

CHAPTER TWO

LITERATURE REVIEW

A. Democracy

Democracy comes from the word "demos" meaning people and "kratos" or "kratien" meaning power which is rooted to Greece Language. Literally, the meaning of democracy is the same as the sovereignty of people.¹ Generally, democracy has its own interpretation. Every scholar and practitioner of democracy have their own prism and the angle of thinking about democracy. As stated by Robert Dahl "... there is no democratic theory-there are only democratic theories ..."² Similarly, the opinion of Harold J Laski who expressed that democracy may be not limited definition because the range of its history is very long and has evolved for thousands of years. Laski further stated:

“No definition of democracy, can adequately comprise the vast history which the concept connotes. To some it is a form of Government, to others a way of social life. Men have found its essence in the character of electorate, the relations between the government and people, the absence of wide economics differences between citizens, there fusal to recognize privileges built on birth or wealth, race or creed. Inevitably it has changed its substance in terms of time and place.”³

Bernhard Sutor states that democracy had signs empirical guarantees for the rights to express opinions, to obtain information freely, freedom of the press, association and coalition, assemble and

¹ Jimly Asshiddiqie, 1994, *Gagasan Kedaulatan Rakyat dalam Konstitusi dan Pelaksanaannya di Indonesia*, Jakarta, Ikhtiar Baru Van Hoeve, p. 74-75.

² Hendra Nurtjahjo, 2006, *Filsafat Demokrasi*, Jakarta, Bumi Aksara, p. 71.

³ Perveen Shaukat Ali, 1978, *The Political Philosophy of Iqbal*, Lahore, Publisher United Ltd, p.260-261.

demonstrate, establish political parties, the opposition, the elections were free, equal, secret on the basis of at least two alternatives where the representatives chosen for limited time.⁴ In summary, Juan Linz⁵ and Alfred Stepan⁶ also make the main criteria of democracy as follows:

“Legal freedom to formulate and support political alternatives with the appropriate rights to freedom of association, speech, and other fundamental freedoms for everyone; free competition and non-violence among the leaders with periodic validity for them to hold the government; the inclusion of the entire political positions effectively within the democratic process; and the right to participation for all members of the political community, regardless of their political preferences. In practical terms, this means the freedom to establish political parties and organize free elections and true to a certain time period without getting rid of any effective political office of electoral accountability is carried on directly or indirectly.”

Corry and Abraham points out the elements of a democratic tradition as follows:

1. Respect for individual personality
2. Individual freedom
3. Belief in rationality
4. Equality
5. Justice
6. Rule of Law
7. Constitutionalism⁷

In every state, whether they apply democratic system or not they provide a constitution as the basic fundamental values. The existence of constitution is very crucial in democratic state. The simply definition of constitution by Brian Thompson can be defined as a document containing

⁴ Hendra Nurtjahjo, 2006, *Op.Cit.*,p.72.

⁵ Juan J. Linz is Steling Professor of Political and Social Science at Yale University.

⁶ Alfred Stepan is rector and professor of political science at the Central Eruopean University in Budapest.

⁷Perveen Shaukat Ali, *Op.Cit.*,p. 278.

the rules to keep running out the organizations.⁸ Organizations referred to various forms and complexities of their structure. Under the concept of constitution democratic states also included the understanding of written rules, customs and conventions of state (constitutional) which determines the structure and tasks of the state organs, regulate relations between the state organs and govern the relationship between the organs and the citizens of the country.⁹

B. Political Party

The history of political party cannot be separated from the development of the Western European countries. It begins from widespread ideas and demands that society is an important instrument part (subject) which must be considered and include in the political process of government. When the idea surfaced, some difficulties also come on how the participation of the people can be done. Therefore, in order to let the involvement of people in the political and government process, it is required a connector place (tools) between the people and government in the form of political party.¹⁰

In the countries that applied democratic political system consistently, it can be claimed that people as its main component is entitled to participate and straight also to determine who will be the

⁸Brian Thompson, 1997, *Textbook on Constitutional and Administrative Law*, Edisi ke-3, London, Blackstone Press Ltd, p.3.

