namely freedom of association and freedom of expression. This proposal was put forward in an effort to prevent abuse of power by state authorities.

At the BPUPKI session with a plenary meeting agenda to discuss the Constitution on July 15 1945, Soekarno and Soepomo successively submitted reports. Specifically regarding the existence of human rights, especially the rights to associate, gather and express opinions in the draft Constitution, there was a kind of intense dialogical interaction between Soekarno and Soepomo on the one hand and Yamin and Hatta on the other. The first party refuses to include human rights, especially the rights to associate, assemble and express opinions, especially individual ones, into the Constitution because according to them, independent Indonesia must be built as a family state, while the second party wants the Constitution to include human rights issues, especially the rights to association and assembly, and express opinions explicitly. On that occasion, Soekarno gave his views on the reasons for rejecting the right to associate, gather and express opinions in the constitution by saying: ⁶⁰

... Completely discard the notion of individualism, do not include in our Constitution the so-called "rights of the citizens" as advocated by the French Republic. Dear ladies and gentlemen. We have determined in the first session, that we agree with the words social justice and the preamble. Social justice is our greatest protest against the basis of individualism. It was not in the first session that I quoted Jaures' words, which described the mistakes of liberalism in that era, the mistakes of democracy based on liberalism. Didn't I quote Jaures' words which stated that in liberalism, parliament becomes a meeting of kings, in parliament also rules like a king?

Furthermore, Soekarno also emphasized the reasons for rejecting the proposal to include the rights of association, assembly and expression in the constitution with the following statement: ⁶¹

Dear Sirs! We want social justice. Why does Grondwet write that humans not only have the right to freedom of vote, freedom of voting, holding hearings and holding meetings, if for example there is no such social rechtvaardigheid? Why do we make grondwet, what's the use of grondwet if it can't fill the stomachs of people who are about to die of hunger? Grondwet, which contains "droit de l'homme et du citoyen", cannot eliminate the hunger of poor people who are about to starve to death. Therefore, if we really want to base our country on the ideology of family, the ideology of mutual assistance, the ideology of mutual cooperation and social justice, get rid of every thought, every ideology of individualism and liberalism thereof.

On that occasion, Soepomo strengthened Soekarno's argument that he refused to include human rights, especially the rights to associate, assemble and express opinions by saying the following: ⁶²

....The Constitution that we drafted is based on family understanding, not based on individual understanding, which we have rejected. The statement on gathering in the Constitution is systematic rather than an individual ideology, therefore by stating the right to convene and associate in the Constitution we will challenge the systematic ideology of kinship.

In contrast to the two views above, Hatta-Yamin actually wants human rights, especially the rights to associate, gather and express opinions, to be included in the Constitution. Hatta said the following: ⁶³

Indeed, we must oppose the new state on the basis of mutual cooperation and the results of joint efforts. But one thing that I worry about is that if there is no confidence or guarantee to the people in the Constitution regarding the right to vote, that in the future, on top of the Constitution that we are drafting now, a form of state that is not possible will emerge. We agree. Because in current state law a situation of "cadaveric discipline" as we see in Russia and Germany may emerge, this is what I am worried about. Regarding the inclusion of the law called "droits de l'homme et du citoyen", there is no need to include it here, because it is solely to defend the rights of individuals against the tyranny of kings in the past. These rights were included in the grondwet- grondwet after the Franse Revolutie solely to oppose this injustice. However, we founded a new country. We must pay attention to the conditions so that the country we create does not become a Power State.

Furthermore, Hatta gave his view on the need to include human rights, especially the rights to associate, assemble and express opinions in the Constitution for the following reasons:

We want a management state, we build a new society based on mutual cooperation, joint efforts; our goal is to reform society. But on the other hand, let us not give unlimited power to the state to create over the new state a state of power. Therefore, it would be good in one of the articles, for example the article regarding citizens, to also mention the rights that have been given to, for example, every Indonesian citizen, so that every citizen should not be afraid to express their voice. What needs to be mentioned here is the right to assemble and hold meetings or write letters, etc.

