

## **Evocation of Political Rights Convicted of Corruption in Judge's Decision As An Effort to Eradicate Corruption**

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### **Abstract**

*The source of political rights inherent in human rights and political rights are also closely related to power. Meanwhile, corruptors who abuse their power are only sentenced to an average of 2 years and 2 months in prison during 2016; In 2013 the average sentence was 2 years 11 months; in 2014 2 years 8 months; and 2015 only 2 years 2 months. There needs to be a formulation of the provisions of the regulations as a basis for integrating and harmonizing judges' decisions on the revocation of political rights or it is also necessary to formulate a special criminal system to eradicate corruption crimes. Therefore, this study aims to examine what things underlie the enforcement of the deprivation of the political rights of the convicted of corruption in judge's decision and formulation of the criminal law system regarding the deprivation of political rights of convicted of corruption in judge's decision?. This research was conducted using a type of sociological juridical research approach. The result of the research is the abolition of political rights for corruption convicts, when examined from the juridical, sociological, and human rights aspects. It must become a standard in the punishment of corruption, considering that several formulations of the criminal law system currently exist in the criminal act of corruption which is still relatively light because the several sanctions given to date have not minimized acts of corruption.*

**Keywords:** *Crime, Corruption, Judge Decisions, Revocation of Political Rights*

### **1. Introduction**

The progress of the nation is achieved by the cooperation of the nation's children by giving rights to every citizen (people) without any treatment of discrimination against each other, there is no difference without being based on the background of any identity "equality before the law". Human nature always wants to live in groups so that in the Basic Constitution we guarantee the existence of freedom of association and assembly, to put forth thoughts verbally and in writing and so on.

The political rights of the source are attached to human rights (human rights) and political rights are also very closely related to power, so the right to occupy power and positions in state institutions and other public affairs is a political right.

Arbitrariness is a cursed behavior that is uncivilized, which is very violating the norms of Pancasila, acts that are willing regardless of the rights of people (people). Practically speaking, the form of arbitrary action is an act of corruption (misappropriation

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or misuse of state finances) taking that is not his right. Corruption is an "extraordinary crime" that has a wide effect on the interests of the state and society; the desire of the people to live prosperous, safe and Sentosa is destroyed and taken away by the evils of lust for corruption and greed of men (power) who do not know themselves, from where power and for what power.

The purpose of building a prosperous, safe, and Sentosa society requires means, namely legal instruments (governance), organizes / state (organizer), and financial (finance) (Belinfate & Soetan Batuan, 1983). State financial resources including taxes, non-tax state revenues (PNBP), and grants; collected by the state of the people through legal mechanisms and should be redistributed for the benefit of the people. Therefore, the state's finances are sourced from the people, therefore corruption cuts the state financial chain that must be channeled back to the interests of the people.

576 convictions of corruption cases in 2016, there are only 7 (seven) verdicts that impose additional crimes in the form of revocation of political rights. The number of 576 cases of corruption convictions is very high, therefore there must be optimal efforts in the eradication of corruption crimes both preventive and repressive. If it is connected between corruption and power (certain positions in state institutions) are very closely related, in the sense that corruption is carried out in the abuse of state power. State power is part of the political right; Therefore, the perpetrators of power (corrupt persons) can no longer be trusted because of the credibility and poor morality to occupy certain positions in state institutions that must be regulated under the mechanics of the law. As an implication on every verdict of judges convicted of corruption crimes must be carried out in conjunction with the revocation of political rights convicted of corruption cases.

From ICW research, In 2013, the average sentence was 2 years and 11 months; in 2014, 2 years 8 months; and 2015, 2 years 2 months; the average corruptor was only sentenced to 2 years and 2 months in prison during 2016 With the low sentence, the sentencing of additional political rights became a hope in the eradication of corruption. Learning from the verdict of the revocation of political rights that differ from one judge and another and the low sentence in the form of revocation of political rights, there needs to be a formulation of the provisions of the legislation as a basis for combining and harmonizing the judge's decision on the verdict of revocation of political rights or it is necessary to formulate a "special criminal system" of criminal corruption on the criminalization of the revocation of political rights in each judge's verdict in corruption cases.

The revocation of political rights against corruptors is an action that should be supported to provide a deterrent effect in the eradication of corruption amid the low verdict of corruption cases. However, to be effective and deterrent, additional legal instruments are needed so that the mechanism of revocation of political rights against corruptors remains in line with human rights and becomes a progressive legal movement in the eradication of corruption.

