



# Restrictions on the political rights of civil servants in regional head elections from the perspective of *maslahah mursalah*

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## ABSTRACT

In this reformation era, there is a debate about limiting political rights for civil servants in the elections for regional heads. The aforementioned political rights are active voting rights. This intention is based on the pervasive abuse of those in positions of authority by exploiting the status of civil servants, despite the fact that, in theory, civil officials should respect the principle of impartiality in carrying out their duties. The questions that arise are how the perspective of human rights is related to these restrictions and how these restrictions on political rights are viewed from the *Maslahah Mursalah* standpoint. This study utilized the library research method with a juridical approach that took into account national law and Islamic law. The study's findings revealed that restrictions on political rights for citizens, particularly civil servants, must meet certain conditions that are considered to pose a threat to the stability and security of the state. In reality, there are many instances of violations in regional head elections, and if not addressed, they may lead to divisions and conflicts in society. Meanwhile, from the perspective of *Maslahah Mursalah*, the limitations of the political rights of civil servants must adhere to the standards of *al-dharuriyah* with consideration for prioritizing harm over benefit. In this case, if the authorities abuse their authority in regional head general elections, it will lead to elected regional heads who are neither trustworthy nor fair, thereby undermining the principle of neutrality that must be upheld by the civil servants.

**Keywords:** Political Rights; civil servants; general elections

## 1. INTRODUCTION

The paradigm shift in civil servant management from personnel administration management to human resource management is a recent breakthrough in the management of the State Civil Apparatus (ASN). In brief, human resource management is

a step towards improving the government bureaucracy system because it involves the procurement, development, and utilization of human resources by the organization itself to accomplish its objectives. Furthermore, this approach emphasizes loyalty and efforts to maintain the best human resources (Hartini & Sudrajat, 2017). Thus, government organizations only retain human resources who are highly loyal and regarded as the finest, and it is essential to have a state civil apparatus that can provide services to the public in a professional manner while maintaining neutrality.

To maintain neutrality, civil servants have their own rules, especially in fulfilling their political rights. The political rights of civil servants themselves are interpreted as the rights to be elected and to vote in regional head general elections. The rules outlining the right to be voted on and to vote have been set forth in Law Number 05 of 2014, which explains that middle-high officials and high-ranking officials who will run for regional head both at the provincial and district/city levels must first declare their resignation in writing before they register for the election. This is an amendment to Law Number 43 of 1999 concerning Personnel Principles which clarifies that civil servants' political rights to vote in general elections at the regional level will not be reduced; as a result, civil servants who have completed their duties as public officials can revert to their previous status (Komalig, 2017). However, another problem that may arise due to the non-neutrality of the state civil apparatus is the partiality of one candidate after he or she is elected as the regional head, which may result in his/her arbitrariness, especially when it comes to the transfer of civil servants. The elected regional leaders frequently reorganize their teams and give key government jobs to civil workers who support them. To prevent this, there has long been discussion about restricting civil servants' political rights.

The restrictions of political rights for civil servants remains a hot topic of discussion. According to a national survey of the neutrality of the State Civil Apparatus conducted by the Commission on the State Civil Apparatus (KASN) in 2021, it was found that the dominant factor causing violations of the neutrality of the state civil apparatus was the presence of brotherly bonds with a total percentage of 50.76% and the existence of a motive to obtain a better career with a total percentage of 49.72%. Additionally, a number of parties frequently influenced the state civil service to stray from neutrality. They consisted of the success team with a total of 32%, state civil apparatus superiors with a total of 28%, and candidate pairs with a total of 24% (Negara, 2021). Based on the survey's findings, it is important to mention that in-depth research into the termination of government servants' political rights must be conducted in order to prevent future violations in regional head general elections.

State civil servants certainly have the same rights as other citizens, including in the realm of politics. However, the provisions contained in Law Number 05 of 2014 concerning State Civil Apparatus strictly limit the political rights possessed by state civil servants. A civil servant may not run for election as a candidate and also may not show partiality in general elections, and if they do, they are subject to administrative sanctions up to the revocation of their status as State Civil Apparatus (Ansyari & Putra, 2022). The law only imposes restrictions on the general election candidacies of civil servants.

