

Internal Disputes Settlement of Political Parties by Party Courts in Indonesia

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DOI: 10.29322/IJSRP.13.02.2023.p13441

<http://dx.doi.org/10.29322/IJSRP.13.02.2023.p13441>

Paper Received Date: 10th January 2023

Paper Acceptance Date: 10th February 2023

Paper Publication Date: 25th February 2023

Abstract- The many new parties in Indonesia caused a lot of conflicts and divisions. New politicians color the political arena in Indonesia, who generally lack experience, resulting in conflicts between politicians and with other parties, especially in new parties that have recently been formed. Although conflicts also occur in parties that have existed for a long time. Therefore, the purpose of this research is to analyze and find the resolution of internal disputes of political parties in Indonesia by party courts as well as constraints on the authority of party courts in resolving internal disputes of political parties based on the value of justice. The paradigm in this study is the constructivism paradigm with a more prescriptive legal study, the approach method uses sociological juridical, the type of research is descriptive analysis, the types and sources of data used are primary and secondary, the data collection method uses observation, interviews, and literature studies. Methods of data analysis using descriptive qualitative. The results of the study show that the Authority of the Party Court in resolving internal party disputes is an absolute authority (attributie vans rechtsmacht) for the Party Court. The absolute nature of the authority of the Party Court, due to its position as an internal court, makes it impossible for cases under its authority to be examined and tried by other Party Courts. The obstacle to the regulation of the authority of the party court in the resolution of internal political party disputes is the ineffective implementation of party court decisions as in Article 32, which should have been final, but instead provided an opportunity to settle them in the district court. Independence and neutrality, members of the party court are truly independent and neutral, not taking sides with one of the camps. The delay in settlement resulted in a buildup of cases in the litigation route. Therefore, it is necessary to carry out good mediation so that decisions can be effective which are only resolved in the party's court. Members of the party's council must be neutral and maintain independence. Problem solving must be fast and responsive so that problems can be resolved one by one.

Index Terms- Dispute, authority, party court, Indonesia.

I. INTRODUCTION

One of the modern democratic institutions, which is recognized and accepted as a medium for consolidation, distribution, relocation, and representation of the aspirations of values and interests of civil society by placing their representatives in government political positions is a political party (Parpol). From the point of view of formation, political parties are founded by a group of individual citizens who are affiliated with private legal entities (private), but from a functional perspective, the establishment of parties is intended and aimed at the public interest (public). The combination of these two aspects places political parties as: first, democratic institutions that reflect the freedom and equality of every citizen to associate and gather to fight for the ideals of shared values and interests; and secondly, based on the results of general elections, placing their representatives in government political positions that represent the interests of the people on one side and the state on the other (quasi-private) [1].

The existence of the party as a partnership that is civil in nature, causes the party to have a position with a very high degree of independence (autonomy) in managing various affairs and interests internally and externally. This has been guaranteed in the constitution. Therefore, the state is obliged to protect the existence of parties as one of the manifestations of the freedom to associate and gather to express thoughts both orally and in writing in a democratic legal state. In such a context, the state does not only guarantee freedom of association and assembly, but also the availability of a legal framework that guarantees legal certainty in resolving internal party disputes in a fair manner. A framework for speedy, capacious, and just dispute resolution not only promotes party institutionalization and autonomy, but also serves as a means of preventing government intervention and arbitrariness in undermining party oversight functions, especially parties that are critical and opposed to various government policies. when a party is faced with internal conflict.

Conflict and peace are inherent in the formation of a party, as an organization formed to institutionalize conflict into harmony. The growth and development of political parties goes hand in hand with conflicts and divisions in both soft and hard ways. Conflicts and divisions in gentle ways can be seen in the birth of new parties formed by people who are new to politics, as well as people who left the previous party. Examples are the Prosperous Justice Party, the Hanura Party, the Gerindra Party, and the Nasdem Party. This is not really a problem, because leaving and joining as members or establishing a political party is the basic right of every citizen. Conflicts and divisions in violent ways occur when there is a struggle for the management structure internally. The form is like the occurrence of counter-deliberations and multiple management which creates uncertainty about who is legitimate and has the right to party authority [2].

