

RESTRICTIONS ON THE VOTING RIGHTS OF FORMER CORRUPTOR CONSTITUTIONS

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Abstract

One form of popular sovereignty is through general elections. This is evidenced by the provisions of Article 1 point 1 of Law Number 7 of 2017 concerning General Elections (Election Law) which stipulates "General Elections, hereinafter referred to as Elections, are a means of people's sovereignty to elect members of the People's Legislative Assembly, members of the Regional Representatives Council, President, and Vice President, to elect members of the Regional People's Legislative Council, which is carried out directly, publicly, freely, confidentially, honestly and fairly within the Unitary State of the Republic of Indonesia based on Pancasila and the 1945 Constitution of the Republic of Indonesia". General elections that are held directly, publicly, freely, confidentially, honestly and fairly are expected to truly protect human rights in accordance with the guarantee of legal certainty and justice. However, the General Elections Commission has regulations that prohibit every corrupt ex-convict from becoming a candidate for member of the People's Representative Council of the Republic of Indonesia/Regional People's Representative Council and Regional Representative Council (DPR-RI/DPRD and DPD). This study uses a normative research method with a statutory approach (statue approach) and a conceptual approach (conceptual statue).

Sources of legal materials are obtained from primary legal materials, secondary legal materials, tertiary legal materials. The technique for collecting legal materials in legal research is carried out through a card system. The analysis technique used in this research is descriptive analytic analysis technique. In addition, it also uses evaluation techniques which are carried out by providing an assessment to find out whether a view, proposition, statement of norms, and decisions contained in legal materials is appropriate or not, and the last is argumentation technique. This argumentation technique cannot be separated from evaluation techniques. because the assessment must be based on reasons that are in accordance with legal logic..

Keywords: *Restrictions on the Right to Be Elected, Former Corruption Convicts*

Abstrak

Salah satu bentuk kedaulatan rakyat adalah melalui pemilihan umum. Hal ini dibuktikan dengan ketentuan Pasal 1 angka 1 Undang-Undang Nomor 7 Tahun 2017 tentang Pemilihan Umum (UU Pemilu) yang menyatakan "Pemilihan Umum yang selanjutnya disebut Pemilu adalah sarana kedaulatan rakyat untuk memilih anggota Dewan Perwakilan Rakyat, anggota Dewan Perwakilan Daerah, Presiden, dan Wakil Presiden, untuk memilih anggota Dewan Perwakilan Rakyat Daerah, yang dilakukan secara langsung, umum, bebas, rahasia, jujur, dan adil dalam lingkungan Negara Kesatuan Republik Indonesia berdasarkan pada Pancasila dan Undang-Undang Dasar Negara Republik Indonesia Tahun 1945". Pemilihan Umum yang diselenggarakan secara langsung, umum, bebas, rahasia, jujur, dan adil diharapkan benar-benar melindungi hak asasi manusia sesuai dengan jaminan kepastian hukum dan keadilan. Namun KPU mempunyai peraturan yang melarang setiap mantan narapidana korupsi menjadi calon anggota Dewan Perwakilan Rakyat Republik Indonesia/Dewan Perwakilan Rakyat Daerah dan Dewan Perwakilan Daerah (DPR-RI/DPRD dan DPD). Penelitian ini menggunakan metode penelitian normatif dengan pendekatan undang-undang (statue

Sumber bahan hukum diperoleh dari bahan hukum primer, bahan hukum sekunder, bahan hukum tersier. Teknik pengumpulan bahan hukum dalam penelitian hukum dilakukan melalui sistem kartu. Teknik analisis yang digunakan dalam penelitian ini adalah teknik analisis deskriptif analitik. Selain itu juga menggunakan teknik evaluasi yang dilakukan dengan cara memberikan penilaian untuk mengetahui tepat atau tidaknya suatu pandangan, dalil, pernyataan norma, dan keputusan yang terkandung dalam bahan hukum, dan yang terakhir adalah teknik argumentasi. Teknik argumentasi ini tidak lepas dari teknik evaluasi. karena penilaiannya harus berdasarkan alasan yang sesuai dengan logika hukum.

Kata Kunci: Pembatasan Hak untuk Dipilih, Mantan Narapidana Korupsi.

INTRODUCTION

Article 1 paragraph (2) of the 1945 Constitution of the Republic of Indonesia (1945 Constitution of the Republic of Indonesia) determines "*Sovereignty is in the hands of the people and is implemented according to the Constitution*". One form of popular sovereignty is through general elections. This is proven by the provisions of Article 1 point 1 of Law Number 7 of 2017 concerning General Elections (Election Law) which determines "*General Elections, hereinafter referred to as Elections, are a means of popular sovereignty to elect members of the People's Representative Council, members of the Regional Representative Council, President, and Vice President, and to elect members of the Regional People's Representative Council, which is carried out directly, publicly, freely, confidentially, honestly and fairly in the Unitary State of the Republic of Indonesia based on Pancasila and the 1945 Constitution of the Republic of Indonesia.*"¹

The implementation of General Elections is directed towards the election of members of the People's Representative Council (DPR), Regional Representative Council (DPD), President and Vice President and members of the Regional People's Representative Council (DPRD) and Regency/City DPRD, due to the provisions of Article 22E paragraph (2) of the Constitution NRI 1945 which determines "*General elections shall be held to elect members of the People's Representative Council, Regional Representative Council, President and Vice President and Regional People's Representative Council*".

The implementation of General Elections which are carried out directly involving Indonesian citizens who have fulfilled these requirements, shall be held by a national, permanent and independent general election commission," as regulated in Article 22E paragraph (5) of the 1945 Constitution of the Republic of Indonesia, determining the implementation of the Election. General Elections. Further regulations regarding General Elections are regulated in Law Number 7 of 2017 concerning General Elections.² However, the General Election Commission added requirements for candidates for DPR members, not former corruption convicts through General Election Commission Regulation (PKPU) Number 20 of 2018. In fact, there are 2 versions of PKPU Number 20 of 2018, namely:

- a PKPU No. 20 of 2018 which was stipulated on 30 June 2018, was not promulgated by the Minister of Law and Human Rights. This PKPU includes a prohibition in Article 7 paragraph (1) letter h which stipulates "*Prospective candidates for members of the DPR, Provincial DPRD and Regency/City DPRD are Indonesian citizens and must meet the requirements of being physically and mentally healthy and free from narcotics, psychotropic and substance abuse. addictive.*" This arrangement raises controversy over the pros and cons. The Minister of Law and Human Rights refused to promulgate the General Election Commission Regulation (PKPU).
- b PKPU No. 20 of 2018, which was stipulated on 2 July 2018 and promulgated by the Minister of Law and Human Rights on 3 July 2018. The difference with PKPU which was stipulated on 30 June 2018, is the placement of regulations prohibiting former corrupt convicts. Previously, PKPU required that one of the prospective members of the People's

¹ Undang-Undang Dasar 1945 Amandemen (Indonesia).