## **2. Research Method**

This research was conducted using a type of sociological juridical research approach. This type of sociological juridical research approach does not categorize the approach a priori choose one of the 2 (two) existing approaches but combines between the approach type of juridical research and the type of sociological research approach in the hope that there is no dichotomy in looking at legal issues because each can't stand

alone without regard to the other (Ali Mansyur, 2007). In this study used is a sample aimed (Purposive Sampling) (Moloeng, 2013).

The types of data used in this study are primary data (data obtained directly from the public) and secondary data (data that includes important letters, books, to official government documents). Data collection techniques are through interviews (interviews) and questionnaires (questionnaires) and literature research (library research). Data that has been obtained from data collection techniques will be done by the data reduction method.

### **3. Result and Discussion**

The word corruption is derived from Latin or *corruptus* which means corruption, depravity, dishonesty, bribery, immorality, deviation from chastity, defamatory words, or as can be read in The Lexion Webster Dictionary. From that Latin language, down to many European languages, such as English: corruption, corrupt; french: corruption; and Dutch: corruption. From this Dutch language, down to the Indonesian language: corruption (Hamzah, 1984). From the various definitions of corruption presented, according to Brasz, there are two elements in it, namely the abuse of power that exceeds the limits of legal fairness by officials or state officials; and the prioritization of personal or client interests over the public interest by the relevant state officials or apparatus (Lubis & Scott, 1995).

Three things must be studied in the revocation of political rights. First, on the subject of criminal offenses. Some opinions suggest the revocation of political rights is more relevant if given to actors who occupy public office from the results of elections (elections). The position used by the perpetrator to commit a crime of corruption correlates with the revoked political right so that it is intended that the perpetrator no longer occupies the same position because it has been proven to abuse his power. Second, using a broader perspective, the revocation of political rights should be imposed on all public officials convicted of corruption crimes. The third perspective is that all perpetrators of corruption can be sanctioned for revocation of political rights. A person who has been convicted in the court of committing a crime of corruption certainly has experience of abusing a position either as a public official or as a third party that influences public officials to abuse his or her handshake. For example, corruption perpetrators from private parties who bribe public officials certainly have greater potential to abuse their positions when occupying public office (Syawawi, 2017).

The revocation of political rights is stipulated in Article 35 Paragraph (1) (Penal Code, n.d.), that the rights of convicts that can be revoked include the right to hold office, the right to enter the armed forces, and the right to be elected and elected at elections; other than that it relates to the revocation of political rights stipulated also in Article 10 of the Penal Code (Kitab Undang-Undang Hukum Pidana, n.d.) that additional criminal is the revocation of certain rights, in this case including political rights.

The formal juridical formulation of the term corruption in Indonesia is stipulated in Chapter II of Article 2-16 of Law No. 31 of 1999 (Negara Kesatuan Republik Indonesia, 1999). The definition of corruption is as follows:

1. Any person who unlawfully enriches himself or another person or a corporation that may harm the state's finances or the economy of the State. If the crime of

corruption as referred to in paragraph (1) is carried out under certain circumstances, the death penalty may be dropped;

2. Any person who to prosecute himself or another person or a corporation, abuses the authority, opportunity, or means available to him due to positions or positions that may harm the state's benefits or the economy of the State;
3. Every person who conducts experiments, assistance, and evil concentrations to commit crimes of corruption;
4. Every person outside the territory of the Republic of Indonesia who provides assistance, opportunities, facilities, or information for the occurrence of corruption crimes.

Corruption is adding to the gap as a result of worsening wealth distribution. If the gap between rich and poor is so entrant, corruption widens the gap because money is distributed unhealthily or in other words does not follow economic rules as it should. Corruptors are getting richer and the poor are getting poorer (Yamin, 2012). Efforts to eradicate corruption are necessary because given the adverse effects that arise, so the intended eradication is to reduce or even eliminate it, do not let it exist or occur. The eradication of corruption crimes is carried out through law enforcement instruments as a form of respect for human rights and achieving legal objectives, namely justice, certainty, and benefit.