An example of internal party conflict is the management of the Golkar Party from 2015 to mid-2016. Two different camps held their respective National Conferences (Munas). The holding of the National Conference in Bali gave birth to a management version led by Aburizal Bakrie, while the Jakarta National Conference gave birth to the management of Agung Laksono. The conflict between the two sides was successfully resolved through an Extraordinary National Conference (Munaslub) which was held in Bali and succeeded in electing Setya Novanto as General Chair for the 2016-2021 period.

Likewise, the conflict that befell the United Development Party (PPP). The Surabaya Muktamar gave birth to the management under the leadership of Muhammad Romahurmuziy, while the Jakarta Muktamar gave birth to the management of Djan Faridz. Until now, the two sides are still disputing in court and have entered the second round after the Ministry of Law and Human Rights approved the new management as a result of the Islah Conference which was held at Pondok Gede on April 22 2016 under the leadership of Romahurmuziy. Supposedly, the PPP conflict and split had ended with the Supreme Court Decision Number 504/K/TUN/2015 which annulled the Jakarta PTUN Decision Number 120/B/2015/PT.TUN.JKT., dated 10 July 2015, Jakarta PTUN Decision Number 217/G/2014/PTUN-JKT dated 25 February 2015. The decision which did not expressly order to determine the management of PPP as a result of the Jakarta Conference caused the Government, through the Ministry of Law and Human Rights (Kemenkumham), to re-establish the management of the results of the Pondok Gede Islah Conference under the leadership of Romahurmuziy. The Kemenkumham decision is being sued by Djan Faridz's camp. At the Jakarta State Administrative Court of First Instance, Djan Faridz's request was granted, and the Government is currently conducting an appeal [3].

In 2016, internal conflicts and divisions also plagued the management of the Indonesian Justice and Unity Party (PKPI). Dualism of management and mutual dismissal of fellow administrators and members is unavoidable. Symptoms of disunity began to appear when Chairman Sutiyoso, who was elected and inaugurated on April 13, 2010, was appointed Head of the State Intelligence Agency. Isran Noor was appointed as Acting Chairman and Samuel Samson as Secretary General. The PKPI Extraordinary Congress (KLB) which was held on August 21, 2015, succeeded in electing, and establishing by acclamation Isran Noor as General Chairperson and Samuel Samson as Secretary General. In their journey, the Chairperson and the Secretary General experienced many different views regarding party policy, especially when determining the support of regional head and deputy regional head candidates in the simultaneous regional head elections on 15 February 2017. Dismissals between the two were inevitable, which led to the holding of KLB which gave birth to two management. The KLB, which was organized by Secretary General Samuel Samson, gave birth to management with General Chair Hari Sudarno. The KLB which was carried out by General Chairperson Isran Noor resulted in PKPI management with General Chair Hendropriyono.

Settlement of internal political party disputes through the Party Court (MP), especially the settlement of management disputes after the enactment of Law Number 2 of 2011 concerning Amendments to Law Number 2 of 2008 concerning Political Parties (UU Political Parties), does not seem to be an option accepted by almost all parties in resolving disputes. internal strife. The Ministry of Justice and Human Rights showed the same attitude when dealing with disputes between the Golkar Party and PPP. Article 32 paragraph (5) of the Political Party Law explicitly states, "The decision of a political MP or other designation is final and internally binding in the case of disputes relating to management". The same problems also occur related to violations of member rights, dismissal of members, abuse of authority, financial accountability, and objections to party decisions. Based on the description above, the purpose of this research is to analyze and find the Authority of the Party Court in Settlement of Internal Disputes of Political Parties in Indonesia [4].

II. RESEARCH METHOD

Normative juridical methods, with secondary data sources in the form of data obtained by conducting literature studies, both on primary legal materials in the form of regulations and other rules, secondary legal sources in the form of literature books, research results and other sources obtained by browse from selected internet media as well as tertiary legal sources in the form of legal dictionaries and encyclopedias. The data obtained were then analyzed using a qualitative descriptive method.

III. RESEARCH RESULTS AND DISCUSSION

The constitutional court, as legally instructed in the 1945 Constitution, has 4 (four) powers and 1 (one) obligation as stipulated in Article 24C paragraphs (1) and (2) which are explained as follows:

- (1) The Constitutional Court has the authority to adjudicate at the first and final levels whose decisions are final to review laws against the Constitution, decide on disputes over the authority of state institutions whose powers are granted by the Constitution, decide on the dissolution of political parties, and decide on disputes regarding Election results.
- (2) The Constitutional Court is obligated to render a decision on the opinion of the House of Representatives regarding alleged violations by the President and/or Vice President according to the Constitution.

