

The Revocation of Political Rights Convicted of Corruption Criminal Perspective of Human Rights and Siyasaah Syar'iyah

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Abstract: This study aims to identify and analyze the revocation of political rights of corrupt convicts based on the Sharia perspective. This research is included in the normative qualitative research. Normative analysis refers to the rules and legal norms that apply in Indonesia. This study will analyze the revocation of political rights of convicts of corruption from the perspective of human rights and Siyasaah syar'iyah normatively. The primary legal material by Cohen & Olson is all legal rules enforced by the state or enforced by the state. The results of this study indicate that the application of sanctions for the revocation of political rights in Indonesia has been applied to corruption convicts, who will receive sanctions for revoking their right to be elected to public office. Adding punishment in the form of revocation of political rights, especially the right to be selected in public office, will provide a deterrent effect for corruptors not to repeat acts of corruption.

Keywords: Political Rights, Human Rights, Siyasaah Sharia

Introduction

From a religious perspective, the state is often interpreted as an arrangement that guarantees all elements of society interact with one another following rules agreed upon by themselves with the aim of mutual benefit and non-detriment. In Islamic literature, it is explained that religion and the state are two things that cannot be separated because religion is used as the basis for running the wheels of government in a country, both related to people's problems in general and government issues so that in the end Islam is declared as *dining wadulah*, religion, and religion Country. As Abu Hamid al-Ghazali said, upholding religion is highly dependent on upholding world affairs and its systems¹. From a positive law point of view, Indonesia is a rule of law country, as clearly stated in the third amendment to the 1945 Constitution of the Republic of Indonesia Article 1 paragraph 3 that the State of Indonesia is a country of law. The main elements of the Indonesian legal state based on Pancasila and the 1945 Constitution of the Republic of Indonesia are (1) Pancasila as the basis of the state ideology; (2) Sovereignty is in the hands of the people and implemented according to the Constitution; (3) Power based on the constitution / Basic Law; (4) Equality before the law; (5) A free and independent judiciary².

In general, the rule of law is a state in which the administration of government by the government and its people must be following and based on law, where the aim is to protect the public from arbitrary actions by the government as the ruler and also the actions of the people which are carried out according to their own will and contrary to the law. So that in administering government in a modern rule of law, several indicators are of concern, including the government must protect the people and be transparent, participatory, and democratic.³ Eradicating corruption will always be an interesting discussion in law enforcement, especially in Indonesia, but before going any further, it is necessary to define the definition of corruption itself. The word corruption comes from the Latin corruption from the verb *corrupter*, which means rotten, corrupted, bribed, shaken, or turned around.⁴ In the Indonesian dictionary, corruption is defined as (1) Misappropriation or embezzlement (state or company money and so on) for personal or other people's interests) (2) Misappropriation; embezzling (money and so on). Juniadi Suwanto states that "corruption is the behavior or actions of a person or more that violates applicable norms by using and or abusing power or opportunities through the process of procurement, determination of revenue collection or provision of facilities or other services carried out in the activities of receiving and or spending money or wealth as well as in permits and or other services with the aim of personal

¹Lukman Arake, *Benarkah Islam Mengajarkan Politik* (Cet.I; Gunadarma Ilmu. 2017) h.9.

²Maskawati, *Perlindungan Hukum Masyarakat Hukum Adat dalam Pembangunan Lingkungan Hidup* (Cet.I ; Yogyakarta: Litera, 2019) hlm. 33

³Maskawati, *Perlindungan Hukum Masyarakat.....* hlm 34.