Islam itself teaches that the presence of humans as creatures created by God certainly has its own rules, one of which is that humans were created on earth to conduct *amar ma'ruf nahi munkar* (maintaining goodness and forbidding wrongness) solely for the purpose of worshiping Allah SWT. Although Islam does not discuss in detail the limitation of political rights, there are Islamic principles that serve as guidelines for the government. Based on this phenomenon, the author analyzed how human rights perceived the revocation of political rights of civil servants in regional head elections and investigated the *Maslahah Mursalah* (a benefit that is neither approved nor disapproved by Islamic Law) of restricting the political rights of civil servants in an effort to reduce the likelihood of regional heads acting arbitrarily when carrying out staffing management, particularly after regional head elections.

## 2. METHODS

The research entitled "Restrictions on Civil Servants' Political Rights in Regional Head Elections from the *Maslahah Mursalah* Perspective" is literature research (library research). The purpose and use of library research is to find solutions and solve research difficulties. If researchers are aware of what previous researchers have already studied, they will be better prepared with deeper and more comprehensive information (Sunggono, 2015). Because the data in this study came from written sources, the research was library research. From this library research, it is expected to obtain a research conclusion which is a development of new ideas and understanding of existing theories (Kaelan, 2005).

The approach employed in this study was a juridical approach. In a simple KBBI (the *Kamus Besar Bahasa Indonesia*, the official dictionary of the Indonesian language), juridical is defined as being in accordance with and according to the law. Even though the denotative meaning of the word juridical refers more to national law, the approach taken incorporates the word juridical which connotes Islamic law (commonly known as *Sharia*). However, the intended juridical approach is the normative juridical one. Normative itself means a law that is conceptualized as a norm or rule that applies in society and serves as a benchmark or direction for human behavior (Muhammad, 2004). The legal research that the author conducted was normative legal research. This type of research focuses on the principles or norms contained in the 1945 Constitution, laws, and regulations related to discussion, and other materials that are relevant to the issue under study (Soekanto & Mamudji, 2006). In addition, this study concentrated on the perspective of Islamic law.

Due to the nature of the research—a literature review—the data employed in this study were secondary, including both primary and secondary legal materials. Primary legal materials, namely binding legal materials (Sumardjono, 2014), including Basic Regulations or Rules, namely the Preamble to the 1945 Constitution, while Basic Regulations namely the Body of the 1945 Constitution; Legislation; Non-codified legal material such as customary law; Jurisprudence; Treaty; and historical legal materials, and those that are still in effect (Sunggono, 2015). In this study, the primary legal materials considered in this study were the Qur'an, Hadith and relevant laws and regulations.

The term “secondary legal materials” also refers to information that clarifies fundamental legal information (Sumardjono, 2014). In this study, any legal publications that were not official documents constituted the secondary legal material. Books, and scholarly works, such as dissertations and theses, undergraduate theses, legal papers and journals, comments on court decisions, and articles pertaining to the topic under study, are all examples of publications on law.

The process of gathering legal documents involved conducting a literature review on the subject, which included both primary and secondary legal sources. Searching for legal resources can be done online, at libraries, or through other written or electronic media. A literature review is the process of gathering data or information connected to the history of a policy, rules and regulations, court rulings, the literature review, and other data or information pertinent to the research topic.

In normative legal research, data processing is essentially an activity to systematize textual legal materials. Systemization is carried out by classifying written legal materials to facilitate analysis and construction work (Soekanto & Mamudji, 2006). Data processing can be interpreted as a sequence of processing operations of data that are obtained and interpreted in accordance with the objectives, plans, and natures of the research. The data management methods in this study include the following: Data identification is the process of introducing and classifying data according to research titles that are pertinent to the study being done. The information that was seized included information about the suspension of civil servants' political rights.

The second step is to carry out data reduction, which is selecting and organizing facts pertinent to the subject so that the writing is clear and simple for readers to understand and does not repeatedly discuss a problem. Additionally, data editing is carried out. It is a process of reviewing research data outcomes to ascertain the relevance (relationships) and validity of the data to be described to find solutions to the key questions. This is being done to get reliable information that is in line with the literature found in reading sources.