Then in Article 10 of the Law on the Constitutional Court specifically regulates the powers of the Constitutional Court as follows:

- (1) Examine the law against the 1945 Constitution of the Republic of Indonesia.
- (2) Deciding disputes over the authority of state institutions whose powers are granted by the 1945 Constitution of the Republic of Indonesia.
- (3) Deciding the dissolution of political parties.
- (4) Deciding disputes about election results.
- (5) The Constitutional Court

The Constitutional Court is obligated to render a decision on the opinion of the House of Representatives that the President and/or Vice President are suspected of having violated the law in the form of treason against the state, corruption, bribery, other serious crimes, or disgraceful acts, and no longer fulfill the requirements as President and / or Vice President as referred to in the 1945 Constitution of the Republic of Indonesia. In the history of the formation of political party courts, namely resolving internal party disputes within a political party, as a form of carrying out obligations, to carry out the mandate of the law. According to the law No. 2 of 2008 Concerning Political Parties, explains that political party disputes are resolved by deliberation which includes alternative solutions such as mediation, arbitration, and justice [5].

There is no alternative to resolve internal disputes by establishing a political party court. But after changing it Constitution No 2 of 2008 Jo Act No 2 of 2011 Concerning Political Parties, a party judiciary was formed which is referred to as the political party court. In this way, the political party court was formed as the realization of the implementation of the political party law which must resolve internal disputes through the political party court route. Based on the provisions above that the political party court is a court or judicial body formed on the basis of law, in its formation it is fully handed over to the political party concerned, then reported by the leadership of the political party to the ministry, which has full authority over the resolution of internal disputes related to political parties with internal parties, by carrying out the tasks listed in the next paragraph, namely making decisions regarding internal disputes that are final and internally binding in matters relating to party management issues.

For example, the United Development Party (PPP), explained that the PPP party court is an institution consisting of PPP figures who have competence in the fields of law and politics, work collectively, have the duty and authority to resolve PPP internal management disputes. Whereas in the Golongan Karya Party (GOLKAR), another name for the party court is the Leadership Council which is the highest executive body of the party which is collective in nature. One of the tasks of the Golkar Party Leadership Council is to resolve management disputes. All of this includes the organizational structure established within the political parties [6].

C.1. Settlement of Political Party Internal Disputes

One example of party dispute resolution is in decision number 267/ pdt.g /2019/ pn.smg , the Semarang District Court which tried civil cases, has rendered the following decisions in the lawsuit between plaintiff I (Ari Purbono) and plaintiff II (Fris dwi yulianto) against the regional board of the Prosperous Justice Party in the province central java , regional board of the Prosperous Justice Party, Semarang City , central board of the Prosperous Justice Party. that the actions of the defendant were not procedural arbitrarily , unlawfully and without clear reason violating the basic rights of the plaintiff as guaranteed in the 1945 Constitution of the Republic of Indonesia, Law Number 39 of 1999 concerning Human Rights, Law Number 1 of 2005 concerning Ratification International Covenant on Civil and Political Right (International Covenant on Civil and Political Rights), Law No. 2 of 2011 Amendments to Law No. 2 of 2008 concerning Political Parties. However, in this decision the panel studied and examined the plaintiff's claim was clear, complete, and clear and certain and it turned out that the plaintiff's claim had entered the main matter of the case which had to be considered together with the evidence of the main matter of the case, the panel of judges granted the defendant's exception because the lawsuit of the the plaintiff is vague or unclear (obscur libel). Finally, the panel of judges declared the plaintiffs' lawsuit unacceptable and ordered the plaintiffs to pay court fees of Rp. 1.798.000, - (one million seven hundred ninety eight thousand rupiah).

