

## REVOCATION OF POLITICAL RIGHTS CORRUPTION DEFENDANTS IN THE PERSPECTIVE OF HUMAN RIGHTS

Kioge Lando  
Supanto  
Isharyanto

### ABSTRACT

*This study aims to assess and analyze the political rights revocation accused of corruption in the perspective of human rights. This legal study was included in a normative legal research with perspective method. The legal material used in this study were primary legal materials, and secondary legal materials, through the documentation study (literature studies), and analyzed by using deduction techniques. The results showed that the additional penalty of the revocation of the political rights of the accused crime of corruption is in conformity with the principles of human rights. Given legally, limitation and revocation of political rights, stipulated in the instruments of national and international, that are listed in the Act No. 39 of 1999 on Human Rights contained in Article 70, Article 73 and Article 74. Taking a decision to impose additional penalties for perpetrators of corruption in the form of revocation of political rights, there is a fundamental reason to deprive political rights defendants are due to corruption defendants had disrupted the democratic process itself or hinder the political process and the wheels of government in a country that is clean and good (good governance and clean government) and related human rights violations).*

Keywords: corruption, additional penalty, pecabutan political rights, human rights

### INTRODUCTION

Corruption is an unlawful act to enrich themselves or others by abusing authority, opportunity or means available to him because of the position or positions that could harm other people or countries.<sup>1</sup> An action can be categorized as an act of corruption if it contains the following elements: the perpetrators or multiple perpetrators; their actions that violate the norms in force, good moral aspects / religious, ethical, or legal aspects; the element of financial harm or wealth of the country or the people, either directly or indirectly; the element of personal gain or groups / certain groups.<sup>2</sup>

Government agencies that deal with corruption cases that have so far not been functioning effectively and efficiently in combating corruption.<sup>3</sup> Based on the annual report that was launched by the Commission, the amount of corruption that came from public officials from the national and regional parliaments around 32% of the years 2004 to 2016, of the data can be seen that there is little political elites are entangled in corruption cases. It is certainly sad the public, but Indonesia as a legal state constantly strive to improve laws to combat corruption, especially among public officials. One way is to impose additional penalties against convicted of corruption.<sup>4</sup>

Indonesian criminal law has provided a legal basis to revoke certain rights as a form of additional punishment. Revocation of certain rights such as the right to hold public office, an additional sentence is expected to provide protection to the people of the behavior of errant officials. Therefore, the government made a rule against criminals. In the Criminal Code and the editorial articles of the Law No. 31 of 1999 as amended and supplemented by Law No. 20 of 2001 on the Eradication of Corruption (hereinafter referred to legislation PTPK). In addition to the principal criminal was also set on the criminal enhancements include revocation of certain rights, deprivation of evidence and the judge's verdict.<sup>5</sup> Article 18 paragraph (1) point (d) of Law No. 31 of 1999 on Corruption Eradication, that: "The revocation of all or part of certain rights or removal of all or part of particular benefit that has been or may be granted by the government to convict.

Article 10 (a) of the Criminal Code states that: additional penalty may be the revocation of certain rights. Certain rights in question here is the right to hold positions in general or a particular position as stipulated in Article 35 paragraph (1) number 1 or the right to select the active and passive in the elections held by the general rules as mentioned in Article 35 paragraph (1) item 3 of the Criminal Code. Revocation of certain rights such as the active and passive suffrage in public office could actually be a deterrent for corruption convicts tool once caused fear to public officials and political figures in order not to be a candidate perpetrators of corruption are rampant in various state institutions.

Political rights are rights derived from the dignity and inherent in every human existence is guaranteed and respected by the state to freely enjoy the political rights of the human family whose fulfillment is the responsibility of the state. Constitutional Amendment of the Constitution of the Republic of Indonesia in 1945 that occurred as much as four (4) times during the reformation, modern, very crucial issues such as human rights (HAM), housed into a special chapter on human rights. Basic

<sup>1</sup>Aji Lukman Ibrahim, Analysis Against Imposition of Criminal Judicial Supplement Choosing the Right revocation and Selected In Public Position Djoko Susilo, the Rule of Law, Vol, No. 1, June 2014, p 1.