The goal of data analysis techniques is to define and address issues based on the collected data. The gathered primary and secondary legal sources are then chosen and reduced for relevance using qualitative analysis, allowing the outcomes to be presented descriptively. Additionally, the analysis of comparative, deductive, and inductive data is employed. The steps in data analysis are as follows: choosing articles that contain legal principles governing the political rights of civil servants, organizing these articles in a systematic way to produce a classification that makes sense given the discussion, and analyzing the data gathered.

### **3. RESULTS AND DISCUSSION**

According to information provided by the Election Vulnerability Index (IKP) for the 2020 Regional Head Elections, the non-neutral ASN came in first place out of a total of 270 regions in Indonesia with a total of 167 regencies/cities (Sendhikasari, 2020). This

figure suggests that there is an extremely high rate of electoral fraud, necessitating special attention in this regard. This is in line with the findings of the Focus Group Discussion (FGD) conducted by the Honorary Council of the Election Management of the Republic of Indonesia (DKPP RI), which was held in four provinces, namely North Sulawesi, Jambi, Riau Islands, and North Sumatra. The FGD found that one potential election violation was a private and limited celebration held by one of the election candidate pairs, in addition to the closed socialization invitation of the candidate pairs and the incumbent's action of pressuring the ASN through the Regional Secretary (Sekda) to elect the aforementioned party (Sitorus, 2015).

Based on the information and evidence provided, the author examined the limitations of civil servants' political rights from the human rights and Maslahah Mursalah perspectives to resolve conflicts of interest in general elections, specifically the regional head general elections.

### **A. Restrictions on the Political Rights of the State Civil Servants in the Perspective of Human Rights**

Political rights essentially serve as safeguards against government misuse of authority because the state is viewed as a danger to people in general. Thus, to exercise political rights, authority or government power must be constrained by intermediary laws to minimize government intrusion in the lives of citizens and prevent them from crossing the line (Budiardjo, 2008).

Civil and political rights are divided into two categories under the International Covenant on Civil and Political Rights: absolute rights and relative rights, or rights that the state may decrease or restrict (restrictions). Absolute rights are rights that cannot be restricted by anyone and are only subject to constitutional guarantees by the state. Examples of such rights include the right to life, the right to be free from slavery, the right to freedom of speech, and others. Meanwhile, rights that can be reduced by the state are relative rights, which include the right to peaceful assembly, the right to express one's thoughts freely, and other rights; the state may condition the fulfillment of such rights (Hasan & Sari, 2005). In the political realm, citizens are also guaranteed the right to participate in politics and to cast a ballot in regularly held general elections where all citizens are treated equally.

The right to vote and be elected is a component of civil and political rights as well as of citizens' constitutional rights, which include the right to equal standing before the law. Even though the 1945 Constitution does not cover articles discussing the right to vote and to be elected in any depth, this does not mean that the Constitution does not regulate this matter. In fact, it is suggested in Article 2 paragraph (1) of the 1945 Constitution, which declares that every person who is in the same position before the law and the state — in this case, the government— is required to submit to and implement it without exception. Legal equality is necessary to ensure that no one is subjected to unfair treatment when it comes to how they are treated by the law, regardless of their race, skin

color, gender, language, religion, political or other views, national background, socioeconomic status, birth status, or other aspects. In actuality, the state is obligated to ensure that everyone is protected by the same laws and rights, regardless of their membership in a particular group (Harper, 2009).

Article 21 of the Universal Declaration of Human Rights explains in detail that:

- 1) Everyone has the right to participate in the governance of his or her nation, either directly or through representatives chosen freely.
- 2) Everyone is entitled to an equal opportunity to be appointed to a position in the government of his country.
- 3) The power of the government must be based on the will of the people. This will must be expressed through regular elections that are conducted honestly, under universal and equal suffrage, by secret ballot, or in other ways that also protect the right to free speech.

The article supports Walter F. Murphy's assertion that humans must have the right to participate in politics and that government power must be fenced off with substantive limits to what can be carried out, even if the government perfectly reflects the will of the people (as cited in (Budiardjo, 2008)).

However, it is stated in Article 28J paragraph (2) of the 1945 Constitution that everyone is required to abide by the legal limitations set forth with the sole intention of ensuring recognition and respect for the rights and freedoms of others and to meet just demands following considerations of morality, religious values, security, and public order in a democratic society when exercising their rights and freedoms. As a result, the limitations imposed by the state must reflect the principles outlined in Article 28J paragraph 2. Other than these clauses, the state is not allowed to restrict human rights.