⁴Erma Hanifah, *Stop Korupsi* (Tangerang: Loka Aksara. 2019) h. 4

or group gain so that it directly or indirectly harms the interests and or finances of the state and society."⁵ From several experts who define corruption, various views are found, for example, that corruption is a deviation from formal duties in official government positions, not only executive positions but also legislative, political parties, auditions, and BUMN/BUMD to private sector officials.⁶

The term corruption in Islam is not directly defined, but it can be classified that the equivalent of the word corruption which is drawn from the definition of corruption itself is found in Islam such as Risywah or Rasya (bribery), As-Sariqah (Stealing), Intihab (Seizing), and Ikhtilas (Shoplifting), this shows that Islam has regulated actions that are included in the elements of corruption where this is a disgraceful and unlawful act in the view of Islam and the perpetrators of these actions must be punished.⁷ A corrupt person as described above can be said to be a thief, a thief in Arabic literature is interpreted as someone who comes secretly and hides to a place and then takes something that does not belong to that place. As for the fiqh scholars, it is agreed that taking goods or assets secretly and unjustly from a place that is guarded under certain conditions is a form of theft.⁸

Corrupt behavior is an extraordinary crime, because the impact of this action is not only detrimental to one or two people but concerns the interests of the rights of all people so that the handling of corruption cases, especially in Indonesia, requires special handling as well. Regulations for law enforcement of criminal acts of corruption in general can be found in the Criminal Code and then specifically regulated in Law Number 20 of 2001 amendment to Law No.31 of 1999 concerning Eradication of Corruption Crimes. Corruption is a form of crime that is very dangerous, even more so than acts of terrorism because acts of terrorism only kill a few people who are targeted while corruption can kill the whole community. This is because corruption destroys and crushes the joints of the country's economy. If the joints of the country's economy are destroyed, the lives of citizens are threatened. There is even a major crisis that can result in famine, clashes between citizens, mutual distrust, disintegration, and so on.⁹

A person who is proven guilty by existing evidence or by his own admission of committing theft in Islam is punished by amputation of hands, where the enforcement of the law of cutting hands in the view of Islam is considered as worship as well as jihad in the way of Allah, cutting off the first hand is the perpetrator's right hand then if he steals when he returns, his left leg is cut off, if he steals again, his left hand is cut off, then if he steals for the fourth time, the offender cuts off his right leg and if he steals again, according to the Maliki scholars, Syafiyah and one of the traditions from Imam Ahmad, he is imprisoned until he dies. In a slightly different view, Abu Hanifah argues that a thief who has had his right hand and left leg cut off as a result of theft being committed twice, for the third time a thief is punished by imprisonment for an indefinite period until he dies or he truly repents.¹⁰

Recently there has been much discussion regarding the imposition of sanctions for convicts of corruption in Indonesia, not only imprisonment and compensation as the main punishment, but now there is much discussion regarding additional punishment in the form of revocation of certain rights, which includes the revocation of political rights. Additional punishment is regulated in Article 10 of the Criminal Code, where it is stated that additional punishment consists of three types, namely: (1) Criminal revocation of certain rights; (2) Confiscation of certain goods; and (3) Criminal announcement of the judge's decision. Revocation of the political rights of perpetrators of corruption is a form of revocation of certain rights that are justified in Article 35, paragraph 1 of the Criminal Code, but what is interesting to study more deeply regarding the revocation of political rights is that there are groups who see this as a form of human rights violation with consideration the guarantee of the right to equal opportunities in government as stated in the Constitution of the Republic of Indonesia Article 28 D paragraph 2 and on the other hand with the view that the revocation of these rights does not fulfill the element of a violation of human rights by juxtaposing Law No. 35 1999 concerning Human Rights.

Etymologically, political rights in Islam are rooted in the word "Haq," which contains several meanings or meanings, such as rights which mean to determine and explain what can be found in Q.S al-Anfal/ 6: 8 "To determine the right religion and determine a false religion even though disliked by people who commit sins (polytheists)"; or rights which mean certainty in Q.S Yaasin / 36: 7 "Indeed, Allah's decision has been fixed for

⁵Erma Hanifah, *Stop Korupsih. 6.*

⁶Surachmin dan Suhandi Cahaya, *Srategi dan Teknik Korupsi* (Jakarta:Sinar Gravika, 2011) hlm 10.

⁷Harun al-Rasyid, *Fikih Korupsi: Analisis Politik Uang di Indonesia dalam Perspektif Maqashid al-Syariah* (Ed.I. Cet.2: Jakarta : PT.Fajar Interpretama Mandiri, 2017) h. 152.