<sup>2</sup>Prakoso Bhairawa Son, "Corruption in the Regions: Regional Administration Pengeyelenggaraan Wrong Way", Journal of Borneo Administrator, Vol 8, No. 2, 2012, p 164.

<sup>3</sup> CST Kasnsil et al, Crime in the National Law, Jakarta: Jala Gem Script, 2009, p 91.

<sup>4</sup>Corruption Eradication Commission Annual Report 2016, p. 3.

<sup>5</sup> Ltumpah, Revocation Political Rights Against Corruption Convicts, is the Law and Justice Bulletin, Volume 1, Number March 11, 2017, p 2.

rights that are universally recognized now get a strong recognition by the state, even this right constitutional rights (constitutional right) guaranteed by the supreme law.<sup>6</sup>

Arrangements concerning political rights (the right to elect and be elected) everyone affirmed in Article 43 paragraph (1), (2) and (3) of Law No. 39 on Human Rights (HAM), therefore every citizen have the same rights without any restrictions, either directly or indirectly in any form or by any means. Political right to choose and pick which means that every citizen is equally as have the right to obtain their political rights to be elected as a leader, executive associations, organizations or political parties reaffirmed by the Universal Declaration of Human Rights Article 21 paragraph (1) states that: "Everyone has the right seta participate in the government of his own country, either directly or through representatives freely chosen." Then in verse 2 states that:

Revocation of Political Rights to convict Corruption is one form of restriction on Human Rights, which has been set explicitly in the Indonesian constitution, the lifting of political rights not only violates human rights but more than that the State had discriminated against citizens who essentially 1945 has clearly regulate and protect the human rights of the people of Indonesia, in article 28, first paragraph 4 states that: "the protection, promotion, enforcement and fulfillment of human rights is the responsibility of the state, especially the government. In this case it is clear that the task of the State, especially the government is protecting human rights without any distinction or prinsipnya diskriminasi that every citizen has equal rights in politics, namely in choosing and select.

*That phenomenon indicates a shift of paradigm in related to punishment to the corruption Convicts where the people want a Revocation of the right to vote and be Elected in public office as a corresponding additional penalty. A paradigm shift in the Revocation of the right to vote and Elected in public office as an additional punishment of corruption Convicts shows that the law is bound to the ultimate goal of state and community life that can not be separated from the values and philosophy of life of the society items, namely justice.<sup>7</sup>*

So far, there are actors of corruption charged with additional criminal charges that revocation of political rights. There have been two (2) judge's decision berkuatan standing law to accommodate the lifting of the political rights of the accused, which first dropped High Court Corruption in Central Jakarta were later confirmed by appeal of the convict Sutan Bhatogana the court decision No. 34 / PID / TPK / 2015 / PT.DKI that Sutan Bhatogana, not Tsah and convincingly proven guilty of committing corruption offenses as charged in the indictment both the primary and subsidiary, acquitted the accused of dakwaan the primary and subsidiary, declare the defendant has been proven legally and convincingly guilty of committing corruption offenses as charged in the primary first charge and the second charge over the subsidiary. Convict the accused to imprisonment for ten (10) years and fined Rp. 500.

Taking a decision to impose additional penalties for perpetrators of corruption in the form of revocation of political rights, there is a reason to revoke the political rights of the defendant because the defendant corruption disrupt the democratic process itself or hinder the political process and the wheels of government in a country that is clean and good (governance good and clean government) and related human rights violations). Sebagaimana expressed by Edi As' Adi stating that:<sup>8</sup>"Perhaps the reason to REVOKE the political right of the defendant is that the corruption defendant has already disturbing the process of the democracy itself or hampering the process of the politics and the wheel of administration in the state the which is clean and good (good governance and clean government) and be related with violation of human rights ". Based on the background mentioned above, the author wishes to analyze more in depth (indept investigation) with the formulation of the problem, whether a deprivation of political rights for accused of corruption contrary to human rights?

