



The Concept of Permanent Political Disclaimer in Preventing the Corruptor's Steps

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Abstract

In Indonesia, corruption isn't an extraordinary thing but it has become commonplace in front of the public, especially the perpetrators are state officials who have an important role. Criminal sentences for a suspect in a criminal act of corruption can be said to be severe, but it doesn't provide a deterrent effect so that if there is a gap, the act can be recommitted. Until there is a legal reform to remove certain rights inherent in everyone. The legal reform refers to the Supreme Court Decision Number 537K/pid.sus/2014 and the Supreme Court Decision Number 1195K/pid.sus/2014. Meanwhile, the criminal act of corruption itself has been regulated in Law No.20 of 2001 concerning Amendments to Law No. 31 of 1999 concerning Eradication of Corruption Crime.

Keywords: *Corruption; Deprivation of Political Rights*

Introduction

Indonesia is a democratic country where an ideological reality can no longer be denied. A country is said to be democratic if that country can hold general elections independently which last five 5 (five) years of leadership. In a modern era like today, democracy can become an arena for increasing the political participation of the community so that it can be an answer to problems that arise in society.

On the other hand, when the practice of democracy(1) has been implemented, disappointment is often encountered as a society who isn't satisfied with the decisions of the authorities. For example, the problem of justice for corruptors is considered to be unbalanced between acts and punishment and the facilities provided.(2) The problem of corruption isn't a new problem in legal matters in all countries, because corruption has existed since thousands of years ago in both developed and developing countries including Indonesia.(3) Efforts to eradicate corruption have been carried out in various ways as well as the sanctions given to corruptors have been heavier, but every day the public still hears about many incidents when there is a Hand Arrest Operation (OTT I) carried out by the KPK, as is the case with regional heads.

Corruption is a special offense outside the Criminal Code (KUHP). In the process of handling corruption cases, it's focused on how to resolve them first in accordance with Article 25 of Law Number 20 of 2001 concerning Amendments to Law Number 31 of 1999 concerning Eradication of Corruption

Crimes. Likewise, there are other ways to create a deterrent effect by using additional penalties, one of which is article 10 letter a number 1 regarding the existence of certain rights. Supreme Court Decision Number 537K/pid.sus/2014 in the decision on corruption conviction against DS, who was sentenced to additional penalties in the form of revocation of certain rights, namely to vote and be elected in public office/political rights. In the decision of the Supreme Court Number 1195K/pid.sus/2014, LHI was sentenced to additional penalties in the form of revocation of the right to be elected in a public position/political right.

Own rights are things that have been given the right to vote given restrictions so that citizens who are guaranteed to have the right to vote and to vote are truly citizens who have met the predetermined requirements. Even though the convict is found guilty of having rights that must also be protected, the state and its officials have an obligation to uphold the sustainability of the convict's rights.(4) Based on the background, the formulation of the problem is what is urgent about the deprivation of political rights for convicts of corruption?

Research Method

The writing of this journal uses normative legal research methods, namely legal research conducted by examining secondary data and examining law as a rule.(5)

Discussion

Urgent Matters Against Political Rights Revocation

Revocation of political rights is deprivation of the right to be elected and to vote in public office and is an additional punishment.(6) The legal basis for revocation of political rights is in Article 10 of the Criminal Code, which states that additional penalties consist of revocation of certain items, and announcement of a judge's decision. As an additional penalty, the revocation of certain rights means that it only adds to the basic sentence imposed.(7)

Revocation of political right is deemed inappropriate, because as an Indonesian citizen, the right to vote and be elected is a right inherent from birth and is given by the State to every citizen who has fulfilled the requirements according to the Prevailing Laws to be elected and to vote.