### **3.1 The Basis for The Revocation of Political Rights Convicted of Corruption In Every Judge's Decision**

Revocation of political rights convicted of corruption is a phenomenon that is being hotly discussed by all levels of society, especially academics, practitioners, law enforcers, and political elites. This phenomenon is nothing more than a public longing for the objectivity of the judge's decision, which usually only adds to fines and confiscation of goods, now shows its progressiveness by depriving corruptors of political rights. Because basically, corruptors in their actions have a detrimental impact on every area of life as a nation.

The losses suffered as a result of corruption are not only very large in number, but are carried out in important sectors related to public interests or public services that can overcome potential poverty. Corruption is carried out by public officials who have the public authority which should be aimed at protecting the public interest. Corruption has a serious impact on the sustainable development process because acts of corruption and all its effects can "destroy" important principles in sustainable development.

Corruption has brought political-economic-social disharmony. It could even be a new culture in this beloved country, the graph of growth in the number of poor people continues to rise due to corruption. In democratic life in Indonesia, corrupt practices are increasingly found in various fields of life. First, because of the weakening of social values, personal interests are preferred over public interests, and individual property ownership becomes the personal ethic that underlies the social behavior of most people. Second, there is no transparency and accountability of the public integrity system. Public service bureaus are used by public officials to pursue personal political ambitions, solely for promotion and promotion. Meanwhile, the quality and quantity of public services are increasingly being neglected, it is not the main priority and orientation.

Reports from the Police and the Attorney General's Office as well as from the aforementioned parties can explain the potential for corruption as well as the potential

amount of losses incurred. When this potential turns into a fact of corruption, the losses that will arise will not only be in the form of losses to the State. Such loss can also be in the form of neglect of the obligations of power that should be exercised by the power in protecting and enforcing people's social, economic, and cultural rights as well as matters of development.

Singapore is often seen as a country that is free from corruption. This is confirmed by the results of the Corruption Perception Index (CPI) survey made by Transparency International (TI) which always places Singapore as a "clean" country. The facts show, today, Singapore is one of the countries where the bank still applies total secrecy that fully protects the interests of customers and has a tendency as a country that "protects" the practice of money laundering. In short, Singapore has been in the middle of becoming one of the world's centers for private banking and the provision of offshore funds. In Singapore, there are about 55,000 rich people who have a wealth of at least US \$ one million. And that number, there are around 18,000 people from Indonesia who become permanent residents, which in total control the US \$ 87 billion. 25 If only some of the Jana were deposits from the corruption of Indonesian officials, the permanent residents would be protected by the Singapore government. does Singapore still deserve to be called a clean country even though it participates in hiding funds originating from and proceeds of crime?

So, the practice of corruption is related to power because with that power the authorities can abuse their power for personal, family, and group interests. The phenomenon of corruption in Indonesia as a social pathology has not only damaged the State's finances and the country's economic potential but has also damaged the cultural, moral, political, and legal pillars and national security. Efforts to eradicate corruption in Indonesia still require an uphill battle. Corruption crime is an extraordinary crime that has damaged all levels of society so that in handling it, extraordinary methods must also be carried out comprehensively. Tackling corruption requires the political will of the President as Head of State as well as the role of the Police, Prosecutors, Courts and the Corruption Eradication Commission (KPK) which unite to combat corruption in Indonesia. So that as something new in the effort to eradicate corruption, currently not in the State of Indonesia, the revocation of political rights to corrupt convicts is a new thing to explore how far the effectiveness is in preventing acts of corruption. Political rights are a family of human rights as stipulated in Article 25 of the International Covenant on Civil Rights

### **3.2 Formulation of The Criminal Justice System on The Revocation of Political Rights Convicted of Corruption Crimes In Each Judge's Decision**

The judiciary is one of the law enforcement institutions, therefore its activities cannot be separated from the laws that have been made and provided by the law-making body. Discussion on law enforcement in daily reality, it appears that the relationship between law enforcement and the structure of society has a strong influence on the ways of enforcing the laws of a country. The imposition of punishment and punishment did not just appear but through the judicial process. Sanctions in criminal law are all reactions to violations of the law determined by law starting from the detention of the suspect and the prosecution of the accused to the verdict by the judge or in other words, a legal system is assumed to ensure the correct and appropriate distribution of the objectives of the law among people. -people and groups. in the imposition of punishment and punishment can be said to be a reflection of our criminal justice. If the judicial process, for example, ends with the imposition of the criminal proceedings according to the principles of justice,

surely our judiciary is considered good. However, if the opposite is true, of course, it is also considered the opposite. It can even be labeled as a decline in the authority of the law. It is time for the government to maintain the spirit of democracy by making the law effective by the legislative body.