The characteristics of human rights are divided into: human rights can generally not be subject to restrictions; human rights may be restricted in an emergency; human rights that can be restricted include the right to hold opinions, the right to peacefully assemble, and the right to associate; and basic rights that may not be restricted under any circumstances are the right to live, the right to think, and the right to believe ( (Budiardjo, 2008). In light of the nature of human rights as mentioned above, the state is nevertheless able to restrict these rights, and in certain instances, these restrictions have even been put into effect.

Meanwhile, the Constitutional Court has carried out a legal interpretation as outlined in the Decision Number 011-017/PUU-I/2003 explaining that the right to vote is a constitutional right. In the Decision on the constitutionality of the right of former members of the Indonesian Communist Party (PKI) to run for office as a member of the legislature, the Constitutional Court is of the opinion that the constitutional right of citizens to vote and be elected (the right to vote and the right to be a candidate) is a right

guaranteed by the constitution, international law, and international convention; consequently, the restrictions of deviance, abolition, and elimination of said right are not applicable. The Decision's definition of the right to vote includes the right of all citizens to an equal opportunity to run for office as members of the legislature in elections. The Constitutional Court noted in its analysis, however, that the freedom to vote is a right protected by the Constitution. As a result, the right to vote falls under the umbrella of constitutional rights.

Voting rights are divided into two, passive suffrage (passive voting rights) and active suffrage (active voting rights). Passive suffrage is the right of citizens to be elected or occupy positions in people's representative institutions, while active suffrage is the right of citizens to elect representatives in people's representative institutions, each of which must fulfill various predetermined requirements. The right to vote is the right of citizens to choose representatives and be elected as representatives in people's representative institutions through democratic elections (Fahmi, 2018).

The right to vote contained in the constitution can be understood as meaning that the state must ensure fair accessibility during general elections. The ability to vote does not grant the right to abstain. The 1945 Constitution's Article 28D paragraph 3 regulates the right or guarantee to participate in leadership or government and declares that "Every citizen has the right to obtain equal opportunities in governance." This provision is then embodied in Article 43 paragraph (1) of the Human Rights Law, which states that "Every citizen has the right to be elected and vote in general elections based on equal rights through direct, public, free, secret, honest, and fair voting, which is under the provisions of the legislation." This right is strongly tied to political rights, such as the right to participate in elections as a candidate or a voter. Election and voting rights must be exercised in line with one's conscience, not as a result of threats or coercion (Smith & dkk, 2011).

Concerning constraints on the right to vote among citizens, both the right to vote and the right to be elected can genuinely be constitutionally justified. This is based on the provision of Article 28J paragraph (2) of the Constitution of the Republic of Indonesia, which stipulates that everyone is obligated to protect the human rights of others in the orderly existence of society, nation, and state. However, constraints on a person's freedom by legislation must be based on arguments that are substantial, reasonable, proportional, and not excessive. Restrictions on rights and freedoms can only be justified, if necessary, in order to defend the liberties of disadvantaged groups (Ujan, 2001). Furthermore, restrictions and distinctions can be justified in order to meet the right to equal opportunity to participate in elections. In this context, restrictions may only be applied to simply ensure the rights and freedoms of people and to fulfill fair demands based on considerations of morality, religious values, security, and public order in society in accordance with the provisions of Article 28J of the 1945 Constitution. In a similar vein, Pranoto Iskandar remarks that the limitation of human rights is intended as a notion presented to manage problems created by the implementation of the fulfillment of numerous rights (Iskandar, 2012).

Several incidents of restrictions on political rights have actually been imposed by the Indonesian general election system, one of which is mentioned in the Constitutional Court Decision Number 17/PUU-VI/2008 about the assessment of local government regulations. In the Decision, it was concluded that it was necessary to set restrictions on candidates for regional leadership position by asking them to resign from the regional head position. This is done primarily to avoid misuse of authority and to foster an atmosphere of fair and equal competition among other regional head candidates. The positive impacts of these restrictions include the opening of space for independence and neutrality in bureaucracy; healthy competition in head regional elections; the neutrality of regional election organizers and their implementation; and the guarantee of ongoing accountability (Mawardi, 2011). However, the Decision does not contain any restrictions affecting active voting rights. It, however, contains more restrictions on passive voting rights.