⁸Lukman Arake, *Otoritas Kepala Negara dalam Islam* (Cet.1; Yogyakarta: Lintas Nalar, 2020) h.152.

⁹Lukman Arake, *Hadis-Hadis Politik Dan Pemerintahan* (Cet.1; Yogyakarta: Lintas Nalar, 2020) h.205.

¹⁰Lukman Arake, *Otoritas Kepala Negara... h.155.*

most of them (they will be punished) because of that they do not believe;¹¹ as well as several meanings of other rights contained in the Koran. The word rights, explained in the Arabic dictionary, means provisions, obligations, sure, and what is proper.¹²

The right to vote and be voted for, to express opinions, to gather and to associate, and to supervise abuse of authority are some of the rights attached to citizens as guarantees for the participation of citizens in matters of managing the state and government.¹³ In addition to conventional Indonesian law, Islam also regulates 'uqūbat (sanctions) for perpetrators of jarimah (crime). Islamic criminal law (jinayat) includes hudud, qishash, diyat, and ta'zir. The most appropriate act of money politics crime in Islam to be imposed is ta'zir punishment, which is a punishment that gives a deterrent to the perpetrators of the crime. However, this deterrence does not reach the death penalty.¹⁴ The form of ta'zir sanctions can vary according to the judge's decision. However, in general, they can be divided into several types, including the death penalty, which can be imposed on perpetrators with repeated severe punishment, caning, imprisonment, exile confiscating the perpetrator's assets changing the form of goods, fines, warnings, harsh punishments, exhortations, reproaches, threats, ostracism, dismissal, and publications.¹⁵

It is explained in Article 28 I of the 1945 Constitution that "The right to life, the right not to be tortured, the right to freedom of thought and conscience, the right to religion, the right not to be enslaved, the right to be recognized as an individual before the law, and the right not to be prosecuted based on retroactively applicable law are human rights that cannot be reduced under any circumstances. Then in the next article, namely Article 28 J, it is stated that (1) Everyone is obliged to respect the human rights of others in the orderly life of society, nation, and state; (2) in exercising their rights and freedoms, each person is obliged to comply with the restrictions determined by law with the sole purpose of guaranteeing recognition and respect for the rights and freedoms of others and to fulfill just demands following moral considerations, values religion, security and public order in a democratic society.¹⁶

So it becomes interesting to study how the revocation of political rights for convicts of corruption is viewed from the perspective of human rights and how Islam views the imposition of these sanctions, bearing in mind that a person who has been sentenced to a principal crime has received a reward or retaliation which can be in the form of imprisonment, confinement, fines and restitution of state losses, whether it becomes a necessity to impose additional penalties for perpetrators of corruption in the form of revocation of political rights (to vote and be elected) and whether revocation of political rights in Islam is justified or vice versa. It is from these two perspectives that prospective researchers feel interested in examining the revocation of political rights for perpetrators of these crimes both from the point of view of customary law, in this case, Indonesian national law, which guarantees human rights, and from an Islamic point of view (Siyasyah Syar'iyah).

Literature Review

Criminal and Punishment

According to Van Hamel, the meaning of criminal or Straf is "a suffering of a special nature, which has been imposed by the competent authority to impose a sentence on behalf of the state as the person in charge of public law order for an offender, namely solely because that person has been violating a rule of law that the state must uphold."¹⁷ While punishment according to Prof. Sudarto, punishment "Punishment comes from the word legal basis, so that it can be interpreted as establishing a law or deciding about the law (berechten), where the punishment in question is the imposition of a sentence by a judge, punishment in this case has the same meaning as sentence or verordeling."¹⁸ Punishment is a series of processes to impose sanctions on criminal offenders with the aim or intent to retaliate for criminal acts that have occurred or to prevent anti-social behavior, resulting in a dilemma regarding the objectives of the punishment itself. In the Criminal Code, criminal acts or offenses have been classified into two major groups, namely in the Second and Third Books, each into groups of crimes and violations.

¹¹Tengku Muhammad Hasbi Ash-Shiddieqy, *Al-Bayan Tafsir Penjelas*.....h.177 dan 440.