² Pemerintah Republik Indonesia, Undang Undang No. 7 Tahun 2017 Tentang Pemilu

Representative Council, the Regional People's Representative Council, was not a former corrupt convict. Meanwhile, in the PKPU which was promulgated on July 3 2018, the prohibition against ex-corruption convicts is not a requirement, but instead orders political parties not to include former corruption convicts as regulated in Article 4, which determines:

- 1) Political Parties in nominating candidates for members of the DPR, Provincial DPRD and Regency/City DPRD have equal rights, opportunities and receive equal services based on statutory regulations.
- 2) Each Political Party selects prospective DPR members. Provincial DPRD and Regency/City DPRD democratically and openly in accordance with the AD and ART, and/or the internal regulations of each Political Party.
- 3) In selecting prospective candidates in a democratic and open manner as intended in paragraph (2), does not include former convicted drug dealers, sexual crimes against children, and corruption. Provisions of Article 4 paragraph (3) PKPU No. 20 of 2018, explains that "*Political Parties do not include former convicted drug dealers, sexual crimes against children and corruption. Such arrangements are based on Political Parties as Election participants, so they have the right to include or not include candidates for members of the DPR or DPRD.*" As intended in Article 22E paragraph (3) of the 1945 Constitution of the Republic of Indonesia which determines "*Participants in the general election to elect members of the People's Representative Council and members of the Regional People's Representative Council are political parties*".

The existence of PKPU No. 20 of 2018 there are 2 versions, but the valid one is PKPU No. 20 of 2018 which was promulgated on July 3 2018. This is because in Article 76 of Law no. 7 of 2017 concerning General Elections determines:

- a. In the event that a KPU Regulation is alleged to be in conflict with this Law, the review shall be carried out by the Supreme Court.
- b. Bawaslu and/or parties who are disadvantaged by the enactment of KPU Regulations have the right to become applicants to submit a review to the Supreme Court as intended in paragraph (1).
- c. The application for review as intended in paragraph (2) is submitted to the Supreme Court no later than 30 (thirty) working days after the KPU Regulation is promulgated
- d. The Supreme Court decides on the completion of the review of KPU Regulations as intended in paragraph (3) no later than 30 (thirty) working days after the application is received by the Supreme Court.
- e. Review of KPU Regulations by the Supreme Court is carried out in accordance with the provisions of statutory regulations.

Arrangements made by the General Election Commission which prohibit ex-corruptors (convicted of corruption crimes) from becoming candidates for members of the People's Representative Council (DPR) and Members of the Regional People's Representative Council (DPRD), based on General Election Commission Regulation (PKPU) Number 20 of 2018 , Article 4 paragraph (3) determines "*In the democratic and open selection of prospective candidates as intended in paragraph (2), do not include former convicts of drug dealers, sexual crimes against children, and corruption*", giving rise to pro and con views in society (including some legal experts). In an article in Tempo magazine (by reporter Fakri Hermansah and Editor Rina Widiastuti, Saturday, 26 May 2018), Chairman of the General Election Commission (KPU) Arief Budiman said that the General Election Commission (KPU) invited parties who objected to the Election Commission Regulations.

Revocation of political rights is basically an addition to existing punishments.³ This revocation of political rights aims to provide a deterrent effect for criminals and other people who commit crimes. The legal basis for the revocation of political rights is in Article 10 of the Criminal Code and also in Article 18 of the Corruption Law paragraph 1 regarding additional

³ Jimly Asshiddiqie, *Gagasan Kedaulatan Rakyat Dalam Konstitusi Dan Pelaksanaannya Di Indonesia* (Jakarta: PT. Ichtiar Baru Van Hoeve, 1994).

punishment which can be in the form of revocation of all or part of certain rights or in the Corruption Crime Law in Article 18 letter d determines "Revocation of all or certain rights, the removal of all or part of certain benefits that the Government has or can provide to convicts." In this article there are no violations against ex-convicts, but limits, according to the judge's decision.

In Law Number 7 of 2017 concerning General Elections, there is not a single provision that regulates the prohibition of ex-convicts committing corruption crimes such as those carried out by the General Election Commission (KPU). Article 16 of the Law on General Elections determines the authority of the KPU. The General Election Commission (PKPU) Regulation concerning the Prohibition of Ex-Corruption Convicts Becoming Candidates for Legislative Membership was passed on Tuesday 3 July 2018 (according to the report by TEMPO.CO, Jakarta, 3 July 2018). Commissioner of the General Election Commission (KPU), Wahyu Setiawan, said there was no change in substance even though the prohibition on former corruption convicts becoming legislative candidates had changed the position of the article. *"The substance is the same, former corruption convicts, perpetrators of sexual crimes against children, and drug dealers must not be allowed to take part."*

Based on the Supreme Court decision Number 46 P/HUM/2018 in its decision stated *"Article 4 paragraph 3, Article 11 paragraph 1 letter (d), and Attachment Model B.3 General Election Commission Regulation Number 20 of 2018 dated 2 July 2018 concerning Member Nominations People's Representative Council, Provincial Regional People's Representative Council and Regency/City Regional People's Representative Council (State Gazette of the Republic of Indonesia of 2018 Number 834) along the phrase "former corruption convict" with higher statutory regulations, namely Law Number 7 2017 concerning General Elections in conjunction with Law Number 12 of 2011 concerning the Formation of Legislative Regulations, because they do not have binding legal force and do not apply generally."*

Political Human Rights are the first generation of human rights whose scope includes⁴, freedom of association, opinion, assembly, organization, party, voting and being elected, freedom to participate in government and freedom of opinion.⁵ It is from the perspective of national ideals and goals as stated above that it is felt necessary to hold elections⁶. In this case, what is meant by holding elections according to the Election Law is to elect members of the People's Representative Council (DPRD members), members of the Regional Representative Council (DPD members), the President and Vice President, and to elect members of the Regional People's Representative Council (DPRD members). Thus, the description of the problem that has been described ultimately leads us to research further on *"How are restrictions on the right to vote for ex-convicts regulated?"*

RESEARCH METHODE

This empirical research uses a statutory approach (statute approach) and a case approach (case approach). As for this study, researchers used the live case study approach as an approach to a legal event whose process is still ongoing. Thus, the authors make observations or research directly into the field in order to obtain accurate truth in the process of perfecting this writing.