The function of political party courts in resolving political party internal conflicts is regulated in the Law of the Republic of Indonesia No. 2 of 2011 concerning Amendments to Laws No. 2 of 2008 concerning Political Parties are:

a. Political party courts in resolving internal party conflicts are regulated in Article 32 and Article 33. The provisions of Article 32 are amended so that Article 32 reads as follows:

- 1) Political party disputes are resolved internally by political parties as stipulated in the AD and ART.
- 2) Settlement of disputes by internal political parties as referred to in paragraph (1) is carried out by a political party court or other designation established by a political party.
- 3) The composition of the political party court or other designation as referred to in paragraph (2) shall be conveyed by the leadership of the political party to the ministry.
- 4) Settlement of internal political party disputes as referred to in paragraph (2) must be completed no later than 60 (sixty) days.
- 5) Decisions of political party courts or other designations that are final and binding internally in the event of disputes relating to management.

b. The provisions of Article 33 paragraph (1) are amended so that Article 33 reads as follows:

- 1) If the settlement of the dispute as referred to in Article 32 is not reached, the settlement of the dispute shall be carried out through a district court.
- 2) District court decisions are decisions of the first and final instance and can only be appealed to the Supreme Court.

- 3) The case as referred to in paragraph (1) shall be settled by the district court no later than 60 (sixty) days after the lawsuit is registered at the district court clerk's office by the supreme court no later than 30 (thirty) days since the memory of the cassation is registered at the supreme court clerkship.

As for what is meant by political party disputes in Article 32 paragraph (1) include among others:

1. Disputes relating to management.
2. Violation of the rights of members of political parties.
3. Dismissal for no apparent reason.
4. Abuse of authority.
5. Financial accountability.
6. Objections to political party decisions.

As for its existence, the court of political parties is an institution that will ensure the sovereignty of political parties is well maintained. The political party court is positioned as an institution that will oversee the respect for the highest authority within the party and ensure that all internal processes comply with the provisions of the applicable regulations. Even the courts of political parties can be seen as a foundational institution in the framework of ensuring the integrity of a political party [7].

C.2. Party Court Institutional Reformulation

The MP's position as an internal organ on the one hand and as a delegate of state functions with attributive authority in resolving internal political party disputes creates its own ambiguity in carrying out its duties and authorities as an internal judiciary. On the one hand, MPs are given the task and authority by the state through laws to resolve internal political party disputes with decisions that are final and binding internally, specifically regarding management disputes. However, on the other hand the MP's decision is not externally binding. As a result, the MP's decision has the potential not to be implemented or not followed up by external parties, particularly the government. In fact, the MP's decision is not binding and final externally, especially to the state, which is very reasonable according to law. The position of the state as the highest authority organization in the perspective of a rule of law has a control function to guarantee the protection of human rights, including freedom of association and assembly, expressing thoughts both orally and in writing. In this context, the state's constitutional obligation guarantees and ensures that every citizen can enjoy their rights freely, equally, and fairly, without intervention, pressure and intimidation from anywhere, including the state. The responsibility of the state in fulfilling these rights can be passive (negative) and active (positive). Negative state responsibility, namely the state limits itself not to interfere with political rights, guarantees freedom and equality of citizens in using these rights. Positive state responsibility is the responsibility of the state to take all measures to protect and guarantee the freedom and equality of citizens from intervention by any party in the exercise of their political rights [8].

Based on this, the MP's decision is not final and binding for the state, in fact it is intended as a form of state supervision in guaranteeing the political rights of citizens. In this context, the state is responsible for ensuring that all internal political party dispute settlements, both in terms of process and in terms of substance, are fair. In this context, externally the final and binding nature of the MP's decision is relative, meaning that external parties (the state, non-governmental organizations, and the community) are not bound and subject to implementing MP's decisions, but are obliged to respect and value them. The state's respect and appreciation for the MP's decision, to ensure that no political rights of the parties are harmed by the issuance of the MP's decision.

The state's form of respect, recognition and protection of political rights is to approve or disapprove party officials based on the MP's decision. The ratification is declarative in nature, i.e., state recognition of party officials who are entitled to it after the government examines and ensures that the MP's decision meets the procedural and substance requirements.

The MP's decision is not final and binding in relation to external management disputes, giving birth to the Government's free authority to approve or not ratify political party administrators. This has the potential to create new problems that can undermine party institutionalization and autonomy. Some of the problems referred to are: first, opening up various types of opportunities for the Government to interfere with political parties through the ratification of administrators who are in dispute; secondly, it has the opportunity to cause a shift in the poles of disputes and the competence of the courts which can further prolong the process of resolving political party disputes; third, the paralysis of the party's critical power in carrying out the function of balancing and controlling the Government and its supporting parties; fourth, the possibility of forming a hegemonic government that can kill democracy.