¹²Dudi Badruzaman, *Hak-Hak Politik Warga Negara Non Muslim Sebagai Pemimpin Dalam Pandangan Hukum Islam Dan Hukum Positif* (Jurnal Supremasi, Vol.9, No.1, Maret 2019) h.24

¹³Dudi Badruzaman, *Hak-Hak Politik Warga Negara*....h.25

¹⁴Harun al-Rasyid, *Fikih Korupsi: Analisis Politik Uang*.....h. 186.

¹⁵Harun al-Rasyid, *Fikih Korupsi: Analisis Politik Uang*..... h. 189.

¹⁶Asep Saepudin Jahar, dkk. *Hukum Keluarga, Pidana dan Bisnis (Kajian Perundang Undangan Indonesia, Fiqh dan Hukum Internasional)* (Cet.I; Jakarta: Kencana Prenadamedia Group, 2013) h. 200.

¹⁷Tina Asmarawati, *Pidana dan Pemidanaan dalam Sistem Hukum di Indonesia (Hukum Panitensier)*, (Ed.1; Cet.2; Yogyakarta: Deepublish. 2015) h. 108.

¹⁸Tina Asmarawati, *Pidana dan Pemidanaan dalam Sistem Hukum di Indonesia*.....h.108

Crime is *rechtsdelict* or legal offense is a violation of law that is felt to violate a sense of justice, for example, acts such as murder, injuring others, stealing, and so on. Meanwhile, a violation is a *wet delict* or an offense under the law, which is a form of violating what is determined by law, for example, the requirement to have a driver's license for those who drive a motorized vehicle on public roads, or to wear a helmet when riding a motorcycle. At the same time, general crimes are criminal acts regulated in the Criminal Code. They are acts of a general nature, where the source of law boils down to the Criminal Code as a source of material law and the Criminal Procedure Code as a formal source of law, for example, abuse, obscenity, theft, Threats and Extortion, Affair or Adultery and others.

Retribution (retribution), the theory of retribution, views punishment as retribution for mistakes made so that it is oriented to the act and lies in the occurrence of the crime itself. This theory puts forward that sanctions in criminal law are imposed solely because a person has committed a crime which is an absolute consequence that must exist as a retaliation for the person who committed the crime so that the sanction aims to satisfy the demands of justice. Deterrence (prevention), The theory of deterrence views that punishment is not retaliation for the mistakes of the perpetrators but is a means to achieve goals that are useful for protecting society toward social welfare. Sanctions are emphasized on their purpose, namely to prevent people from committing crimes, so they are not aimed at absolute satisfaction of justice. This theory is influenced by the utilitarian view, which views punishment from the point of view of its benefits or usefulness, where what is seen is the situation or condition to be produced by imposing the sentence. On the one hand, punishment is intended to improve the attitude or behavior of the convict. On the other hand, punishment is also intended to prevent other people from possibly committing similar acts.

Rehabilitation, The original purpose of punishment was to reform the offender and turn him or her into a law-abiding and productive member of society. The difference between rehabilitation and idealistic ideas is that individuals are good and can change their lives when encouraged and given support. Incapacitation (incapacitation/weakening) The justification of incapacitation as a punishment refers to the notion that the ability of the perpetrator to commit a crime needs to be weakened or erased. "Prison" has separated offenders from society, eliminating or reducing their ability to commit certain crimes. The death penalty needs to be carried out permanently and irrevocably. In some societies, people who steal have been punished by having their hands amputated.

Restoration emphasizes the harm caused to victims of crime and requires perpetrators to engage in financial restitution and community services to compensate victims and communities and to "make them whole again." The restorative justice approach recognizes that the needs of victims are often neglected in the criminal justice system. This approach is also designed to encourage offenders to develop a sense of individual responsibility and become responsible members of society.

Human rights

Human rights are rights that humans have simply because they are human. Humans have it not because it is given to them by society or based on positive law but solely on their dignity. In this sense, even though everyone is born with different skin color, gender, language, culture, and nationality, they still have these rights. This is the universal nature of these rights. Apart from being universal, these rights are also inalienable. This means that no matter how bad the treatment has been experienced by someone or how cruel someone is treated, he will not stop being human and, therefore, still have these rights. In other words, those rights are attached to him as a human being.