The data collection technique that researchers used in this study was through library research and field studies, namely conducting interviews. The data collection study was classified into two parts, namely primary data and secondary data, primary data obtained through field studies and secondary data sourced from library research.

The results of the field study inventory were analyzed to obtain conclusions and then analyzed using integrative and conceptual analysis methods which tend to be directed at finding, identifying, processing and analyzing legal materials to understand their meaning, significance and relevance. From the data obtained, it will be arranged systematically after

⁴ Haris Soche, *Supremasi Hukum Dan Prinsip Demokrasi Di Indonesia* (Yogyakarta, 1985).

⁵ Walter Laquer and Earry Rubin, *The Human Rights Reader* (New American Library, 1985).

⁶ Muhamad Erwin, *Filsafat Hukum Releksi Kritis Terhadap Hukum* (Jakarta: Raja Grafindo Persada, 2013).

being selected based on the problem and seen for its suitability with the applicable provisions then discussed theoretically combined with the reality in the field to produce conclusions⁷

DISCUSSION

1. Norm Grading Theory

The theory used is the Level Theory of Legal Norms (Stufentheorie)⁸ Hans Kelsen believes that legal norms are tiered and layered in a hierarchy (order), in the sense that a lower norm applies, is sourced and based on higher norms, higher norms apply, are sourced and based on even higher norms, and so on until a norm that cannot be higher again, and so on until a norm that cannot be traced further and is hypothetical and fictitious namely Basic Norms (Grundnorm). One of the figures who developed the Stufenbau Theory was Hans Kelsen's student, namely Hans Nawiasky. Nawiaky's theory is called Theorie von stufenufbau der rechtsordnung, according to this theory the norms are structured as follows⁹:

- a State fundamental norms (staats fundamental norms);
- b Basic rules of the State;
- c Formal law; And
- d Implementing regulations and autonomous regulations.

Staats fundamental norms are norms that are the basis for the formation of a constitution or basic law or (*staatsverfassung*) of a country¹⁰. The legal position of a Staats fundamental norm is a condition for the enactment of a constitution. Staats fundamental norms exist before the constitution of a country.

According to *Nawiansky*, the highest norm which Kelsen calls the basic norm in a country should not be called *staatsgrundnorm* but *Staatsfundamentalnorm*, or the country's fundamental norm. *Grundnorms* basically do not change, while the highest norms change, for example by means of a coup or revolution. Based on *Nawiansky's* theory, we can compare it with Kelsen's theory and apply it to the legal structure in Indonesia. Based on this theory, the structure of Indonesia's legal system is:

- a *Staatsfundamentalnorm*: Pancasila (Preamble to the 1945 Constitution);
- b *Staatsgrundgesetz*: Body of the 1945 Constitution, MPR Decree, and Constitutional Convention;
- c *Formell gesetz*: Law
- d *Verordnung en Autonome Satzung*. Hierarchically starting from Government Regulations to Governor, Regent or Mayor Decrees.

In the Norm Level Theory it is also related to the Principle of Legal Preference which is a principle that applies in legislation.¹¹ These principles are:¹²

- a The principle of *Lex Superior Derogat Legi Inferiori*, meaning that higher laws override lower laws;
- b The principle of *Lex Specialis Derogate Legi Generali*, meaning that special laws override general legal rules;
- c The principle of *Lex Posteriori Derogate Legi Priori*, meaning that new laws override or eliminate old legal rules.

⁷ Peter Mahmud Marzuki, *Penelitian Hukum* (Surabaya: Kharisma Putra Utama, 2005).

⁸ Dell Van Staatsrecht and I.W.J. Tjeenk Wilimk Zwole, *Luaran Dan Target Capaian Penelitian*.

⁹ Philipus M. Hadjon and Dkk, *Pengantar Hukum Administrasi Indonesia* (Gadja Mada University Press, 2015).

¹⁰ Soehino, *Ilmu Negara* (Yogyakarta: Liberty, 1986)

¹¹ Muchsan, *Pengantar Hukum Administrasi Negara* (Yogyakarta: Liberty, 1982).

¹² J.G. Brouwer and A.E.Schilder, *A Survey of Dutch Administrative Law* (Nijmegen: Ars Aequi Libri, 1998).

2. Authority Theory

The theory of authority relates to the source of authority from the government in carrying out legal acts. Authority to carry out a private legal action or personal law (civil law). Mochtar Kusumaatmadja¹³ stated that power often originates from formal authority which gives authority or power to a person or party in a certain field.

Several scholars also provide opinions regarding authority theory such as F.A.M. Stroink and J.G. Steenbeek. Placing such authority. F.A.M Stroink and J.G. Steenbeek. "Authority is a right that contains the freedom to carry out or not carry out certain actions and obligations contain the necessity or not of certain opinions regarding carrying out actions." Philipus Mandiri Hadjon, the term authority or authority is often equated with the Dutch term, namely *bevoegdheid*.

In Indonesian law, authority or authority is used as a public and private law concept. As a public law concept, authority or authority consists of at least 3 (three) components, namely influence, legal basis, and legal conformity. The influence component is that the use of authority is intended to control the behavior of legal subjects. The legal basis component is that the authority must always be able to designate its legal basis.¹⁴ The conformity component implies the existence of authority standards, namely general standards (all types of authority) and specific standards (for certain types of authority). The definition above seems difficult to determine the difference between authority and authority, but in fact there is a difference between the two.

Authority is what is called "*formal power/power*" meaning the power given by law or legislature to the executive/administrative power¹⁵, to issue orders and make regulations. Therefore, it is the power of a certain group of people or power over a field of government or certain unified government. Meanwhile, authority only concerns a certain part of authority. The method of obtaining authority in legal development can be explored theoretically.

Theoretical authority according to H.D.Van Wijk and Willem Konijnenbelt can be obtained in 3 (three) ways, namely:¹⁶

- a. *Atributie: toekening Van een besuursvoegheid door een wete gever aan een bestuursorgaan*, (attribution is the granting of government authority by lawmakers to government organs).
- b. *Delegatie: Overdracht van een bevoegheid van een bestuursorgaan een ander*. (Government delegation to another).
- c. *Mandate: een bestuursorgaan laat sign bevoegheid names hues Uitoefenen door een ander*, (meaning that a mandate occurs when a government organ allows authority to be exercised by another organ on its behalf).

