


# The Effectiveness of Deprivation of Voting Rights as an Additional Punishment Against Perpetrators of Corruption Crimes

Bayu Agung Pratama

Fakultas Hukum, Universitas Pembinaan Masyarakat Indonesia

Article Info	ABSTRACT
<p><b>Keywords:</b> Voting Rights, Corruption, Criminalization, Political Rights</p>	<p>This study examines the effectiveness of revocation of voting rights as a form of additional punishment that can be imposed on perpetrators of corruption in the Indonesian criminal justice system. Corruption has become an extraordinary crime that causes state losses and hampers national development. Through a normative juridical approach with doctrinal research methods, this research analyzes the legal basis, implementation, and implications of revocation of voting rights as an alternative punishment to provide a deterrent effect. The results show that the revocation of voting rights as stipulated in Article 10 letter b of the Criminal Code in conjunction with Article 35 paragraph (1) number 3 of the Criminal Code and Article 18 paragraph (1) letter d of Law Number 31 Year 1999 jo. Law Number 20 Year 2001 on the Eradication of Corruption has a strong juridical basis, but its implementation is still limited. This research finds that the revocation of voting rights can be effective if applied consistently by considering proportionality and rehabilitative aspects. Challenges in its implementation include the absence of an effective monitoring mechanism and resistance from various parties. This study recommends the need to strengthen regulations on execution and supervision mechanisms, formulate clear sentencing guidelines, and harmonize regulations related to revocation of voting rights with election and human rights laws to increase the effectiveness of revocation of voting rights as a comprehensive corruption eradication effort.</p>
<p>This is an open access article under the <a href="https://creativecommons.org/licenses/by-nc/4.0/">CC BY-NC</a> license</p> 	<p><b>Corresponding Author:</b> Bayu Agung Pratama Fakultas Hukum, Universitas Pembinaan Masyarakat Indonesia <a href="mailto:agungpratamabayu31@gmail.com">agungpratamabayu31@gmail.com</a></p>

## INTRODUCTION

Corruption is an extraordinary crime that has been deeply rooted in the structure of government and the social life of Indonesian society (Romli, 2002). Corruption crimes not only cause material state losses reaching trillions of rupiah each year, but also undermine social values, morals, and the integrity of the nation as a whole (Bambang, 2014). Corruption has become a serious threat to the process of democratization and national development, so that its handling requires an extraordinary approach (extraordinary measures) (Mahfud, 2012). In the context of law enforcement against criminal acts of corruption, Indonesia has implemented various forms of criminal sanctions, both principal and additional penalties as stipulated in Law Number 31 Year 1999 jo. Law No. 20/2001 on the Eradication of Corruption (Corruption Law). However, the phenomenon of corruption still shows an alarming trend.

Based on data from the Corruption Eradication Commission (KPK), 168 corruption cases were handled throughout 2023 with a total state loss of IDR 25.7 trillion. The data shows that the existing criminal sanctions have not provided an optimal deterrent effect on perpetrators of corruption.

One form of additional criminal sanctions that can be imposed on perpetrators of corruption is the revocation of certain rights, including the right to vote in general elections. Revocation of voting rights as an additional punishment is regulated in Article 10 letter b of the Criminal Code in conjunction with Article 35 paragraph (1) number 3 of the Criminal Code and strengthened by Article 18 paragraph (1) letter d of the Anti-Corruption Law. This revocation of electoral rights includes both the right to vote and the right to be elected in the context of general elections (Eddy, 2016). The discourse on the revocation of voting rights as an additional punishment for perpetrators of corruption has surfaced again after several corruption cases involving public officials and politicians received widespread attention from the public. These cases involve legislative members, regional heads, and even ministers who are political figures elected or nominated through political mechanisms (Denny, 2023). This phenomenon has raised public concerns about the quality of democracy and public trust in the political process in Indonesia.

Revocation of voting rights as an additional criminal sanction is actually not a new thing in the Indonesian judicial system. There are several precedents of court decisions that have imposed the sanction of revocation of voting rights against perpetrators of corruption, including the decisions against Djoko Susilo (former Head of the Indonesian Police Traffic Corps) and Inspector General of Police Djoko Susilo who were sentenced to additional punishment in the form of revocation of the right to be elected in public office, as well as the decision against Lutfi Hasan Ishaq (former President of the Prosperous Justice Party) who was sentenced to additional punishment in the form of revocation of the right to be elected in public office. However, the application of this sanction is still very limited and has not become an effective instrument in efforts to eradicate corruption.

