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The Influence of Authoritarian Political Configuration in The Presidential Government System on Constitutional Court Decisions

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Abstract: The authority of the Constitutional Court, which should ideally result in independent decisions free from external influence, has proven to be very difficult to achieve. This is because the decisions of the Constitutional Court are also influenced by political interests. This situation places society, as seekers of justice, in a challenging position when dealing with disputes in the Constitutional Court, as it is not easy to confront the political interests of those in power. The legitimacy of political power formed through group dynamics creates an authoritarian political configuration, which not only impacts the democratic life of a nation but also undermines the enforcement of law. In terms of state governance, Indonesia explicitly acknowledges a democratic political configuration as enshrined in its Constitution, which firmly recognizes Indonesia as a democracy based on Pancasila. Changes in the practice of democratic politics have significantly affected various legal aspects in Indonesia, including legal politics, legal products, and even the decisions of the Constitutional Court (MK), which holds the authority to adjudicate and decide cases related to judicial review. Ultimately, the Constitutional Court has also become part of state institutions affected by the shift from democratic political practices to authoritarian political configurations. This research is conducted normatively using primary data derived from Constitutional Court Decisions Number 90/PUU-XXI/2023, 60/PUU-XXII/2024, and 70/PUU-XXII/2024, focusing on the outcomes of decisions influenced by political interest tendencies. The research data is also supplemented by other sources obtained through legal literature and information from various media. The results of the research conducted found that: The position of the Constitutional Court as a state institution within a presidential system is not one that operates independently, despite being part of the judiciary. The system of separation of powers allows for the Constitutional Court to be influenced by both executive and legislative powers. In an authoritarian political configuration, the creation of large coalitions in the legislative and executive branches automatically leads to dominance that directly affects the decisions of the Constitutional Court. This is due to the composition of judges on the Constitutional Court, which consists of three judges nominated by the President, three by the DPR (House of Representatives), and three by the Supreme Court.

Keyword: Authoritarian Political Configuration, Constitutional Court Decisions

Abstrak: Kewenangan Mahkamah Konstitusi yang idealnya menghasilkan putusan yang independen dan bebas dari pengaruh pihak luar, ternyata sangat sulit diwujudkan. Hal ini dikarenakan putusan-putusan Mahkamah Konstitusi juga dipengaruhi oleh kepentingan politik. Keadaan ini menempatkan masyarakat sebagai pencari keadilan dalam posisi yang sulit ketika berhadapan dengan kepentingan politik penguasa. Legitimasi kekuasaan politik yang terbentuk melalui dinamika kelompok menciptakan konfigurasi politik yang otoriter, yang tidak hanya berdampak pada kehidupan demokrasi suatu bangsa tetapi juga melemahkan penegakan hukum. Dalam konteks penyelenggaraan negara, Indonesia secara tegas mengakui konfigurasi politik demokrasi sebagaimana tertuang dalam Undang-Undang Dasarnya yang secara tegas mengakui Indonesia sebagai negara demokrasi berdasarkan Pancasila. Perubahan praktik politik demokrasi tersebut telah berdampak signifikan terhadap berbagai aspek hukum di Indonesia, baik politik hukum, produk hukum, maupun putusan Mahkamah Konstitusi (MK) yang berwenang mengadili dan memutus perkara terkait pengujian undang-undang. Mahkamah Konstitusi pada akhirnya juga menjadi bagian dari lembaga negara yang terdampak oleh pergeseran praktik politik demokrasi menjadi konfigurasi politik otoriter. Penelitian ini dilakukan secara normatif dengan menggunakan data primer yang bersumber dari Putusan Mahkamah Konstitusi Nomor 90/PUU-XXI/2023, 60/PUU-XXII/2024, dan 70/PUU-XXII/2024 dengan fokus pada hasil putusan yang dipengaruhi oleh kecenderungan kepentingan politik. Data penelitian ini juga dilengkapi dengan sumber lain yang diperoleh melalui literatur hukum dan informasi dari berbagai media. Hasil penelitian yang dilakukan menemukan bahwa: Kedudukan Mahkamah Konstitusi sebagai lembaga negara dalam sistem presidensial bukanlah lembaga yang bekerja secara independen, meskipun menjadi bagian dari lembaga yudikatif. Sistem pemisahan kekuasaan memungkinkan Mahkamah Konstitusi dipengaruhi oleh kekuasaan eksekutif dan legislatif. Dalam konfigurasi politik otoriter, terbentuknya koalisi besar di lembaga legislatif dan eksekutif secara otomatis menimbulkan dominasi yang secara langsung mempengaruhi putusan Mahkamah Konstitusi. Hal ini disebabkan oleh komposisi hakim Mahkamah Konstitusi yang terdiri dari tiga orang hakim yang diusulkan oleh Presiden, tiga orang oleh DPR, dan tiga orang oleh Mahkamah Agung.