3. Teori Good Governance

According to Koiman¹⁷, governance is a series of social and political interaction processes between the government and society in various fields related to the interests of society and government intervention in these interests. mechanisms, processes and institutions through which citizens mediate differences, articulate their interests, differences and exercise their legal rights and obligations. Governance is a process by which service institutions manage public resources and guarantee the reality of human rights. In this context, Good Governance has the appropriate essence, namely being free from abuse of authority and corruption and

¹³ I Dewa Gede Atmadja, *Pengantar Penalaran Hukum Dan Argumentasi Hukum (Legal Resorning and Legut*

¹⁴ JJ Bruggink, *Refleksi Tentang Hukum* (Bandung: PT. Citra Aditya Bakti, 2012).

¹⁵ Yan Pramadya Puspa, *Kamus Hukum* (Semarang: Aneka Ilmu, 1977).

¹⁶ Brouwer and A.E.Schilder.

¹⁷ J.C.S. Simorangkir and Et.all, *Kamus Hukum* (Jakarta: Aksara Baru, 1985).

recognizing rights based on legal governance.¹⁸

According to Rochman Governance is a mechanism for managing economic and social resources that involves the influence of state and non-state sectors in a collective effort. According to the United Nation Development Program document (UNDP; 2004)¹⁹, good governance is the use of political economic and administrative authority to manage various state affairs at every level and is an instrument of state policy to encourage the creation of conditions of prosperity, social integration and cohesiveness and public.

4. Government Concept

In the concept, there are two meanings of government, namely government in the broad sense and government in the narrow sense. Government in a broad sense (regering) is the implementation of the duties of all agencies, institutions and officers who are entrusted with the authority to achieve state goals. Meanwhile, government in the narrow sense (bestuur) includes the organization of functions that carry out government duties. Good government implementation basically makes the public feel:²⁰

- a. Protected and fulfilled human rights (HAM) of the community;
- b. The realization of the principle of equality before the law "equality before the law" which emphasizes issues of justice/discriminatory acts in services to society;
- c. There is peace and order because the government carries out its duties well and in accordance with the rules;
- d. There is a government climate that is clean and free from corruption.

The concept of government in this research is to explain the use of authority/power by the government (in this case the General Election Commission) in prohibiting ex-convicts of criminal acts of corruption from nominating themselves as candidates for members of the People's Representative Council/Regional People's Representative Council (DPR/DPRD). Is the General Election Commission (KPU) in using its authority to issue a General Election Commission (KPU) Regulation regarding the Prohibition of nominating candidates for membership in the People's Representative Council/Regional People's Representative Council (DPR/DPRD), a correct and legal act of government?

5. The concept of the rule of law

Indonesia is a rule of law state as stipulated in Article 1 paragraph (1) of the 1945 Constitution of the Republic of Indonesia²¹. In line with these provisions, it provides an understanding that all actions. The government must be based on law. Divided into Baron de Monstequie's theory of Separation of Powers, which requires that executive power is government power.²²

6. Setting Restrictions Regarding Prohibitions for Candidates for Legislative Members

Restrictions on ex-convicts can be seen in Law Number 7 of 2017 concerning General Elections in Article 169 letter p which stipulates "*never have been sentenced to prison based on a court decision that has obtained permanent legal force for committing a criminal act which is punishable by imprisonment for 5 (five) years or more*". Thus, the Law emphasizes the conditions contained in the requirements legislative candidates for DPRD, DPR, DPD.

In the provisions of Article 1 number 1 of the Law on Uinum Elections, General

¹⁸ M Irfan Islamy, *Prinsip-Prinsip Perumusan Kebijakan Negara* (Jakarta: Bumi Aksara, 1992).

¹⁹ Emil J. Sady, 'Improvement Local Government for Development Purpose', *Journal Of Local Administration Overseas*, 1962, 135.

²⁰ H.A.Masyhur, *Hak Asasi Manusia Dalam Hukum Nasional Dan Internasional* (Jakarta: Ghalia Indonesia, 1994).

²¹ M. Solly Lubis, *Pembahasan Undang-Undang Dasar 1945* (Bandung: Alumni, 1997).

²² J.J. Bruggink, *Refleksi Tentang Hukum* (Bandung: Cipta Aditya Bakti, 1996).

Elections, hereinafter referred to as Elections, are a means of popular sovereignty to elect members of the People's Representative Council, members of the Regional Representative Council, President and Vice President, and to elect members of the Regional People's Representative Council, which is carried out directly, publicly, freely, confidentially, honestly and fairly within the Unitary State of the Republic of Indonesia based on Pancasila and the 1945 Constitution of the Republic of Indonesia.

In the provisions of Article 4 of Law Number 7 of 2017,²⁶ the regulation of Election Implementation aims to:

- a strengthening a democratic constitutional system,
- b realizing elections that are fair and have integrity;
- c guarantee the consistency of election system arrangements;
- d provide legal certainty and prevent duplication in election arrangements, and
- e realizing effective and efficient elections.

The provisions of Article 240 of the Election Law determine:

Prospective candidates for members of the DPR, provincial DPRD and district/city DPRD are Indonesian citizens and must meet the following requirements:

- a. Have aged 21 (twenty one) years or more;
- b. Fear of God Almighty;
- c. Residing in the territory of the Unitary State of the Republic of Indonesia;
- d. Can speak, read, and/or write in Indonesian;
- e. Having at least completed high school, madrasah aliyah, vocational high school, vocational madrasah aliyah, or other equivalent school,
- f. Loyal to Pancasila, the 1945 Constitution of the Republic of Indonesia, the Unitary State of the Republic of Indonesia, and Bhinneka Tunggal Ika.
- g. Never been sentenced to prison based on a court decision that has permanent legal force for committing a criminal offense that is punishable by imprisonment for 5 (five) years or more, unless openly and honestly stating to the public that the person concerned is a former convict.
- h. Physically and spiritually healthy and free from drug abuse,
- i. Registered as a voter,
- j. Willing to work full time:
- k. Resign as regional head, deputy regional head, state civil servants, members of the Indonesian National Army, members of the Indonesian National Police, directors, commissioners, supervisory boards and employees of state-owned enterprises and/or regional-owned enterprises, or other bodies whose budgets sourced from state finances, which is stated in a letter of irrevocable resignation;
- l. Willing not to practice as a public accountant, advocate, notary, official who makes land deeds, or does not carry out work as a provider of goods and services related to state finances and other work which may give rise to a conflict of interest with the duties, authority and rights as members of the DPR, provincial DPRD and district/city DPRD in accordance with the provisions of regulations legislation,
- m. Willing not to hold concurrent positions as other state officials, directors, commissioners, supervisory boards and employees in state-owned enterprises and/or regional-owned enterprises as well as other entities whose budgets come from state finances;
- n. Become a member of an Election Contesting Political Party;
- o. Nominated only in 1 (one) representative institution; And
- p. Nominated only in 1 (one) electoral district.