⁹Jimly Asshiddiqie, 2005, *Konstitusi & Konstitusionalisme Indonesia*, Edisi Revisi, Jakarta, Konstitusi Press, p. 19 – 34.

¹⁰Miriam Budiardjo, 1977, *Dasar-Dasar Ilmu Politik*, Jakarta, PT. Gramedia Pustaka Utama, p. 159.

leader and who will be the policy maker in the future. In totalitarian countries, ideas about the participation of the people are based on the view of the political elites that people need to be led and built to reach the direct stability. To achieve that goal, a political party is a good tool.¹¹ Therefore, it could be said that in a country which possessed the democracy, the formation of a political party is a must. The formation of political party in the democratic system countries is usually different from one another. According to Hume, the formation of a political party are at least based on three things, namely: principle, loyalty and interests.¹²

Miriam Budiardjo defined that a political party is an organized group whose the members have same orientation, values and ideals. The purpose of this group is to gain political power and wrest political position-(usually) by constitutional way-to implement their wisdoms.¹³ According to Carl J. Fiederich, a political party is a group of people who organized stably with the aim to seize or maintain the authorization of the government for the leadership of his party and based on this authorization it will give expediency for the member of party either ideological or material foundation.¹⁴ Meanwhile according to Soltau a political party is a group of citizens which is more organized, act as a political entity and

¹¹*Ibid.*, p. 159-160.

¹²Kranenburg, 1980, *Ilmu Negara Hukum*, translated by Sabaroedin, Jakarta, Pradnya Paramita, p. 115.

¹³Miriam Budiardjo, 2008, *Dasar-Dasar Ilmu Politik*, Edisi Revisi, Jakarta, PT. Gramedia Pustaka Utama, p. 403.

¹⁴*Ibid.*,p.404.

by using his power to choose - aims to dominate the government and carry out their general policy.¹⁵

Another definition is addressed by Sigmund Neumann who argued that a political party is the articulate organization of society's active political agents, who are concerned with the control of governmental political power and who compete for popular support with other group or groups holding divergent views.¹⁶ Then, another scholar namely Mark N. Hagopian defined that a political party is an organization formed to influence the form and character of public policy within the framework of the principles of a particular ideological interests through the direct practice of direct power or the participation of people in the election.¹⁷

Based on the restrictions on political parties as mentioned above, it can be summerized that:

1. Sociological basic of a political party is an ideology.
2. The importance of the establishment of a political party are efforts to gain power.

In democratic countries political parties exercise several functions, as follows:

1. Parties as a tools of political communication

One of the tasks of political parties is to distribute a variety of public opinion and aspirations and set such to minimize the confusion in public opinion. In a modern society, opinions and aspirations of a

¹⁵Eddi Wibowo et.all, 2004, *Ilmu Politik Kontemporer*, Yogyakarta, YPAPI, p. 68.

¹⁶Miriam Budiardjo, 2008, *Loc.Cit.*

¹⁷*Ibid.*

person or group will be lost without trace like a voice in the desert, if not collected and combined with the same opinions and aspirations of others. This process is called "merger of interests" (interest aggregation). After merging process, these opinions and aspirations are processed and formulated into an orderly form. This process is called "the formulation of interests" (interest articulation).¹⁸

2. Parties as a tool of political socialization

Political parties also play a role as an instrument of political socialization. In political science, political socialization is defined as the process through which a person acquires the attitude and orientation towards political phenomena, which are applicable in the community where he/she lives. Usually the socialization process goes gradually from the childhood to adulthood period. In the new countries, political parties also serve to foster national identity and national integration.¹⁹

3. Political parties as a tool of political recruitment

The function of political parties also is to find and encourage talented people to actively participate in political activities as a member of the party (political recruitment). Thus, the party helped to broaden political participation. The trick is through personal contact, persuasion and others. The political parties also attempted to attract young group to be educated as cadres that in the future they are

¹⁸*Ibid.*, p.405.