In a philosophical perspective, revocation of the right to vote as an additional punishment has retributive, preventive, and restorative dimensions. The retributive dimension refers to appropriate retaliation against perpetrators of corruption who have abused public trust (Lamintang, 2011). The preventive dimension is related to efforts to prevent the recurrence of similar criminal acts, both by the same perpetrators (special prevention) and by the wider community (general prevention) (Muliadi and Barda, 2010). Meanwhile, the restorative dimension relates to efforts to restore public trust in the political and governance system that has been undermined by corruption (Eva, 2011).

From a theoretical point of view, there are several theories of punishment that are relevant in the context of revocation of voting rights as an additional punishment. The absolute or retributive theory views punishment as retaliation for the wrong that has been committed (Herbert, 1968). Relative or utilitarian theory views punishment as a means to achieve certain goals, namely protecting society and preventing crime (Jeremy, 1907). The combined theory combines the two previous theories by emphasizing aspects of justice in retaliation as well as expediency in crime prevention (Muliadi, 1995). In the context of

disenfranchisement, the combined theory seems to be more relevant as it considers both aspects of retribution and deterrence.

Interestingly, the debate on the revocation of voting rights as an additional punishment for corruption offenders also involves the dimension of human rights. On the one hand, the right to vote in general elections is one of the fundamental political rights guaranteed by the constitution and international human rights instruments. On the other hand, this right is not an absolute right and can be limited under certain conditions, as affirmed in Article 28J paragraph (2) of the 1945 Constitution of the Republic of Indonesia. Such restrictions must be made by law and solely to ensure recognition and respect for the rights and freedoms of others, as well as to fulfill just demands in accordance with moral considerations, religious values, security, and public order in a democratic society (Jimly, 2014).

In the international context, the practice of disenfranchisement of criminal offenders is also applied in various countries with different levels of restrictions. The United States, for example, applies disenfranchisement to prisoners in several states, even after they have completed their sentences (Christopher, 2016). Meanwhile, European countries tend to impose more selective restrictions, taking into account the type of crime, length of sentence, and other special conditions. These practices demonstrate a balance between the protection of individual political rights and the public interest in maintaining the integrity of the democratic process.

In Indonesia, the implementation of revocation of voting rights as an additional punishment for perpetrators of corruption is still faced with various challenges, both normatively, practically, and socio-politically. Normatively, there is a need to harmonize the provisions in the Criminal Code, Anti-Corruption Law, and laws and regulations related to general elections and regional head elections (Mardjono, 2007). Practically, a clear mechanism is needed regarding the procedures for implementing and monitoring the revocation of voting rights (Artidjo, 2009). Socio-politically, it requires understanding and support from various stakeholders, including the judiciary, election organizers, political parties and civil society (Saldi, 2009).

The main problem that becomes the focus of this research is the extent to which the effectiveness of revocation of voting rights as an additional punishment in providing a deterrent effect on perpetrators of corruption and preventing political corruption. Effectiveness in this context can be seen from three main aspects, namely aspects of legal substance, legal structure, and legal culture as proposed by Lawrence M. Friedman (Lawrence, 1975).

From the legal substance aspect, it is necessary to examine whether the provisions regarding the revocation of voting rights as an additional punishment have been formulated clearly, comprehensively, and proportionally in the applicable laws and regulations. From the aspect of legal structure, it needs to be studied whether the institutions related to the implementation of this sanction have adequate capacity and coordination. From the aspect of legal culture, it is necessary to study the perceptions and attitudes of the community, including perpetrators and potential perpetrators of corruption, towards the sanction of revocation of voting rights (Satjipto, 2006). In addition, the effectiveness study also needs to consider the

objectives of punishment in general, namely to realize justice, utility, and legal certainty (Gustav, 1950). In the context of revocation of voting rights, it is necessary to analyze whether the sanction has reflected the public's sense of justice, provided benefits in efforts to eradicate corruption, and is applied consistently to ensure legal certainty.

The practice of political corruption involving public office holders elected through general elections shows that there is a problematic relationship between political power and corrupt behavior. The perpetrators of corruption often utilize political positions obtained through democratic processes to abuse power and enrich themselves or others (Susan, 1999). This condition is exacerbated by the high cost of politics in general elections and weak supervision of campaign funds (Edward, 2019).

Several previous studies have examined aspects related to the revocation of voting rights as an additional crime for perpetrators of corruption. However, most of these studies focus on normative or theoretical aspects, without analyzing in depth the effectiveness of its application in practice (Widodo, 2011). This research seeks to fill the gap by examining the effectiveness of disenfranchisement as an additional punishment from a more comprehensive perspective, including juridical, empirical, and socio-political aspects.