The International Bill of Human Rights is a term used to refer to the three main international human rights instruments and their optional protocols designed by the United Nations. The three instruments are (i) the Universal Declaration of Human Rights; (ii) the International Covenant on Civil and Political Rights; and (iii) the International Covenant on Economic, Social, and Cultural Rights. Meanwhile, the optional protocol that falls into this category is "the Optional Protocol to the Covenant on Civil and Political Rights" (Optional Protocol to the Covenant on Civil and Political Rights).

The Universal Declaration of Human Rights was adopted by the United Nations General Assembly in 1948. This declaration is arguably the official interpretation of the United Nations Charter, which contains in more detail several rights listed as Human Rights. Furthermore, the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social, and Cultural Rights were adopted by the United Nations General Assembly in 1966. However, the two Covenants were legally binding only in 1976. The two main human rights instruments The international framework denotes two broad areas of human rights, namely civil and political rights on the one hand and economic, social, and cultural rights on the other. These two instruments are based on the rights listed in the Universal Declaration of Human Rights but with a more specific description. For example, the International Covenant on Civil and Political Rights spells out more specifically which rights are "non-derogable" and "permissible."

The development of the global discourse on human rights provides a separate assessment of the position of Islam; developments in global politics have implications for the relationship between Islam and the West. Supriyanto Abdi believes there are at least three views on the relationship between Islam and human rights, whether those put forward by Western scholars or Muslim thinkers themselves. First, Islam is not following the ideas and conceptions of modern human rights. Second, Islam accepts the human spirit of modern human rights but simultaneously rejects its secular basis and replaces it with an Islamic basis. Third, asserting that modern human rights are universal humanitarian treasures and Islam (can and should) provide a very strong normative foundation for them.

Research methods

This research is normative research, namely research on the rules of law, both from the point of view of the hierarchy of legislation (vertical) as well as the harmonious relationship of laws and regulations (horizontal). Normative or doctrinal legal research (libraries) or document studies are aimed only at written laws or other legal materials. This study will analyze normatively the revocation of political rights of convicts of corruption from the perspective of human rights and *Siyasah syar'iyah*. The primary legal material put forward by Cohen & Olson is all legal rules enforced by the state or enforced by the state.

Another opinion is also regarding the definition of primary legal material quoted from the University of Denver that primary legal material is a statement that has legal authority determined by a branch of government power which includes laws made by parliament, court decisions and executive or administrative regulations. . Secondary legal materials are legal materials other than primary legal materials, which provide an explanation of primary legal materials, for example draft laws, draft government regulations, results of legal research, results of scientific work from legal circles and so on. Secondary legal materials have uses, namely to provide instructions to researchers to determine the steps of a research. In processing the data, the author collects various references from several legal materials and then proceeds to analyze the data obtained in a way that can be in the form of a comparison of one legal material with another legal material, then conclusions are drawn.

Descriptive techniques, in the form of a description of a legal event or legal event, without including the opinion or responses of researchers in it. Comparative Techniques, the process of identifying expert views obtained from secondary legal materials to provide an explanation of the legal material being studied. Evaluative Techniques, after the descriptive and comparative process is carried out, the next stage is the evaluation stage. Where this process requires researchers to determine their alignment with one view or can also disagree with both. Argumentative techniques, after an evaluation is carried out, reasoning or a reasonable explanation is carried out in the form of the researcher's arguments to answer the research problem.

Results and Discussion

Political Rights and Criminals in Islam

Islam has regulated the terms of choosing and being elected, Islam views the government as the representative (*khalifah*) and the supreme creator of the universe, this responsibility is not entrusted to individuals or families or certain groups of people, but to the entire Islamic community. Political rights according to legal experts are rights that are owned and used by a person in his capacity as a member of a political organization, such as the right to vote (and be elected), to run for office and hold office in the state, or political rights are rights in which individuals contribute through these rights. in managing state affairs. The policy of a head of state can be implemented if the policy has not been legally regulated by religion. Matters which have not been regulated by religion, or for which there is no text are all things for which there is no *syar'i* proof either from the *Qur'an* or the *hadith* of the Prophet. The problem is that there is no *nashnya*, the *mujtahid* including the head of state is given the authority to make a legal decision.