Hatta further reiterated the reasons for the need to include the rights of association, assembly and expression of opinion, which were later accommodated in Article 28 of the 1945 Constitution, by saying the following:⁶⁴

So, however, we highly value this belief in our will to create a new country, but it would be good to give the guarantee to the people, namely the right to freedom of thought. Indeed, this smells a little like individualism, but I said earlier that this is not individualism. Also in collectivism there are few rights for the members of the collectivism, the members of the family express their feelings to organize, make the collectivism body as good as possible. My suggestion is nothing more than protecting the country that we founded, which is a country of power, a country of oppression. The basis that we put forward is the basis of mutual cooperation and joint efforts. In short, the basics of collectivism.

In line with Hatta, Yamin gave his view regarding the need for human rights articles, especially the rights to associate, assemble and express opinions in the Constitution as follows:⁶⁵

So that the rules for citizen independence are included in the Constitution as widely as possible. I reject all the reasons put forward for not including it and I may also put forward several reasons, apart from those put forward by the honorable member Drs. Moh. Hatta earlier. As the old and new constitutions in the world contain the protection of these basic rules, for example the Dai Nippon Constitution. Republic of the Philippines and Republic of China. Basic rules are not related to liberalism, but are merely a necessity for protecting freedom, which must be recognized in the Constitution.

Next, Yamin explained his views regarding human rights, especially the rights to associate, assemble and express opinions by saying the following:⁶⁶

I just ask you to pay close attention, because what we are talking about is people's rights. If this is not clear in the basic law, then there is an error on the part of *grondwet*; *grondwettelijke fout*, a mistake in the basic law, a huge sin for the people who are waiting for the rights of the republic; for example regarding what is aimed at citizens, don't think that only citizens will get rights, and residents will also be protected by this republic.

Finally, the debate regarding whether or not to include provisions regarding the rights to unionize, assemble and express opinions was resolved by accepting Hatta's proposal which was supported by several other members, including Supomo. Supomo's acceptance is reflected in his statement which reads:⁶⁷

Therefore, we propose a regulation that contains a compromise, but will not systematically challenge the basic design, namely by adding to the Law an article that reads: "Law that determines the freedom of the population to convene and assemble, to express their thoughts. Verbally or in writing, etc. regulated by law." With this, firstly, we are not referring to rights called *subjectief recht*, such as individual rights, because they are the result of individual thought flow, but here it is called law; However, it is stipulated in the Law that the law which determines the freedom of citizens to meet and assemble, to express their thoughts verbally is stipulated in the Law. Thus it is an obligation. This provision requires the Government to make a law regarding this matter.

The formulation proposed by Soepomo received responses and editorial changes from other members. Finally, the proposal submitted by Husen Djajadiningrat as Chair of the Small Committee for Language Refinement was agreed. The accepted formulation is as stated in Article 28 of the 1945 Constitution which states: "Freedom of association and assembly to express thoughts verbally and in writing and so on is determined by law".⁶⁸

From the explanation above, it can be concluded that the human rights thinking reflected in the BPUPKI trial debate shows more breadth by presenting a universal understanding of human rights, without distinguishing between certain ideologies or ideologies, namely whether liberal, individual or familial. This is reflected in Hatta's proposal regarding the rights to associate, gather and express opinions, discussion of the proposal until acceptance of the proposal.⁶⁹

Freedom of thought and opinion, and deliberation (in the current terms of gathering and convening) must be guaranteed. The basic considerations stem from two kinds of starting points. On the one hand, he believes that the initiative for all wise human things comes and must come from individuals, generally initially from a certain person and individual.⁷⁰ Therefore, the human rights contained in the formulation of Article 28 of the 1945 Constitution recognize the existence of freedom of association, assembly and freedom to express one's thoughts verbally and in writing.⁷¹