The government's authority to approve or not ratify party officials based on the results of the MP's decision will add a new pole of dispute between political party officials who feel they have suffered losses from the government and party officials who have been approved by the government. Likewise, the competence of the court will shift from the judicial mechanism for internal dispute settlement of political parties, to the state administrative court. Such a system automatically closes new hopes for institutional strengthening and party autonomy in resolving disputes between political party officials through an internal judicial mechanism with a fast, simple process, low cost and legal certainty. Political parties will be held hostage by the dispute settlement mechanism, which will take a long and complicated process without guarantees of legal certainty and justice. The energy of political parties is drained to resolve disputes internally and externally (the government) rather than consolidating the tasks of institutionalizing parties as a means of connecting people's aspirations in administering government [9].

The MP's position as an internal party organ on the one hand and as a state delegate who is authorized to resolve internal political party disputes on the other hand, leaves a conceptual dilemma in resolving disputes quickly, with legal certainty and justice. The MP stereotype as part of a political party still leaves a problem of impartiality as an internal judiciary in resolving any disputes. Assembly members

who are elected from and by members of the internal political party's cause MPs to still be seen as part of the poles of internal conflict. Objectivity and impartiality in resolving disputes is very likely to be reduced by the dialectic of conflict poles facing each other or the dominant power in political parties. This is an endemic problem and is the main obstacle for MPs as an internal dispute resolution mechanism that is independent, fast, simple, certain, and just for strengthening party autonomy and institutions.

In principle, the ratification of the board is only declarative in nature, but in substance, ratifying or not ratifying has implications for the emergence of the rights and obligations of administrators and political parties, especially the right to participate or not in general election contests or local elections. Therefore, the authority to legitimize officials who are in dispute and has been decided by the MP remains a free authority that the government can abuse to intervene and co-opt parties. The institutional autonomy of the party is very likely to be trapped in the ratification of management transactions which can weaken the party's critical power in carrying out the control function over the running of government [10].

The spirit required by political parties to form MPs is to encourage autonomy and institutionalize parties in resolving their internal disputes. This enthusiasm is still hampered by the MP institution which has not been fully accepted, both internally and externally as a judicial mechanism in resolving internal disputes. On the internal side, MPs are still seen as part of the polar group strength of the internal party conflict and on the external side, especially the state, continues to place MPs as part of the organs of civil alliance whose decisions are not binding on the state. The ambiguity of MP's position as part of the internal organs of political parties on the one hand, and as state delegates entrusted to parties on the other hand, has implications for the position and binding power of MP's decisions which in the end do not function optimally.

To optimize the MP's function as an efficient and effective internal political party dispute resolution mechanism, it is necessary to reform the institution by clarifying and strengthening the MP's position in two steps. First, overcoming internal problems by repositioning the MP as an independent judiciary separate from and not part of the internal organs of political parties. Second, the reformulation of the nature of the MP's decision, especially related to the settlement of management disputes, is not only final and binding internally but is binding on all parties who are obliged to implement the decision. This includes the government in charge of ratifying political party officials. Form reformulation can be done with several alternatives. Among other things, first, specifically for the resolution of disputes over the management of political parties at the central level, an MP can be formed which is independent regardless of political parties and institutionally is part of the branch of judicial power or functionally this authority is delegated to the Supreme Court or the Constitutional Court; Second, the nature of the decision is final and binding on all parties, both political parties and the Government through the ministry in charge of ratifying political party management.

Establishing a Court that is independent and separate from political party organizations and a panel of judges who are appointed and paid for by the State, will establish impartiality which can become the basic capital in resolving disputes in a trusted manner. This judicial model guarantees the impartiality of the court because institutionally and the members of the panel of judges are not appointed from and by internal members of political parties. So that the panel of judges is not in the stereotype of being part of the pole of internal conflict which can reduce the trust and honor of the MP.

Placing the MP in a position as part of the branch of judicial power, will have an impact on the strength of the MP's decision which must be carried out by each party to carry out the decision. The Government through the ministries in charge of ratifying political party officials is no exception. The specialization of disputes between the central board or the national political party administrators as the competence of MPs with the nature of final and binding decisions is intended so that the settlement of disputes can take place quickly, simply, with certainty and justice. Strengthening autonomy and party institutions is more quickly consolidated and does not drag on in conflicts that are very unproductive for the nation and state. Apart from disputes between party officials, the usual judicial mechanism can be pursued because the impact is not as large and as extensive as the central board, which directly or indirectly influences national political stability [11].