The administrative equipment of prospective members of the DPR, provincial DPRD and district/city DPRD as intended in paragraph (1) is proven by:

- a. Indonesian citizen identity card;
- b. Proof of final educational completion in the form of a photocopy of a diploma, certificate

- of completion of study, or other certificate legalized by the education unit or secondary education program,
- c. Stamped statement letter for candidates for members of the DPR, provincial DPRD and district/city DPRD who have never been sentenced to a prison sentence of 5 (five) years or more or a statement from a correctional institution for candidates who have previously been convicted of a crime;
 - d. Certificate of physical and mental health and certificate of freedom from narcotics abuse;
 - e. Proof of being registered as a voter;
 - f. Statement letter of willingness to work full time signed on sufficiently stamped paper:
 - g. A statement of willingness not to practice as a public accountant, advocate, notary, land deed official, and/or not to carry out work as a provider of goods and services related to state finances as well as other work that could give rise to a conflict of interest with the duties, authority and rights of a members of the DPR, provincial DPRD, and district/city DPRD signed on paper with sufficient stamp duty;
 - h. Letter of irrevocable resignation as regional head, deputy regional head, state civil servant, member of the Indonesian National Army, or member of the Indonesian National Police, directors, commissioners, supervisory board and employees of state-owned enterprises and/or business entities owned by regions and administrators in other bodies whose budgets come from state finances; Membership card for Election Contesting Political Parties; Statement letter regarding willingness to only be nominated by 1 (one) political party for 1 (one) representative institution signed on paper with sufficient stamp duty; And
 - i. Membership card for Election Contesting Political Parties
 - j. Statement letter regarding willingness to only be nominated by 1 (one) political party for 1 (one) representative institution signed on paper with sufficient stamp duty; And
 - k. A statement letter regarding willingness to only be nominated in 1 (one) electoral district signed on paper with sufficient stamp duty.

The requirements as stated in letter c Paragraph (1) are as follows: "stamped statement letter for candidates for members of the DPR, provincial DPRD and district/city DPRD who have never been sentenced to imprisonment for 5 (five) years or more or a statement from correctional institutions for candidates who have been convicted of crimes.

According to the author/researcher, the existence of such a certificate is aimed at making the candidate concerned increase the psychological burden and shame of not repeating a crime, including not committing acts of corruption that are detrimental to the State. Article 240 Paragraph (1) of Law Number 7 of 2017 concerning General Elections determines that prospective members of the DPR, provincial DPRD and district/city DPRD are Indonesian citizens and must fulfill the requirements: in letter g, it is determined that the candidate has never been convicted imprisonment based on a court decision that has obtained permanent legal force for committing a criminal offense that is punishable by imprisonment for 5 (five) years or more, unless openly and honestly stating to the public that the person concerned is a former convict.

There is a provision that a candidate is required to openly and honestly state to the public that he or she is a former convict. According to researchers, this provision aims to impose a psychological burden/mental burden on prospective legislative members so that after being elected they do not repeat crimes, including corruption crimes, because of feelings of shame. it was ingrained in him. In the provisions of Article 240 Paragraph (2) letter g of Law Number 7 of 2017 concerning General Elections determines, a statement of willingness not to practice as a public accountant, advocate, notary, land deed official, and/or not to carry out work as a provider of goods and services related to state finances and other work which could give rise to a conflict of interest with the duties, authority and rights of the members of the DPR, provincial DPRD and DPRD district/city signed on paper with sufficient stamp duty. There is a provision that prohibits a legislative candidate from carrying out work as a provider

of goods and services related to state finances as well as other work that could give rise to a conflict of interest with the duties, authority and rights as a member of the DPR, provincial DPRD and district/city DPRD which was signed in on sufficiently stamped paper. In this connection, according to the writer/researcher's opinion, it is intended as an effort to prevent the possibility of abuse of authority in the form of criminal acts of corruption committed by a member of the legislature.

Article 242, stipulates that the provisions regarding Political Parties are prohibited from receiving compensation in any form in the process of nominating President and Vice President as intended in Article 228 apply *mutatis mutandis* to the selection of prospective members of the DPR, provincial DPRD and district/city DPRD. The provisions of the article above explicitly prohibit political parties nominating candidates for legislative members from receiving dowries, so that the candidates concerned after being elected are not burdened with burdensome debts. In this way, elected legislators will work optimally and honestly so that they devote their full attention to fighting for the interests of their constituency constituents

7. Revocation of Political Rights.

In Indonesia, every citizen has the right to participate in elections. This is a right inherent in every citizen. Political rights are rights that originate from the dignity and are inherent in every human being and whose existence must be guaranteed and respected is the responsibility of the state. However, the current problem is that elections cannot be said to have integrity because the main cause comes from election participants, most of whom are former corruption convicts who were previously public officials.²³

For this reason, discourse has emerged to revoke political rights for those convicted of corruption cases because of the facts and data that show that many cases of corruption have been committed by public officials.²⁴ So in this case it is necessary to understand that the root of the problem of corruption cases that occur involves unscrupulous people's representatives, members of the legislature.²⁵ Thus, it is understood that one of the causes of criminal acts of corruption is that it originates from the political power held by public officials. This means that public officials often misuse their political power to carry out corrupt actions that are detrimental to the state. Therefore, there is talk of revoking the political rights of individual legislative members involved in corruption so that they will be given such sanctions.²⁶

The urgency of revoking political rights for corruption convicts is important for the following reasons: First, there are many public officials, both members of the People's Representative Council,³¹ Provincial Regional People's Representative Council and district/city People's Representative Council, as well as regional heads who are corruption suspects. Second, with the large number of corruption cases that have been successfully handled by the Corruption Eradication Commission and the sanctions given through court decisions, this has not actually provided a sufficient deterrent effect for perpetrators of criminal acts of corruption. Corruption cases committed by public officials (legislative and executive) from year to year show a graph that continues to increase, providing real evidence that prospective public officials have morals. Currently, many legislative candidates who have been prisoners in corruption cases will return to political contests next year, fearing they will repeat the same mistakes.

Third, the nature of extra ordinary crime, in the context of corruption in Indonesia, can be classified as an extraordinary crime. Considering that corruption occurs systematically and

²³ Yohanes Usfunan, 'Kebebasan Berpendapat Di Indonesia' (Universitas Airlangga, 1998).

