

Conference Paper

Studying the Reprehensible Actions Clause in the Development of Digital Technology as a Policy for Termination of National Offices

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Abstract.

The development of digital technology has also influenced the development of Indonesian legal regulations in the Reformation Era. For example, relating to the clause on violations of the law in the form of “disgraceful acts” in the dismissal of state officials. So far, it has been focused on actions that are contrary to customary norms, religious norms, and moral norms in general within the scope of conventional crimes only. This has given rise to the motivation to study “disgraceful acts” in the scope of the use of technology/cybercrime which is very likely to occur. The study was carried out using a statutory and conceptual approach, using primary legal materials in the form of legislation that applies to state officials, literature searches, and prescriptive analysis. The result is an understanding that “disgraceful acts” should be understood as acts that are contrary to customary norms, religious norms, and moral norms within the scope of conventional crime and cybercrime. This is regulated because the laws in force in Indonesia are expected to be full of moral and ethical values so that the state officials who are elected are, basically, officials with integrity, quality, and trust.

Keywords: reprehensible acts, termination, state officials

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1. INTRODUCTION

The constitutional system in Indonesia determines that legally state officials carrying out their main functions and duties related to state administration can be dismissed due to various factors [1]. The law in question is a law that is full of moral and ethical values [2].

Conceptually, according to Article 1 number (4) of Law Number 43 of 1999 concerning Amendments to Law Number 8 of 1974 concerning Personnel Principles and Article 1 number (1) of Law Number 1999 concerning Clean State Administration and Free from Corruption, Collusion, and Nepotism, State officials are leaders and members of state

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institutions whose role is as state administrators to carry out executive, legislative or judicial functions and other officials [3].

In fact, state officials in carrying out their main functions and duties relating to state administration as referred to in the legislation, do not rule out the possibility of committing acts that cause the official's dismissal from office, including for committing disgraceful acts. Basically the law of action [4].

If we trace it to legislation, on the one hand it regulates conventional disgraceful acts, for example Law Number 24 of 2003 concerning the Constitutional Court [5], Law Number 7 of 2017 on General Elections [6] and Law Number 14 of 1985 concerning the Supreme Court and its Amendments [7], which What is meant by disgraceful acts are acts that can lower the dignity of state officials, namely criminal acts that fall within the realm of conventional criminal acts [8].

Meanwhile, on the other hand, there is legislation that facilitates the development of digital technology which regulates various criminal acts in cyberspace (cybercrime) [9]. The aim of regulating criminal acts in Law Number 11 of 2008 concerning Information and Electronic Transactions (UU ITE) in Indonesia is to protect the interests of society in the use of information technology and electronic transactions, as well as maintaining cyber security.

So it is interesting to examine "Disgraceful Acts in the Development of Digital Technology" as a law that must contain moral and ethical values, which refers to actions or behavior that are considered unethical or inappropriate in the use of digital technology, but does not directly refer to the type of crime. certain things that are legally recognized, which are carried out by state officials can result in their dismissal as state officials.

2. METHODOLOGY/ MATERIALS

This study focuses on the impact of pair work types on students' writing performance. The independent variable in this study is pair work types (homogeneous, heterogeneous, and randomized pairs).

3. RESULTS AND DISCUSSIONS

3.1. Duties of State Administrators

Hierarchically, state institutions in Indonesia are divided into 3 layers, namely; The first layer is referred to as "High State Institutions". The second layer is called "State

Institutions”, and the third layer is called “Regional Institutions”. Thus, there are no longer the terms “Highest State Institution” and “Highest State Institution”. The classification into 3 layers is to facilitate understanding [10].

The first layer, High State Institutions in the 1945 Constitution of the Republic of Indonesia (UUD NRI 1945), namely; President and Vice President, People’s Representative Assembly, People’s Representative Council, Regional Representative Council, Constitutional Court and Supreme Court.