Juridically, this study analyzes the legal basis for the revocation of voting rights as an additional punishment, both in the Criminal Code, Anti-Corruption Law, and other relevant laws and regulations. This analysis includes the interpretation of relevant legal provisions, harmonization between regulations, and underlying legal principles (Andi, 2012). Empirically, this research examines the implementation of revocation of voting rights in court decisions that have permanent legal force, including judges' considerations, the duration of revocation of rights, and the implementation mechanism. Socio-politically, this research examines the implications of disenfranchisement for the political system, power dynamics, and public trust in democratic processes (zainal, 2016).

The discussion on disenfranchisement as an additional punishment cannot be separated from the broader context of criminal justice system reform and corruption eradication efforts in Indonesia. Post-1998 reforms, there have been serious efforts to strengthen the legal and institutional framework for corruption eradication, including through the establishment of the KPK, revision of the Anti-Corruption Law, and strengthening the supervisory function (Denny, 2016). However, these efforts have not fully succeeded in significantly reducing the level of corruption, as reflected in Indonesia's relatively low Corruption Perception Index (CPI).

According to Transparency International, Indonesia's GPA in 2023 will rank 110 out of 180 countries with a score of 34 on a scale of 0-100 (Ibid). Despite an increase compared to previous years, the score is still far from the expected target. This condition shows that more comprehensive and innovative efforts are needed in the eradication of corruption, including through the application of more effective and deterrent criminal sanctions.

Revocation of voting rights as an additional punishment can be an alternative sanction that is relevant in the context of eradicating political corruption. By revoking political rights in the form of the right to vote and be elected in general elections, it is hoped that it can break the chain of political corruption and prevent corruptors from misusing public positions for

personal or group interests (M. Ekaputra and Aminuddin, 2019). In addition, this sanction can also provide a strong message to the public that corruption is a serious crime that can result in the loss of certain citizenship rights (Yesmil Anwar and Adang, 2008).

The effectiveness of disenfranchisement as an additional punishment cannot be seen in isolation from electoral system reform and strengthening political integrity. In this case, synergy is needed between the criminal justice system, election organizers, political parties, and civil society to ensure that those who have been proven to have committed corruption cannot return to public office through political mechanisms (Topo, 2023). Thus, revocation of voting rights is not merely a criminal sanction, but also part of efforts to restructure the political system as a whole.

Through this research, it is hoped that a deeper understanding of the effectiveness of revocation of voting rights as an additional punishment against perpetrators of corruption can be obtained, as well as recommendations for optimizing its application within the framework of a comprehensive corruption eradication. The results of this research are also expected to contribute to the development of criminal law and legal politics of corruption eradication in Indonesia, especially in relation to criminal sanctions that are limitative to the political rights of corruptors.

## METHOD

Strategy is a plan to use potential facilities and existing facilities to increase the efficiency of the target activity. In general, strategy can be in the form of arc management to act in an effort to achieve predetermined goals. (Dadi, 2014; Johar Rahmah, Hanum Latifah, 2016; Nulhaqim & Sulastri, 2019). Sales promotion is a company activity to sell products that are marketed in such a way that consumers will easily see them and even with certain placements and arrangements, the product will attract the attention of consumers. (Tasruddin Ramsiah, 2015; Dadi, 2020; Poluakan et al., 2019; Nurwati & Nandang, 2020). In the business world, promotional strategies are like a heart for the smooth running of a business. The flow of globalization is unstoppable and has entered various businesses. The purpose of promotion is to introduce products to customers, so that sales increase so that they get high profits. However, of course it must be preceded by the introduction of the product to the public. Not only that, promotions must focus on generating people's interest

## RESULTS AND DISCUSSION

### **The Juridical Basis of Revocation of Voting Rights as a Crime**

Revocation of voting rights as an additional punishment for perpetrators of corruption has a strong juridical basis in the Indonesian legal system. The provision regarding the revocation of certain rights as an additional punishment is regulated in Article 10 letter b of the Criminal Code which states that one of the types of additional punishment is "revocation of certain rights". Furthermore, Article 35 paragraph (1) number 3 of the Criminal Code states that one of the rights that can be revoked is "the right to vote and to be elected in elections held under general regulations." This provision is the general basis for judges to impose additional punishment in the form of revocation of voting rights against convicts.