Kata Kunci: Konfigurasi Politik Otoriter, Putusan Mahkamah Konstitusi

INTRODUCTION

The choice of democracy as the form of government in Indonesia was a well-considered decision by the founding fathers at the time of the country's establishment. The selection of democracy over other systems such as monarchy (absolute, constitutional, parliamentary), tyranny, aristocracy, oligarchy, technocracy, timocracy, ochlocracy, and plutocracy is based on the understanding that a democratic government is the best system to guarantee freedom, equality, and the welfare of the people. The people, represented by legislative members sitting in parliament, play a crucial role in determining national policies.

In addition to choosing a democratic form of government, the founding fathers established that Indonesia's system of governance is presidential, where the President, as the holder of executive power, is responsible for running the government, serving as both Head of State and Head of Government. Direct elections in Indonesia's democracy mean that the president is accountable not to the representative body of parliament but directly to the people, placing executive power outside direct parliamentary oversight.

The problem with Indonesia's presidential system is that both the president and vice president are candidates proposed by political parties or coalitions, leading to relatively high levels of fragmentation and polarization, where legislative and executive powers influence one another. This relationship between the legislative and executive branches creates a political configuration that significantly affects legal products.

The presidency, as a political position resulting from democratic processes, has close ties with legislative members in terms of political interests. Meanwhile, the Constitutional Court, which operates within judicial power, should not be influenced by legislative or executive powers. However, in reality, Indonesia's system of separation of powers results in interdependent and dominant relationships among these three powers under certain conditions.

A clear example can be seen in the selection process for Supreme Court judges and Constitutional Court judges. The nine judges of the Constitutional Court are divided into three judges nominated by the Supreme Court, three by the DPR (House of Representatives), and three by the President. Thus, conflicts of interest in decision-making processes are unavoidable.

Important decisions such as Constitutional Court Decision Number 90/PUU-XXI/2023, Number 60/PUU-XXII/2024, and Number 70/PUU-XXII/2024 are not free from personal political interests or those of groups or political parties. This situation has also become a topic of discussion among academics ahead of simultaneous regional elections (Pilkada), which each political year result in electoral disputes resolved by the Constitutional Court.

Based on this background, the formulated issues are as follows: What is the position of the Constitutional Court as a state institution within a presidential system? How does authoritarian political configuration influence Constitutional Court decisions? How is the balance of political power with other state institutional powers?

METHOD

The research in this writing is conducted using a normative juridical approach. The author carries out research based on theoretical foundations, utilizing various legal literature and applicable statutory regulations. This approach provides legal assessment (justification) of a legal event, determining whether it is right or wrong, or what should be according to the law.

Normative legal research is conducted to produce arguments, theories, or new concepts as prescriptions in solving the problems at hand. The data obtained by the author is then analyzed to develop a legal argument employing a statutory approach that examines and analyzes laws and regulations relevant to the legal issue being addressed.