²⁴ Prajudi Atmosudirjo, *Hukum Administrasi Negara* (Jakarta: Ghalia Indonesia, 1981).

²⁵ Philipus M Hadjon and Tatiek Sri Djatmiati, *Argumentasi Hukum* (Yogyakarta: Gadjah Mada University Press, 2014).

²⁶ Diana Halim Koentjoro, *Hukum Administrasi Negara* (Bogor: Ghalia Indonesia, 2004).

widely, it is not only detrimental to the state's finances and economy, it is still a violation of the state's social and economic rights, but is a violation of the social and economic rights of society at large. As contained in the considerations considering letter a of Law Number 20 of 2001 concerning the Eradication of Corruption Crimes which states that the crime of corruption needs to be classified as a crime whose eradication must be carried out in an extraordinary manner. Fourth, public positions become wiser if they are filled by people who still have a good track record. This is not to ignore human rights, but when it comes to ethics and morals, public office is a place given to people who have power over them. In countries where a democratic culture has been established, political ethics and state ethics. The public is sensitive enough to assess candidates for public trust. On the other hand, prospective public trust officials are also fully aware of the function and meaning of the public trust area as a value that must be upheld. The prevailing moral and ethics are that a person no longer deserves to be in the public trust." Political rights (the right to be elected) are one of the groups of human rights as regulated in Article 25 of the 1966 International Convention concerning civil and political rights. Revocation of political rights, especially the right to be elected as a public official, is a form of punishment because the person concerned is not trustworthy in holding public office and so that the person concerned can no longer abuse their authority. Article 73 of Law Number 39 of 1999 concerning Human Rights stipulates that restrictions or revocation of human rights are only permitted based on law. The aim is to guarantee recognition and respect for human rights as well as the basic freedoms of other people, morality, public order and the interests of the nation.

In the provisions of Law Number 39 of 1999 concerning Human Rights, in relation to acts of corruption carried out by members of the Legislature, this actually shows that there is a form of violation of the law. Because members of the Legislature who commit acts of corruption have violated the rights of the people who have elected them. The existence of space to carry out these restrictions, as explained above, has given rise to regulations that make it possible for the right to vote and be elected not to be attached to all Indonesian citizens. This means that the right to vote is given restrictions, so that citizens who are guaranteed to have the right to vote and vote are truly citizens who have fulfilled the specified requirements.

Rights that need to be revoked by a judge's decision are regulated explicitly in the provisions of Article 35 paragraph (1) of the Criminal Code. In the case of revocation as described above, there must be a specified time limit. In Article 38 Paragraph (1) and Paragraph (2) of the Criminal Code. In this framework, the revocation of political rights in Indonesia has a place in positive law as long as the revocation of the right is accompanied by a time period for when the right will be revoked.

From a constitutional law perspective, the application of additional punishment in the form of revocation of the right to vote and be elected (political rights) as long as it is not permanent does not violate human rights. Moreover, it is imposed on corruption convicts who are very detrimental to the state and detrimental to society. Human rights are different from political rights. Human rights are the rights of all human beings, while political rights are the rights of citizens of a particular country. This right is in the form of the right to vote and be elected to occupy public office. Political rights can be limited by temporary revocation. Revocation of this right takes the form of a certain time restriction on freedom in the context of the convict's political activities. Then the current problem is that the law does not require the revocation of political rights for those convicted of corruption through the results of general elections and the law does not yet determine the qualifications of corruptors whose political rights can be revoked. In addition, revocation of political rights will not be granted if the demands by the public prosecutor do not include the above articles.

8. Constitutional Court Decision Regarding Revocation of Political Rights

Revoking the political rights of corruption convicts is the right step taken by Supreme Court Judges, so that this decision can be a decision for Judges and lower judicial institutions

to impose the same punishment. The time limit for revoking voting rights (political rights) for corruptors is regulated in Article 38 of the Criminal Code paragraph (1) which determines: If revocation of rights is carried out, the judge determines the length of revocation as follows:

- a. In the case of death or life imprisonment, the duration of life imprisonment shall be revoked;
- b. In the case of a prison sentence for a certain period of time or imprisonment, the length of revocation is at least two years and a maximum of five years longer than the principal sentence;
- c. In the case of a fine, the length of revocation is at least two years and a maximum of five years.

Constitutional Court decisions relating to cases of revocation of political rights. These decisions can be observed as follows:

First, in the Constitutional Court Decision Number 42/PUU-XIII/2015 it was stated that it granted the applicant's petition,

- a. Article 7 letter g of Law Number 8 of 2015 concerning amendments to Law Number 1 of 2015 concerning the Determination of Government Regulations in Lieu of Law Number 1 of 2014 concerning the election of Governors, Regents and Mayors into Law (State Gazette Republic of Indonesia of 2015 Number 57, Supplement to the State Gazette of the Republic of Indonesia Number 5678) is conditionally contrary to the Constitution of the Republic of Indonesia of 1945 as long as it is not interpreted as excluding former convicts who openly and honestly state to the public that the person concerned is a former convict;
- b. Explanation of Article 7 letter g of Law Number 8 of 2015 concerning Amendments to Law Number 1 of 2015 concerning the Determination of Government Regulations in Lieu of Law Number 1 of 2014 concerning the Election of Governors, Regents and Mayors into Law (Republic of Indonesia Gazette of 2015 Number 57, Supplement to State Gazette of the Republic of Indonesia Number 5678) does not have conditionally binding legal force as long as it is not interpreted as excluding former convicts who openly and honestly state to the public that the person concerned is a former convict;
- c. Explanation of Article 7 letter g of Law Number 8 of 2015 concerning amendments to Law Number 1 of 2015 concerning the Determination of Government Regulations in Lieu of Law Number 1 of 2014 concerning the Election of Governors, Regents and Mayors into Law (Sheet Republic of Indonesia Year 2015 Number 57, Supplement to the State Gazette of the Republic of Indonesia 5678);
- d. Explanation of Article 7 letter g of Law Number 8 of 2015 concerning Amendments to Law Number 1 of 2015 concerning the Determination of Government Regulations in Lieu of Law Number 1 of 2014 concerning the Election of Governors, Regents and Mayors into Law (State Gazette Republic of Indonesia Year 2015 Number 57, Supplement to the State Gazette of the Republic of Indonesia Number 5678 does not have binding legal force;
- e. Article 45 paragraph (2) letter k Law Number 8 of 2015 concerning Amendments to Law Number 1 of 2015 concerning Stipulation of Government Regulations in Lieu of Law Number 1 of 2014 concerning Election of Governors, Regents and Mayors becomes Law (State Gazette of the Republic of Indonesia of 2015 Number 57, Supplement to the State Gazette of the Republic of Indonesia Number 5678) is contrary to the 1945 Law;
- f. Article 45 paragraph 2 letter k Law Number 8 of 2015 concerning Amendments to Law Number 1 of 2015 concerning the Determination of Government Regulations in Lieu of Law Number 1 of 2014 concerning the Election of Governors, Regents and Mayors into Law (State Gazette of Indonesia 2015 Number 57, Supplement to State Gazette of the Republic of Indonesia 5678 does not have binding legal force.
 - 1) Reject the Petitioner's application for other than that;
 - 2) Order the publication of this Decision in the State Gazette of the Republic of Indonesia as appropriate.