Restrictions on political rights in Indonesia, which involve active voting rights, can also be seen in the rights of the Indonesian National Armed Forces (TNI) and the Indonesian National Police of the Republic of Indonesia (POLRI) as stated in Article 260 of Law Number 42 of 2008 concerning the General Election of the President and Vice President. It indicates that in the 2009 Presidential and Vice-Presidential Elections, members of the Indonesian National Armed Forces and members of the Indonesian National Police did not exercise their right to vote. Similarly, in article 326 of Law Number 8 of 2012 concerning the General Election of Members of the People's Representative Council, Regional Representative Council, and Regional People's Representative Council, it is explained that in the elections held in 2014, members of the Indonesian National Armed Forces and members of the Indonesian National Police did not exercise their right to vote. This implies that the limitation of political rights for citizens does not entail that it is absolutely not permissible.

In the framework of staffing, the presence of Law Number 5 of 2014 about State Civil Apparatus intends to govern civil workers in general elections so as not to remove other rights, so that these protected rights are continuing to be respected and upheld. The government, as the inventor of the State Civil Apparatus Law, which incorporates limits on Civil Servants, places considerable importance on neutrality. This neutrality legislation strives to give certainty, fairness, and the use of law in order to limit power against the potential of the use of power based on personal will, which ultimately leads to the misuse of power that often occurs within the scope of general elections (Siregar, 2020). However, in actuality, since the law was implemented, there have been several discoveries relating to violations of the neutrality of the state civil apparatus.

The government, in this case, has made every effort to maintain the neutrality of the state apparatus. One of the attempts done by the government is to stipulate Government Regulation Number 94 of 2021 concerning Discipline for Civil Servants. In particular, the discussion regarding the prohibitions enforced to civil servants in respect to general elections is contained in Article 13 letter g. On the other hand, in order to maintain the neutrality of civil servants, there are several restrictions in regional head general elections



which are set forth in the form of a Joint Decision of the Minister for Administrative and Bureaucratic Reform, Minister of Home Affairs, Head of the National Civil Service Agency, Chairman of the Civil Services Commission, and Chairman of the Election Supervisory Board Number 05 of 2020 Number 800-2836 of 2020, Number 167/KEP/2020, Number 6/SKB/KASN/9/2020, Number 0314 concerning guidelines for monitoring the neutrality of Indonesian Civil Servants in the Concurrent Regional Head Elections Year 2020, which decreed that:

1. Civil servants are prohibited from approaching political parties regarding plans to nominate themselves or other people as candidates for Regional Head or Deputy Regional Head;
2. Civil servants are prohibited from placing banners or billboards promoting themselves or other people as candidates for Regional Head or Deputy Regional Head;
3. Civil servants are prohibited from declaring themselves as candidates for Regional Head or Deputy Regional Head;
4. Civil servants are prohibited from attending the declaration of candidates for Regional Head or Deputy Regional Head positions with or without wearing the attributes of the candidate pairs or political parties;
5. Civil servants are prohibited from uploading, responding to, or disseminating images or photos of prospective candidates or potential pairs of candidates for Regional Head through online media or social media;
6. Civil servants are prohibited from taking a group photo with prospective Regional Head or Deputy Regional Head candidates by following hand symbols/gestures used as a form of partisanship;
7. Civil servants are prohibited from becoming speakers or resource persons at political party meetings.

Restrictions on the political rights of civil personnel are basically not against human rights. The government is merely not authorized to take acts that can impair the rights of its citizens. Several political rights are made possible to exercise by the government, but with restrictions; for example, the right to freedom of opinion and expression is expressly stated in national laws for the sake of respecting the rights and reputation of others and maintaining national security, public order, health, or public decency (Budiardjo, 2008). This can also happen in the distribution of political rights for civil servants in regional head elections because there are concerns that there will be a violation of power toward the status of citizens who are civil servants, considering that the status of civil servants is actually in the same position as the status of the TNI and POLRI, which is an occupation that is professional-oriented and a career choice.

Based on these considerations, the author believes that the political rights of civil servants, in this case the rights to vote in general elections, can be restricted by the government, provided that there are situations that could threaten the stability of state

administration and security. However, limits imposed by the state on citizens by legislation must be based on substantial and proportional reasons. This indicates that constraints on the political rights of civil officials are related to human rights. Thus, it can be concluded that the state has the authority to provide these restrictions during the period when the country is in a state of emergency; restrictions on human rights must be outlined in law; and restrictions on political rights can be carried out in the context of global protection of the citizens' rights.