RESULT AND DISCUSSION

The Relationship Between Government Systems and Politics

1. Types of Government Systems

Before discussing further, it is advisable to clarify the use of the terms "form of government" and "system of government," which are sometimes misapplied. This is because, in the discipline of constitutional law, the two terms have different meanings, and the author's discussion focuses on the system of government.

Experts have attempted to explain the differences between the two, including Mahfud MD, who explains that the system of government refers to a system governing the working relationships among state institutions. Based on the nature of the relationship between these executive bodies, the system of government is divided into:

a) Presidential System

A system of government in which the President and Vice President constitute a single institution that serves as the highest state organizer in executive power according to law. In this system, the survival of the executive body does not depend on the legislative body.

b) Parliamentary System

In contrast, in a parliamentary system, the government (executives) heavily relies on support from parliament. The relationship between the executive and legislative branches cannot be separated from the existence of political parties. The uniqueness of the parliamentary system is that it is not tied to a specific form of state, government structure, or ideology, allowing it to function in both monarchical and republican forms of government.

c) Mixed System (Quasi-Parliamentary)

The mixed system is a blend between parliamentary and presidential systems, allowing us to see characteristics of both within this governmental structure. In this system, the head of state is held by the President while governance is managed by a Prime Minister. Such a system is implemented in France.

Although not explicitly stated in the 1945 Constitution, it is implied in Article 4, paragraph (1), which states, "The President of the Republic of Indonesia holds executive power according to the Constitution." In terms of constitutional law, if executive power is held by the president, then that country operates under a presidential system. However, during Indonesia's Old Order era, there was a practice of a mixed government system with Sukarno as president for life alongside a Prime Minister as head of government.

The journey of Pancasila democracy, still seeking its ideal form, has led Indonesia to repeatedly change its system of governance and political framework. The multi-party system during the Old Order transitioned into a simplified three-party system during the New Order and reverted back to a multi-party system post-reform.

Moreover, changes in political systems also occurred where presidential elections initially followed Article 1 paragraph (2) of the 1945 Constitution—Proclamation stating: "Sovereignty resides in the hands of the people and is exercised wholly by the People's Consultative Assembly." Under this formation, MPR/DPR members elected by the people would choose the president in an MPR plenary session; this changed to direct presidential elections by the people.

These changes in both governance systems and democracy continue to position the president as a political office obtained through democratic processes. Thus, there remains a close relationship between the President as an Executive institution and members of Parliament as Legislative institutions—not only as work relations in state administration but also politically due to shared party affiliations or coalitions with common interests.

Although theoretically explained that a presidential system may not be an ideal combination within a multi-party-political landscape due to its impact on decision-making affecting national stability, under conditions where the president belongs to the same party as the legislative majority or is supported by a coalition with majority votes, different outcomes may arise.

Concerns about long-term effects—where coalition parties might abandon an unpopular president—can be reversed if a president possesses strong public persona and wields significant power. Such conditions can lead to a robust political configuration.

2. Types of Political Configurations and Their Implementation

Etymologically, political configuration is defined as the arrangement or constellation of political power built by politicians who share an understanding of a political goal. Politically, the configurations formed in party coalitions can be divided diametrically into:

a) Democratic Political Configuration

A democratic political configuration will produce legal products that are responsive or autonomous.

b) Authoritarian Political Configuration

In contrast, an authoritarian political configuration will produce legal products that are characterized as conservative/orthodox or repressive.

Rhetorically, both forms of this configuration can be said to be useful, but only under appropriate conditions. However, the boundaries of what constitutes a suitable and appropriate condition for implementation are not clear, leading to political configurations that operate based on the interests of those carrying them out.

In reality, the political configuration involving the government, particularly with the president in a dominant position capable of intervening in all state institutions—both legislative and judicial—will steer the country toward an authoritarian government similar to monarchies. Despite this, it is noteworthy that countries with monarchical systems are currently among the economically advanced nations.

The president's power is limited to the normative approval of laws since the legislature and political parties' function proportionally and more decisively in formulating state policies. However, this does not mean that the president can easily submit to these bodies. With a highly dominant governmental role, legislative institutions and political parties, along with other agencies, may lose their functions and become more frequently used to legitimize government policies.