## RESEARCH METHODS

This legal study was included in a normative legal research in which the normative aspects of law expressed by referring to the rules of outward behavior<sup>9</sup>, where in this study the method of perspective was applied. The legal material applied in this study were primary legal material, and secondary legal material. The legal materials were collected through document studies (literature studies), which were then analyzed using deduction techniques.

## DISCUSSION

### A. Revocation definition and Political Rights Political Rights

#### 1. Political rights

Freedom from political and civil rights include rights that allow citizens to participate in political life. Political rights include the right to take part in government and voting in periodic elections with universal suffrage and equal.<sup>10</sup> Political rights

<sup>6</sup> Ansori, In the article, Enforced Democracy Political Rights Perspective, Scientific Journal of Pancasila and Citizenship Education, No. 1, Edition June 2016, p. 8.

<sup>7</sup>HSR. Tinambunan, H. Widodo and GA Ahmad, "The reconstruction of Revocation against the rights to vote or to be voted for in public posts for Reviews those who are found quilty in corruption cases in Indonesia from a progressive legal perspective" Journal of Physics, Conf Series 953 , 2018, p 2.

<sup>8</sup>Edi As' Adi, "Problematic Application of Criminal Revocation of Poion Law, for political Rights In respective of Corrupt", Jurna Dynamics Law, Vol. 15, No. 2, May, 2015, p 233.

<sup>9</sup>Peter Mahmud Marzuki. 2014. *Legal Research*. Jakarta: Kencana Prenada. page 39

<sup>10</sup>Ibid., P. 17

evolve in line with the growth of institutionalized nation-state system to a parliamentary system. Political rights relating to the decision-making process are realized in the form of participation by giving the right to vote during the elections.<sup>11</sup>

International Covenant on Civil and Political Rights (International Covenant on Civil and Political Rights / ICCPR) classifies civil and political rights contained in the ICCPR into two parts, namely the absolute rights and privileges may be reduced. The first is the rights of absolutes that must be upheld and respected under all circumstances, such as the right to life, freedom from torture, freedom from slavery, freedom from arrest for failing to fulfill the agreement (payable), the right to be free from criminalization retroactive, the right to freedom of thought and so on. Second, the rights may be reduced fulfillment by countries such as the right to freedom of peaceful assembly, the right to freedom of expression or of expression, freedom of association, the right to receive and impart information etc.<sup>12</sup>

Settings on the concept of social and political rights as part of the concept of human rights contained in the Universal Declaration of Human Rights, namely:

- 1) Article 18 states "Everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change religion or belief, and freedom to express religion or belief in how to teach, practice, worship and obey execute, either alone or jointly with others, in public as well as its own".
- 2) Article 19 states "Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart statements and opinions in any way and irrespective of the limits (region).
- 3) Article 20 states: (1) Everyone has the right to freedom of assembly and association without violence; (2) No one shall be forced to enter into an association.
- 4) Article 21 (1) Everyone has the right to participate in the government of his country, directly or through representatives chosen freely, (2) Everyone has the right to equal opportunity to be appointed in government positions negeranya, (3) The will of the people shall be the basis of authority of government; This will be expressed in elections held periodically and pure, with general suffrage and equal, with a secret ballot or by any other procedure which guarantees the freedom to vote.

Based on the foregoing, means that the concept of political rights as referred to in Article 18 to 21 of the Universal Declaration of Human Rights include:

- 1) The right to freedom of thought, conscience, religion or belief;
- 2) The right to freedom of opinion, information and expression;
- 3) The rights of peaceful assembly and association;
- 4) The right to participate in elections and general elections.