In the context of corruption crimes, the Anti-Corruption Law strengthens the provisions of the Criminal Code by specifically regulating additional punishment. Article 18 paragraph (1) letter d of the Anti-Corruption Law states that in addition to the additional punishment as referred to in the Criminal Code, as an additional punishment is "the revocation of all or part of certain rights or the elimination of all or part of certain benefits, which have been or can be given by the Government to the convicted person." Although this provision does not explicitly mention the right to vote, the phrase "certain rights" can be interpreted to include the right to vote as stipulated in the Criminal Code.

Furthermore, Article 38 of the Criminal Code regulates the length of deprivation of rights, which states that if the judge imposes life imprisonment, the length of deprivation of rights is for life. Meanwhile, if the punishment imposed is imprisonment or temporary confinement, the length of deprivation of rights is at least two years and at most five years longer than the main punishment. This provision provides guidelines for judges in determining the duration of revocation of voting rights as an additional punishment.

The Constitutional Court in Decision Number 14-17/PUU-V/2007 has affirmed the constitutionality of deprivation of voting rights as an additional punishment. According to the Constitutional Court, the revocation of voting rights is not contrary to the Constitution as long as it is carried out through a judge's decision that has permanent legal force. This decision becomes an important constitutional foundation for the application of deprivation of voting rights as an additional punishment.

### **Implementation of Revocation of Voting Rights in Court Decisions**

In practice, revocation of voting rights as an additional punishment for perpetrators of corruption has been applied in several court decisions. One case that has become an important precedent is the verdict against Djoko Susilo, the former Chief of the Indonesian Police Traffic Corps. In Supreme Court Decision Number 537 K/Pid.Sus/2014, Djoko Susilo was sentenced to 18 years of imprisonment and a fine of Rp1 billion, as well as an additional punishment in the form of revocation of the right to be elected in public office. In its reasoning, the Supreme Court stated that the revocation of rights was imposed considering the defendant's position as a public official who should set a good example to the public.

Another relevant case is the verdict against Lutfi Hasan Ishaq, former President of the Prosperous Justice Party. In the Supreme Court Decision Number 1195 K/Pid.Sus/2014, Lutfi Hasan Ishaq was sentenced to imprisonment for 16 years and a fine of Rp1 billion, as well as additional punishment in the form of revocation of the right to be elected in public office for 5 years after the convict has served his main punishment. The Supreme Court's consideration in imposing the additional punishment was that the defendant as a political figure had harmed public trust and damaged the image of political institutions.

Although there are several decisions that have imposed additional punishment in the form of revocation of voting rights, the number is still very limited compared to the total number of corruption crime decisions. Based on data from the Supreme Court, of the hundreds of corruption decisions issued each year, only less than 5% impose additional punishment in the form of revocation of voting rights. This shows that the application of revocation of electoral rights as an additional punishment is still not the mainstream in judicial

practice in Indonesia.

Furthermore, there are inconsistencies in the application of revocation of voting rights as an additional punishment. Some decisions only revoke the right to be elected, while other decisions revoke both the right to vote and the right to be elected (Artidjo, 2022). In addition, the duration of the revocation of rights also varies, ranging from several years to a lifetime. This inconsistency shows that there is no clear standard in the application of revocation of voting rights as an additional punishment.

### **The Effectiveness of Revocation of Voting Rights in the Perspective of the Theory of Punishment**

The effectiveness of revocation of voting rights as an additional punishment can be assessed from the perspective of various theories of punishment. In the perspective of retributive theory, revocation of voting rights can be seen as a form of appropriate retribution against perpetrators of corruption who have abused public office or power (Limintang, 2011). Corruption committed by public officials or politicians not only materially harms the state, but also undermines public trust in political and government institutions. Therefore, disenfranchisement can be considered as a proportional form of retribution for violations of political norms committed.

In the perspective of deterrence theory, the revocation of voting rights is expected to have a deterrent effect, both for the perpetrator (special deterrence) and for the wider community (general deterrence) (Herbert, 1968). For the perpetrator, losing political rights is a serious consequence that can hamper his or her future political career. For the wider community, especially public officials and politicians, the threat of revocation of voting rights can be a warning not to commit corruption crimes. However, the effectiveness of revocation of voting rights as a deterrent is highly dependent on the consistency of its application by the court and the enforcement of its implementation by the authorized institutions.

In the perspective of rehabilitative theory, disenfranchisement can be seen as part of the process of restoring public integrity and ethical values (C.Ray, 1965). By revoking the right to vote for a certain period of time, it is hoped that the perpetrator can reflect on his mistakes and internalize the values of public integrity before participating in the political process again. However, this perspective also contains criticism that revocation of voting rights without being followed by a comprehensive rehabilitation program can actually be counterproductive to recovery efforts.