Second, the withdrawn political cases can also be seen in the Constitutional Court Decision Number 56/PUU-XVII/2019 in its Decision as follows in the Main Application:

- a. Grant the Petitioners' request in part;
- b. Declare Article 7 paragraph (2) letter g of Law Number 10 of 2016 concerning the Second Amendment to Law Number 1 of 2015 concerning the Stipulation of Government Regulations in Lieu of Law Number 1 of 2014 concerning the Election of Governors, Regents and Mayors to be The Law (State Gazette of the Republic of Indonesia of 2016 Number 130, Supplement to the State Gazette of the Republic of Indonesia Number 5898) is contrary to the 1945 Constitution and does not have conditionally binding legal force as long as it is not interpreted as having passed a period of 5 (five) years after ex the convict has completed serving a prison sentence based on a court decision that has permanent legal force; so Article 7 paragraph.
- c. Explanation of Article 7 letter g of Law Number 8 of 2015 concerning amendments to Law Number 1 of 2015 concerning the Determination of Government Regulations in Lieu of Law Number 1 of 2014 concerning the Election of Governors, Regents and Mayors into Law (Sheet Republic of Indonesia Year 2015 Number 57, Supplement to the State Gazette of the Republic of Indonesia 5678);
- d. Explanation of Article 7 letter g of Law Number 8 of 2015 concerning Amendments to Law Number 1 of 2015 concerning the Determination of Government Regulations in Lieu of Law Number 1 of 2014 concerning the Election of Governors, Regents and Mayors into Law (State Gazette Republic of Indonesia Year 2015 Number 57, Supplement to the State Gazette of the Republic of Indonesia Number 5678 does not have binding legal force;
- e. Article 45 paragraph (2) letter k Law Number 8 of 2015 concerning Amendments to Law Number 1 of 2015 concerning Stipulation of Government Regulations in Lieu of Law Number 1 of 2014 concerning Election of Governors, Regents and Mayors becomes Law (State Gazette of the Republic of Indonesia of 2015 Number 57, Supplement to the State Gazette of the Republic of Indonesia Number 5678) is contrary to the 1945 Law;
- f. Article 45 paragraph 2 letter k Law Number 8 of 2015 concerning Amendments to Law Number 1 of 2015 concerning the Determination of Government Regulations in Lieu of Law Number 1 of 2014 concerning the Election of Governors, Regents and Mayors into Law (State Gazette of Indonesia 2015 Number 57, Supplement to State Gazette of the Republic of Indonesia 5678 does not have binding legal force.
 - 1) Reject the Petitioner's application for other than that;
 - 2) Order the publication of this Decision in the State Gazette of the Republic of Indonesia as appropriate. Second, the withdrawn political cases can also be seen in the Constitutional Court Decision Number 56/PUU-XVII/2019 in its Decision as follows in the Main Application:
 - a) Grant the Petitioners' request in part;
 - b) Declare Article 7 paragraph (2) letter g of Law Number 10 of 2016 concerning the Second Amendment to Law Number 1 of 2015 concerning the Stipulation of Government Regulations in Lieu of Law Number 1 of 2014 concerning the Election of Governors, Regents and Mayors to be The Law (State Gazette of the Republic of Indonesia of 2016 Number 130, Supplement to the State Gazette of the Republic of Indonesia Number 5898) is contrary to the 1945 Constitution and does not have conditionally binding legal force as long as it is not interpreted as having passed a period of 5 (five) years after ex the convict has completed serving a prison sentence based on a court decision that has permanent legal force; so that Article 7 paragraph (2) letter g of Law Number 10 of 2016 concerning the Second Amendment to Law Number 1 of 2015 concerning the Determination of Government Regulations in Lieu of Law Number 1 of 2014 concerning the Election of Governors, Regents and Mayors

- becomes Law. The Law (State Gazette of the Republic of Indonesia of 2016 Number 130, Supplement to the State Gazette of the Republic of Indonesia Number 5898) in full reads: "Candidates for Governor and Deputy Governor Candidates, Candidates for Regent and Deputy Regent Candidates, as well as Candidates for Mayor and Candidates for Deputy Mayor as referred to in paragraph (1) must fulfill the following requirements": (i) never have been convicted based on a court decision that has obtained permanent legal force for committing a criminal act that is punishable by imprisonment for 5 (five) years or more, except for convicts who have committed criminal acts of negligence and political crime in the sense of an act that is declared a criminal act in positive law only because the perpetrator has a different political view from the regime in power; (ii) for former convicts, a period of 5 (five) years has passed after the former convict has finished serving his prison sentence based on a court decision that has permanent legal force and honestly or openly announced his identity background as a former convict; and (iii) not be a repeat offender;
- c) Reject the Petitioners' petition for the remainder and other matters.

Third, the withdrawal of political cases can also be seen in the Decision of the Constitutional Court Number 4/PUU-VII/2009 in its Decision as follows: Bearing in mind the 1945 Constitution of the Republic of Indonesia, Article 56 paragraph (2) and paragraph (3), Article 57 paragraph (1) and paragraph (3) of Law Number 24 of 2003 concerning the Constitutional Court (State Gazette of the Republic of Indonesia of 2003 Number 98, Supplement to the State Gazette of the Republic of Indonesia Number 4316); Judge