The second layer, state institutions that have authority from the Constitution (for example the Judicial Commission, Indonesian National Army, National Police, General Election Commission, Central Bank and State Ministers). State institutions whose names and authorities are expressly determined in the 1945 Constitution, or whose authorities exist but whose names do not exist. Apart from that, there are state institutions that have authority from law (for example, the Human Rights Commission, the Indonesian Broadcasting Commission, etc.). There are also state institutions whose regulations are under the law (for example, the Ombudsman Commission, etc.) [11].

The third layer, based on Article 18 of the 1945 Constitution of the Republic of Indonesia, there are also institutions called “Regional Institutions”, for example the Provincial Regional Government (Governor and Provincial DPRD; Regency Regional Government (Regency DPRD and Regent; and City Regional Government (Mayor and City DPRD). These regional institutions are both mentioned explicitly in the 1945 Constitution. Apart from that, there are also regional institutions which are regulated by other statutory regulations.

According to Law 28/1999 KKN, state officials serving in state institutions in Indonesia serve as state administrators to manage state activities, carrying out executive, legislative or judicial functions and other officials whose main functions and duties are related to state administration in accordance with the provisions applicable laws and regulations.

According to this Law, state administration must implement the General Principles of Good Government (AAUPB), including the principle of legal certainty, the principle of benefit, the principle of openness, the principle of professionalism, the principle of justice, the principle of public interest, the principle of balance, the principle of good service and so on, so as to encourage the realization of clean living behavior and free from corruption, collusion and nepotism, as well as other disgraceful acts. The function of AAUPB in administering government is as a guide or guide for the government or state administration officials in the context of good governance [12]. And firmly and continuously various actions must be avoided that interfere with clean behavior and

the implementation of AAUPB. In order to realize a prosperous, just, prosperous and equitable state life.

3.2. Dismissal of State Officials

In general, state officials in charge of administering the life of the state can stop due to several things, for example death, retirement, resignation and dismissal.

Resigning due to death and retirement is something that should be done as a state official and has become a generally accepted rule in almost all modern countries. From the state side, to ensure state administration requires seriousness, consistency, effectiveness, sustainability, state stability, legal certainty and justice. Meanwhile, from the perspective of state officials, as a continuation of Government Stability, this allows the state to carry out specified succession procedures to fill the vacancies in these positions and ensure continuity of government without chaos. And respect the life and services of the official that the official has provided during his term of office/to commemorate the contribution of the official who has ended [13].

Resigning by resigning from one's position is triggered by various factors involving personal, political or ethical reasons. Several factors may encourage state officials to resign through resignation, namely: Health Problems, Political Pressure, Legal Provisions: must resign from office, Scandal or Controversy, Disagreement in Policy, Change in Career or Personal Ambitions, Compliance with Ethics and Law , Pension or Retirement Age, Pressure from Family or Personal Life or Due to being a member of a political party, and so on [14].

The resignation of a state official can have significant political impact and is often a difficult decision. This can influence political dynamics, filling vacant positions, and the direction of government policy.

Stopping as a state official because being dismissed is often related to political, ethical or legal considerations. Several factors that may be behind the dismissal of a state official due to being dismissed are:

1) Violation of the Law: If a state official is involved in a serious violation of the law, such as corruption, abuse of power, or other criminal acts, this may be a strong reason for removal from office.

2) Public Scandal or Controversy: Being involved in a scandal or controversy that harms the reputation of the official and the government can make the official an undesirable political liability, and this could lead to dismissal.

3) Distrust of Leaders or Superiors: In some government systems, state officials may be appointed by or serve under supreme leadership, such as the president or head of government. If the leader loses confidence in the official, they can dismiss him or her.

4) Political Pressure: Political pressure from certain parties or from the general public can influence the decision to dismiss an official. Demonstrations, pressure from public opinion, or political movements can trigger the dismissal of controversial officials.