3. Elections and the Constitutional Court

The implementation of elections and politics, which are instruments of democracy, can indeed be controlled by an authoritarian political configuration. This is very possible because the electoral process also serves the interests of political parties in filling political positions.

Political parties with specific goals that participate as contestants in elections must compete to gain sympathy and votes that meet the parliamentary threshold to voice their aspirations and political objectives. Observing the contestation of elections, it is evident that each election year leaves disputes, ranging from the organization process to the vote counting process. These issues subsequently fall under the absolute authority of the Constitutional Court based on its jurisdiction.

Although, in reality, various electoral disputes resolved by the Constitutional Court do not change the election results, the decisions made by the Constitutional Court can only alter regulations or serve as references for future elections.

In comparison with democratic countries like South Korea, the party responsible for election results is the National Election Commission (NEC), which can conduct investigations to assess evidence. The NEC can then decide to conduct a re-vote or take other appropriate measures. Meanwhile, the Constitutional Court of South Korea functions to hear appeals if one party is dissatisfied with the NEC's decision. The rulings of the South Korean Constitutional Court are binding and cover a broader scope than those of Indonesia's Constitutional Court. This can be seen in that the decisions of the South Korean Constitutional Court encompass the ratification of election results, re-voting, or other actions as needed.

In contrast, in Russia, election results are the responsibility of local or regional election commissions. Complaints regarding procedural violations, fraud, or technical issues will be followed up through investigations. Based on valid evidence of fraud, the election commission can take steps to rectify the situation, such as ordering a re-vote in specific areas. Dissatisfied parties may appeal to the courts. Unlike Indonesia and South Korea, electoral dispute processes in Russia can occur in administrative courts or general courts, depending on the nature of the dispute. The court will assess the case and issue a binding ruling. This ruling

may include confirmation of election results, orders for re-voting, or other actions deemed necessary.

The Constitutional Court in a Democratic State

1. The Position of the Constitutional Court as a State Institution in the Presidential System of Government

Understanding institutional power in Indonesia is sometimes interpreted as the division of power. In reality, institutions in Indonesia operate under a division of power rather than a separation of powers, which allows for mutual influence among institutions. According to the 1945 Constitution (UUD 1945) after amendments, the powers are divided into:

- a) Legislative Power (MPR, which consists of DPR and DPD);
- b) Executive Power (President and Vice President);
- c) Judicial Power (Supreme Court and Constitutional Court);
- d) Examinative/Inspectorial Power (BPK);
- e) Auxiliary State Institutions (Judicial Commission).

This division does not eliminate the relationships among state bodies, whether they have vertical or horizontal connections.

The establishment of the Constitutional Court in Indonesia was inspired by the case of the 1794 railway law testing proposed by Danil Lawrence Hylton, as well as the *Marbury v. Madison* case in 1803. The idea for forming a constitutional court in Indonesia was first proposed by Muhammad Yamin during the BPUPKI session on July 15, 1945. The Constitutional Court in Indonesia was officially established on August 13, 2003, based on Law Number 24 of 2003 concerning the Constitutional Court.

As part of the judiciary, the Constitutional Court has the duty to uphold the constitution and has the authority to: test laws against the constitution; resolve disputes over state institution authority; decide on political party dissolution; and adjudicate disputes over election results. These four authorities are certainly not easy tasks, as the decisions made by the Constitutional Court are legally binding and equivalent to laws, meaning that its decisions undergo a lengthy consideration process.

Institutionally, the considerations for decisions and outcomes of the Constitutional Court should ideally be fair. However, what occurs is still far from public expectations due to:

- a) The condition of power separation within the governmental system does not clearly define boundaries for each institution, both in terms of regulation and execution of their authorities.
- b) The recruitment process for judges in the Constitutional Court makes them susceptible to political influences and interests. Of the nine judges in the Constitutional Court, three are selected by the DPR, three by the executive branch, and three by the Supreme Court.
- c) Although the relationship between the Constitutional Court and the Ministry of Law and Human Rights is limited to technical cooperation regarding information—such as publishing books on law and constitution or conducting training, this does not negate mutual determination in political interests.