Constitution Number 2 of 2011 concerning Amendments to Law Number 2 of 2008 concerning Political Parties which contains the resolution of internal disputes of political parties. However, there are problems with these arrangements which cause legal uncertainty as one of the ideals of the law itself. Article 32 paragraph (5) of the Law on Political Parties regulates an internal dispute resolution mechanism which is decided by an institution called the Political Party Court or other names. The decision of the Political Party Court is set to be final and binding. However, in Article 33 paragraph (1) it recognizes the settlement of disputes resolved by the District Court. So that these two articles cause confusion about the meaning of the final and binding nature of the decisions of the Political Party Court as well as the criteria for decisions not being reached from the Political Party Court. so that it becomes a question of the legal politics of the formation of these regulations whether they represent the aspirations of society in general or only as the interests of certain groups. Whereas in fact the purpose of this regulation was formed so that there would be no arbitrariness from high-ranking officials from political parties so that the human rights of everyone could still be guaranteed in the law. However, even though the Political Party Law has a good spirit for the creation of legal certainty and justice, there are still some obstacles such as the ineffectiveness of this regulation and the existence of the Political Party Court itself. Indeed, there is confusion, on the one hand the decision of the party court is binding but on the one hand this process can be carried out in the district court, this is interpreted as efforts made in the district court as material for correction of what has been done by the party court, as well as from the party court as a correction from the party about things that are not true.

In essence, not all internal party disputes must end in court. Article 32 paragraph (1) of Law Number 2 of 2011 concerning Political Parties stipulates that dispute must first be resolved internally by the party. What is meant by internal party is the party court or other designation which is part of the internal party to resolve internal disputes (Article 32 paragraph (3)). If a decision has been obtained from the Party Court or the like, then the decision is final and internally binding in in terms of disputes related to management, but Article 33

paragraph (1) of the same law provides an opportunity for parties who do not reach an agreement to settle party issues in the district court [12].

One of the obstacles in resolving disputes within the party is maintaining independence or neutrality. Without independence, it is difficult for the assembly to make decisions that accommodate the parties. Especially if the number of members of the Party Court that decides is an even number. This has not been added to the fact that it is very difficult for the Party Court Council to measure its independence, as it is well known that the Assembly comes from the internal party itself which has certain interests as well.

Another obstacle is related to the slow settlement and accumulation of cases in the litigation route, there are indeed gaps or deficiencies in the law on political parties, especially the time for settling internal party disputes through the Party Court, which is quite long, namely no later than 60 (sixty) days. Therefore, progressive action is needed that goes beyond the texts of the article. One of the intended progressive actions is through non-litigation channels by involving the people, or more precisely, community leaders who are felt to be neutral. Regardless of this being an internal party dispute, it is the people who have a stake in every wheel of political party life in a democratic system.

The consensus approach in the mediation process to resolve internal conflicts means that everything produced in the mediation process must be the result of an agreement or approval of the parties. Mediation can be taken by parties consisting of two disputing parties or more than two parties (multiparties) which of course allows political parties to use this alternative effort.

Mediation refers to the role of culture as the dominant factor. Based on this view, ways of reaching a consensus such as negotiation and mediation can be accepted and used by the community because this approach is in accordance with the perspective of people's lives, even political parties. People or communities, including members of political parties who inherit inherent cultural traditions, certainly emphasize the importance of harmony in life or association, of course they will be more able to accept and use consensus methods in resolving disputes [13].

C.3. Reconstruction Of Party Court Authority Norms in Internal Settlements Of Political Parties Based On Justice Value

The procedural law that must be applied in the Party Court, among others, is reflected in the principles of good justice, namely: the principle of *audi et alteram partem*, the principle of fairness, the principle of impartiality, the principle of openness, the principle of fairness and the principle of imposing an appropriate decision. The pouring of procedural law into party regulations is left to the political party concerned to regulate it, for example technicalities regarding dispute registration, trial scheduling, summons, examination in court consisting of answer-answer, evidence and conclusions, imposition of a decision and the format of the decision itself, if the above principles are met.

From the basics of *Audi et alteram partem*, then the implementation as an example if the Petitioner is given the opportunity to convey the arguments for the petition and its evidence, then the respondent must also be given the same opportunity to present the arguments for his rebuttal and the evidence. According to Maftuh Effendi, the principle of impartiality implies that judges may not side with anyone except for truth and justice. Judges are prohibited from discriminating between parties in a case, prohibited from being sympathetic or antipathy towards them.