Settings on the concept of politics as part of the concept of human rights contained in the International Covenant on Civil and Political Rights International Covenant on Civil and Political Rights, namely:

- a. Article 19
  - 1) Everyone has the right to memunyai opinions without interference;
  - 2) Everyone has the right to freedom of expression; this right includes freedom to seek, receive and impart information and ideas of all kinds, regardless of boundaries, either orally, in writing or printing, in the form of art, or through any other media according to his choice.
- b. Article 21  
"The right to assemble peacefully should be recognized. There is no restriction may be imposed on the exercise of this right other than the restrictions specified in accordance with the law and that in a democratic society need to be in the interests of national security and public safety, public order (order public), the protection of public health and morals or the protection of rights -hak and freedoms of others. "
- c. Article 25, which include:  
"Every citizen shall have the right and opportunity, without distinction of any kind referred to in Article 2 and without limitation that is not feasible, to:
  - 1) Participate in the implementation of government affairs, either directly or through representatives freely chosen;
  - 2) Elect and be elected at genuine periodic elections, and with universal suffrage and equal, and shall be held by secret ballot, guaranteeing the free expression of the voters' wishes;
  - 3) Gaining access to public service in his country on equal terms in the general sense.

## 2. Revocation Political Rights

Human rights covered by the Covenant are basic and broad in scope; there is only limited exceptions things that allowed the Covenant itself. Furthermore, certain rights may never be suspended or limited even in emergencies. None of the States parties to ignore its obligations to protect the right to life, guarantee freedom from torture, freedom from slavery and

<sup>11</sup>Fuad Fachruddin. Religion and Education Democracy: Experiences Muhammadiyah and Nahdlatul Ulama. Reader Alvabet. 2006, p. 35-36.

<sup>12</sup> Ibid.,

servitude, protection from imprisonment for debts receivable, freedom from criminal law retroactive, to be recognized his status as a person before the law and freedom for thought, conscience and religion.<sup>13</sup>

Legally, the lifting of restrictions and human rights instruments stipulated in nationally and internationally as follows:<sup>14</sup>

- 1) Regarding the limitation and reduction of human rights, the Universal Declaration of Human Rights has been set out in Article 29 (2) "In carrying out the rights and freedoms-freedoms, everyone shall be subject only to the limitations established by law whose purpose solely to ensure the proper recognition and respect for the rights and freedoms of others, and to meet syaratsyarat fair in terms of morality, public order and the general welfare in a democratic society ".
- 2) In principle, civil and political rights are non-derogable rights (rights that can not be reduced or excluded) .But under Article 4 of the International Covenant on Civil and Political Rights (ICCPR) states that:
  - a) In an emergency that threatens the life of the nation and its existence, it has been announced officially, States Parties to the present Covenant may take measures that reduce their obligations under the present Covenant, to the extent it is indispensable in emergency situations, to the extent such measures are not conflict with their other obligations under international law and do not involve discrimination solely based on race, color, sex, language, religion or social origin.
  - b) Reduction obligations on Articles 6, 7, 8 (paragraphs 1 and 2), 11, 15, 16 and 18 at all can not be justified under this provision.
  - c) Each State Party to the present Covenant who exercise the right to perform such reduction shall immediately notify other States parties through the intermediary of the Secretary-General of the United Nations, regarding the reduction provisions, and the reasons for its enforcement. A further communication should be done through the same intermediary, on the expiry of that reduction.
- 3) Restrictions on Human Rights also provided for in Article 28 A (2) of the Act of 1945, "In carrying out their rights and freedoms, everyone shall be subject to the restriction or revocation stipulated by law with the sole purpose to ensure recognition and respect for the rights and freedoms of others and to meet the fair demands in accordance with considerations of morality, religious values, security and public order in a democratic society ".
- 4) Restriction or revocation of Human Rights stated in Law No. 39 of 1999 on Human Rights contained in Article 70, Article 73 and Article 74;
  - 1) Article 70: "In carrying out the rights and freedom, setiaporang shall be subject to the restrictions set forth Law for the purpose of securing due recognition and respect for the rights and freedoms of others and to meet the fair demands in accordance with considerations of morality, security and public order in a society democratic.
  - 2) Article 73: "Rights and freedoms set forth in this Act may only be limited by, and under the law, solely to ensure recognition and respect for human rights and fundamental freedoms of others, morality, public order and national interest" ,
  - 3) Article 74: "No one ketentuanpun in this Act may be construed that the Government, party, group or any party justified diminish, impair or abolish human rights or fundamental freedoms stipulated in this Law.
- 5) Regarding restrictions and revocation of civil and political rights stipulated in detail in the Siracusa Principles on the Limitation and Reduction Provisions on Human Rights (HAM) in the International Covenant on Civil and Political Rights.<sup>15</sup>
  - 1) Established by law
    - a) In a democratic society
    - b) Public order
    - c) Public health
    - d) public morals
    - e) National security
    - f) public safety
    - g) The rights and freedoms of others "or" the rights or reputations of others;
    - h) Restrictions on public trial
  - 2) Reductions in public emergency
    - a) Public Emergency Threatening Life of the Nation
    - b) Statements, notices, and Termination of Public Emergency
    - c) Really needed by the emergency
    - d) *Non-derogable* (The rights that can not be reduced under any circumstances by anyone)
    - e) Some general principles regarding the introduction and implementation of public emergency and consequence reduction actions right
    - f) Recommendations regarding the functions and duties of the human rights committee and the United Nations.