This complicates the Constitutional Court's ability to perform its duties and responsibilities within a presidential system where the President holds full power as both head of state and head of government. The president's power is no longer under MPR as a mandate-giver (*mandataris*) since they are directly elected by the people, making presidential power appear almost limitless. This contrasts with conditions before reform when, as a *mandataris* of MPR, presidential power was not absolute due to checks and balances among branches of power.

Judicial independence regulated under Article 24 paragraph (1) of the 1945 Constitution explicitly guarantees judicial autonomy but is nearly impossible to implement because the concept of power division allows for judicial intervention by political powers.

2. The Influence of Authoritarian Political Configuration on the Decisions of the Constitutional Court

Authoritarian political configuration is characterized by the following: efforts of large party coalitions; the elimination of opposition; government dominance in determining state policies; and the dominance of political power to perpetuate authority. The formation of this configuration typically centers around a single leader who is deliberately popularized and then engages in political lobbying with political parties and judicial institutions. Practices of mutual coercion regarding legal cases will color the formation of this configuration, especially towards those who refuse to join the coalition.

This conditioned configuration focuses more on how to control parliament by becoming the majority party or a large coalition that exceeds the quorum, which is $\frac{1}{2} + 1$ of the total number of parliament members (580). Thus, all decisions and legislative products will align with the desires of the large coalition. Such practices were seen during the New Order era when the military (ABRI) acted as the government's enforcer.

Under the pretext of preventing Article 37 of the 1945 Constitution from being implemented, Suharto and his New Order government enacted Law Number 15 of 1969, which mandated the appointment of 100 members of the DPR, consisting of 75 members from Military and 25 from Golkar, out of a total of 500 DPR members.

Post-reform, such practices are still frequently encountered. Given this design for forming configurations, in practice, the President as the executive in a presidential system holds "unlimited" singular power to dictate all state policies and legal products, including influencing the Constitutional Court as a judicial institution.

Our assessment then focuses on controversial decisions made by the Constitutional Court that have sparked debate in recent times, such as:

- a) Decision Number 90/PUU/XXI/2023 regarding Additional Experience Requirements for Candidates in Terms of Minimum Age for Presidential/Vice Presidential Candidates.
- b) Decision Number 60/PUU-XXII/2024 regarding the Threshold for Regional Head Nominations in Local Elections.
- c) Decision Number 70/PUU-XXII/2024 regarding Age Requirements for Regional Head Candidates in Local Elections.

These three decisions serve as evidence of how the Constitutional Court, as an independent institution within the judiciary, is not free from pressure and influence from the president during its judicial processes. In an authoritarian political configuration, its legal products typically reflect only the interests of political elites.

The characteristics of Constitutional Court rulings, which are final and binding and equivalent to laws, are exploited by those within an authoritarian political configuration to use these decisions as tools to legitimize personal or group interests in a seemingly more elegant manner. Decisions that should be based on legal regulations can become biased towards those in power through three judges recommended by the President and can even result in absolute decisions during deliberations when three judges recommended by the DPR also share opinions aligned with those three previous judges.

This situation indicates that the concept of separation of powers, intended to foster inter-institutional relationships, has negative aspects that can be exploited for the interests of those in power using an authoritarian political configuration, as it can stifle other state institutions' functions.

3. Balancing Political Power with Other Institutional Powers

The relationship of mutual determination and political and institutional dominance, especially regarding legislative products, is recognized as unavoidable because laws themselves arise from political processes, and officials within state institutions may be affiliated with political parties.

On the other hand, due to the strength of authority, state institutions must enforce the laws themselves. The enforcement of these regulations is inseparable from the fulfillment of legal principles, namely the principles of justice, certainty, and utility.