Another principle of good justice that also deserves attention is that the verdict must be rendered in an appropriate time, that is, it should not be given too long but not too quickly. For example, a maximum of 30 (thirty) days must be terminated, it is deemed sufficient to resolve disputes other than matters of management. The next thing that is very important is that the mechanism for imposing a decision must be carried out in a deliberative meeting of judges which is carried out by deliberation for consensus after listening to the legal opinion of the judges of the party court. If a decision in a deliberative meeting of judges cannot be made by deliberation for consensus, the decision is made based on a majority vote, therefore the number of judges handling disputes must be an odd number. If the majority vote is also not achieved, then the vote/opinion of the chairman of the assembly is dropped. And the most important of all is that the verdict must reflect a sense of justice and be able to resolve disputes.

The Political Party Court as the spearhead of law enforcement within political parties must have the ability in this regard to be able to explore legal facts in the matter and determine appropriate sanctions for problems that occur in accordance with applicable regulations. Political parties need a Political Party Court consisting of members who are able and competent in law enforcement and ethics. Capable resources are needed, both based on experience and qualified skills for upholding the law and ethics. Moreover, a member of a political party who is the subject of supervision is someone who holds a public position and at least has extensive experience in politics. Members of the Political Party Court must at least consist of members from the Party as well as outside the Party or professionals who are experienced or experts in litigation, strategy, communication, and cadre formation. If at least the four elements are combined into one in the Political Party Court, then exploring the facts of a legal issue that is under supervision or being handled by the Political Party Court can more easily examine and determine the appropriate decision on the matter. The strengthening of the Political Party Court is indispensable for law enforcement in political parties [14].

In its form, the Party Court is the designation of an independent body and/or institution which is only owned by internal parties. Has a very strategic role to carry out the mandate of a democratic rule of law (*demokratische rechtsstaat*), with the consequence of the rule of law as a form of implementing democracy. Namely, acting as an enforcer of justice to resolve internal party disputes, which are final and internally binding.

In fact, during the existence of the Party Court in each of the internal political parties, the role of the Party Court had previously been entrusted by some judges in the district courts that, in settling a case involving an internal party dispute, the Party Court had to go through it first. This can be seen by the presence of the Supreme Court decision Number 269 K/Pdt.Sus -Pardpol/2012, namely regarding the cassation decision in the PDK (National Democratic Party) dispute case in which the Supreme Court emphasized that in resolving

disputes internal party disputes are carried out through The District Court, if it has previously been resolved by an internal party, as stipulated in the AD/ART and conducted by a Political Party Court.

Furthermore, referring also to the Supreme Court's cassation decision Number 101 K/Pdt.Sus -Parpol/2014 namely regarding the PKNU (Ulama National Awakening Party) internal dispute cassation decision, that in this decision the Supreme Court granted the applicant's cassation request to cancel the District Court decision Bondowoso who adjudicates internal party cases without using the mechanism of the Party Court.

Thus, based on the review of these decisions, jurisprudential principles were born, which of course became the basis for judges' considerations in deciding a case within the scope of justice. As summarizing the opinion of Irfan Fachruddin who explained that the source of law in the formal sense that is considered important besides the Act which is from customary law is doctrine (expert opinion), namely jurisprudence. In short, the position of the role of the Party Court has been entrusted and strengthened through jurisprudence judges, to exercise the authority of Law Number 2 of 2011 as a form of justice which only specifically resolves internal disputes over political parties in Indonesia.

Even though the position of the Party Court is not included in the constitution, it should be remembered that the purpose for establishing a Party Court through Law Number 2 of 2011 is to form a form of justice that is in accordance with the process determined by law (Due process of law) namely the authority to resolve internal disputes of political parties in Indonesia. The role of the Party Court should be able to ratify and/or adopt a judicial power system. As stated by M. Yahya Harahap emphasized in the judicial power that "is an independent power (an independent judiciary). In the past it was called een onafhankelijke rechterlijke macht namely judicial power that is free, not dependent on other powers.

So, of course, the first and most important thing is that if the Party Court adheres to a system of judicial power, the Party Court will not be able to be easily intervened by various parties who have power authority within the party or outside the party. Thus, the decision of the Party Court can be accepted as the first and final decision, as explained in the provisions of Article 32 paragraph (5) of Law Number 2 of 2011 which states that the decision of the Party Court is final and binding internally in the case of disputes relating to the management.

