



Law Policy

PRISON COLLAPSE: A REFLECTION TOWARDS POLICY FAILURE

Three riots in six months, the worst being Tanjung Gusta in North Sumatra; burnt by inmates in July 2013 due to power outage that inhibited the water supply. Still this month on August 18th, a day after commemorating Indonesia's independence day Labuan Ruku Prison in North Sumatra also became a raging blaze. It was assumed that the Labuan Ruku prison riot were was provoked by hearsay on the future fate of narcotic inmates who will not get remission and will stay in prison until death. In February last year, prison arson by inmates also occurred in Kerobokan, Bali, caused by a fight between inmates.

Whatever the trigger was, the big question is why such large-scaled riots are happening? According to the data quoted by Tempo magazine in August 2013, the number of inmates in Indonesia is 154.914, while the number of guards is 12.869; which meant only one guard for 12 inmates. The Labuan Ruku Prison has a 251 inmate capacity, but is inhabited by 866 inmates with only 12 guards. Because of the guard shifting system, at the time of theriot, there were only 5 of them on duty,.

The policy made by Direktorat Jenderal Pemasyarakatan/Ditjenpas (Prison Directorate General) when determining 12 guards for the 866 inmates was an unreasonable one and lack of rationality, despite the fact there's data available to support a better decision. Overcrowding, compromising quality control and minimum of security officers are a potent mix for riots in many prisons. Such indicators should be taken seriously for future correctional policies. (SMR)

Supreme Court

CASE REVIEWS: UNTIL WHAT POINT?

The decision on a case review against Sudjiono Timan by the Supreme Court becoming a polemic. The South Jakarta District Court as a first-level court has stated its dismissal verdict (onstlag) on the account of non-criminal offenses. The prosecutor then sent an appeal to the Supreme Court who found Sudjiono Timan guilty with a 15 year jail sentence, fined Rp. 50 million plus Rp. 369 billion in restitution. Sudjiono fled and ended up on the wanted list. On 13 July 2013 the Supreme Court grant the review request. The first-level verdict was criticized by many parties even though the presiding judge, Suhadi, stated that the mistake was in the previous appeal which was against material law that was decided unconstitutional by the Constitutional Court.

Supreme Court Justice, Gayus Lumbun, noted that the

verdict was annulled by law because it contradicts with Article 236 and 238 of the Criminal Procedure Law. In Sudjiono's case, the request was represented by his family and lawyer which also contradicts with Supreme Court Letter No. 6/1988. Along with the Coalition of Judicial Monitoring, PSHK have been urging the Supreme Court to reject these requests; until what point can legal remedy towards a case be made? Reviews can be requested more than once on the presence of new evidence (novum); other than that only once is allowed. Review by prosecutors can be done only once, on the condition that it isn't against the convict's review, considering the prosecutor's authority and easy access to existed evidence. Reviews should be considered as ultimate access to justice in order to vindicate the convicted by proving fundamental truths. (MSG)

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REVOCATION OF CRIMINAL DEFENDANT RIGHTS

The indictment made by Corruption Eradication Commission (KPK) prosecutors towards Djoko Susilo is an interesting legal position. Besides the common indictment of imprisonment and fined, the KPK has requested the Judge to revoke Djoko Susilo's political rights to elect and be elected in any public office. The argument is based on Article 10 via Article 35 of the Indonesian Criminal Law, where Article 10 B stipulates that judges could give defendants additional sentencing, one of which is the revocation of certain rights including political rights. Rights revocation is stipulated in Article 35 par. 1 number 3 of the Indonesian Criminal Law.

The indictment is a progressive step towards preventing ex-convicts of corruption cases from taking public office after release. This is necessary due to the fact that many corruption case convicts run for political office.

However, another necessary form of indictment is to revoke the convict's rights to enjoy parole and/or remission for a certain limit of time. Although there is no strong regulation basis for judges to create such punishment, but the recent conviction of drug lord Freddy Budiman can be used as an example. The judge revoked Freddy's rights to communicate in prison; a revocation not stipulated in Article 35.

Thus, it can be used as precedent for judges in corruption cases to invent other form of rights revocation sentencing.

(GAT)

INTERNAL SUPERVISION EVALUATION TOWARDS AD HOC CORRUPTION JUDGES

At this moment, the Supreme Court is selecting ad hoc judges as part of mandate towards Article 13 paragraph 1 of Law No. 46 of 2009 on the Corruption Court. The selection process has caught the public eye on it because of the number of records and reports towards the court; since there's a case of one ad hoc judge was caught while accepting bribes concerning a case he was handling.

Evaluations towards ad hoc judges are absolutely necessary since they hold a forefront and strategic role in eliminating corruption in the country. Even so, such significant position are considered potential to be abused. But still, evaluation process for judges should not based on a judge's decision in court. Any assumption that a judge's decision to give a light sentencing towards a corruption case are an indicator that they're not doing their job well should not be considered as a valid one.

Evaluation is a complex process which should put one aspect into context; that is judge supervision from High Court..

After passing Presidential Decree No. 5 of 2013 on the Granting of Financial Rights and Facilities for Ad Hoc Judges, supervision for judges has weakened. Their benefits are given monthly and not based on appraisal process could be the cause. Such policy has made the internal court supervision not run as smooth as usual. Furthermore, ad hoc judges are appointed by the President, making the Court unable to undergo its supervision function, unless a serious violation is raised. There's a need to for a better recruitment system especially for ad-hoc judges and well-designed incentive towards them so that a holistic evaluation can be made.

(FN)