As for the immorality in which *ta'zir* punishment is applied, such as kissing another woman, committing non-sexual harassment, eating non-halal food, accusing other people of sexual harassment, stealing, betraying trust, including people who like to commit fraud in buying and selling transactions. , accept bribes, become false witnesses, or commit injustice to the people they lead and so on. All forms of violations mentioned above can be subject to *ta'zir* punishment, the level and form of which can be conditioned by policy makers or the government.

Some *fiqh* scholars allow the unification of *ta'zir* and *hadd* punishments in every criminal act as stated by the *Hanafiyah* scholars. Their reasoning is that it is true that for every crime whose punishment is clear (*had*) there is no need for *ta'zir* anymore because it is considered sufficient. However, basically the reason for prohibiting or abolishing *ta'zir* and uniting it with *hadd* punishment is if conditions indeed demand such unification with consideration of the general good, such as punishing *ta'zir* for crimes that cause other people to be physically disabled in addition to punishing their *qisas*. On the other hand, in the *Shafi'i* school, it is explained that it is permissible to combine the punishment of *had* with *ta'zir*, such as adding 40 lashes for a

drinker of khamr, and if the number is more than 40 times then the addition is ta'zir, because the punishment for drinkers of khamr in the Shafi's school of thought 'I only 40 times the whip. They also gave an example by hanging the hand that had been cut off around the thief's neck, where the cut off hand was had while hanging it around the neck was ta'zir.

In conclusion, the ta'zir punishment is one of the punishments that is not determined in terms of amount and amount by Islamic law, but is left entirely to the waliyyul amri or the government. Therefore, if the government sees that a crime has been committed and is included in the category of ta'zir punishment, the government is given the authority to determine what kind of ta'zir punishment will be imposed on the perpetrator of the crime. But the imposition of ta'zir punishment must still pay attention to the conditions and the existing benefits. So that it is very clear and clear that acts of corruption are a form of crime that can be subject to ta'zir punishment in the form of revocation of political rights in addition to had punishment in the form of imprisonment and fines that have been regulated in accordance with applicable laws and regulations.

The Legality of Criminal Sanctions for Revocation of Political Rights

Political rights have long been mentioned, among others, in the thoughts of John Locke, who argued that political rights include several fundamental rights, such as the right to life, the right to liberty, and property rights. Furthermore, the ICCPR (International Convention on Civil and Political Rights) classifies political rights into two parts, namely absolute rights or rights that cannot be reduced and rights that can be reduced. Political rights include the right to take part in government and to vote in periodic elections by universal and equal suffrage.

Political rights, in essence, are not only the basic rights of every citizen but are the right of every person to participate in practical political activities. Therefore, political rights are often also referred to as the right to participate in politics for everyone, for example, the right to be elected and vote in general legislative elections, the right to become a member of parliament, or the right to be elected and vote in the election of heads of government, both the President and regional heads. In Indonesia, political rights are reflected in the right to associate, assemble, and express opinions orally or in writing and so on. Political rights in Indonesia obtain a constitutional basis for regulation in Article 28 of the 1945 Constitution. Considering that Article 28 of the 1945 Constitution, which regulates these political rights are still fundamental in nature, their implementation must be further elaborated in the law. Political rights as human rights oblige the state to recognize, respect, and fulfill, as well as guarantee their protection by using statutory instruments.

As a constitutional state that has an obligation to uphold the enforcement and respect for human rights, Indonesia has taken steps to ratify the Covenant on Civil and Political Rights through Law Number 12 of 2005 concerning Ratification of the International Covenant on Civil and Political Rights (International Covenant on Civil and Political Rights). Civil and Political Rights). This is accompanied by the consequence that the Government of Indonesia has a responsibility to fulfill the implementation of the civil and political rights of every citizen.