## B. Revocation Political Rights Accused of Corruption Human Rights Perspective

Criminalization toserigkali perpetrators of corruption sparked a debate very long due to the lifting of political rights as an additional penalty. The consequences of this political disenfranchisement of the impact on the loss of opportunity corruptors who have undergone criminal selasai. This has led to turmoil because of the Indonesian state that guarantees their human rights but it is not a consideration in decisions against the criminals.

<sup>13</sup> The National Commission on Human Rights Subcommittee on Education and Counseling, Human Rights Fact Sheet Edition III, Jakarta, National Committee of Human Rights, 2008, pp 206

<sup>14</sup> Ibid.,

<sup>15</sup>Siracusa Principles on the Limitation and Reduction Provisions on Human Rights (HAM) in the International Covenant on Civil and Political Rights. Annex, UN Doc E / CN.4 / 1984/4 (1984).

Every citizen also has the right to equal opportunities in the government (Law 1945, Article 28D paragraph 3). Affirmation of constitutional political rights of citizens, stipulated in the Law on Human Rights namely Law No. 39 of 1999 on Human Rights, specifically Article 43 (1) Every citizen has the right to choose and vote in elections based on equal rights through voting direct, public, free, confidential, honest and fair manner in accordance with the provisions of the legislation. (2) Every citizen has the right to participate in the government directly or through freely chosen representatives, according to the manner specified in the legislation. (3) Every citizen can be appointed to any position in the government.

Embodiment of political rights in the 1945 Constitution contained in Article 28, namely: "Freedom of association, of assembly, issued thoughts with oral and written, and so on are set by law."

Various political rights of Indonesian citizens (citizen), among others:<sup>16</sup>

- 1) Political rights in the vote in an election for example, a presidential election and local leaders;
- 2) Political rights in the election of the regent or the presidential election for example;
- 3) Political rights of freedom to participate in government;
- 4) Political rights to establish political parties;
- 5) Political rights in making organizations in the political field;
- 6) Political rights in providing proposals or opinions which form the proposed petition.

In another part of the world community through the United Nations General Assembly (MU UN) proclaimed the Universal Declaration of Human Rights (Universal Declaration of Human Rights) on December 10, 1948. The Universal Declaration of Human Rights consists of 30 chapters containing staple -pokok human rights and fundamental freedoms. Thus, it not only covers civil and political rights but also the rightseconomy, Social and cultural rights. The rights contained in the Universal Declaration of Human Rights is a form of recognition of human rights in writing whose existence is recognized by almost all countries in the world.

Revocation of political rights basically is in addition to existing penalties. With that decision, the accused loses the right to vote and be elected in addition to public office. The explanation that we hear about the basis why additional sentence was imposed, because the judge looked at the convict has abused the rights and responsibilities as public officials. It causes misery in the community area.

The legal basis for the revocation of the political rights contained in Article 10 of the Criminal Code. As well as Article 18 of Law No. 31 of 1999 on Corruption Eradication Jo Act No. 20 of 2001 on Corruption Paragraph (1) of the additional penalty, it could be the revocation of all or part of certain rights. Whether revocation of such rights violates a person's rights, many legal experts argued not included in the offense because derogable rights, the rights could be violated in the context of law enforcement.