¹⁹*Ibid.*, p.407.

expected to be successors to replace the old leadership (selection of leadership).²⁰

4. A political party as a tool of regulating conflict (conflict management).

In an atmosphere of democracy, competition and differences of opinion in the community is a reasonable question. In the event of conflict, political parties are trying to resolve it. In the practice of politics, it is often seen that the functions mentioned above are not performed as expected. For example, the information given can cause anxiety and divisions in society; the orientation is not national interests, but the interests of narrow party members expect the certain political result; or the conflict is not resolved, but is going advanced.²¹

Samuel P. Huntington in his book "Political Order in Changing Societies" asserts that the development of democracy has increased political participation of society in the statehood. The most important organization tools that must be owned to organize the expansion of political participation is political party.²² For a democratic state, political party has an important position and role in every democratic system. Political party plays the strategic role between the governance process and citizens.

²⁰*Ibid*, p. 408.

²¹*Ibid*, p. 409.

²²Samuel P. Huntington, 2003, *Tertib Politik di Tengah Pergeseran Kepentingan Massa*, Translated of *Political Order in Changing Societies*. Editor: Sahat Simamora and Suryatim, Jakarta, Raja Grafindo Persada, p. 472.

Even many argue that the political party which actually determines the democracy as said by Schattscheider "political parties created democracy".²³ Therefore, the political party is an important pillar that really needs to be strengthened in terms of the degree of institutionalization in every democratic political system. Even Schattscheider also said "modern democracy is unthinkable save in terms of the parties".²⁴ It is strengthened by the opinion of Robert Michels that the organization of political party is the only one economic or political tools to create a collective willingness.²⁵ How important and urgent the position and function of political party in a democratic state, so the process of institutionalization and consolidation of a democratic state can be judged from the institutionalization and consolidation of political party in the state. In other words a country called as a democratic state by measuring the institution of a political party in. That is why the political party can be considered as one of a pillar of democracy. Democracy without political party will lose its interpretation so that political party becomes an important instrument in a democratic process.²⁶

²³Jimly Asshiddiqie, 2006, *Kemerdekaan Berserikat, Pembubaran Partai Politik dan Mahkamah Konstitusi*, Jakarta, Sekretariat Jenderal dan Kepaniteraan MKRI, p. 52.

²⁴Jimly Asshiddiqie, 2014, *Pengantar Ilmu Hukum Tata Negara*, Jakarta, Raja Grafindo Persada, p. 401-402.

²⁵Robert Michels, 1984, *Partai Politik; Kecenderungan Oligarkis dalam Birokrasi*, Jakarta, Penerbit Rajawali, p. 23.

²⁶Firdaus, 2012, "Implikasi Sistem Kepertaian Tertutup, Stabilitas Pemerintahan dalam Sistem Ketatanegaraan Indonesia Sebelum dan Sesudah Amandemen UUD 1945", Disertasi, Bandung, Program Doktor Ilmu Hukum, Universitas Padjadjaran, p. 35.

The synthesis and synergy relation between law and the democratic political system as stated by Mahfud MD is democracy without law will not be built well and very possible to cause anarchy, instead the law without public control will only create the elitist and repressive law.²⁷ Therefore there is a strong relationship between law and democracy. M. Solly Lubis also emphasized that: ...because of the existence of democratic system and law are equally important in Indonesia, then both are considered as two faces of coin.²⁸

Important instruments of a political party in the democracy is on a special role which is given to the party as the place to connect the aspirations of people to distribute and relocate the social political power to the political supra structure level through the election. In doing the functions, political party faces important tasks related to the implementation of the state government such as implementing the political aggregation function, political aspirations, political education, political recruitment, political mobilization to win the election and put its representatives in government political positions.²⁹

The political party is a political participation container.³⁰ Political participation is citizens activities in influencing

²⁷Moh. Mahfud MD, 1999, *Hukum dan Pilar-Pilar Demokrasi*, Yogyakarta, Gama Media, p.1.

²⁸M. Solly Lubis, 2011, *Manajemen Strategis Pembangunan Hukum*, Bandung, Mandar Maju, p. 51.

²⁹Ahmad Sukaradja, 2012, *Hukum Tata Negara dan Hukum Administrasi Negara Dalam Perspektif Fikih Siyasah*, Jakarta, Sinar Grafika, p. 144.