## **B. Restrictions of Political Rights of the State Civil Servants from the Perspective of Maslahah Mursalah**

Restrictions on the political rights of state civil officials are not specifically described in the Qur'an or hadith, but this phenomenon can be explored by looking at the benefits. Imam Ghazali states that a benefit must be in keeping with the purposes of sharia (Islamic law), even if it contradicts human goals. This is because human benefit is not usually founded on sharia will, but based on passion. Therefore, what is used as a benchmark for establishing a benefit is the will and goal of sharia, not the will and purpose of humans (al-Ghazali, 1980). This signifies that the measurement for benefit is defined by Allah SWT as a lawmaker and not by humans as servants who carry out the law and consequently, the benefit must fulfill several provisions from Allah SWT.

Furthermore, Al-Ghazali claims that there are numerous circumstances for mursalah difficulties. The first one is that the benefit is in the dharuriyah category (basic requirements). The primary necessities in question are to defend religion, soul, mind, lineage, and property (Al-Ghazali, 1971). This means that, if the benefit is in the sense of sustaining or preventing harm to these necessities, then Maslahah Mursalah can be applied. The second criterion is that the advantage must be believed with assurance, not based on supposition. If there is uncertainty that it contains benefits, then Maslahah Mursalah cannot be applied; the benefit should be applicable in general, not merely to a group or individual; and this benefit must be in keeping with the aims of Islamic law (al-Ghazali, 1980).

Amir Syarifuddin then separated the maslahah into three pieces, namely *mashlahah al-dharuriyah*, *mashlahah al-hajiyah*, and *mashlahah al-tahsiniyah*. *Mashlahah al-dharuriyah* is a benefit whose existence is actually needed in human life or something basic, meaning that human life has no value whatsoever if one of the five necessities is not fulfilled. If one of these is missing in human existence, there will be destruction, calamity, and damage to the order of human life. In this circumstance, Allah condemns committing apostasy to maintain religion, killing to protect oneself, drinking to retain the mind, committing adultery to maintain offspring, and stealing to safeguard property. *Mashlahah al-hajiyah* is a benefit that is not at the dharuri (primary) level. This form of reward does not immediately effect the fulfillment of basic necessities. Some instances of this are studying religion to uphold religion, eating for survival, strengthening the brain for the perfection of reason, and buying and selling to achieve prosperity. *Mashlahah al-tahsiniyah* is a *mashlahah* whose needs are at the complementing level, not above the

extent of dharuri nor up to the level of pilgrimage. These demands need to be addressed so as to give perfection and beauty to human life. Mashlahah in this form is also related to the five fundamental human necessities (Syarifuddin, 2011).

In the view of maslahah al-dharuriyah which is closely related to basic human needs in this world and in the hereafter, when it is linked with restrictions on the political rights of civil servants, restrictions are made in order to avoid a higher repercussion, which is the abuse of authority by specific groups. Meanwhile, under the fiqh norms, it is explained that avoiding harm must take precedence over obtaining advantage (Asy-Syiddieqy, 1975). Thus, even if the right to vote is a human right for every citizen, which is an indication of a democratic country, a civil servant is a profession that has an obligation to deliver services to the community in a professional manner. Consequently, it is regularly used as a means to maintain power, especially in regional head elections. It is feared that when elected, these politicians will be untrustworthy leaders and not meet the aspirations of the people.

The command to obey leaders in Islam is clearly emphasized in the Qur'an Surah An-Nisa Verse 59:

يَا أَيُّهَا الَّذِينَ ءَامَنُوا أَطِيعُوا اللَّهَ وَأَطِيعُوا الرَّسُولَ وَأُولِي الْأَمْرِ مِنْكُمْ فَإِن تَنَزَعْتُمْ فِي شَيْءٍ فَرُدُّوهُ إِلَى اللَّهِ وَالرَّسُولِ إِن كُنتُمْ تُؤْمِنُونَ بِاللَّهِ وَالْيَوْمِ الْآخِرِ ذَلِكَ خَيْرٌ وَأَحْسَنُ تَأْوِيلًا