Freedom of association and assembly as well as expressing one's thoughts as regulated in Article 28 of the 1945 Constitution is one of the basic rights in the political field that is recognized and enforced by the Indonesian constitution. These human rights are not only recognized and guaranteed in the Republic of Indonesia, but are also recognized and guaranteed universally by countries in the world. We can find universal recognition and guarantee of freedom of association and assembly and expression of thought in Articles 19, 20 and 22 paragraph A of the 1948 Universal Declaration of Human Rights.⁷²

Freedom of association and assembly is something that is "necessary" for every country that adheres to democratic principles. And such inevitability suggests that the right to establish a political party is something that cannot be avoided, let alone negotiable. Thus, based on the basic assumption that the right to establish a political party is guaranteed, the idea of popular participation will have an ideological basis that the people have the right to participate in determining who will become their leader in order to determine public policy.⁷³

After amendments were made to the 1945 Constitution, the constitutional guarantee of the right to freedom of association and assembly was strictly regulated in the provisions of Article 28 E paragraph (3) of the 1945 Constitution which states: "Everyone has the right to freedom of association and assembly, and of expressing opinions". In the context of political party regulation, the provisions of Article 28 E paragraph (3) of the 1945 Constitution have been used as the basis for the freedom to establish political parties, and this right is protected as a human right as regulated in the provisions of Article 24 paragraph (2) of Law no. 39 of 1999 concerning Human Rights which explicitly states:

Every citizen or community group has the right to establish a political party, non-governmental organization or other organization to participate in the running of government and state administration in line with demands for the protection, enforcement and promotion of human rights in accordance with statutory provisions.

Based on the formulation of the provisions of Article 1 number 1 of Law no. 2 of 2011 concerning Amendments to Law no. 2 of 2008 concerning Political Parties states: "Political Parties are organizations that are national in nature and are formed by a group of Indonesian citizens voluntarily on the basis of the same will and ideals to fight for and defend the political interests of members, society, nation and state, and maintain the integrity of Unitary State of the Republic Indonesia based on Pancasila and the 1945 Constitution of the Republic of Indonesia", it can be said that political meaning is a tool of struggle and certain political interests. Political parties will produce political policies in the form of development policy directions, development targets, steps that must be taken to achieve development goals.⁷⁴

The state, through the regulations it implements, must ensure that the steps in establishing political parties are in line with their function to assist the state in realizing general welfare and do not accommodate the narrow and short-term political interests of politicians. This last thing must be prevented through regulations in the establishment of political parties. Every political party that wants to play in a democratic political system must always be concerned that the essence of true democracy is government for the people. In the name of democracy, abuse of

the establishment of political parties must be prevented, namely the establishment of political parties that are motivated by narrow political interests, and not for the benefit of the people at large.⁷⁵

The main basis for regulations regarding the formation of political parties is freedom of association and assembly. In principle, every citizen is recognized and guaranteed the right to associate and assemble. However, on the other hand, every citizen who wishes to express this right by forming a political party must submit to and comply with the provisions of the applicable political party regulations.

Regulation of political parties is very necessary in order to maintain their credibility. With the regulation of political parties, it is hoped that political parties and party systems will be born that are credible in carrying out their functions as a means of political communication, a means of political socialization, a means of political recruitment and a means of managing conflict. Therefore, the formation of political parties must be in accordance with the provisions of the law.

Based on the descriptions above, it shows that the essence of the formation of political parties in Indonesia is the realization of the right to freedom of association, assembly and expression, which are human rights recognized and guaranteed by Article 28 of the 1945 Constitution of the Republic of Indonesia. The constitutional right to freedom of association, assembly and expression of opinion as regulated in the provisions of Article 28 of the 1945 Constitution of the Republic of Indonesia is part of the effort to realize a strong national life in the Unitary State of the Republic of Indonesia which is independent, united, sovereign, just and prosperous. , as well as democratic and based on law.

CONCLUSION

Based on the results and discussion, it is concluded that hThe essence of the formation of political parties in Indonesia is the realization of the right to freedom of association, assembly and expression, which are human rights recognized and guaranteed by Article 28 of the 1945 Constitution of the Republic of Indonesia.

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