³⁰As stated by Ismail Sunny: "without no doubt, freedom for association including in the matter of

the making process and implementation of the policy and determining the leader of the government. The intended activities cover proposing a claim, paying taxes and asking constructive criticism and corrections over the implementation of public policy. The citizen activities as their political activities also refer to supporting or against certain leaders, proposing alternative leaders and selecting the representatives of the people in the general election. In this case, a political party has a function to open the opportunity to encourage and invite the members and society to use political party as a channel of activities to affecting the political process.³¹ According to Jimly Asshiddiqie, in many modern states, filling members of representative institutions is usually done through the general election mechanism which is followed by the political party who collect and organize the aspirations, opinion, and the voice of the people. Therefore the democratic system in the modern state could not be removed from the problems of the general election and political party.³²

In the 1945 Constitution, political parties are increasingly recognized as parts of the statehood procedures. It can be seen in the Article 22E Paragraph (3) of 1945 Constitution that states as follows:

"The participants in the general election for the election of the

establishing a Political Party, will support or oppose government power and provide that political party policy for society" See Ismail Sunny, 1977, *Mekanisme Demokrasi Pancasila*, Jakarta, Aksara Baru, p. 118.

³¹Ramlan Subakti, 1992, *Memahami Ilmu Politik*, Jakarta, Grasindo, p. 118.

³²Jimly Asshiddiqie, 1994, *Op.Cit.*, p. 68.

members of the House of Representatives (DPR) and members of the Regional Council (DPRD) are political parties". In other words, the participants of the general election for parliament members is a political party. In addition, Article 6A of 1945 Constitution also specifies that the election of the President and Vice President shall be elected directly by the people that a candidate proposed by a political party or coalition of the political parties.³³ Article 6A paragraph (2) of 1945 Constitution states that: "The candidates for President and Vice President shall be proposed prior the holding of general elections by political parties or coalitions of political parties which are participants in the general election".

Even, based on Article 1 point 3 of Act No. 8 of 2015 about the Election of the Governor, Regents and Mayors it is stated that "Governor candidate or Vice Governor is a participant of the election proposed by political party or coalition of political party, or an individual who is registered or register at the General Election Commission". Then the Article 1 point 4 of Act No. 8 of 2015 also states that "Regent candidate or Vice Regent, candidates for Mayor and Vice Mayor is a participant of the election proposed by a political party or coalition of the political parties, or an individual who is registered or register at the General Election Commission of District/City".

³³Reni Purnomowati, 2005, *Implementasi Sistem Bikameral dalam Parlemen Indonesia*, Jakarta, PT. Raja Grafindo Persada, p. 285-286.

As a manifestation of independence of association as guaranteed in Article 28 of the 1945 Constitution, DPR already enacted four Acts on political parties.³⁴ The purpose is to strengthen institution and improve the function and the role of political party in the country as well as to the society. It is also to build the integrity as well as create more effective and efficient institution of political party in Indonesia. By the enactment of Political Party Act, it is expected that the functions of a political party as a political means of communication; means of socialization politics; political recruitment; and conflict management can be realized.³⁵

Related to those four functions of the political party as the conflict management in society. There are so many values and interests which grow in intra-political party and it tends to compete one another. If they have many cadres, any various interests can be distributed through the polarization of the factions in the internal political party by offering the ideology, programs and alternative policies that are different from one another. In other words, as conflict management, the party acts as a means of aggregation of interest that distribute various different interests through an institutional political party. Political party aggregates and integrates a

³⁴First Act was Act No. 2 of 1999 about Political Party then it was amended become Act No. 31 of 2002 which was amended to Act No.2 of 2008 which is now perfected again became Act No.2 Year of 2011

³⁵See Putra Perdana Ahmad Saifullah, 2016, "Politik Hukum Pembentukan Mahkamah Partai Politik untuk Menyelesaikan Sengketa Internal Partai Politik yang Demokratis", p. 5.

wide range of interests by well-dammed up to influence political policies in general and the political party in particular.³⁶