Furthermore, in addition to independent and independent powers, the Party Court must be strengthened in its procedural law by ratifying dispute resolution in courts that have a litigation system. Remembering Salim's opinion quoting from Takeyoshi Kawasima expressed his views on the benefits of litigation, which was written as follows:

- a. Litigation describes the existence of a dispute and results in a decision that will clarify who is right and who is wrong in accordance with applicable standards.
- b. Litigation, the decision puts pressure on the conflict between each party, eliminating their opportunity to participate in the resolution.
- c. Litigation stamps a moral error, which can be avoided in a compromise settlement

That way, if the Party Court ratifies the litigation system owned by the Court, of course the Party Court has the right to use sanctions against the parties to the dispute if they violate a decision that has been determined by the Party Court. Thus, internal party disputes no longer place their settlement in the District Court or cassation to the Supreme Court. This is also based on remembering SEMA (Supreme Court Circular Letter) Number 04 of 2003 of the fifteenth of October two thousand and three regarding civil cases related to elections, especially in point three (3) which states emphatically that, the District Court should declare itself not authorized examine cases related to internal party issues (Niet Ontvankelijkverklaard). And remember SEMA (Supreme Court Circular Letter) Number 11 of 2008 of the eighteenth of December two thousand and eight concerning Lawsuits Related to Political Parties, especially in point three (3) which states that lawsuits against party functionaries filed with The General Court is essentially an internal party affair, so the Judge must be careful in its settlement so that the decision does not hinder the stages in the election process.

This means that the Supreme Court as one of the constitutional executors of judicial power, also wants that the resolution of internal party disputes should only be resolved by internal parties. That way, it is very right on target if it strengthens the institution of the Party Court in terms of its position and role to be more independent in resolving internal disputes of political parties in Indonesia. In a way, the Party Court must have the power of execution in its decision, so that the decision has permanent legal force, and cannot be interpreted by the disputing parties [15].

So, there should have been an element of coercive effort in the decision of the Party Court which ratified the nature of the condemnatoir decision, so that the resolution of internal party disputes could be legally binding (in kracht vans gewijsde) but not only internally binding on the party. Observing this matter, the role of the Party Court should be strengthened in its institution by also incorporating strict legal norms and/or rules, into the legal rules of Law Number 2 of 2011 concerning Amendments to Law Number 2 of 2008 concerning Political Parties. Thus, the Party Court can totally resolve the internal disputes of political parties in Indonesia, and help the jurisdiction of the judiciary, which should prioritize resolving legal disputes, not but internal party disputes which of course have an element of political interest in them. That way, it will ultimately strengthen the existence of the Party Court in resolving internal disputes of political parties in Indonesia.

Justice will be felt when the relevant systems in the basic structures of society are well ordered, political, economic, and social institutions are satisfactory in relation to the concept of stability and balance.

Justice is generally defined as a fair deed or treatment. While fair is impartial, impartial, and fair. Justice according to the study of philosophy is when two principles are fulfilled, namely: first, not to harm someone and second, to treat every human being what his right is. If these two can be met, then it is said to be fair. In justice there must be comparable certainty, where when combined the combined results will become justice.

However, previously the effectiveness of dispute resolution was not through the Party Court, so there was injustice from a legal standpoint, because in substance it could not function optimally.

IV. CONCLUSION

1. Settlement of internal political party disputes based on the Political Party Law, the authority to resolve internal political party disputes is absolute authority (*attributie vans rechtsmacht*) for the Party Court. Throughout the party If politics has formed and has a Party Court in accordance with the Law on Political Parties, so long as there is no judicial institution authorized to try at the first level internal political party disputes. The absolute nature of the authority of the Party Court, due to its position as an internal court, makes it impossible for cases under its authority to be examined and tried by other Party Courts. The authority of the Party Court in resolving internal political party disputes has not been fair because the Authority of the Party Court has not been optimal and needs to be strengthened.
2. Obstacles in resolving internal political party disputes are the ineffective implementation of party court decisions which should have been final, but instead provide an opportunity to resolve them in the district court. The independence and neutrality of party court members is truly independent and neutral, not taking sides with any of the camps. there is a delay in settlement resulting in a buildup of cases in the litigation route.

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