Translation:

*"O people who believe! Obey Allah and obey the Messenger (Muhammad), and Ulil Amri (authority holders) among you. Then, if you disagree about something, then return it to Allah (the Qur'an) and the Messenger (the sunnah), if you believe in Allah and the Last Day. That is more important (for you) and the consequences are better."*

Hasbi Ash Shiddieqy states that obedience to leaders involves obedience to people who have knowledge of their profession and are granted power. The leaders in question consist of judges, government officials, people's representatives, Ulama (Islamic religious leaders), and community leaders. This obedience must be founded on the provisions of the leaders that in deciding something, it must be based on the interest of the people, obedience to all the mandates of Allah and the Messenger, and fairness (Ash-Shiddieqy, 2016). The purpose of being given authority is that there is an agreement between the people to choose a leader by way of discourse. However, Ibn Taimiyah noted that obedience to the government as the state administrator could only be provided as long as the commands—in this case, the decisions issued—are not in conflict with religious beliefs. Nevertheless, the presence of the state, in this case the government, cannot be overlooked, for without government, a social order founded on the Qur'an and Sunnah would be difficult to realize (Salim, 1999).

Abu Al A'la Al-Maududi explains that selecting a head of state and Ulil Amri must pay attention to the following matters: The Ulil Amri chosen must be people who are sincerely trusted, responsible, and capable of carrying out the mandates given; They do not consist of people who are unjust and neglectful of Allah, who violate its limits, and who are *fajir* (those committing faults openly). The appointed Ulil Amri must be a believer who is pious and does good deeds; they must have broad knowledge, have common sense, have intelligence, have wisdom, and have the intellectual and physical abilities to assume responsibility; and they must be people who can truly uphold the mandate, and thus, be given responsibility securely and without hesitation (Al-Maududi, 1995).

From the perspective of *maslahah al-hajiyah* in relation to restrictions on the political rights of civil servants, it is general knowledge that if one is elected as the regional head, the elected regional head will make personnel changes in the area under his authorization. Consequently, there will be employee mutations that are not in conformity with the provisions of the law, causing many civil servants to lose their positions, which will automatically affect their income. Transfers are also carried out not based on performance but usually on the personal interests of regional heads.

In Islam, harm done to someone with a justified reason is something that can be done, for example, coercing someone who has taken another person's rights with the intention of that person restoring them (Al Bassam, 2007). However, in the aforesaid situation, civil servants are harmed by the life made difficult by the leader because the mutation carried out by the regional head is contrary to the applicable provisions. Although the mutation does not remove the civil servants' official status, it impacts their performance as servants of the community.

From the point of view of *maslahah al-tahsiniyah* which is complimentary in character, this signifies the necessities and protection that are needed so that human life is at peace (al-Qadharawi, 1999). In its association with limiting the political rights of civil servants, which is maintaining the neutrality of civil servants and making services to the community run most effectively, this is based on the fact that there is only one interest, namely to provide professional services without fear of discrimination from the leaders. Islam teaches to always avoid deeds that are not exemplary (Al-Syatibi, 1997). The author says that if civil officials do not respect the principle of neutrality in providing services, then it is deemed an uncommendable deed since it indicates that particular groups are above the interests of the general public.

Thus, limits on the political rights of civil officials can be carried out as long as they fulfill the emergency aspect as indicated. Even though there are regulations governing the discipline of governmental officials which attempt to ensure neutrality, the application of punishments in the legislation has not been executed adequately, so it is often ignored by both the government and civil servants. Therefore, the author believes that to minimize the arbitrariness of regional heads, constraints on political rights, in this case the active right to vote for civil officials, should be implemented. These constraints are meant to ensure the neutrality of civil officials, noting that civil servants are the cornerstone of

administering the government. This shows that staff must be neutral and may not demonstrate political affinities with certain groups. If civil officials are not limited by current legal mechanisms, it will lead to negative consequences.

Therefore, the author argues that restricting the political rights of civil servants from the perspective of *Maslahah Mursalah* can be done with several considerations: to minimize the arbitrary use of power and leaders who are traitorous to the nation and state; to improve the performance of civil servants based on the principle of neutrality; and to maintain the continuity of life and to elevate personal and institutional honor, in this case, bureaucratic institutions.

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