The rights can be revoked in accordance with Article 35 Paragraph (1) of the Criminal Code, are: (a) The right to hold certain positions; (B) The right to enter the armed forces; (Iii) The right to vote and to be elected; (C) The right adviser, the right to become guardian watchdog, pengampu or supervisor over those who are not children of their own; (D) The right to exercise the power gentlemen, representatives or pengampu run on their own children; and (e) The right to run a particular job. In the past, additional penalties could include civil death (mort civile) for perpetrators of serious crimes, but now is not granted. Additional punishment is intended to prevent someone abusing these rights, so that such crimes do not happen again.

Disfranchisement and been in public office can be imposed on a convicted person has a position or political position in which the convicted person guilty of corruption by abusing the authority or power that he has. sebagimanaso far, there are actors of corruption charged with additional criminal charges that revocation of political rights. There have been a 1 (one) verdict berkuatan standing law to accommodate the lifting of the political rights of the accused, namely: dropped High Court Corruption in Central Jakarta were later confirmed by appeal of the convict Sutan Bhatoegana the court decision No. 34 / PID / TPK / 2015 / PT.DKI that Sutan Bhatoegana, not proven legally and convincingly guilty of committing corruption offenses as charged in the indictment both the primary and subsidiary, acquitted the accused of dakwaan the primary and subsidiary, declare the defendant has been proven legally and convincingly guilty of committing corruption offenses as charged in the primary first charge and the second charge over the subsidiary. Convict the accused to imprisonment for ten (10) years and fined Rp. 500,000,000

From the perspective of human rights and democracy has a very close relationship, democracy gives birth recognition widespread public participation in government, public participation reflects the recognition of sovereignty. Actualization of the public role in the realm of government allows for the creation of public empowerment. Protection and fulfillment of human rights through democratic regime that has great potential to realize the people's welfare.<sup>17</sup>

In relation to the above, clearly shows the central idea of law state concept / rechtsstaat is the recognition and protection of human rights, which is based on the principles of freedom and equality.<sup>18</sup> In line with the phrase Thomas Hobbes stated Human Rights is a way out for megatasi condition called hommo homini lupus, bellum omnium omnes contras.<sup>19</sup>

<sup>16</sup> Definition, Types and Types of Human Rights / Human Rights Lessons ease global Generally Accepted Civics Studies / Pmp Indonesia, <http://www.organisasi.org/1070/01/pengertian-macam-dan-jenis-hak-asasi-manusia-HAM-that-apply-common-global-lessons-peajaran-global-science-science-PPKN-pmp-Indonesia.html>, accessed on February 5, at 15:00 pm.

<sup>17</sup>Majda El Muhtaj, *Unraveling Human Dimensions of Economic, Social, and Cultural Rights*, Jakarta, PTRajawali Press, 2008, p. 45.

<sup>18</sup>Bahder Johan Nasution, *the State of Law and Human Rights*, Bandung: Mandar Maju, 2012, p. 6.

This is based on the human desire to live freely, is a fundamental human desire. Humans by nature equally free and have the same rights, human birth not to be enslaved, and nobody can diminish freedom without his permission.<sup>20</sup>In the context of the right to vote and the right to be elected as political rights in the Universal Declaration of Human Rights as expressly set out in Article 21<sup>21</sup>as follows: Paragraph (1) everyone has the right to participate in the government of his own country, either directly or through representatives freely chosen. Paragraph (2): Everyone is entitled to an equal opportunity to be appointed in government positions country. Paragraph (3): The will of the people shall be the basis of the authority of government; This willingness must be expressed in periodic elections are honest and conducted in accordance with general suffrage and *berkesamaan yangbersifat*, along with the secret ballot or in ways that also guarantees the freedom of making a sound.