5) Incompatibility with the Government's Vision or Policies: If a state official no longer aligns with the vision or policies of the incumbent government, the government's leaders may choose to replace them with an official who is more amenable to their agenda.

6) Conflicts of Interest or Ethics: Ethical violations, such as significant conflicts of interest or actions that violate a code of ethics, may be grounds for dismissal of state officials.

7) Political Decision: In some cases, the dismissal of a state official can be a political decision taken by a political party or legislative body for certain political reasons.

8) Retirement or Expired Term of Office: In some government systems, state officials have certain term limits or reach retirement age, so that they are automatically dismissed when their term of office or retirement age ends.

9) Incapacity: The inability of a state official to carry out his or her duties due to health problems or other incapacity may be grounds for dismissal.

10) Dismissal by Superiors: In some government systems, state officials may be dismissed by their superiors, such as the president or head of government, if there is sufficient cause, such as unfitness or failure to carry out their duties.

11) Death: The death of a state official will naturally result in removal from office, and will usually be filled in the manner prescribed by law or the constitution.

12) Violations of Ethics or Code of Conduct: Many countries have codes of ethics or codes of conduct that regulate the behavior of state officials. Violations of this ethics or code of conduct can result in the officer's dismissal.

13) Election or Vote of No Confidence: In a democratic system, state officials elected by the people or by the legislature can be dismissed if they lose popular support or receive a vote of no confidence in an election or vote in the legislature.

14) Pension and Retirement: Some state officials may retire in accordance with applicable rules and requirements, which may result in removal from office.

The dismissal of a state official is a complex process and often involves deep political considerations and the involvement of various parties. It can have a significant impact on political dynamics and government governance [15].

3.3. Disgraceful Acts in Conventional Criminal Acts

Disgraceful acts as a form of violation of the law, are criminal acts which can conventionally be understood from various angles, all of which are intended to provide information that the act is an act which is basically a criminal act which is actually unfit to be carried out by a person personally. or in his capacity as a state official from a particular state institution.

Linguistically, the use of the term “reprehensible act” as a form of violation of the law. derived from “deed” and the word “reprehensible”. Regarding “deed” it comes from the word “buat” which means “do, do, make”. Then if it gets the prefix “per” and the suffix “an” so that it becomes the word “per-buat-an” it has the meaning: 1. “something done so that we avoid reprehensible actions; 2. behavior that is behavior that does not match his words. While the word “reprehensible” comes from the word “blame” means; 1. Something that causes imperfection, defect, deficiency; 2. Disgrace, stain (about behavior and so on); 3. Insult, censure. The word “blame” gets the prefix “ter” to make the word “blameable” have the meaning “worthy of blame, not worthy”. So that in language “reprehensible behavior” can mean behavior that contains shame which is behavior that does not match the words, behavior that contains defects, deficiencies, behavior that receives criticism or is inappropriate.

Historically, it may be that as a result of a comparative study by the ad hoc committee that drafted the amendment to the 1945 Constitution of the Republic of Indonesia to the United States, the word “reprehensible act” originates from its use by the United States in its constitution which refers to the term “misdemeanor”. Hufon explains that “Misdemeanor (American English) is offenses lower than felonies and generally those punishable by fine or imprisonment otherwise than in penitentiary. Under federal law, and most state laws, any offense other than a felony is classified as a misdemeanor. (The American English version of misdemeanor is a crime that is lower than serious crimes (felonies) and is generally punishable by a fine or imprisonment rather than a prison sentence. Misdemeanour is a light crime, for example: driving without a license causes a disturbance [1].

Meanwhile, a legal expert named Moeljatno is of the opinion that there are 3 meanings of “despicable acts”, namely first, disgraceful acts are all acts that fulfill the written formulation of the law; secondly, disgraceful acts are acts that according to Indonesian society are reprehensible, both according to customs and religion and are detrimental to society; third, a disgraceful act is an act carried out by the perpetrator who understands and is aware, both physically and spiritually, that the act is detrimental to society, but

he still does it, so that he is criticized by society, even though he is not intentional or because he is negligent in his obligations [8].