The grand strategy of legal politics for the Eradication of Corruption is that Corruption is no longer classified as an ordinary crime but has become an extraordinary crime and the practice of corruption in Indonesia is already at a very concerning level. So the Corruption Eradication Strategy includes a broad dimension. The government bureaucratic apparatus should be guided by the AAUPL because this AAUPL is a principle/guideline in carrying out the duties and obligations of a government apparatus. Analyzing corruption, three strategies can be classified properly to prevent or eradicate corruption, namely:

- 1). Preventive Strategy. This strategy must be developed and implemented directed at the causes of corruption.
- 2). Deductive Strategy. This strategy must be implemented as quickly as possible so that acts of corruption can be discovered within a short time, namely by thinking of improving organizational performance in a system.
- 3). Repressive Strategy. This strategy is in the form of prosecution against perpetrators of corruption by providing severe penalties in the form of imprisonment and revocation of certain rights as additional penalties to create a deterrent effect. The handling process can be carried out quickly and precisely, but its implementation must be acknowledged in an integrated manner through the police, prosecutors, and judges.

Besides, in the criminal law system, especially in the criminal act of corruption, when the criminal sanction is "deprived of political rights" for corruption convicts. Of course, it requires a quality Judge verdict based on legal considerations under the evidence obtained from the results of the investigation and the facts revealed in the trial. The judge's decision must also be following the law and the belief of the judge who is not affected by the intervention of various parties and can then be accounted for professionally to the public.

In the government bureaucracy system, a technique is needed to anticipate an official from committing corruption, namely with a strong and regular management control system. A bureaucracy with a weak management control system will have more employees who commit corruption than in organizations with strong management control. Not to forget the clear legal threats for the perpetrators of corruption. This is evidenced. As the sanctions imposed on corruption can be seen in Article 10 of the Criminal Code (KUHP), there are several additional types of penalties consisting of revocation of certain rights, confiscation of certain items, and announcement of judicial decisions. Revocation of certain rights is also regulated as stated in Article 35 of the Criminal Code, namely:

- a. The right to hold a general position or a certain position
- b. The right to enter the armed forces
- c. The right to vote and be elected in elections held based on general rules
- d. Right to become advisors (roadmen) or administrators according to the law (*gerechtelijk bewindvperder*), rights to become guardians, supervisors, supervisors, or supervisors, for people who are not their children

e. The right to make a certain livelihood (*beroep*).

Apart from the Criminal Code, the provisions of Article 18 paragraph (1) letter d of the Corruption Act states that in addition to additional penalties as referred to in the Criminal Code, as additional penalties are "Other penalties in the form of certain rights which are revoked or the entire benefit. or partially or given by the government to defendants whether they have or not". In the future, perhaps for the Revocation.

#### 4. Conclusion

The revocation of political rights is a form of state protection against the nation to create a good and clean governance society, which is free from corruption, collusion, and nepotism and it is time for the government to maintain the Marwah democracy by streamlining the laws that have been made by the legislature. Thus the establishment of political rights for convicted of corruption according to the author when examined from the juridical aspect, sociological aspect, aspect of human rights. it should be a standard punishment in the criminalization of corruption, considering that some formulations of the criminal justice system already exist today in corruption crimes are still relatively light because of some sanctions given at this time have not minimized the act of corruption.

Considering the accused of corruption crimes that work as public officials or other reasons should no longer be used as additional crimes because judges are free to choose to drop or not to drop the criminal without any clear parameters used by the Judge to determine the need / whether the criminal prosecution revocation of political rights is to look at the position or position of the accused when committing crimes of corruption, the nature of crimes committed, and the magnitude of the impact on society.

For the criminal revocation of political rights is not seen as a criminal prosecution that is not in vain, and can provide a deterrent effect, especially for those who are sentenced to prison sentences of five years or more, it is necessary to revise the period of revocation of rights as stipulated in Article 38 paragraph (1) of the Criminal Code. Especially the period of revocation of rights for convicts who are sentenced to certain time imprisonment and criminal fines. Criminal revocation of political rights can be a breakthrough in efforts to eradicate corruption in Indonesia, especially those conducted by public officials, as long as revisions have been made to the period of revocation of such rights as outlined in the second point above. Eradicating corruption should always be the main agenda and shared responsibility of all Indonesians.

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