The provisions of Article 21 of the Universal Declaration of Human Rights can be interpreted that every person has the same rights and status in the government (administrative positions) and this is done through a democratic election took place in general, direct, free and secret. Government positions acquired through a non-discriminatory *sifatya* elections. Everyone (citizens) have the right and opportunity sama. *Setiap* citizens have the same rights and implementation of rights and obligations must be together.<sup>22</sup>

According to Ramdlon Naning, human rights can be divided into: (1) rights of private (personal right); (2) The economic rights (propertyrights); (3) political rights (political rights); (4) rights to equal treatment in law and government (right of *legalequality*); (5) rights, social and cultural rights (social andculture rights); and (6) rights to equal treatment before the law in the way of justice and protection (procedural rights).<sup>23</sup>

Definition of "right to have" elaborated in line with the notion of "right to choose". Definition of "right to be elected" is described as the right to be elected as a member (of the House of Representatives, etc.). Being "right to choose" is described as the right of citizens to have a representative in the legislative branches that is one element in the system of democratic elections. "Suffrage" is divided into two, namely: "suffrage active" and "passive suffrage". "Suffrage active" as the right to elect the people's representative body. Being "passive suffrage" is the right to be elected and sit in people's representative body.<sup>24</sup>

Constitution as the right constitutional stated that Indonesia is a country of law that one element is essentially the fulfillment, recognition and will guarantee the basic rights of citizens. From the literature on constitutional law and political science studies on the scope of understanding the constitution (constitutionalism) consisting of: (a) the anatomy of power (political power) subject to the law, (b) guarantees and the protection of human rights, (c) judicial free and independent, and (d) accountability to the people (public accountability) as major joints of the principle of popular sovereignty.<sup>25</sup>

Recognition by the state of human rights in the Constitution of the Republic of Indonesia in 1945 after a very strong change. The substance of human rights in the Constitution of the Republic of Indonesia Year 1945 before the change was originally only contains seven (7) grain provision (article), Article 27 through Article 34 which is also not fully be referred to as a guarantee of human rights. Associated with the presence of the articles mentioned, in this case unequivocal statement delivered Moh. Mahfud MD that the Constitution of the Republic of Indonesia Year 1945 does not contain strictly material should substantially exist on *setiap*konstitusi namely the protection of human rights<sup>26</sup>But now it has increased significantly, so that the formulation to be very complete and makes the Constitution of the Republic of Indonesia Year 1945 is one of the basic law contains the most complete protection of human rights.<sup>27</sup>

The right to vote and the right to have the rights protected and recognized in the Constitution of the Republic of Indonesia (Constitution of the Republic of Indonesia Year 1945). Therefore, every citizen will exercise this right in every General Election *harusterbebas* from any intervention, intimidation, Discrimination and all forms of violence which can cause fear to channel his right to elect and be elected in every General Election process. The provisions governing is Article 28C paragraph (2), Article 28 paragraph (1), and (5) of the Constitution of the Republic of Indonesia Year 1945.

In line with the description can be interpreted that the right to be elected as part of the right to vote (suffrage passive) is a human right that can be implemented in democratic elections. Therefore, every citizen in distributing and using these rights to be free from intervention, intimidation, and discrimination and freedom from all forms of violence that could hamper and even negate these rights. By dropping the additional penalty to the defendant (*Sutan Bhatogana*) In the form of revocation of the right

<sup>19</sup>Jimly Asshiddiqie, Introduction to Constitutional Law Volume II, Jakarta, Sekretariat Jendral dan Registrar of the Constitutional Court of Indonesia, 2006, p. 87.

<sup>20</sup>Franz Magnis Suseno, Political Ethics: Basic Moral Principles of Modern State, Jakarta, Gramedia Pustaka Utama, 1999, p. 135.

<sup>21</sup>Ian Brownlie (Ed.), Documents Concerning Rights Principal AsasiManasia (Translator: Beriansah), Jakarta, Indonesia University (UI Press), 1993, Pg. 31-32.

<sup>22</sup>A.Gunawan Setiardja, Human Rights Based on the ideology of Pancasila, Yogyakarta, Doubleday, 1993, p. 117.