According to the law in force in Indonesia, several laws regulate and explain “despicable acts”, including:

1) Article 7 A of the 1945 Constitution of the Republic of Indonesia as a result of the amendment reads, that “The President and/Vice President can be dismissed during their term of office by the People’s Consultative Assembly (MPR) on the recommendation of the People’s Representative Council (DPR), either if they are proven to have committed a legal violation in the form of treason against the State. , corruption, bribery, other serious criminal acts, or disgraceful acts or if it is proven that he no longer meets the requirements as President and/or Vice President.”

2) Article 10 paragraph (3) letter d of Law Number 24 of 2003 concerning the Constitutional Court states that what is meant by “disgraceful acts” are “acts that can lower the dignity of the president and/or vice president”.

3) Article 169 letter (j) Law Number 7 of 2017 Elections, states that one of the requirements for presidential and vice presidential candidates is to “never commit disgraceful acts”

4) Article 12 paragraph (1) letter (b) Law Number 14 of 1985 concerning the Supreme Court in conjunction with Law Number 5 of 2004 concerning Amendments to Law Number 14 of 1985 concerning the Supreme Court, states that the Chairman, Deputy Chairman, Deputy Chairman , and Member Judges of the Supreme Court were dishonorably dismissed from their positions by the President as Head of State on the recommendation of the Supreme Court with reasons commit **a reprehensible act;**

5) Sound and Explanation of article 5 letter (i) of Law Number 42 of 2008 on Presidential Elections, states that one of the requirements for presidential and vice presidential candidates is to “never commit disgraceful acts” that is, never commit acts that are contrary to religious norms, moral norms and customary norms include gambling, drunkenness, drug addiction and adultery.”

6) Article 7 paragraph (2) letter i Law Number 10 of 2016 concerning the Election of Governors, Regents and Mayors which reads, “*Candidates for Governor and Candidates for Deputy Governor, Candidates for Regent and Candidates for Deputy Regent as well as Candidates for Mayor and Candidates for Deputy Mayor as referred to in paragraph (1) must fulfill the following requirements: have never committed any disgraceful act as proven by a police record certificate.*”

7) Sound and Explanation of Article 9 paragraph (1) letter (c) Law no. 2 of 2014 concerning the Position of Notaries, states that one of the grounds for dismissing a Notary from his position is because he has committed a disgraceful act, namely an act that is contrary to religious norms, moral norms and customary norms.

From the various provisions mentioned in the various laws above and other laws that have been studied, it can be seen that what is meant by “reprehensible act” is an act of violating the law which is contrary to religious norms, moral norms and customary norms, among others. such as gambling, drunkenness, drug addiction, and adultery, which if committed can lower the dignity of state officials. The mention of criminal acts in the form of gambling, drunkenness, drug addiction and adultery shows that criminal acts fall within the scope of conventional criminal acts.

Because what is meant by conventional criminal acts are criminal acts that violate the law in a society and are usually regulated in the legal regulations that apply in a particular country or jurisdiction. Conventional crimes can include various types of legal violations, such as theft, robbery, rape, murder, fraud, assault, and many others.

This criminal offense is considered a serious violation of law and may be subject to legal sanctions, such as imprisonment, fines, or other penalties, depending on its severity and the laws applicable in the region. Conventional criminal acts have generally existed in the legal system for a long time and are known as legal violations that harm society or individuals.

Often, conventional criminal acts are identified and punished based on legislation that has been established and regulated by the government or authorized institutions in a country. However, the types of criminal acts and sanctions applied may vary from one country to another, according to the legal regulations in force in each country.