Political rights aren't granted by the government, the universal nature of these rights. Apart from being universal, these rights cannot be revoked.(8) This means that no matter how bad the treatment has been experienced by someone or no matter how cruel someone's treatment is, he will not stop being a human being and therefore still has that right.(9) however, political rights face constitutional obstacles when political rights in the form of the right to vote and be elected for citizens are revoked by the judiciary or the prohibition of citizens related to corruption by the KPU to use political rights in election activities as a party of State democracy. This has shown the discriminatory use of political rights to vote and be elected (Article 28I paragraph (2)) of the 1945 Constitution of the Republic of Indonesia).(10)

Thus, violations (especially corruption convicts) and revocation of the right to vote and be elected as a political right for a person in public office which is implemented seem futile, because the imprisonment sanction that has been served by someone who has been found guilty by the court has automatically failed under administrative requirements both in political party organizations as well as the requirements stipulated in law.(11) There is no need for the Public Prosecutor/KPK and Judges to still demand and impose additional criminal sentences if they have also received a long imprisonment. If a citizen who has served a criminal sentence and doesn't use his constitutional right to be elected in the

election due to his political rights being deprived, then he has been disadvantaged, because he cannot exercise his right to vote because it has been revoked simultaneously with his right to vote.

Revocation of the right to vote and to be elected in public office shouldn't diminish or take away the dignity of a person as a human being as stated in the MPR Decree No. XVII of 1998 on human rights. So, there should be no difference in the status of people as corrupt convicts or not in exercising their constitutional rights to be elected and elect in public office.(12) Then, a person who served a sentence and got out of prison or correctional facility is basically a person who has repented of his actions, has repented, and promised not to repeat his actions again. Thus, it's not appropriate to attack the former convict who has repented if given another sentence by law.

Revocation of Political Rights of Corruption Prisoners

Revocation of political rights against corruption convicts is a progressive step which will be carried out and given by the Supreme Court Judge, so that the decision issued can become jurisprudence.(13) The step to revoke political rights is supported by various groups, but it must be considered again how long it will take to revoke political right as legal certainty and legal benefits for criminals as regulated in Article 38 of the Criminal Code paragraph (1) states:

1. In the case of a death sentence or life imprisonment, the length of the revocation is life;
2. In the case of imprisonment for a specified period of time or imprisonment, the duration of revocation is at least two years and a maximum of five years longer than the basic sentence;
3. In the case of a fine, the duration of revocation is at least two years and a maximum of five years.(14)

The time limit for the political rights limit for corrupt convicts is in the decision of the Constitutional Court (MK) No.4/PPU/VII/2009 which states,"the limited term is only valid for five years after the convict has finished carrying out his sentence".(15)

The basis for the consideration of the Judge of the Constitutional Court is that the article prohibiting prisoners who are punished by the law for five years or more from nominating as a regional candidate is considered arbitrary or as if the formation of a law punishes people indefinitely. Thus, it's clear that based on the above Constitutional Court decision, there are limits on former inmates who participate in the election as legislative candidates or regional heads. However, the Supreme Court decision doesn't include limitations or limits on the revocation of political rights. Thus, it's not certain how long the convicted person will undergo a sentence of revocation of political rights in the form of revocation of voting rights and voting in public office. This is not in accordance with the purpose of law, namely to provide a sense of justice, certainty and benefit.

Imposition of crimes in general has the aim of achieving justice, benefit and legal certainty and to make crimes operational and functional. The purpose of imposing this punishment doesn't only apply to the convicted person but also applies to the community in order to create a cautious nature in acting. Imposing the criminal is the authority of the judge.(16)

Revocation of political rights is basically an addition to existing penalties. With this decision, the convict loses the right to vote and be elected apart from holding public office because the judge views the convicted person has abused his rights and authority as a public official. Public officials themselves are state administrative officials who carry out or carry out the functions of making and implementing state legal norms, which can be called state administrative officials or public officials.(17) Withdrawal of

certain rights only for crimes that are expressly determined by law, that is, the punishment is punishable by additional penalties. The length of time the revocation of rights is for life.

Conclusion

Imposition of criminal political rights permanently applied as an additional punishment in cases of corruption, if seen in practice from the Supreme Court Decision. Corruption charges are presented to public officials. Judges also have the option to impose additional crimes on perpetrators of corruption in order to have a maximum deterrent effect so that they do not repeat themselves in terms of public office, which is seen from the position of the official whether they have a large enough role in their environment or do they not really have a significant role. Large and if one of the rights is revoked it will not cause loss or other effects. The right to hold office, the right to vote and to be elected Article 35 of the Criminal Code also allows several rights to be revoked, the most important of which are not basic rights in human rights. Article 28 letter (j) of the Criminal Code also determines the existence of "rights can be limited in social and state life".

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