It is worthy noted that the existence of political party in the democratic government system is a reality as long as the democratic political system is still used as the basis and model so that the increasing of political party' role and function in the government must be optimized. The existence of political party will be a measure of whether a state is democratic or not. Although there are so many political parties in democratic states it cannot be used as a guarantee to claim as a democratic state. Yet certainly that the political party is a political infrastructure component which has a direct role in the communication between the people with the government in a democratic government system. Therefore, a political party is considered also as one of the important pillars of the rights of associations in a democratic state.³⁷

Theoretically, in the opened-multiparty system³⁸ there are many political parties who grew up as a manifestation of the essence of democracy namely the freedom of associate and organize socially and politically. The number of political party as a consequence of political

³⁶Redi Pranuju, 2009, *Oposisi Demokrasi dan Kemakmuran Rakyat*, Yogyakarta, Pustaka Book Publisher.

³⁷Jimly Asshiddiqie, 2011, *Hukum Tata Negara dan Pilar-Pilar Demokrasi*, Jakarta, Sinar Grafika, p. 282-283.

³⁸The meaning of this term is to describe that there is no limitation of the number of political parties which want to participate in election regarding to there presentation in representative institutions (parliamentary unthershold) or the number of votes (electoral utershold) as the threshold, and as opposed to the system of multy party which is the number is limited with the system threshold of votes in the election (electoral threshold) and the parliamentary threshold.

party system implementation will have an impact on the number of competitors and a hard competition in gaining the influence and support of the voters by those of political party cadres. Accordingly, it is really possible to cause the fragmentation between political parties and also even intra-political party.

The growth and development of political party in Indonesia has brought both positive and negative excesses. Positively, the presence and the contribution of the political party made the aspirations and interests of the community becomes resurfaced. One example is when the amendment of the 1945 Constitution, where the role of the political party so significant in discussing the amendment of the 1945 Constitution on the limitation of the term office of the president, the articles regarding to human rights and the direct presidential election. The aspirations and interests of people become easier through the political party.

Besides, there is also a negative excess that arise as a result of the emergence and growth of political party in the reformation era. The conflict and enmity between political parties even their intra party conflict also resurfaced. The existence of intra party conflict can be said is in line with the appears and the development of political party itself. Almost all political parties in Indonesia have experienced intra party conflicts. The Indonesian Democratic Party of Struggle (PDIP) already experienced in intra conflict and division. The Golkar

Party is even "broken" and the previous high figures who have grown up in Golkar Party establish their own political party: Hanura Party (People Conscience) formed by Wiranto who was cadres of Golkar Party, Gerindra Party formed by Prabowo Subianto that was cadres of Golkar Party and Democratic National Party (Nasdem) which was established by Surya Paloh who is also the cadres and functionaries of Golkar Party. The National Awakening Party (PKB) was also experienced in a protracted conflict. Actually, there are so many examples which can be shown to give the description of how intra party conflicts have already been very "severe" and looking for the best way to settle down.

C. Intra Party Conflict

Yves Meny and Andrew Knapp stated that a democratic system without political parties or with a single party is impossible or at any rate hard to imagine.³⁹ A political system with only one party, it is difficult to imagine to be called democratic, especially if there is no party at all. Furthermore, Yves and Andrew Knapp put forward three (3) parameters degree of institutional political parties in a democracy, among others: (i) its age (ii) the personalization of organization (iii) organizational differentiation.⁴⁰

Political party as an organization must undergo cycles and stages of development or growth over time. Political party with more much mature

³⁹ Yves Meny and Andrew Knapp, 1998, *Government and Politics in Western Europe: Britain, France, Italy, Germany*, Third Edition, Oxford University Press, United Kingdoms, p. 86.

⁴⁰*Ibid.*, p. 7.

will undergo the process as called as depersonalization. There is a strict separation between the institutions with the issue of personal agency or private individual who happens to be managers. Although it may still be found organizations that have a very old, but the tradition of organization still depend on the personal affairs.