3.4. Reprehensible Acts of State Officials in The Scope of Cyber Crime

Explicitly analyzing the moral turpitude clause in the context of the development of digital technology as a basis for the dismissal of state officials, provides a stronger focus on a broader legal area that is more in line with the development of social life and all its activities.

In fact, the term “Disgraceful Acts in the Development of Digital Technology” is not included in the general terms used in the context of cybercrime. However, the term may refer to various types of crimes that can occur within the scope of digital technology or cyberspace [9].

It's just that Cybercrime includes various types of crimes that occur in the digital environment, such as data theft, cyber attacks, online fraud, online harassment, the spread of malware, and many more. Meanwhile, "Disgraceful Acts in the Development of Digital Technology" may refer to actions or behavior that are considered unethical or inappropriate in the use of digital technology, but does not directly refer to certain types of crimes that are legally recognized. So "Disgraceful Acts in the Development of Technology Digital" can be categorized as a criminal act within the scope of cyber crime.

Disgraceful acts in the form of actions or behavior that are considered unethical or inappropriate in the use of digital technology can include various things. Below are several examples of disgraceful acts of state officials in Indonesia within the scope of cyber crime, including [16]:

1. Theft of Personal Data: Accessing or stealing another person's personal data without permission, such as credit card information, passwords, or personally identifiable information.
2. Spreading False Information (Hoax): Deliberately spreading false or incorrect information with the aim of misleading or deceiving others.
3. Online Harassment: Sending messages or content containing threats, harassment, or hatred to other individuals or groups.
4. Online Surveillance: Monitoring or spying on other people's online activities without their permission.
5. Malware Distribution: Spreading malicious software (malware) with the aim of damaging computers or stealing information from target computers.
6. Cyberbullying: Harassing or bullying another individual online, often via social media or text messages.
7. Phishing: Sending fraudulent, deceptive messages with the aim of obtaining sensitive information such as passwords or financial data from victims.
8. Copyright Infringement: Uploading or distributing copyright protected content without the owner's permission.
9. Cyberstalking: Stalking or persistent monitoring of someone online with the intent of intimidating or threatening.

10. Accessing a pornographic site: the act of opening, browsing, or visiting a website that contains adult or pornographic content. These sites generally contain images, videos or text designed to satisfy sexual desires.
11. online gambling: a form of gambling carried out over the internet. This allows individuals to place bets or play gambling games using a computer, smartphone or other device connected to the internet, which in Indonesia is categorized as a criminal offense.
12. Online Financial Crimes: Defrauding others by taking their money illegally through online fraud or ponzi schemes, and so on.

Various actions or behavior of this kind are often considered unethical and can be a violation of jurisdictional law in various countries, even in Indonesia they can be charged under the ITE Law. So it is important to understand and comply with the law and ethics in the use of digital technology to ensure that we contribute to a safer and more beneficial digital environment [17].

Because a state official commits an act that falls within the scope of cybercrime, it is possible to categorize it as a disgraceful act, which can lower his or her dignity. So it seems that along with the development of digital technology which has penetrated various aspects of state life, it is necessary to broaden the meaning of the definition of “disgraceful acts” committed by state officials which can be the basis for their dismissal as state officials, namely in addition to including disgraceful acts that are contrary to norms, customs, religious norms and moral norms within the scope of conventional criminal acts, should also include criminal acts committed within the scope of cybercrime.

4. CONCLUSION AND RECOMMENDATION

The development of digital technology, which has penetrated various aspects of state life, has encouraged the importance of expanding the meaning of the definition of “disgraceful acts” committed by state officials which can be the basis for their dismissal as state officials, namely, in addition to including disgraceful acts within the scope of conventional criminal acts, they are also appropriate. also includes criminal acts committed within the scope of cybercrime.

It is important to make changes in the explanation of articles in Indonesian legislation in the form of adopting an expansion of the meaning of disgraceful acts as disgraceful

acts within the scope of conventional criminal acts and criminal acts within the scope of cybercrime.

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