<sup>23</sup>H.Rosjidi Ranggawidjaja, Restriction of Constitutional Right of Citizens to Choose danDipilih in Public Positions Journal-Constitution PSKN FH Padjadjaran University, Volume II nomor2, November 2010, Jakarta, FH Unpad with the Constitutional Court, p. 38.

<sup>24</sup>Anton M. Moelyono, the Great Dictionary of Indonesian, Jakarta, Departemen Pendidikan and Culture of the Republic of Indonesia, 1988, Pg. 292; Cf. Anonymous, BesarBahasa Dictionary Indonesian Language Center, Jakarta, PT. Gramedia Pustaka Utama, Issue VII, Cet. IV, 2004, p 475.

<sup>25</sup>Dahlan Thaib (et.al.), Theory and constitution, Jakarta, eagle Press, 2008, p 2.

<sup>26</sup>Moh. Mahfud MD, Democracy and the Constitution in Indonesia: InteraksiPolitik and Life Studies of the state administration, Yogyakarta, Rineka Copyright, Cet. II, 2000, Pg. 141.

<sup>27</sup>Asshiddiqie, Towards a Democratic State of Law, Jakarta, PT Bhuana Popular Science, 2009, p. 433.

to vote and elected in elections held on the basis of legislation, for five (5) years from the defendant completed the live imprisonment, does not mean not in accordance with the principles of human hakasasi. Given legally, limitation and reduction of human rights instruments stipulated in nationally and internationally as follows:<sup>28</sup> Restriction or revocation of Human Rights stated in Law No. 39 of 1999 on Human Rights contained in Article 70, Article 73 and Article 74;

- 1) Article 70: "In carrying out the rights and freedom, setiaporang shall be subject to the restrictions set forth Law for the purpose of securing due recognition and respect for the rights and freedoms of others and to meet the fair demands in accordance with considerations of morality, security and public order in a society democratic.
- 2) Article 73: "Rights and freedoms set forth in this Act may only be limited by, and under the law, solely to ensure recognition and respect for human rights and fundamental freedoms of others, morality, public order and national interest" ,
- 3) Article 74: "No one ketentuanpun in this Act may be construed that the Government, party, group or any party justified diminish, impair or abolish human rights or fundamental freedoms stipulated in this Law.

Therefore if the lifting of political rights of the accused judicial corruption has been according to the principles of human rights. for corruptionan act against the extremely inhumane, by enriching themselves or others by abusing authority, opportunity or means available to him because of the position or positions that could harm other people or countries. Besides taking a decision to impose additional penalties for perpetrators of corruption in the form of revocation of political rights, there is a justification to deprive the political rights of the defendant because the defendant corruption disrupt the democratic process itself or hinder the political process and the wheels of government in a country that is clean and good (good governance and clean government) and related human rights violations).

## CONCLUSION

Every citizen has the right to equal opportunities in the government (Law 1945, Article 28D paragraph 3). Affirmation of constitutional political rights of citizens, stipulated in the Law on the Human Rights Law No. 39 of 1999 on Human Rights, in particular Article 43. However, by dropping the additional penalty of the revocation of the political rights of the accused of corruption does not mean do not match with the principles of human rights. Given legally, limitation and revocation of political rights, stipulated in the instruments of national and international, that are listed in the Act No. 39 of 1999 on Human Rights contained in Article 70, Article 73 and Article 74. Therefore if the lifting of political rights of the accused judicial corruption has been according to the principles of human rights. for corruption an act against the extremely inhumane, by enriching themselves or others by abusing authority, opportunity or means available to him because of the position or positions that could harm other people or countries. Thus, very compelling reason to deprive the corrupt politics of public officials.

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Kioge Lando  
Master Program Of Law  
Universitas Sebelas Maret Surakarta, Surakarta, Indonesia.  
Email: kiogecantik@gmail.com

Supanto  
Lecturer Master Program of Law  
Universitas Sebelas Maret Surakarta, Surakarta, Indonesia.  
Email: supanto.8787@gmail.com

Isharyanto  
Lecturer Master Program of Law  
Universitas Sebelas Maret Surakarta, Surakarta, Indonesia.  
Email: masis\_uns@yahoo.com