In addressing this condition, an academic perspective can utilize legal theory to examine the use of authoritarian political configurations from various viewpoints, such as the utilitarianism perspective to assess its utility. Utility can be evaluated based on whether the outcomes produce happiness or suffering for many people. According to Socrates, the state's duty is to promote the happiness of its citizens and to cultivate their souls to be as good as possible. This aligns with Jeremy Bentham's assertion that the ultimate goal of law is the greatest happiness (the greatest happiness principle).

A sense of security is the most fundamental objective of law and is a prerequisite for expectations. Therefore, if the use of authoritarian political configurations leads to polemics, conflicts, and disturbances that do not bring happiness to citizens, it should not be pursued. Thus, Indonesia should strive to be a good country that prioritizes its citizens. Regarding what constitutes the best state, Politikos suggests that laws should be made as deemed necessary according to concrete circumstances.

Jeremy Bentham, in his book "Introduction to the Principles of Morals and Legislation," formulates the principle of utilitarianism as "the greatest happiness for the greatest number." This principle, according to Bentham, should underpin political life and legislation.

Given this interdependence, there is a need for a balance of political power held by politicians with the legal authority exercised by state institutions, rather than a dominant attitude that would lead to the formation of an authoritarian political configuration. Referring to the concept of balance means we will focus on the distribution of power and influence among various state institutions and political actors. The goal is to prevent one institution or group from dominating another. A middle ground that can be pursued is through implementing a democratic political configuration. The most rational reason for this is the utility that will be enjoyed by all members of society.

Although a democratic political configuration may not be perfect, choosing democracy is considered "the best bad choice" among other undesirable options such as absolute monarchy, autocracy, aristocracy, oligarchy, ochlocracy, and especially tyranny because democracy is deemed more suitable for Indonesian society's sociology that emphasizes deliberation for consensus.

Balance can also be achieved through mutual respect among institutions. As expressed by Mahfud MD, despite overlapping areas of work between the Ministry of Law and Human Rights and the Constitutional Court—where it was agreed in a Memorandum of Understanding (MoU) that the Ministry would not interfere with or intervene in the Constitutional Court's tasks and legal decisions—the Ministry only operates within limits related to handling legal knowledge and information digitally.

Political balance and authority among state institutions are key to maintaining democracy and preventing abuse of power. With a system of checks and balances in place, each institution can function effectively while monitoring one another, thereby creating stability and justice within governance.

CONCLUSION

The position of the Constitutional Court as a state institution within a presidential system is not one that operates independently, despite being part of the judiciary. The system of separation of powers allows for the Constitutional Court to be influenced by both executive and legislative powers.

In an authoritarian political configuration, the creation of large coalitions in the legislative and executive branches automatically leads to dominance that directly affects the decisions of the Constitutional Court. This is due to the composition of judges on the Constitutional Court, which consists of three judges nominated by the President, three by the DPR (House of Representatives), and three by the Supreme Court.

In practice, the condition of mutual "determination" among institutions is not very apparent in institutional relationships anymore. The authoritarian political configuration has led to a condition of "dominance" by the President as both head of state and head of government across all aspects of political and legal life.

Suggestions

Based on the author's discussion, I can provide the following recommendations and suggestions: Regulations regarding the authority of state institutions are needed to address concerns about intervention between various institutions in the concept of mutual determination. Thus, the position of each institution's interests should be limited to coordination rather than intervention.

To avoid inter-institutional intervention, it is necessary to reconfigure the nomination process for constitutional judges by pursuing a non-partisan judge appointment scheme for the Constitutional Court.

It is advised to avoid the use and practice of Authoritarian Political Configuration as much as possible, and instead use a Democratic Political Configuration that aligns with Pancasila and the 1945 Constitution.

These recommendations aim to strengthen the independence of state institutions, particularly the Constitutional Court, and promote a more democratic political system in Indonesia that adheres to the country's foundational principles.

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