In the perspective of restorative theory, disenfranchisement can function as part of efforts to restore public trust in the political system and government (Howard, 1990). Political corruption has undermined public trust in democratic processes and political institutions. By disenfranchising the corrupt, it is hoped that the integrity of political institutions can be restored and public trust strengthened. However, the effectiveness of disenfranchisement from a restorative perspective also depends on transparency and accountability in the judicial process and the implementation of decisions.

### **Challenges in the Implementation of Voting Rights Revocation**

Despite having a strong juridical basis, the implementation of revocation of voting rights as an additional punishment is still faced with various challenges. First, there is no clear

mechanism regarding the procedures for implementing and monitoring the revocation of voting rights. The law does not regulate in detail how the revocation of voting rights is implemented in practice, including coordination between the judiciary, the General Election Commission (KPU), and correctional institutions. As a result, there is a legal vacuum in the implementation of the decision to revoke the right to vote.

Second, there is a potential conflict of norms between the provisions regarding the revocation of voting rights and the laws and regulations on general elections (Topo, 2017). Law No. 7/2017 on General Elections and Law No. 10/2016 on the Election of Governors, Regents, and Mayors do regulate that former corruption convicts can become candidates in general elections with certain requirements, but do not explicitly regulate the revocation of voting rights as an additional punishment. This can lead to legal uncertainty in the implementation of revocation of voting rights.

Third, there is resistance from various parties, especially from political circles, to the implementation of revocation of voting rights as an additional punishment (Eddy, 2019). Some parties argue that deprivation of voting rights is contrary to the principles of human rights and democracy. This resistance can affect the independence of judges in imposing additional punishment in the form of revocation of voting rights, as well as hamper its implementation in practice.

Fourth, there is a lack of public awareness and understanding of the importance of disenfranchisement as an instrument to maintain the integrity of the political and governance process. Without strong public support, the implementation of revocation of electoral rights as an additional punishment will be difficult to achieve optimal effectiveness in combating political corruption.

### **Recommendations to Improve the Effectiveness of Disenfranchisement**

Based on the results of the analysis of the juridical basis, implementation in practice, and challenges faced, several recommendations can be made to improve the effectiveness of revocation of voting rights as an additional punishment for perpetrators of corruption crimes.

First, it is necessary to strengthen regulations regarding the implementation mechanism and supervision of the revocation of voting rights (Denny, 2019). This can be done through the establishment of implementing regulations that specifically regulate the procedures for implementing the revocation of voting rights, including coordination between authorized institutions. The regulation must include technical aspects such as data collection of convicts whose voting rights are revoked, notification to the KPU, and supervision mechanisms during the revocation period.

Second, it is necessary to harmonize the provisions on the revocation of voting rights in the Criminal Code and the Corruption Crime Law with the laws and regulations on general elections (Zainal, 2019). This harmonization aims to ensure that there are no conflicts of norms that can hinder the implementation of revocation of voting rights in practice. Revisions to the Election Law and Pilkada Law can be made to accommodate the provisions regarding the revocation of voting rights as an additional punishment.

Third, it is necessary to develop clear sentencing guidelines regarding the application of deprivation of voting rights as an additional punishment (MA, 2021). These guidelines can

serve as a reference for judges in imposing additional punishment in the form of revocation of voting rights, including the criteria that must be considered and the proportional duration. With clear guidelines, it is hoped that there will be consistency in the application of deprivation of voting rights as an additional punishment.

Fourth, it is necessary to strengthen the capacity of institutions related to the implementation of revocation of voting rights, such as courts, KPU, and correctional institutions (KPK, 2022). This capacity strengthening includes aspects of human resources, infrastructure, and integrated information systems. With adequate capacity, these institutions can carry out their roles effectively in implementing disenfranchisement.

Fifth, it is necessary to educate and socialize the public about the importance of disenfranchisement as an instrument to maintain the integrity of the political process and government. This education and socialization aims to increase public awareness and understanding, as well as to build public support for the implementation of deprivation of voting rights as an additional punishment.

## CONCLUSION

Revocation of voting rights as an additional sanction for corruptors has the potential to be effective in providing a deterrent effect and restoring public confidence in the democratic system. This sanction is relevant because corruption undermines the integrity of state administration and democracy. However, its effectiveness depends on consistency of implementation, strong judicial system support, and public understanding of the importance of this sanction. Electoral disenfranchisement can prevent former corruptors from holding public office again, but needs to be balanced with a clear political rehabilitation mechanism. Proper implementation can strengthen anti-corruption law enforcement, although practical challenges in implementation and oversight remain to ensure fairness and proportionality of penalties.

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