- a. Declare that the application has been granted in part;
- b. Declare Article 12 letter g and Article 50 paragraph (1) letter g of Law Number 10 of 2008 concerning the General Election of Members of the People's Representative Council, Regional Representative Council and Regional People's Representative Council (State Gazette of the Republic of Indonesia of 2008 Number 51, Supplement to the State Gazette of the Republic of Indonesia Number 4836) as well as Article 58 letter f of Law Number 12 of 2008 concerning the Second Amendment to Law Number 32 of 2004 concerning Regional Government (State Gazette of the Republic of Indonesia of 2008 Number 59, Supplement to the State Gazette of the Republic of Indonesia of 2008 Number 59, Supplement to the State Gazette of the Republic of Indonesia Number 4844) is conditionally unconstitutional in conflict with the 1945 Constitution of the Republic of Indonesia;
- c. Declare Article 12 letter g and Article 50 paragraph (10) letter g of Law Number 10 of 2008 concerning General Elections of Members of the People's Representative Council, Regional Representative Council and Regional People's Representative Council (State Gazette of the Republic of Indonesia of 2008 Number 51. Supplement State Gazette of the Republic of Indonesia of 4836) as well as Article 58 letter f of Law Number 32 of 2004 concerning the Second Amendment to Law Number 32 of 2004 concerning Regional Government (State Gazette of the Republic of Indonesia of 2008 Number 59, Supplement to State Gazette of the Republic of Indonesia Number 4844) does not have binding legal force as long as it does not meet the following requirements: (i) does not apply to elected public positions; (ii) is valid for a limited period of only 5 (five) years after the convict has completed serving his sentence; (iii)) is excluded for former convicts who openly and honestly state to the public that they are ex-convicts; (iv) are not repeat offenders;
- d. Declare that he rejects the Petitioner's application for other than that;
- e. Order the publication of this Decision in the State Gazette of the Republic of Indonesia as appropriate.

From Jimly Asshiddiqie's view, he states that human rights are rooted in the human person because of their humanity. If they are revoked, their human nature will also be lost

(Article 73 of the Human Rights Law). This means that the revocation of these rights reminds us of punishments that degrade human dignity (onterende straffen). Political rights are the human rights of every citizen which cannot be limited by anyone. Human rights must be protected, respected, maintained and must not be ignored for any reason, so the Assembly does not agree with the demands of the General Election Commission Prosecutor. Whether a person is elected or not must be left to the public to assess the integrity and capacity of candidates for public office.

9. Rights and Freedoms

- a. Carol C. Gould, in the book *Democracy Revisited*, states that a necessary condition for democratic government is human freedom. This shows that rights/freedoms are understood in the sense that each individual is free to carry out every choice without interference from other parties. The main principle is equal freedom under the law, especially freedom of opinion. Thus, rights/freedoms are self-development activities that require not only freedom from external interference (other parties) but the availability of social and material conditions necessary for the achievement of each individual's development goals.
- b. Thoughts regarding human rights and political rights (freedom to choose and be elected) have historically developed following initial thinking about the state and law since the time of Ancient Greece. In that era, the development of freedom of opinion can be traced in the context of discussions about the state and law as put forward by Socrates, Plato and Aristotle. The initial concept of thought regarding the state and law was put forward by Socrates, who died in 399 B.C. This thought then gave birth to the concept of ancient democracy, namely direct democracy in the government system in Ancient Greece. The form of the Ancient Greek state at that time was still a Polis, City State or city state.
- c. In the City State, every citizen participates directly in various government activities, including the right to vote and be elected. Socrates who lived 469-399 B.C. is a Greek philosopher who is the prototype hero of democracy. He was executed on charges of inciting the youth against absolutism, making him the first martyr for the ideals of political freedom. Plato was a student of Socrates who lived in 429-347 B.C. wrote two books about state life, namely *Politeia* and *Nomoi*. In the book *Politeia*, Plato describes a model of a just state, namely that the state must be regulated in a balanced manner according to its fair parts. In the book *Politeia*. Plato describes a model of a just state, namely that the state must be regulated in a balanced manner according to its fair parts. In such a country each group has its natural place. And justice arises when each group (philosophers, soldiers, workers) acts according to their duties and position.
- d. Fairness according to positive law or statutory regulations is likely to be temporary and change according to time and place, thus showing an unstable nature, as a result, justice is of the same nature. On the other hand, justice according to the concept of natural law is generally applicable and eternal. In ancient Roman times, there was a change from a city state to an empire (world empire). The first government in Roman times was a monarchy or kingdom. From a legal perspective, if in Greek times citizens were part of the state so they did not sue the state, then in Ancient Roman times citizens were separated from the state whose situation was regulated by a different type of law, namely, relations between citizens were regulated based on public law.
- e. This building of Roman law, which separates private law from public law, clearly shows that there are efforts to protect the rights and freedoms of citizens (including freedom of opinion) in this era. Rome reached the peak of the development of its constitutional system into an Empire because it was heavily influenced by the teachings of the Stoics created by Zeno. The Stoic teachings of Zeno, which enabled Rome to become a world empire, because this teaching is universalistic in nature and is not limited to the City State alone

like the universalism of the Greeks, but the universalism of the people

f. The Stoics covered the whole world.

The Stoics provide a complete picture of natural law, thereby proving that Greek philosophy, which contains the natural law of the Stoics, underlies Roman law. One of the great thinkers about law and the state in Roman times was Cicero. According to Cicero² good law is law that is based on pure ratio and therefore positive law must be based on the postulates or principles of natural law (pure ratio), if this is not the case then positive law does not have binding force.

Calvin, a Swiss national law scholar whose teachings later became known as Calvinism, fought for the political freedoms of every citizen (people), state independence and the struggle to uphold democracy. Civil rights and political rights include

- a Right to Life:
- b The right to be free from torture and inhumane treatment;
- c The right to be free from forced labor slavery;
- d The right to personal freedom and security;
- e The right to personal freedom and security;
- f The right to recognition and equal treatment before the law;
- g The right to freedom of thought, belief and religion;
- h The right to freedom of opinion and expression;
- i The right to assemble and associate;
- j The right to participate in government. gather and associate.

Political freedom is the right of everyone to participate both individually and together with other people in the decision-making process. Types of political rights according to Antonio Cassese include:

- a. The right to associate,
- b. The right to express opinions orally and in writing;
- c. The right to form a political party,
- d. The right to participate in general elections,
- e. The right to be elected to a position in government.

CONCLUSION

Based on the discussion that has been explained, the following overall conclusion can be drawn: Regulations on limiting the right to vote for former corrupt convicts are regulated in Law Number 7 of 2017 concerning General Elections, which in essence states that their existence is still recognized but limited for 5 years after serving criminal law, as an integral part of human rights based on the Constitutional Court Decision.

The suggestions that arise from the discussion of the problems in this research can be given as follows: in regulating and guaranteeing legal certainty regarding the right to be elected as legislative members in the General Election for former corruption convicts, it is necessary to further regulate it in the General Election Law as follows: elaboration of the decision of the Constitutional Court which recognizes the need to grant the right to be elected to former corruption convicts to become members of the legislature.

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