The International Covenant on Civil and Political Rights (International Covenant on Civil and Political Rights) states that the existence of basic human rights and freedoms is classified into two types, namely the Non-Darogable category, namely rights that are absolute and may not be reduced even in an emergency, including the right to life, the right to be free from torture, the right to be free from detention for failing to make an agreement, as well as the right to be free from retroactive punishment, the right to be a legal subject, and to freedom of thought, belief, and religion. Meanwhile, another category is Darogable, namely rights that may be reduced or limited in fulfillment by state parties, including the right to freedom of peaceful assembly, the right to freedom of association, including forming and becoming a member of workers, and the right to express opinions or expression including freedom seek, receive and provide information with all kinds of ideas regardless of boundaries through oral or written. States parties to the ICCPR are given the ability to reduce their obligations in fulfilling these rights, but this can only be done if it is commensurate with the threats they face and must not be discriminatory in nature, namely for the sake of maintaining public security or morality and respecting the rights or freedoms of others.

The political rights of citizens are regulated in the chapter on the right to participate in government, which is regulated in Article 43 paragraphs (1), (2), and (3) and Article 44 of Law of the Republic of Indonesia Number 39 of 1999 concerning Human Rights. Specifically regarding the sanction for the revocation of political rights itself, basically, it is part of the criminal system as a type of additional punishment. Additional punishment itself is a type of punishment that is optional; that is, it can be imposed but is not required. Article 10 of the Criminal Code regulates the types of punishment consisting of principal punishment and additional punishment. Apart from the Criminal Code, the revocation of certain rights for corruptors is also strengthened in Law Number 31 of 1999 concerning the Eradication of Corruption Crimes. In Article 18 paragraph (1) letter d, it is emphasized that "besides the additional punishment referred to in the Criminal Code, additional punishment is

the revocation of all or part of certain rights or the elimination of all or part of certain benefits, which have been or may be granted by the Government to the convict." According to Artidjo Alkostar, the revocation of political rights, in this case, the right to vote and be elected to public office, cannot be applied to all defendants, depending on their position, the nature of the crime and the extent of the impact on the public.

One of the revocations of certain rights is the revocation of the right to vote and to be elected in public office on a juridical basis Article 10 of the Criminal Code and Article 18 letter d of Law Number 31 of 1999 in conjunction with Law Number 20 of 2001 concerning Eradication of Corruption Crimes. Related the types of revocation of certain rights have been regulated in Article 35 of the Criminal Code. As well as further rules contained in Article 38, paragraph (1) of the Criminal Code, which regulates the time limit for the revocation of certain rights. Revocation of political rights, which is an additional punishment, is a logical consequence of a person who has a political office or political power can be subject to additional punishment in the form of revocation of political rights, a corrupt convict a position, or political position in which the convict commits a criminal act of corruption by abusing authority or power that he has, this can be said as political corruption.

Political rights, which include the right to vote and be elected to public positions, are part of human rights which are natural rights and are part of democracy that must be upheld. Therefore revocation of the right to be elected and to vote is a violation of democracy if the strata of soort (criminal purposes) is not considered and the strata maart (means of imposing a sentence) is not limited. Article 25 of the International Covenant on Civil and Political Rights stipulates that the right of every citizen to participate in the administration of public affairs, to elect and be elected, and to have access based on the same general requirements for persons before the law and the right of all persons to equal legal protection the same in public office in his country.

The imposition of criminal penalties for revoking political rights or the right to vote and be elected to public office for corruption convicts is intended by the public to avoid corrupt leaders. This is because the convict holds public office and is active in politics. In addition, the crime of corruption is a type of crime that is an extraordinary crime, so its enforcement is also extraordinary (extraordinary enforcement). Enforcement of the crime of corruption by imposing additional penalties in the form of revocation of the right to vote and to be elected is an implementation of the application of crimes that are extraordinary in nature, but because this type of additional punishment is part of human rights, its application must continue to prioritize the principles of human rights and not contrary to positive criminal law.

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