Indicators symptoms cult of the individual or personalization in an organization can be seen when the succession or leadership change. In fact, many organizations (including political parties) may end or minimally decline shortly after the central figure (chairman, founder) dies or resigns. Monica and Jean Charlot suggest that until a party (or any association) has surmounted the crisis of finding a succession to its founder, until has drawn up rules of succession that are legitimate in the eyes of members, its 'institutionalization' will remain precarious.⁴¹

As long as an organization has not been able to overcome the crisis in the succession of leadership and yet succeeded in laying the basic settings that can be recognized and trusted by its members, then during the time institutionalization of the organization is still problematic and weak. Especially if the succession regarding with the founder, leader and or people who contributed a lot to the organization, it will often found emerging difficulties, obstacles, conflicts in the succession which

⁴¹Monica and Jean Charlot, 1985, *Les Groupes Politiques dans leur Environnement* in J. Leca and M. Grawitz (eds) *Traite de Science Politique*, Paris, PUF, p. 89 took in Doddy Nur Andriyan, 2016, "Solusi yang Konstitusional dan Demokratis Untuk Menyelesaikan Sengketa Internal Partai Politik di Indonesia", p. 8. Paper presented in the 3rd National Conference on Constitutinal Law, Bukittinggi, 2016.

expected run orderly and peacefully. Here it is a challenge for organizations or political parties on whether they may make the succession is done smoothly without depending too much on particular figures.⁴²

Then related to the organizational differentiation, what is meant here is how political parties could take the opportunities, challenges, aspirations and the right times to mobilize constituent support. Moreover, in a multiparty system which will have so many competing aspirations and political interests in the community requires proper distribution through political parties. A political party that succeeded in taking the opportunities, mobilizing and channeling aspirations and succeeded in realizing the aspirations, means that they have big chances to be properly institutionalized.

Political parties requires an appropriate organizational structure to be able to capture, aggregate, mobilize and channel the aspiration of society. By having a well structured organization, they will able to accommodate the diverse interest and aspiration of people. An appropriate organizational structure with people (administrators) who have integrity, commitment, and hard working, of course, must be in conformity with the vision and mission (platform) of the political parties.

⁴²Jimly Asshiddiqie, 2005, *Op.Cit.*,p. 57.

Nazuruddin Sjamsuddin, Zukifli Hamid, and Toto Pribadi that the disunity in the political parties could be caused by three factors:⁴³ 1) Differentiation of ideologies of its members; 2) Differentiation in the policy implementation; 3) Leadership competition in the party.

According to Indonesian dictionary, the definition of the dispute are:

1. Something that causes disagreements, quarrels, strife;
2. Quarrel, dispute;
3. The case in the court;⁴⁴

Political Party Act 2008, uses the terminology "Political Party Dispute". In the elucidation of Article 32 paragraph (1) of Political Party Act 2008 political party disputes are defined as dispute that include: (1) the dispute regarding the management; (2) violation of political parties member' rights; (3) dismissal without obvious reason; (4) abuse of power; (5) financial accountability; and/or (6) objection against the political parties' decision.

This intra party conflict can propagate and spread to the conflict between the political parties and also can spread to the system of the Indonesian government. It is very dangerous, because the state not only need to have democratization but also stability. The government system must be kept from turbulence and protected from conflict disorders. If

⁴³Nazaruddin Sjamsuddin, Zukifli Hamid, and Toto Pribadi, 1988, *Sistem Politik Indonesia*, Jakarta, Universitas Terbuka, quoted from Journal Chudry Sitompul, 2010, "Konflik Internal Sebagai Salah Satu Penyebab Kompleksitas Sistem Multi Partai", accessed on 5th November, 2016 at 6.09 pm.

⁴⁴Pusat Bahasa Departemen Pendidikan Nasional, *Kamus Besar Bahasa Indonesia*, Edisi Ketiga, Balai Pustaka.

not, for sure it will have a negative impact not only from the political side but also in the economic sector, monetary, stability of defense and security. The experience of 1998 in Indonesia and the others countries must become an example on how the political turbulence can be contagious and aggravate all sectors of the State.

The intra party conflict is an integral part which cannot be separated in every political process, because of that the conflicts in the political party should be seen as a dynamic aspect of the political process that must be faced wisely and managed well to reach a consensus or internal political agreement which at the end will be able to construct the strength/management commitment and the taft political party cadres. Conflict is not always harmed but also provides benefit as long as it is understood as the dynamics of an organization.